

## SCHEDULE A: Applications with Recommendation

18/0497

Item No: 05

Date of Committee: 24/08/2018

**Appn Ref No:**  
18/0497

**Applicant:**  
Mr Heaney

**Parish:**  
Wetheral

**Agent:**

**Ward:**  
Great Corby & Geltsdale

**Location:** Mount Pleasant, Heads Nook, Brampton, CA8 9EH

**Proposal:** Change Of Use Of Part Field To Create Private Equestrian Arena/Manege Without Compliance With Condition 3 Imposed By Planning Permission 17/1108 To Allow Equestrian Tuition To Take Place

**Date of Receipt:**  
04/06/2018 08:01:08

**Statutory Expiry Date**  
30/07/2018 08:01:08

**26 Week Determination**

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### REPORT

**Case Officer:** Suzanne Osborne

#### 1. Recommendation

- 1.1 It is recommended that this application is approved with conditions.

#### 2. Main Issues

- 2.1 Principle of development;
- 2.2 Whether the variation of condition 3 of planning approval 17/1108 is acceptable;
- 2.3 Relevance of remaining conditions attached to full planning permission 17/1108; and
- 2.4 Other matters.

#### 3. Application Details

##### The Site

- 3.1 Mount Pleasant is a two storey detached dwelling house (constructed from rendered/stone walls under a slate roof) located within open countryside approximately 1.96km south-west of the village of Burnrigg. The property is

situated on the northern side of the U1191 road which leads from Cairnbridge to Burnrigg and has a number of outbuildings located to the north of the dwelling house which are used for agricultural/equestrian purposes including a horse arena/manege which was constructed earlier this year.

- 3.2 Access to the equestrian buildings and manege is via an unadopted access track situated to north-west of the dwellinghouse. The aforementioned track is approximately over 390 metres in length and leads from the U1191 towards three properties "Glencairn Mill, Sycamore House and Glencairn House".
- 3.3 The application site is surrounded by agricultural land to the north and east. A residential property "Cairn Garth" is located on the opposite side of the U1191 which is separated from the road by a belt of mature landscaping and trees. There is also a bungalow "Langthwaite" located on the opposite side of the unadopted access track situated to the north-west of Mount Pleasant.

## **Background**

- 3.4 On the 12th February 2018 full planning permission was granted, under application reference 17/1108, for change of use of part of the field to the rear of Mount Pleasant (north-east of the dwelling house and east of existing stables) to create a private equestrian arena/manege which was 351 square metres in area and surrounded by a 1.9 metre high post and rail fence.
- 3.5 Application 17/1108 was granted subject to a number of planning conditions one of which (condition number 3) stated:

*The equestrian arena/manege shall be used only for private use for the exercising of horses and shall at no time be used for any commercial purposes including equestrian tuition, leisure rides or equestrian events/competitions.*

*Reason: To preclude the possibility of the use of the premises for purposes inappropriate in the locality in accordance with Policies EC13 and SP6 of the Carlisle District Local Plan 2015-2030.*

## **The Proposal**

- 3.6 The current application seeks to vary condition 3 of planning approval 17/1108 to allow equestrian tuition to take place from the previously approved manege.
- 3.7 The application is accompanied by a management plan which confirms that the applicant proposes to run a small scale equestrian business. The applicant will operate as a sole trader with no additional staff. Business hours are to be between 09:30-15:00 hours Monday-Sunday with 1-2 lessons per day maximum. Lessons will be 1-2-1 and will be for a duration of 45 minutes. All lessons will be pre-arranged and staggered with clients bringing their own horses.

- 3.8 The management plan confirms that parking for individuals coming for lessons (including their horse boxes) will be within the existing stable yard to the north-east of the property . Additional parking within the curtilage of the property can also be used if required.

#### **4. Summary of Representations**

- 4.1 This application has been advertised by the display of a site notice and by means of notification letters sent to six neighbouring properties/interested parties. During the consultation period four objections have been received.

