

## SCHEDULE A: Applications with Recommendation

16/0798

Item No: 06

Date of Committee: 21/10/2016

**Appn Ref No:**  
16/0798

**Applicant:**  
Story Contracting

**Parish:**  
Carlisle

**Agent:**  
PFK Planning

**Ward:**  
Belle Vue

**Location:** Story Construction Depot, Thomas Lane, Burgh Road Industrial Estate, Carlisle, CA2 7NA

**Proposal:** Change Of Use Of Storage Area To Rail Training Track Including Laying Of 4No. Test Tracks

**Date of Receipt:**  
06/09/2016

**Statutory Expiry Date**  
01/11/2016

**26 Week Determination**

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### REPORT

**Case Officer:** Angus Hutchinson

#### 1. Recommendation

- 1.1 It is recommended that this application is approved with conditions pending receipt and approval of the awaited Assessment of Likely Significant Effects.

#### 2. Main Issues

- 2.1 Whether the proposal is detrimental to the character and appearance of the site and area.
- 2.2 Impact on living conditions of the occupiers of neighbouring properties.
- 2.3 The effect of the proposal on nature conservation interests.
- 2.4 Flood risk/drainage.
- 2.5 Archaeology.
- 2.6 Benefits of the proposal.

#### 3. Application Details

##### The Site

- 3.1 This application relates to a former area of rough ground that is approximately 1.44 hectares in area, which lies between Burgh Road and

Newtown Road Industrial Estates. The site is a north to south orientated valley landform with a steeply sided west bank and a gently sloping east bank, with a significant change in levels from south to north. A beck runs along the western boundary of the site, part of which is culverted and this flows into the River Eden to the north. A group of semi-mature trees are located towards the southern section of the site, with an area of Japanese knotweed also currently being treated along the eastern boundary.

- 3.2 The site is adjoined to the west and east by Burgh Road Industrial Estate and Newtown Road Industrial Estate respectively. Residential properties on Newtown Road adjoin the site to the south and a number of mature trees are located within the rear gardens of these properties. Along the north boundary a belt of trees adjoins the site. A public footpath runs close to the north boundary on higher ground beyond the tree belt and this links Newtown Road with the River Eden footpath (Cumbria Coastal Way and Hadrian's Wall Path).

### **Background Information**

- 3.3 In 2015, under application 15/0440, planning permission was given to provide an additional storage area, in association with the existing Story Contracting Story Rail businesses on the adjacent site. Following the commencement of work on the site the needs of the company have changed with additional business derived from Network Rail.

### **The Proposal**

- 3.4 The current application is seeking permission to change the use of the storage area approved under application 15/0440 to form a test and training area for rail employees including the laying of four test tracks. The tracks are shown to be placed on the levelled area created as part of the already undertaken work approved under 15/0440. The ground is to be surfaced in hardcore. Access is to be achieved via the Story Contracting/Rail site.
- 3.5 The proposed test tracks would enable such tasks as brake testing and machine handling to be carried out. The submitted form indicates that the proposed use would take place between 07.30 and 17.30 hours Monday to Friday; 09.00 to 12.00 hours on Saturday; and not at all on Sunday and Bank Holidays. The applicant does not anticipate any increases in traffic or pedestrian movements over and above those which already take place.
- 3.6 In addition to the submitted forms and plans, the application is accompanied by a Planning/Design & Access Statement; Noise Assessment Report (May 2016); an Assessment of Ecological Risk (July 2016); and a Flood Risk Assessment.

## **4. Summary of Representations**

- 4.1 This application has been advertised by means of a site notice and notification letters sent to 58 neighbouring properties. In response eight

formal objections have been received although three do not include an address. The objections are on the following grounds:

