

SCHEDULE A: Applications with Recommendation

15/0440

Item No: 14

Date of Committee: 10/07/2015

Appn Ref No:
15/0440

Applicant:
Story Contracting Limited

Parish:

Agent:
Positive Planning Solutions

Ward:
Belle Vue

Location: Land Adj. To Thomas Lane, Burgh Road Industrial Estate, Carlisle, CA2 7NA

Proposal: Change of Use of Vacant Field to Create Additional Yard Storage Space For Existing Business; Includes Profiling of Site (Revised Application)

Date of Receipt:
22/05/2015

Statutory Expiry Date
17/07/2015

26 Week Determination

REPORT

Case Officer: Angus Hutchinson

1. Recommendation

- 1.1 It is recommended for approval pending receipt and approval of the awaited Assessment of Likely Significant Effects, and comments from interested parties.

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 The site is an unused field, which is approximately 1.44ha in area, which lies

between Burgh Road and Newtown Road Industrial Estates. The field 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 being located 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 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).

The Proposal

- 3.3 The proposal is seeking to provide an additional storage area, in association with the existing Story business on the adjacent site. The storage area would be required for equipment such as site office cabins, containers and other bulky equipment, associated with the existing construction company. No vehicles would be parked on the site and no equipment would be stored which might leak oil. No buildings would be erected on the site.
- 3.4 A flat area would be formed through a cut and fill exercise using soil from the existing site and no material would need to be imported onto the site. In general site levels would be raised on the north and west boundaries and reduced on the south and east boundaries. The storage area would be surfaced in compacted hardcore, which would provide a suitable surface for storage and allow surface water to percolate through into the ground below, so that the site continues to act as at present in terms of surface water. The existing culvert is unsuitable for use by vehicles and a new culvert would be constructed further to the south, with the existing culvert being removed to compensate for the creation of the new stretch of culvert. The new culvert would be designed to ensure that it has enough capacity to allow the flow of water from the existing beck to pass through without restriction to ensure that it does not increase flooding within the site. The new culvert would allow vehicular access from the adjacent Story's site, via a new 6m wide road, which would be constructed of compacted hardcore.
- 3.5 A large proportion of the site (46%) would be used as a landscaped area. This would include a strip of approximately 40m from the proposed access road to the southern boundary of the site. An acoustic earth bund/ fence would be constructed approximately 20m from the boundary of the residential properties on Newtown Road. The earth bund would be landscaped, as would the land outside the storage area. Noise modelling has been undertaken and this has influenced the location, height and construction of the bund/ fence.

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. Three formal objections and two e-mails raising concerns have been received on the following grounds:

- Story Construction does not own the land;
- the junction from the estate is not suitable for the amount of traffic that uses it already especially now Burgh Road has become a main road from the bypass;
- Light pollution from proposal;
- Trees to rear of dwellings on Newtown Road are all deciduous - need evergreen trees;
- Increase in noise - existing site operates 7 days a week - out of hours, starts at 4.30am sometimes at night;
- Loss of view - gardens look onto fields;
- Site is a valuable wildlife habitat in urban area which will be lost - it has not been ploughed, fertilised or sprayed for over 50 years;
- Proposal is unnecessary as Story could use their parking area on Thomas Lane for storage of containers;
- Material will need to be imported on to the site to level it - how long will this take, what type of materials will be imported?;
- Concerned what area will be used for - won't all be needed for storage;
- Could affect drainage of gardens on Burgh Road;
- How high will trees grow - some planted in 1994 are at roof height;
- How high will containers be stacked;
- Residents have used this field for many years- will they still have access?
- Containers should be stacked on sites on existing industrial estates around the City;
- Have severe flooding in back gardens during heavy rain - more hardcore will make it worse;
- Compression of ground - surface water will run off to lowest point, which is the gardens;

- Container storage yard is not a quiet operation and is not suitable for a residential area;
- Hours of work are given as 7:30 to 18:00 - but existing yard operates longer hours;
- No hazardous materials should be stored on the site;
- There has already been an increase in traffic on Newtown Road since bypass opened;
- An increase in heavy container vehicles using the adjacent roads which are already congested would cause unacceptable increase in congestion and delays to residents and road users;
- Question the legal position of the council considering a planning application for a site that is not owned by the applicant;
- If planning permission is started there must be adequate drainage put in to prevent home gardens flooding;
- Opening up land to the rear would increase likelihood of robberies and theft;
- Site is near Hadrian's Way and Route 72 Hadrian's Cycleway and should be promoted as part of World Heritage Site;
- Site is regularly used by local people for walking and recreation;
- Shown as urban fringe landscape - not allowed for employment development;
- Site is semi-natural unspoiled grassland, which is some of the richest habitat for wildlife in England - supports more priority species than any other habitat;
- Habitat has a positive effect on the climate by absorbing and storing carbon;
- Unacceptable adverse impact on the character and appearance of the surrounding area;
- Story should move to a suitable site that would allow them to expand without affecting residential areas e.g. Kingmoor Park Industrial Estate;
- Unlikely jobs will be created;
- River Eden SSSI - industrial development poses a clear and evident risk to the river through its polluting activities;

- Proposal will reduce air quality and increase vibration at surrounding properties;
- Noise Assessment is out of date and was taken at times to avoid noise;
- Site is already over capacity.

5. Summary of Consultation Responses

Natural England - relating to protected species, biodiversity & landscape: - no objections subject conditions and the completion of an Assessment of Likely Significant Effects.

Local Environment - Environmental Protection (former Comm Env Services- Env Quality): - has no objections in principle to the above planning application, however in the past we have had noise complaints from residents on Burgh Road regarding noise from banging and clattering and engine noises.

As the yard is to extend behind properties on Newtown Road, the noise mitigation proposals in the noise assessment must be implemented before work takes place in the yard. Operating hour restrictions as agreed previously should be retained.

Historic England: - we do not believe that this proposal would impact directly on any archaeological remains from the Hadrian's Wall World Heritage Site. In addition, although potentially visible from the World Heritage Site, we do not believe that it would harm the ability to appreciate and understand Roman military planning and land use. We do not believe that this proposal would harm the setting of the World Heritage Site.

Cumbria County Council - (Econ. Dir. Highways & Transportation): - from a highway point of view, this application is not likely to have a severe impact on the surrounding road network.

Environment Agency (N Area (+ Waste Disp & Planning Liaison Team): - comments awaited.

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 the application be approved, the promoter of these works should contact us directly.

Cumbria County Council - Drainage: - comments awaited.

6. Officer's Report

Assessment

- 6.1 From the outset Members should note that in 2013, under application 12/0829, planning permission was refused for the change of use of the field to create additional yard storage, and a subsequent appeal was dismissed.
- 6.2 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.
- 6.3 The Development Plan comprises the Carlisle District Local Plan (CDLP) 2001-2016. The relevant planning policies against which the application is required to be assessed are Policies DP1, LE1, LE7, LE9, CP2, CP3, CP5, CP6, CP11, CP12, H2 and EC1 of the Carlisle District Local Plan 2001-2016.
- 6.4 In the “Carlisle District Local Plan 2015-2030 Proposed Submission Draft - February 2015” the application site is undesignated, and the Urban Fringe landscape designation no longer exists.
- 6.5 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).
- 6.6 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.
- 6.7 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.
- 6.8 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.

- 6.9 Carlisle's emerging new Local Plan 'The Carlisle District Local Plan 2015 - 2030' was submitted to the Secretary of State on 22nd June 2015 under Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

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)".*

Carlisle City Council resolved at their meeting of the 10th February 2015, with regards to the emerging Local Plan, that *"once published for consultation, weight be given to the Carlisle District Local Plan (2015–2030) as a material consideration when exercising Development Management policy decisions, in accordance with paragraph 216 of the National Planning Policy Framework"*.

