

# AGENDA

## Development Control Committee

Friday, 22 October 2021 AT 10:00

In the Cathedral Room, Civic Centre, Carlisle, CA3 8QG

### **APOLOGIES FOR ABSENCE**

To receive apologies for absence and notification of substitutions.

### **DECLARATIONS OF INTEREST**

Members are invited to declare any disclosable pecuniary interests, other registrable interests and any interests, relating to any items on the agenda at this stage.

### **PUBLIC AND PRESS**

To agree that the items of business within Part A of the agenda should be dealt with in public and that the items of business within Part B of the agenda should be dealt with in private.

### **MINUTES OF PREVIOUS MEETINGS**

5 - 12

To note that Council, at its meeting of 14 September 2021, received and adopted the minutes of the meetings held on 21 July (site visits) and 23 July 2021. The Chair will sign the minutes.

[Copy minutes in Minute Book 48(2)].

To approve the minutes of the meetings held on 10 September and 22 October 2021 (site visits).

## **PART A**

**To be considered when the Public and Press are present**

### **A.1 CONTROL OF DEVELOPMENT AND ADVERTISING**

To consider applications for:

(a) planning permission for proposed developments

(b) approval of detailed plans

(c) consents for display of advertisements.

#### **Explanatory Notes**

**13 -  
18**

#### **01. Application - 21/0314 - Land off Orton Road, Carlisle**

**19 -  
62**

#### **02. Application - 21/0657 - 11 Newfield Park, Carlisle, CA3 0AH**

**63 -  
76**

#### **03. Application - 21/0313 - Land off Warwick Road, Carlisle**

**77 -  
114**

#### **04. Application - 21/0498 - Land North East of Inglewood Meadows, Wetheral**

**115 -  
144**

#### **05. Application - 21/0766 - Land to the rear of 46 Broomfallen Road, Scotby, Carlisle, CA4 8DE**

**145 -  
160**

#### **06. Application - 21/0649 - Land to the south of The Coach House, Allenwood, Heads Nook**

**161 -  
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#### **07. Application - 21/0545 - Former Methodist Chapel, Cumwhinton, Carlisle, CA4 8DT**

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202**

08.	<u>Application - 21/0782 - 153 Newtown Road, Carlisle, CA2 7LL</u>	203 - 218
09.	<u>Application - 21/0382 - Metal Bridge Inn, Metal Bridge, Blackford, Carlisle, CA6 4HD</u>	219 - 240
10.	<u>Application - 21/0698 - Land North of Holme Meadow, Cumwhinton, Carlisle, CA4 8DR</u>	241 - 286

	<u>SCHEDULE B - APPLICATIONS DETERMINED BY OTHER AUTHORITIES</u>	287 - 300
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A.2	<u>TPO 312 STONEGARTH, MORTON PARK, CARLISLE</u>	301 - 350
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The Corporate Director of Economic Development to submit a report which considers the confirmation of Tree Preservation Order 312 - Stonegarth Morton Park, Carlisle, in light of representations received to the making of the Order.  
(Copy report ED.37/21 herewith)

## **PART B**

**To be considered when the Public and Press are excluded from the meeting**

-NIL-

### **Members of the Development Control Committee**

**Conservative** – Christian, Mrs Finlayson, Meller (Vice Chair), Morton (Chair), Nedved, Shepherd, Mrs Bowman (sub), Collier (sub), Mrs Tarbitt (sub)

**Labour** – Alcroft, Mrs Glendinning, Southward, Miss Whalen, Birks (sub), Brown (sub), Dr Tickner (sub)

**Independent** - Tinnion, Paton (sub)

Enquiries, requests for reports, background papers etc to:  
[committeeservices@carlisle.gov.uk](mailto:committeeservices@carlisle.gov.uk)

To register a Right to Speak at the meeting please contact:  
[DCRTS@carlisle.gov.uk](mailto:DCRTS@carlisle.gov.uk)





**Development Control Committee**

**Date:** Friday, 10 September 2021      **Time:** 10:00

**Venue:** Council Chamber

**Chair:** Councillor Morton

**Present:** Councillors Brown (as substitute for Councillor Glendinning), Christian, Finlayson, Meller, Nedved, Shepherd, Southward and Tinnion

**Also Present:** Councillor Mrs Tarbitt (in her capacity as Ward Member) attended the meeting having registered a Right to Speak in respect of application 20/0586 – Land adjacent Richardson House, Gretna Loaning, Mill Hill, Gretna, DG16 5HU.

Councillor Allison (in his capacity as Ward Member) attended the meeting having registered a Right to Speak in respect of application 21/0622 – Broadfield, Carleton, Carlisle, CA1 3DZ

**Officers:** Development Manager  
Legal Services Manager  
Principal Planning Officer  
Planning Officer x 4

**DC.076/21 APOLOGIES FOR ABSENCE**

Apologies for absence were submitted on behalf of Councillors Glendinning and Whalen and the Corporate Director of Economic Development.

**DC.077/21 DECLARATIONS OF INTEREST**

In accordance with the Council's Code of Conduct the following declarations of interest were submitted:

Councillor Tinnion declared an interest in respect of the following items:

- Land adjacent Richardson House, Gretna Loaning, Mill Hill, Gretna, DG16 5HU (Application 20/0586);
- Fell hall, Townhead, Hayton, Brampton, CA8 9JH (Application 21/0681).

The interest related to objectors being known to him.

Councillor Christian declared an interest in respect of Land Adjacent The Green, Wreay, Carlisle, CA4 0RL. The interest related to objectors being known to him.

Councillor Southward, having not been present at the meeting of 23 July 2021 when application 20/0797 – Land to the North West of Stainton Gardens, Stainton Road, Etterby, Carlisle indicated he would not take part in the discussion nor determination of the application.

**DC.078/21 PUBLIC AND PRESS**

RESOLVED – That the Agenda be agreed as circulated.

## **DC.079/21 MINUTES OF PREVIOUS MEETINGS**

RESOLVED – That the minutes of the meetings held on 23 July and 8 September 2021 (site visits) be approved.

## **DC.080/21 PUBLIC REPRESENTATIONS IN RESPECT OF PLANNING APPLICATIONS**

The Legal Services Manager set out the process for those Members of the public who had registered a Right to Speak at the Committee.

## **DC.081/21 CONTROL OF DEVELOPMENT AND ADVERTISING**

That the applications referred to in the Schedule of Applications under A be approved/refused/deferred, subject to the conditions as set out in the Schedule of Decisions attached to these Minutes.

### **1. Erection of 33no. Dwellings, Land to the North West of Stainton Gardens, Stainton Road, Etterby, Carlisle (Application 20/0797).**

*Councillor Southward took no part in the discussion nor determination of the item of business.*

The Planning Officer submitted the report on the application which had been subject of a site visit by the Committee on 8 September 2021. The Committee considered the application at its meeting of 23 July 2021 and deferred determination in order: to undertake a site visit; and, for the Council to undertake further investigations with regard to issues raised during discussion in particular highway safety.

The Planning Officer advised that following the deferral of the application the Highway Authority had advised:

- A footpath covering the full distance of Etterby Road was not feasible as the road was too narrow;
- Installing white lines on Etterby Road was not an option as they would likely generate a false sense of security for pedestrians thus potentially increasing vehicular / pedestrian conflict;
- It had not formally requested a 20mph speed limit on Etterby Road nor would it object to such a proposal in the event of Members considering it necessary to make the development acceptable. Were the Committee minded to impose such a condition the matter would be addressed by a Section 278 Agreement.

In respect of the Committee's request that the existing footpath link be upgraded, the landowner had indicated its agreement to the proposal. Should Members wish to proceed with the matter it was able to be addressed by way of a Grampian Condition, as detailed on page 30 of the Main Schedule.

United Utilities had reconfirmed that it had no issue with the capacity of the existing system for foul drainage and should existing connections require upgrading that work would be done at the time of connection of the properties subject to the application.

Slides were displayed on screen showing: location plan; proposed site layout plan; proposed boundary treatment and hard landscaping plan; landscape plan; proposed street scenes; schematic showing existing and proposed highway features; and, photographs of the site, an explanation of which was provided for the benefit of Members.

The Planning Officer recommended:

- 1) That the application be approved with conditions, subject to the completion of a Section 106 Agreement to secure:
  - a) the provision of the proposed level of affordable units (nine units at plots 19-21, 23-25 and 27-29 that would be made available at discounted sale, with the level of discount set at 30% below open market value);
  - b) a financial contribution of £5,500 towards speed limit changes and traffic calming measures;
  - c) a financial contribution of £122,770 to Cumbria County Council towards education provision (including 20mph zone should Members agree to it);
  - d) the maintenance of the informal open space, play provision and SUDs within the site by the developer;
  - e) financial contributions of £9,533.27 towards the upgrade of off-site sport pitches and recreation provision, and, £5,382.03 towards the upgrading and maintenance of off-site open space.
- 2) That should the legal agreement not be completed within a reasonable time, authority be delegated to the Corporate Director of Economic Development to refuse the application.

The Committee then gave consideration to the application.

Noting the reasons for the Committee's deferral of the application at its July meeting, the Chair was of the view that there had been no significant change to the response from the Highway Authority: he asked Members to consider the use of an Independent Highways Assessment to evaluate the highway matters relating to the application.

A Member shared the Chair's concerns and further commented on the need for an additional footpath. Having attended the site visit, which had usefully illustrated the traffic space available, he felt that the proposed passing places were positioned too far away from the application site to be of any meaningful benefit.

A Member moved that determination of the application be deferred in order to commission an Independent Highways Assessment, the proposal was seconded.

Other Members expressed concerns that an Independent Highways Assessment may not produce a materially different response to the proposals and would in effect merely delay the application progress.

A Member moved the Officer's recommendation.

The Chair noted that a proposal to defer determination of the application for an Independent Highways Assessment had been moved and seconded. The matter was put to the vote and it was:

RESOLVED: That determination of the application be deferred in order for an Independent Highways Assessment to be carried out and a further report be submitted to a future meeting of the Committee.

2. **Creation of a Lorry Park for up to 40no. spaces including conversion of existing buildings to provide welfare facilities and storage unit; erection of commercial vehicles maintenance buildings and associated preparation yard; installation of 2.5m high acoustic fence (bund), Land adjacent Richardson House, Gretna Loaning, Mill Hill, Gretna, DG16 5HU (Application 20/0586).**

The Planning Officer submitted the report on the application which had been deferred by the Committee at its meeting of 11 June 2021 as additional information had been submitted by the applicant in the form of a revised Aboricultural Impact Assessment (AIA); a further revised AIA was submitted to the Local Planning Authority in August 2021. The principal revisions of the AIA's related to: protection and mitigation measures for the area of trees situated to the north of the office building and lorry park area (details of which were set out in the report).

In the light of the revised documentation, the Planning Officer advised Members to consider whether:

- i) the principle of development remained acceptable;
- ii) the revised layout and mitigation were adequate to alleviate concerns relating to potential damage to the existing trees, and;
- iii) that permitting the development would not harm the health of the trees in the long term.

Slides were displayed on screen showing: location plan; existing site plan; proposed site plan; proposed shed plan and elevations; proposed toilet block; tree protection plan and proposed amended; and photographs of the site, an explanation of which was provided for the benefit of Members.

The Planning Officer recommended that the application be approved subject to the conditions detailed in the report.

Councillor Tarbitt (Ward Member) addressed the Committee in the following terms: the Officer report contained no evidence submitted by residents of any issues that may arise in the event of permission being granted; the proposal was contrary to the emerging Cumbria's green policy; the site was not appropriate for the proposal; adequate facilities already existed in Longtown; residents had expressed concerns about the increased volume of large lorries having a detrimental impact on their quality of life; the proposal would increase pollution in the forms of litter, carbon emissions and light; the proposed scheme would have a negative impact on the well established wedding industry in Gretna.

Mr Salisbury (Agent) responded in the following terms: the site was classed as brownfield due to its former use by the MOD, as such its use was supported by Council planning policy; no Statutory Consultees had objected to the proposal; the facility was needed and its approval would decrease the use of laybys in the local highway network by lorry drivers; approving the scheme would create employment opportunities in the area.

The Committee then gave consideration to the application.

In response to questions from Members, Officers confirmed:

- a Noise Assessment of the proposal had been carried out on the applicant's behalf and been considered by the Council's Environmental Health Service who, having regard to the relevant British Standards had concluded the impact to be acceptable;
- Condition 7 required the submission to and approval by the Local Planning Authority details of the proposed lighting scheme at the site. The condition was stringent and the proposals in that respect would be assessed by Environmental Health;
- the applicant would be responsible for managing litter within the site, it was not reasonable to impose a condition requiring them to manage litter outwith the site as it may not have been generated by users of the facility.

A Member was keen that the lighting permitted at the site should also be assessed in terms of its impact on biodiversity to ensure it was not detrimental. The Planning Officer undertook to incorporate biodiversity impact in his assessment.

Another Member was of the view that, due to the details of the lighting scheme not having been submitted, Members did not have all the information they needed to determine the application. Accordingly, he proposed deferral on that basis.

A Member moved the Officer's recommendation which was seconded and following voting it was:

RESOLVED: That the application be approved, subject to the implementation of relevant conditions as indicated on the Schedule of Decision attached to these minutes.

**3. Variation of Condition 2 (Approved Documents) of previously approved permission 19/0066 (Erection of 2no. detached dwellings (Revised Application)) to amend plans to include 1no. dwelling only with a revised design, Land adjacent to The Green, Wreay, Carlisle, CA4 0RL (Application 21/0174).**

The Planning Officer submitted the report on the application. Slides were displayed on screen showing: location plan; site plan; floor plans; elevation plans; section plans and photographs of the site, an explanation of which was provided for the benefit of Members.

The Planning Officer recommended that the application be approved subject to the conditions detailed in the report.

The Committee then gave consideration to the application.

In response to questions from Members, Officers confirmed:

- The submitted plans did not show the retention of the existing pond at the site, nor did the approved plans for the extant permission provide for the pond's retention. Existing hedges and trees were to be retained and additional creative landscaping was to be incorporated, as such the biodiversity needs of the site had been balanced;
- Historic England had raised concerns, but not an objection to the application, on the grounds of the proposed windows at the rear elevation. Given their recessed form, the Planning Officer considered that aspect of the application acceptable.

A Member noted that the Council had recently considered creating a Conservation Area at Brisco, he asked whether the impact of the proposal had taken that into account.

The Planning Officer responded he was of the view that the proposal would afford a betterment of the existing scheme and therefore would have recommended the application for approval had the Conservation Area been created.

Regarding the construction materials to be used, a Member asked whether the use of swift nest bricks could be imposed as a means of supporting the biodiversity of the site?

The Development Manager advised that there was no known local population of swifts thus the development as proposed would not be considered as causing harm. Were Members to require the condition it could be included in the consent, however, as it had not been previously agreed with the applicant it was open to challenge.

A Member moved the Officer's recommendation, along with the imposition of an additional condition requiring the use of swift nest bricks. The proposal was seconded and following voting it was:

RESOLVED: That the application be approved, subject to the implementation of relevant conditions as indicated on the Schedule of Decision attached to these minutes.

*The Committee adjourned at 11:25am and reconvened at 11:38am.*

**4. Erection of 1no. dwelling, Land to the rear of 42 – 50 Durdar Road, Carlisle (Application 21/0569).**

The Planning Officer submitted the report on the application. Slides were displayed on screen showing: location plan; vertical measurements of existing and proposed; proposed elevations; proposed plans; and photographs of the site, an explanation of which was provided for the benefit of Members.

The Planning Officer recommended that the application be approved subject to the conditions detailed in the report.

A Member moved the Officer's recommendation which was seconded and following voting it was:

RESOLVED: That the application be approved, subject to the implementation of relevant conditions as indicated on the Schedule of Decision attached to these minutes.

**5. Erection of 1no. dwelling & associated external work, Broadfield, Carleton, Carlisle, CA1 3DZ (Application 21/0622).**

The Principal Planning Officer submitted the report on the application. Slides were displayed on screen showing: location plan; elevation plans; proposed and existing block plans; proposed section plans; proposed 3D views and photographs of the site, an explanation of which was provided for the benefit of Members.

In the event of the application being approved, the Principal Planning Officer advised that document G17 (Approved Plans) would require updating to take account of the amended site plan. Accordingly, the application was recommended for approval subject to the conditions detailed in the report.

Councillor Allison (Ward Member) addressed the Committee in the following terms: a number of residents were deeply concerned by the proposed scheme; the application ought to be determined on its own merits without reference to the extant permission; the design of the dwelling along with the layout and exposed position of the site meant the scheme would have a detrimental impact on the entry route to the hamlet which contained a cluster of 8 Listed Buildings and had a strong farming heritage; the proposal was not compliant with Local Plan policy HE 3 – Listed Buildings; the Heritage Officer's comments did not demonstrate consideration of the unique setting of the site; the footprint on the building as shown on the submitted plans was 288m<sup>2</sup>, significantly larger than the 218m<sup>2</sup> stated, the size was three times larger than the adjacent building; the proposed use of trees for screening would have a negative impact on the ecological credentials of the building as, depending on the species chosen, they would either overshadow the solar panels (when grown to maturity) or would generate leaf litter at the rear of the property.

Councillor Allison displayed slides on screen showing: photographs of Listed Buildings in the vicinity of the application site; the existing and proposed block plans, and proposed elevations plan. He asked the Committee to consider deferring the application in order for an independent qualified professional to assess the impact on the adjacent heritage assets the cost of which to be borne by the applicant.

Mr Judd (Agent) responded in the following terms: the trees at the northern boundary would not impact the solar panels due to their position; the measurements of the building referred to by the Ward Member were estimates of the internal space; the current proposal would deliver a smaller dwelling than provided for by the extant permission; the extant permission was still able to be erected and was in effect a 'backstop'; the Conservation Officer had not objected to the resiting of the dwelling; design was a subjective matter, the Council supported contemporary design; the setting of the dwelling within the site would reduce its visual impact.

The Principal Planning Officer additionally advised: the dimensions of the building had been provided by the architect; the Listed Buildings affected by the proposal were shown in the block plan; landscaping issues would be addressed as part of a Discharge of Conditions application; the extant permission was for a contemporary building which had been considered by the Committee wherein Members gave consideration to the impact on the adjacent Listed Buildings.

The Committee then gave consideration to the application.

A Member moved the Officer's recommendation which was seconded and following voting it was:

RESOLVED: That the application be approved, subject to the implementation of relevant conditions as indicated on the Schedule of Decision attached to these minutes.

**6. Extension to existing gym facilities, Carlisle Villa Amateur Boxing Club, 71 Currock Road, CA2 4BH (Application 21/0183).**

The Planning Officer submitted the report on the application. Slides were displayed on screen showing: block and location plans; existing and proposed floor plans; existing and proposed elevation plan; and, photographs of the site, an explanation of which was provided for the benefit of Members.

The Planning Officer recommended that the applications be approved subject to the conditions detailed in the report.

The Committee then gave consideration to the application.

In response to a Member's expressed concerns about the management of noise at the site, the Planning Officer explained that the re-roofing of the property had increased the heat in the building. In order to dissipate that doors and windows were opened. Condition 2 of the consent stipulated that all doors and windows were to remain shut during class time to minimise noise impact.

The Member noted the caveat in the Noise Assessment Report which stated it had been prepared for the client only and that third parties should not rely on it, to do so would be at their risk.

The Legal Services Manager was satisfied that the note was a standard professional indemnity, however, she suggested that an Informative be issued with the permission advising the applicant that the determination of the application had fully taken account of the Noise Assessment Report received on 9th August 2021 and that the development should be undertaken in strict accordance with the report.

The Member welcomed the suggestion, he moved the Officer's recommendation, along with the issuing of an informative in respect of the Noise Assessment Report. The proposal was seconded and following voting it was:

RESOLVED: 1) That the application be approved, subject to the implementation of relevant conditions as indicated on the Schedule of Decision attached to these minutes.

2) That an Informative be issued to the applicant in respect of the Noise Assessment Report.

**7. Removal of hedge and erection of 1.8m high boundary fence to incorporate additional land into domestic curtilage, 11 Newfield Park, Carlisle CA3 0AH (Application 21/0657)**

The Chair advised that due to the late receipt of a written representation by a Ward Member the application had been withdrawn from discussion so that the issues therein may be considered.

RESOLVED: That the application be withdrawn from discussion.

**8. Removal of Conditions 3 & 4 of previously approved permission 13/0431 (Revisions to Original Planning Approvals 11/0433 & 11/0690 involving amended estate house and erection of 1no. eight bed holiday unit in lieu of 8no. Holiday Lets) enabling the holiday unit to be occupied as a dwelling, Fell Hall, Townhead, Hayton, Brampton, CA8 9JH (Application 21/0681)**

The Principal Planning Officer submitted the report on the application. Slides were displayed on screen showing: location plan, and photographs of the site, an explanation of which was provided for the benefit of Members.

The Principal Planning Officer recommended that the applications be approved subject to the conditions detailed in the report.

A Member moved the Officer's recommendation which was seconded and following voting it was:

RESOLVED: That the application be approved, subject to the implementation of relevant conditions as indicated on the Schedule of Decision attached to these minutes.

## **DC.082/21 PLANNING ENFORCEMENT UPDATE**

The Planning/Landscapes Compliance and Enforcement Officer submitted report ED.33/21 – Quarterly Report on Planning Enforcement which set out details of a number of enforcement case being dealt with by the Council and analysis of quarterly and annual figures. She provided a verbal update on progress regarding several of the cases therein.

The Committee gave consideration to a number of enforcement cases set out in the report.

A Member moved the Officer's recommendation which was seconded, and following voting it was:

RESOLVED - That the content of the report be noted

[The meeting closed at 12:42pm]



# **Development Control Committee Main Schedule**

## **Schedule of Applications for Planning Permission**

22<sup>nd</sup> October 2021

## Applications Entered on Development Control Committee Schedule

Item No.	Application Number/ Schedule	Location	Case Officer
01.	21/0314 A	Land off Orton Road, Carlisle	SD
02.	21/0657 A	11 Newfield Park, Carlisle, CA3 0AH	BP
03.	21/0313 A	Land off Warwick Road, Carlisle	CH
04.	21/0498 A	Land North East of Inglewood Meadows, Wetheral	RJM
05.	21/0766 A	Land to the rear of 46 Broomfallen Road, Scotby, Carlisle, CA4 8DE	BP
06.	21/0649 A	Land to the south of The Coach House, Allenwood, Heads Nook	RJM
07.	21/0545 A	Former Methodist Chapel, Cumwhinton, Carlisle, CA4 8DT	JHH
08.	21/0782 A	153 Newtown Road, Carlisle, CA2 7LL	RJM
09.	21/0382 A	Metal Bridge Inn, Metal Bridge, Blackford, Carlisle, CA6 4HD	JHH
10.	21/0698 A	Land North of Holme Meadow, Cumwhinton, Carlisle, CA4 8DR	CH
11.	20/0279 B	Land at Rookery Park (South of Alders Edge), Scotby, Carlisle CA4 8EH	CH
12.	20/0602 B	Land to the east of Cringles Farm, Cumwhinton, Carlisle, CA4 8DL	SD

## The Schedule of Applications

This schedule is set out in five parts:

**SCHEDULE A – Applications to be determined by the City Council.** This schedule contains full reports on each application proposal and concludes with a recommendation to the Development Control Committee to assist in the formal determination of the proposal or, in certain cases, to assist Members to formulate the City Council's observations on particular kinds of planning submissions. Officer recommendations are made, and the Committee's decisions must be based upon, the provisions of the Development Plan in accordance with S38(6) of the Planning and Compulsory Purchase Act 2004 <http://www.legislation.gov.uk/ukpga/2004/5/contents> unless material considerations indicate otherwise.

In order to reach a recommendation the reports have been prepared having taken into account the following background papers:-

- relevant planning policy advice contained in Government Circulars, National Planning Policy Framework, [https://www.gov.uk/government/publications/national-planning-policy-frame work--2](https://www.gov.uk/government/publications/national-planning-policy-frame-work--2),
- Planning Practice Guidance <http://planningguidance.planningportal.gov.uk/> and other Statements of Ministerial Policy;
- Carlisle District Local Plan 2015-2030 <http://www.carlisle.gov.uk/planning-policy/Local-Plan/Carlisle-District-Local-Plan-2015-2030>
- Conservation Principles, Policies and Guidance - <https://historicengland.org.uk/advice/constructive-conservation/conservation-principles/>
- Enabling Development and the Conservation of Significant Places <https://historicengland.org.uk/images-books/publications/enabling-development-and-the-conservation-of-significant-places/>
- Flood risk assessments: climate change allowances <https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances>

- Consultee responses and representations to each application;  
<http://publicaccess.carlisle.gov.uk/online-applications/>
- Cumbria Landscape Character Guidance and Toolkit  
<http://www.cumbria.gov.uk/planning-environment/countryside/countryside-landscape/land/landcharacter.asp>
- Natural Environment and Rural Communities Act (2006)  
<http://www.legislation.gov.uk/ukpga/2006/16/contents>
- Wildlife and Countryside Act 1981  
<http://www.legislation.gov.uk/ukpga/1981/69>
- Community Infrastructure Levy Regulations 2010  
<http://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents>
- EC Habitats Directive (92/43/EEC)  
[http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index\\_en.htm](http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index_en.htm)
- Equality Act 2010  
[http://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga\\_20100015\\_en.pdf](http://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga_20100015_en.pdf)
- Manual For Streets 2007  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/341513/pdfmanforstreets.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/341513/pdfmanforstreets.pdf)

Condition 2 of each application details the relevant application documents; except the following where the associated documents are located at –

21/0782 - <https://publicaccess.carlisle.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

**SCHEDULE B – Applications determined by other authorities.** This schedule provides details of the decisions taken by other authorities in respect of those applications determined by that Authority and upon which this Council has previously made observations.

The officer recommendations made in respect of applications included in the Schedule are intended to focus debate and discussions on the planning issues engendered and to guide Members to a decision based on the relevant planning considerations. The recommendations should not therefore be interpreted as an intention to restrict the Committee's discretion to attach greater weight to any planning issue when formulating their decision or observations on a proposal.

If you are in doubt about any of the information or background material referred to in the Schedule you should contact the Development Management Team of the Planning Services section of the Economic Development Directorate.

This Schedule of Applications contains reports produced by the Department up to the 07/10/2021 and related supporting information or representations received up to the Schedule's printing and compilation prior to despatch to the Members of the Development Control Committee on the 22/10/2021.

Any relevant correspondence or further information received subsequent to the printing of this document will be incorporated in a Supplementary Schedule which will be distributed to Members of the Committee 5 working days prior to the day of the meeting.

## SCHEDULE A

Applications to be  
determined by the  
City Council.

SCHEDULE A

## SCHEDULE A: Applications with Recommendation

21/0314

Item No: 01

Date of Committee: 22/10/2021

**Appn Ref No:**  
21/0314

**Applicant:**  
Story Homes Limited

**Parish:**  
Cummersdale

**Agent:**

**Ward:**  
Multiple Wards

**Location:** Land off Orton Road, Carlisle

**Proposal:** Residential Development & Associated Landscaping & Infrastructure

**Date of Receipt:**  
29/04/2021

**Statutory Expiry Date**  
02/08/2021

**26 Week Determination**

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### REPORT

**Case Officer:** Stephen Daniel

#### 1. Recommendation

1.1 It is recommended that this application is approved with conditions, subject to the completion of a S106 agreement to secure:

- a) the provision of 30% of the units as affordable;
- b) an off-site open space contribution of £31,038 for the upgrading of existing open space;
- c) a financial contribution of £45,000 to support the off-site improvement of existing play area provision;
- d) a financial contribution of £33,327 to support the off-site improvement of existing sports pitches;
- e) the maintenance of the informal open space within the site by the developer;
- f) a financial contribution of £554,158 to Cumbria County Council towards secondary education provision;
- g) a financial contribution of £6,600 to Cumbria County Council for Travel Plan Monitoring;
- h) a financial contribution of £5,500 to Cumbria County Council for relocating the 30mph zone and a new gateway feature.

If the Legal Agreement is not completed, delegated authority should be given to the Corporate Director of Economic Development to refuse the application.

## **2. Main Issues**

- 2.1 Whether The Proposal Is Acceptable In Principle
- 2.2 Whether The Layout, Scale And Design Of The Dwellings Would Be Acceptable
- 2.3 Impact Of The Proposal Of The Living Conditions Of The Occupiers Of Any Neighbouring Properties
- 2.4 Provision Of Affordable Housing
- 2.5 Highway Matters
- 2.6 Drainage Issues
- 2.7 Open Space Provision
- 2.8 Education
- 2.9 Biodiversity
- 2.10 Impact On Trees/ Hedgerows
- 2.11 Crime Prevention
- 2.12 Impact Of The Proposal On Any Listed Buildings

## **3. Application Details**

### **The Site**

- 3.1 The application site, which extends to 5.6 hectares, comprises two agricultural fields and a narrow strip of land on the north eastern boundary. A hedgerow separates the two fields, which slope away from Orton Road in a general north-west to south-east direction towards Dow Beck.
- 3.2 The land is bound to the north-west by Orton Road. The north-eastern boundary is formed by a mature hedgerow beyond which is a primary residential area at St Edmunds Park and Hebden Avenue. This area includes a former children's play area which is still in Council ownership but is currently closed. The land is bound to the south-east by a mature hedgerow and mature trees beyond which is public open space associated with the Persimmon development at Wigton Road (known as Brackenleigh). Dow Beck runs within this boundary. The land is bound to the south-west by agricultural land known as Newhouse Farm which is allocated for residential development in the Carlisle District Local Plan 2015-2030. The land at Newhouse Farm has been granted outline planning permission subject to the completion of a S106 Agreement.

### **The Proposal**

- 3.3 This proposal is seeking to erect 156 dwellings on the site. The development would contain 13 different house types and these would include terrace, semi-detached and detached properties, with some bungalows also being provided. In total there would be 25 two-bed properties; 49 three-bed properties; 73 four-bed properties; and 9 five-bed properties. Of these 46 would be affordable dwellings, including 6 affordable bungalows.



- 3.4 The dwellings would have various designs and would utilise a range of features to add visual interest and variety. These include the use of: brick or reconstituted stone sills and lintels; open porches; bay windows; two-storey projecting gables; single-storey front and rear projections; pitched roof dormer windows; with some dwellings having integral single and double garages.
- 3.5 The dwellings would be constructed predominantly of brick with render and stone being used on the front elevations of some properties. Roofs would be covered in grey or red concrete tiles. Windows would be white upvc with rainwater goods being black upvc.
- 3.6 Vehicular access to the site would be from Orton Road via a new priority controlled T-junction. The main spine road into the site would measure 5.5m in width and would be adjoined by 2m footpaths to both sides. A clear hierarchy of streets is provided from the main spine road with pedestrian footpaths, to local individual streets, avenues, cul-de-sacs and private shared driveways.
- 3.7 An emergency access is proposed adjacent to the site access. The 5.5m spine road has also been extended up to the western site boundary to provide a potential secondary access/ emergency access into the adjacent allocation. Pedestrian links have also been provided to the boundary with the allocated land to the west and to the land to the east.
- 3.8 A SUDS pond would be provided in the south-east corner of the site (the lowest point of the site) adjacent to Dow Beck and this would take the surface water from the development.
- 3.9 A section of the hedgerow that runs through the site would be retained, together with the hedgerows that lie to the rear of St Edmunds Park and along the south-east and south-west boundaries. The trees that lie along the southern and south-eastern site boundaries would also be retained.
- 3.10 An area of public open space (POS) would be provided adjacent to Orton Road and this would be adjoined by a new electricity sub-station that would sit to the rear of 9 St Edmunds Park. Other areas of POS would also be provided adjacent to the main road into the site, to the south east of the hedgerow that runs through the site and to the east of the SUDS pond.
- 3.11 The proposal also includes the creation of a new off-site footpath which would be located on the eastern side of Orton Road. This would link the new development to existing footpaths at St Edmunds Park.

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

- 4.1 This application has been advertised by means of five site notices, a press notice and notification letters sent to 33 neighbouring properties. In response 5 letters of objection, 6 letters of comment and 2 letters of support have been received. A letter has also been received from Councillor James

Bainbridge who is the city councillor for Sandsfield & Morton West Ward.

4.2 The letters of objection raise the following issues:

Scale and Design

- too many dwellings are proposed;
- why is there not a like for like row of bungalows to match in with the existing bungalows already on St Edmunds Park?;

Residential Amenity

- loss of privacy owing to the proximity of the properties to boundary of existing dwellings and to the distance between the properties on the proposed site;
- houses are going to be built behind existing bungalows which have small rear gardens – this will lead to loss of privacy, overlooking and feeling claustrophobic and hemmed in;
- it would be far less intrusive if bungalows rather than houses were built directly behind the existing bungalows;
- note that bungalows are going to be built at the entrance to the development behind the boundary of St Edmunds Park – why can't bungalows continue down until the houses start of St Edmunds Park?;
- two-storey dwellings, immediately behind would make existing residents feel extremely claustrophobic;
- the majority of residents here are retired people that have chosen this quiet place to spend their remaining days not to have their peace, tranquility and perceived safety destroyed by this needless development and the pending one on Newhouse Farm;
- increased noise levels during construction and after completion. There are already heightened noise levels due to the C.N.D.R - the development will only add to the noise;
- noise and air pollution from increased vehicular traffic, during and after construction;
- while the building work is ongoing, the noise and / mess, dust etc blowing onto existing properties;
- amending the position of the planned bungalows would be a great improvement as far as the existing bungalow residents, are concerned as our rear garden space is limited;
- solar panels on existing houses, which put electricity into the grid, would be adversely affected by the proposed dwellings;
- loss of view will adversely affect the value of my property;
- the water pressure in this area leaves a lot to be desired. An additional burden like this development will not help;

Highway Matters

- concerned about the capacity of the road with extra vehicles it will entail;
- Orton Road is a country road that was not intended for the heavy traffic it receives today;
- proposal will add a significant amount of traffic and this will impact on the already busy Orton Road which has got busier since the introduction of the bypass;
- this development is for 156 dwellings and has 323 parking spaces, two cars

or vans per household, a further 1,000 plus cars to be added for the later development of Newhouse Farm making around 1,300 plus cars that will use Orton road on a daily basis;

- one of the main impacts on the locality will be the huge increase in traffic on Orton Road which is crossed daily by children of all ages and adults alike;
- exit and entry to and from St Edmunds Park and Sandsfield Lane and of the driveways of residence further down Orton Road would be severely compromised;
- the proposed access would, in my opinion, be dangerous;
- traffic emerging from the site will be very close to the junction with Sandsfield Lanning and will be unable to see traffic coming from Carlisle when it enters the dip at the entrance to St Edmund's Park.
- the road layout would have to be totally re-planned from the bypass through to Wigton Road, even in its present state it is totally inadequate;
- over the years the junction at Sandsfield Lanning has had a number of accidents because of the poor visibility on the corner and people driving too fast;
- the Transport Assessment says negligible increase in traffic, but can't see that as being the case;
- the pavements are very narrow and overgrown;

#### Infrastructure

- schools are at full capacity;
- the local amenities (Hospitals GP Practices and Schools and other services that are already stretched to breaking point) will be severely impacted and undoubtedly overwhelmed by such an increase in population, which would be further compromised by the numerous other proposed developments in and around the City of Carlisle;
- concerns about the impact on the general infrastructure. The NHS, schooling etc. have been told secondary education provision may be a problem;

#### Biodiversity

Loss of habitat to the wildlife in this area would be catastrophic. Birds, both migrant and local species, deer regularly roam these fields, as well as hedgehogs, foxes, amphibians and numerous insects;

- the land in question is a wildlife habitat, as well as viable farmland;
- thought needs to be given to the replacement of wildlife habitat which the proposal will inevitably destroy. This development, along with the proposed Persimmon one in the adjacent fields, will cause the loss of mature trees and hedging along Orton Road, as well as hedging in the fields themselves. Some of this loss could be made up by continuing the hawthorn boundary hedge from St Edmunds park along the rear of Hebden Avenue to the pond at the bottom of the field;
- object to the hedge being cut back, as this is used by a variety of birds to nest in and is a slight barrier against the constant road noise;
- have read that the hedge and 5/6 trees at the front of the scheme will be removed due to the narrow frontage of the estate, causing loss of habitat;
- there is a preservation order on the trees leading up to the site but again there is an intended pavement along there in the plans;

- a tree in G28 has been assessed as having bat roosting potential. There has always been bats around here and they are frequently seen foraging at night;

#### Other Matters

- this is not unproductive land, it is agricultural land vital for the production of food, in my view it is greenbelt - just because someone decided to move the boundary to the bypass, does not mean it has to be built on;
- was advised that the land in question was green belt, and have had no communication to say that this is no longer the case;
- also, the consultation carried out during lockdown conveniently, by Story Homes is completely null and void as it referred to a plan that bears no resemblance to the one now proposed;
- given the current level of house building, there is no need to build houses on every available acre of Carlisle's former 'urban fringe'.