- The proposal will be in close proximity to numerous residential properties on Newtown and Burgh Roads;
- The proposed facility is unsuitable for this area and should be relocated to the underused Kingmoor rail yard;
- All the affected residents on Burgh and Newtown Roads are already blighted by the excessive noise and heavy vehicular traffic emanating from the Story depot;
- Prior to the excavation works there was an abundance of wildlife in the area such as deer, foxes, badgers, hedgehogs, bats, squirrels, newts and frogs the majority of which have now been displaced by the on-going works;
- Expecting at least some sound barrier work to have been started;
- The use of machinery to flatten the area has been fairly constant and some of those machines have allegedly caused the dwelling to shake;
- A neighbouring resident includes a wheelchair bound mother who will not be able to stand it if the noises and ground shaking continues;
- The training of rail-crane operators appears to involve the use of horns to comply with health and safety;
- The proposed working hours of 07.30 to 17.30 still affects the elderly, retired and housebound;
- Noise has been heard coming from the Industrial Estate outside current allowed hours i.e. 05.00 and on bank holidays;
- There will be intolerable noise from the laying of the rail track, subsequent maintenance will be noisy along with the sound of rolling metal on metal, braking, running vehicles/engines, any generators, and safety warnings/alarms;
- Little space is now being left between developments and this prevents safe corridors for wildlife;

- The potential for noise nuisance, disturbance and disruption is endless;
- It is the Council's responsibility to protect the surrounding residents from any further noise/air pollution and road damage;
- The proposal will result in an increase in heavy plant activity and heavy goods vehicles – Burgh Road not designed for all the vehicles it now carries;
- The proposed radius curve on the track will cause the wheels to squeal;
- Warning horn sounds every time a piece of machinery moves which must be loud enough to be heard by all over any machinery that is working

## **5. Summary of Consultation Responses**

Natural England: - The application site is in close proximity to a European designated site (also commonly referred to as Natura 2000 sites). European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010. The application site is in close proximity to the River Eden Special Area of Conservation SAC) which is a European site. The site is also notified at a national level as the River Eden and Tributaries Site of Special Scientific Interest (SSSI).

In advising your authority on the requirements relating to Habitats Regulations Assessment, NE offers the following advice:

- the proposal is not necessary for the management of the European site;
- the proposal is unlikely to have a significant effect on any European site and can be screened out from any requirement for further assessment.

When recording your HRA we recommend you refer to the following:

- all the earth moving and landscaping was approved under a previous planning application 15/0440 with conditions discharged under 154/0772;
- the proposal is minor in scale, laying down four railway tracks relocated from the adjacent site;
- provided the biosecurity measures previously agreed are observed, there should be no significant adverse effects on the SAC river;
- biosecurity measures should also be taken to prevent tracking the existing Japanese Knotweed off the site;
- the burn that flows down the west side of the proposal area and flows into the River Eden is protected from silt in run-off by fencing, interceptor ditches and silt traps; and
- there is a substantial grassland and scrub buffer between the northern boundary of the development and the SAC river.

SSSI site no objection.

Local Environment (former Comm Env Services- Env Quality): - Based on the data provided [in the report submitted prior to receipt of the application] would agree with the conclusions that the bund plus the barrier should provide sufficient attenuation so that the impact of the proposal on the adjacent residential premises would be minimal.

Historic England: - No comments received.

Cumbria County Council - (Econ. Dir. Highways & Transportation): - No comments received.

Environment Agency: - No comments received.

Cumbria County Council - (Archaeological Services): - No objections.

Northern Gas Networks: - No objections, however, there may be apparatus in the area that may be at risk during construction works and should permission be granted, we require the promoter of these works to contact us directly.

## **6. Officer's Report**

### **Assessment**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 6.2 At a local level, the relevant saved policies of the Carlisle District Local Plan 2001-2016 (CDLP) comprise DP1, CP2, CP3, CP5, CP6, CP11, CP12, CP15, LE01, LE07, LE09, H2, H3, and EC01; and those of the soon to be adopted Carlisle District Local Plan (CDLP) 2015-2030 are SP1, SP2, SP6, SP8, SP9, IP2, IP3, CC4, CC5, CM4, CM5, GI3, and GI6.
- 6.3 In the CDLP 2015-2030, the application site is undesignated, and the Urban Fringe landscape designation no longer exists.
- 6.4 At a national level, material considerations include the National Planning Policy Framework, March 2012 (the Framework/NPPF), Planning Practice Guidance (April 2014), and the Natural Environment and Rural Communities Act (2006). Due regard should also be made to the requirements of the public sector equality duty in Section 149 of the Equality Act 2010.
- 6.5 Paragraph 6 of the NPPF confirms that the policies set out in paragraphs 8 to 219 of the Framework, taken as a whole, constitute the meaning of sustainable development. Paragraph 14 of the NPPF highlights the presumption in favour of sustainable development which is referred to as "a golden thread". For decision-taking this means approving development proposals that accord with the development plan; and where the development

plan is absent, silent or out of date, grant permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits; or
- specific policies in this Framework indicate development should be restricted.