- 6.10 In exercising a decision on the proposal regard has therefore been had to the relevant policies and proposals within the emerging Carlisle District Local Plan 2015-2030. The particular weighting afforded to policies and proposals of relevance has been arrived at by considering each in turn and by way of reference to the provisions of paragraph 216 of the NPPF. 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 emerging Local Plan 2015-2030. No objections have been received by the City Council with regard to the removal of the Urban Fringe landscape designation in the emerging Local Plan 2015-2030.
- 6.12 The Inspector, when considering the previous appeal in February 2014 stated that:

“In terms of appearance, the area is unexceptional, but the openness of the appeal site, and the vegetation that is both within and adjacent to it, provide a significant element of visual relief in an otherwise largely built-up area. (para. 4)...the openness of the area, and the green buffer it provides between two existing industrial estates, would be irretrievably lost”.(para.9)

The Inspector notes the *“relatively secluded nature of it [the site] in public views”* but goes on to conclude that *“the proposed development would materially harm both the character and appearance of the site and the surrounding area, contrary to the provisions of Policy LE1 of the LP and the aims of The Framework”* (para. 11)

- 6.13 In the intervening period it is evident that in the “Carlisle District Local Plan 2015-2030 Proposed Submission Draft - February 2015” 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.
- 6.14 The submitted Landscape Proposals (July 2014) prepared by Westwood Landscape highlights that the improved planting/landscape design will mean that the development can be implemented sensitively, and this would not lead to a major change to the landscape character of the area with only a minor adverse effect on visual amenity which will not be overbearing for receptors.
- 6.15 In light of the above, it is considered that the proposal will still be detrimental to the character of the site and area albeit to a lesser degree than the previous proposal; the weight that can be attributed to that harm is less; 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

- 6.16 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 proposed access road into the site would be approximately 40m away from the end of the rear gardens and approximately 80m from the rear elevations of the nearest dwellings. The storage area 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.
- 6.17 The use of the site would be restricted to the storage of equipment and this would be ensured by condition. Conditions would also be used 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; and to require the details

of any lighting to be agreed with the Council. 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.

- 6.18 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

- 6.19 The previous Phase 1 Habitat Survey of the site has been submitted with the application which highlights that the site mainly consists of semi-improved grassland, with tall ruderal along the western margins bordering the stream, scattered scrub, a number of trees of varying quality, and small sections of Japanese knotweed near the north-eastern boundary. A full Reptile Survey has also been included the results of which found no evidence of reptiles on the land. The Reptile Survey concludes that proposed work is unlikely to cause a net loss of habitat or disturbance to protected species in the local or wider area.

- 6.20 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.

- 6.21 The proposal seeks to maintain surface water run-off at its current rate by using hardcore. Pollution control measures would be put in place both during construction and operation to prevent pollution entering the watercourse.

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

- 6.23 An Assessment of Likely Significant Effects (ALSE) was undertaken by Lloyd Bore on behalf of the City Council in relation to the previous application. The ALSE (August 2013) 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 (August 2013) 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 has been commissioned 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

- 6.24 Hardcore would be used to form the surface of the storage area and this would allow the surface water that falls onto the site to continue to percolate naturally into the ground. The proposal would not, therefore, increase flood risk either within the site or downstream.
- 6.25 A Flood Risk Assessment (FRA) has been submitted with the application and conditions have been suggested to ensure that the measures outlined within this are implemented.

5. Archaeology

- 6.26 The site has been the subject of an archaeological evaluation. The results of the evaluation indicate 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

- 6.27 The Planning Statement accompanying the application explains that the proposal is to provide additional storage for its existing enterprise to facilitate the continued success and economic stability of the company which employs approximately 450 people directly. The change of use of the land is needed to continue to grow Story Contracting/Rail into a nationally represented company and enable the continuing growth of the company enabling the taking on of more staff and apprentices.

7. Other Matters

- 6.28 A number of objectors have raised concerns that Story do not own the land and should not, therefore, be submitting a planning application on this land. Story are entitled to submit a planning application on land that they do not own.

Conclusion

- 6.29 In overall terms, it is considered that the proposal will still be detrimental to the character of the site and area albeit to a lesser degree than the previous proposal; the weight that can be attributed to that harm is less; and this needs to be considered in the balance. 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. The nature of the proposal and associated circumstances have changed since the appeal regarding the previous application, reference number 12/0829.

- 6.30 On balance it is considered that the benefits of this revised proposal outweigh the harm and, therefore, the recommendation is for approval pending receipt and approval of the awaited Assessment of Likely Significant Effects, and comments from interested parties.

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.

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 12th May 2015;
2. the Location Plan (drawing number SC/YE/003) received 12th May 2015;
3. the Indicative Plan (drawing number SC/YE/003) received 12th May 2015;
5. the General Arrangement Plan (drawing number AA2858/EW/02 rev. A) received 12th May 2015;
6. the Setting Out and Cut/Fill Plan (drawing number AA2858/EW/05 rev. A) received 12th May 2015;
7. the Cross Sections 1-10 (drawing number AA2858/EW/03) received 12th May 2015;
8. the Cross Sections A-F and Culvert (drawing number AA2858/EW/04 rev. A) received 12th May 2015;
9. the Planning Statement received 12th May 2015;
10. the Flood Risk Assessment received 12th May 2015;
11. the Tree Survey received 11th May 2015;
12. the Design and Access Statement received 12th May 2015;
13. the Environmental Noise Assessment received 12th May 2015;
14. the Extended Phase 1 Habitat Survey received 11th May 2015;
15. the Reptile Survey received 12th May 2015;
16. the Landscape Proposals received 12th May 2015;
16. the Notice of Decision; and
17. any such variation as may subsequently be approved in writing by the Local Planning Authority.

Reason: To define the permission.

3. No development shall take place until full details of hard and soft landscape works, including a phased programme of works, have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved prior to the occupation of any part of the development or in accordance with the programme agreed by the Local Planning Authority. 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. Before any development is commenced on the site, including site works of any description, 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. The fence shall thereafter be retained at all times during construction works on the site.

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 for storage and for no other purpose. The portacabins and containers shall be stacked a maximum of two high. No vehicles shall be stored 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 storage area shall not be used except between 07.30 hours and 17.30 hours on Mondays-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 development approved by this permission shall be commenced until details of any external lighting 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), 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. 1. 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: 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. No mowing, strimming, excavation or earth moving works shall be carried out on site until a detailed method statement for removing or the long-term management / control of Japanese knotweed and Variegated Yellow Archangel on the site is submitted to and approved in writing by the local planning authority. The method statement shall include proposed measures that will be used to prevent the spread of Japanese knotweed and Variegated Yellow Archangel during any works on site. It shall also contain measures to ensure that any soils brought to the site are free of the seeds / root / stem of any invasive plant covered under the Wildlife and Countryside Act 1981, as amended. Development shall proceed in accordance with the approved method statement subject to any reasonable modification required in writing by the local planning authority.

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. Prior to the hereby permitted use commencing, a scheme for mitigation of existing habitats and the provision and management of compensatory habitats shall be submitted to the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved scheme.

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. A plan of bio-security measures to prevent the spread of crayfish plague shall be submitted to the local planning authority prior to development commencing. The plan shall give consideration to construction material, plant and machinery, vehicle and personnel movements on site in order to prevent Crayfish plague being spread. The development shall be carried out in accordance with a plan of bio-security measures agreed in writing by the Local Planning Authority.