#### 4.3 The letters of comment make the following points:

- could a second entrance to the proposed development be placed around the bottom of Hebden Avenue leading onto Queensway, thus easing pressure on Orton Road which is only a minor road;
- note that there is only one entrance - think that changing the southern access road on plan to a normal entrance and exit road would take the pressure off this narrow stretch of Orton Road between St Edmunds Park entrance and the western bypass;
- since the bypass opened this stretch of Orton Road has become a rat run for commercial vehicles, including skip wagons and various HGV's who constantly speed. This narrow stretch of road is not suitable for this type of traffic. Another T-junction would increase the risk of further traffic accidents. There is constant screeching of brakes at the existing T-junction close to where new T-junction is proposed;
- this narrow stretch of road needs road calming measures applied, e.g., road humps as in other parts of Carlisle where speeding is a problem;
- the surface quality of road to rear of 1 to 9 St Edmunds Park is of poor quality and the sound it creates is at times deafening. Increased traffic from the development would only make this worse;
- the entrance to the development is fairly close to Sandsfield Lane and we note that Story has recognised this by proposing that the existing controlled exit from Sandsfield Lane (a triangular anonymous sign with some indecipherable white road markings) should be enhanced and in our opinion upgraded to a Halt sign;
- agree with the Story proposal to extend the length of Orton Road which is currently 30 mph which terminates shortly after the access road to St Edmunds Park to a point beyond the Story development and in our opinion if possible to beyond the land covered by the adjacent Persimmon development;
- a lot of the traffic from Sandsfield Lane travels at excessive speed and on at least 3 occasions in recent years vehicles from Sandsfield Lane hit the hedge on the St Edmunds Park side, in one case travelling through the hedge at no 9 demolishing part of the garden fence and ending up on the patio. In January 2020 a vehicle continued across the junction to demolish

the road sign post (which has not yet been replaced and is still lodged in the hedge). In my opinion the 30 mph limit should be extended into the part of the Lane closest to Orton Road;

- it would have made more sense for the access points to the Story and Persimmon developments to be considered together as this could reduce the new Orton Road access points from 3 to 2 by providing access to the Story development via the roads to be provided by the Persimmon development;
- welcome the proposed extension of the footpath on the St Edmunds Park side but trust that this can be achieved without reducing the width of the existing hedge which is a valuable habitat for many small birds and also helps to reduce the traffic noise which has risen significantly since the A595 bypass was opened;
- what access will there be from the field site to maintain the hedge on the boundary with St Edmunds Park?;
- will a 1.8m wooden fence be erected the rear of dwellings that back onto existing dwellings and how far will this be from the existing hedge?;
- the electricity substation for the development is planned to be sited at roughly the location of the existing field gate and in the absence of vegetation screening would be an eyesore when viewed from no 9. The existing hedge at that point is a crab apple tree and hawthorn which are both currently about 3 metres high. We cannot see the height of the substation in the documentation but we note that its internal height will be not less than 244 centimetres in which case the existing hedge may be adequate but would request the developer to consider this;
- need to clarify who would be responsible for the future maintenance of the hedge between St Edmunds Park and the proposed new dwellings;
- the development will achieve economic and social objectives, but will not improve the environmental conditions of this area;
- the proposed footpath along Orton Road is unnecessary - the established path on the other side of Orton Road provides good access to local amenities and buses, and has potential for future shared pedestrian/cyclist use. Construction of a new footpath is likely to result in further hedgerow destruction, with a loss of habitat for local wildlife, and increased negative visual effect on pedestrians, cyclists and road users of Orton Road;
- plans show a footpath and 0.5m trip rail adjacent to the currently locked, neglected and unused park at the rear of Hebden Avenue - clarification is needed on whether this park will be developed as a much needed green space;
- the mix of dwelling types and sizes is good, and it is encouraging to see the inclusion of much needed bungalows. However, it is disputable whether affordable properties are well integrated within the scheme, with two large clusters of high density housing with limited soft landscaping;
- the substation would be situated on the highest point in the development and will probably be the least attractive property on the estate and will be the first part of the estate seen by anyone approaching the development from any direction - looks as though its location has been chosen to avoid spoiling the outlook from the proposed new dwellings - would any sound be generated by the transformer equipment;

#### 4.4 The letters of support make the following points:

- welcome the development and know that Story's will bring to the area a much needed development and will be sympathetic to the surroundings due to their high calibre houses and developments done to date;
- there is a desperate need for affordable 4 bedroom homes in this part of Carlisle - have been trying to buy a 4 bedroom home in city for past 18 months on HTB scheme - would really love for this development to offer the Emerson home under the HTB scheme;

4.5 Cllr Bainbridge has raised the following issues:

- the issue of the roads and the backing of potential semi-detached properties onto the rear of some of the existing bungalows on St Edmunds Park have been the two main concerns, being mentioned by several residents;

Roads – until the CNDR Orton Road was a rather quiet road past Sandsfield Lane which mainly saw traffic onto the Sandsfield estate. After the CNDR it has become much busier, with traffic often cutting onto the CNDR by Orton Rd. As well as traffic numbers increasing - so has speed. The junction to the site will be near to the existing Sandsfield Lane and St Edmunds Park junction. Traffic in this area picks up speed to reach the 60mph limit and it is this closeness to the Sandsfield Lane junction and the proposed entrance which has been the biggest concern. The current proposals do very little to change the flow, speed or visibility of traffic - need more physical features such as a Speed Indicator Device and/or a Speed Table to make the speed drop. Additionally, if the application is approved the developed line will go beyond Sandsfield Lane and should look to be reducing speed there too, in order to prevent traffic travelling at speed to this junction, and over-shooting it or turning at speed into Orton Road.

Footpath on Orton Road – can see the argument the applicant has made for a continuation of the footpath line from the site entrance to St Edmunds Church, and there are impressions of a path being formed, have some concerns that a path and its associated installation works will have a negative impact on the mature and attractive hedges that run alongside this route, in addition there are a number of TPO's in place for the trees along this route. Would be concerned that they would be damaged by a footpath going in so close to their root system. Additionally, as you will see the hedges which are original to St Edmunds Park do come out across the line of the proposed path, and there isn't a lot of room to utilise for a path as a result. At present the nearest width of the footpath at the entrance is about pram width and nothing more, as a result you will have people meeting and stepping into the road. If we are going to try and improve road safety and reduce speed on that section of road a pedestrian island might be an option so that a footpath could join with the larger footpath on the other side of Orton Road.

Bungalow properties of St Edmunds Park – have been contacted by constituents who live in the bungalows on St Edmunds Park and have attended a site visit - concerned about the provision on the intended site of semi-detached properties which are backed against some of the strip of bungalows on St Edmunds Park. The St Edmunds Park bungalows don't have extensive gardens to the rear and whilst there is a required distance in the plans, concerned that this isn't good example of design and is contrary

to Policy SP6 (doesn't respond to the local context and the form of surrounding buildings in relation to density, height, scale, massing) - would hope that two further bungalows could be added to the intended bungalows at the entrance of the site to enable a better design. This would lead to a net drop of one dwelling in the total number of properties on the site, but do not feel that this is an unreasonable request to make under the circumstances. In addition, the property on St Edmunds Park nearest to the site entrance of the application has over the years become self-sufficient through the use of solar panels. The resident has expressed concern that the development would have potential to reduce light accessing the solar panels - hope that an assessment of this could be given consideration.

Play area provision – the site will not have a play area allocated to it, and whilst there is a redundant and closed play area at Hebden Avenue, that is in the ownership of the City Council, all equipment has been removed. Been contacted by residents there who would not wish for the site to be re-established as they encountered anti-social behaviour there in the past. Whilst there is a view that any play area contribution could be 'rolled into' the site next-door, which is also in the Local Plan, the timescales for this development are several years away, and I would not wish to see families that would live on this site having to wait years for a play area to access. Preferred option would be to use the Section 106 as a monetary sum to improve the play area by the Yewdale Community Centre, which is 0.4 miles away (and no more than a 7 min walk). The play area at Yewdale Park is a Priority 2 play area in our Active Spaces report, and work will be required to improve it. The Section 106 money could very much improve this area. It might also be the case that the goals and greenspace of Yewdale Park could also be improved on the back of this.

School Access – this is not a direct planning issue but does have merit. The nearest Primary School (Yewdale) has had past issues with congestion at school dropping off and collection times. The present arrangement of pinch points isn't really a good answer as it pushes the problem further along Yewdale Road. Whilst the school has been under capacity for a number of years, these developments and the improvement in the school's performance will cause numbers to rise and it is likely that these problems will come to the fore again. With additional sites coming forward in Yewdale, improving access to the school should be considered as a part of this overall expansion of residential dwellings as a result of the Local Plan.

Hedging – residents really want to retain the hedging at the back of their properties and where it borders the site and agree that it is important to them and the environment. The application proposes retaining the hedge, and the development will erect a fence on their side of the development. This will create a bit of a gap between the fence and the hedge. Can it be established clearly in the application who will be responsible for this and the upkeep of the hedge going forward? Could we have an agreement that when any work is needed on this area that the affected residents of St Edmunds Park are kept informed in advance?

Construction Traffic – would like to propose a condition similar to the one included by the Planning Inspector when considering the Deer Park Appeal, this being:- *"17.No construction work associated with the development hereby approved shall be carried out before 07.30 hours on weekdays and Saturdays nor after 18.00 hours on weekdays and 13.00 hours on Saturdays*

*(nor at any times on Sundays or Bank Holidays).*" Would add the following to ensure that residents are not in disadvantaged - this would be that machinery is not started or deliveries of materials occur before 8am.

Employees should be able to arrive at the site to start work at 7.30am, but would wish to avoid the noise of machinery, and deliveries turning up early and particularly parking on Orton Road, waiting for the site to open - this has been an issue on other sites under the applicant's operation, and Orton Road is not a safe road for HGV's to be parked on.

Wildlife – the residents have experienced an abundance of nature locally as a result of the site and its neighbouring land having been left alone for a number of years. The use of hedges in this area is something that should actively be preserved, and residents are accustomed to deer, pheasants, etc in the field. During my visit to the site with neighbours the level of birdsong and activity was considerable. The hedges do need to be preserved, as they add much to the local biodiversity, and this would include the hedges and trees along Orton Road.

Site Visit – would wish to request a site visit to the application site, which would see the road junctions, proposed footpath and the hedge line with St Edmunds Park.

- 4.6 Following the receipt of amended plans, Cllr Bainbridge has raised the following issues:

- disappointed that the amended plans did not include a revisions to plots 7, 8 and 9 in terms of their replacement by bungalows - do not consider that moving the building line 1m away from the boundary is a suitable response to the concerns raised. The condition replacing these plots with two bungalows should be required by the committee if the developers are unwilling to amend the layout. The net drop of one dwelling could be picked up in the south-west area of the site;
- the developer has outlined the replacement of the pumping station with a drainage arrangement which links with the present drains on Hebden Avenue - understand that neither property owner is willing to enter into an agreement for drainage access - therefore, the submitted amended layout could not be achieved;
- there is a need for the development to not add additional speed to the road. A number of properties on Orton Road do still rely on having to reverse onto Orton Road from their drives. The slight lines do play a relevant part in this application as does the need to lessen the speed and increase the safety of the road through S106 improvements;

- 4.7 Two letters of objection have been received to the revised plans and these raise the following concerns:

- extremely disappointed and insulted with the small change Story Homes have made to the revised plan. Relocating the properties 2m further away from the bungalows on St Edmunds Park is not going to make any difference whatsoever and will not resolve the problems that will occur if planning permission were to be granted;
- feel very strongly that bungalows should be built behind the existing bungalows, this would resolve some of the concerns but most of all be the



right and considerate thing to do;

- this would at least go some way to lessen the massive impact on the residents that live in the bungalows who will be directly affected if houses were to be built behind their properties;
- disappointed that Story Homes have decided not to revise their plans to build bungalows on plots 7, 8 and 9 and still want to build houses, which will overlook the bungalows on St Edmunds Park despite moving them forward.

## 5. Summary of Consultation Responses

### **Cumbria County Council - (Highways & Lead Local Flood Authority):**

- initially requested additional information on: visibility splays; car parking provision; secondary access point to neighbouring sites; road layout; traffic calming; pedestrian connectivity; impact on A595/ Dunmail Drive/ Orton Road junction; detailed calculations for the surface water drainage design; detailed drainage design; and treatment of surface water prior to discharge;

Following the receipt of amended plans/ additional information has no objections to the proposals subject to conditions (construction details of highway; provision of visibility splays; no vehicular access other than the approved access; provision of footways to link to existing footways; provision within the site for parking, turning, loading; submission of Construction Traffic Management Plan; submission of surface water drainage scheme; submission of construction surface water management plan);

**Cumbria Constabulary - North Area Community Safety Unit:** - generally the dwellings are arranged to overlook the access roads and each other, with interlocking rear gardens. Need to ensure corner plots don't present blank gables. The land adjacent to Plot 27 is outside the curtilage of the dwelling and is not overlooked - this space should be incorporated into private gardens. Would be helpful if the applicant could provide further information on proposed security measures (demarcation of space, dwelling resistance to forced entry);

Following receipt of amended plans: encouraged by the inclusion of more active gables. Requested additional information on ownership of land adjacent to Plot 27. No further information has been provided on demarcation of space, lighting schemes or protection against burglary. Provided some security advice;

**Cumbria County Council - Development Management:** - the proposed development estimates a yield of 62 children: 36 primary and 26 secondary pupils. The catchment schools for this development are Great Orton (3.7 miles measured from the centre of the development site) with a small piece in the Yewdale catchment area (1 mile). The Secondary catchment schools are Caldew (3.8 miles) with a small piece in falling in the Morton Academy catchment (0.9 miles). There are insufficient places available in the catchment school of Great Orton Primary School to accommodate the 36 primary pupil yield after other development in the area is first considered. However, part of this development is in the catchment area of Yewdale which has spaces available. Therefore a contribution is not sought for

primary education. When considering the effect on pupil numbers from known levels of housing development across Carlisle, there will be only 4 places available of the required 26 to accommodate the secondary pupil yield from this development. Therefore, an education contribution for the remaining 22 places would be required of £554,158 (22 x £25,189). As there are places available Yewdale School which is within the statutory walking distance and on a safe route no contribution is sought for primary school transport. Subject to the education contribution being provided which will ensure there is sufficient capacity which will be within the statutory walking distance and on a safe route no contribution is sought for secondary school transport;

**Local Environment - Environmental Protection:** - conclusions of the Air Quality Assessment and proposed mitigation measures are acknowledged. The agreement to include electric vehicle charging points for each dwelling is welcomed. Need conditions to deal with contamination;

**Local Environment, Waste Services:** - no objections in principle;

**Natural England:** - as there is a hydrological connection from the proposed development site to the River Eden & Tributaries SSSI and River Eden SAC potential impacts need to be considered within a brief Habitats Regulations Assessment (HRA). As Dow Beck runs through the eastern edge of the site and discharges into the River Eden & Tributaries SSSI and River Eden SAC further east it will be essential to minimise pollution of this watercourse at both the construction and built phases. A CEMP should be produced for the site and for the built phase a finalised Surface Water Drainage Plan is required detailing the appropriate Sustainable Urban Drainage System (SuDS) that will be implemented to restrict run-off to pre-construction greenfield run-off rates to help minimise pollution of the watercourse, as well as to reduce the risk of flooding downstream where Dow Beck enters Flood Risk Zones 2 and 3 in Carlisle. The recommendations outlined in Section 5 the submitted Preliminary Ecological Appraisal (PEA) should be secured. Recommend the proposal seeks to achieve a biodiversity net gain, over and above residual losses, which should be mitigated for or compensated. A biodiversity net gain should be achievable for this development given its scale;

Following receipt of amended plans and a HRA: the following is required prior to works commencing on site: a Construction Environmental Management Plan; a finalised Surface Water Drainage Strategy; further work as outlined in the PEA; a provision of 10% biodiversity net gain;

**Sport England North West:** - has no comments to make on this application;

**Cumbria Fire & Rescue Service:** - no comments received;

**Northern Gas Networks:** - no objections;

**Cummersdale Parish Council:** - concerned that the revised layout does not include two extra bungalows on plots 7, 8, and 9 - two-storey dwellings have

been kept on these plots - the height of these is an issue to the back of St Edmunds;

**Cumbria County Council - (Archaeological Services):** - no objections;

**Environment Agency:** - should consult the Lead Local Flood Authority on the Flood Risk Assessment and surface water flooding;

**Health & Wellbeing:** - as the adjacent allocated sites develop a master plan approach to a central green space that is accessible from this development would be beneficial. The formal proposal should provide a total provision/contribution to 1.9 Ha of Open Space to maintain the Local Plan target of 3.6Ha/'000. The proposed plan appears to show 0.68 Ha, although the actual useable open space looks lower (c. 0.35Ha) as SUDS do not contribute towards POS. Therefore, there is a deficit of POS provision of 1.55Ha so an offsite contribution should be made of £38,839 to upgrade open space which is accessible from the development. The POS is limited but has the potential to link in to a central green space as adjacent allocated land gets developed. The open space should also allow walking and cycling routes to be established between the existing estate on Hebden Avenue, local primary and secondary schools, the Brackenleigh estate on Wigton Road and future developments on the allocated land adjacent. The site is too small for a play area so a contribution should be made to upgrade existing offsite play provision in Yewdale. The contribution would be £45,000. There is no provision for sports pitches on site and no scope to do this. The contribution to provide existing off-site sports and recreation provision within the District, based on an occupancy of 529 is £33,327. The developer will be required to ensure appropriate measures are put in place for the management of any new open space provided within this development;

**United Utilities:** - drainage proposals are acceptable in principle subject to conditions (surface water drainage; foul water; sustainable drainage management and maintenance plan).

## **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 proposals be determined in accordance with 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) and Policies SP1, SP2, SP5, SP6, HO1, HO4, IP1, IP2, IP3, IP4, IP6, IP8, CC4, CC5, CM2, CM4, GI3, GI4 and GI6 of The Carlisle District Local Plan 2015-2030. The council's Supplementary Planning Documents (SPD) "Achieving Well Designed Housing", "Affordable and Specialist Housing" and "Trees and Development" are also material

planning considerations.

6.3 The proposal raises the following planning issues:

1. Whether The Proposal Is Acceptable In Principle

6.4 The site is allocated for housing in the Carlisle District Local Plan 2015-2030 as part of the wider Newhouse Farm allocation (Policy H01 - Site U7). The whole site covers 30.19 Ha and has an indicative yield of 509 dwellings. The remainder of the Newhouse Farm allocation was granted outline planning permission by the Development Control Committee in January 2018 (subject to the completion of a S106 Agreement which has not been completed) and the indicative layout plans showed 480 dwellings being erected on this part of the site. The application site forms the north-eastern most part of this allocation and the proposal to erect dwellings on this site would, therefore, be acceptable in principle.

2. Whether The Layout, Scale And Design Of The Dwellings Would Be Acceptable

6.5 The proposal is seeking to erect 156 dwellings on the site and this equates to just under 28 dwellings per hectare which is an acceptable density. The development would contain 13 different house types and these would include terrace, semi-detached and detached properties, with some bungalows also being provided. In total there would be 25 two-bed properties; 49 three-bed properties; 73 four-bed properties; and 9 five-bed properties. Of these 46 would be affordable dwellings, including 6 affordable bungalows.

6.6 The dwellings would have various designs and would utilise a range of features to add visual interest and variety. These include the use of: brick or reconstituted stone sills and lintels; open porches; bay windows; two-storey projecting gables; single-storey front and rear projections; pitched roof dormer windows; with some dwellings having integral single and double garages.

6.7 The dwellings would be constructed predominantly of brick with render and stone being used on the front elevations of some properties. Roofs would be covered in grey or red concrete tiles. Windows would be white upvc with rainwater goods being black upvc. The proposed materials would reflect those commonly found within the locality, particularly at Orton Road, St Edmunds Close, Hebden Avenue, Sandsfield Road and Holmrook Road. Similarly, the recent development at Brackenleigh, off Wigton Road to the south east of this site, displays complementary materials which are visible from the site.

6.8 Vehicular access to the site would be from Orton Road via a new priority controlled T-junction. The main spine road into the site would measure 5.5m in width and would be adjoined by 2m footpaths to both sides. A clear hierarchy of streets is provided from the main spine road with pedestrian footpaths, to local individual streets, avenues, cul-de-sacs and private

shared driveways. The spine road includes various surface materials and bends to create traffic calming measures. The use of adjacent public open space and supplementary tree planting and soft landscaping, along with the topography of the land, come together to frame long-distance views from Orton Road out towards the North Pennines Area of Outstanding Beauty (AONB). These long-distance views would become a key feature of the proposed development.

- 6.9 An emergency access is proposed adjacent to the site access. The 5.5m spine road has also been extended up to the western site boundary to provide a potential secondary access/ emergency access into the adjacent allocation. Pedestrian links have also been provided to the boundary with the allocated land to the west and to the land to the east.
- 6.10 A SUDS pond would be provided in the south-east corner of the site (the lowest point of the site) adjacent to Dow Beck and this would take the surface water from the development. The SUDS pond would be enclosed with hoop top railings to provide an attractive finish to the SUDS area along with soft landscaping.
- 6.11 A section of the hedgerow that runs through the site would be retained, together with the hedgerows that lie to the rear of St Edmunds Park and along the south-east and south-west boundaries. The trees that lie along the southern and south-eastern site boundaries would also be retained.
- 6.12 An area of public open space (POS) would be provided adjacent to Orton Road and this would be adjoined by a new electricity sub-station that would sit to the rear of 9 St Edmunds Park. Other areas of POS would also be provided adjacent to the main road into the site, to the south of the hedgerow that runs through the site and to the east of the SUDS pond.
- 6.13 The proposed layout plan includes multiple opportunities along the western boundary for footpath and road connections to the wider allocation, as well as the ability for green corridors and open space to flow seamlessly between the two parcels of land. The existing hedgerow which bisects the land from east to west is a particular feature which has been retained to accommodate this relationship with the wider allocation.
- 6.14 The proposed development has been designed to take account of the local character and would provide road and pedestrian connections through to the wider allocation at Newhouse Farm. In light of the above, the layout, scale and design of the proposals would be acceptable.

### 3. Impact Of The Proposal Of The Living Conditions Of The Occupiers Of Any Neighbouring Properties

- 6.15 Policy SP6 'Securing Good Design seeks to ensure that proposals do not have an adverse effect on the residential amenity of existing areas, or result in unacceptable conditions for future occupiers of the development. The SPD on Achieving Well Designed Housing sets out guidance for the separation distances between existing and proposed dwellings. It states that

"where a development faces or backs onto existing development, in order to respect privacy within rooms a minimum distance of 21 metres should usually be allowed between primary facing windows (and 12 metres between any wall of the building and a primary window)".

- 6.16 Six bungalows are proposed to be located to the rear of the existing bungalows at 10-13 St Edmunds Park. Whilst two-storey dwellings (plots 7 to 9) would be located to the rear of 14-16 St Edmunds Park, the rear elevations of the proposed dwellings would be a minimum of 21m from the rear elevations of the existing bungalows which would be in line with the separation distances set out in the SPD. The finished floor levels of the dwellings on plots 7 to 9 would also be lower than the finished floor levels of existing bungalows and the existing boundary hedge would be retained.
- 6.17 Plot 10 would have a two-storey rear elevation 19m from 16 St Edmunds Park. Whilst this is below the 21m guidance set out in the SPD, plot 10 would only lie to the rear of part of 16 St Edmunds Park. Plot 9 would also lie to rear of this dwelling and this would be 21m away. The existing hedgerow on the north eastern boundary with St Edmund's Park and Hebden Avenue is proposed to be retained and this would help to protect and retain the amenity of existing and future occupiers.
- 6.18 Plot 11 would be just over 20m from the rear elevations of 41 and 42 Hebden Avenue. The two-storey section of plot 13 would be over 24m from the side elevation of 43 Hebden Avenue. Plots 26 and 27 would have side elevations adjacent to the side elevations of 109 and 107 Hebden Avenue.
- 6.19 Plots 43 to 49 would lie to the rear of dwellings on Hebden Avenue. The former play area would lie between the existing and proposed dwellings, so the separation distances set out in the SPD would be greatly exceeded. Plots 52 and 55 would face the gables of 83 and 81 Hebden Avenue, with the separation distances exceeding those set out in the SPD.
- 6.20 An Air Quality Assessment has been submitted in support of this proposal. During the construction stage, the assessment found there is the potential for air quality impacts because of dust emissions from the site. Assuming good practice dust control measures are implemented, the report found the residual potential air quality impacts from dust generated by construction, earthworks and track-out activities would not be significant. Nevertheless, a condition has been added to the permission which requires the submission of a Construction Environmental Management Plan to ensure good practice and mitigation measures are employed as part of the proposed development.
- 6.21 During the operational phase (end-use), the modelling results indicated that annual emission concentrations across the site would be below the relevant air quality objectives at proposed sensitive locations.
- 6.22 In light of the above, the proposal would not have an adverse impact on the living conditions of the occupiers of any neighbouring properties which would be significant enough to warrant the refusal of the application.

#### 4. Provision Of Affordable Housing

- 6.23 Policy HO4 'Affordable Housing of the Local Plan identifies that the application site falls within Zone C, which requires the provision of 30% of dwellings as affordable homes on schemes with 11 or more units. A development of 156 dwellings would, therefore, require the provision of 46 affordable homes (rounded down in accordance with Housing SPD guidance).
- 6.24 This proposal includes a policy compliant provision of 46 affordable homes of which 23 (50%) would be intermediate (discounted sale or shared ownership) and 23 (50%) would be affordable rent. Of the proposed affordable housing mix, 25 (54%) would be two-bedroom dwellings and 21 (46%) would be three-bedroom dwellings. The proposal includes six two-bedroom bungalows for affordable rent. The affordable properties would be dispersed throughout the site.
- 6.25 The Council's Housing Development Officer has been consulted on the application. He considers that the affordable unit mix is acceptable and reflects the need identified in the SHMA and meets a variety of household needs. He also considers that the location of the proposed affordable dwellings is acceptable.
- 6.26 The Housing Development Officer initially raised concerns about the gross internal area (GIA) of the Fraser house type, of which 15 were proposed for discounted sale. The size of the unit type (75.8m<sup>2</sup>) is not compliant with the standards set out in the Affordable and Specialist Housing SPD for a three bed house (80m<sup>2</sup>) and he recommended that these properties should be replaced with the Harper property type.
- 6.27 The developer has responded positively to this request and the 15 Fraser house types have been replaced by 11 Harper house types and 4 Fulford house types. The Harper and Fulford units are larger than the Fraser units and the floor space that they provide complies with the requirements of the Affordable and Specialist Housing SPD.
- 6.28 The Housing Development Officer also initially raised concerns about the lack of bungalows and adaptable dwellings on the site. The Council's Affordable and Specialist Housing SPD recommends that on sites of over 100 units 10% of the dwellings provided are bungalows or other accommodation suitable for older persons. In the case of the application site, 156 units x 10% would equate to 15 bungalows or other adaptable unit types suitable for older persons (across the market and affordable sectors).
- 6.29 The developer has submitted some additional information which demonstrates that the Branford and Fulford house types are adaptable and comply with Part M4(2) Accessible and Adaptable Dwellings of the Building Regulations. There are 21 of these house types proposed plus six bungalows, so the proposal now complies with the requirements of the Affordable and Specialist Housing SPD.

- 6.30 Following the receipt of revised plans and additional information, the Housing Development Officer has confirmed that he has no objections to the proposed development, which complies with the requirements of the Council's Affordable and Specialist Housing SPD

## 5. Highway Matters

- 6.31 Policy IP1 'Delivering Infrastructure', Policy IP2 'Transport and Development' and Policy IP3 'Parking Provision' of the Local Plan seek to ensure that sufficient infrastructure is in place to support development proposals, including adequate highway capacity and achievable access. Development proposals will be assessed against their impact upon the transport network and will be required to demonstrate / provide convenient access to public transport. Policy IP3 of the Local Plan specifically requires appropriate parking provision, whilst the Cumbria Development Design Guide (CDDG) also sets out recommended parking provision standards.
- 6.32 Access would be from Orton Road via a new priority-controlled junction. Several traffic calming measures, including raised tables with changes in surface materials and bends in the carriageway, are proposed within the layout. This is compliant with Manual for Streets and ensures the layout incorporates predominantly 20mph road vehicle speeds and promotes walking and cycling.
- 6.33 An Emergency Vehicle Access (EVA) is also proposed off Orton Road via the private drive that serve plots 155 and 156. In the unlikely event that the primary access off Orton Road becomes blocked, the proposed EVA would provide an alternative point of access.
- 6.34 The Transport Assessment (TA) identifies that the site is well served by public transport options. The nearest bus stops are located around 550 metres from the centre of the site on Queensway to the east. Additional bus stops are located further along Orton Road and Holmrook Road. Up to ten services an hour are currently in operation providing access to destinations including Carlisle in an approximate 15-minute journey. These services operate from around 06:30 to 23:20 daily, making travel by public transport a real alternative to travelling by car.
- 6.35 In addition, an off-site footway is proposed on the south side of Orton Road and this would link the proposed development with the existing footpath leading from the west from the A595, to the existing footpath terminating at the junction to St Edmunds Park. This proposal would improve pedestrian connectivity to the existing bus stops and the services and amenities within the locality.
- 6.36 A Travel Plan has been submitted as part of the TA to further support and encourage sustainable modes of transport.
- 6.37 In terms of existing network capacity, the TA confirms the effects of the traffic likely to be generated by the proposal is forecast to be negligible. On



that basis, it can be assumed the impact of the proposals on the local highway network would be minimal, and could not be considered to be severe.

- 6.38 The Highways Authority has been consulted on the application. In order to address the Highways Authority's initial concerns, the applicant has submitted a revised TA and layout plan.
- 6.39 Previously the Highways Authority noted that the proposed vehicular access onto Orton Road was within a 40mph speed limit zone, with an amended 30mph zone located to the north east of the proposed access. The applicant has demonstrated within the revised TA, that the main access into the development incorporates visibility splays of 2.4m x 60m. Following a revision of the access arrangements, the access is within a revised 30mph speed limit zone in its entirety with the relocated 30mph speed limit zone being to the west of the access on Orton Road. The Highways Authority has assessed the visibility splays and has concluded that they are under the control of the applicant and are achievable. As such the Highways Authority has no objections with regards to the vehicular access into the development site. It should be noted that the revised 30mph speed limit zone would be delivered through a S278 agreement.
- 6.40 The applicant has detailed within the TA that a 3.7m wide emergency vehicular access (EVA) onto Orton Road is proposed to the west of the main access. Following an assessment of the layout, the EVA route is considered acceptable. Linkages to future phases of the adjacent allocated land are also provided.
- 6.41 Following previous concerns raised by the Highways Authority, the applicant has revised the layout of the development to include dropped kerbs for non-motorised users of the footways at all junctions. In addition, landscaping features are to be set back from the carriageway edge to allow for maintenance works to take place safely. The applicant has also confirmed that landscaping features within a visibility splay are to be no more than 0.6m in height to ensure that visibility splays are not compromised. This provision is acceptable to the Highways Authority and is to be ensured by conditions.
- 6.42 Within the TA, the study area as previously agreed with the Highways Authority was:
- A689/Orton Road roundabout; and
  - A595 Wigton Road/Orton Road/Dunmail Drive signalised junction

Within the previous comments regarding the TA, concerns were raised with regards to the impact of the proposed development on the A595 / Dunmail Drive / Orton Road junction and the modelling methodology behind the conclusions within the TA. In order to address these issues a revised TA has been submitted.

- 6.43 In order to better inform the TA, traffic surveys were undertaken at the A595

/ Dunmail Drive / Orton Road junction between Friday 3 September and Thursday 9 September 2021. The surveys were undertaken from 07:00 to 19:00 for each day of the survey. The junction modelling has been revised using the traffic survey data collected as requested by the Highways Authority and the applicant has stated that rather than using traffic flows based on the average of each day, the analysis has utilised the busiest AM, PM and inter peak periods. This methodology is acceptable to the Highways Authority.

- 6.44 The TA has identified using the TRICS database that the proposed residential development is forecast to generate up to 95 two-way trips during the AM peak hour, 105 two-way trips during the PM peak hour and 63 two-way trips during the inter-peak/Saturday peak. This equates to an increase in vehicular movements of less than two trips per minute. Within Table 3 of the revised TA the impact of the proposed development on the A595 / Orton Road / Dunmail Drive junction is assessed. It is noted that the development proposed is forecast to result in an increase in traffic through the junction of less than 3%. The applicant considers that this increase in traffic is less than what occurs as a result of daily fluctuations in traffic flows. Therefore, the applicant considers that the impact of the development on the A595 / Orton Road / Dunmail Drive junction would be negligible. The Highways Authority have assessed the results of the TA and have concluded that the proposed increase in traffic at the A595 / Orton Road / Dunmail Drive junction would not have a detrimental impact on highway safety and is, therefore, acceptable.
- 6.45 In order to address the concerns previously raised, the applicant has submitted a revised layout plan. In this revised layout plan there is an opportunity for pedestrian connectivity to the west, to the site which has outline planning permission for residential development (17/0883) and along the frontage of the site with Orton Road. In addition, the applicant has highlighted locations whereby footpaths can connect into Hebden Avenue to the east (between plots 43 and 44) along with an opportunity to connect to an existing footway which runs from Brackenleigh to Hebden Avenue. The Highways Authority has assessed the footway connection between plots 43 and 44 into Hebden Avenue and it is noted that the footway connects into a green space which is not under the applicant's control. The footway within the development site is to connect into the existing network between 95 and 97 Hebden Avenue and, therefore, the applicant is to work with the relevant landowners (which is Carlisle City Council) to develop this connection. The applicant should also note that all footways are to be 2m in width and surfaced in a bound material.
- 6.46 The applicant has detailed with the revised TA that the proposals would provide 392 parking spaces including garages. In accordance with the Cumbria Development Design Guide a total of 382 car parking spaces for residents are required for the proposed development along with 31 spaces for visitors. Therefore, the car parking requirement within the development site was previously considered to be 19 visitor car parking spaces below the requirements of the Cumbria Development Design Guide.

- 6.47 Following a review, the Highways Authority has determined that there are opportunities for on street car parking within the development site and spare capacity in-curtilage parking to encompass the extra 19 spaces required. As such, the Highways Authority has no objections with regards to the proposed car parking provision.
- 6.48 In light of the above, the Highways Authority has no objections with regards to the approval of planning permission subject to conditions and subject to the following financial contributions –
- Travel Plan Monitoring - £6,600
  - Relocating of the 30mph zone and new gateway feature - £5,500

## 6. Drainage Issues

- 6.49 Policy IP6 'Foul Water Drainage on Development Sites', Policy CC4 'Flood Risk and Development' and Policy CC5 'Surface Water Management and Sustainable Drainage Systems' of the Local Plan require proposals to satisfactorily demonstrate how foul and surface water would be managed. The Council seeks to ensure that new development does not result in unacceptable flood risk or drainage problems and encourages the use of sustainable drainage systems.
- 6.50 A Flood Risk Assessment (FRA) has been submitted with the application. The FRA confirms that the land is located within Flood Zone 1 and is at very low risk of flooding.
- 6.51 Surface water would drain into Dow Beck at greenfield rate via a SuDS pond located at the low point in the south eastern part of the site. This would mitigate any impact on Dow Beck and would effectively mimic pre-development conditions.
- 6.52 Foul water was originally intended to drain via a proposed foul pumping station located at the low part of the site before being discharged via a rising main to the existing sewer in St Edmunds Park. The pumping station and associated rising main are no longer proposed. It is now proposed to connect the foul water via gravity via an existing manhole in Hebden Avenue through third party land.
- 6.53 Temporary construction surface water would be managed using temporary silt traps on the boundaries which would drain to the proposed SuDS pond. A de-silt lagoon located on the high side of the SuDS pond would intercept any silt runoff from the site prior to entering Dow Beck.
- 6.54 The Lead Local Flood Authority (LLFA) has been consulted on the application. A FRA and Geo-Environmental Appraisal (GEA) have been submitted with the application and these indicate that surface water from the development would discharge into Dow Beck which is an ordinary watercourse to the south east of the site. In accordance with the hierarchy of drainage options as stated within the Cumbria Development Design Guide, the first option to be explored for the discharge of surface water is via infiltration. Following a review of the GEA, ground investigations were

undertaken through a series of boreholes and it is noted that groundwater is present throughout the site. As such the report concludes that infiltration is not a viable method of surface water disposal for the site. The LLFA has reviewed the GEA and agrees with the conclusion that infiltration is not viable for the site. Therefore, in accordance with the hierarchy, discharge of surface water into Dow Beck in line with the preferred option can be considered.

- 6.55 The discharge rate from the development into Dow Beck is to be equal to the greenfield runoff rate for the development site at 39.1l/s. Attenuation would also be required on site to accommodate a 1 in 100 year plus 40% (to account for climate change) storm event. The LLFA stated previously that within the detailed calculations submitted manholes S122, S126 and S127 experienced flooding during a 1 in 100 year plus 40% (to account for climate change) storm event. This was determined as being unacceptable as the drainage system is to be designed to accommodate a 1 in 100 year plus 40% (to account for climate change) storm event without increasing flood risk on site, or downstream. As such the applicant was to increase the attenuation being provided on site and submit revised calculations for comment. In addition, the applicant was also to demonstrate that the drainage proposals incorporate sufficient treatment of the surface water prior to discharge for a residential development in accordance with the SuDS manual.
- 6.56 Following on from these comments, a revised suite of Micro Drainage calculations have been submitted by the applicant along with a detailed drainage design. The calculations submitted demonstrate that sufficient attenuation is provided on site to accommodate a 1 in 100 year plus 40% (to account for climate change) storm event with the discharge limited to the greenfield runoff rate of 39l/s. Following a review, there are no longer any flooded volumes during the 1 in 100 year plus 40% (to account for climate change) storm event which is acceptable to the LLFA.
- 6.57 With regards to the treatment of the surface water prior to discharge, the applicant has detailed the sediment forebay information within the pond. The details provided within the drawing are acceptable; however, the applicant has not demonstrated that the drainage proposals incorporate sufficient treatment of the surface water prior to discharge for a residential development in accordance with the SuDS manual. The LLFA are content that the treatment information can be submitted at a later stage of the planning process and secured through the use of conditions. It should be noted that the layout may change when the treatment train is confirmed.
- 6.58 Therefore to conclude, the LLFA has no objections with regards to the approval of planning permission subject to conditions.