- 4.2 The letters of objection are summarised as follows:

1. entrance is unsafe and unsuitable for business traffic;
2. owners of a neighbouring property who have shared access that will be used for the proposed development have not been informed by the applicant;
3. queries regarding legal obligations to maintain the drive;
4. applicant has recently erected a gate across the drive which has impeded routine maintenance. This situation needs resolving before increased usage associated with the development;
5. purpose of recently erected gate is unknown assumed it is in relation to the development;
6. allegations that the applicant has told occupants of a neighbouring property that the gate is to prevent the escape of horses onto the public highway;
7. concern regarding how emergency vehicles would access neighbouring properties as a result of the gate across the access;
8. Allegations that the gate on the highway is locked by the applicant;
9. It is not clear if the applicant has the right to use the track for commercial purposes;
10. safety issues regarding escape of horses onto the highway;
11. alternatives to a gate such as a cattle grid have not been discussed with users of the access track;
12. unclear whether students will use applicants own horses or will use their own;
13. concern that horse numbers are underestimated and that full time livery will be the next stage;
14. intensification of use by business/commercial purposes will have an adverse impact upon landscape character of the area and the access track;
15. unacceptable for occupants of other residential properties who use the access to be confronted with horses, horse box and trailers;
16. concerns regarding level of consultation undertaken;
17. condition 3 in the initial application was there for a reason and should remain;
18. business would compromise neighbours and put passing road users in danger.
19. application is contrary to EC13 and SP6 of the Carlisle District Local Plan

2015-2030.

20. development would be more acceptable with a new access directly onto the public highway with enhanced visibility splays.
21. no reason for the removal of condition 3 and queries regarding the introduction of a commercial activity;
22. access unsuitable for clients bringing their own horses;
23. moving of the gate will direct untrained clients horses onto the main road;
24. concern that number of students and horses could increase.
25. amendments do not address highways concerns.

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

**Cumbria County Council - (Highways & Lead Local Flood Authority):** - no objection.

**Wetheral Parish Council:** - unclear whether clients would be bringing their own horses to the site therefore substantially increasing the traffic on the driveway which would include horse boxes and trailers. Committee wishes to draw attention to the fact that application 17/1108 was made only a few months ago, with a condition stating that the premises were not to be for commercial use. It is inappropriate to remove this condition in such a short time and with no indication as to the intended scale of the business. The previous application was granted in good faith on the balance of information provided at the time. The access is inadequate for increased vehicular and equine traffic. Although the Parish Council supports the development of local businesses in appropriate locations, in this instance the committee can see no evidence to support the removal of condition 3, 17/1108. It should be noted that a member of the planning committee has visited the site.

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

### **Assessment**

- 6.1 Section 70(2) of the Town and Country Planning Act 1990/ Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.
- 6.2 The relevant planning policies against which the application is required to be assessed are the National Planning Policy Framework (NPPF), the Planning Practice Guidance (PPG) together with Policies SP1, SP2, SP6, EC11, EC13, IP2, IP3, CC5, CM5, GI1 and GI3 of the Carlisle District Local Plan 2015-2030.
- 6.3 The proposal raises the following planning issues:

#### **1. Principle of Development**

- 6.4 The principle of an equestrian arena/manege on part of the field to the north-east of Mount Pleasant was established through the granting of full

planning permission under the City Councils's Delegated Powers Scheme on the 12th February 2018 (application reference 17/1108). This application seeks only to vary condition 3 of planning approval 17/1108 to allow equestrian tuition from the manege. In such circumstances the principle of a manege on the land adjacent to Mount Pleasant and its scale and design do not form part of this application.