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



RECEIVED
05 OCT 2012
1210829

PLANNING APP



DEVELOPMENT

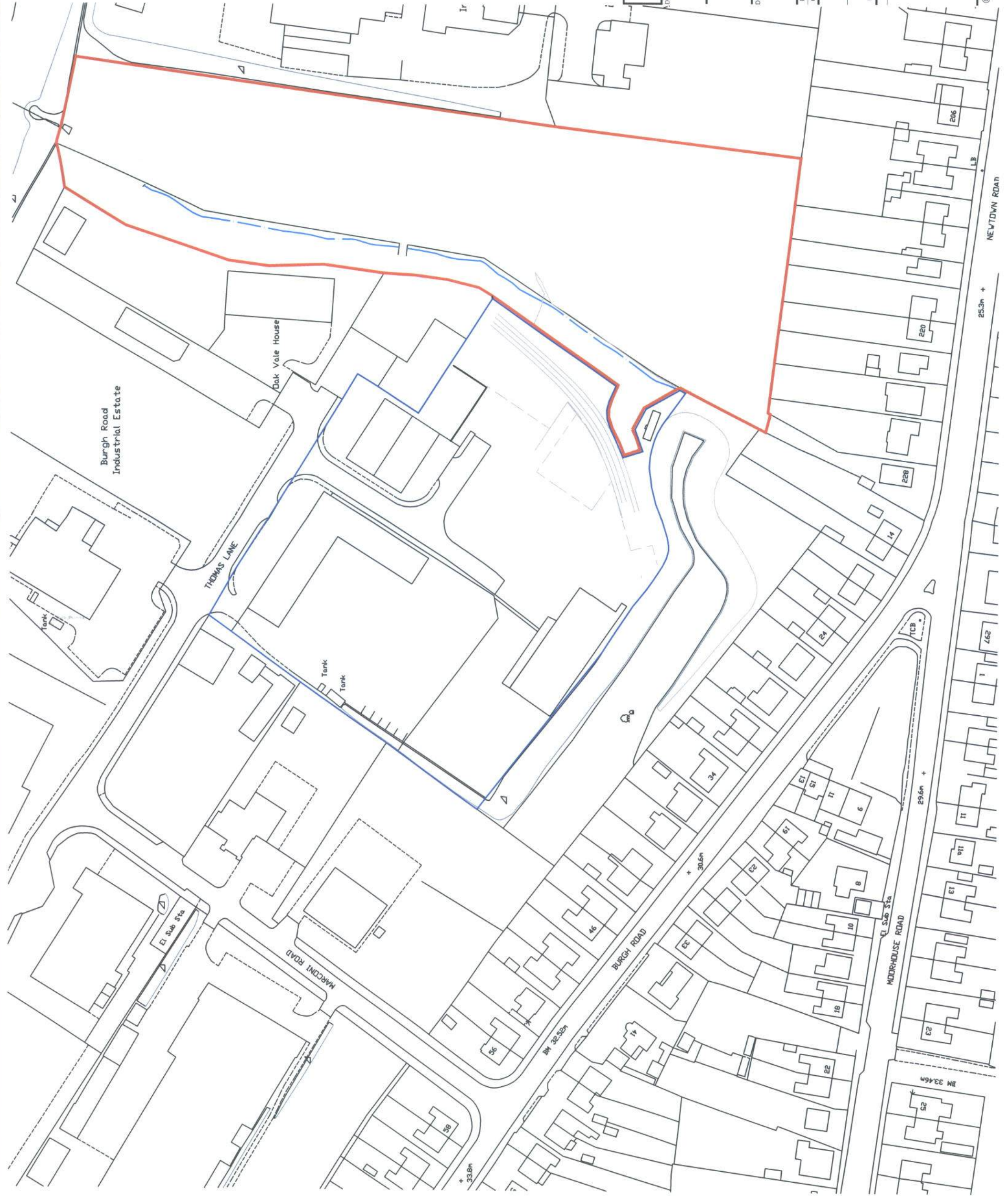
Story Construction

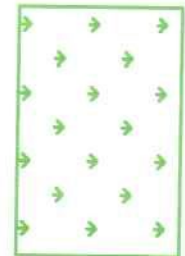
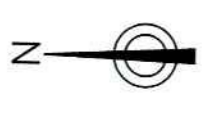
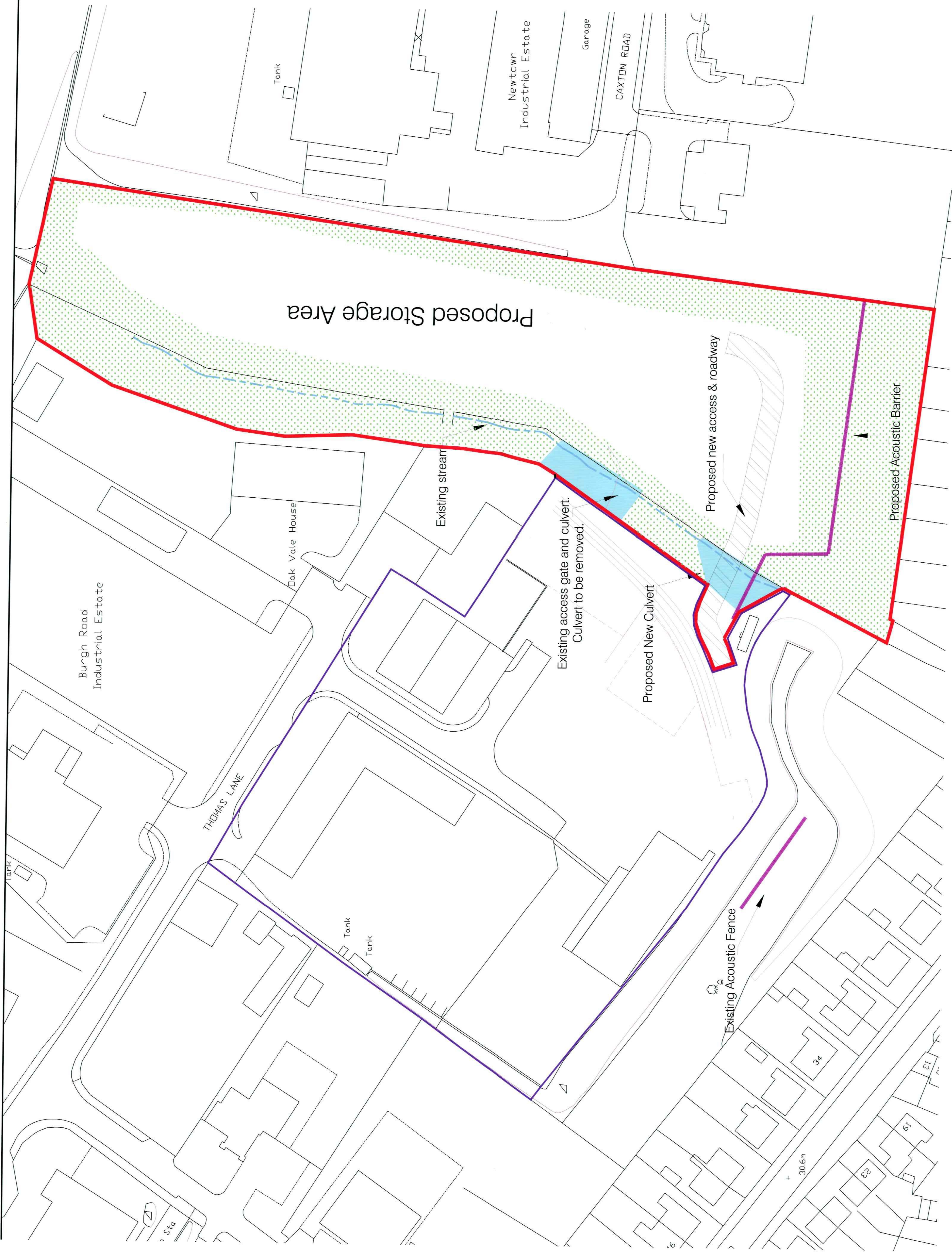
Yard Extension

Location Plan

DRAWING

DRAWN BY	DATE	SCALE	1:1250
CHECKED BY	DATE	SCALE	1:1250
DRAWING NUMBER	SC/YE/003	REVISION	-
REGION	Burgh Road	MASTER REF	1
REFERENCE			
Revisions			





Potential For New Landscaping

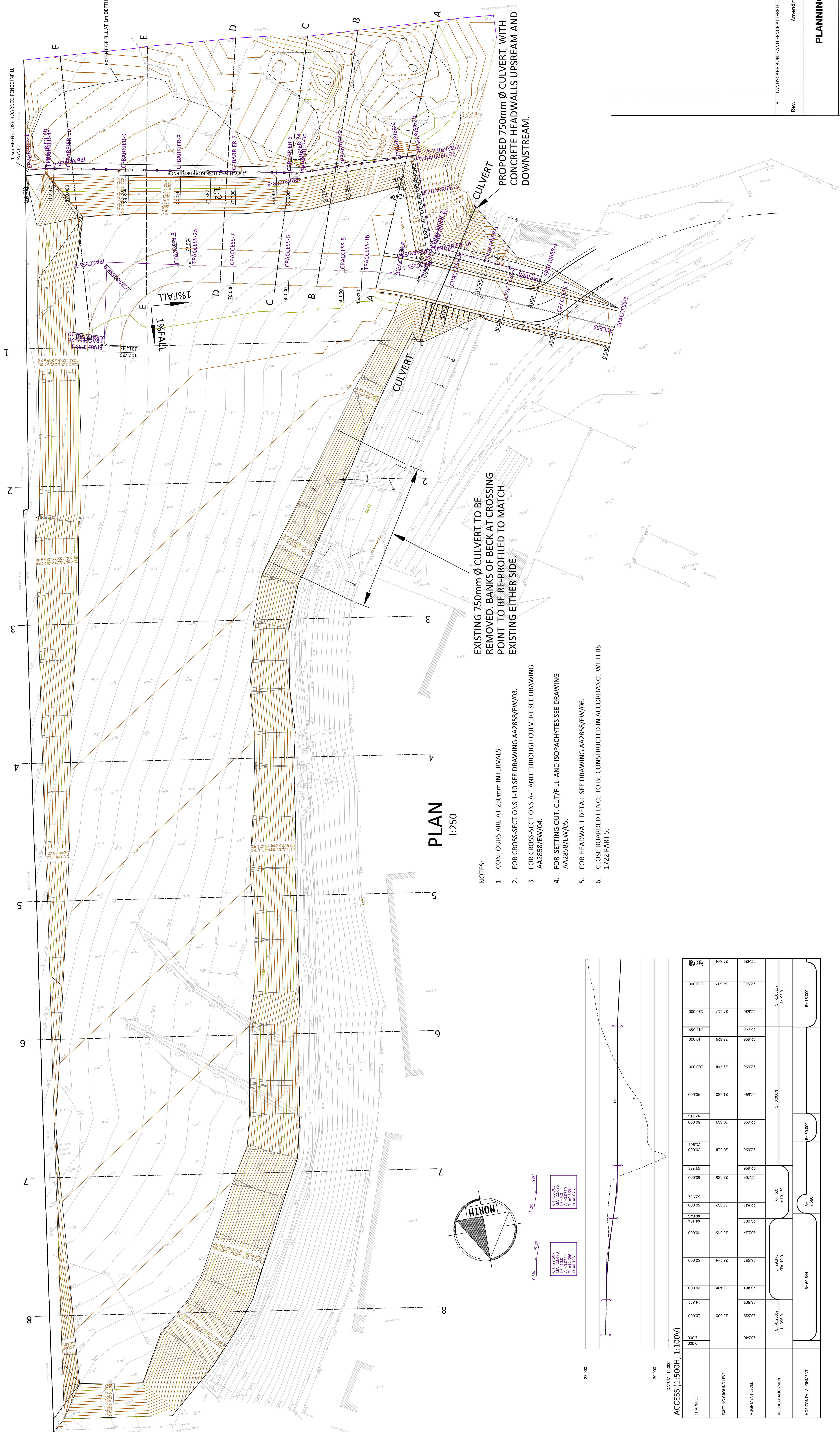
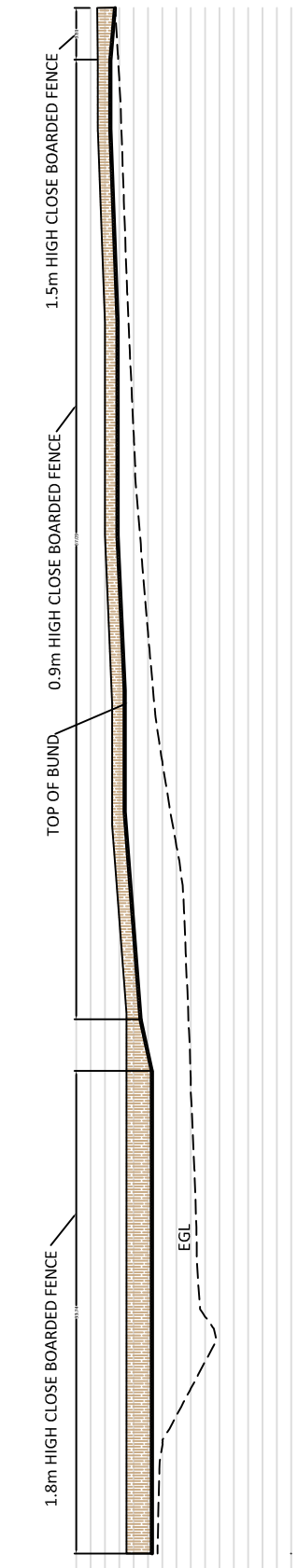