## 7. Open Space Provision

- 6.59 Policy GI4 'Open Space' of the Local Plan requires new housing developments of more than 20 dwellings to include informal space for play or general recreation or amenity use on site according to the size of the

proposal. In addition, all new developments should have safe and convenient access to high quality open space.

- 6.60 The proposed layout includes 0.68 hectares of public amenity space including two areas to the front of the scheme which create an open and attractive entrance, a linear area of open space adjacent to the existing hedgerow which bisects the middle of the scheme and an area of public open space to east of the SUDS pond.
- 6.61 The Health & Well Being Team has been consulted on the application. The site should provide 1.92 hectares of open space to maintain the Local Plan target of 3.6 hectares per 1,000 population. The proposed plan shows 0.68 hectares of open space, so there is a deficit of provision of 1.24 hectares. An offsite contribution of £31,038.75 should be provided to upgrade open space which is accessible from the development. The open spaces of Yewdale and Richmond Green are both accessible from the site and both have shown deficits in provision/quality from routine site safety surveys. The open space contribution would be spent on improvements to the footpaths and seating areas in Yewdale and Richmond Green to make them more accessible.
- 6.62 The site is too small for a play area so a contribution should be made to upgrade existing offsite play provision in Yewdale. Routine and independent inspections have shown a deficit in quality of play provision at Yewdale. The contribution would be spent on replacing swings, the infants multi-play unit and the Dutch Disc. A contribution of £45,000 is, therefore, required to upgrade the existing play equipment at Yewdale.
- 6.63 There is no provision for sports pitches on site and no scope to do this. The Local Football Pitch Facility Plan (July 2020) shows deficits in provision and the Sports Pitch Strategy 2014 (currently being updated) also shows deficits. A contribution of £33,327 is, therefore, requested and this would be spent towards the funding of an artificial football pitch. This artificial pitch, which would be a city wide facility, could be located at the Richard Rose Morton Academy or at another site in the west of the city.
- 6.64 The developer would be required to ensure appropriate measures are put in place for the management of any new open space provided within this development.

## 8. Education

- 6.65 A dwelling-led model has been applied as is outlined in the County Council's Planning Obligation Policy and the proposed development estimates a yield of 62 children: 36 primary and 26 secondary pupils. The catchment schools for this development are Great Orton (3.7 miles measured from the centre of the development site) with a small piece in the Yewdale catchment area (1 mile). The Secondary catchment schools are Caldew (3.8 miles) with a small piece falling in the Morton Academy catchment (0.9 miles).
- 6.66 There are insufficient places available in the catchment school of Great

Orton Primary School to accommodate the 36 primary pupil yield after other development in the area is first considered. However, part of this development is in the catchment area of Yewdale which has spaces available. Therefore a contribution is not sought for primary education.

- 6.67 When considering the effect on pupil numbers from known levels of housing development across Carlisle, there will be only 4 places available of the required 26 to accommodate the secondary pupil yield from this development. Therefore, an education contribution for the remaining 22 places would be required of £554,158 (22 x £25,189). The £25,189 is the £18,188 multiplier set out in the County Council's Planning Obligation Policy (2013) index linked to present day costs.
- 6.68 As there are places available Yewdale School which is within the statutory walking distance and on a safe route no contribution is sought for primary school transport. Subject to the education contribution being provided which will ensure there is sufficient capacity which will be within the statutory walking distance and on a safe route no contribution is sought for secondary school transport.

## 9. Biodiversity

- 6.69 Policy GI3 'Biodiversity and Geodiversity' and Policy GI6 'Trees and Hedgerows' of the Local Plan, collectively, seek to protect, and where possible, enhance biodiversity and the natural environment through the protection and integration of existing trees and hedges.
- 6.70 A Preliminary Ecological Appraisal (March 2021) (PEA) and Arboricultural Impact Assessment (March 2021) (AIA) have been submitted in support of the application.
- 6.71 The site is currently comprised of predominantly agricultural improved grassland and is bordered on all sides by hedgerows and trees lines. A further hedgerow bisects the site from east to west. A small area of scrub and coppiced woodland is present at the southern end of the site, with an area of scrub also being present at the eastern side. Tall ruderals are present within the field margins and a wet ditch is present to the south and east of the site.
- 6.72 The following ecological constraints have been identified on the site:
- one tree was assessed as having moderate bat roosting potential, with two trees having low bat roost potential
  - the site has moderate bat foraging and commuting potential
  - the site contains suitable habitats for nesting birds, hedgehogs and common amphibians
- 6.73 All trees with bat roosting potential are to be retained and protected. Precautionary working methods are to be followed during the construction phase for bats, hedgehogs, amphibians and invasive non-native species (which have been found recorded adjacent to the site). If any vegetation

requires removal, the works should be completed outside of the bird breeding season (March to September). If this is not feasible a nesting bird check should be completed by a qualified ecologist within 48 hours of the vegetation being removed.

- 6.74 The following ecological enhancements have been recommended
- bat and bird boxes could be placed on the new buildings/retained trees
  - 'hedgehog highways' should be included to facilitate movement of hedgehogs across the site
  - bug hotels and log piles should be provided to enhance the habitat for invertebrates, bats and birds
- 6.75 Natural England has been consulted on the application. As there is a hydrological connection from the proposed development site to the River Eden & Tributaries SSSI and River Eden SAC potential impacts need to be considered within a brief Habitats Regulations Assessment (HRA). As Dow Beck runs through the eastern edge of the site and discharges into the River Eden & Tributaries SSSI and River Eden SAC further east it will be essential to minimise pollution of this watercourse at both the construction and built phases. The CEMP should contain appropriate pollution prevention guideline measures to include materials and machinery storage, biosecurity, and mitigation for the control and management of noise, fugitive dust, surface water runoff and waste. We also advise a 10m exclusion zone along both sides of the water course during construction. The biosecurity recommendations from the Preliminary Ecological Appraisal (PEA) should be included in the CEMP, as well as the lighting recommendations to reduce impacts on bat species.
- 6.76 For the built phase, a finalised Surface Water Drainage Plan is required detailing the appropriate Sustainable Urban Drainage System (SuDS) that would be implemented to restrict run-off to pre-construction greenfield run-off rates. This would help to minimise pollution of the watercourse, as well as to reduce the risk of flooding downstream where Dow Beck enters Flood Risk Zones 2 and 3 in Carlisle. The Drainage Plan needs to incorporate a management plan for ongoing maintenance of the SuDS. If the attenuation basins are to be used during the construction phase for the purpose of settling out sediment, the basins and catch pits need to be monitored and maintained following rainfall events to prevent trapped silt from being remobilised. Consideration should also be given to using other emergency mechanisms such as a silt buster. Ordinary Watercourse consent from the County Council may also be required for any discharge to the watercourse during both construction and operational phases.
- 6.77 The recommendations outlined in Section 5 of the submitted PEA should be secured. Natural England recommends the proposal seeks to achieve a biodiversity net gain, over and above residual losses, which should be mitigated for or compensated. A biodiversity net gain should be achievable for this development given its scale. Natural England recommends the current Biodiversity Metric 2 be used to calculate the net gain in biodiversity for individual planning proposals. The metric has a hedgerow calculation section which we would recommend for this application as species rich

hedgerows are to be lost. For species, net gain biodiversity enhancements should be incorporated in the building design including bird and bat boxes as outlined in Section 7 of the PEA.

- 6.78 Conditions have been added to the consent which require the applicant to submit a revised CEMP and details of the proposed surface water drainage scheme. Following the response from Natural England, the applicant has submitted a Habitats Regulations Assessment Screening Report. This indicates that the proposed development has no significant risk of having any negative effect on the qualifying features for the River Eden SAC. After considering all potential direct and indirect impacts of the proposed development it is concluded that the works, both in construction and operational phase, would not significantly impact on the River Eden SAC.
- 6.79 Natural England has requested that the scheme should achieve biodiversity net gain. Some existing trees and sections of hedgerows would be removed to accommodate the development and new planting would be provided to mitigate for this loss and this would be secured by condition. A condition has also been added to the permission to secure wildlife enhancement measures and these could include the provision of bat and bird boxes, bug hotels and log piles. The provision of replacement planting, the creation of a SuDS pond, which would bring ecological benefits through associated soft landscaping, including the creation of a bio-diverse aquatic habitat associated with a natural ecological pond, the provision of wildlife enhancement measures and the creation of gardens should ensure that the site achieves biodiversity net gain.
- 6.80 In light of the above, the proposal would not have an adverse impact on biodiversity.

#### 10. Impact On Trees/ Hedgerows

- 6.81 The proposed development requires the removal of one tree, six groups of trees, parts of a further six groups of trees, one hedgerow and parts of a further three hedgerows. It is proposed to retain existing trees and hedgerows on the boundaries, where possible. No 'Category A' trees or hedges are proposed to be removed and the hedgerows on the boundaries with existing dwellings at St Edmunds Park and Hebden Avenue would be retained.
- 6.82 Additional supplementary planting is proposed throughout the scheme to mitigate for the loss of existing trees and hedgerows. Additional landscaping would reinforce the existing landscape structure of the land and would include the reinforcement of boundary trees and hedgerows and supplementary planting to create attractive tree lined streets.
- 6.83 The new footpath that is to be created along Orton Road would be located in close proximity to some protected trees. The applicant has submitted an Arboricultural Method Statement to ensure that the creation of the footpath would not have an adverse impact on the protected trees. A cellular confinement system, which would ensure that no excavation is required, would be used.



6.84 The proposal would be acceptable subject to the imposition of conditions to ensure that existing trees are protected by appropriate tree protection fencing during construction works; the Arboricultural Method Statement is adhered to; and new trees and hedgerows are planted to mitigate for the loss of existing trees and hedgerows.

## 11. Crime Prevention

6.85 Generally, the dwellings are arranged to overlook the access roads and each other, with interlocking rear gardens. Unfortunately, there is no detailed information relating to proposed security measures, although the Design and Access Statement (Design Principles and Development) advises the “form of open spaces with overlooking properties...” and “positive frontages will be provided onto areas of public open space providing natural surveillance and enclosure for sense of safety”. The developer needs to ensure that corner plots have active gables and the land adjacent to Plot 27, which is not overlooked, should be incorporated into the garden of that property.

6.86 Following receipt of amended plans, the Crime Prevention Officer is encouraged that the corner plots (plots 62 and 103) now feature ‘active’ gables. The status and ownership of land adjacent to plot 27, or issues pertaining to demarcation of space, lighting schemes or protection against burglary have still need been addressed. Exterior doors and ground floor windows should be certified to PAS 24:2016 and the applicant should consider achieving Secured by Design ‘Silver’ accreditation for this development.

6.87 The applicant has amended the proposals further and the area next to plot 27 has now been incorporated into the garden of that property. A plan has been submitted which shows the demarcation of public and private space. Details of the proposed windows and doors have also been provided to demonstrate the security measures to be incorporated.

## 12. Impact Of The Proposal On Any Listed Buildings

6.88 Bunkershill, which consists of three dwellings (West End, Centre House and East End) is Grade II Listed and lies on the opposite side of Orton Road to the application site.

6.89 Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 highlights the statutory duties of Local Planning Authorities whilst exercising of their powers in respect of listed buildings. The aforementioned section states that:

*"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses".*

6.90 Paragraph 201 of the NPPF states that Local Planning Authorities should refuse consent for any development which would lead to substantial harm to

(or total loss of significance of) designated heritage assets. However, in paragraph 202, the NPPF goes on to say that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. Policy HE3 (Listed Buildings) of the adopted Local Plan states Listed Buildings and their settings will be preserved and enhanced.

- 6.91 Bunkershill is located on the opposite side of Orton Road to the application site and is over 150m to the west. The building is set back from the road and is largely screened by a high wall to the front. Developing the application site for residential development would not have an adverse impact on the setting of this Listed Building.

## **Conclusion**

- 6.92 The application site is allocated for housing in the adopted Local Plan. The layout, scale and design of the development would be acceptable and the proposal would not have an adverse impact on the living conditions of occupiers of any neighbouring properties through loss of light, loss of privacy or over dominance, or on any listed buildings. Subject to the proposed conditions and a S106 agreement it is considered that the proposal would not raise any issues with regard to highway safety, foul and surface water drainage, biodiversity, trees, education, or open space. The proposal is, therefore, recommended for approval subject to the completion of a S106 Agreement.
- 6.93 If Members are minded to grant planning approval it is requested that “authority to issue” the approval is given subject to the completion of a S106 agreement to secure:
- a) the provision of 30% of the units as affordable;
  - b) an off-site open space contribution of £31,038 for the upgrading of existing open space;
  - c) a financial contribution of £45,000 to support the off-site improvement of existing play area provision;
  - d) a financial contribution of £33,327 to support the off-site improvement of existing sports pitches;
  - e) the maintenance of the informal open space within the site by the developer;
  - f) a financial contribution of £554,158 to Cumbria County Council towards secondary education provision;
  - g) a financial contribution of £6,600 to Cumbria County Council for Travel Plan Monitoring;
  - h) a financial contribution of £5,500 to Cumbria County Council for relocating the 30mph zone and a new gateway feature.

If the Legal Agreement is not completed, delegated authority should be given to the Corporate Director of Economic Development to refuse the application.

## **7. Planning History**

7.1 There is no planning history relating to this site.

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

1. the submitted Application Form received 6<sup>th</sup> April 2021 and part amended application form received 3<sup>rd</sup> August 2021;
2. the Amended Certificate of Ownership received 3<sup>rd</sup> August 2021;
3. the Statement of Community Involvement (April 2021) received 5<sup>th</sup> April 2021;
4. the Air Quality Assessment (28<sup>th</sup> January 2021) received 6<sup>th</sup> April 2021;
5. the Design & Access Statement received 6<sup>th</sup> April 2021;
6. the Heritage Impact Assessment (October 2020) received 6<sup>th</sup> April 2021;
7. the Material Samples document received 6<sup>th</sup> April 2021;
8. the Planning Statement (April 2021) received 6<sup>th</sup> April 2021;
9. the Flood Risk Assessment 882202-R1(01) – FRA (July 2021) received 3<sup>rd</sup> August 2021;
10. the Geo-environmental Appraisal 5110-G-R001 (December 2020) received 3<sup>rd</sup> August 2021;
11. the Landscape and Visual Appraisal (July 2021) received 3<sup>rd</sup> August 2021;
12. the Landscape Management & Maintenance Plan (July 2021) received 3<sup>rd</sup> August 2021;
13. the Transport Assessment (July 2021) received 3<sup>rd</sup> August 2021;
14. the Micro Drainage Calculations received 10<sup>th</sup> September 2021;
15. the Habitat Regulations Assessment (HRA) Screening Report (July 2021) received 3<sup>rd</sup> August;
16. the Engineering Appraisal (drawing ref 10-01 rev P7) received 10<sup>th</sup> September 2021;
17. the Arboricultural Impact Assessment (July 2021) received 10<sup>th</sup> September 2021;

18. the Construction Specification document (windows and doors) received 19<sup>th</sup> September 2021;
19. the Construction and Environmental Management Plan - Biodiversity (July 2021) received 10<sup>th</sup> September 2021;
20. the Highways Technical Notes received 24<sup>th</sup> September 2021;
21. the External Plot Finishes (SD-100– Issue 02) - Standard Construction Details, received 6<sup>th</sup> April 2021;
22. the Proposed offsite footpath (drawing ref 20082-POF) received 6<sup>th</sup> April 2021;
23. the Schneider GRP Substation Area of land required (drawing ref SH-SS-01) received 6<sup>th</sup> April 2021;
24. the Construction details for Schneider GRP unit substation (drawing ref 900350-002 Rev 3) received 6<sup>th</sup> April 2021;
25. Bailey (A) House Type Booklet, received 6<sup>th</sup> April 2021;
26. Harper (A) House Type Booklet, received 6<sup>th</sup> April 2021;
27. Harrison (A) House Type Booklet, received 6<sup>th</sup> April 2021;
28. Hewson (A) House Type Booklet, received 6<sup>th</sup> April 2021;
29. Masterton (A) House Type Booklet, received 6<sup>th</sup> April 2021;
30. Pearson (A) House Type Booklet, received 6<sup>th</sup> April 2021;
31. Spencer (A) House Type Booklet, received 6<sup>th</sup> April 2021;
32. Wilson (A) House Type Booklet, received 6<sup>th</sup> April 2021;
33. Branford M4(2)S House Type Booklet, received 6<sup>th</sup> April 2021;
34. Fulford (A) House Type Booklet, received 6<sup>th</sup> April 2021;
35. Newford M4(3)S House Type Booklet, received 6<sup>th</sup> April 2021;
36. Rushford (A) House Type Booklet, received 6<sup>th</sup> April 2021;
37. Sanderson (A) House Type Booklet, received 10<sup>th</sup> September 2021;
38. Landscaping Supporting Notes (drawing ref UG\_758\_LAN\_LSN\_DRW\_08 rev P01) received 6<sup>th</sup> April 2021;
39. Garage Booklet, received 6<sup>th</sup> April 2021;
40. Location Plan (drawing ref 20082-LOC) received 3<sup>rd</sup> August 2021;
41. Soft Landscape Proposals Plan Sheet 1 of 7 (drawing ref UG\_758\_LAN\_SL\_DRW\_01 rev P07) received 10<sup>th</sup> September 2021;
42. Soft Landscape Proposals Plan Sheet 2 of 7 (drawing ref UG\_758\_LAN\_SL\_DRW\_02 rev P05) received 10<sup>th</sup> September 2021;
43. Soft Landscape Proposals Plan Sheet 3 of 7 (drawing ref UG\_758\_LAN\_SL\_DRW\_03 rev P06) received 10<sup>th</sup> September 2021;
44. Soft Landscape Proposals Plan Sheet 4 of 7 (drawing ref UG\_758\_LAN\_SL\_DRW\_04 rev P05) received 10<sup>th</sup> September 2021;
45. Soft Landscape Proposals Plan Sheet 5 of 7 (drawing ref UG\_758\_LAN\_SL\_DRW\_05 rev P06) received 10<sup>th</sup> September 2021;
46. Soft Landscape Proposals Plan Sheet 6 of 7 (drawing ref UG\_758\_LAN\_SL\_DRW\_06 rev P05) received 10<sup>th</sup> September 2021;
47. Soft Landscape Proposal Plan Sheet 7 of 7 (drawing ref

- UG\_758\_LAN\_SL\_DRW\_07 rev P07) received 10<sup>th</sup> September 2021;
48. the Proposed Site Sections (drawing ref 20082-SS01 rev B) received 10<sup>th</sup> September 2021;
  49. the Proposed Site Layout (drawing ref 20082-PL01 rev F) received 10<sup>th</sup> September 2021;
  50. the Proposed Parking Layout (drawing ref 20082-PPL01 rev F) received 10<sup>th</sup> September 2021;
  51. the Man Co. Plan (drawing ref 20082-MCP01 rev C) received 10<sup>th</sup> September 2021;
  52. the Hard Surfacing Materials (drawing ref 20082-HSM rev C) received 10<sup>th</sup> September 2021;
  53. the Elevational Treatments (drawing ref 20082-ET01 Rev C) received 10<sup>th</sup> September 2021;
  54. the Proposed Site Layout Colour (drawing ref 20082-PL01 rev F) received 10<sup>th</sup> September 2021;
  55. the Boundary Treatment (drawing ref 20082-BT01 rev C) received 10<sup>th</sup> September 2021;
  56. any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason:** To define the permission.

3. The materials to be used on the exterior of the dwellings shall be in strict accordance with the details submitted with the application.

**Reason:** To ensure the works harmonise as closely as possible with dwellings in the vicinity and to ensure compliance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

4. The proposed hard and soft landscape works shall be in strict accordance with the details submitted with the application. 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 SP6 of the Carlisle District Local Plan 2015-2030.

5. The proposed boundary treatments shall be in strict accordance with the details submitted with the application.

**Reason:** To ensure satisfactory boundary treatment is erected in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

6. Prior to the SUDS ponds being brought into use, railings shall be installed in accordance with the details submitted.

**Reason:** To safeguard local residents.

7. Foul and surface water shall be drained on separate systems.

**Reason:** To secure proper drainage and to manage the risk of flooding and pollution.

8. Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the Local Planning Authority.

The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the Local Planning Authority, no surface water shall discharge to the public sewerage system either directly or indirectly.

The development shall be completed, maintained and managed in accordance with the approved details.

**Reason:** To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution in accordance with policies in the NPPF and NPPG and Policy CC5 of the Carlisle District Local Plan 2015-2030.

9. Prior to occupation of the development a Sustainable Drainage Management and Maintenance Plan for the lifetime of the development shall be submitted to the Local Planning Authority and agreed in writing. The Sustainable Drainage Management and Maintenance Plan shall include as a minimum:
- a. Arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a resident's management company; and
  - b. Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime.

The development shall subsequently be completed, maintained and managed in accordance with the approved plan.

**Reason:** To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development.

10. No development shall commence until a Construction Surface Water Management Plan has been agreed in writing with the local planning authority.

**Reason:** To safeguard against flooding to surrounding sites and to

safeguard against pollution of surrounding watercourses and drainage systems.

11. No development shall commence until full details of the wildlife enhancement measures to be undertaken at the site, together with the timing of these works, have been submitted to and approved, in writing, by the Local Planning Authority. The development shall then be carried out in strict accordance with the agreed details.

**Reason:** In order to enhance the habitat for wildlife in accordance with Policy GI3 of the Carlisle District Local Plan 2015-2030.

12. Prior to the commencement of development, tree protection fencing shall be installed in accordance with submitted details. The tree protection fencing shall be retained in place at all times until the construction works have been completed.

**Reason:** To ensure that the existing trees are protected, in accordance with Policy GI6 of the Carlisle District Local Plan 2015-2030.

13. The development shall be undertaken in strict accordance with the the Arboricultural Impact Assessment (July 2021) received 10<sup>th</sup> September 2021.

**Reason:** To ensure that the existing trees are protected, in accordance with Policy GI6 of the Carlisle District Local Plan 2015-2030.

14. Prior to the commencement of development, the applicant shall submit a Construction Environmental Management Plan (CEMP) for approval in writing by the local planning authority. The development shall then be undertaken in strict accordance with the CEMP.

**Reason:** To ensure that the proposed development does not have an adverse impact on ecology or on the living conditions of local residents in accordance with Policies GI3 and SP6 of the Carlisle District Local Plan 2015-2030.

15. The finished floor levels shall be in strict accordance with the details shown on the Engineering Appraisal (drawing ref 10-01 rev P7) received 10<sup>th</sup> September 2021.

**Reason:** In order that the approved development does not have an adverse impact on the living conditions of the occupiers of any neighbouring properties in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

16. No construction work associated with the development hereby approved shall be carried out before 07.30 hours on weekdays and Saturdays nor after 18.00 hours on weekdays and 13.00 hours on Saturdays (nor at any times on Sundays or Bank Holidays).

**Reason:** To prevent disturbance to nearby occupants in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

17. Prior to the occupation of any dwelling, a 32Amp single phase electrical supply shall be installed to allow future occupiers to incorporate an individual electric car charging point for the property. The approved works for any dwelling shall be implemented on site before that unit is first brought into use and retained thereafter for the lifetime of the development.

**Reason:** To ensure the provision of electric vehicle charging points for each dwelling, in accordance with Policy IP2 of the Carlisle District Local Plan 2015-2030.

18. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Site investigations should follow the guidance in BS10175.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

**Reason:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

19. Prior to the occupation of each dwelling hereby permitted suitable receptacles shall be provided for the collection of waste and recycling in line with the schemes available in the Carlisle District.

**Reason:** In accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

20. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) there shall be no enlargement or external alterations to the dwellings to be erected on plots 3 to 11 in accordance with this permission, within the meaning of Schedule 2 Part (1) of these Orders, without the written approval of the Local Planning Authority.

**Reason:** To ensure that the character and attractive appearance of the dwellings is not harmed by inappropriate alterations and/or extensions and that any additions which may subsequently be



proposed satisfy the objectives of Policy SP6 of the Carlisle District Local Plan 2015-2030.

21. Prior to the occupation of the first dwelling the footpath that it is to be created along Orton Road (as shown on drawing Proposed Offsite Footpath Dwg No. 20082-POF) shall be constructed.

**Reason:** To ensure that the development has convenient pedestrian linkages in accordance with SP6 of the Carlisle District Local Plan 2015-2030.

22. The carriageway, footways, footpaths, cycleways etc shall be designed, constructed, drained and lit to a standard suitable for adoption and in this respect further details, including longitudinal/cross sections, shall be submitted to the Local Planning Authority for approval before work commences on site. No work shall be commenced until a full specification has been approved. These details shall be in accordance with the standards laid down in the current Cumbria Design Guide. Any works so approved shall be constructed before the development is complete.

**Reason:** To ensure a minimum standard of construction in the interests of highway safety and to support Local Transport Plan Policies LD5, LD7 & LD8.

23. The development shall not commence until visibility splays providing clear visibility of 60 metres measured 2.4 metres down the centre of the access road and the nearside channel line of the carriageway edge have been provided at the junction of the access road with the county highway. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grown within the visibility splay which obstruct the visibility splays. The visibility splays shall be constructed before general development of the site commences so that construction traffic is safeguarded.

**Reason:** In the interests of highway safety and to support Local Transport Plan Policies LD7 & LD8.

24. Any existing highway fence/wall boundary shall be reduced to a height not exceeding 1.05m above the carriageway level of the adjacent highway in accordance with details submitted to the Local Planning Authority and which have subsequently been approved before development commences and shall not be raised to a height exceeding 1.05m thereafter.

**Reason:** In the interests of highway safety and to support Local Transport Plan Policies LD7 & LD8.

25. There shall be no vehicular access to or egress from the site other than via the approved access, unless otherwise agreed by the Local Planning

Authority.

**Reason:** To avoid vehicles entering or leaving the site by an unsatisfactory access or route, in the interests of road safety and to support Local Transport Plan Policies LD7 & LD8.

26. Footways shall be provided that link continuously and conveniently to the nearest existing footway. Footways, to and from the site, shall be provided that are convenient to use.

**Reason:** In the interests of highway safety and to support Local Transport Plan Policies LD7 & LD8.

27. Details showing the provision within the site for the parking, turning and loading and unloading of vehicles visiting the site, including the provision of parking spaces for staff and visitors, shall be submitted to the Local Planning Authority for approval. The development shall not be brought into use until any such details have been approved and the parking, loading, unloading and manoeuvring facilities constructed. The approved parking, loading, unloading and manoeuvring areas shall be kept available for those purposes at all times and shall not be used for any other purpose.

**Reason:** To ensure that vehicles can be properly and safely accommodated clear of the highway and to support Local Transport Plan Policies LD7 & LD8.

28. Development shall not commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority. The CTMP shall include details of:
- Pre-construction road condition established by a detailed survey for accommodation works within the highways boundary conducted with a Highway Authority representative; with all post repairs carried out to the satisfaction of the Local Highway Authority at the applicants expense;
  - Details of proposed crossings of the highway verge;
  - Retained areas for vehicle parking, manoeuvring, loading and unloading for their specific purpose during the development;
  - Cleaning of site entrances and the adjacent public highway;
  - Details of proposed wheel washing facilities;
  - The sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials on the highway;
  - Construction vehicle routing;
  - The management of junctions to and crossings of the public highway and other public rights of way/footway;
  - Details of any proposed temporary access points (vehicular / pedestrian)
  - Surface water management details during the construction phase

**Reason:** To ensure the undertaking of the development does not adversely impact upon the fabric or operation of the local highway network and in the interests of highway and pedestrian safety and to support Local Transport Plan Policies WS3 &

LD4.





Story  
HOMES

Orton Road, Carlisle

## Location Plan

DRAWN BY	DATE	25/01/2022
CHECKED BY	SCALE	1:1000000
DRAWING NUMBER	20082-LOC	REVISION
DATE	20082	REFERENCE

© Story Homes Ltd.  
Burgh Rd Industrial Estate, Carlisle, Cumbria, CAC 7NA.  
Tel 01228 640800 Fax 01228 640801



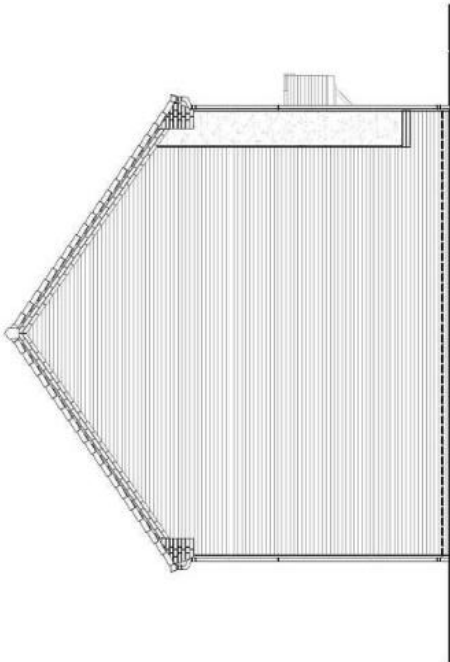




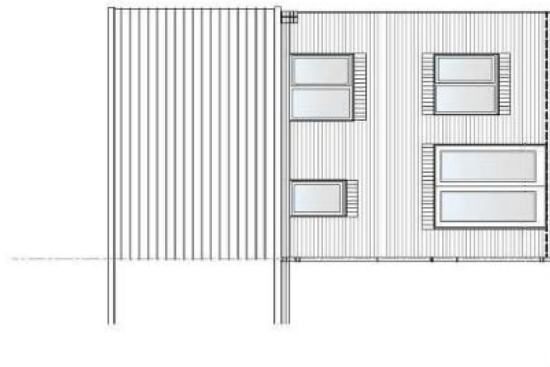




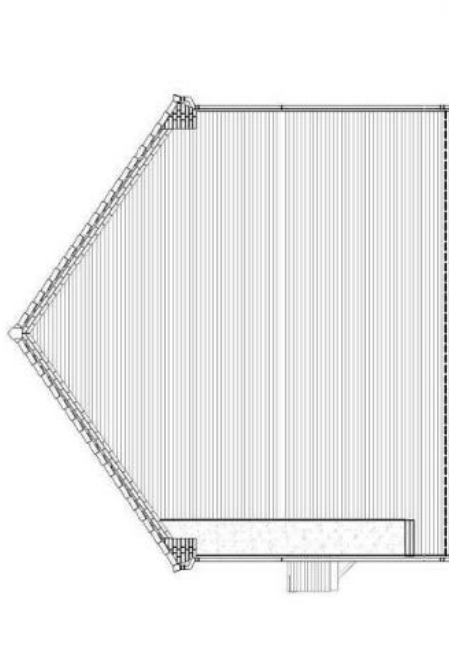
Front Elevation



Left Elevation



Rear Elevation



Right Elevation



HOUSE TYPE

BAILEY (A)

DRAWING

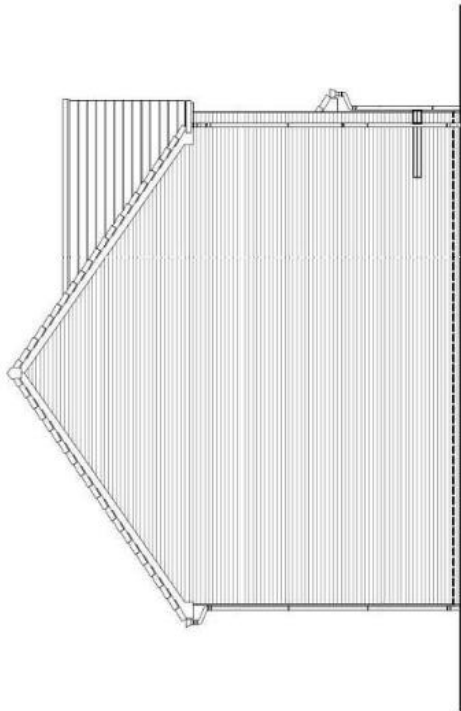
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CHECKED BY	AM	SCALE	1:1000 AS
DRAWN BY	AM	DRAWING NUMBER	18/05/19
NO. OF PAGES	3	PROJECT NAME	A
REVISIONS	None		
DATE	18/05/20		

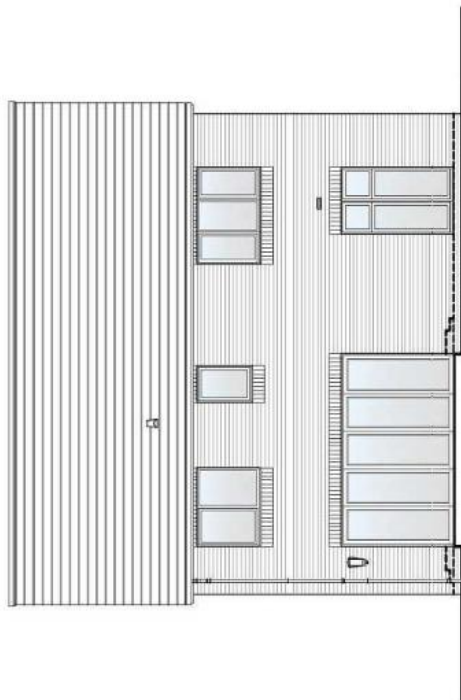
**Story Homes.**  
Story House, Lords Way, Kingmoor Business Park,  
Carlisle, Cumbria, CA4 4S.  
Tel: 01228 404550 Fax: 01228 404551



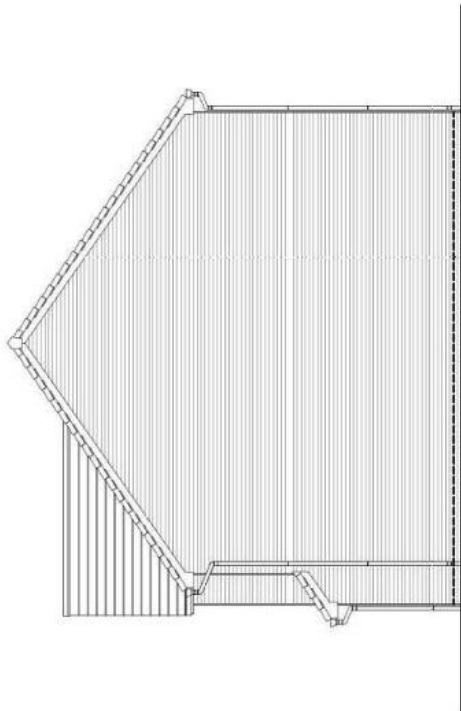
Front Elevation



Left Elevation



Rear Elevation



Right Elevation



HOUSE TYPE

HARRISON (A)

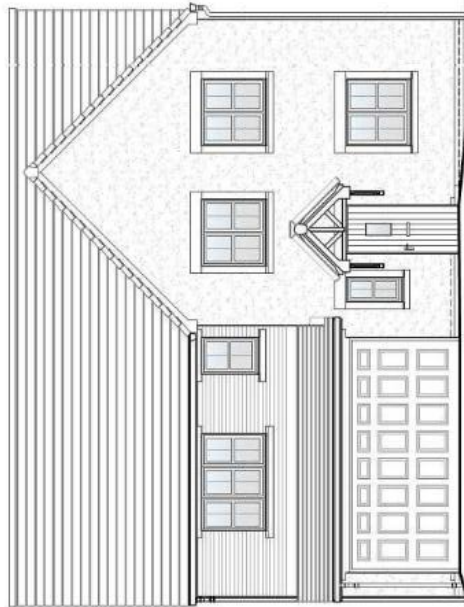
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Planning Elevation 1/1

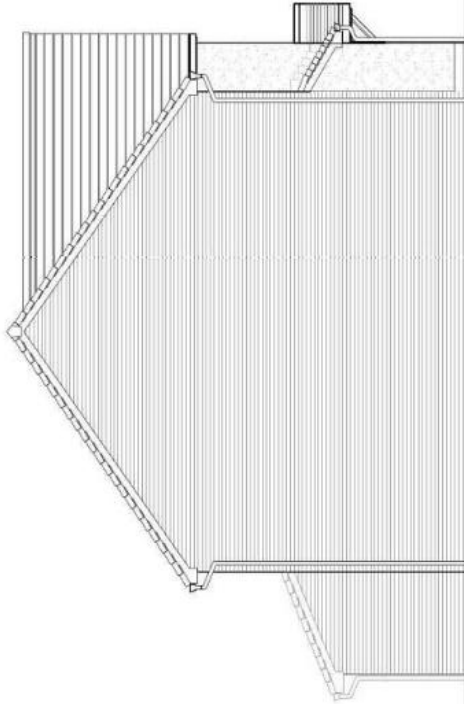
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A/03	HRN-PL1/1	A	
REVISIONS	NAME	DATE	
A	En suite window incorporated	13/06/19	

**Story Homes.**  
Story House, Lords Way, Kingmoor Business Park,  
Carlisle, Cumbria, CA4 4S.  
Tel: 01228 400550 Fax: 01228 400551

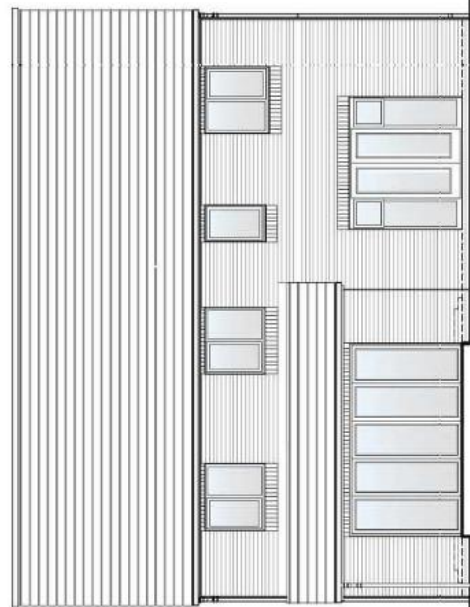




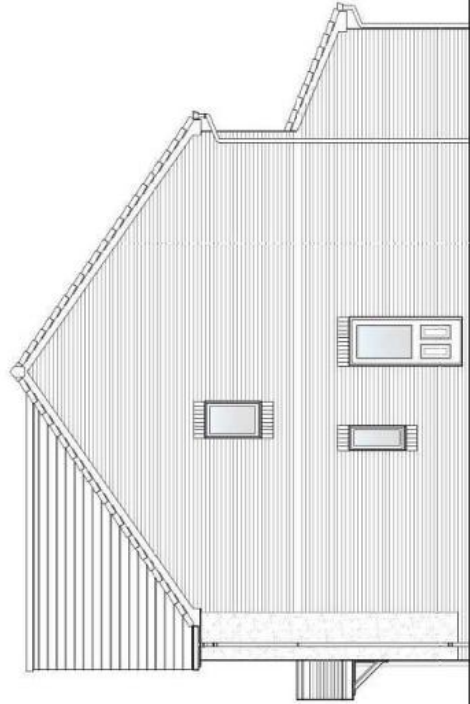
Front Elevation



Left Elevation



Rear Elevation



Right Elevation



HOUSE TYPE

MASTERTON (A)

DRAWING

Planning Elevation 1/2

DESIGN BY	CM	DATE	01/02/19
CHECKED BY	AM	SCALE	1:1000 A3
DRAWN BY	AM	QUANTITY NUMBER	18/02/2019
NO. OF PAGES	A/04	MTN-PL1/2	C
REVISIONS	Name: _____ Date: _____		
A	Curtesy installed		
B	New double door and side window added		
C	New double door and side window added. New elevation windows 10' x 8' 6" added. Single corner unit added to W14.3. Services omitted. Garage door removed (included same steps at front). Bottom of window added by hand.		
	26/04/19		
	04/02/20		
	06/05/20		

**Story Homes.**  
Story House, Larch Way, Kingmoor Business Park,  
Cullis, Cumbria, CA6 4S.  
Tel: 01228 400590 Fax: 01228 400551



## SCHEDULE A: Applications with Recommendation

21/0657

Item No: 02

Date of Committee: 22/10/2021

**Appn Ref No:**  
21/0657

**Applicant:**  
Mr George Kinnaird

**Parish:**  
Carlisle

**Agent:**

**Ward:**  
Belah & Kingmoor

**Location:** 11 Newfield Park, Carlisle, CA3 0AH

**Proposal:** Removal Of Hedge And Erection Of 1.8M High Boundary Fence To  
Incorporate Additional Land Into Domestic Curtilage

**Date of Receipt:**  
29/06/2021

**Statutory Expiry Date**  
24/08/2021

**26 Week Determination**  
13/09/2021

---

### REPORT

**Case Officer:** Barbara Percival

#### 1. Recommendation

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

#### 2. Main Issues

- 2.1 Impact of the proposal on the character of the area
- 2.2 Impact of the proposal on the living conditions of neighbouring residents
- 2.3 Impact of the proposal on the adjacent Public Footpath 109003
- 2.4 Scale, design and visual impact of the fence
- 2.5 Impact of the proposal on archaeology
- 2.6 Impact of the proposal on biodiversity
- 2.7 Other Matters

#### 3. Application Details

##### The Site

- 3.1 Number 11 Newfield Park is a detached dwelling located on the eastern periphery of the Newfield Development. The property is surrounded by residential properties to the north, south and west whilst along its eastern boundary is California Lane along which Public Footpath 109003 runs.