## **2. Whether The Variation Of Condition 3 of Planning Approval 17/1008 Is Acceptable**

- 6.5 At the heart of the National Planning Policy Framework (NPPF) is a presumption in favour of sustainable development. Paragraph 83 of the NPPF states that in order to support a prosperous rural economy planning decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings; and, enable the development and diversification of agricultural and other land-based rural businesses.
- 6.6 Policy SP2 (Strategic Growth and Distribution) of the Carlisle District Local Plan 2015-2030 (CDLP) seeks to promote sustainable development through concentrating development within existing settlements and ensuring that developments within the remote rural area are assessed against the need to be in the location specified. The revised paragraph 84 of the NPPF (adopted July 2018) recognises that there are instances where sites may have to be found beyond existing settlements and in locations not well served by public transport to serve local business and community needs. In such circumstances it is important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact upon local roads and exploits any opportunities to make a location more sustainable.
- 6.7 Policy EC11 (Rural Diversification) of the CDLP confirms that changes in agriculture over recent decades has resulted in a decline in farm-related jobs. As a result there is now a need to strengthen the economy in rural areas by supporting the sustainable growth and expansion of all types of businesses and enterprise in rural areas. Policy EC11 states that proposals to diversify and expand upon the range of sustainable economic activities undertaken in rural areas will be supported and encouraged both through the conversion of existing buildings and well-designed new buildings. Any new building must be well related to an existing group of buildings to minimise its impact and blend satisfactorily into the landscape through the use of suitable materials, design and siting. Policy EC11 sets out criteria against which proposals will be assessed seeking to ensure that proposals are: compatible with their existing rural setting; in keeping in terms of scale and character with the surrounding landscape and buildings; include adequate access and car parking arrangements; and not lead to an increase in traffic levels beyond the capacity of the surrounding local highway network.
- 6.8 Policy EC13 (Equestrian Development) confirms that proposals relating to the development of stables, horse riding arenas and/or riding centres will be permitted provided that: there would be no unacceptable impact upon the landscape character of the area; the building or structure is sited where

practical to integrate with existing buildings and/or take advantage of the contours of the land and any existing natural screening; the proposal will not have a detrimental impact upon surrounding land uses; the surrounding roads and bridleways are adequate and safe for the increased use by horse riders, with the roads being suitable for all users; and the scale/intensity of use is proportionate to the equestrian needs and appropriate for the site and character of the area.

- 6.9 As stated in paragraph 3.7 of this report the applicant has submitted a management plan which confirms that the applicant proposes to run a small scale equestrian business from the manege which was approved in February 2018. The applicant will operate as a sole trader with no additional staff. Business hours are to be between 09:30-15:00 hours Monday-Sunday with 1-2 lessons per day maximum. Lessons will be 1-2-1 for a duration of 45 minutes. All lessons will be pre-arranged and staggered with clients bringing their own horses. Parking for individuals coming for lessons (including horse boxes) will be within the existing yard. Additional parking within the curtilage of the property can also be used if required.
- 6.10 The proposed business will use the existing manege approved under application 17/1108 therefore there will be no adverse impact upon the surrounding area in terms of additional built development. The proposed use is a land based rural business and is therefore appropriate to its rural location.
- 6.11 It is clear from the submitted management plan that the proposed business will be relatively small scale with the applicant who resides in Mount Pleasant being a sole trader with only 1-2 clients per day during 09:30-15:00 hours. In such circumstances the few additional traffic movements per day resulting from the business would be no more noticeable than cars visiting a domestic residence albeit with horse boxes. Given the positioning of the proposed manege (where lessons will take place) in relation to neighbouring properties together with the low key operation of the proposed business it is not considered that the proposal would have a significant adverse impact on the living conditions of the occupiers of any neighbouring properties in terms of noise/disturbance to warrant refusal of the application. Conditions are however recommended, should Members approve the application, to ensure that the proposed business operates fully in accordance with the submitted management plan and no electric or amplified music/speech or equestrian events/competitions take place from the manege to protect the living conditions of the occupiers of neighbouring properties from unacceptable levels of use.
- 6.12 The Highway Authority has been consulted on the development and originally raised concerns that the application would enable the site to become a commercial business and the number of students, ponies and staff could increase once permission is granted. Highways therefore confirmed, given the rural location and nature of the highway infrastructure, that they did not consider the location acceptable for a commercial endeavour without further justification to illustrate that there will not be a detrimental impact upon the surrounding road network. Following the concerns raised by the Highway Authority the applicant submitted a management plan confirming how the

proposed business was to operate (i.e. maximum of 1-2 lessons per day during the hours of 09:30-15:00, lessons being 1-2-1 with the applicant being a sole trader and not employing any additional staff). The Highway Authority was consulted on the further information and have since removed their objection confirming that the submitted details are now acceptable from a highways perspective. Given that the Highways Authority were initially concerned about future intensification of use from the site it is considered appropriate to impose conditions ensuring that the business operates fully in accordance with the management plan, restricting the hours of operation to 09:30-15:00 hours and restricting the number of lessons to 2 per day.