DEVELOPMENT
Story Construction
Yard Extension

DRAWING
Indicative Plan

DRAWN BY	sm	DATE	16/03/2011
CHECKED BY	-	SCALE	1:500(B/A)
DRAWING NUMBER	SC/YE/003	REVISION	-
SITE REFERENCE	Yard Extension		
Revisions			

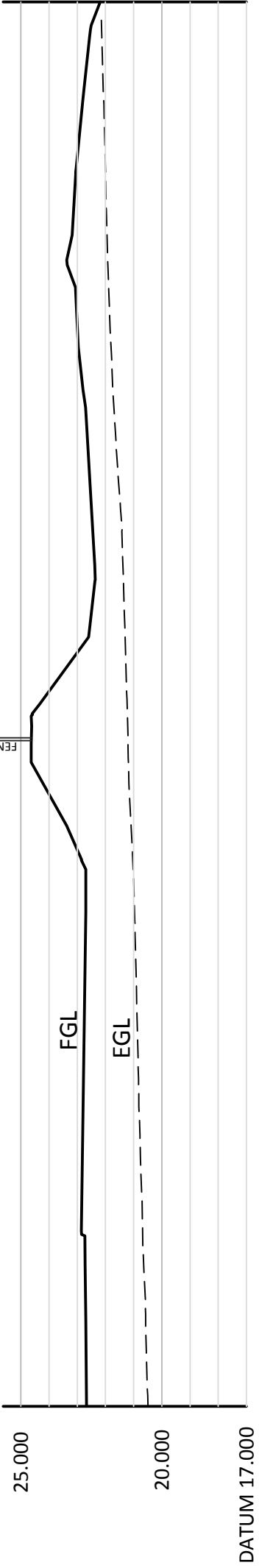
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SECTIONS

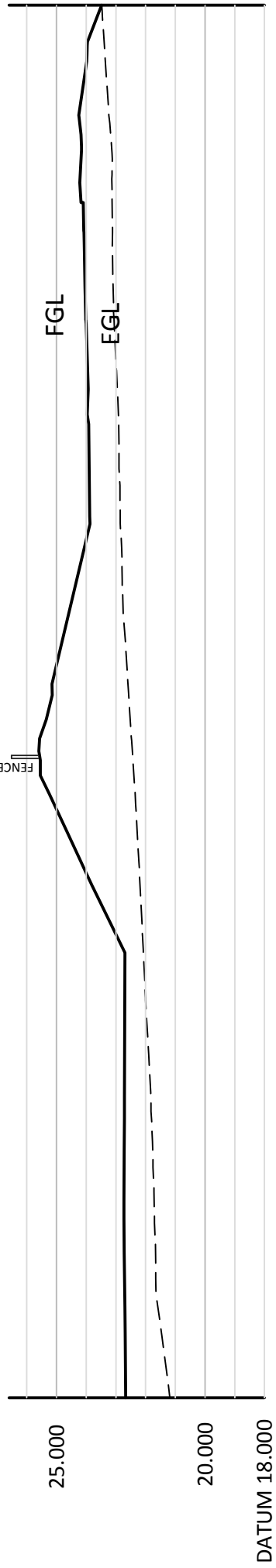
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NOTES.



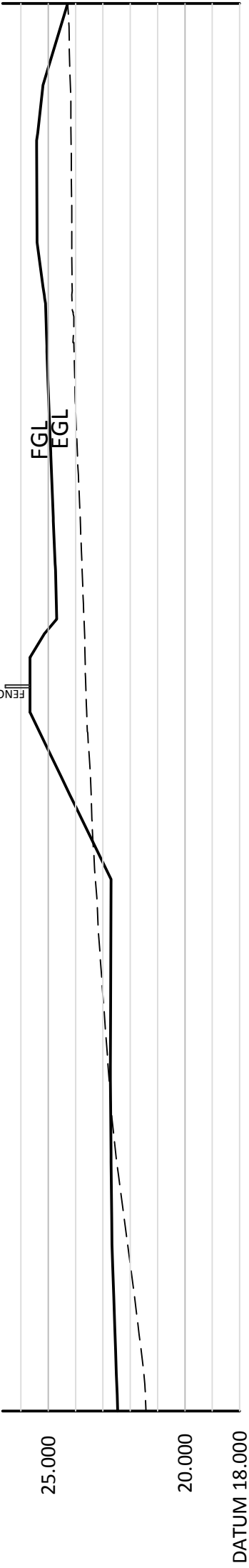
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EX LEVEL	20.493	20.790	21.060	21.385	21.895	22.147	22.185
FGL 1 LEVEL	22.670	22.802	23.113	22.993	23.181	22.147	22.185

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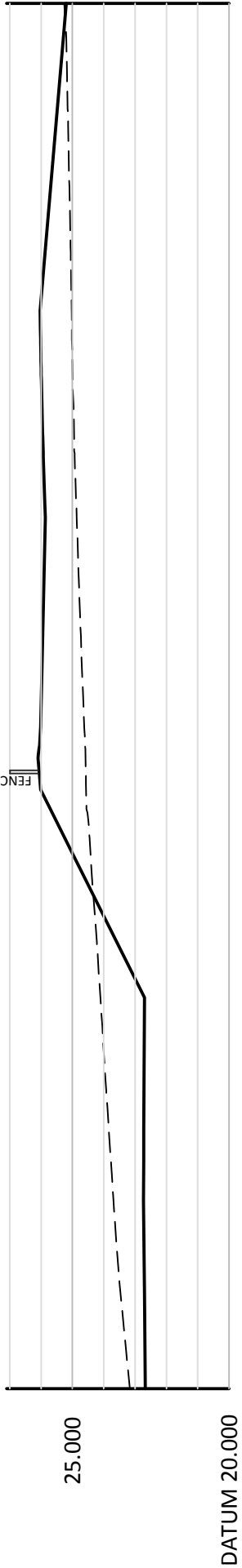
CHAINAGE	0.000	10.000	20.000	30.000	40.000	46.990	23.478
EX LEVEL	21.184	21.823	22.335	22.860	23.124	23.474	23.478
FGL 1 LEVEL	22.670	22.715	25.082	23.887	24.097	23.474	23.478