## **The Proposal**

- 3.2 The application seeks full planning permission for the incorporation of a strip of land immediately behind the rear boundary of 11 Newfield Park and the adjacent public footpath. The land would have a depth of 2 metres with an overall length of approximately 26 metres and is proposed to be enclosed by a 1.8 metre high wooden fence, similar in appearance to others within the immediate vicinity. The fence would be set back from the outer edges of the hard surfaced public footpath.

## **4. Summary of Representations**

- 4.1 This application has been advertised by the direct notification of two neighbouring properties and the posting of a site notice. In response, nine representation of objection have been received.
- 4.2 The representations identify the following issues:
1. existing path would make an excellent cycle way;
  2. narrowing of path may reduce the opportunity to make the path into a cycle way;
  3. records indicate that this lane was the main route into the city and dates back to the Romans;
  4. definitive plan may be inaccurate and may actually be a restricted byway for horses and carts;
  5. works should take place outside of bird nesting season;
  6. potential impact on biodiversity.
- 4.3 Councillor Davison has also raised concerns which have been reproduced in full for Members. In summary, the issues raised centre on:
1. question how and whether the proposed development would impact on the future development of California Lane into a traffic free route for pedestrians and cyclists in the future;
  2. there is planning approval for a significant housing estates to the east of California Lane and this area of open space will become a critical nature corridor; as well as a route for leisure and also everyday journeys;
  3. aware that there are Section 106 monies available to develop this route and would like councillors to have a full understanding of what plans have been made about this route;
  4. garden extensions within the area have been approved previously, however; concerns have been raised by a resident as to whether the Highways Department have previously made a mistake as to the width of the route;
  5. fences have detracted from the general well-being benefits from getting out into nature;
  6. the lane is the route of an old Roman Road;
  7. some of the route is classified as a public footpath on the definitive map but given the historical context it would seem that the classification of

restricted byway or bridleway would be more appropriate for this track. If this were to be changed into a cycle way it has to remain wide enough to happen. Advised by a county council official that the width of a cycle way would have to be a minimum of 3 metres;

8. detrimental impact on biodiversity and suggests planting of hedge adjacent California Lane.

4.4 The application was withdrawn from discussion at the previous meeting of the DC Committee in order to consider issues raised by Councillor Davison in a written representation which she requested be read to Members of the committee. This statement has been reproduced in full for Members but in summary, the issues highlighted were:

1. aware that a precedent may have been set by previous applications, however; requests committee considers this application on its own merits;
2. questions status of the highway / footpath along California Lane;
3. a Freedom of Information request has been made by a third party to Cumbria County Council in respect of the status of California Lane and a decision deferred until such time that this information is available;
4. retaining width of lane is critical when the large housing estates to the east of this path is built;
6. loss of biodiversity and visual impact;
7. suggests that a native hedgerow could be planted in lieu of a wooden fence;
8. questions the comments of the county council's Historic Environment Officer;
9. questions the previous consultation responses from the county council's Highways Department in respect of other similar applications.

## 5. Summary of Consultation Responses

**Cumbria County Council - (Highway Authority - Footpaths):** - Public Footpath 109003 follows an alignment to the east side of the development area and must not be altered or obstructed before or after the development has been completed, if the Footpath is to be temporarily obstructed, then a formal temporary closure will be required.

In response to questions raised by third parties and the ward councillor the Highways Authority provided an extract of the definitive footpath statement for Public Footpath 109003 together with the definitive map overlayed with Ordnance Survey data to indicate its relationship with Newfield Park (which has been reproduced for Members in the committee papers). This document confirms the width and alignment of the footpath. Furthermore, the Highways Authority has advised that should any aspect of the definitive footpath be questioned / amended this would require an application to be made under Section 53 of the Countryside and Wildlife Act 1981;

**The Ramblers:** - FP109003 is an ancient FP going back to Roman Times, an artefact, a milestone from this site resides in Tullie House, Carlisle; 2. local 19 century titles may show this to be untaxed it could actually be a "Restricted

Byway" for horses and carts; 3. walking is good for physical, mental and spiritual wellbeing as has been proved since the coronavirus pandemic; 4. This FP connects with other local paths and eventually with LDP's (Long Distance Footpaths) The Miller's Way, Hadrians' Wall Path, Cumbria Way and The Cumbria Coastal Way now the England Coast Path; 5. The Ramblers don't approve of encroachment, creepage and annexation of PROW's (Public Rights of Way); 6. Taking over parts of the countryside is unsustainable; 7. Grant Shapps, Secretary of State for Transport. has said that "Walking is good for you and a £338m package is available to increase the number of people adopting active travel as a healthier and more environmentally-friendly way to get around and make walking and cycling safer; and 8. other residents in this area have already annexed some of this land so may have set an illegal precedent.

The Ramblers oppose and object to this Planning Application on the grounds of encroachment, the impact on a nature corridor, large hedgerow removal used by birds for nesting and other wildlife for food and shelter. This 1.8m fencing would become the main landscape feature character instead of the countryside it would dominate and impact on;

**Cumbria County Council - Historic Environment:** - it was outlined in the original consultation response that the line of California Lane is thought to be a Roman road although, when a section was cut across it 70 metres to the south of the application site during the construction of a new access road, no evidence for a Roman road was revealed. If any remains of a Roman road survive here, the evidence suggests that they would not be in a good state of preservation and so the erection of a short section of fence is unlikely to have a significant impact upon it, therefore, raise no objections to the application.

In response to questions raised by third parties and the ward councillor the further comments of the Historic Environment Officer have been sought and are as follows: *"I am not arguing for or against the application and I support any proposal that protects archaeological remains, including a Roman road. I do not consider however, that there are reasonable archaeological grounds to object to this particular application. The archaeological evidence indicates that (i) the course of the Roman road may not be actually on the line shown on OS maps and (ii) if remains of a Roman road survive on the development site it is unlikely to be in a reasonable state of preservation and so the erection of a short section of fence is unlikely to have a significant impact upon it. This evidence is based on:*

- (i) the results of an archaeological investigation of a 300 metre long section of road at Greymoorhill to the north of the application site indicates that the Roman road may be located 20-30 metres away from the line shown on OS maps. The work was undertaken by a professional archaeological organisation and I visited the site during the work;*
- (ii) the results of an archaeological excavation of a section across the supposed course of the road located 70 metres to the south of the application site where there was an absence of Roman remains and finds of any sort. The work was undertaken by a professional archaeological*

*organisation and I visited the site during the work.*

*To reiterate, I am not arguing for or against the application. I am merely pointing out that there are no reasonable archaeological grounds to object to this particular application based on the evidence highlighted above".*

## **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 is the National Planning Policy Framework (NPPF), the Planning Practice Guidance (PPG) and Policies SP6, CM4, CM5, GI3 and GI5 of the Carlisle District Local Plan 2015-2030.
- 6.3 The proposals raise the following planning issues:

#### **1. Impact Of The Proposal On The Character Of The Area**

- 6.4 Planning policies within the local plan seek to respect local landscape characteristics and ensure that development proposals respond to the local context and established street patterns and by making use of appropriate materials and detailing. As highlighted earlier in the report, the application seeks planning permission for the incorporation of a section of land into the domestic curtilage of 11 Newfield Park. The land is located immediately to the rear boundary of the property adjacent to Public Footpath Number 109003 which follows the route of California Lane.
- 6.5 When assessing this application against the relevant planning policies, sections of California Lane have become overgrown with vegetation, fly tipping and littering has/is occurring and sections of the public footpath appears to be in need of repair. Other properties which also border California Lane along the western edge of the public footpath have incorporated sections of land into their domestic curtilages including the property next door but one, number 39 Newfield Park which was granted planning permission by Members of the Development Control Committee at its meeting in January 2014 (application reference 13/0908).
- 6.6 The proposal would be similar in scale and design to its close neighbour and others within the immediate vicinity. The land has been enclosed by a wooden fence similar in appearance with other boundary fences along the western side of California Lane. In overall terms, the development is relatively small scale and would not have a significant detrimental impact on the character of the area.

## **2. Impact Of The Proposal On The Living Conditions Of Neighbouring Residents**

- 6.7 Given the scale, boundary treatment, orientation and use of the land in respect of adjoining properties, the proposal is unlikely to have a detrimental impact on the living conditions of neighbouring residents through intensification of use or overlooking.

## **3. Impact Of The Proposal On The Adjacent Public Footpath Number 109003**

- 6.8 Public Footpath 109003 follows California Lane which runs northwards from the eastern end of Public Footpath 109020 for approximately 560 metres before joining California Road. The Newfield Housing Development is located immediately to the west of the footpath.
- 6.9 The application permission for the incorporation of part of a strip of land immediately behind the rear boundary of 11 Newfield Park and the adjacent public footpath 109003. As previously highlighted, the land would have a depth of 2 metres with an overall length of approximately 26 metres enclosed by a wooden fence which would be set back from the outer edges of the hard surfaced footpath.
- 6.10 Cumbria County Council, as Highways Authority, has been consulted and the Countryside Access Officer has raised no objections to the incorporation of the land into domestic curtilage subject to the imposition of an informative ensuring that there is no alteration / obstruction of the public footpath before or after the development has been completed.
- 6.11 It should also be noted that during the determination of the application for number 39 Newfield Park (application reference 13/0908) the Countryside Access Officer advised that the Definitive Map Statement details that Public Footpath Number 109003 has a prescribed width of between 2 and 3 metres, therefore, it does not span the entire width of California Lane. Although the Statement details the relevant width of the footpath, it does not indicate at which points where the width of the footpath should be 2 metres or where it should be 3 metres. Accordingly, at that time the Countryside Access Officer was of the opinion that provided that any works do not reduce the available footpath width to less than 2 metres, when measured from the centre line of the footpath as indicated on the Definitive Map, then these works are not unlawful.
- 6.12 The ward councillor, The Ramblers and third parties have questioned the status of the public footpath and its alignment. The Highway Authority has been made aware of these concerns and its further comments sought. The Highways Authority has confirmed that California Lane is a public footpath and not a highway / cycle way with the width and alignment of the footpath clearly detailed within the definitive footpath statement. Should any aspect of the definitive footpath be questioned / amended this would require an application to be made under Section 53 of the Countryside and Wildlife Act 1981. An extract of the definitive footpath statement and associated map has



been reproduced for Members in the papers following this report.

- 6.13 In respect of this current application and based on the definitive footpath statement and map provided by the Countryside Officer, the line of proposed fence would be located approximately between 3 metres and 5 metres from the route of public footpath number 109003, therefore, there would be no encroachment on the alignment of the public footpath.

#### **4. Scale And Design and Visual Impact Of The Development**

- 6.14 The development is visible from the adjacent public footpath which runs along California Lane; however, the scale, design and materials of the boundary fencing are similar in appearance and would follow a similar line to other boundary fences within the immediate vicinity. In such a context, the proposed fence would not form a discordant feature within the immediate vicinity.

#### **5. Impact Of The Application On Archaeology**

- 6.15 Concerns have been raised by residents as to the impact of the application on archaeology as a Roman Road lies to the east of Public Footpath 109003. Cumbria County Council's Historic Environment Officer has been consulted and originally detailed that the line of California Lane is thought to be a Roman road although, when a section was cut across it 70 metres to the south of the application site during the construction of a new access road, no evidence for a Roman road was revealed. If any remains of a Roman road survive here, the evidence suggests that they would not be in a good state of preservation and so the erection of a short section of fence is unlikely to have a significant impact upon it, therefore, has raises no objections to the application.
- 6.16 The ward councillor, The Ramblers and third parties have questioned the potential for the development to impact on archaeological remains. Their concerns have been passed to the county council's Historic Environment Officer for further comment. The Historic Environment's further comments have been included in full within Section 5 of this report. In summary, the Historic Environment Officer reiterates that: " ... there are no *reasonable archaeological grounds to object to this particular application based on available evidence*".

#### **6. Impact Of The Application On Biodiversity**

- 6.17 Concerns have been expressed by third parties and the ward councillor as to the potential impact on biodiversity through the loss of the existing domestic hedgerow which currently delineates the boundary. This applicant has subsequently detailed the proposed measures to be implemented to mitigate for any loss of biodiversity. These measures include the retention of approximately a quarter of the existing hedgerow within which birds currently nest and the applicant has installed bird boxes. The remaining section, including two large tree stumps, would be removed and replaced with 'bird friendly' bushes with dense foliage and high winter berry content. Adjacent to

the retained strip and within the proposed extended garden area a wildlife pond would be created which would create a new habitat for amphibians and insects and an area of grass sown with meadow flowers would remain uncut to also provide a habitat for insects. Other flowering plants will be grown adjacent to the proposed fence. Furthermore, a wildlife corridor would be created by the insertion of holes in the proposed fence to allow access for garden hedgehogs etc.

- 6.18 Given the scale of the development together with the implementation of landscaping and a wildlife pond it is unlikely that the development would harm a protected species or their habitat. Nevertheless, an informative is recommended drawing the applicant's attention to their requirement to comply with conservation legislation such as the Wildlife and Countryside Act 1981 etc.

## **7. Other Matters**

- 6.19 Objectors and the ward councillor have raised concerns about plans for future cycle routes and the potential for a route to use California Lane. When considering planning applications members have to be aware of material considerations when making those decisions and the weight to give to such matters. Section 106 monies have been set aside for improvements to cycle routes from both the Story and Gleeson housing developments current under construction to the north of this site. At the time of considering this application, there are no fixed plans and no proposed drawings of route improvements between the aforementioned housing developments and the city centre. Without definitive proposals in place, it is not possible to consider how this proposed fencing would impact on those proposals. It is however worth noting that as referenced earlier in the report there have already been extended gardens on the western side of California Lane which would have to be taken into account when any improvements for cycle route provision are made should they be in the vicinity of this site.
- 6.20 The ward councillor has requested that the application be deferred until such time that the findings of a Freedom of Information (FOI) request to Cumbria County Council has been received. At the time of preparing the report, no further information has been provided to the city council. The FOI centred on the status of the public footpath which the Highways Authority has fully responded to in paragraphs 6.8 to 6.13 above.

## **Conclusion**

- 6.21 In overall terms whilst the application site is visible from the adjacent public footpath within the context of the wider area, the principle of the change of use of the land is acceptable. Furthermore, the rear boundary follows that of other properties within the immediate vicinity and the fence is of a similar scale and design. The application would not adversely affect the living conditions of the occupiers of the neighbouring properties nor would it impact on biodiversity. In all aspects the application is compliant with the objectives of the NPPF, PPG and relevant local plan policies and the application is recommended for approval.

## **7. Planning History**

- 7.1 There is no relevant planning history.

## **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).

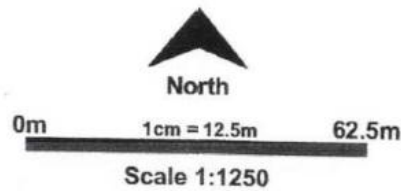
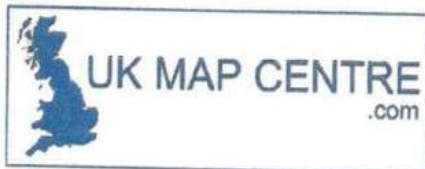
2. The development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:

1. the submitted planning application form received 29th June 2021;
2. the site location plan received 29th June 2021 (Drawing No. 1);
3. the block plan received 29th June 2021 (Drawing No. 2);
4. the fence details received 29th June 2021 (Drawing No. 3);
5. the Notice of Decision;
6. any such variation as may subsequently be approved in writing by the local planning authority.

**Reason:** To define the permission.

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PLAN N<sup>o</sup> 1.

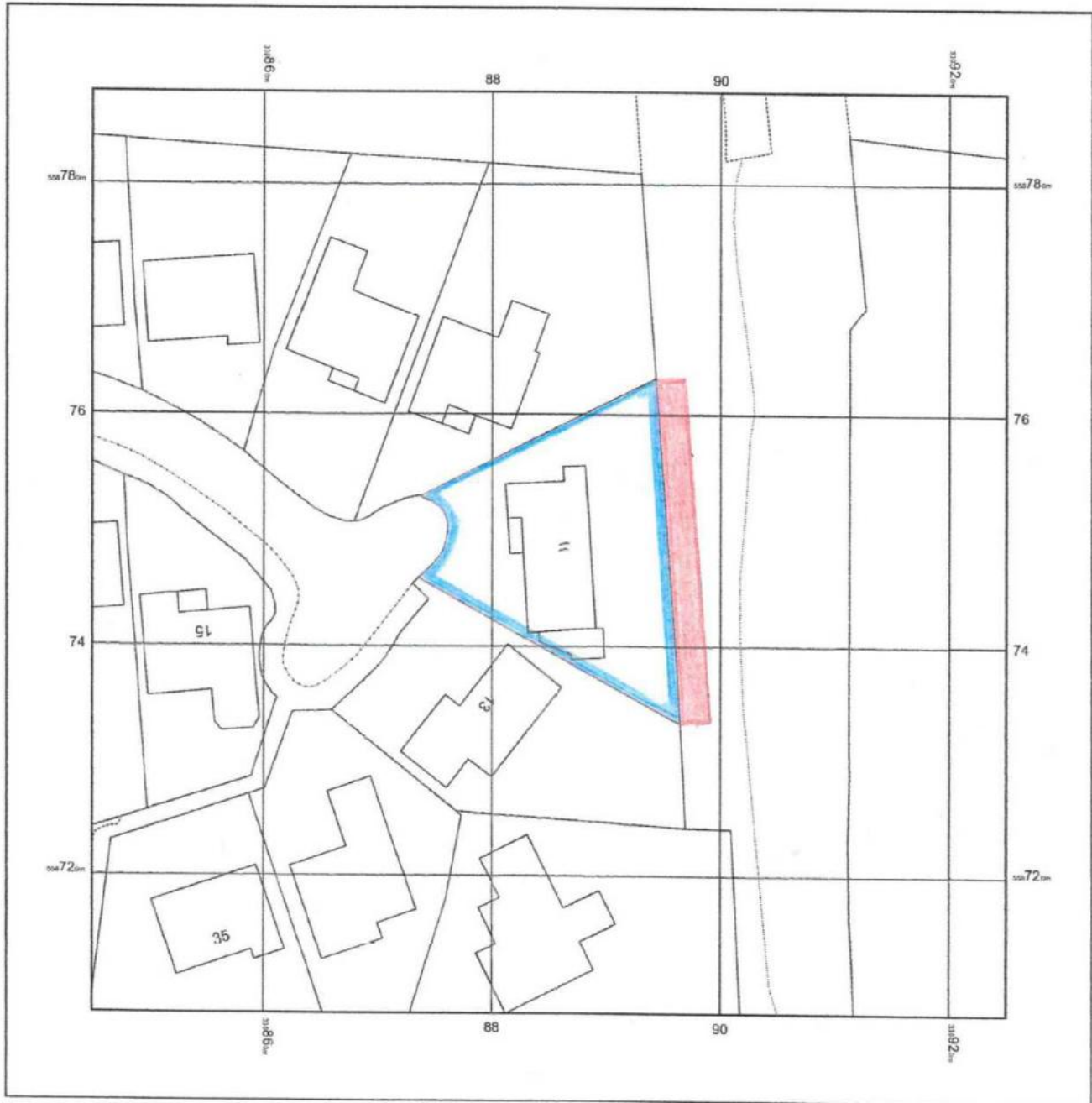
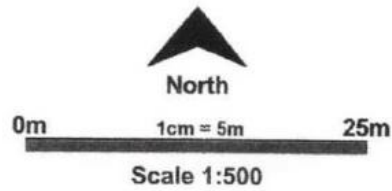
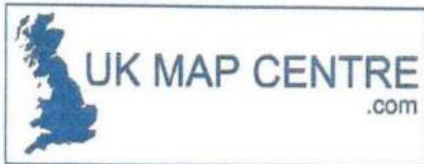


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PLAN N°2



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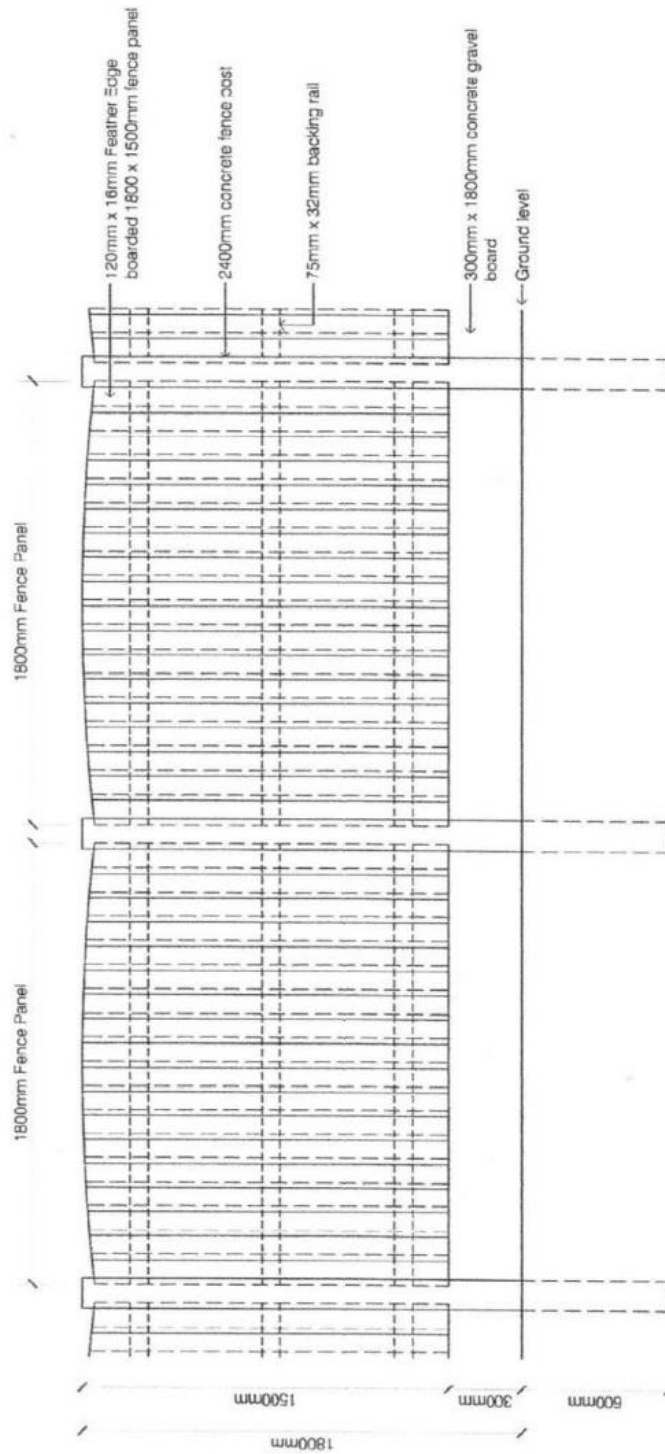
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PLAN N° 3.



1:20 Typical Fence Plan



1:20 Typical Fence Elevation

Project: Installation of New Fence Panel  
 Address: 11 NEWFIELD PARK, CARLISLE  
 Dwg No: PLAN N° 3.  
 Scale: 1-20

109003	Footpath	From the eastern end of Footpath 109020 from Kingstown Road, Stanwix, generally northerly for approximately 560 m towards California Road along hedged lane 2-3 m wide, passing between Newfieldhead and Newfield Grange and joining with California Road at its eastern end.	NY3858/3958 NY3859/3959
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## SCHEDULE A: Applications with Recommendation

21/0313

Item No: 03

Date of Committee: 22/10/2021

**Appn Ref No:**  
21/0313

**Applicant:**  
Lidl Great Britain Limited

**Parish:**  
Carlisle

**Agent:**  
Rapleys LLP

**Ward:**  
Botcherby & Harraby North

**Location:** Land off Warwick Road, Carlisle

**Proposal:** Erection Of Discount Foodstore With Car Parking And Landscaping  
(Reserved Matters Application Pursuant To Outline Permission  
19/0840)

**Date of Receipt:**  
07/04/2021

**Statutory Expiry Date**  
09/07/2021

**26 Week Determination**

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### REPORT

**Case Officer:** Christopher Hardman

#### 1. Recommendation

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

#### 2. Main Issues

- 2.1 Principle of Development
- 2.2 Reserved Matters - Layout, Scale and Appearance
- 2.3 Reserved Matters - Landscaping
- 2.4 Reserved Matters - Access
- 2.5 Other Planning Conditions to be Discharged
- 2.6 Other Issues

#### 3. Application Details

##### The Site

- 3.1 The application site covers 8,785 sq metres and lies approximately 1.15 miles to the east of the city centre on the northern side of the A69 Warwick Road. The site is on the eastern part of a field and bordering the field to the west is the Riverside development and residential properties along Warwick

Road, and to the east the Shiny Car Wash. On the southern side of Warwick Road lie some residential properties fronting Warwick Road, its junction with Victoria Road, the Botcherby Community Centre and access to Willow Park. Further west is the Lakeland Gate travel inn and the Kingfisher Park development. The site is contained at the front of a larger field and from the northern edge of the site it is a further 280 metres to the flood defences.

## **Background**

- 3.2 Outline planning permission was granted in April this year for the erection of a discount foodstore with car parking and landscaping following approval by Development Control Committee at its meeting of 8th January 2021 and the signing of a S106 legal agreement for a contribution relating to a travel plan.

## **The Proposal**

- 3.3 This application is the Reserved Matters application and includes information to discharge a number of planning conditions. The Reserved Matters include appearance, landscaping, access, scale and layout. The application follows the indicative layout submitted at the outline stage with some modifications in order to discharge conditions.

## **4. Summary of Representations**

- 4.1 This application has been publicised by the posting of a site notice, press notice and direct notification to over 1000 properties within approximately 500m of the proposed development. In response 61 representations have been received comprising 31 objections, 24 in support and 6 comments.
- 4.2 The representations of objection raise the following issues:
- I object very strongly to this as I live on Eden Park Crescent. Warwick Road is busy enough and the amount of road works consistently on this road I believe is an environmental problem for the atmosphere whilst vehicles idle causing an issue with both fumes and noise. My property has already declined in value because of being in a flood area and my insurance increased. I believe that the proposal will increase the likelihood of flooding, environmental and noise pollution.
  - I am concerned about the increase of traffic at an already busy corner of Warwick Rd and Victoria Rd. There are no traffic lights here, and it is already nearly impossible to turn right out of Victoria Rd onto Eastbound Warwick Rd. At rush hour, long queues develop for vehicles turning left and Westbound out of Victoria Rd onto Warwick Rd. Even worse are queues at rush hour of vehicles trying to turn right from Warwick Rd Southbound onto Victoria Rd. Will there be traffic lights here? I am concerned about the building of yet another food store in the area. We do not need one because we already have a Tesco and recently an added Pioneer on Montgomery Way. I am concerned because although flood defences may prove adequate for the time being, I do not believe that in

future, these flood defences will be enough in worsening climatic conditions.

- I cannot understand why with Warwick Road being flooded twice in just over 10 years anyone would want to build a supermarket on the flood plain. We have a Tesco at the end of Warwick Road and a Aldi at just off London Road, not to mention Brunton Park post office and the shops on Florida way at Botcherby. If the are floods again where does the water go, the area could be developed into a wildlife area which would benefit the environment better. Also the traffic on Warwick Road is already congested at certain time of the day and it is difficult to get out of Victoria Road. Would it mean another set of traffic lights. There are already 4 sets between Tesco and St Aidans' church , not of which seem to be sync to each other. There is only so many people to shop in Carlisle and the surrounding areas, does this mean another store will be taking customers from other shops. Just one other thing, when Michael Knighton owned Carlisle United he wasn't allowed to develop the area as it was designated a flood risk.
- I strongly object to this application for a number of reasons. 1. More building works on land that is required to drain water off during flooding. 2. Further congestion on a already over busy Warwick Road. We have already witnessed the delays that were brought about with the recent roadworks on Warwick Road. This is a main arterial route in and out of the city. 3. There is already a supermarket 1/4 mile further down the road. 4. Environmental impact.
- The development will lead to an increased risk of flooding by building on this land. The land currently provides a vital role in the absorption of excess water which will be lost upon tarmacing. This water will need to go somewhere else leading to flooding of residential properties. Carlisle has suffered 2 severe episodes of flooding and the more building that takes place the increased chance of runoff and flooding occurring in the future. The land has been part of the floodplain for many years hence why no housing has ever been built on it. Lidl have stated they are working with the Environment Agency to mitigate the risk of flooding however the EA's best efforts to reduce flooding did not prevent the severe flooding in 2015. There is no guarantee the flood defences they are strengthening at the moment will be sufficient to protect against future storms and leaving land undeveloped plays a vital role in the flood defence strategy. There are so many unknowns due to climate change but the indications are for more severe storms and more flooding. The new defences have not been tested in an extreme weather event hence the decision to build on the flood plain is too hasty. Another major concern is the risk of congestion on an already busy road. There will be a significant increase in the volume of traffic for both domestic cars and also commercial vehicles making deliveries to the store. Heavy goods vehicles will lead to an increase in the level of pollution in a residential area. The increased volume of traffic will hamper residents access to their driveways. There will need to be extra traffic lights installed which will slow down the flow of traffic. Idling cars are particularly polluting. There is no need for this

supermarket to be built in Carlisle. There is already one supermarket on Warwick Rd which does price matching on many items with Lidl and Aldi. Additionally, there is another discount supermarket 1.5 miles from this site. The idea that there is a requirement for a supermarket with a capacity for 146 cars is unfounded. People have sufficient choice for food shopping as it is. What value does this development bring to the City of Carlisle? 40 additional jobs at Lidl however this will lead to a fall in sales in other stores, including smaller independent retailers and put their workforce under threat. The benefits do not outweigh the environmental risks. Money should be invested in providing online deliveries which reduce the environmental impact with green delivery vans rather than additional stores. Or a supermarket should be built further out of town e.g. Brampton where there is more requirement

- Apart from the fact that this is our City Council possibly allowing more building work on one of the few flood plains in this area, the impact on traffic congestion will be immense. Warwick Road is one of the main routes into the City and the small bridge over the river has already had to have extensive repair work done to it following the last two floods. Carlisle itself already has numerous discount food stores and I can see no logical explanation for another one being built on this flood plain.
- I strongly oppose the application for the following reasons, Carlisle does not need another discount food store especially when Tesco is some 3 min walk from the proposed site, the area is prone to extensive flooding i.e 2005 / 2015 the subject site is part of the flood plain and would hold a large amount of flood water within its boundary, also the local planning dept policy is no building what-so-ever in an area designated ( by post code ) as within a flood risk area. I was personally involved with a site in Carlisle in a flood risk area which already had planning permission on it, the planning officer told me that i would never get permission on the site if i applied now as it was on a flood plain, and that if i demolished the existing building i would not even be allowed to rebuild it ( as it was on a flood plain ) What has changed ? this application should be refused.
- Environmental impact on residential properties in the surrounding area. The land proposed for development holds a significant amount of water in times of heavy and prolonged rainfall. This amount of water falling on developed land Presents an increased risk of surface water flooding in the area. The A69 is a main arterial route into and out of the city, increased traffic volumes associated with this development will have a significant impact on air quality. The development runs against the stated aims of the Council's own Air Quality Improvement plans.
- I write to express my objections to the above planning application on a number of issues which I feel sure must be considered by the planning committee. The access into the area via the entrance on Warwick road creates a dangerous cross roads between the food store and the main route into the city and Victoria road I believe this could create a difficult junction and exasperates the current traffic hazards I am drawn to a similar situation where only last week Cumbria County Highways objected

to a similar situation in Kendal, I feel sure their decision to object creates a precedent which equally applies in this situation.

- I believe the design to be a generic design of quick and cheap 'shed' like building which has been replicated not only in the city already but throughout the UK and therefore is not good vernacular design architecture and certainly not what one would want as a first insight into the city from the major transport route. Has the effect on other traders close by been considered there are a few quality local food outlets which may be adversely impacted by this development which we as Carlisle citizens must protect and preserve as they trade with and in conjunction to farms and producers in the city and County.
- More disconcertingly the discount food brands have already got things pretty much sewn up with stores on all major transport routes into the city why do we need another one and with this application it then precludes all others from setting up stores as an issue of propensity on the same major roads how then can all other food stores be allowed in Carlisle. This is not a city full of discount shoppers the socio economic groups are expanding with the wealth of the city and these groups require representation. I urge you to seriously consider this application as potentially damaging to local trades people in the city and do the right thing and throw it out as not acceptable.
- I feel that the traffic that will build up on an already busy main road into the town centre will only increase and lead to longer waiting times and congestion. The flood plain is there for a reason and as Warwick road is already a high risk area for flooding I feel that building on the site is only going to increase risks of flooding. Just because there is a spare bit of land doesn't mean it should be built on as is seemingly becoming the case in Carlisle.
- I feel the building of another supermarket in the area will be detrimental to local shops and post offices which people with mobility problems and the elderly rely on. It will make these businesses unviable.  
I have huge concerns for the loss of another green area and the environmental impact this will have on flora and fauna. It will have a detrimental effect on flooding and drainage in the vicinity and further downstream. It is a flood plain area. Traffic congestion and pollution is already an issue. A child died who lived near a main road and the inquest found that pollution from the nearby main road was the cause of her death. "Air pollution was a cause of 9-year-old Ella Kissi-Debrah's death, a UK coroner ruled Wednesday. She died of an asthma attack in 2013. It's the first time air pollution will be listed on a death certificate. 17 Dec 2020" \_ It will be very hard to justify the building of another supermarket if this were to be repeated. This is a residential area and the effects of increased traffic are not acceptable on any level.
- We don't need any more supermarkets plus flooding concerns. Traffic
- Taking away customers from local shops and the traffic on Warwick Road is bad as it and its a great area for local people to walk

- I am objecting against the proposal to build Lidl supermarket on Warwick Road. This is a vital piece of land acting as a flood plain for a vulnerable area. Flood defences alone do not guarantee against flooding and flood plains are invaluable, especially to this area. Carlisle is saturated with supermarkets, mostly discount ones and the area is already served well by a few major supermarkets and more importantly local shops and businesses which serve the local community and also vulnerable members of the community with services such as utility bills and post offices. A major retailer would do nothing but harm these.
- Carlisle does not need another supermarket along this road. I believe not only will there be more traffic and Warwick Road is bad enough with the amount of cars that use it. It is also a flood plane. Which should start ringing alarm bells for anyone with any common sense. This development should not be allowed
- Erection of building will increase flood risk to neighbouring properties, erection of discount store will also lead to increased traffic near a school. Custom will also be taken from local shops which may result in closure, taking away a service that local vulnerable people rely on.
- The negative impact this store will have on local shops is catastrophic. A lot of the community rely on those shops who will not be able to compete with a store like this. Is it wise to create a situation where people will out of work? In the current climate I would think not. Another aspect is the impact on traffic near a school and estate. When Warwick Road is already causing congestion on the nearby streets would it be wise to have more stationary traffic, creating more pollution. This area is also a Hadrians Wall buffer zone, this needs to be considered carefully. The whole project should have been thrown away on the grounds that the area they want to build on constantly floods. In fact if you want there now after a day of rain you would see stagnant water sitting on the field. However, it is better there than in local residents homes! At least I think so, not sure if the council would agree or if they are just after another back hander. I'm sure Lidl will have promised to pay for resurfacing of that area of road or a traffic light system to ensure they get what they want. I wonder what constitutes as a bribe in these circumstances?
- This new store will take business away from smaller shops, will increase congestion on an already busy road and junction and will increase the risk of flooding.
- I am against this due to lack of thought for building in a field which holds water as well as how busy the traffic will be on an already terrible road
- The negative impact this store will have on local shops is catastrophic. A lot of the community rely on those shops who will not be able to compete with a store like this. Is it wise to create a situation where people will out of work? In the current climate I would think not. Another aspect is the impact on traffic near a school and estate. When Warwick Road is already causing congestion on the nearby streets would it be wise to have

more stationary traffic, creating more pollution. This area is also a Hadrians Wall buffer zone, this needs to be considered carefully. The whole project should have been thrown away on the grounds that the area they want to build on constantly floods. In fact if you want there now after a day of rain you would see stagnant water sitting on the field. However, it is better there than in local residents' homes! At least I think so and hopefully the council does too.