- 6.13 Subject to the adherence of the conditions outlined in paragraphs 6.12 and 6.13 above it is considered that the proposed variation of condition 3 is acceptable as there would not be a significant adverse impact upon the living conditions of the occupiers of surrounding residential properties in terms of noise/disturbance or a detrimental impact upon highway safety as a result of the proposal.

### **3. Relevance Of Remaining Conditions Attached To Full Planning Permission 17/1108**

- 6.14 The original full planning permission continues to exist, therefore, the conditions attached to planning approval 17/1108 have also been repeated as part of this planning approval.

### **4. Other Matters**

- 6.15 It is appreciated that all of the objectors have raised concerns regarding a gate which the applicant has erected over the access track situated to the north-west of Mount Pleasant. Rights of access and maintenance of the track are however a civil matter and cannot be dealt with under planning legislation.
- 6.16 The human rights of the occupiers of the neighbouring properties have been properly considered and taken into account as part of the determination of the application. Several provisions of the Human Rights Act 1998 can have implications in relation to the consideration of planning proposals, the most notable being:

**Article 6** bestowing the "Right to a Fair Trial" is applicable to both applicants seeking to develop or use land or property and those whose interests may be affected by such proposals;

**Article 7** provides that there shall be "No Punishment Without Law" and may be applicable in respect of enforcement proceedings taken by the Authority to regularize any breach of planning control;

**Article 8** recognises the "Right To Respect for Private and Family Life".

- 6.17 Article 1 of Protocol 1 relates to the "Protection of Property" and bestows the right for the peaceful enjoyment of possessions. This right, however, does not impair the right to enforce the law if this is necessary, proportionate and there is social need.

- 6.18 Article 8 and Article 1 Protocol 1 are relevant but the impact of the development in these respects will be minimal and the separate rights of the individuals under this legislation will not be prejudiced. If it was to be alleged that there was conflict it is considered not to be significant enough to warrant the refusal of permission.

## **Conclusion**

- 6.19 As previously stated within this report the principle, scale and design of the manege to the rear of Mount Pleasant has already been established as acceptable earlier this year through the granting of full planning permission 17/1108. The current application seeks to vary condition 3 to allow equestrian tuition to take place from the manege. The proposal is for a land based rural business which is appropriate to its remote rural location and would help to provide economic growth within the rural area. The small scale nature of the proposed business would not have a detrimental impact upon highway safety or the living conditions of the occupiers of surrounding residential properties in terms of increased noise and disturbance. In order to prohibit future intensification of the business relevant conditions are imposed regarding hours of operation, number of pupils per day, adherence to the submitted management plan, no electric/amplified music or speech from the site including no equestrian events/competitions.
- 6.20 On balance it is considered that the benefits of the proposed development (the creation of a new business to provide economic growth within the rural area) would significantly outweigh its limited adverse impact upon the living conditions of the occupiers of non-associated neighbouring properties. Accordingly the application is considered to be compliant with the criteria of the relevant Development Plan policies and is therefore recommended for approval subject to the imposition of relevant conditions.

## **7. Planning History**

- 7.1 On the 12th February 2018 Full Planning Permission was granted for change of use of part of field to create private equestrian arena/manege (reference 17/1108);
- 7.2 In 2008 an agricultural determination was granted for proposed extension to general purpose agricultural building (reference 08/0024/AGD);
- 7.3 In 1993 an agricultural determination was granted for erection of general purpose shed (reference 93/0008/AGD).