B



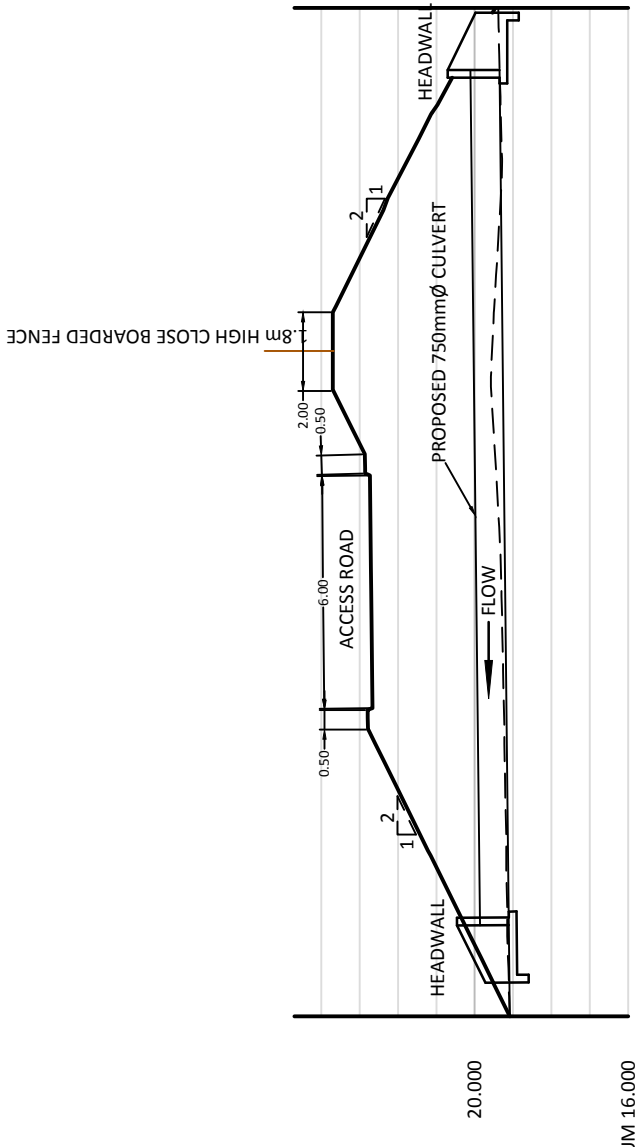
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EX LEVEL	21.421	22.595	23.319	23.734	24.068	24.232	24.288
FGL 1 LEVEL	22.460	22.709	22.980	24.718	25.088	24.717	24.288

C



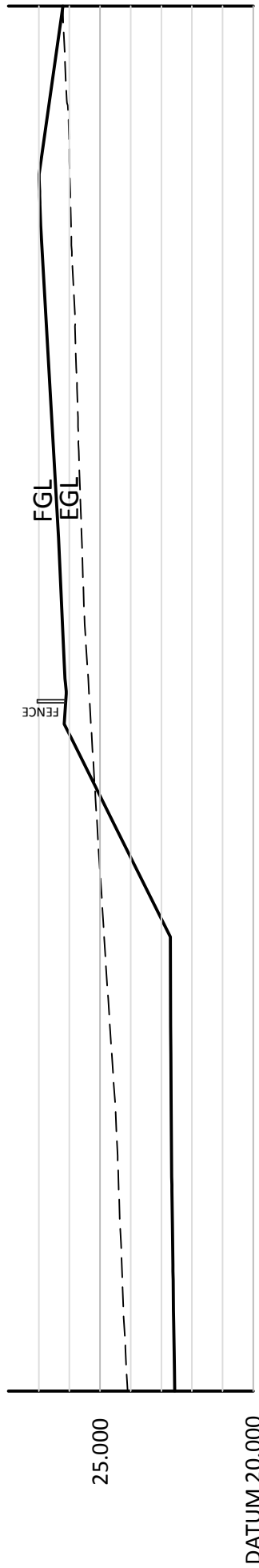
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EX LEVEL	23.165	23.949	24.577	24.944	25.129	25.260	25.193
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D



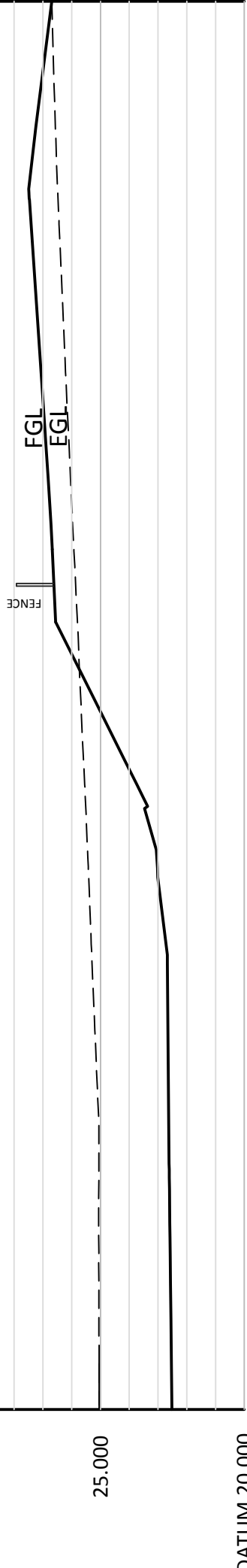
CHAINAGE	0.000	5.000	10.000	15.000	20.000	25.000	26.305
EX LEVEL	19.083	19.185	19.279	19.489	19.402	19.359	19.388
PROPOSED YARD LEVEL	19.513	21.554	22.689	23.036	22.893	20.300	19.465

CULVERT



CHAINAGE	0.000	10.000	20.000	30.000	40.000	45.144	26.210
EX LEVEL	24.099	24.550	25.189	25.673	25.998	26.212	26.210
FGL 1 LEVEL	22.560	22.681	25.298	26.481	26.943	26.212	26.210