- This should not go ahead. The area is congested enough and the flood risk to surrounding residents is immoral. Carlisle does not need another food store in this area
- I would like to strongly object to the building of the new Lidl superstore on the flood plain behind Shiny car wash off Warwick road Carlisle. For the following reasons:
  1. Traffic congestion. This area of Warwick Road is extremely busy already and has numerous sets of traffic lights along the stretch from the motorway to Lismore Place. There are often tailbacks from the motorway roundabout, along eastern way, up Victoria Road to the school, up Greystone Road and built back to Richard Rose School on Lismore Place. Another set of traffic lights along this stretch will only make things worse. Anyone who had to live through the recent water main work along Warwick Road and the sets of temporary lights on this stretch will understand what a disaster another set of lights would be. Adding to this, the extra filter lanes which are to be added to facilitate access to the site and the already queuing traffic to get into Shiny will make this a major bottleneck. The new developments being built at the Old Dairy and the major housing being built at the Meadowbrook site have already increased the traffic using Victoria Road to get onto Warwick Road. There being a school at the top of Victoria Road this can only raise concerns for the safety of the children attending the school.
  - 2. Local Shops. The building of a major superstore on this site can only have a detrimental impact on the local shops in the area. The two post offices in the area supplement their income by selling a small selection of necessities, if there is a superstore built then they will lose this custom and will struggle to survive. Are Lidl going to provide a post office if the others close? I very much doubt it. How will the older people in the community access this service provided by these two shops. When I asked the Lidl representative about this during their information evening, I was told they wanted to "take Tesco's trade from them". And that "they weren't interested in the smaller shops".
  3. Environmental. The environmental impact on this area would be huge. This field called a "waste ground " by some is actually a flood plain and has been used for agricultural purposes for centuries. The field is home to numerous different species of plants, birds, and wildlife. We see Heron, pheasant, and rabbits. Recently we have even seen deer moving around this and the adjacent fields. It seems quite bizarre that the council have praised themselves for converting a local amenity ( Swifts Golf Course) into a bee and butterfly meadow when less than a mile away they are wanting to build on a field that is already their natural habitat. Surely it would have been more noteworthy if they had

used this field as well or instead. To top it off they propose tearing out two established trees to make an entrance for the store, not very green.

- 4. Flood risk. As mentioned before the proposed site is on a natural flood plain. This field sits in water for the majority of the year, where will this water go once the concrete and tarmac is down? Having experienced two "once in a lifetime" floods in the last 16 years I feel far from comfortable in the flood report stating the new defences are for a one in 150-year flood! I will not be the only one who lives in the area who gets a bit nervy when there is heavy rain and building on a flood plain will only increase the stress levels. There seems to be a miss conception about where this area floods from. After the last floods I spoke to the representative from the Environment Agency about what had happened. I was telling him how I live on Victoria Road and that we got flooded the morning after the houses past Petteril Bridge. To my amazement he told me the new pumping station on the new flood bank had lost power during the night and had then gone onto its diesel generator. This only has a limited supply and the following morning had ran out, causing Durranhill Beck to burst its banks and flood the area. The only way to remove the water from the area was for the Army to come and pump the water from one side of the flood bank to the other, using this field for access. A flood bank holds water in just as well as holding it out. This is not a one-off occurrence, only last December Durranhill Beck threatened to overwhelm the new pumping station and flooded the adjacent field to the development site. Obviously North West water weren't as confident as the town planners as they protected the doors of the old pumping station situated in the corner of the development site with sandbags that are still there as I write. I spoke to the Lidl flood expert at the information meeting and asked him about the flood risk, to my surprise he answered " The store will be designed with flood resilience in-built but if the worst came to the worst they could be back running within a couple of weeks". Unfortunately, we, the local residents are looking at nine months to a year out of our properties in such an eventuality.

To Summarise. This development is bad for the traffic congestion in the city and the health effects associated with increased and queuing traffic. Has a detrimental effect on the area. Which is predominantly a residential area. Will have a negative impact on the local convenience stores and the elderly and vulnerable that they serve. Have a negative effect on the environment. Increase the risk of flooding in the area.

The Lidl representative admitted that they had withdrawn their application after the last floods as they realised this was a sensitive site due to the risk of flooding. This was to sympathise with the flooded residents. Obviously that sympathy has worn off and the prospect of making more profit for a multinational company overrides the feelings of the local community.

- The flood plain will worsen if this goes ahead
- Not necessarily needed another supper Market on Carlisle
- Warwick Road suffers from severe traffic problems which another store is only going to enhance. There is already a supermarket in vicinity and



smaller shops which will be affected. concentration should be on empty units within city which do not have a tendency to flood.

- I cannot believe our council who is supposed to be working for the good of the Carlisle residents, would even consider this application for the building to be put on a historic flood plain. This area has been flooded badly and causes a lot of sorrow and hardship to the people in that area. They do not need any extra risks which may make any future flooding worse. Is this a case of 'money means more than peoples lives'
- I oppose this application most strongly, the land on which this proposed store is to be built is almost permanently submerged in water it is my belief that to build here would further add to the fear of more possible flooding in this area [a constant worry to local residents]. This development would add to an already heavily traffic congested area. Please planners consider very carefully the consequences of this proposal Carlisle [a small city] already has :- 4 B&M, 3 Aldi 2 Tesco, 2 Asda, 2 Sainsbury, 1 Morrisons, 1 Lidl. Numerous convenience stores Coop etc. I ask myself and you planners do we really need any more?
- I am objecting to the proposed Lidl super store on Warwick Road for the following reasons:
  1. Traffic Congestion - The location this store is planned on is a busy and major road in and out of the City, there are already numerous sets of traffic lights along this stretch of road which can cause tail backs especially during busy times and when essential maintenance work is being carried out. (We have just experienced this due to work carried out by North west Water). The entrance for the supermarket is opposite Victoria Road which, is also busy and could become a hazard considering there is a school on this road and traffic already backs up. Local residents have experienced parked cars being hit on numerous occasions by traffic using this road as a rat run and not abiding to the 20mph speed limit (which never seems to be enforced). I recently witnessed a bottle neck being created on Warwick Road due to cars turning left and right into Shiny car wash, I can imagine the added congestion and pollution on this stretch if Lidl were to be granted permission.
  - 2. Local Community - There are 2 local convenience stores in this area both of which have a Post Office connected to them. These stores are a lifeline to some of the elderly and more vulnerable residents of the neighbourhood who are limited due to personal circumstance and mobility. The staff in these 2 shops are not just assistants but have become support networks to many of their customers who they know personally and as a result are trusted by the people they serve. If Lidl was to open not only would these Post Offices be at risk of closure but there would also be loss of jobs from these shops.
  3. Flood and Environmental Issues - This piece of land is not, as some have commented, unsightly waste ground but is in fact a flood plain. This land holds water for most of the year, where will this water run to if it is built on? This neighbourhood has had 2 serious floods in the last 16 years and residents feel this is very insensitive to even consider building on here. At a meeting with Lidl representatives, at Botcherby Community

Centre, a member of their staff told me that the application was withdrawn after the floods in Dec 2015 in sympathy for the flooded residents, I can only presume sympathy has a time limit and that has ran out!

Furthermore, I am left bewildered as to why there is money being spent on a new wildlife haven at the former Swifts golf centre when you are willing to destroy a natural forming one here. Some of the wildlife that is regularly seen on this sight is: Bees, Butterflies, various birds, heron, ducks, rabbits, hedgehogs and recently there has been deer sighted. I hope these points will be considered and not left to fall on deaf ears!

- As I was timed out previously best keep it simple.
  1. The most obvious is this is on a flood plain that historically floods. Photographs readily available for those interested enough to care.
  2. Any proposed traffic signals coupled with the extra traffic expected at the proposed development would only further disrupt the flow of traffic along Warwick Road. This was proven during the recent works carried out by the Utilities company.
  3. There is already a traffic overspill caused by the car wash when busy.
  4. Match day traffic has always parked in this area and along Warwick Road as well as the lower end of Victoria Road. Preventing this parking will only cause further parking problems in nearby housing estates. Everyone knows this is a commercial/financial decision and this exercise is purely a required procedure. Let the madness commence
- Why are we continually encroaching on the flood plane? Protecting areas where water was previously allowed to sit just moves the problem elsewhere. Last time Carlisle flooded the water came further down Warwick Rd than ever before. The current flood defence 'improvements' to heighten the flood banks along the Petteiril and thus channel the water under Petteiril bridge seem fool hardy if there are no plans to make the bridge bigger. I fear next time we flood, huge areas formerly flood plane will be fine, areas further down Warwick Road and beyond which have never flooded before will not.
- Can it please be noted that as a resident of Kingfisher Park I have concerns for local businesses in these very challenging times for them(Harraby, Botcherby, Warwick Road and Rosehill),more traffic congestion, more massive disruption in the area. More traffic lights? We have recovered from devastating flooding again and the new flood defences haven't even been completed yet. We have put up with United Utilities pipeworks for months and the widening of Eastern Way with the threat to the residents to chop down the trees near the road. It appears to be a permanent building or roadworks area. We already have 3Aldi, 1 Lidl, 3 B&M bargain stores, Poundland and numerous discount stores, Tesco, in the City Centre and Warwick Road Tesco. More green space will be lost in this most attractive area of our City.
- Why would you allow concrete to be poor on a flood plain?

4.3 The representations of support raise the following points:

- I have no objections to this store at all in fact I believe it will be an asset to

the People of Warwick Road and parts of Botcherby. Tesco's is along walk if one hasn't a car and buses are infrequent

- I am wholeheartedly in support of this project to build a Lidl Foodstore on land off Warwick Road. My question about this overall project is why it is taking so long to reach approval? We seem to be going around in circles without making any definite progress. I accept that there are legal processes to be gone through but Yea Gods it is taking an inordinate amount of time to achieve anything. Just get on with it!
- At the moment this area is a scruffy wasteland, any building on it can only improve it and a food store would be very welcome, particularly for the less able bodied without cars.  
I know most of my neighbours are quite excited about getting a new local store
- I hope we get a food store it will save me going to Morrison's in the car save me petrol and. Money
- This quality, low cost foodstore would add to the value of the area. Tesco has had the monopoly in this area and a rival could drive down overall prices, which would benefit the residents in this area.  
The site is ideal and at present it is only a scruffy, unkempt piece of land. It would be presumed that traffic measures would be approved by the County Highways as to road safety.
- I would like to add my support to the application for Lidl to open a store on the Warwick Road. I don't drive and the Lidl in town is just too far for me to carry heavy shopping back from. It will bring much needed jobs to the area - vital as we restart the economy after lockdown - and it will be really helpful for lots of people living on this side of the town to have a discount food store within easy reach. I was flooded in December 2015 and I know there must be concern about any additional flood risk, but I understand that Lidl have undertaken flood mitigation measures in the plans. I think it shows confidence in the city and the enhanced flood defences, that a major supermarket is prepared to invest large sums of money in this development. Quite honestly, if we have a storm bigger than Storm Desmond that overwhelms the new flood defences, then that will happen regardless of whether Lidl is there or not.
- I think this is a good and well thought placing of the new Lidl store, very handy for locals with no transport.

4.4 The representations of comment are consistent with the concerns above.

## 5. Summary of Consultation Responses

**Cumbria County Council - (Highways & Lead Local Flood Authority):**

### Highways response:

The reserved matters application currently under consideration seeks approval for the layout, scale, access, appearance and landscaping of a discount food store pursuant to the outline approval 19/0840. It is noted that as part of the outline planning approval 19/0840 that the access arrangements were agreed upon with the Highways Authority subject to a series of conditions.

As stated previously, a s278 agreement is required for the works to the

existing highway including the additional UTC control that is currently used for the Warwick road corridor into the city centre.

A Safety Audit (Stage 1) has been undertaken by the applicant at the outline stage of this application with regards to the proposed design and the recommendations within the report have been incorporated into the design. A Stage 2 Road Safety Audit will be required for the detailed design of the site which should be submitted as part of the discharge of conditions application. The applicant is seeking approval to remove conditions 4 (carriageway design), 5 (vehicle turning), 7 (pedestrian ramps), 9 (Warwick Road Highway Improvements), 11 (Parking and Unloading), 13 (Foul and Surface Water Drainage), 14 (Surface Water Drainage Scheme), 15 (Surface Water Management Plan), 17 (Building Exterior Details), 18 (Hard Surfacing), 19 (Landscaping) and 22 (Ground Levels and Floor Finish Level) imposed as part of the approval 19/0840 within the current reserved matters planning application. The Highways Authority have assessed each condition recommended as part of the planning approval 19/0840 and assessed them below in light of the submitted information.

Conditions 4 (carriageway design), Condition 5 (vehicle turning), 7 (pedestrian ramps) and 9 (Warwick Road Highway Improvements)

The developer will be required to enter into a Section 278 Agreement with the County Council for the works that are required on Warwick Road and Victoria Road to reconfigure the network in the vicinity of this new store. The developer will need to forward a full set of technical drawings for these proposals to allow the Council to formally review the proposed design. These drawings should include:

- ☐ 1:2500 scale location plan with north point;
- ☐ 1:500 scale plan showing full details of the road including curves, footways, cycleways, vehicular access, lighting, highway drains, road markings, traffic signal locations. This needs to encompass the full extent of any road marking changes;
- ☐ Plans showing construction detail, including cross sections of proposed construction;
- ☐ Plans for the traffic signals, including cable routes etc;
- ☐ Longitudinal sections if deemed to be appropriate;

The current site layout shown in 20/0313 is not sufficient to allow these matters to be fully considered. As such it is recommended that Conditions 4, 5, 7 and 9 are not discharged as part of the Reserved Matters application. The developer should note that they will be required to obtain a new commercial access permit to form the new access onto Warwick Road. As such the applicant is advised to contact [streetworks.east@cumbria.gov.uk](mailto:streetworks.east@cumbria.gov.uk) to obtain the required applications at their earliest convenience.

Condition 11 (Parking and Unloading)

The applicant has stated within the Planning Statement submitted as part of this application that the proposed foodstore is to provide in curtilage car parking for 124 cars. This includes 12 disabled car parking spaces, 13 parent and child spaces, 2 active EV charging spaces and 23 passive EV charging spaces. A further 10 bicycle spaces are to be provided at the northern boundary of the site. The proposal incorporates a food store with a net sales area of 1,256m<sup>2</sup>. In line with the requirements of the Cumbria Development Design Guide, a minimum of 84 car parking spaces, 4 motorcycle spaces, 4

pedal cycle spaces, and 4 disabled spaces are required.

As such the parking requirement is insufficient with regards to the motorcycle provision. If the applicant wishes to remove condition 11 then a revised layout is required with provision for 4 motorcycles.

Condition 17 (Building Exterior Details)

I can confirm that the Highway Authority and Lead Local Flood Authority has no objection to the proposed removal of condition 17 as it is considered that the proposal does not affect the highway nor does it increase the flood risk on the site or elsewhere.

Condition 18 (Hard Surfacing)

I can confirm that the Highway Authority and Lead Local Flood Authority has no objection to the proposed removal of condition 18 as it is considered that the proposal does not affect the highway nor does it increase the flood risk on the site or elsewhere.

Condition 19 (Landscaping)

I can confirm that the Highway Authority and Lead Local Flood Authority has no objection to the proposed removal of condition 9 as it is considered that the proposal does not affect the highway nor does it increase the flood risk on the site or elsewhere.

Therefore to conclude the Highways Authority have no objections with regards to the approval of planning permission, however, the applicant should be aware that further information should be submitted to discharge conditions 4, 5, 7, 9 and 11 of the outline planning permission 19/0840.

LLFA response:

Conditions 13 (Foul and Surface Water Drainage), 14 (Surface Water Drainage Scheme), 15 (Surface Water Management Plan) and 22 (Ground Levels and Floor Finish Level)

It is noted that as part of the outline approval 19/0840 that the LLFA agreed the drainage arrangements with the applicant for the development of a food store at Warwick Road, Carlisle.

Within the submitted FRA it is stated that the discharge of the surface water from the development site is into the culverted ordinary watercourse to the East of the site as previously agreed. The applicant undertook a CCTV survey of the culverted watercourse which illustrated that the 600mm diameter concrete culvert is in good condition downstream of the proposed connection manhole to its outfall into Durranshill Beck. The applicant has confirmed within the FRA that the QBar green field runoff rate for the site of 4.1l/s and this is to be the maximum surface water discharge rate into the watercourse. The applicant has also submitted detailed Micro Drainage calculations which demonstrate that attenuation is to be provided on site to accommodate a 1 in 100 year plus 40% to account for climate change storm event. This provision is acceptable to the LLFA.

The applicant has noted the requirement within the FRA for pollution control measures in line with page 568 of the SuDS manual in relation to the treatment of the surface water prior to discharge.

The applicant has confirmed that permeable blacktop will be used for the surfacing of the development with further details of the pollution control submitted at a later stage of the planning process.

Therefore, to conclude the LLFA have no objections with regards to the approval of planning permission; however there is currently insufficient information regarding the treatment of surface water to be able to recommend

that conditions 13, 14, 15 and 22 are fulfilled and therefore further information is required to discharge these conditions at a later date.

#### Summary

To summarise, neither the Local Highway Authority or the LLFA have any objections to the Reserved Matters application. However, it is advised that the information provided is not sufficient to remove conditions 4, 5, 7, 9, 11, 13, 14, 15 and 22 of the outline planning permission 19/0840 and it is anticipated that further information will be issued in due course to discharge these conditions.

Following re-consultation the County Council have responded thus 17 September 2021

#### **Highways response:**

As stated previously, a s278 agreement is required for the works to the existing highway including the additional UTC control that is currently used for the Warwick road corridor into the city centre. A Safety Audit (Stage 1) has been undertaken by the applicant at the outline stage of this application with regards to the proposed design and the recommendations within the report have been incorporated into the design. A Stage 2 Road Safety Audit will be required for the detailed design of the site which should be submitted as part of the discharge of conditions application. As such conditions 4 (carriageway design), Condition 5 (vehicle turning), 7 (pedestrian ramps) and 9 (Warwick Road Highway Improvements) cannot be removed at this point as the Stage 2 Road Safety Audit has not been undertaken the results could result in amendments to the highway design and layout.

#### Condition 11 (Parking and Unloading)

The proposal incorporates a food store with a net sales area of 1,256m<sup>2</sup>. In line with the requirements of the Cumbria Development Design Guide, a minimum of 84 car parking spaces, 4 motorcycle spaces, 4 pedal cycle spaces, and 4 disabled spaces are required. Within the revised site plans submitted as part of this application the proposed food store is to provide in curtilage car parking for 124 cars. This includes 12 disabled car parking spaces, 13 parent and child spaces, 2 active EV charging spaces and 23 passive Electric Vehicle charging spaces. A further 10 bicycle spaces are to be provided at the northern boundary of the site. Following a review of the design and the number of car parking spaces provided, the provision is in accordance with the Cumbria Development Design Guide and is therefore acceptable.

As such the Highways Authority have no objections with regards to the removal of condition 11.

#### Condition 17 (Building Exterior Details)

The Highways and LLFA have no further comments further to the 18 May 2021 response.

#### Condition 18 (Hard Surfacing)

The Highways and LLFA have no further comments further to the 18 May 2021 response.

#### Condition 19 (Landscaping)

The Highways and LLFA have no further comments further to the 18 May 2021 response.

Therefore to conclude the Highways Authority have no objections with regards to the approval of planning permission, however, the applicant should be aware that further information should be submitted to discharge conditions 4, 5, 7 and 9 of the outline planning permission 19/0840.

#### Conditions 13 (Foul and Surface Water Drainage), 14 (Surface Water Drainage Scheme) and 15 (Surface Water Management Plan)

It is noted that as part of the outline approval 19/0840 that the LLFA agreed the drainage arrangements with the applicant for the development of a food store at Warwick Road, Carlisle. However within the previous LLFA response to this application dated 18 May 2021 further information regarding the treatment of surface water prior to discharge was requested. The LLFA have reviewed the additional information submitted by the applicant following this response and note that no additional information is available regarding the treatment of surface water. Therefore, to conclude the LLFA have no objections with regards to the approval of planning permission; however there is currently insufficient information regarding the treatment of surface water to be able to recommend that conditions 13, 14 and 15 are fulfilled and therefore further information is required to discharge these conditions at a later date.

#### Condition 22 (Ground Levels and Floor Finish Level)

The applicant has submitted the ground levels and finish floor levels associated with the proposed food store on Warwick Road, Carlisle. It is noted in the FRA that the proposed finished floor level of the retail building is 13.7m which is 300mm above ground level in the north of the site. The FRA acknowledges that if the flood defences are breached to the north then flooding to the site will be circa 2.60m, and as such the design of the building takes this into consideration through the raising of electrical equipment and installations 600mm above the finished floor levels. This provision is acceptable to the LLFA and no objections are raised with regards to the removal of condition 22.

**Highways England:** - No objections

**Environment Agency:** - We are satisfied that the Flood Risk Assessment is compliant with the requirements for a FRA set out in the National Planning Policy Framework (NPPF).

The proposed development must proceed in strict accordance with this FRA and the mitigation measures identified as it will form part of any subsequent planning approval. Any proposed changes to the approved FRA and / or the mitigation measures identified will require the submission of a revised FRA as part of an amended planning application.

We have considered the findings of the flood risk assessment in relation to the likely duration, depths, and flood hazard rating against the design flood for the proposal. We agree that this indicates that under flood breach or

overtopping events flooding could result on site that has the potential to present:

A danger for all people (e.g. there will be danger of loss of life for the general public and the emergency services).

We remind you to consult with your emergency planners and the emergency services to confirm the adequacy of the evacuation proposals.

**Historic England:** - No comments

**Local Environment - Environmental Protection:** Requested mitigation for potential noise nuisance although noted that the applicant had referred to the car wash as an intervening factor in any potential noise nuisance. Agreed that a condition covering potential nuisance to be investigated by the applicant should there be a complaint regarding noise would suffice.

**Access Officer:** - Just one observation regarding the car park, in particular the electric charging points. I would advise the inclusion of a Wheelchair Access Vehicle point.

Space is required to allow wheelchair users to transfer and circulate around their vehicle for front, end or side charging connection. The charging post needs to be at bay level, not fixed on top of the kerb with a wrap around barrier to protect against collision. Operating controls/ charging socket-outlets should be between 0.75m and 1.2m above the ground. Display screens between 1.2m and 1.4m above the ground. Signage should state 'reserved for wheelchair access vehicles'.

**Cumbria Constabulary** - North Area Community Safety Unit (formerly Crime Prevention): -

I wish to offer the following comments, which I have considered from a crime prevention perspective. I refer to my earlier comments dated 21<sup>st</sup> November 2019, in response to outline application 19/0840, outlining information that would be helpful upon submission of the application for full permission.

I have perused the published documents and drawings and despite several references to crime prevention in the Design and Access Statement and Planning Statement (National Planning Policy Framework and Policy CM 4 of the Local Plan), these documents do not include the information as previously requested...

The Planning Statement refers to the inclusion of a Proposed Lighting Layout and Proposed Lighting Report – but these documents do not appear to have been published.

From my interpretation of the drawings supplied, I offer these observations:  
Boundary Treatment Plan – The deployment of a 2.0m 'Paladin' fence is noted. Consideration should be given to restricting vehicle access to prevent misuse / abuse of the car park outside business hours.

Proposed Site Layout – Noted provision of cycle parking in easy view of customers.

Noted provision of vehicle bollards along store frontage and glazed elevation  
It would appear there is no provision of an Automated Teller Machine in this development

I would welcome further information in respect of the following security



measures:

- Building resistance to burglary (specification of external doors, roller shutters, curtain walling, etc. to resist forced entry)
- Design and features to deter unauthorised access to the roof
- Security lighting scheme (car park and building exterior) utilising high uniformity and CRI values
- Presence and configuration of the intruder alarm
- Secure cash handling facilities
- Robust internal access control measures to prevent unauthorised access to non-public spaces
- Internal store layout to optimise surveillance opportunities and thus disrupt retail crime activity
- Secure external waste bin storage (to mitigate against exploitation as climbing aid and arson risks)
- Presence and configuration of CCTV, particular reference to retail crime risk and integration with intruder alarm (image standard and Data Protection legislation compliance issues)

I shall be pleased to advise on any crime prevention issues arising from this application.

**Connect Roads:** - no response - see LHA

**United Utilities:** - United Utilities has reviewed the drainage proposals of discharging surface water into the existing highway drains and confirm the proposals are acceptable in principle.

Please note, United Utilities are not responsible for advising on rates of discharge to the local watercourse system. This is a matter for discussion with the Lead Local Flood Authority and / or the Environment Agency (if the watercourse is classified as main river).

If the applicant intends to offer wastewater assets forward for adoption by United Utilities, the proposed detailed design will be subject to a technical appraisal by an Adoptions Engineer as we need to be sure that the proposal meets the requirements of Sewers for adoption and United Utilities' Asset Standards. The detailed layout should be prepared with consideration of what is necessary to secure a development to an adoptable standard. This is important as drainage design can be a key determining factor of site levels and layout. The proposed design should give consideration to long term operability and give United Utilities a cost effective proposal for the life of the assets. Therefore, should this application be approved and the applicant wishes to progress a Section 104 agreement, we strongly recommend that no construction commences until the detailed drainage design, submitted as part of the Section 104 agreement, has been assessed and accepted in writing by United Utilities. Any works carried out prior to the technical assessment being approved is done entirely at the developers own risk and could be subject to change.

If the applicant intends to obtain a water supply from United Utilities for the proposed development, we strongly recommend they engage with us at the earliest opportunity. If reinforcement of the water network is required to meet the demand, this could be a significant project and the design and construction period should be accounted for.

According to our records there is an easement crossing the proposed development site which is in addition to our statutory rights for inspection, maintenance and repair. The easement dated 15/07/1971 UU Ref: Z1594 has restrictive covenants that must be adhered to. It is the responsibility of the developer to obtain a copy of the document, available from United Utilities Legal Services or Land Registry and to comply to the provisions stated within the document. Under no circumstances should anything be stored, planted or erected on the easement width. Nor should anything occur that may affect the integrity of the pipe or United Utilities legal right to 24 hour access. Where United Utilities' assets exist, the level of cover to the water mains and public sewers must not be compromised either during or after construction. It is the applicant's responsibility to investigate the possibility of any United Utilities' assets potentially impacted by their proposals and to demonstrate the exact relationship between any United Utilities' assets and the proposed development.

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

### **Assessment**

- 6.1 Section 70 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) and Policies SP1, SP2, EC6, SP6, SP9, IP2, IP3, IP6, CC4, CC5, CM4, CM5, GI3 and GI6 of the Carlisle District Local Plan 2015-2030.

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

- 6.3 This application is for the approval of Reserved Matters following the granting of outline planning permission earlier this year. A reserved matters application provides additional detailed information relating to matters of layout, scale, appearance, access and landscaping and does not seek to introduce new information which would raise questions about the principle of development and result in material changes to the development proposed under the connected outline application which reserved those matters in the first instance. In addition, when the original outline permission was granted it was subject to a number of conditions which required additional information to ensure the development was in accordance with the development plan and other material planning guidance. There is the opportunity to discharge planning conditions by separate planning applications however, as in this instance, the applicant is seeking to discharge some conditions with details submitted at this point. Often similar information is required however this will be discussed later in this report in relation to each of the conditions imposed on the development.
- 6.4 Planning application 19/0840 for the "Erection of Discount Foodstore with Car

Parking and Landscaping" was approved by Development Control Committee on the 8 January 2021 and was subject to a legal agreement for a contribution towards travel plan monitoring and the decision was issued on the 1 April 2021. An outline application established the principle of development and at the time, consideration was given to the location on Warwick Road and in particular the site's potential to be used for flooding or flood storage, the sequential and impact test of this type of retail development and the proposal for a new access point and alterations to the junction arrangement. The details in relation to drainage (which may impact on flood considerations) and access appear again in this application in relation to the reserved matters and discharge of conditions however extensive work at the outline stage meant that once granted, the outline permission has confirmed the principle of development.

- 6.5 Some objectors have raised similar concerns about the principle of development which would be disregarded and have also intimated that as permission has been granted their objection would potentially be overlooked. Although the principle of development has been accepted and that consent granted earlier this year, the reserved matters and planning conditions are there to ensure that the policies upon which the principle has been based is adhered to and the flood risk, drainage and access arrangements all accord with the information upon which the principle was established.
- 6.6 The principle of development has therefore been established however this report now considers the reserved matters and other planning conditions under the current application.

## **2. Reserved Matters - Layout, Scale and Appearance**

- 6.7 This application now seeks to confirm the site layout, the scale of the proposed buildings and associated works and the appearance of the building. On first look at the application, the site is in general accordance with that which formed the basis of the documentation provided with the outline application however this is the stage at which those details are now confirmed.
- 6.8 The net sales area of the store is 1,256 sq m within an overall 1,900 sqm gross internal area forming the main structure. This includes the usual store layout of a sales area, warehouse delivery area, freezer area, bakery, managers office and staff welfare facilities as well as customer toilets. This is accompanied by a car park which includes 124 car parking spaces (including specific designations for 12 parking spaces for disabled badge users, 13 parent and child spaces and 2 active electric vehicle charging spaces). 23 of the car parking spaces will also be provided with passive charging infrastructure. There will be 10 cycle spaces close to the store's entrance.
- 6.9 The building will be oriented east-west so that it runs parallel to Warwick Road and set back within the site (partly determined by underground infrastructure). Parking is in front of the store and along to the western elevation whilst the delivery bay will be on the eastern elevation.

- 6.10 The layout indicates that the main vehicular access to the site will be taken from Warwick Road (the details of which are considered separately). Pedestrian access is provided by two pedestrian walkways, this has changed since the original concept and ensures there is separate provision to improve pedestrian safety.
- 6.11 The store is single-storey 6.7 metres high and is of a contemporary design with mainly a glass elevation towards the main road and western elevation as well as a glazed entrance. The doors will use aluminium frames and be made from powder coated steel using the corporate colours of Gentian Blue. The remaining walls will be clad with metal cladding panels including White Aluminium and match the soffits and fascia panels. The roof top design although not generally noticeable at ground floor level, includes a rooftop solar array consisting of 468 solar panels, reducing carbon emissions and was not identified at outline stage but reflects the changing demands of reducing environmental impacts as a company and from their customers. The 3.30° slope will ensure that they have a slim profile to match the profiled metal roof. Rooftop plant will be located above the delivery bay end of the building.
- 6.12 Associated with the reserved matters of layout, scale and appearance is specifically Condition 17 (Building Exterior Details) of application 19/0840 which states:  
*"Prior to their use as part of the development hereby approved, full details of all materials to be used on the exterior of the buildings, including roofs, walls, cladding, doors, windows, external frames and rainwater goods shall be submitted to and approved in writing by the local planning authority. The development shall then be undertaken in strict accordance with the approved details."*  
The details provided by the application and outlined above are sufficient to discharge this planning condition and no further information is required for Condition 17.
- 6.13 Condition 18 (Hard Surfacing) states that: *"Details shall be submitted of the proposed hard surface finishes to all public and private external areas within the proposed application site and approved in writing by the local planning authority before their use as part of the development hereby approved. The approved development shall be carried out in strict accordance with the details approved in response to this condition."* The proposed hard surfaces include the use of permeable paving to denote parking spaces, different tarmac finished for vehicular and pedestrian routings and stretcher bond block paving around the building. These materials are acceptable and the local highway authority has also raised no objections to their use for different hard surfaces within the site.
- 6.14 Condition 22 (Ground Levels and Floor Finish Level) states that: *Details of the relative heights of the existing and proposed ground levels and the height of the proposed finished floor levels of the building shall be submitted to and approved in writing by the Local Planning Authority before any construction works begin.*

This directly relates to the scale of the building to ensure that what is constructed relates to the relative ground level. It is feasible that when drainage schemes are finally adopted, the need for SUDS and gravity fed schemes can change the overall floor levels of a building and ultimately affect the overall height. Whilst it is noted that this development is single-storey and there are several two-storey and higher developments in the area it is still appropriate to ensure that finished floor levels are proportionate to the surrounding ground levels as would be viewed from the road and neighbouring existing development. It is also important in this instance to ensure that it complies with the levels upon which drainage and flood assessments are based. The finished floor level of the store would be 13.7m which is below the surrounding site levels of approximately 14.6-15.0m along the Warwick Road frontage. The levels have also been considered by the Lead Local Flood Authority in relation to flood risk. The submitted information is acceptable to discharge the condition.

### **3. Reserved Matters - Landscaping**

- 6.15 Accompanying this application is a landscaping plan and a detailed tree assessment of the existing trees which front the site. It was known at the outline stage that in order to provide the necessary access arrangements there would be some tree removal from the street trees and one tree has already been removed due to its health which was undertaken separately to this application. The tree assessment confirms that the quality of the existing trees has its limitations and would not under normal circumstances prevent the development as they do not warrant individual protection. The site however provides the opportunity for new planting. When considering the details of a landscape proposal it is now important to note that the Environment Bill progressing through Parliament will bring in legislation relating to biodiversity net gain. This is to ensure that there is a positive uplift in biodiversity. Within this site the tree plan noted that the species at the front of the site provided reduced overall benefit due to their restrictive growing conditions combined with the limited benefit of the site itself. The landscaping scheme therefore contains more replacement trees including some within the site where there was previously no tree growth. The proposals also seek to introduce shrub and other planting on the western boundary and along the site frontage compensating for any loss.
- 6.16 Condition 19 ( Landscaping) states that: *No construction shall commence until, a landscaping scheme has been submitted to and agreed with the local planning authority including details of trees and shrubs to be retained and proposed new planting. The scheme shall include the use of native species and shall also include a detailed survey of any existing trees and shrubs on the site and shall indicate plant species and size for new planting. Any trees which are required to be removed for works associated with the scheme shall be replaced on a 1:1 basis. The scheme shall then be implemented in accordance with the approved details.*
- The landscaping details submitted with this application include the species and planting numbers as required by the planning condition and the information is sufficient to discharge this condition.

#### 4. Reserved Matters - Access

- 6.17 The final reserved matter to consider is access. This includes the point of access and connection to the highway and can include internal road layouts. In this instance the proposed access is a vehicular connection to a new traffic light junction and two pedestrian walkways separated from the vehicular access. The proposed junction arrangement was explored at the outline stage to ensure that in principle the access was acceptable given other junctions within the area and the access required for adjacent businesses. As it was a reserved matter the details confirming that a new junction would be established are left to this application. The County Council as Local Highway Authority has considered the proposals and in terms of the reserved matter for access raises no objection.
- 6.18 The application includes the discharge of a number of conditions relating to highway works namely:
- Condition 4 (carriageway Design)  
*The carriageway, footways, footpaths, cycleways etc shall be designed, constructed, drained to the satisfaction of the local planning authority and in this respect further details, including longitudinal/cross sections, shall be submitted to the Local Planning Authority for approval before work commences. No work shall be commenced until a full specification has been approved. Any works so approved shall be constructed before the development is brought into use.*
- Condition 5 (Vehicle Turning)  
*Details showing the provision of a vehicle turning space within the site, which allows vehicles visiting the site to enter and leave the highway in a forward gear, shall be submitted to the Local Planning Authority for approval. The development shall not be brought into use until any such details have been approved and the turning space constructed. The turning space shall not thereafter be used for any other purpose.*
- Condition 7 (Pedestrian Ramps)  
*Ramps shall be provided on each side of every junction to enable wheelchairs, pushchairs etc. to be safely manoeuvred at kerb lines. Details of all such ramps shall be submitted to the Local Planning Authority for approval before development commences. Any details so approved shall be constructed as part of the development*
- Condition 9 (Warwick Road highway Improvements )  
*Prior to the start of any development details of the proposed highway changes to Warwick Road and Victoria Road including crossing of the highway verge and/or changes to the footway shall be submitted to the Local Planning Authority for approval. The development shall not be commenced until the details have been approved. The approved changes shall be brought into use prior to the first use of the development.*
- 6.19 Although the principle of the access connecting to a new junction on Warwick Road is acceptable the discharge of the conditions above will determine the exact details. Although a stage 1 Road Safety Audit was undertaken as part of the outline application, the levels of detail required for construction of the access arrangements has to be compatible with a Stage 2 Road Safety Audit. This has not been undertaken and the Local Highway Authority therefore

recommend that these conditions are not discharged without consideration of that information. It is therefore recommended that conditions 4, 5, 7 and 9 are not discharged.