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

1. The development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:



1. the submitted planning application form received 4th June 2018;
2. the block plans received 4th and 29th June 2018 showing parking arrangements;
3. the management plan received 29th June 2018;
4. the Notice of Decision; and
5. any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason:** To define the permission.

2. The equestrian tuition business hereby approved shall operate wholly in accordance with the management plan dated 29th June 2018.

**Reason:** To ensure that there is no intensification of use, to protect the living conditions of occupiers of neighbouring properties and to ensure no adverse impact upon existing highway conditions. In accordance with Policies SP6, EC13 and IP2 of the Carlisle District Local Plan 2015-2030.

3. The proposed equestrian tuition business hereby approved shall not be open for trading except between 09:30 hours and 15:00 hours.

**Reason:** In order to safeguard the living conditions of neighbouring residents and to ensure compliance with Policies SP6 and EC11 of the Carlisle District Local Plan 2015-2030.

4. Only one rider at any one time should be under instruction in the manege with a maximum of two lessons being undertaken in any one day.

**Reason:** The local planning authority wish to control the precise nature of the use in the interests of road safety and to safeguard the amenities of the area. In accordance with Policies SP6, EC13 and IP2 of the Carlisle District Local Plan 2015-2030.

5. No amplified music and/or electrically amplified speech shall take on the property.

**Reason:** To protect the amenities of the occupiers of residential properties. In accordance with Policies SP6, CM5 and EC13 of the Carlisle District Local Plan 2015-2030.

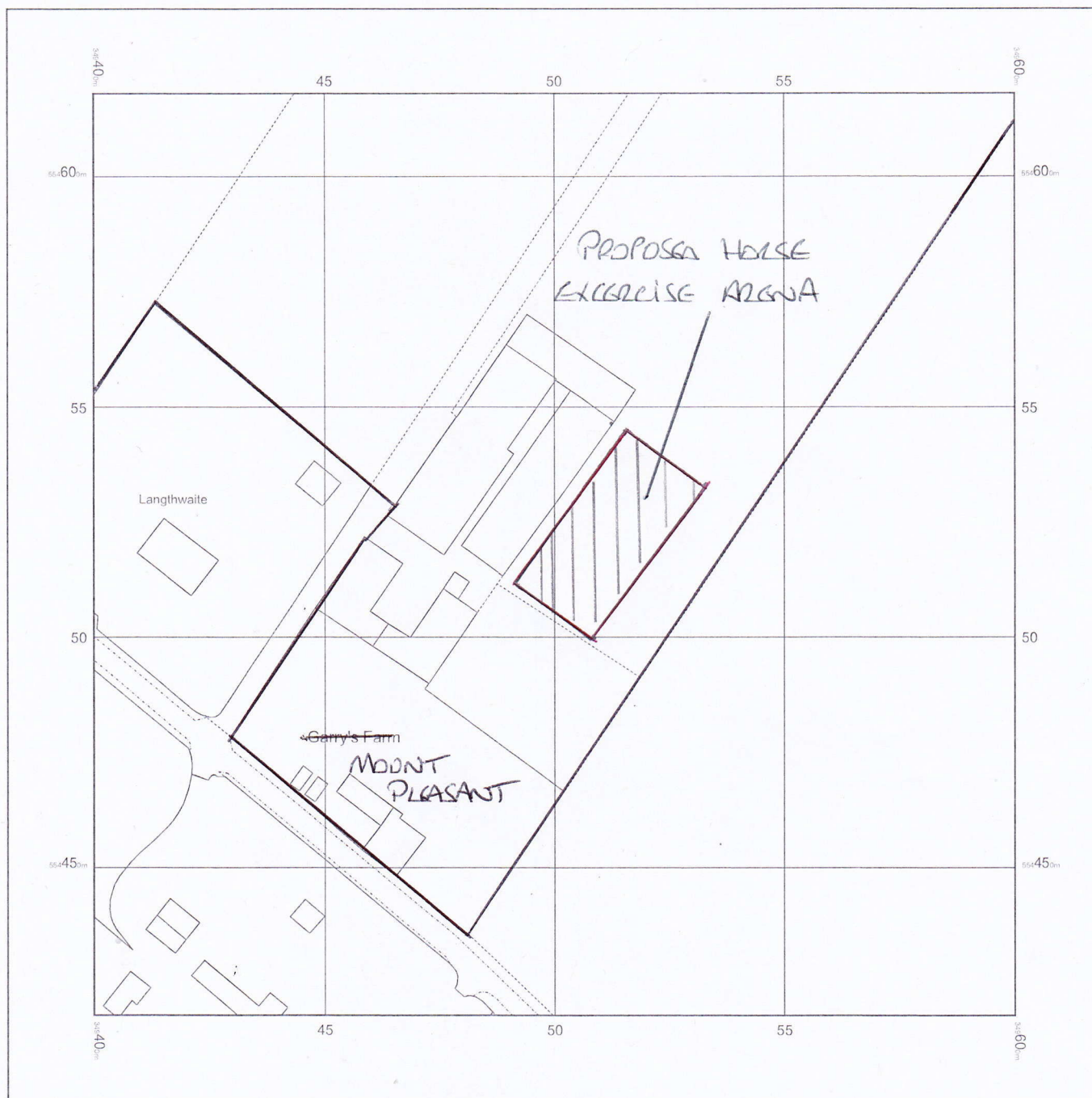
6. Notwithstanding the provisions of the Town and Country Planning General Development Order 2015 (as amended), or any Order revoking and re-enacting that Order, no equestrian events or competitions advertised to the general public shall take place on the property.