E

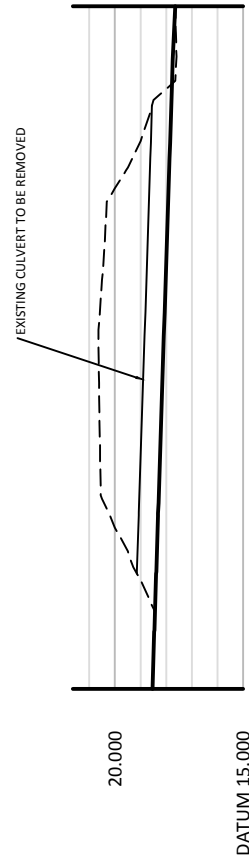
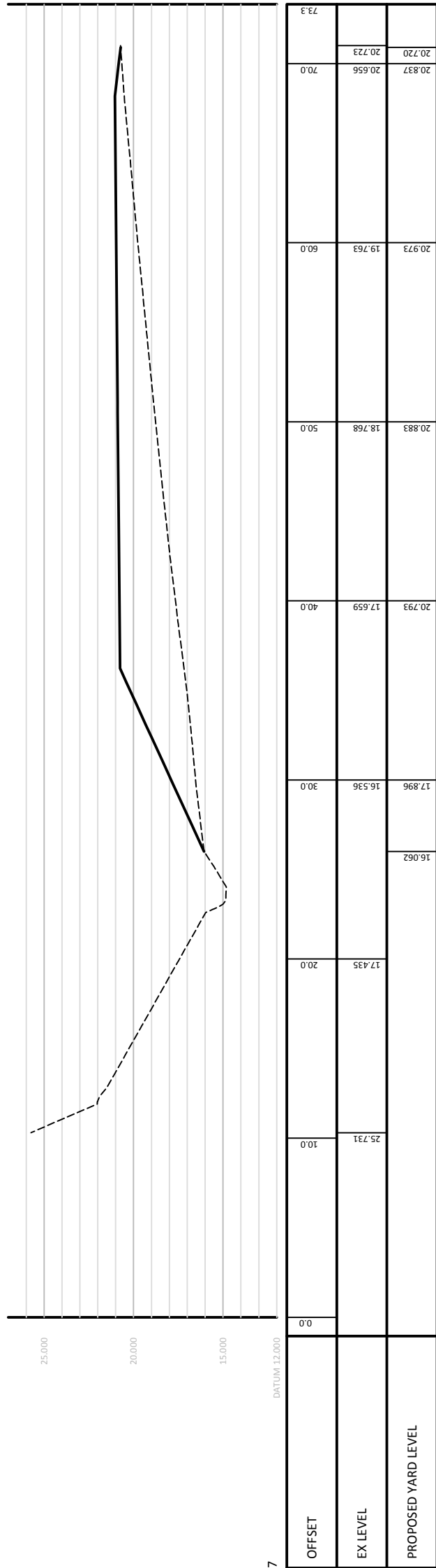
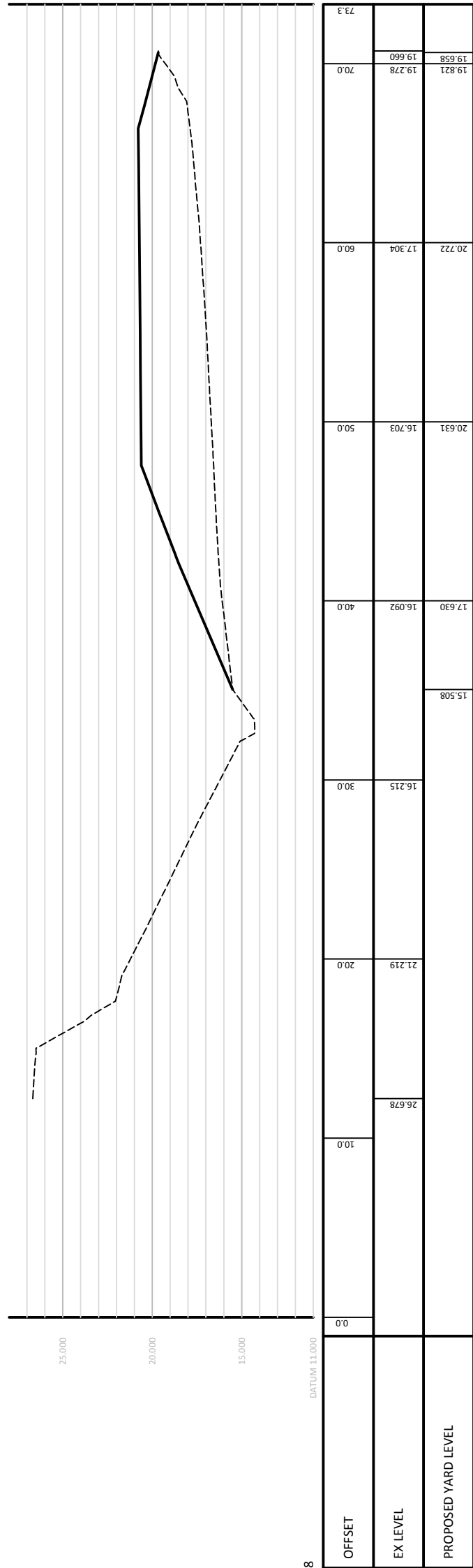
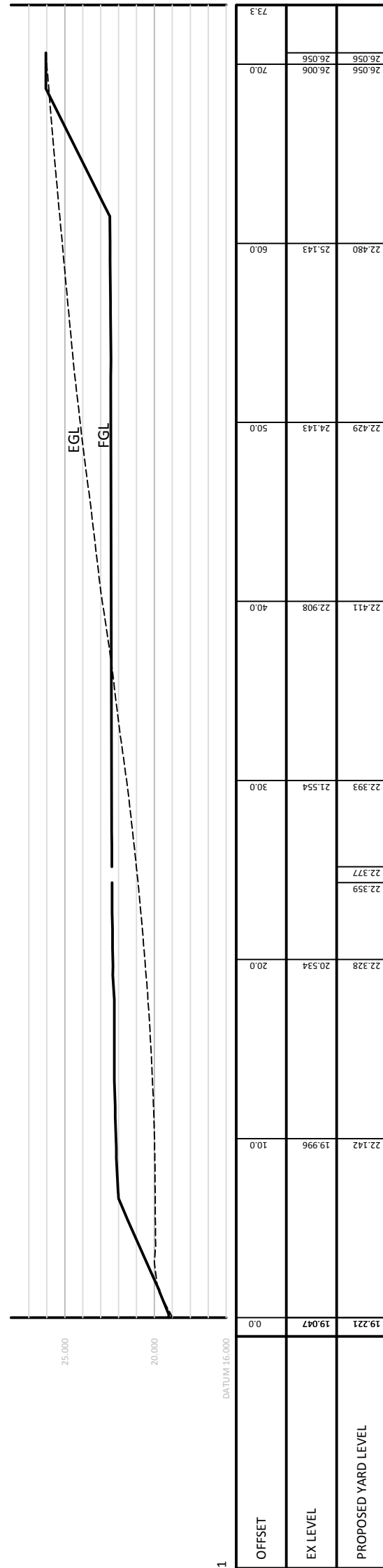
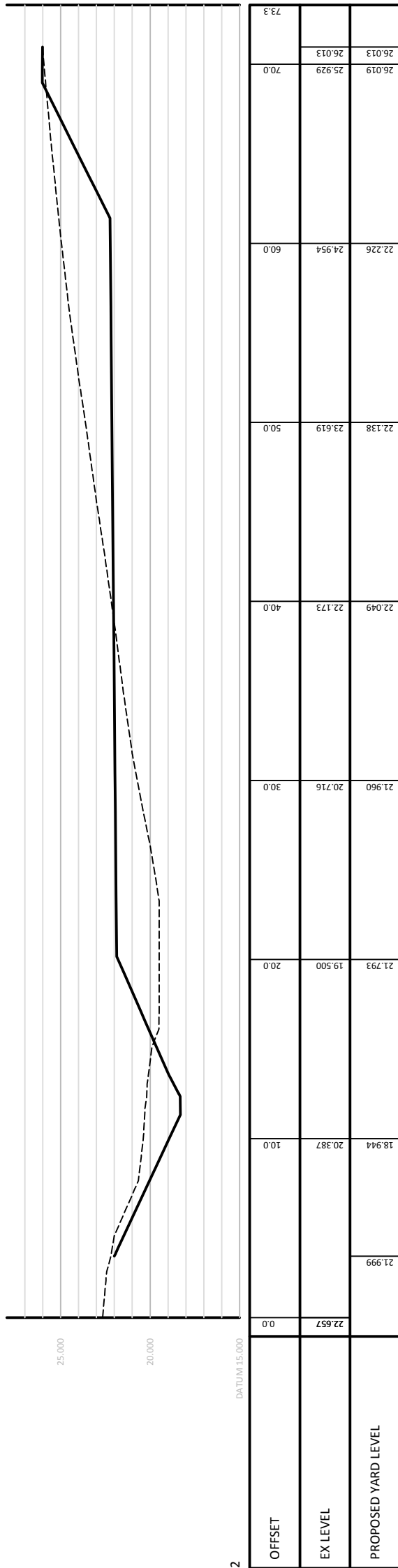
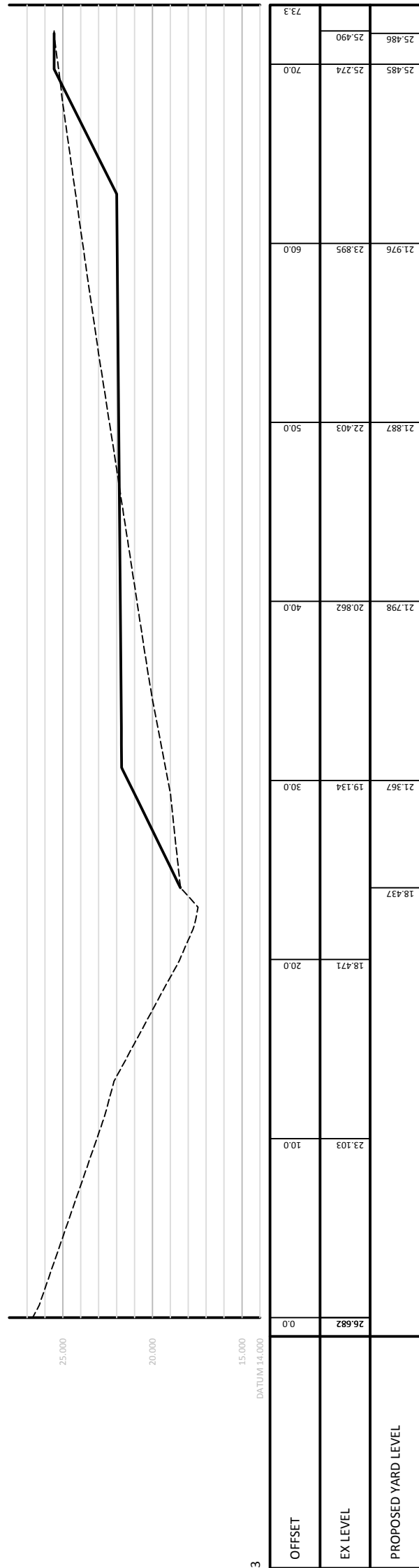
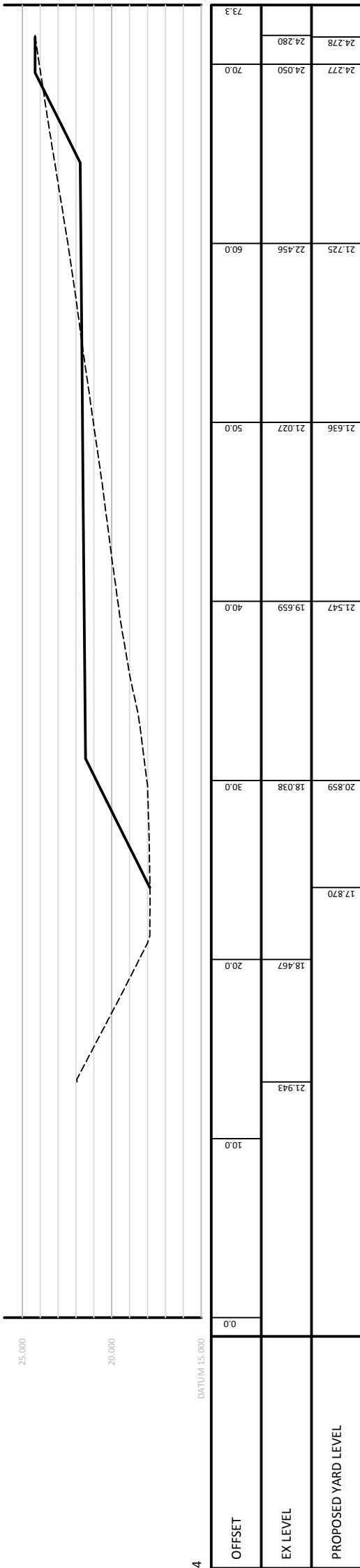
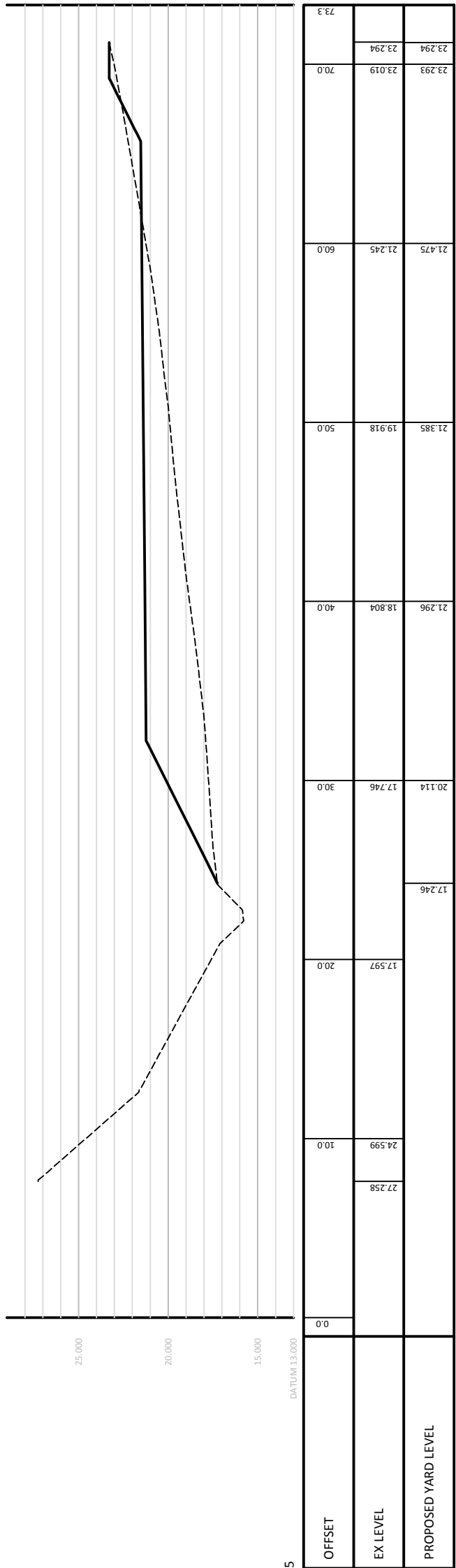
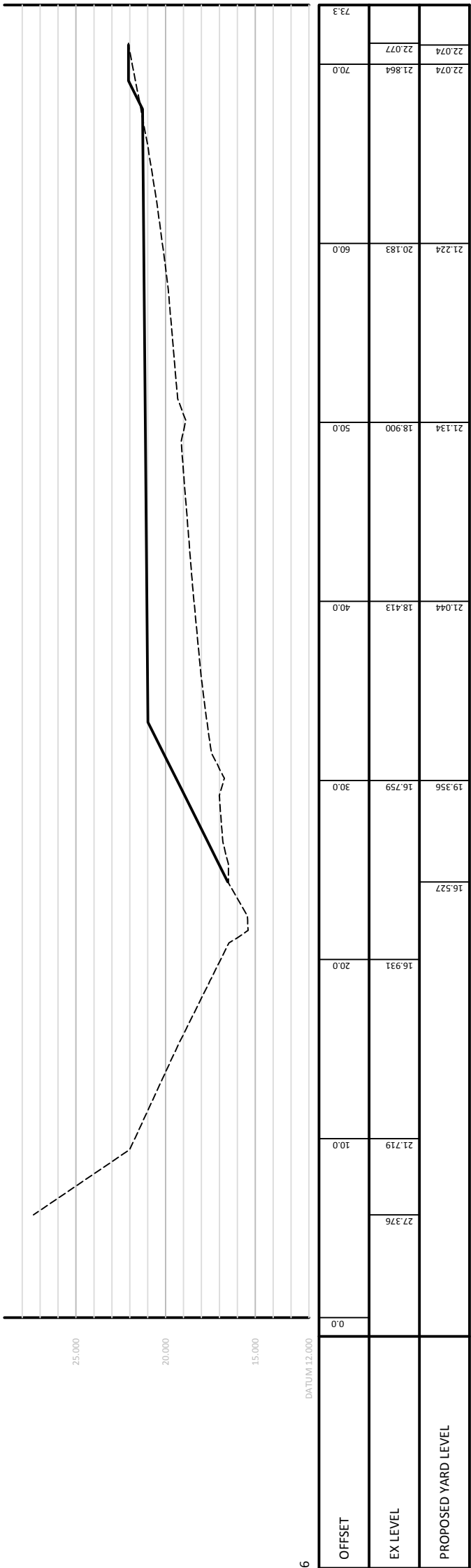