- 6.20 There is one aspect of detailed highway arrangements which is acceptable in detail and this is in relation to parking and unloading.

Condition 11 ( Parking and Unloading) states:

*Details showing the provision within the site for the parking, turning and loading and unloading of vehicles visiting the site, including the provision of parking spaces for staff and visitors, shall be submitted to the Local Planning Authority for approval. The development shall not be brought into use until any such details have been approved and the parking, loading, unloading and manoeuvring facilities constructed. The approved parking, loading, unloading and manoeuvring areas shall be kept available for those purposes at all times and shall not be used for any other purpose.*

- 6.21 The Local Highway Authority has considered the provision which exceeds the Cumbria Development Design Guide and is therefore sufficient to allow the condition to be discharged. It is therefore recommended that Condition 11 is discharged.

## **5. Other Planning Conditions to be discharged**

- 6.22 The application has provided additional information relating to drainage and this has been considered by the Environment Agency, United Utilities and Cumbria County Council as Lead Local Flood Authority (LLFA). In particular they are seeking to discharge the following three planning conditions:

Condition 13 (Foul and Surface Water Drainage ) - *Foul and surface water shall be drained on separate systems*

Condition 14 (Surface Water Drainage Scheme ) - *Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the Local Planning Authority, no surface water shall discharge to the public sewerage system either directly or indirectly. The drainage scheme submitted for approval shall also be in accordance with the principles set out in the Flood Risk Assessment & Drainage Statement dated November 2020 proposing surface water discharging to the culverted ordinary watercourse. The development shall be completed, maintained and managed in accordance with the approved details.*

Condition 15 ( Surface Water Management Plan) - *No development shall commence until a construction surface water management plan has been agreed in writing with the local planning authority.*

- 6.23 Whilst in general the Environment Agency and United Utilities are satisfied with the information, the LLFA had concerns over the details submitted and required additional information. Information was forthcoming however the concerns remained and the latest response from the LLFA confirms that the conditions relating to drainage should not be discharged. On this basis the application has stated that they wish the application to be considered without the submission of further information. Conditions 13, 14 and 15 cannot be discharged and would therefore require a separate application to discharge those conditions.

## **6. Other Issues**

- 6.24 The Council's Environmental Health team made no specific stipulations at the outline planning stage other than conditions in relation to potential contamination. They have however reviewed the submitted information and raised concerns in relation to the potential for noise to be an issue in relation to the site plant (located above the delivery bay). The applicant does not consider this to be an issue due to its location, distance from the adjacent use which is a noise emitting car wash and the further distance to any residential properties. Whilst the Environmental Health team are minded to agree with this conclusion, in the interests of safeguarding the amenity of future neighbours of the operational store, it is recommended that an additional planning condition is added so that in the event that claims of noise nuisance are made, the applicant investigates those issues and where founded, appropriate mitigation is considered to resolve any potential statutory nuisance.
- 6.25 Additional planning conditions should not be generally added to a reserved matters application especially if they are to be added to overcome something which may have been forgotten or omitted at outline stage. Where, in this instance, the measures directly relate to the Reserved Matters of layout such as confirming the location of the store plant equipment, it is possible to accept that information with additional conditions.
- 6.26 The police design advisor made some observations on the overall layout of the site and has welcomed revisions to the layout to overcome his concerns and assurances from the operator to other measures which are to be implemented as part of the operational security.

## **7. Conclusion**

- 6.27 This is a reserved matters application relating to layout, scale, appearance, access and landscaping. The principle of development has been accepted by application 19/0840. The information provided contains appropriate proposals to deal with all those reserved matters and condition 2 which sets out those matters of the original outline application 19/0840 has been complied with.
- 6.28 The application also seeks to discharge a number of planning conditions however additional information is required by the Local highway Authority and



the Lead Local Flood Authority in order to discharge some of those conditions and therefore they will require additional applications. For clarity, conditions 4, 5, 7, 9, 13, 14 and 15 should not be discharged based on the submitted information in this application. Environmental Health has raised concerns about the location of the proposed operational plant and the potential for noise. As a consequence of their concerns an additional planning condition is proposed.

- 6.29 It is recommended that the reserved matters are accepted, conditions 11, 17, 18, 19 and 22 of outline application 19/0840 are discharged and that an additional condition relating to noise is imposed.

## **7. Planning History**

- 7.1 Application 15/0836 for the Erection Of Foodstore With Associated Car Parking And Servicing was withdrawn prior to determination.
- 7.2 Outline Planning Application 19/0840 for the Erection Of Discount Foodstore With Car Parking And Landscaping was Granted Subject to Legal Agreement on the 01/04/2021
- 7.3 Application 21/0476 for the Display Of 2no. Internally Illuminated Canopy Signs, 1no. Internally Illuminated Flagpole Sign, 2no. Externally Illuminated Wall Mounted Billboard Signs, 1no. Internally Illuminated Poster Display Unit, 1no. Externally Illuminated Double Sided Parking Sign & 3no. Externally Illuminated Wall Mounted Billboard Panels is currently undetermined.

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

1. In discharge of requirements for the submission of detailed particulars of the proposed development imposed by conditions 2, 11, 17, 18, 19 and 22 attached to the outline planning consent to develop the site.
2. 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 05 April 2021;
  2. the Site Location Plan received 05 April 2021 (Drawing No A(90)EXP001 Rev 4;
  3. the Proposed Site Layout Plan received 23 August 2021 (Drawing No ZZ-XX-DR-A-91-0001 Rev P23);
  4. the Ground Floor Plan received 05 April 2021 (Drawing No ZZ-OO-DR-A-01-0001 Rev P2);
  5. the Proposed Elevations Sheet 1 received 05 April 2021 (Drawing No ZZ-XX-DR-A-02-0001 Rev P3);

6. the Roof Plan received 05 April 2021 (Drawing No ZZ-OO-DR-A-01-0002 Rev P3);
7. the PV Roof Layout received 05 April 2021 (Drawing No SQ4S-PV-Lidl-C1582-R-A);
8. the Proposed Substation received 05 April 2021 (Drawing No ZZ-XX-DR-A-91-0004 Rev P1);
9. the Proposed Levels received 23 August 2021 (Drawing No 141725/1001 Rev C);
10. the Boundary Treatment Plan received 23 August 2021 (Drawing No ZZ-XX-DR-A-91-0003 Rev P4);
11. the Landscape Details received 05 April 2021 (Drawing No R/2426/1D);
12. the Proposed Lidl Car Park received 05 April 2021 (Drawing No P101, P102 & P103);
13. the General Arrangement and Site Clearance received 23 August 2021 (Drawing No 16-1102/300 Rev T2);
14. the Typical Details received 23 August 2021 (Drawing No 16-1102/305 Rev T1);
15. the LiAS Design Notes and Luminaire Schedule received 23 August 2021;
16. the Design and Access Statement received 05 April 2021;
17. the Ecological Impact Assessment received 05 April 2021;
18. the Planning Statement received 05 April 2021;
19. the PV System received 05 April 2021;
20. the Transport Addendum Report received 05 April 2021;
21. the Arboricultural Report received 05 April 2021;
22. the Flood Risk Assessment received 07 April 2021;
23. the Notice of Decision;
24. any such variation as may subsequently be approved in writing by the Local Planning Authority.

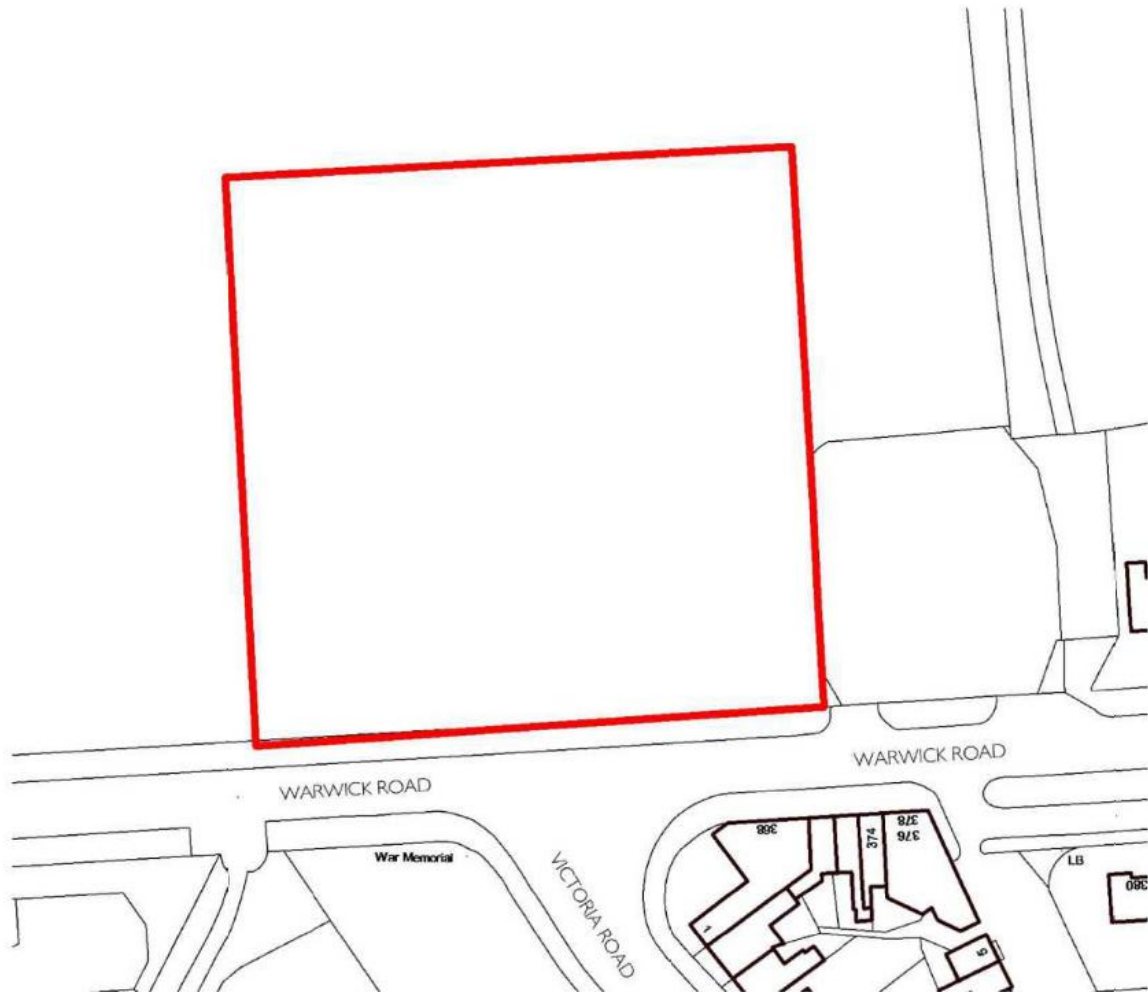
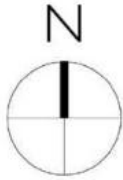
**Reason:** To define the permission.

3. In the event that a complaint is received relating to noise caused by the proposed plant: Within 28 days from the receipt of a written request from the Local Planning Authority, the operator of the proposed facility shall, at the operators expense, employ an independent consultant approved by the Local Planning Authority, to assess the level of noise emissions from the

facility at the complainant's property. This should be carried out in accordance with the most appropriate current standard (such as BS4142:2014) and a suitable report prepared. The report should demonstrate compliance with the appropriate standard. If necessary the applicant shall, within 28 days, propose a scheme of noise mitigation to the Local Planning Authority, to utilise any appropriate on site measures as is necessary, to ensure that sound levels from the site are reduced to an acceptable level. This scheme shall specify the timescales for implementation.

**Reason:** To prevent disturbance to nearby occupiers in accord with Policies SP6 and CM5 of the Carlisle District Local Plan 2015-2030.

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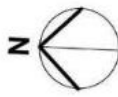
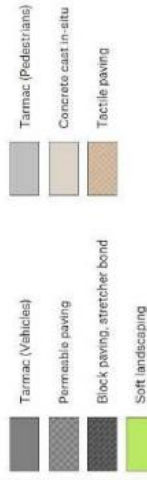


Status	Planning		
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Drawing	Site Location		
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		Rev.	4
Scale at A4	1 : 1250	Drawn	DW
		Checked	KH

\_space™

## WARWICK ROAD, CARLISLE

<b>SITE AREA:</b>		8785 m <sup>2</sup>
Ancillary Area		205 m <sup>2</sup>
Sales Area		1256 m <sup>2</sup>
Warehouse Area		435 m <sup>2</sup>
		1900 m <sup>2</sup>
<b>GROSS INTERNAL AREA</b>		5
<b>Asiatic:</b>		
<b>CAR PARKING</b>		12
Disabled		2
Electric Vehicle Charging		13
Parent & Child		97
Standard		124
<b>TOTAL</b>		
<b>BICYCLE PARKING</b>		10
Short Stay Cycles		10
<b>TOTAL</b>		

Store Specification  
**BBS 20 ECO**

Drawing Purpose

## PLANNING

This drawing has been prepared for the sole purpose of forming part of a planning application, and should not be used for any other purpose.

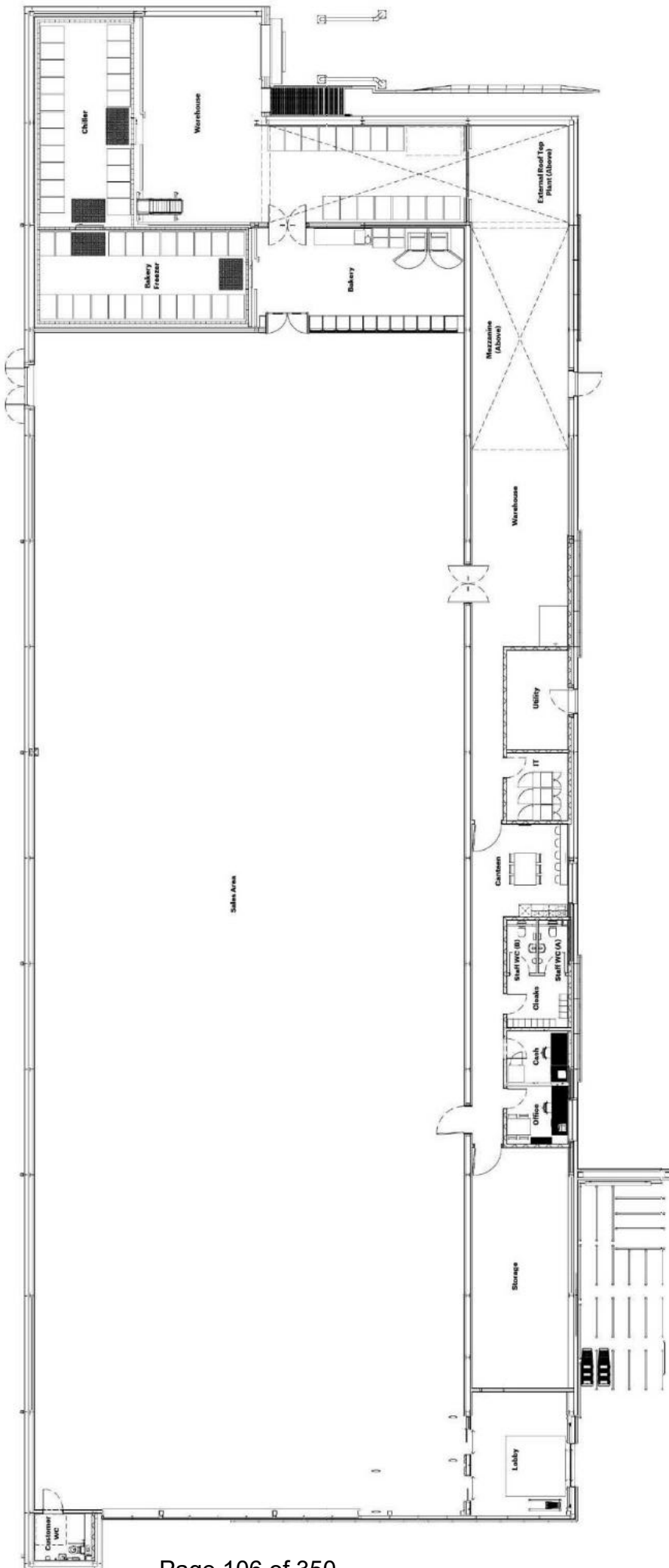
Spaceworks, Benton Park Road, Newcastle upon Tyne, NE7 7LX  
T: +44 (0)844 800 5560  
[www.spacearchitects.co.uk](http://www.spacearchitects.co.uk)

# SPACE

Project	<b>Lidl - Warwick Road, Carlisle</b>
Drawing Title	<b>Proposed Site Layout</b>

Project No.	Drawing No.	Status	Revision	Scale at A3
<b>06927</b>	<b>ZZ-XX-DR-A-91-0001</b>	<b>S3</b>	<b>P23</b>	<b>1:500</b>

File Reference: 06927-SPACE-ZZ-XX-DR-A-91-0001



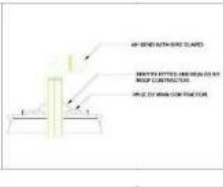
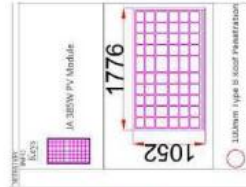
BBS20 ECO  
FEASIBILITY  
This document is for information only and does not constitute a contract. It is subject to change without notice.

# SPACE

Lidl - Warwick Food Centre General Arrangement Plan - Ground Floor			
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Rev.	02	01-01-2024	1:100
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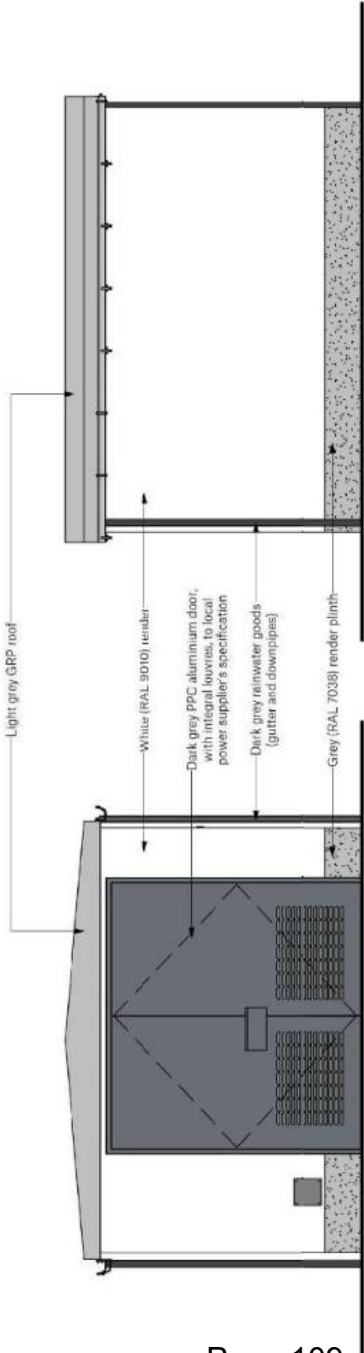


# LIDL - Carlisle 1582 - PV Roof Layout - Rev A 2020 ECO Specification - Mirrored - Open Roof AC



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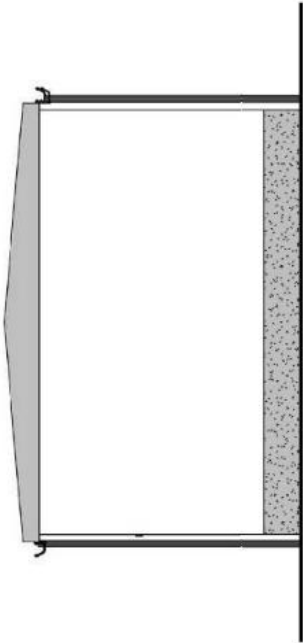


Front Elevation

1 : 50

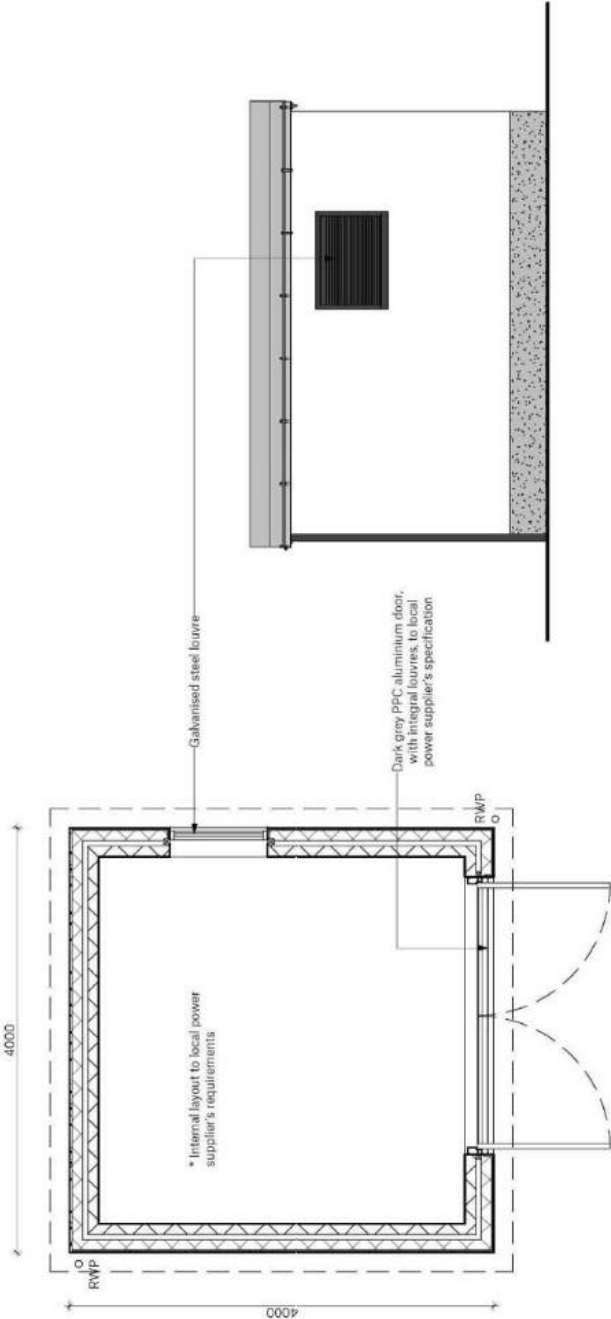
Side Elevation 1

1 : 50



Rear Elevation

1 : 50



Plan

1 : 50

Store Specification	N/A
Drawing Purpose	<b>PLANNING</b> This drawing has been prepared for the sole purpose of forming part of a planning application, and should not be used for any other purpose.



SPACE

Spaceworks, Benton Park Road, Newcastle upon Tyne, NE7 7LX  
T: +44 (0)1644 800 6660  
www.spacearchitects.co.uk

Project			
Lidl - Warwick Road, Carlisle			
Drawing Title			
Proposed Substation			
Project No.	Drawing No.	Status	Revision
06927	ZZ-XX-DR-A-91-0004	S3	P1
File Reference: 06927-SPACE-ZZ-XX-DR-A-91-0004			
Scale at A3			
1 : 50			
This drawing is Copyright. Check all dimensions on site. Inform us in person of any discrepancies. Work to agreed dimensions only. Please note.			

Revision

Author

Checker


Date

P4


NJC

DWW

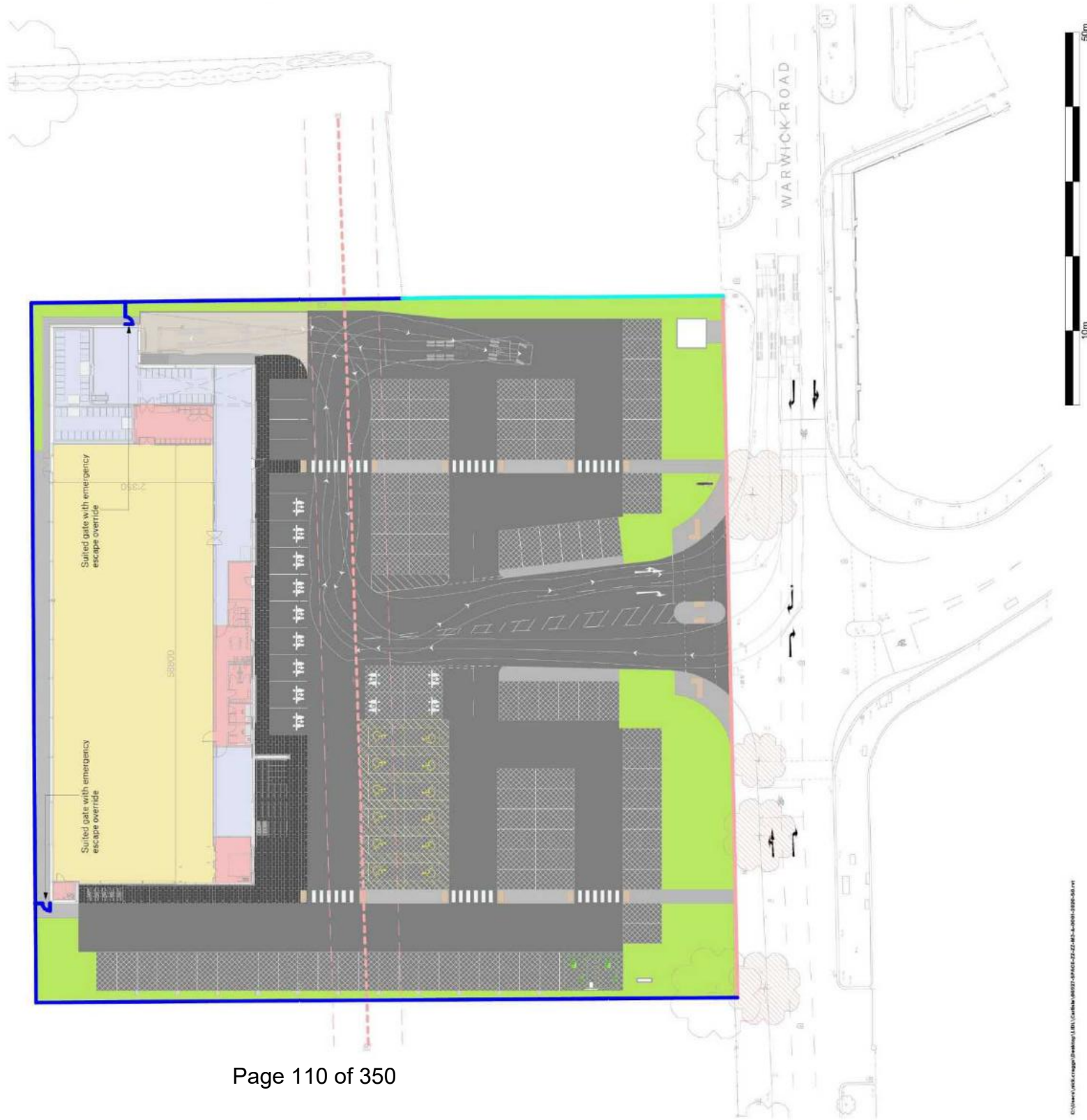
23.04.21



2m high metal paladin fence



Existing wall



Store Specification

**BBS 20 ECO**

Drawing Purpose

**PLANNING**

This drawing has been prepared for the sole purpose of forming part of a planning application, and should not be used for any other purpose.



**SPACE**

Spaceworks, Barton Park Road, Newcastle upon Tyne, NE7 7LX  
T: +44 (0)144 800 6660  
www.spaceextracts.co.uk

Project			
Lidl - Warwick Road, Carlisle			
Drawing Title			
Boundary Treatment Plan			
Project No.	Drawing No.	Status	Revision
06927	ZZ-XX-DR-A-91-0003	S3	P4
File Reference:		06927-SPACE-22-XX-DR-A-91-0003	
Scale at A3			
1:500			
This drawing is Copyright. Check all dimensions in situ. Inform engineers of any discrepancies. Work to agreed dimensions only. Do not scale.			

## PROTECTION OF EXISTING VEGETATION

Tracking of machinery, storage of chemicals and building materials shall not be permitted within the protected area. Leaks or spills should be removed immediately and the contaminated soil replaced. No bonfires shall be lit within 5m of the canopy spread. Any excavation work beneath the canopy spread shall be carried out by hand. All works affecting trees within the development shall be subject to BS 5827:2015.

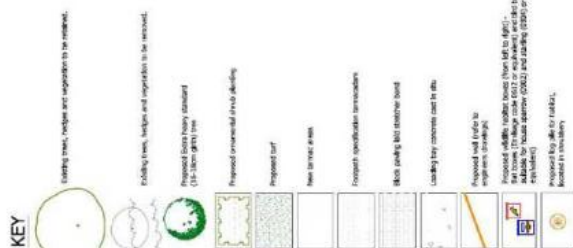
## ORNAMENTAL PLANTING SCHEDULE

[illegible]

SPECIES	HT in m	NUMBERS REQUIRED
	Girth in cm	
<i>Acacia camphora</i> (Hilleb.) (AC)		2
<i>Carpinus betulus</i> (Tardieu) (CB)		4
<i>Pinus caryana</i> (Chenodier) (PC)		2

## ECOLOGICAL MITIGATION

- Bat roosting and bird nesting boxes to be installed onto the rear and side elevation of the building under the eaves.
- Loug alikes conditioned withly chub beds to ensure nestle and insect habitat.

[illegible]





**DRAINAGE NOTES**

1. ALL NON-ADAPTABLE DRAINS UP TO 150 DIA. TO BE TWIN MANHOLES WITH 150 DIA. MANHOLES IN ACCORDANCE WITH BS EN 1401 FOR EQUAL APPROVED.
2. ALL ADAPTABLE DRAINS UP TO 300 DIA. TO BE POLYMER BY POLYMER AND MANUFACTURED IN ACCORDANCE WITH THE WATER INDUSTRY SPECIFICATION WIS 4-3-2017.
3. DRAINS TO BE INSTALLED IN ACCORDANCE WITH MANUFACTURING RECOMMENDATIONS, BACKFILL AND BEDDING TO AS PER TYPICAL DETAIL 1.0.
4. ALL DRAINS TO BE LADDED TO THE EXACT POSITION AND TO BE LADDED TO THE EXACT POSITION PRIOR TO COMMENCEMENT OF WORK. ANY REVISIONS TO BE KEPT BY THE CONTRACTOR.
5. WORKS TO ANY ADAPTED SERVICES ARE TO BE IN ACCORDANCE WITH REVISIONS FOR ADOPTION 7th EDITION TO COMPLEMENT.
6. NEW INSPECTION CHAMBERS (IC) TO BE A MINIMUM OF 450mm DIA. ALL MANHOLES (MH) TO BE A MINIMUM OF 450mm DIA. REFER TO WAT SCHEDULE FOR ACTUAL SIZES.
7. REFER TO ARCHITECTS DRAWINGS FOR INTERNAL DRAINAGE POP-UP POSITIONS.
8. ANY DRAINS PASSING THROUGH SUBSTRUCTURE WALLS TO BE INSTALLED WITH A MINIMUM OF 100mm CLEARANCE TO SUPPORT ABOVE A CEMENT FIBRE COLLARS EITHER SIDE TO PREVENT VERMIN ENTRY.
9. ANY DRAIN CAST IN & PASSING THROUGH CONCRETE TO BE INSTALLED WITH A MINIMUM OF 100mm CLEARANCE TO SUPPORT ABOVE A CEMENT FIBRE COLLARS EITHER SIDE TO PREVENT VERMIN ENTRY.
10. ALL LINES OF DRAINAGE INDICATED ARE PROVISIONAL. ONLY THE EXACT POSITION OF ALL DRAINS MAY BE DETERMINED AFTER THE EXACT POSITION OF THE DRAINAGE HAS BEEN DETERMINED. ANY REVISIONS ARE TO BE KEPT BY THE CONTRACTOR.
11. WHERE DRAINS ARE WITHIN 1m OF A BUILDING, THE TRENCH IS TO BE CONCRETE TO THE UNDERSIDE OF THE FOUNDATION.
12. COVER LEVELS SHOWN ARE APPROXIMATE ONLY AND SHOULD BE ALTERED TO SUIT FINISHED SURFACE LEVELS READ IN CONJUNCTION WITH THE MANHOLE SCHEDULE.
13. ALL MANHOLE AND INSPECTION CHAMBER COVERS IN FIXED DEPOSIT ARE NECESSARY PRIOR TO PROPOSED SURFACING BEHIND LAND.

No.	Date	Revision	By	Check/Approved
1	20/06/20	1	1	1
2	20/06/20	2	2	2
3	20/06/20	3	3	3
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**Cora<sup>Hi</sup>**

Client	LUDL
Project	Carlisle
1:4	

Drawing No.	16-1102/303				Revision	T2
	Scale	1:200 (A1)	Date	29/06/20		
	Drawn	LB	Check	TC	App	TC
Authorisation		Tel: 0181 544 4422				
Towns: Business Park		Email: <a href="mailto:info@ltd.co.uk">info@ltd.co.uk</a>				
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## SCHEDULE A: Applications with Recommendation

21/0498

Item No: 04

Date of Committee: 22/10/2021

**Appn Ref No:**  
21/0498

**Applicant:**  
Drumlister Farming

**Parish:**  
Wetheral

**Agent:**  
Summit Town Planning

**Ward:**  
Wetheral & Corby

**Location:** Land North East of Inglewood Meadows, Wetheral

**Proposal:** Change Of Use Of Agricultural Land For Siting Of 6no. Pods; Formation Of Parking Area And Footpaths; Erection Of Service Building And Bin Store

**Date of Receipt:**  
02/06/2021

**Statutory Expiry Date**  
28/07/2021

**26 Week Determination**

---

### REPORT

**Case Officer:** Richard Maunsell

#### 1. Recommendation

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

#### 2. Main Issues

- 2.1 Principle Of Development
- 2.2 Whether The Scale, Design and Impact On The Character And Appearance Of The Area is Acceptable
- 2.3 The Impact Of The Development On The Grade I And Grade II Listed Buildings
- 2.4 Impact On The Living Conditions Of The Occupiers Of Neighbouring Properties
- 2.5 Impact On Highway Safety
- 2.6 Impact On The Public Rights Of Way
- 2.7 Impact On Veteran Trees
- 2.8 Whether The Method of Disposal of Foul And Surface Water Are Appropriate
- 2.9 Development And Flood Risk
- 2.10 Biodiversity

#### 3. Application Details



## **The Site**

- 3.1 The application site comprises of a 0.7 hectare parcel of land that is currently in agricultural use and is located to the south of Wetheral. The land is accessed from an existing field access that leads from the road linking from Wetheral to the B6263 Wetheral to Cumwhinton Road via the unclassified road 1185 which passes the Wetheral Abbey Gatehouse which itself is to the north of the site.
- 3.2 The land itself slopes down from west to east towards the River Eden that is located further to the east. It is flanked by a hedgerow along the frontage and public footpaths to the east and west.
- 3.3 The River Eden is designated as a Site of Special Scientific Interest (SSSI) and Special Area of Conservation (SAC). The woodland further to the east is itself designated as an Ancient Woodland.

## **The Proposal**

- 3.5 This application seeks planning permission to change the use of the land to facilitate the development for holiday accommodation. The proposal would utilise the existing vehicular access to the land. Within the site, it is further proposed to form a hardstanding area that would serve as a parking area adjacent to which would be a timber framed bin storage area and timber service building. Access would then link from the car park to a track to the east that would be formed parallel with the camping pods. The site would be incorporate planted bunds and screen planting.
- 3.6 The pods would be sited in a linear form from north to south and orientated to face south-east. The pods would be of timber construction with a curved roof and would comprise of a living and kitchen area, double bedroom and W.C. Each pod would be served by an outdoor hot tub.
- 3.7 The foul drainage would be served by a treatment plant with the surface water discharging into a soakaway.