**Reason:** The local planning authority wish to control the precise nature of the use in the interests of road safety and to safeguard the amenities of the area. In accordance with Policies SP6, EC13 and IP2 of the Carlisle District Local Plan 2015-2030.

7. No floodlights shall be installed on the site without the prior written consent of the Local Planning Authority.

**Reason:** In order to safeguard the living conditions of the occupiers of the adjacent property in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

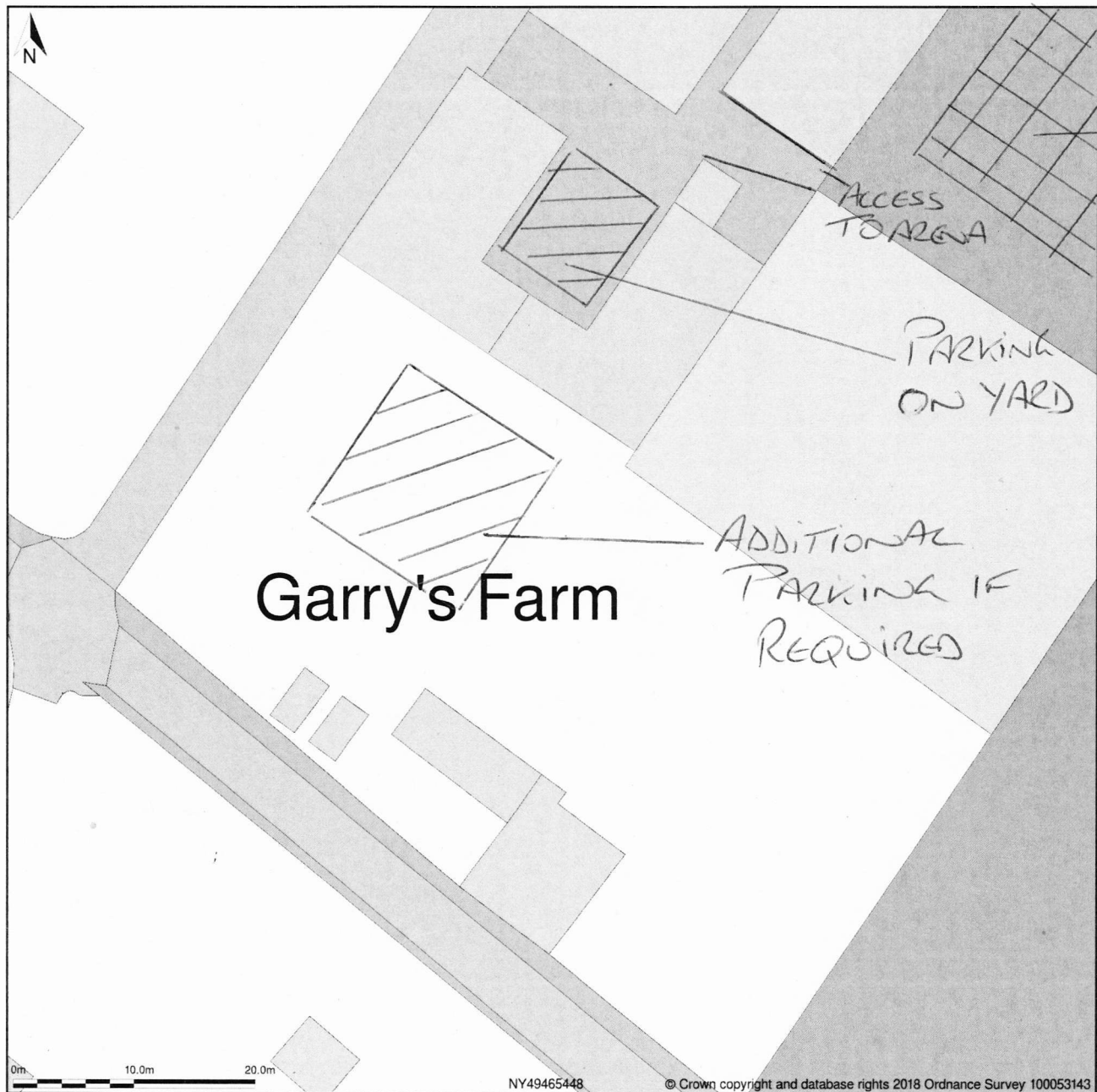
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Mount Pleasant, Road Leading From Burnrigg To Cairnbridge Farm, Heads Nook, Cumbria, CA8 9EH