6.6 Paragraph 17 of the NPPF identifies 12 core planning principles including taking account of the different roles and character of different areas; supporting the transition to a low carbon future; contribute to conserving and enhancing the natural environment and reduce pollution; and conserve heritage assets.

6.7 The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application in accordance with paragraph 118 of the NPPF. This is reflected in Section 40 of the Natural Environment and Rural Communities Act (2006) which states that every public authority must have regard to the purpose of conserving biodiversity. Local planning authorities must also have regard to the requirements of the EC Habitats Directive (92/43/EEC) when determining a planning application as prescribed by regulation 3 (4) of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), and Article 16 of the Habitats Directive before planning permission is granted.

6.8 Paragraph 215 of the NPPF highlights that due weight should be given to policies in such existing development plans according to their degree of consistency with the Framework. Paragraph 216 of the NPPF identifies that:

*“From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:*

- *the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- *the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- *the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)”.*

6.9 The CDLP 2015-2030 is now at an advanced stage having received the Inspector's report and is now progressing through the Council's processes towards adoption by the Full Council on the 8th November 2016. As such, in view of the advanced stage of plan preparation, these policies carry significant weight.

6.10 In this context, it is considered that the proposal raises the following planning issues:

1. Whether The Proposal Is Detrimental To The Character And Appearance Of The Site And The Surrounding Area

- 6.11 It is acknowledged that the site is designated as Urban Fringe Landscape in the Local Plan 2001-2016 but this designation has not been carried forward in the CDLP 2015-2030, and the land is not attributed any particular significance with regard to the setting of the City. Nevertheless, the site still remains “secluded” from public views, and lies between two industrial estates. The character and appearance of the proposed development reflects that of the neighbouring industrial estates, and locationally represents a logical area into which to extend.
- 6.12 The submitted Planning/Design and Access Statement prepared by the agent highlights that there would no longer be any significant storage of cabins etc on site and the landscaping as previously agreed would be implemented. Therefore, in terms, of visual amenity the proposed use will have a lower impact compared to the already accepted storage use.
- 6.13 In light of the above, it is considered that the proposal will not lead to a major change to the landscape character of the area with a limited adverse effect on visual amenity which should not be overbearing. The weight that can be attributed to the visual harm is less than the previous scheme; and this needs to be considered in the balance with the remaining issues.

2. Impact Of The Proposal On The Living Conditions Of The Occupiers Of Any Neighbouring Properties

- 6.14 The site is only readily visible from the adjacent industrial estates and from the residential properties on Newtown Road that adjoin the site to the south. The access into the site is approximately 40m away from the end of the rear gardens and approximately 80m from the rear elevations of the nearest dwellings. The test tracks would be at a lower level than the adjacent residential properties, which would help to reduce noise levels in the dwellings. A landscaped buffer would be provided between the storage area and these dwellings and this would contain an acoustic bund, which would include an acoustic fence, and which would be landscaped. This would further help to reduce noise levels in the dwellings on Newtown Road.
- 6.15 The use of the site could be restricted, including the ancillary storage of equipment and this would be ensured by condition. Conditions could also be imposed to restrict the height of the storage; to restrict the hours that the yard could be used; to ensure that the acoustic bund is suitably designed/implemented; and to require the details of any lighting to be agreed with the Council. In the context of the requirements of the public sector equality duty in Section 149 of the Equality Act 2010, it is considered that the imposition of these conditions would ensure that the proposal would not have an adverse impact on the living conditions of the occupiers of the neighbouring dwellings.
- 6.16 Members should note that the current Story site is not subject to such

conditions, and it is not possible to apply such conditions to the existing site as part of this application.