## **4. Summary of Representations**

- 4.1 This application has been advertised by means of a site notice, a press notice and direct notification to the occupiers of one property. In response, 36 representations have been received objecting to the application and the main issues raised are summarised as follows:
  1. the proposed development would necessitate significant changes to the topography of the meadow. These earthworks, together with the urbanisation of the field with access road, parking areas, amenity building and glamping pods would significantly harm the unspoilt appearance of the area;
  2. the current locality is unspoilt and it is difficult to see how the development would be compatible;



3. the site is visible from the Abbey Prior Gatehouse which is a Grade I listed building and English Heritage has been informed;
4. the views from neighbouring properties are across undeveloped fields;
5. uninterrupted views across open countryside from neighbouring properties will be spoilt by the access to the car park and the movement of vehicles;
6. the value of the application site along with Abbey Priory Gatehouse, Abbey Farm and neighbouring properties will be compromised as well as the surrounding countryside;
7. the applicant suggest that this will support farm income but there is no farm currently located on the land. It appears that this is the applicant's intention but in this case, there is no necessity for income diversification.
8. the proposal in no way contributes to the development and/ or protection of the arts, cultural, tourism and leisure officer in this location;
9. the proposed development is not ancillary to an established leisure attraction and is unrelated. The application site does not support the expansion of tourist and visitor facilities nor is there an identified need for such in this specific location;
10. Policy SP2(8) requires that development will be assessed against the need to the in the location specified, this is omitted from the application;
11. there is no justification with accommodation needs being met via existing establishments;
12. the application site is not a suitable location being outside the settlement boundary of the village;
13. the application site is visible from Abbey Priory Gatehouse which is a Grade I listed building of significant national historic interest. The location of the gatehouse is integral to the character of the local landscape;
14. the applicant's claim that no heritage assets would be affected by the proposal is incorrect. Various Court judgements, in particular, the Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council and others (EWCA Civ 137), confirm that considerable importance and weight must be given to preserving the setting of a listed building;
15. the siting of the pods would be detrimental to the unrestricted views south from the gatehouse and would destroy this;
16. the development will result in an increase of vehicles and noise from car engines, doors, together with shouting and singing on the site;
17. the development is designed to provide an outdoor experience which then increase noise from people socialising;
18. the area is largely free from light pollution which would not be the case if the development proceeds;
19. the Speed Survey was taken during Covid-19 lockdown. The roads do not support additional vehicle activity compounded by vehicles which park on the verges in the immediate area;
20. additional vehicles will lead to concerns about safety of residents and children walking in the locality;
21. the development will be visible from properties in The Glebe which are high value and having been purchased for the peace, tranquillity and historic views;
22. whilst the pods are for two persons, they can be booked by groups and used in conjunction with one another;

23. the preservation of wildlife habitats is a concern;
  24. surface water run-off from the site is already high and this will increase into the River Eden, a SSSI;
  25. there are no other buildings on the site and or landscape feature which would make the development acceptable;
  26. no objection in principle but there are numerous negative impacts to the wider community demonstrably outweigh the specific financial benefits to the applicants;
  27. the proposed site is agricultural land lying within the boundaries of Wetheral village, but is not in the Wetheral Local Plan (WLP) for any form of development. No camping site was included. If it were, residents would oppose inclusion of a holiday campsite, most specifically at this specific location;
  28. the data used to calculate visibility splays does not correspond to observed data;
  29. the road at the proposed access point is narrow, being single lane in places, with high hedges, and is situated close to a 90 degree bend. Visibility for the multiple vehicles entering and exiting the site on a daily basis is severely limited, to a much greater degree than suggested in the application;
  30. with 6 pods and a capacity of 24 guests, the development will get noisy, particularly as the prevailing wind is from the south or west, thereby affecting neighbouring properties;
  31. due to the topography, any guests will be able to look in the houses and gardens of neighbouring properties.
- 4.2 A petition against the application containing six signatories has been received raising some of the above issues and citing that the application is contrary to Policies SP1, SP6, EC9, EC10 and EC11 of the local plan.
- 4.3 In addition, 50 representations have been received supporting the application and the main issues raised are summarised as follows:
1. the development is an excellent use of poor farming land and would provide great for the growth of the village;
  2. this is an excellent diversification scheme and local business should be supported;
  3. this will bring tourists which will support the economy and local businesses, restaurants and shops;
  4. the development will be a great rural asset showing the rural beauty of the area;
  5. six pods will be a minuscule adverse effect on local services;
  6. the site has a safe access with good views of oncoming vehicles;
  7. employment could be provided to the local community.
- 4.4 Two representations have been received commenting on the application and the issues raised are summarised as follows:
1. based on the Wildlife Assessment Checker, the application should include a preliminary ecological appraisal due to the location immediately adjacent to the River Eden SSSI/ SAC. As the site lies within the SSSI Impact zone and within 500 metres of the SAC Natural England should be consulted on the likely impacts of the development?;

2. if the application is approved at some time then all paths, roads and parking areas should be constructed from natural materials such as gravel to enhance the agricultural setting of the development. No tarmac or concrete.
3. there is mention in the application that no artificial outside lighting will be used. Natural lighting is starlight, moonlight and sunlight but does not include solar powered filament lighting which is classified as artificial.
4. most planning inspectors apply little weight to screening using natural materials such as hedges, trees, etc because they're not permanent and are subject to disease, dieback, etc.

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

**Cumbria County Council - (Highway Authority - Footpaths):** - public footpath 138060 follows an alignment to the west side and Public footpath 138063 follows an alignment to the east side of the proposed development area and must not be altered or obstructed before or after the development has been completed;

**Cumbria County Council – (Highway Authority):** - the following response has been received:

### Local Highway Authority

A Speed Survey has been carried out with results provided enabling to use the 85th percentile. Parking provisions have been provided and the Transport Form has been completed and submitted.

The access would require the appropriate permit in place for a commercial junction access to form the access from the highway into the site. The road leading to the site is a single track route with no passing places.

Outline drainage plan has been submitted with the Drainage Strategy, showing to soakaway as shown in Appendix A Drawing No. 7010 200.

Refuse bin storage has been provided (general waste and green waste collections), a refuse vehicle will only enter a site if it is possible to turn around within the site, and normally only if the road is adopted.

A PROW (public footpath/ bridleway/ byway) number 138060 & 138063 lies adjacent to/ runs through the site, the applicant must ensure that no obstruction to the footpath occurs during, or after the completion of the site works. For any closures or diversions the applicant should contact the Countryside Access Team for the appropriate permit.

### Lead Local Flood Authority (LLFA)

The LLFA has records of minor surface water flooding to the site and the Environment Agency (EA) surface water maps indicate that the site is adjacent to an area of risk flood zone 2, the council should consult with the Environment Agency regarding flood risk assessment.

A drainage plan has been submitted with the Drainage Strategy, to soakaway

Appendix A Drawing No. 7010 200. The trial test and calculations are satisfactory.

#### Conclusion

The Highways Authority has no objection to the proposed, but recommend the imposition of highway conditions;

**Wetheral Parish Council:** - the parish council objects to the application.

The committee feels that Abbey Lonning is not suitable for an access point. The road is single track, winding and gets excessively busy at weekends and through the summer months, with users from the nearby playing fields and also walkers using the footpaths. Passing places are frequently occupied by parked cars.

There is no farmhouse building near the site, and as such, the committee has concerns regarding monitoring of the site for nuisance behaviour and noise, especially after hours.

The committee does not believe that policies EC9, EC10 and EC11 have been complied with and consider that this decision should be made by the Development Control committee rather than a Planning Officer. A site visit is requested to allow members to fully appreciate the nature of the site and the proposed access road;

**Planning - Access Officer:** - no response received;

**Local Environment - Environmental Protection:** - if planning permission was granted a Site licence under the Caravan Control and Development Act 1960 must be applied for before commercial use of the site;

**Natural England:** - the following has been received:

#### Habitats Regulations Assessment

A Habitats Regulations Assessment is required due to the proximity to the River Eden SAC. Natural England advises that there is currently not enough information to determine whether the likelihood of significant effects can be ruled out. Due to the close proximity of the above European site a HRA is required to determine potential impacts which is a requirement under the Conservation of Habitats and Species Regulations 2017.

#### Construction Environmental Management Plan

Construction Environmental Management Plan. Appropriate pollution prevention guideline measures should be incorporated to include materials and machinery storage, biosecurity, and the control and management of noise, fugitive dust, surface water runoff and waste to protect any surface water drains and the SAC from sediment, and pollutants such as fuel and cement.

#### Package Treatment Plant

The application states that foul sewerage will be discharged to a Package

Treatment Plant. Consideration should be given to the location of the PTP and associated drainage field if discharging to ground. Consultation with the Environment Agency to obtain the necessary permit is required for discharges to ground within 50 metres, or surface water within 500 metres of a designated site.

#### Ancient woodland, ancient and veteran trees

The council should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 175 of the NPPF. Natural England maintains the Ancient Woodland Inventory which can help identify ancient woodland. Natural England and the Forestry Commission have produced standing advice for planning authorities in relation to ancient woodland and ancient and veteran trees. It should be taken into account by planning authorities when determining relevant planning applications. Natural England will only provide bespoke advice on ancient woodland, ancient and veteran trees where they form part of a SSSI or in exceptional circumstances.

#### Biodiversity Net Gain

Government policy is progressing to reverse the trend of biodiversity decline, which has continued to occur despite planning policy aimed towards no residual loss in biodiversity. This includes the revised NPPF 2019 which sees a strengthening of provision for net gain through development. Defra have also consulted on updating planning requirements to make it mandatory within the forthcoming Environment Bill. This is following the publishing of Defra's 25 Year Environmental Plan, in which net gain through development is the first key objective.

Natural England therefore recommend the proposals seek to achieve biodiversity net gain, over and above residual losses which should be accounted for and addressed. With careful planning this should be achievable for this development given its scale and opportunity for extensive blue/green infrastructure. Natural England recommend the current Biodiversity Metric 2 be used to calculate the net gain in biodiversity for individual planning proposals. Due to the proximity to Ancient Woodland areas of scrub/ woodland could be created to increase habitat connectivity, this application could also create some wild flower rich grassland meadow in the surrounding fields.

A further response was received once a Habitats Regulations Assessment was sent to them which reads:

*"Natural England agree with the conclusions made in the HRA, that there is unlikely to be an adverse impact on the River Eden SAC as long as the planning condition of the production of the CEMP is secured to ensure that there is no water pollution."*;

#### **Council for Protection of Rural England/ Friends of the Lake District: -**

##### Principle

The site is clearly physically and visually separate from the edge of Wetheral and is therefore in the open countryside for the purposes of planning and

specifically in this case, local plan policy SP2. SP2 is clearly directly relevant to the proposal (especially point 8) but is not mentioned in the planning statement submitted. SP2 focuses new development within Carlisle, followed by the main towns and villages, then the rural settlements. Point 8 states that *“within the open countryside, development will be assessed against the need to be in the location specified”*. Paragraph 3.30 elaborates, stating *“[t]his approach is necessary to ensure that sustainable patterns of development prevail and that importantly unnecessary and unjustified encroachment into and urbanisation of the District’s countryside and fine landscapes is avoided, in keeping with the objectives of national policy”*.

Policy EC10 relates specifically to caravan, camping and chalet sites. It complements policy SP2, specifically requiring that such proposals will be supported where there is *“clear and reasoned justification as to why the development needs to be in the location specified”*.

The proposed development site is in the open countryside and the application has not provided clear and reasoned justification as to why it needs to be at the particular location proposed as opposed to a location more aligned with the spatial strategy set out in SP2. It therefore represents unnecessary and unjustified encroachment into the countryside and the proposed development in this location is in conflict with the local plan in principle.

#### Landscape and Heritage

In addition to the requirement mentioned above, policy EC10 also requires that *the siting, scale or appearance of the proposal does not have an unacceptable adverse impact on the character of the local landscape, or upon heritage assets or their settings* and that *the site is contained within existing landscape features*.

Policy GI1 values all landscapes for their intrinsic character and protects them from harmful or inappropriate development *“particularly those areas less able to accommodate significant change”* and requires proposals to be assessed against the Cumbria Landscape Character Guidance and Toolkit (the Toolkit). The site in question lies within landscape type 5c: Rolling Lowland as identified in the Toolkit and immediately adjacent the River Eden and type 8a: Gorges. The site is very reflective of the distinctive characteristics described for 5c, which include a strong vernacular character; a largely agricultural landscape, open, rolling topography; parkland; pasture and woodland. The importance of the River Eden is highlighted and the parklands at Corby Castle are referred to specifically. The Toolkit expressly states that in type 5c *“parkland and woodland in the farmland and alongside rivers are sensitive to changes in farming practices. Tranquility is greatest along rivers and is sensitive to development or farming intensification. The strong red sandstone vernacular of small nucleated villages is sensitive to changes from unsympathetic village expansion.”* This site is farmland/pastureland adjacent the River Eden and adjacent ancient woodland and forms part of the landscape setting of the historic nucleated settlement of Wetheral. It lies on the opposite river bank from Corby Castle and it’s designated parkland and is in a tranquil area characterised by the red sandstone vernacular. It is not contained by existing landscape features. The introduction of modern

glamping pods and associated activity, noise, lighting (including light spillage), surfacing works, structures and car parking at this prominent, open location would directly conflict with the guidance in the Toolkit and would erode the character of this landscape and so conflicts directly with policy GI1.

As well as being in very close proximity to the River Eden and Tributaries SSSI, within its impact risk zone (as covered in others' responses to this application) and within the identified Network Enhancement Zone associated with the SSSI and woodland as part of the Local Nature Recover Strategy, the site is immediately adjacent semi-natural Ancient Woodland and contains a Veteran Tree (with two others and one notable tree also very nearby). Much of this information, including the presence of the Ancient Woodland and Veteran Trees on-site or nearby is not recognised in the application and therefore cannot be said to have been properly assessed or considered in the proposals.

Habitats, including woodlands and individual trees, are an important part of the make-up of the landscape and landscape character and play a fundamental role in the ecology and biodiversity of the area. The impact of development on habitats includes direct physical impacts such as the felling of trees to make way for development and impacts on root protection areas, but also includes indirect impacts such as disturbance through increased human activity, noise and lighting as in the case of this proposal. These indirect impacts, which can occur even where proposals lie outside the habitat, can result in deterioration of the habitat as a result and must be taken into account alongside any direct impacts. In relation to Ancient Woodland and Veteran Trees, the NPPF (and local plan policy GI3 supported by para. 10.27) only allows for loss or deterioration of these irreplaceable habitats in wholly exceptional circumstances and only then, where appropriate compensation is provided. The Woodland Trust's Planners' Manual for Ancient Woodland and Veteran Trees is also a useful guide, including on how indirect impacts should be accounted for and considered.

The site lies in close proximity to and within the settings of multiple built heritage assets, including a Conservation Area, various Grade I, II and II\* listed buildings, Scheduled Monuments and a Registered Park and Garden. The public footpaths around the site link and/or offer views of a number of these assets thus provide an opportunity to experience them as a collection or related group and as part of the experience of exploring and understanding the important historic and cultural landscape around Wetheral. The Visit Cumbria website makes much of this in their article on visiting Wetheral.

To place a modern glamping development and associated parking and service structures in this prominent position would compromise the settings and experience of these heritage assets, individually and as a linked group of key elements in an historic landscape. The policies in section 9 of the local plan clearly seek to protect and enhance the heritage assets and important historic landscapes of the area in line with the NPPF.

Many of the heritage assets, and the fact that the proposal lies in their settings, are not mentioned in the application, so again it is not possible to

conclude that impacts on these assets or their settings have been properly assessed or considered in the proposals. Great weight must be given to the conservation of designated heritage assets, and even less than substantial harm to their significance must be weighed against public benefits following an explicit (demonstrably applied) application of the presumption against allowing that harm (Hughes v. SLDC). It is not clear how 6 glamping pods, available for stays only to those paying a private individual for the privilege, would amount to public benefits capable of outweighing such harm.

The application cites the NPPF's presumption in favour of sustainable development but fails to note that as per para. 3.5 of the local plan, "*the presumption [in favour of sustainable development] does not apply to development affecting sites protected under the Birds and Habitats Directives and/or land designated, amongst others, as a Site of Special Scientific Interest (SSSI) .designated heritage assets.*

### Conclusion

The proposal conflicts with the local plan in principle being in open countryside and without clear justification of a need to be in that location. In addition, it is clear that the site is characteristic of landscape type 5c and is an area within this type that is identified as being particularly sensitive to development. The proposal would introduce a non-vernacular form of development, along with associated noise, lighting, activity and urbanising service elements (hard-standing, car parking, access routes, bin stores etc) into a prominent position in open countryside in a peaceful and historic rural landscape. It would impact upon: views from public roads and footpaths; a SSSI; ancient woodland; veteran trees and the setting, views and experience of several designated heritage assets. Furthermore, the presence of these factors and thus the resulting impacts of the development on them and on the landscape overall have not been fully acknowledged or assessed in the application. On this basis, we urge that the application is refused. We strongly support the comments of the National Trust in relation to this application, although we note their comments have been recorded as a 'public comment' rather than as a comment from a significant, relevant, long-standing National stakeholder organisation;

### **Woodland Trust: -**

#### Ancient Woodland

Natural England and the Forestry Commission defines ancient woodland "*as an irreplaceable habitat [which] is important for its: wildlife (which include rare and threatened species); soils; recreational value; cultural, historical and landscape value [which] has been wooded continuously since at least 1600AD.*"

It includes: "*Ancient semi-natural woodland [ASNW] mainly made up of trees and shrubs native to the site, usually arising from natural regeneration*

*Plantations on ancient woodland sites – [PAWS] replanted with conifer or broadleaved trees that retain ancient woodland features, such as undisturbed soil, ground flora and fungi"*



### Veteran Trees \_

Natural England's standing advice on veteran trees states that they *"can be individual trees or groups of trees within wood pastures, historic parkland, hedgerows, orchards, parks or other areas. They are often found outside ancient woodlands. They are irreplaceable habitats with some or all of the following characteristics... A veteran tree may not be very old, but it has decay features, such as branch death and hollowing. These features contribute to its biodiversity, cultural and heritage value."*

### Damage to Ancient Woodland \_

The Woodland Trust objects to planning application 21/0498 on the basis of potential disturbance and detrimental impact to Wetheral Woods (grid ref: NY46795380), an Ancient Semi Natural Woodland designated on Natural England's Ancient Woodland Inventory (AWI). There are also concerns regarding potential impact to a veteran tree recorded on the Ancient Tree Inventory (ATI no: 187909).

### Planning Policy \_

The National Planning Policy Framework, paragraph 175 states: *"When determining planning applications, local planning authorities should apply the following principles:*

*c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists;*

Footnote 58, defines exceptional reasons as follows: *"For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat."* There is no wholly exceptional reason for the development in this location and as such this development should be refused on the grounds it does not comply with national planning policy.

The council should also have regard for Policies GI3 (Biodiversity and Geodiversity) and GI6 (Trees and Hedgerows) of the Carlisle District Local Plan with respect to the protection of ancient woods and trees.

### Impacts to Ancient Woodland \_

This application is for the construction of six pods within close proximity to an area of ancient woodland. Natural England has identified the impacts of development on ancient woodland or veteran trees within their standing advice. This guidance should be considered as Natural England's position with regards to development impacting ancient woodland:

*"Nearby development can also have an indirect impact on ancient woodland or veteran trees and the species they support. These can include:*

- breaking up or destroying connections between woodlands and veteran trees

- *reducing the amount of semi-natural habitats next to ancient woodland and other habitats*
- increasing the amount of pollution, including dust
- increasing disturbance to wildlife from additional traffic and visitors
- increasing light pollution
- *increasing damaging activities like fly-tipping and the impact of domestic pets*
- *changing the landscape character of the area”*

When land use is intensified such as in this situation, plant and animal populations are exposed to environmental impacts from the outside of a woodland. In particular, the habitats become more vulnerable to the outside influences, or edge effects, that result from the adjacent land's change of use. These can impact cumulatively on ancient woodland - this is much more damaging than individual effects.

The Woodland Trust are specifically concerned about the following impacts to the ancient woodland:

- intensification of the recreational activity of humans and their pets can result in disturbance to breeding birds, vegetation damage, trampling, litter, and fire damage;
- noise and dust pollution occurring from adjacent development, during both construction and operational phases;
- where the wood edge overhangs public areas, trees can become safety issues and be indiscriminately lopped/felled, resulting in a reduction of the woodland canopy and threatening the long-term retention of such trees;
- adverse hydrological impacts can occur where the introduction of hard-standing areas and water run-offs affect the quality and quantity of surface and ground water. This can result in the introduction of harmful pollutants/contaminants into the woodland.

Neither an arboricultural impact assessment nor an ecological impact assessment has been completed to accompany this application. As such, we request that until such time as these reports are submitted, the application is delayed or refused due to lack of information.

The proposal will likely result in the discharge of treated sewage within the ancient woodland. The Environment Agency (2021) has produced updated guidance on discharge points and states the following: *“You cannot meet the general binding rules if the new discharge will be in an ancient woodland or in or within 50 metres of any:*

- special areas of conservation;
- special protection areas;
- Ramsar wetland sites;
- biological sites of special scientific interest (SSSI).

*If you have or are planning to start a new discharge to ground in or near a protected site, you must connect to the public foul sewer when it's reasonable to do so. You must apply for a permit if it's not.”*

Mitigation .

Detrimental edge effects have been shown to penetrate woodland causing changes in ancient woodland characteristics that extend up to three times the canopy height in from the forest edges. As such, it is necessary for mitigation to be considered to alleviate such impacts.

Natural England's standing advice for ancient woodland, states: "*Mitigation measures will depend on the development but could include:*

- improving the condition of the woodland
- *putting up screening barriers to protect woodland or ancient and veteran trees from dust and pollution*
- noise or light reduction measures
- protecting ancient and veteran trees by designing open space around them
- *identifying and protecting trees that could become ancient and veteran trees in the future*
- rerouting footpaths
- removing invasive species
- buffer zones"

#### Buffering -

This development should allow for a buffer zone of at least 15 metres to avoid root damage and to allow for the effect of pollution from the development. The council should ensure that the width of the proposed buffer is adequate to protect the adjacent ancient woodland. HERAS fencing fitted with acoustic and dust screening measures should also be put in place during construction to ensure that the buffer zone does not suffer from encroachment of construction vehicles/stockpiles, and to limit the effects of other indirect impacts.

This is backed up by Natural England's standing advice which states that "*you should have a buffer zone of at least 15 metres to avoid root damage.*"

#### Veteran Trees -

The proposed development will also be sited adjacent to a tree recorded as a veteran on the Ancient Tree Inventory (ATI no: 187909). It is not clear from the information provided as to whether the veteran tree will be afforded a full root protection area (RPA) or if there is likely to be impact from the proposals.

Trees are susceptible to change caused by construction/development activity. As outlined in *Trees in relation to design, demolition and construction, BS 5837:2012*, the British Standard for ensuring development works in harmony with trees, construction work often exerts pressures on existing trees, as do changes in their immediate environment following construction. Root systems, stems and canopies, all need allowance for future movement and growth, and should be taken into account in all proposed works on the scheme through the incorporation of the measures outlined in the British Standard.

However Natural England's standing advice states that "*a buffer zone around an ancient or veteran tree should be at least 15 times larger than the*

*diameter of the tree. The buffer zone should be 5m from the edge of the tree's canopy if that area is larger than 15 times the tree's diameter."*

#### Conclusion

The Woodland Trust objects to this planning application unless the applicant is able to ensure that the ancient woods and trees on site are afforded buffer zones in line with Natural England's Standing Advice;

**Historic England - North West Office:** - the following response has been received:

#### Historic England Advice

The site of the proposed development of 6 camping pods, a parking area and footpaths, a service building and bin store lies less than 200m to the south of Wetheral Priory Gatehouse, effectively separated from it by only a single field boundary.

Wetheral Priory Gatehouse is the major visible surviving remnant of the buildings of a small Benedictine Priory, founded in the 12th century and dissolved in 1538. The gatehouse itself dates from the later medieval period, and was probably rebuilt following damage sustained in Scottish raids. Its significance, as the main surviving feature of the medieval priory, is recognised by its scheduling as an ancient monument (National Heritage List for England entry number 1007904) as well as its listing in Grade I (NHLE entry number 1087695).

The gatehouse is of three storeys, with domestic accommodation on the upper two. It enjoys wide views from the windows on those upper storeys, with those to the south, in particular, being unencumbered by any form of modern development. No information is provided as to the extent to which the proposed development might be visible from the upper storey of the Gatehouse. With its regularly spaced 'pods', car-parking area and hard-surfaced paths, the proposals appear rather 'suburban' in design, and rather alien to a location in open countryside. Their potential appearance in views would certainly impact negatively upon the setting of the gatehouse, and would constitute a degree of harm to it.

Government advice, as set out in section 16 of the National Planning Policy Framework (NPPF) is that any harm to designated heritage assets from development within their settings requires clear and convincing justification (paragraph 194), and that where a development will lead to less than substantial harm, that harm should nevertheless be weighed against the public benefits of the proposal (paragraph 196).

In this instance, it is not possible to say, on the basis of the information submitted with the application, that the proposed development would not cause harm to the setting of the gatehouse. We consider that further information is required concerning the potential visibility of the development from the gatehouse, in the form of photographs or, preferably, a visualisation showing the view towards the application site. It is recommended that the application should not be determined until this additional information has

been supplied, and the council and consultees have had the opportunity to consider it.

#### Recommendation

Historic England has concerns regarding the application on heritage grounds. Historic England consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 194 and 196 of the NPPF.

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

### **Assessment**

- 6.1 Section 70(2) of the Town and Country Planning Act 1990/ 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 The Development Plan for the purposes of the determination of this application is The National Planning Policy Framework (NPPF) and the Planning Practice Guidance (NPPG) are also material planning considerations in the determination of this application and the Carlisle District Local Plan 2001-2016 from which Policies SP1, SP2, SP6, SP7, EC9, EC10, HO6, IP2, IP3, IP6, CC4, CC5, CM5, HE3, GI1 and GI3 are of particular relevance. Section 66 of the Planning (Listed buildings and Conservation Areas) Act 1990 and the Cumbria Landscape Character Guidance and Toolkit (2011) are also material planning considerations. The proposals raise the following planning issues.

### **1. Principle Of Development**

- 6.3 Paragraph 7 of the NPPF outlines that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraphs 8 and 9 explaining that achieving sustainable development means that the planning systems has three overarching objectives: economic, social and environmental. All of which are interdependent and need to be pursued in mutually supportive ways. Economic growth can secure higher social and environmental standards with planning decisions playing an active role in guiding development towards solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.
- 6.4 Paragraph 10 of the NPPF states:
- “So that sustainable development is pursued in a positive way, at the heart of the Framework is a **presumption in favour of sustainable development** (paragraph 11).”*
- 6.5 Paragraph 11 requires that for decision-taking this means:
- “c) approving development proposals that accord with an up-to-date*

- 6.6 To support a prosperous rural economy, paragraph 84 outlines that planning policies and decisions should enable: *"a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings; b) the development and diversification of agricultural and other land-based rural businesses; c) sustainable rural tourism and leisure developments which respect the character of the countryside; and d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship".*
- 6.7 Paragraph 85 recognises that: *"sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist".*
- 6.8 The aforementioned paragraphs of the NPPF are reiterated in Policy EC10 of the local plan all of which seek to support sustainable rural tourism and leisure developments where they respect the character of the countryside and where identified needs are not met by existing facilities in rural services centres. Specifically, in relation to caravan, camping and chalet sites, Policy EC10 of the local plan highlights that proposals for the development of caravan sites and the extension of caravan sites will be supported subject to compliance with the criteria identified within the policy, namely that 1) clear and reasoned justification has been provided as to why the development needs to be in the location specified; 2) the siting, scale or appearance of the proposal does not have an unacceptable adverse effect on the character of the local landscape, or upon heritage assets or their settings; 3) the site is contained within existing landscape features and if necessary, and appropriate, is supplemented with additional landscaping; 4) adequate access and appropriate parking arrangements are provided; and 5) the potential implications of flood risk have been taken into account when necessary.
- 6.9 The applicant began establishing a farm steading at the end of 2020 and to this end, has obtained consent for and erected a livestock building with ancillary infrastructure including feed silos, tracks and effluent storage facilities. In addition, temporary planning permission has been granted for residential accommodation on the site. The applicant states that this will provide an additional financial revenue stream into the business. Additionally, the site is well related to Wetherall as far as such developments go and is accessible to a range of shops and facilities as well as by alternative means of transport. As such, the principle of development is considered to be acceptable. The remaining planning issues raised by the proposal are

outlined in the following paragraphs.

## **2. Whether The Scale, Design and Impact On The Character And Appearance Of The Area is Acceptable**

- 6.10 Paragraphs 126 to 136 of the NPPF which emphasises that the creation of high quality buildings and places is fundamental to what the planning system and development process should achieve. The Framework has a clear expectation for high quality design which is sympathetic to local character and distinctiveness as the starting point for the design process. Paragraph 130 outlines that:

*“Planning policies and decisions should ensure that developments:*

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”*

- 6.11 It is further appropriate to be mindful of the requirements in paragraph 134 of the NPPF which states:

*“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).”*

- 6.12 The site is designated within the Cumbria Landscape Character Guidance and Toolkit as being within Sub Type 8a ‘Gorges’. The key characteristics of these landscapes are described as:

- a deep linear sandstone gorge;
- fast flowing river with waterfalls;
- outcrops of steep rocky cliffs;
- hanging woodlands cling to the gorge sides;
- large concentrations of ancient semi-natural birch woodland and occasional coniferous;
- impressive views into the gorge from adjacent high ground.

6.13 In terms of development, the document requires that:

- ensure new development on the edges of settlements is sited and designed to reflect the traditional village form and character and maintains a rural setting. Maintain key views from villages to the River Eden;
- ensure new development elsewhere, such as caravan parks, respects the scale and traditional form of other development. Ensure that new buildings are integrated into the landscape through careful siting, design and the use of appropriate materials;
- ensure any small scale hydro electric schemes are sensitively sited and do not erode the generally undeveloped character of the landscape, or harm any nature conservation interests.

6.14 Policy SP6 of the local plan requires that development proposals demonstrate a good standard of sustainable design that responds to local context taking account of established street patterns, making use of appropriate materials and detailing and reinforcing local architectural features to promote and respect local character and distinctiveness.

6.15 The development comprises of six timber holiday pods that would each have a steel frame and timber finish. By the nature of the amount of accommodation provided, the buildings are small in scale and the curved roofs further reduce any visual impact. The buildings would be part way along the slope of the site. The hardstanding areas and ancillary buildings would be well-related to the holiday accommodation. The development would be viewed from the public highway as well as the footpaths in the locality; however, it would also be supplemented by a landscaping scheme. In the context of the development, the scale, design and use of materials would be appropriate to the character and appearance of the property, would not appear obtrusive within the wider character of the area and the proposal is compliant with policies in this regard.

### **3. The Impact Of The Development On The Grade I And Grade II Listed Buildings**

6.16 Pursuing sustainable development involves seeking positive improvements in the quality of the historic environment (paragraph 8).

Impact Of The Proposal On The Character And Setting of the Grade I and II Listed Buildings

6.17 Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 highlights the statutory duties of local planning authorities whilst exercising of their powers in respect of listed buildings. Accordingly,



considerable importance and weight should be given to the desirability of preserving listed buildings and their settings when assessing this application. If the harm is found to be less than substantial, then any assessment should not ignore the overarching statutory duty imposed by section 66(1).

- 6.18 Paragraph 201 of the NPPF states that local planning authorities should refuse consent for any development which would lead to substantial harm to or total loss of significance of designated heritage assets. However, in paragraph 202, the NPPF goes on to say that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 6.19 Criteria 7 of Policy SP7 seeks to ensure that development proposals safeguard and enhance conservation areas across the District. Policy HE3 of the local plan also indicates that new development which adversely affects a listed building or its setting will not be permitted. Any harm to the significance of a listed building will only be justified where the public benefits of the proposal clearly outweighs the significance.
- i) the significance of the heritage asset and the contribution made by its setting
- 6.20 Wetheral Abbey Gatehouse is located approximately 160 metres to the north of the application site and is a Grade I listed building. It is a 15th century stone fortification. The prior was founded at the start of the 12th Century and the gatehouse controlled the entrance to its outer courtyard. The building is important due to its historical significance and well-maintained condition.
- 6.21 To the north of the gatehouse, or rear when viewed from the application site, is Wetheral Abbey Farm which comprises a series of Grade II listed buildings. These are similarly important although less prominent within the landscape as it sits at a much lower level but is described by Historic England as:
- “Model farm, 1857 by James Stewart of Carlisle, incorporating elements of a medieval priory and a post-medieval farmstead; the eastern part was demolished mid-C20.”
- ii) the effect of the proposed development on the settings of the Grade II listed buildings
- 6.22 Also in the locality of the site is Corby Castle, which is a Grade I listed building approximately 360 metres to the north-east of the application site. The siting description reads as follows:
- “Castle. C13 tower house encased in later buildings: additions c1630 and c1690, with present facade built between April 1812 and September 1817, by Peter Nicholson for Henry Howard. red sandstone ashlar, slate roofs. 3 storeys, 5 bays to south front, which has tetrastyle aslar, slate roofs. 3 storeys, 5 bays to south front, which has tetrastyle Greek Doric porch, flanked by arcaded loggia above which is a central tripartite window and a Diocletian*

*window on 2nd floor. West face of 3 storeys, 7 bays, has open Greek Doric loggia connected to central recessed bays: both facades have cornice surmounted by the corby lion (heraldic device of the Howard family). Interior includes; Grecian entrance hall with moulded plasterwork to ceilings and niches; 1720's main staircase of 3 flights, with twisted balusters and ramped handrail; medieval spiral staircase in original tower; mural paintings of Alpine scenes by Matthew Nutter of Carlisle, in bedrooms. Set in grounds laid out between 1708 and 1729 by Thomas Howard, incorporating many buildings and features listed separately. See Country Life, 7 January 1954, p.32-35, 14 January, p.92-95."*

ii) the effect of the proposed development on the settings of the Grade II listed buildings

- 6.23 Historic England has produced a document entitled 'Historic Environment Good Practice Advice in Planning Note 3 - The Setting of Heritage Assets' (TSHA). The TSHA document and the NPPF make it clear that the setting of a heritage asset is the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive and negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
- 6.24 The NPPF reiterates the importance of a setting of a listed building by outlining that its setting should be taken into account when considering the impact of a proposal on a heritage asset (paragraph 200). However, in paragraph 202, the NPPF goes on to say that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 6.25 Section 66 (1) requires that development proposals consider not only the potential impact of any proposal on a listed building but also on its setting. Considerable importance and weight needs to be given to the desirability of preserving the adjoining listed buildings and settings when assessing this application. If the harm is found to be less than substantial, then any assessment should not ignore the overarching statutory duty imposed by section 66(1).
- 6.26 An application has been submitted for outline planning permission for residential development of a site that is allocated for development in the local plan, approximately 130 metres to the west of the Gatehouse. The land rises steeply on a small embankment and then plateaus and there is landscaping on the eastern boundary of the application site.
- 6.27 Similarly, in respect of the application for holiday accommodation, the road rises as it travels away from the gatehouse towards the site and sweeps round to the right. The fields are flanked by established hedgerows which provide screening from the site to a greater or lesser degree depending upon the time of year.

- 6.28 Given the topography of the land, the distance and intervening trees and hedges, the application site and the Gatehouse are not read in the same context and would be very little alteration, if any, from any of the upper floor window openings of the Gatehouse. In the context of Corby Castle, this is further away from the application site than the Gatehouse or Wetheral Abbey Farm and is separated by intervening trees. Additionally, Corby Castle is located immediately adjacent to the east of a wooded area next to the river thereby further shielding any views from the west. As such, it is considered that the proposal (in terms of its location, scale, materials and overall design) would not be detrimental to the immediate context or outlook of the aforementioned adjacent listed buildings.

#### **4. Impact On The Living Conditions Of The Occupiers Of Neighbouring Properties**

- 6.29 Development should be appropriate in terms of quality to that of the surrounding area and should not have an adverse impact on the living conditions of the occupiers of adjacent residential properties. There are no properties immediately adjacent to the site, the nearest being Wetheral Abbey Farm, approximately 195 metres to the north, properties in The Glebe that are 210 metres to the north, Maple Tree House (adjacent to the community centre) 280 metres to the north-west and Byrehill, which is approximately 370 metres to the east on the opposite side of the River Eden.
- 6.30 The ambient noise levels in this locality are relatively low during the day and would be even more so during the evening. There is the potential that any noise or disturbance from the site could travel down the river valley thereby affecting the amenity of the occupiers of residential properties. The proposed accommodation comprises of small glamping pods capable of accommodating two persons. There are no additional facilities proposed on the site and therefore by its very nature, in this tranquil location, the site is unlikely to attract groups of young people. Although noise and disturbance are not exclusive to young persons, it is considered appropriate that a condition is imposed to require the submission and agreement of a suitable management plan that could include issues such as prohibiting booking large groups and how noise complaints would be managed etc.

#### **5. Impact On Highway Safety**

- 6.31 The site is served by an existing vehicular access and dedicated parking would be provided to serve the holiday units. Cumbria County Council, as the Local Highways Authority initially raised queries in respect of vehicles movements and requested the submission of a Transport Form. A subsequent response has raised no objection to the application subject to the imposition of several conditions, including one for the provision of visibility splays.
- 6.32 Although the area is prone to parking of vehicles by persons using the sports facilities and the local footpaths, the development comprises of six holiday units. As previously stated, the site is close to whether where there are alternative transport links. Consequently, it is unlikely that the development

would give rise to significant vehicle movements that would exacerbate an already existing problem to such a degree as to result in any highway safety issues.

## **6. Impact On The Public Rights Of Way**

- 6.33 Cumbria County Council has advised that a public footpath follows an alignment to the west of the site and a different public footpath follows a alignment to the east of the site. Essentially, the development site comprises a parcel of land between the two footpaths. The development would not alter or obstruct the public's right of way over these footpaths but notwithstanding this, a note is included advising the applicant of this obligation unless an appropriate temporary closure or other relative consent is sought from the county council.

## **7. Impact On Veteran Trees**

- 6.34 A Pedunculate Oak is a veteran tree (ID number 187909) and is located in the north-east corner of the site, approximately 28 metres east of the centre of the access. The development is to the west and south of the access and as such, the tree would be unaffected by this development.
- 6.35 There is also an ancient woodland to the east of the application site next to the River Eden. This is physically separated from the application site itself; however, the public have a right of access through it by means of the public right of way which passes through it. The addition of six units of holiday with the potential of an additional 12 persons using the footpath and passing through the woodland would be a very minor increase in the numbers of persons using the footpaths would not result in any harm to this protected area. The siting of the pods themselves and the formation of any hardstanding would not physically affect this woodland. The imposition of appropriate conditions, as detailed later in this schedule, includes appropriate construction measures that would safeguard the adjacent woodland as well as biodiversity matters.

## **8. Whether The Method of Disposal of Foul And Surface Water Are Appropriate**

- 6.36 In accordance with the NPPF and the NPPG, surface water should be drained in the most sustainable way. The NPPG clearly outlines the hierarchy when considering a surface water drainage strategy with the following drainage options in order of priority:
1. into the ground (infiltration);
  2. to a surface water body;
  3. to a surface water sewer, highway drain, or another drainage system;
  4. to a combined sewer.
- 6.37 In order to protect against pollution, Policies IP6 and CC5 of the local plan seek to ensure that development proposals have adequate provision for the disposal of foul and surface water. The application form, submitted as part of the application, outlines that surface water would be to a sustainable

drainage system and the foul drainage would be to a package treatment plant.