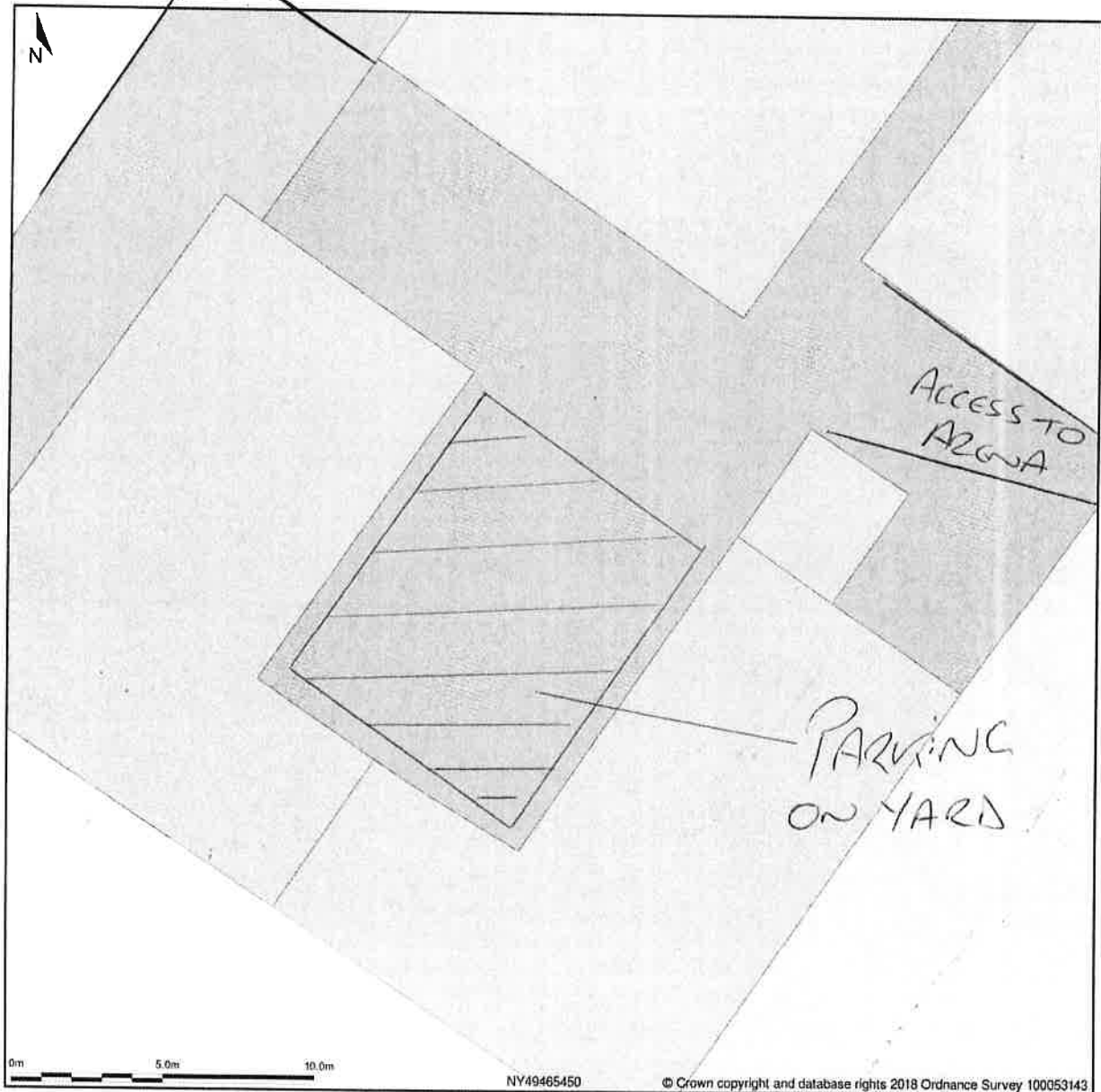
Block Plan shows area bounded by: 349420.78, 554436.74 349510.78, 554526.74 (at a scale of 1:500), OSGridRef: NY49465448. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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*GATE ON TRACK.*