CHAINAGE	0.000	10.000	20.000	30.000	40.000	48.861	26.696
EX LEVEL	25.045	25.058	25.473	25.932	26.389	26.696	26.696
FGL 1 LEVEL	22.516	22.628	23.227	26.684	27.338	26.696	26.696

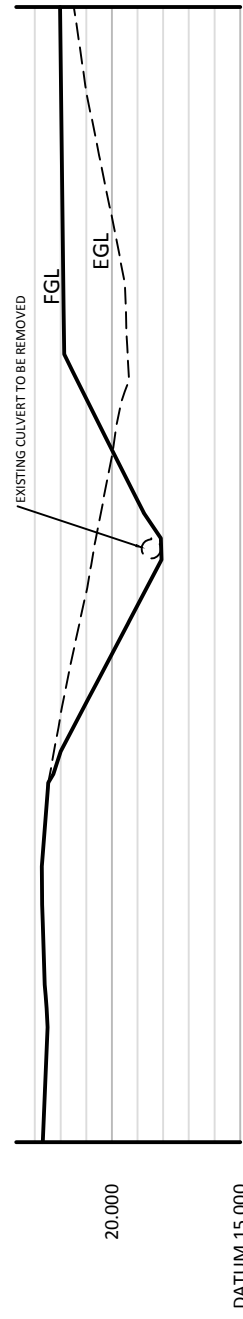
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Rev.	Amendment	By	Checked	Approved	Date
APPROVAL					
Client		Status		Date	
STORY LAND					
Project					
Title					
CROSS SECTIONS A-F AND CULVERT					
Drawn	Checked	Date	Approved	Date	
WAM	WAM	02.06.10	WAM	02.06.10	
Scales 1:200					
asher ASSOCIATES					
Job No. AA2858					
CIVIL ENGINEERS					
STRUCTURAL ENGINEERS					
PROJECT MANAGERS					
32 George Street, Durriford, L51 1EH					
Tel: 01897 250644 www.asherassociates.co.uk					
Drawing No. AA2858/EW/04					A
© Asher Associates					

NOTES.