### 3. The Effect Of The Proposal On Nature Conservation Interests

6.17 The watercourse that runs through the site flows into the River Eden, which lies approximately 200m to the north. The proposal, therefore, has the potential to effect the River Eden, which is designated as a Special Area of Conservation (SAC) and a Site of Special Scientific Interest (SSSI), both during the construction phase and the operation of the site once established.

6.18 The submitted Assessment of Ecological Risk highlights that:

- seven reptile surveys were conducted in 2014 and no reptiles were found - the site has now been cleared;
- the main risk to wildlife relates to potential spills of oil and other fluids from the vehicles;
- the existing stream is not of ecological value, however, it does flow directly into the River Eden SAC and SSSI;
- the measures that Story have put in place include fencing, interception ditches, silt traps, the monitoring of vehicles, vehicles to carry a spill kit, and no vehicles are to be stored or repaired on site.

The Assessment concludes that the proposed work is unlikely to cause damage to important habitat or disturbance to protected species in the local or wider area if the measures are followed.

6.19 Japanese knotweed, which is an invasive non-native species, present on the site is currently being treated. It is proposed that a management plan is put in place to ensure that this plant is not spread across the site.

6.20 In relation to application 15/0440, an Assessment of Likely Significant Effects (ALSE) was undertaken by Lloyd Bore on behalf of the City Council. The ALSE concluded that:

- the production and implementation of an agreed Construction Environmental Management Plan and the use of appropriate mitigation measures during operation should ensure that there is no impact of turbidity, siltation or toxicity/pollution on the River Eden and Tributaries SSSI;
- the production of the scheme for mitigation for existing habitats and the provision and maintenance of compensatory habitats will help to compensate for the loss of potential breeding birds habitats on site;
- site clearance works should be undertaken outside of the breeding bird season, or if that is not possible, habitats will be checked for the presence of nesting birds before works are undertaken.

The ALSE considered that it was not anticipated the development, as proposed, will impact on the additional interest features of the River Eden and Tributaries SSSI. An updated ALSE is being prepared the results of which are awaited although it is not anticipated that the findings will have altered in



the intervening period.

#### 4. Flood Risk/ Drainage

- 6.21 Hardcore is already in place to form the surface of the used area which allows the surface water that falls onto the site to continue to percolate naturally into the ground. The proposal should not, therefore, increase flood risk either within the site or downstream.

#### 5. Archaeology

- 6.22 The site was previously the subject of an archaeological evaluation. The results of the evaluation indicated that no significant archaeological remains would be disturbed by proposed development. The County Archaeologist, therefore, has no objections to the proposal.

#### 6. Benefits Of The Proposal

- 6.23 The Planning Statement accompanying the application explains that Story Contracting are a local business committed to staying in the City. The proposal will support the growth of the Carlisle economy.

### **Conclusion**

- 6.24 In overall terms, it is considered that the proposal will not lead to a major change to the landscape character of the area with a limited adverse effect on visual amenity which should not be overbearing. It is considered that the proposal will not have an adverse impact on the living conditions of the occupiers of any neighbouring properties or archaeology, and not increase flood risk within or adjacent to the site.
- 6.25 On balance it is considered that the benefits of this proposal outweigh the harm and, therefore, the recommendation is for approval pending receipt and approval of the awaited Assessment of Likely Significant Effects.

### **7. Planning History**

- 7.1 In 2013, under application 12/0829, planning permission was refused for the change of use of the field to create additional yard storage. A subsequent appeal was dismissed.
- 7.2 In July 2015, under application 15/0440, conditional planning permission was given to provide an additional storage area, in association with the existing Story business on the adjacent site.
- 7.3 In September 2015, application 15/0772, condition 7 imposed under 15/0440 was discharged in full, and conditions 3, 10, 11, 12 and 13 (imposed under 15/0440) were discharged in part pending implementation.

## **8. Recommendation: Grant Permission**

1. The development shall be begun not later than the expiration of 3 years beginning with the date of the grant of this permission.