Mount Pleasant, Road Leading From Burnrigg To Cairnbridge Farm, Heads Nook, Cumbria, CA8 9EH



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## **18/0497 Management Plan**

**Date: 29<sup>th</sup> June 2018**

**The change of use of part field to create Private arena/ manege without compliance with condition 3 imposed by planning permission 17/1108 to allow equestrian tuition to take place.**

With regard to the above, Gillian MacDonald, joint owner, is a self employed dressage rider/trainer where most of Gillian's work is undertaken away from the home, on other people's private properties or already established equestrian centres.

The above request was to enable Gillian to perform some training for a very low number of individuals that would not be getting trained on their premises.

- **Staff**

Gillian is a sole trader and will never be employing staff.

- **Hours**

With such a low number of expected clients on-site there will not be a need for full time hours. I expect the lessons to take place between the hours of 9.30am and 3.00pm but we are only expecting 1 to 2 lessons per day at the complete maximum, hence for the hours of 9.30am to 3.00pm, Gillian will not be fully occupied. We do not expect this level to be achieved for many years to come.

- **Lessons**

The lessons will always be 1-2-1 and we anticipate the duration of a lesson to be circa 45 minutes.

Lessons are always pre-arranged by appointment. Individuals **will not** be arriving on an ad-hoc basis.

- **Horses**

Individuals will be bringing their own horses and none of our own horses will be used in the lessons.

- **Horseboxes**

Horseboxes will be able to park and turn on our yard as per indicated in the block plans.

Lessons will be staggered and, as mentioned above, the number of lessons expected are to be so low, that we expect 1 horsebox at any one time, with several hours / days between each lesson.

We do not currently own our own horsebox but should one be purchased for our own private enjoyment of our own horses, it would only be leaving the property on a very seldom basis.



CLENCAIRN AND  
SYCAMORE  
MAIN ACCESS

29 JUN 2018

1810497.

~~CLONAIR AND SYCAMORE SECONDARY ACCESS~~

TRACK

~~YARD~~  
~~ENTRANCE~~

MANEGE

## PARKING FOR HORSEBOXES