CHANGE	PROPOSED MODEL LEVEL
17.680	17.680
17.724	17.724
17.827	17.827
17.859	17.859
17.891	17.891
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18.409	18.409
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18.474	18.474
18.506	18.506
18.539	18.539



CHANGE	EX LEVEL	PROPOSED MODEL LEVEL
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22.611	22.611	22.611
22.570	22.570	22.570
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22.370	22.370	22.370
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9.410	9.410	9.410
9.370	9.370	9.370
9.330	9.330	9.330
9.290		

Appeal Decision

Site visit made on 4 February 2014

by Martin Joyce DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 7 February 2014

Appeal Ref: APP/E0915/A/13/2199240

Land adjacent to Thomas Lane, Burgh Road Industrial Estate, Carlisle, Cumbria CA2 7NA

- The appeal is made under Section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Fred Story against the decision of the Carlisle City Council.
 - The application, Ref: 12/0829, dated 1 October 2012, was refused by notice dated 19 April 2013.
 - The development proposed is the change of use of a vacant field to create additional space for yard storage for existing business.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - (a) the effect of the proposed development on the character and appearance of the site and the surrounding area; and,
 - (b) the effect of the proposal on nature conservation interests within the site.

Reasoning

Character and Appearance

3. The appeal site is an unused field of about 1.44ha situated in the western part of Carlisle between two industrial estates – the Burgh Road Industrial Estate, to the west, and the Newtown Road Industrial Estate, to the east. The site comprises a valley, running south to north, with generally uneven topography having a steep western bank, and more moderate eastern slopes. It has no apparent use, and is wet and marshy in places, being crossed by both a burn, part of which is in a culvert, along its western edge, and other surface drainage. A group of trees is situated at its southern end, close to the boundary with rear gardens of houses that front onto Newtown Road, whilst there is other scrubby vegetation and poor quality trees along the western boundary towards the northern end of the site. A belt of trees lies beyond the northern boundary, screening the site from the Hadrian's Wall path, and the River Eden beyond.

4. The character of the surrounding area is mixed, with the two industrial estates situated either side of the site, housing to the south and open uses to the north. In terms of appearance, the area is unexceptional, but the openness of the appeal site, and the vegetation that is both within and adjacent to it, provides a significant element of visual relief in an otherwise largely built-up area.
5. The appellant's company, Story Contracting, occupies land to the west, within the Burgh Road Industrial Estate. Access would be gained through an existing storage yard, across an area used for training in rail safety. It is intended to use the site for the storage of bulky items such as site cabins, storage containers and other equipment. This would involve not only the creation of an access roadway, but also a cut-and-fill operation to provide a level area for the proposed storage within the central part of the site. This area, and the proposed access roadway, would be surfaced with compacted hardcore. A new culvert would be formed over the stream along the western boundary, and an acoustic barrier provided in the southern part of the site, to protect the living conditions of residents of the houses to the south.
6. The Development Plan for this area includes the Carlisle District Local Plan 2001-2016 (LP), adopted in 2008. The site is allocated within the LP as an Urban Fringe Landscape to which Policy LE1 is applicable. This Policy states, amongst other things, that within such areas permission will not be given for development which adversely affects its open character, although small scale development associated with existing farmsteads or for recreational uses may be allowed. Although the LP was adopted some time ago, I consider that this policy still carries significant weight as it broadly reflects the aims of The National Planning Policy Framework ("The Framework"), particularly in relation to the conservation and enhancement of the natural environment.
7. The appellant contends that storage would take place on only about 54% of the site, with the remainder being kept open and subject to additional landscaping. Moreover, the storage would be transitory and changeable, with no permanent structures, thus the open aspect would be retained, notwithstanding the limited nature of public views into the site. It would also comply with The Framework in that it would allow for the growth and expansion of a business that currently employs about 450 people.
8. I do not, however, agree that the proposed development would retain the open aspect of the appeal site as it would result in a significant area of open storage, within a newly-engineered landform, that would house a variety of large and bulky items of construction-related form. Whilst these items may be moved on and off the site, with varying degrees of frequency, there could be no control over how much of the site would be used for storage at any one time and it is likely that much of the flat area created would be used. Indeed, it would be uneconomic to undertake such an extensive engineering operation to form the storage area if were not to be used to its fullest extent.
9. Consequently, the openness of the area, and the green buffer it provides between two existing industrial estates, would be irretrievably lost. In this context, I note that the justification for the designation of areas of Urban Fringe Landscape refers to the pressure for development on important areas of countryside in and surrounding settlements including, within Carlisle, the River Eden valley, which bring rural character into the centre of the City. This

indicates a particular importance of the site to the setting of the City notwithstanding the relatively secluded nature of it in public views.

10. I have taken account of the additional landscaping that could be provided, but this would not outweigh the loss of the overall area of open space and is not, in any event, dependent in itself upon development. In this context, I note that paragraph 6.5 of the LP refers to areas where the intrinsic landscape quality has been damaged or is otherwise lower, or which is in the vicinity of unsightly or large scale development, and suggests that there is a need for landscape improvement. This seems to me to apply, to some extent, to the appeal site but I do not consider that development of this nature is the way in which such improvement should be facilitated.
11. I have also considered the economic benefit that is claimed in respect of the appellant's business, but little detail has been provided to be able to make a full assessment, and I do not consider that this justifies the loss of a site allocated in the LP for its landscape importance. My conclusion on this issue is that the proposed development would materially harm both the character and appearance of the site and the surrounding area, contrary to the provisions of Policy LE1 of the LP and the aims of The Framework.

Nature Conservation

12. The appellant submitted, with his application, an Extended Phase 1 Habitat Survey Report, which showed that the appeal site contains, in the main, areas of semi-improved grassland, with tall ruderal along the western margins bordering the stream, scattered scrub, a number of trees of varying quality, and small sections of Japanese knotweed near the north-eastern boundary. The Report identifies that the grassland, scrub and ruderal habitats provide suitable foraging habitat and refuge opportunities for reptiles, particularly common lizard, grass snake and slow worm, and recommends that reptile surveys be undertaken to determine whether they are present on site. I am unaware of any such survey having been undertaken, rather the Report goes on to offer options to ensure that reptiles are not killed or injured during site clearance or construction of the storage yard, including through capture and the installation of reptile-proof fencing during the construction phase.
13. Natural England (NE), in their response to a consultation by the Council, drew attention to the proximity of the appeal site to the River Eden Special Area of Conservation (SAC), and the River Eden & Tributaries Site of Special Scientific Interest (SSSI), 200m to the north. Whilst not objecting to the proposal they noted that the watercourse running across the site provides hydrological connectivity to the river, and that there could be potential impacts both during the construction phase and the operation of the appeal site once established. They therefore stated that a Habitat Regulations Assessment (HRA)¹ is required, with the Council, as Competent Authority, undertaking an Assessment of Likely Significant Effect (ALSE). The need for such an assessment is noted in the Officer Report to the relevant Committee, where it is stated that the recommended permission cannot be issued until an ALSE has been completed. Furthermore, with regard to the potential reptile presence on the site, NE state that further survey work is recommended as such protected species, if found, will require consideration of mitigation and enhancement measures in order to avoid harming them.

¹ Under Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended).

14. All of the above indicates to me that the site is of nature conservation significance and I am concerned that the necessary assessments and surveys have not been undertaken to confirm the extent of such interest or the possibility of harm to protected species on the site, and areas of ecological importance close to it.
15. Policy CP2 of the LP concerns Biodiversity and states that proposals in both the rural and urban area should not harm the integrity of the biodiversity resource as judged by key nature conservation principles, and that proposals should seek to conserve and enhance the biodiversity of the areas which they affect. In areas where species protected under national and European legislation are most likely to occur, special account will be given to their presence in the consideration of development proposals. This policy attracts the fullest weight in the context of this appeal as it complies with the policies set out in Section 11 of The Framework.
16. It is possible that the development could be undertaken without killing or injuring protected species, and without causing harm to the nearby SAC and SSSI through hydrological connectivity, particularly of pollutants, provided great care is taken during the construction phase, and during consequent operations, including through provisions to prevent or contain spillages. An appropriate scheme would be required, following the HRA and ASLE recommended by NE. However, it is clear that any existing reptile habitats on the appeal site would be destroyed by the extensive engineering operations that would be needed to construct the proposed storage areas. This would be likely to significantly reduce the nature conservation interest of the site, contrary to the intentions of The Framework and Policy CP2 of the LP, as there could be no certainty that reptiles displaced during construction would return to the area. Indeed, this seems to me to be less likely, thus biodiversity is unlikely to be enhanced. These matters therefore add to the unacceptability of the proposed development.
17. My conclusion on this issue is that it has not been shown that nature conservation interests on the appeal site can be adequately protected, therefore, it is likely that material harm would be caused to them by the proposed development.
18. It follows, from my conclusions on the main issues, that the appeal fails and that planning permission will not be granted.

Other Matters

19. All other matters raised in the written representations have been taken into account, but they do not outweigh the conclusions reached on the main issues of this appeal.

Conclusions

20. For the reasons given above I conclude that the appeal should be dismissed.

Martin Joyce

INSPECTOR