**Reason:** In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 ( as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The approved documents for this Planning Permission comprise:

1. the submitted planning application form received 2nd September 2016 ;
2. the Location Plan (drawing no. SC/YE/002) received 2nd September 2016;
3. the Test Track Plan (drawing no. SC001) received 6th September 2016;
4. the Flood Risk Assessment received 2nd September 2016;
5. the Planning Statement, incorporating Design & Access Statement received 2nd September 2016;
6. the Noise Assessment Report received 2nd September 2016;
7. the Assessment of Ecological Risk received 2nd September 2016;
8. the Notice of Decision; and
9. any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason:** To define the permission.

3. The hereby permitted use shall not commence until the hard and soft landscape works have been fully carried out in accordance with the details approved under application 15/0772. Any trees or other plants which die or are removed within the first five years following the implementation of the landscaping scheme shall be replaced during the next planting season.

**Reason:** To ensure that a satisfactory landscaping scheme is prepared and to ensure compliance with Policy CP5 of the Carlisle District Local Plan 2001-2016.

4. During the undertaking of any site and construction works associated with the hereby permitted development, a protective fence shall be erected around the trees and hedges to be retained in accordance with BS5837, at a distance corresponding with the branch spread of the tree or hedge, or half the height of the tree or hedge, whichever is greater, unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** In order to ensure that adequate protection is afforded to all trees/hedges to be retained on site in support of Policy CP3 of the Carlisle District Local Plan 2001-2016.

5. The site shall only be used as a rail testing/training facility and for no other purpose with any associated materials, equipment or goods not stacked or deposited to a height exceeding 2 metres above the adjacent ground level.

No vehicles shall be stored or repaired/maintained on the site.

**Reason:** To protect the living conditions of the occupiers of the neighbouring dwellings in accordance with Policy CP5 of the Carlisle District Local Plan 2001-2016 and to protect the adjacent watercourse in accordance with Policy CP2 of the Carlisle District Local Plan 2001-2016.

6. The hereby permitted rail testing/training facility shall not be used except between 07.30 hours and 17.30 hours on Mondays-Fridays; 09.00 hours to 12.00 hours on Saturdays; and shall not be used on Sundays or Bank Holidays.

**Reason:** To prevent disturbance to nearby residential occupiers, in accordance with Policy CP5 of the Carlisle District Local Plan 2001-2016.

7. No external lighting associated with the development hereby permitted shall be installed until the respective details have been submitted to and approved in writing by the Local Planning Authority. The external lighting shall then be installed in accordance with these details.

**Reason:** To limit light pollution and to the occupiers of neighbouring properties, in accordance with Policy CP5 of the Carlisle District Local Plan 2001-2016.

8. Prior to the hereby permitted use commencing an acoustic barrier designed to the specification proposed in the Environmental Noise Assessment (produced by Noise Control Services and received 12th May 2015) shall be installed in the position shown on the Setting Out And Cut/ Fill plan (Drawing No. AA2858/EW/05 rev. A) approved as under application 15/0440, unless otherwise agreed in writing with the Local Planning Authority.

**Reason:** To protect the living conditions of the occupiers of the neighbouring properties in accordance with Policy CP5 of the Carlisle District Local Plan 2001-2016.

9. The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment (FRA) given reference MD0494/rep/001 Rev A and compiled by M Design and the following mitigation measures detailed within the FRA:

1. The mitigation measures shall be fully implemented prior to occupation and in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may be agreed, in writing, by the local planning authority.
2. There shall be no creation of impermeable areas draining to the existing watercourse.
3. The drainage scheme shall ensure that it is sufficiently resilient against a 1

in 100 year critical storm event. The surface water run off from the site must not exceed the amount of run off generated prior to the development taking place and must not increase the risk of flooding elsewhere.

**Reason:** To prevent and mitigate the risks of flooding on and off the site by ensuring the satisfactory storage of/disposal of surface water.

10. The control/eradication of Japanese knotweed on the site shall be carried out in accordance with the method statement approved under application 15/0772.

**Reason:** To prevent the spread of Japanese knotweed which is an invasive species included in Schedule 9 of the Wildlife & Countryside Act 1981, as amended. Any spread of this plant to the vicinity of the on site watercourse would provide a direct pathway to the River Eden SAC.

11. The development hereby permitted shall be implemented in accordance with the scheme for the mitigation of existing habitats and the provision and management of compensatory habitats as approved under application 15/0772.

**Reason** Otters are a protected species; they and other species are present in the nearby part of the River Eden and minor tributaries. They benefit from the protection and habitats created by the existing bankside/vegetation/shrubs/trees and a scheme is necessary to prevent/mitigate impacts on protected and native species. Where this is not possible, habitats should be compensated for.

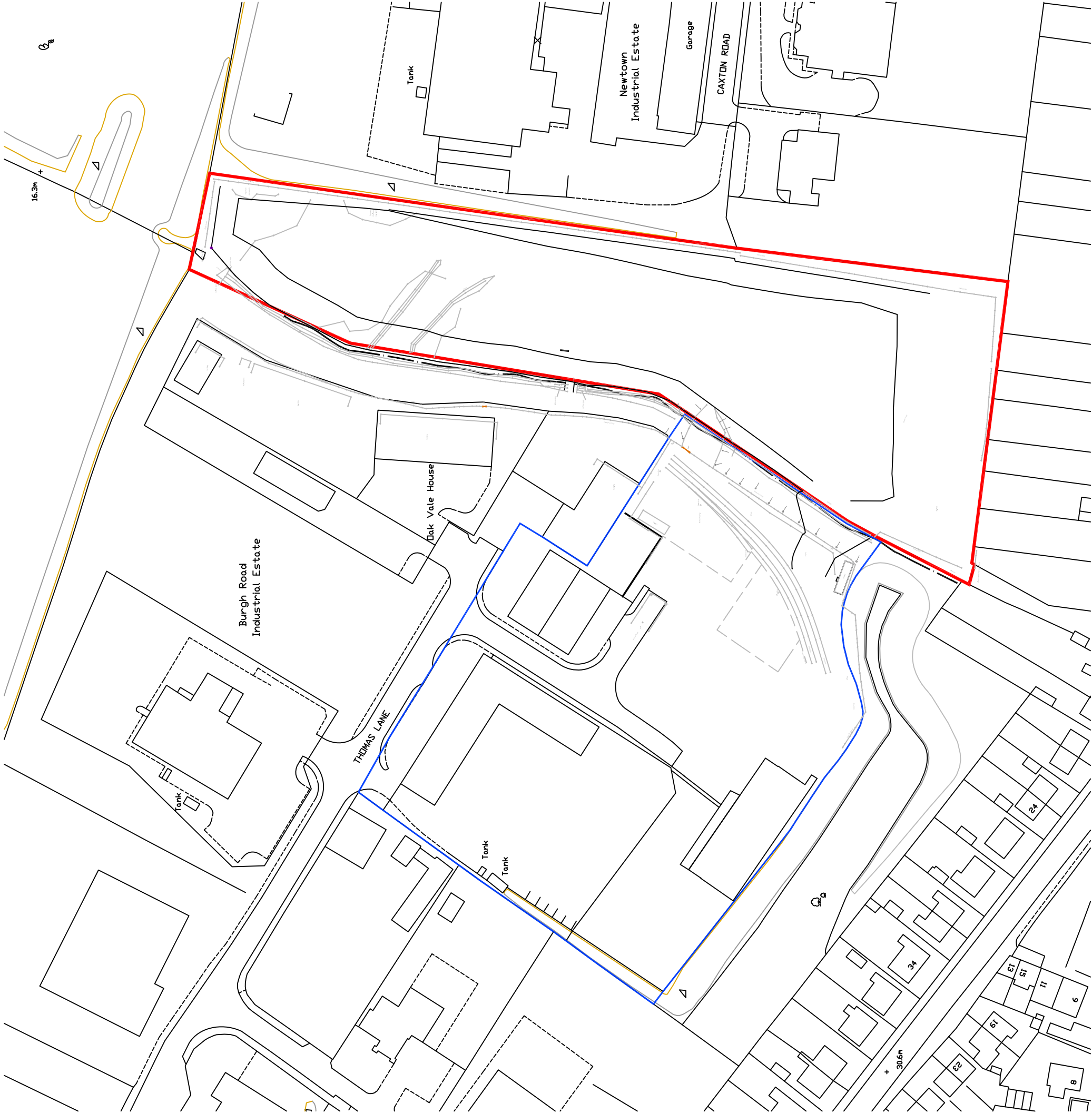
12. The development hereby permitted shall be carried out fully in accordance with the plan of bio-security measures approved under application 15/0772.

**Reason** To prevent the transmission or spread of Crayfish plague to the River Eden SAC situated a short distance downstream.

13. The development hereby permitted shall be carried out in complete accordance with the Mini Construction Phase Health & Safety Plan (Incorporating Risk Assessments & Method Statement - RAMS) dated 07.07.15 and prepared by David Sanderson and Mario Mezzullo on behalf of Story Contracting Ltd as approved under application 15/0440.

**Reason:** To safeguard the River Eden SAC and SSSI, and the biodiversity of the area.

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PLANNING APP



DEVELOPMENT

Story Construction

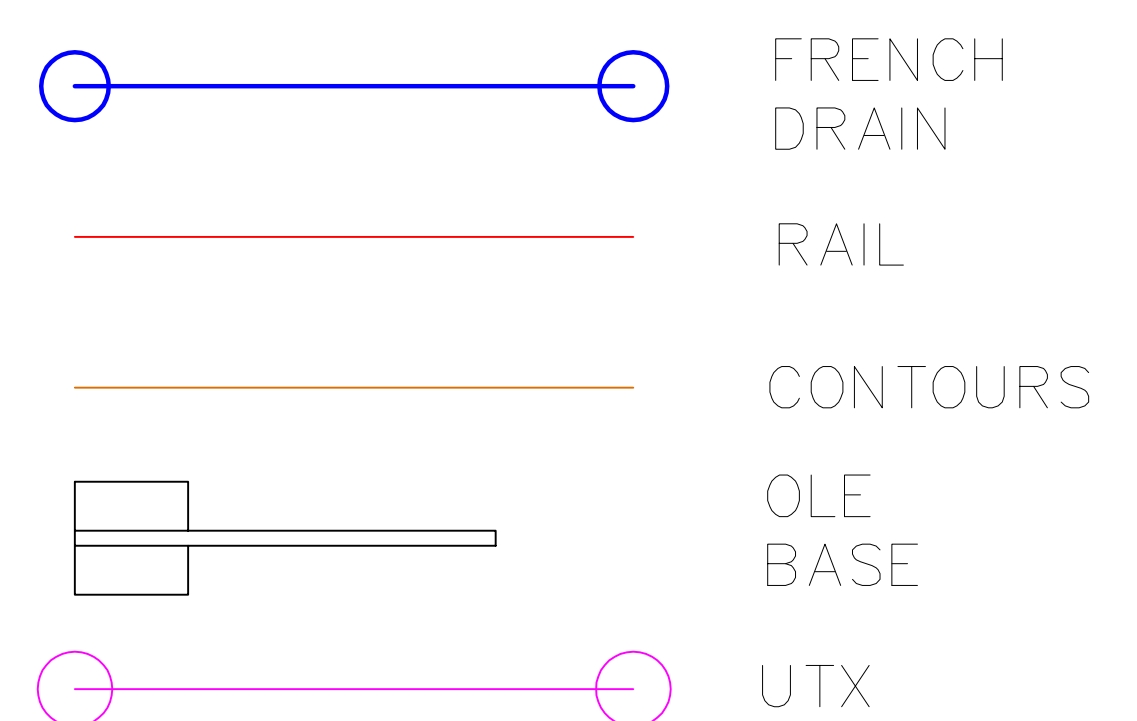
DRAWING

Yard Extension

Location Plan.

DRAWN BY	scm	DATE	16/03/2011
CHECKED BY	-	SCALE	1:1250
DRAWING NUMBER	SC/YE/002	REVISION	-
REGION SITE REFERENCE	Burgh Road	MASTER REF	1
Revisions			





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