- 6.38 The applicant has included a Drainage Strategy which includes details of the package treatment plant and surface water drainage arrangements, including percolation test results. Cumbria County Council as the Lead Local Flood Authority has confirmed these details are acceptable and raised no objection. If consent is required from the Environment Agency to discharge into the River Eden, this is a separate consenting process to the determination of this planning application.

## **9. Development And Flood Risk**

- 6.39 This site lies within adjacent to an area designated as Flood Zone 2; however, as the site is not within the Flood Zone there is no requirement for the submission of any additional information or further consultation.

## **10. Biodiversity**

- 6.40 Planning Authorities in exercising their planning and other functions must 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). Such due regard means that Planning Authorities must determine whether the proposed development meets the requirements of Article 16 of the Habitats Directive before planning permission is granted. Article 16 of the Directive indicates that if there is reasonable likelihood of a European protected species being present then derogation may be sought when there is no satisfactory alternative and that the proposal will not harm the favourable conservation of the protected species and their habitat.
- 6.41 The Council's GIS Layer has identified that the site has the potential for protected species to be present on or in the vicinity of the site. Following the initial consultation response from Natural England, the council undertook a Habitats Regulations Assessment (HRA) which provides information to enable 'screening' of the project with respect to its potential to have a likely significant effect on Natura 2000 Sites.
- 6.42 The HRA is a screening process which identifies the likely impacts upon a Natura 2000 site of a project or plan, either alone or in combination with other projects or plans, and considers whether these impacts are likely to be significant. Its purpose is to consider the impacts of a land-use plan against conservation objectives of the site and to ascertain whether it would adversely affect the integrity of the site. If found to be significant, the next stage of an Appropriate Assessment is triggered. Having outlined the screening assessment, the HRA concludes that:

*"For the reasons identified above, it is considered that the proposed development will not have any harmful impacts on the special nature conservation interests of the European sites concerned either in isolation or in combination with any other project or plan. Providing the implementation of*

*pollution prevention measures, no likely significant effects upon any Natura 2000 Site as a result of the proposed development are predicted alone or in-combination with any other project or plan."*

- 6.43 This is, however, subject to the recommendation that a Construction Environmental Management Plan is included within any planning permission that may be issued. Following further consultation with Natural England, the HRA was accepted and no objection has been received. In addition to the condition, an Informative should be included within the decision notice ensuring that if a protected species is found all work must cease immediately and the local planning authority informed.

## **Conclusion**

- 6.44 In overall terms, the principle of holiday accommodation on the site is acceptable in this location. The scheme would be supplemented by additional landscaping and the scale, layout and design would be appropriate to the site and would not result in an adverse impact on the character or appearance of the area.
- 6.45 The development does not raise any issues in terms of the heritage assets in the locality and subject to the imposition of conditions no biodiversity issues are raised. As a consequence of the landscaping, the site would benefit from biodiversity net gain.
- 6.46 No highway or drainage issues are raised by this proposal. Subject to the imposition of a management plan, in the context of the site, the amenity of the occupiers of the neighbouring properties would not be adversely affected. In overall terms, the proposal is considered to be compliant with the objectives of the relevant local plan policies and the NPPF.

## **7. Planning History**

- 7.1 There is no planning history relating to this application site.

## **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 development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:
1. the Planning Application Form received 19th May 2021;
  2. the Location Plan received 1st June 2021 (Drawing no. 20-161-08);
  3. the Proposed Camping Pods received 1st June 2021 (Drawing no.

- 20-161-07A);
- 4. the Drainage Strategy received 25 August 2021;
- 5. the Notice of Decision;
- 5. any such variation as may subsequently be approved in writing by the local planning authority.

**Reason:** To define the permission.

- 3. Prior to the commencement of development hereby approved, a Construction Environmental Management Plan shall be submitted to and agreed, in writing, by the local planning authority. This shall include (where appropriate):
  - 1. noise management measures;
  - 2. details of the installation of appropriate protective barriers;
  - 3. details of the storage of materials/ vehicles;
  - 4. details of checks of vehicles and other plant for leaks;
  - 5. static plant to be placed on drip trays;
  - 6. preparation of cement and other construction materials;
  - 7. waste minimisation and management measures;
  - 8. bio-security measures to prevent the introduction of disease and invasive species;
  - 9. measures to prevent pollution including the management of site drainage such as the use of silt traps during construction;
  - 10. the checking and testing of imported fill material where required to ensure suitability for use and prevent the spread of invasive species;
  - 11. the construction hours of working;
  - 12. wheel washing, vibration management;
  - 13. dust management;
  - 14. vermin control;
  - 15. vehicle control within the site and localised traffic management;
  - 16. protocols for contact and consultation with local people and other matters to be agreed with the local planning authority.

The agreed scheme shall be implemented upon commencement of development and shall not be varied without the prior written agreement of the local planning authority.

**Reason:** To ensure that the construction of the development is undertaken in an appropriate manner and does not adversely affect ecologically sensitive areas in accordance with Policy GI3 of the Carlisle District Local Plan 2015-2030.

- 4. A landscaping scheme shall be implemented in strict accordance with a detailed proposal that has first been submitted to and approved in writing by the local planning authority prior to the development being brought into use. The scheme shall include details of the following where relevant (this list is not exhaustive):
  - 1. new areas of trees and shrubs to be planted including planting densities;
  - 2. new groups and individual specimen trees and shrubs to be planted;
  - 3. specification/age/heights of trees and shrubs to be planted;
  - 4. existing trees and shrubs to be retained or removed;

5. any tree surgery/management works proposed in relation to retained trees and shrubs;
6. any remodelling of ground to facilitate the planting;
7. timing of the landscaping in terms of the phasing of the development;
8. protection, maintenance and aftercare measures.

**Reason:** To ensure that a satisfactory landscaping scheme is implemented, in the interests of public and environmental amenity, in accordance with Policies SP6 and GI6 of the Carlisle District Local Plan 2015-2030.

5. Prior to the occupation of any holiday accommodation hereby approved, a Holiday Accommodation Management Plan shall be submitted to and approved in writing by the local planning authority. The shall includes details (but not exclusively) of:
  - the booking arrangements;
  - the booking agency;
  - details regarding group bookings and ages;
  - measures to deal with troublesome guests;
  - details of pet allowance;
  - maintenance of the accommodation
  - fire precautions for the site;
  - noise policy;
  - details of use of the hot tubs;
  - details of arrival and departure arrangements.

**Reason:** In the interests of the general amenity of the area in accordance with Policies EC9, EC10 and CM5 of the Carlisle District Local Plan 2015-2030.

6. The premises shall be used for let holiday accommodation and for no other purpose, including any other purpose in Class C of the Schedule to the Town and County Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order with or without modification.

**Reason:** To ensure that the approved holiday accommodation is not used for unauthorised permanent residential occupation in accord with the objectives of Policy EC11 of the Carlisle District Local Plan 2015-2030.

7. The premises shall not be used as a second home by any person, nor shall it be used at any time as a sole and principal residence by any occupants.

**Reason:** To ensure that the approved holiday accommodation is not used for unauthorised permanent residential occupation in accord with the objectives of Policy EC11 of the Carlisle District Local Plan 2015-2030.

8. The manager/owner shall keep a register to monitor the occupation of the holiday unit subject of this approval. Any such register shall be available for



inspection by the local planning authority at any time when so requested and shall contain details of those persons occupying the holiday unit, their name, normal permanent address and the period of occupation

**Reason:** To ensure that the approved holiday accommodation is not used for unauthorised permanent residential occupation in accord with the objectives of Policy EC11 of the Carlisle District Local Plan 2015-2030.

9. The development shall not commence until visibility splays providing clear visibility as shown on Drawing No. 20-161-07A. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grown within the visibility splay which obstruct the visibility splays. The visibility splays shall be constructed before general development of the site commences so that construction traffic is safeguarded.

**Reason:** In the interests of highway safety to ensure compliance with Policies SP6 and IP2 of the Carlisle District Local Plan 2015-2030.

10. The whole of the access area bounded by the carriageway edge, entrance gates and the splays shall be constructed and drained to the specification of the Local Planning Authority in consultation with the Highway Authority.

**Reason:** In the interests of road safety and in accordance with Policies SP6 and IP2 of the Carlisle District Local Plan 2015-2030.

11. Measures to prevent surface water discharging onto the public highway shall be constructed in accordance with the specifications of the local highway authority and shall be maintained operational thereafter.

**Reason:** In the interests of highway safety and to minimise potential hazards in accordance with Policies SP6 and IP2 of the Carlisle District Local Plan 2015-2030.

12. The vehicular crossing over the footway, including the lowering of kerbs, shall be carried out to the specification of the Local Highways Authority.

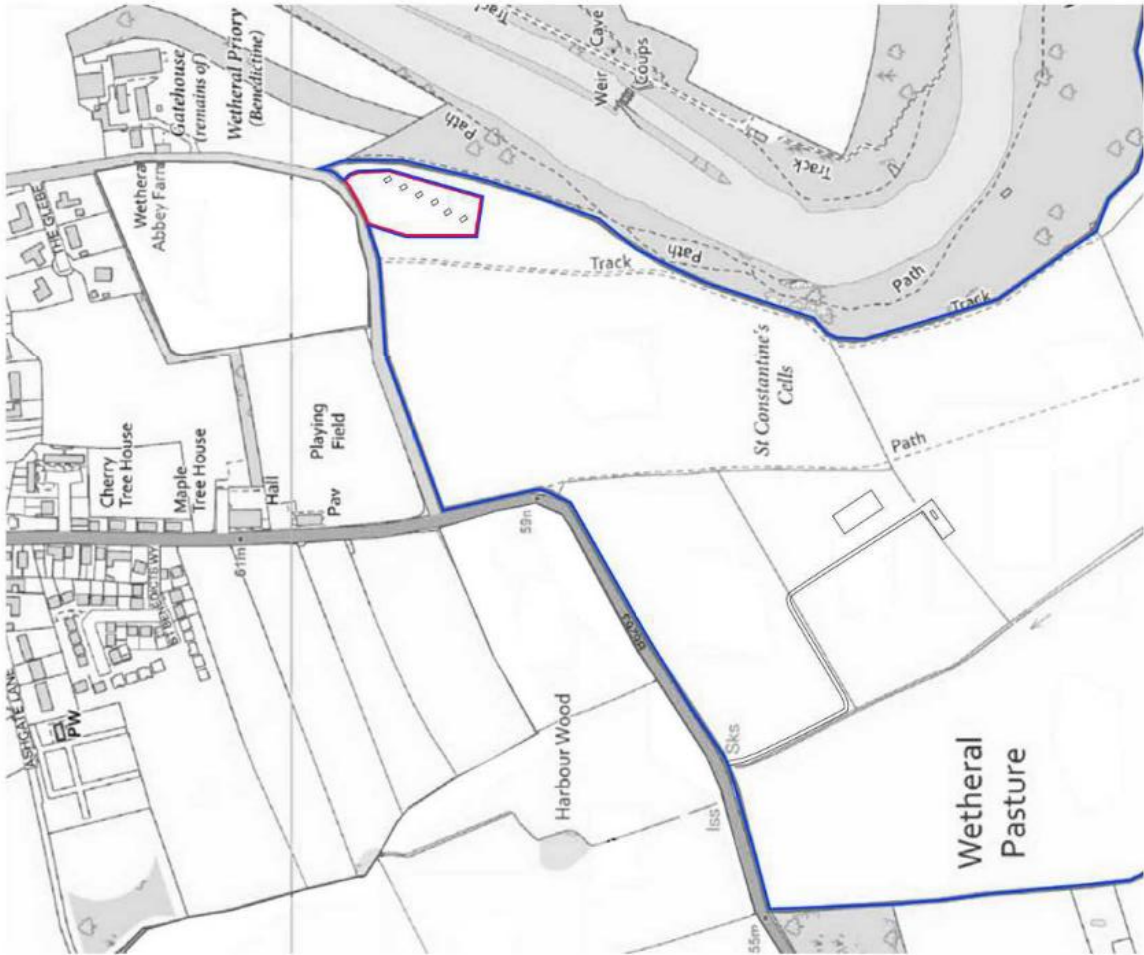
**Reason:** To ensure a suitable standard of crossing for pedestrian safety and in accordance with Policies SP6 and IP2 of the Carlisle District Local Plan 2015-2030.

13. No artificial external lighting shall be installed without the prior written consent of the local planing authority. Any lighting proposal shall include details of lighting unit, light levels and hours of luminance.

**Reason:** In in interests of the character and appearance of the area and

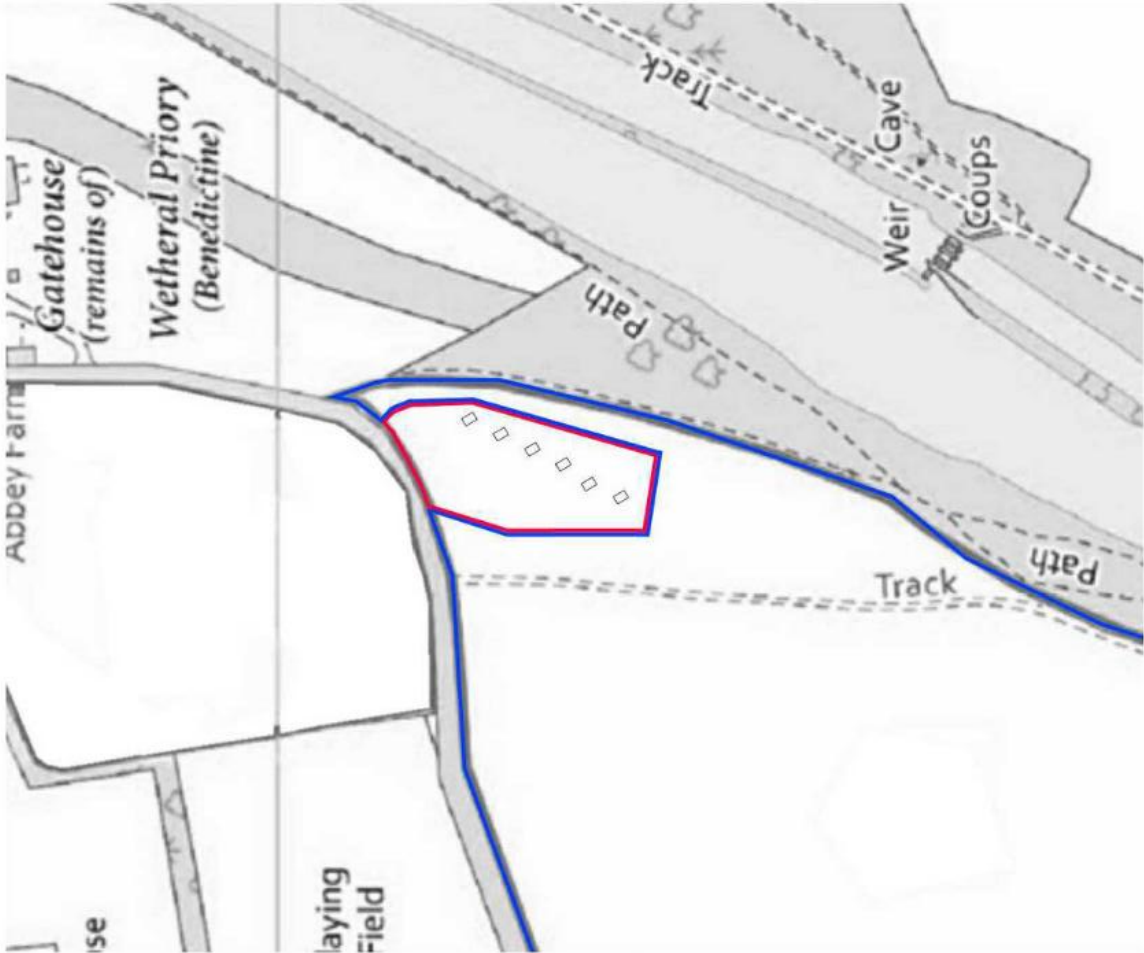
in the interests of biodiversity in accordance with Policies SP6, GI1 and GI3 of the Carlisle District Local Plan 2015-2030.

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Site Location Plan 1:5000

0 metres 200 metres



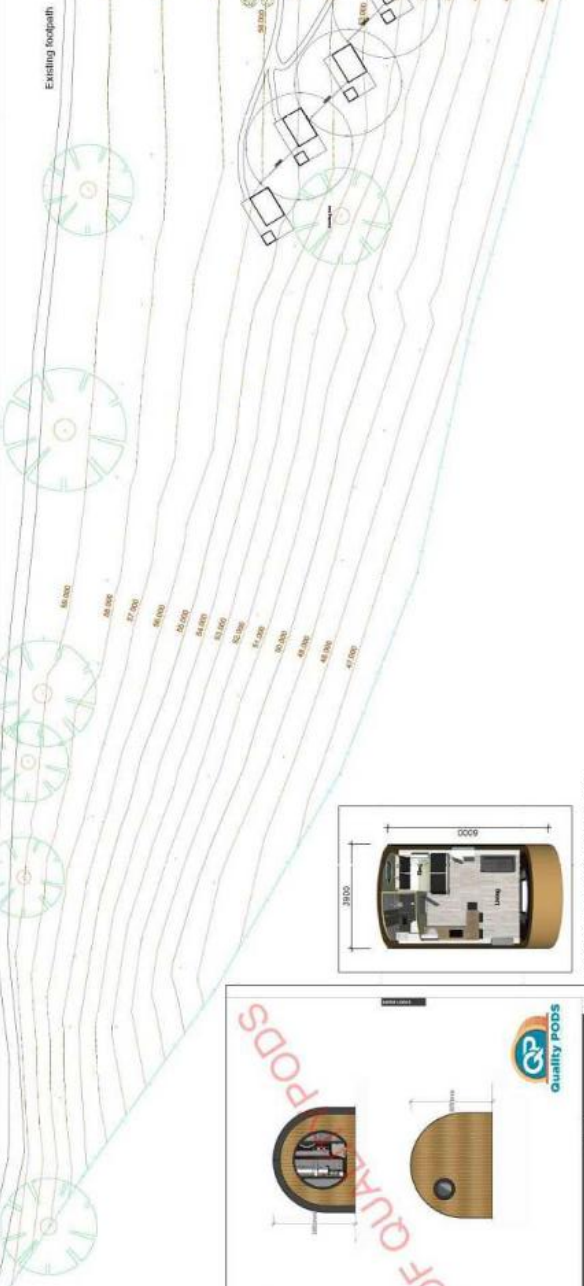
Site Location Plan 1:2500

0 metres 100 metres

revisions
Status

Planning Submission

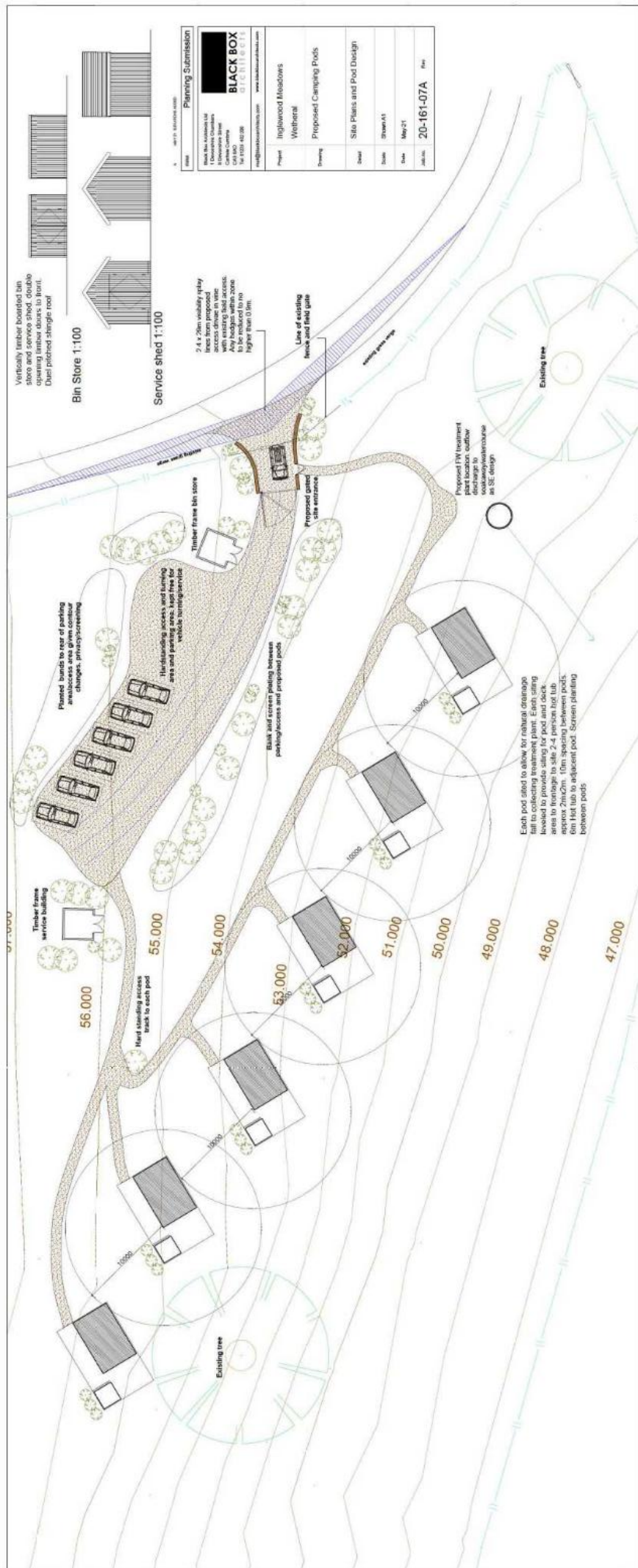
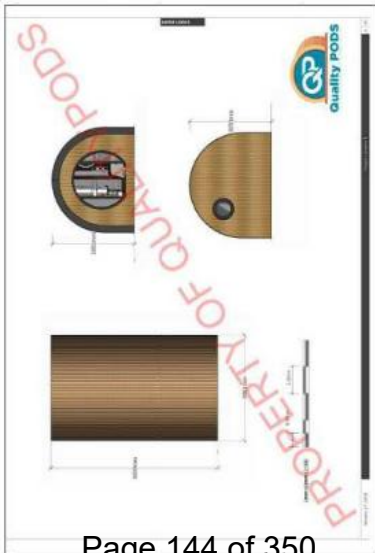
Project	Inglewood Meadows, Wetheral
Drawing	Location Plan
Detail	Proposed Camping Pods
Revision	Scale: Shown A3
Job no	20-161-08
Date	May 21
Tel	01228 402 200
Black Box Architects Limited, 1 Devonshire Chambers 8 Devonshire Street Carlisle, Cumbria, CA3 8AD Tel: 01228 402 200	BLACK BOX architects



Site Plan 1:500



Pod Plan and Elevation 1:100



Site Plan 1:200

Planning Submission	
Black Box Solutions Ltd 15 Moorpark Lane Gillingham, Kent SA14 4JH Tel: 01850 442288 info@blackboxtechnics.com	BLACK BOX TECHNICS
Project	Inglowood Meadows
Drawing	Weatheral
Sheet	Proposed Camping Pods
Scale	Site Plans and Pod Design
Date	Sheet A1
Author	May 21
Job No.	20-161-07A
Rev	



## SCHEDULE A: Applications with Recommendation

21/0766

Item No: 05

Date of Committee: 22/10/2021

**Appn Ref No:**  
21/0766

**Applicant:**  
Simpsons Builders

**Parish:**  
Wetheral

**Agent:**  
Summit Town Planning

**Ward:**  
Wetheral & Corby

**Location:** Land to the rear of 46 Broomfallen Road, Scotby, Carlisle, CA4 8DE

**Proposal:** Erection Of 1no. Dwelling

**Date of Receipt:**  
02/08/2021 08:02:33

**Statutory Expiry Date**  
27/09/2021 08:02:33

**26 Week Determination**  
25/10/2021

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### REPORT

**Case Officer:** Barbara Percival

#### 1. Recommendation

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

#### 2. Main Issues

- 2.1 Whether the principle of development is acceptable
- 2.2 Impact of the proposal on the character of the area
- 2.3 Scale and design of the dwelling
- 2.4 Impact of the proposal on the living conditions of neighbouring residents
- 2.5 Impact of the proposal on highway safety
- 2.6 Methods for the disposal of foul and surface water
- 2.7 Impact of the proposal on biodiversity
- 2.8 Impact of the proposal on existing trees and hedgerows
- 2.9 Other Matters

#### 3. Application Details

##### The Site

- 3.1 The application site is located within a development site, known as Ridge Close, to the rear of numbers 44 to 52 Broomfallen Road, Scotby. The

development site has permission for the erection of 4no. dwellings. Number 1 Ridge Close has been completed and is now occupied with the three remaining properties within the development currently under construction.

## **Background**

- 3.2 The full planning history for the site has been reproduced in Section 7 of this report. Nevertheless, to assist Members the salient planning history for the site has been detailed below.
- 3.3 In 2014, Members of the Development Control Committee granted outline planning permission with all matters reserved, subject to the completion of a Section 106 Agreement (application reference 13/0950). The Section 106 Agreement, requiring a contribution towards off-site affordable housing, was subsequently entered into and the decision notice issued on the 12th November 2014.
- 3.4 In 2017, an application for the erection of 3no. dwellings (renewal of outline permission granted under reference 13/0950) was approved under delegated powers (application reference 17/0617). This application again sought outline planning permission with all matters reserved; however, it was assessed against policies within the current adopted local plan. Policy HO4 of the local plan identified that the site is located within Zone A which requires a contribution towards affordable housing for all sites of six units and over. The proposal fell below the aforementioned threshold, therefore, a contribution towards affordable housing was not required.
- 3.5 In August 2018, an application on a larger parcel of land for the demolition of lean to at 46 Broomfallen Road and erection of 5no. dwellings with associated infrastructure was refused by Members of the Development Control Committee (application reference 18/0506). An appeal was subsequently dismissed by the Planning Inspectorate in February 2019.
- 3.6 Members of the Development Control Committee subsequently approved an application for the erection of 2no. dwellings and associated infrastructure (revised application) at its meeting in January 2019 (application reference 18/0907).
- 3.7 Also in 2019, Members of the Development Control Committee approved an application for the erection of 1no. dwelling and provision of refuse bin access point (application reference 19/0374).
- 3.8 In October 2020, an application for the variation of condition 2 (approved documents) of previously approved application 18/0907 (erection of 2no. dwellings and associated infrastructure) to reposition the dwelling on plot 2 was approved (application reference 20/0557).
- 3.9 Earlier this year, Members of the Development Control Committee granted planning permission for the erection of 1no. dwelling (application reference 20/0709).

## **The Proposal**

- 3.10 The submitted drawings illustrate the siting of a dwelling to the north of Plot 4 which is currently under construction (application reference 20/0709). The topography of the land is such that it slopes from east to west, however; the land to the rear of the development site has been cut into to provide a level platform and enable the ridge lines of the dwellings, currently under construction, to be kept as low as possible to retain the skyline. In respect of this current dwelling, the land form within this part of the development, although slightly higher can accommodate a two storey dwelling without further remodelling of the land. The submitted drawings, however; illustrate that the ridge line of the proposed two storey dwelling would be approximately 800mm higher than that of the adjacent Plot 4.
- 3.11 The 'T-shaped' dwelling would have a maximum length of 17.2 metres by a maximum width of 12.1 metres with a maximum ridge of 8.4 metres. The accommodation would comprise of double garage, living room, 1no. ensuite bedroom, 1no. bedroom, hall, utility and cloakroom with living room, kitchen/family room, hall, master en-suite bedroom, 1no. bedroom and bathroom above.
- 3.12 The proposed walling materials for the dwelling are a combination of clay facing bricks, render and fibre cement weatherboarding with artstone cills, string courses and quoins. The roof would be finished in concrete flat profile roof tiles.
- 3.13 The submitted drawings illustrating that the northern (rear) and eastern boundaries would be delineated by a native species hedgerows reinforced with native trees along its eastern boundary. The remaining boundaries would consist of a combination of wooden fences and retaining walls. Vehicular access to serve the proposed development would be from Broomfallen Road utilising the same un-adopted access which serves Plots 1 to 4.

## **4. Summary of Representations**

- 4.1 This application has been advertised by the direct notification of seven neighbouring properties and the posting of a site notice. In response, eight representations of support have been received.
- 4.2 The representations identify the following issues:
1. the development makes the best use of the site;
  2. complements the standard of work of the developer;
  3. build and design of the dwellings is ideal especially in respect of providing dependent relatives accommodation;
  4. the proposed dwelling would be a complementary infill and complete this small individual development so as not to leave an empty unused area.

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

**Wetheral Parish Council, Wetheral Community Centre:** - the proposal would have a detrimental impact on the character and appearance of the area because of the scale of the dwelling and the prominent position within the landscape. This would be contrary to Policies SP6 and Policy HO3 of the Carlisle District Local Plan 2015-2030. A shared bin collection point is proposed close to the access point off Broomfallen Road. The distance for residents to take their bins for collection would be considerable, particularly for the future occupants of the dwellings, who would have a return walk of approximately 140 metres on a steeply sloped site. Members recall the original application for five dwellings was refused on appeal 18/0506 by the Planning Inspectorate, however it appears the applicant has achieved four dwellings currently, by submitting them piece meal through the planning process, this application being the fifth. Should the process not be questioned?

**Cumbria County Council - (Highways & Lead Local Flood Authority):** - the slight increase in vehicular use of the existing access is unlikely to have a significant material affect on existing highway conditions, therefore, confirm that the Highways Authority has no objection to the proposal. It is noted that issues have been raised previously in the area with regards to surface water and would recommend the imposition of conditions in respect of the submission of a construction surface water management plan and surface water drainage scheme.

## **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 is the National Planning Policy Framework (NPPF), the Planning Practice Guidance (PPG) and Policies SP2, SP6, HO2, IP3, IP4, IP6, CC5, GI1, GI3 and GI6 of the Carlisle District Local Plan 2015-2030. Other material considerations are Supplementary Planning Documents adopted by the City Council, in particular 'Achieving Well Designed Housing' and 'Trees and Development'.

### **1. Principle Of Development**

- 6.3 Paragraph 11 of the NPPF outlines that: *"at the heart of the NPPF is a presumption in favour of sustainable development"*. Paragraph 78 expands by highlighting that: *"To promote sustainable development and in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby"*.



- 6.4 The aims of the NPPF is reiterated in Policy HO2 of the local plan which outlines that new housing development other than those allocated will be acceptable within or on the edge of Carlisle, Brampton, Longtown and in the rural areas provided that the development would not prejudice the delivery of the spatial strategy of the local plan and be focussed in sustainable locations subject to satisfying five criteria.
- 6.5 The application site is well contained within existing and proposed boundaries and adjoins the domestic curtilages of other dwellings within the development now known as Ridge Close. Scotby has a high level of services which consist of a public house, village hall, school and church. Accordingly, Scotby is a sustainable location, therefore, the principle for the development of the site for housing remains consistent with the objectives of the NPPF and Policy HO2 of the local plan.
- 6.6 In overall terms, the application site is well contained within existing landscape features, it is physically connected, and integrates with, the settlement, and would not lead to an unacceptable intrusion into open countryside. The development of a two storey dwelling is of an appropriate scale for the village to accommodate and would not be considered a threat to the delivery of the local plan's spatial strategy. Any perceived visual impact the proposal would be mitigated as the dwelling would be set down into the topography of the area and be partially screened from public viewpoints by existing and proposed landscaping. Compliance with other criteria within Policy HO2 of the local plan will be discussed in the relevant sections below.
- 6.7 In light of the foregoing, the site for housing remains consistent with both the NPPF and local plan, therefore, the principle of development is acceptable.

## **2. Impact Of The Proposal On The Character Of The Area**

- 6.8 Planning policies seek to ensure that proposals for development in the rural area conserve and enhance the special features and diversity of the different landscape character areas. Development proposals are expected to incorporate high standards of design including regard to siting, scale and landscaping which respect and, where possible, should enhance the distinctive character of the landscape.
- 6.9 The application seeks full planning permission for the erection of a dwelling within a development site, now known as Ridge Close, which has planning permission for the erection of 4no. dwellings. Number 1 Ridge Close has been completed and is now occupied with the remaining properties currently under construction.
- 6.10 The submitted drawings illustrate a detached dwelling in the northern eastern corner of the development adjacent to Plot 4. As highlighted earlier in the report, an application for the erection of 5 dwellings on part of the application site was dismissed by the Planning Inspectorate earlier this year. The Inspector found that one of the main issues centred on: the effect of the proposal on the character and appearance of the area. The Inspector

highlighted that: "*... dwellings 2, 3 and 4 would sit further away from the existing dwellings and on significantly higher land. Efforts have been made through the split-level design of these dwellings to minimise their height. However, the two storey elevations with gabled concrete roof tiles would be clearly appreciable on entering the village from the south and through the field to the north of number 44. The visual impact would be exacerbated by the massing of these dwellings seen in close relationship to each other and their bulk and scale particularly to western facing elevations. Consequently, the dwellings would be prominent within the wider landscape and the departure from the linear form of development on this part of Broomfallen Road would be emphasised by their massing and elevated position. The existing and proposed planting would not sufficiently mitigate the impact on the character and appearance of the area*". In overall terms, the Inspector found that the development subject of the appeal would: "*... have a detrimental impact on the character and appearance of the area by virtue of the split-level dwellings and their scale, massing and prominent position within the landscape*".

- 6.11 In respect of this application, the proposed dwelling would be located immediately adjacent to Plot 4 with its ridge height approximately 800mm higher than that of Plot 4. Although this proposal is for a two storey dwelling, the topography of the land has evolved during the course of the development from that which the Inspector viewed as the land has been cut into and levelled. Furthermore, any perceived visual impact especially when viewed from the north or south would be mitigated by existing and proposed landscaping helping the dwelling to soften and settle the dwelling into the landscape.
- 6.12 In light of the foregoing assessment, the proposal would respond to the local context and would not be disproportionate or obtrusive within the character of the street scene.

### **3. Whether The Scale And Design Of The Dwelling Is Acceptable**

- 6.13 Policies seek to ensure that development proposals are appropriate in terms of quality to that of the surrounding area and that development proposals incorporate high standards of design including siting, scale, use of materials and landscaping which respect and, where possible, enhance the distinctive character of townscape and landscape. This theme is identified in Policies SP6 and HO2 of the local plan which requires that development proposals should also harmonise with the surrounding buildings respecting their form in relation to height, scale and massing, make use of appropriate materials and detailing and achieve adequate amenity space.
- 6.14 Within the immediate vicinity of the application site there are a range of single and two storey dwellings of differing styles and ages. The proposed dwelling although not of split level construction would be of a similar scale and massing to those properties currently under construction on Plots 3 and 4.
- 6.15 In overall terms, the scale and massing of the proposed dwelling would respond to the form of existing and proposed dwellings within this part of

Broomfallen Road and achieve adequate external space and in-curtilage parking provision. The proposed palette of materials would also respect and reflect those of the adjacent properties. Furthermore, the retention of existing landscaping together with proposed landscaping would also help to soften and blend the proposed dwelling into the landscape.

#### **4. Impact Of The Proposal On The Living Conditions Of Neighbouring Residents**

- 6.16 Development should be appropriate in terms of quality to that of the surrounding area and do not have an adverse impact on the living conditions of the occupiers of adjacent residential properties. The City Council's SPD 'Achieving Well Designed Housing' provides guidance as to minimum distances between primary windows in order to respect privacy and avoid overlooking i.e. 12 metres between primary windows and blank gables and 21 metres between primary windows.
- 6.17 The orientation of the proposed dwelling, fronting onto a central access road, would ensure that the minimum distances between primary windows to protect against loss of privacy as outlined in the SPD 'Achieving Well Designed Housing' would be satisfied.
- 6.18 In overall terms, the siting, scale and design of the proposed dwelling would not adversely affect the living conditions of the occupiers of neighbouring properties by virtue of loss of privacy, loss of light or over-dominance. To further protect the residential amenity of the occupiers of neighbouring properties during construction a condition is recommended that would ensure that the development is undertaken in strict accordance with the details contained in the Construction Management Plan discharged under application 19/0225. This document includes details of working practices and construction traffic parking.

#### **5. Impact Of The Proposal On Highway Safety**

- 6.19 The dwelling would utilise the same access as that of the existing and proposed dwellings within Ridge Close. Cumbria County Council, as Highways Authority, raises no objections to this current proposal as the slight increase in vehicular use of the existing access is unlikely to have a material affect on existing highway conditions.

#### **6. Methods For The Disposal Of Foul And Surface Water Drainage**

- 6.20 There is a clear policy requirement to provide adequate provision for foul and surface water facilities to ensure that enough capacity exists prior to commencement of any development. The submitted application form states that foul drainage would be disposed of via the mains sewer with surface water to a sustainable drainage system, however; no drainage details have been submitted.
- 6.21 Cumbria County Council, as Lead Local Flood Authority (LLFA) acknowledges issues raised previously with surface water flooding with in

vicinity and recommends the imposition of conditions should Members approve the application. The recommended pre-commencement conditions would require the submission of a surface water drainage scheme together with a construction surface water management scheme.

## **7. Impact Of The Proposal On Biodiversity**

- 6.22 The Councils GIS Layer has identified that there is the potential for several key species to be present within the vicinity. Using the guidance issued by Natural England it is unlikely that the proposed development would harm protected species or their habitat. To further protect biodiversity and breeding birds, informatics are recommended within the decision notice drawing the applicant's attention to the requirement under conservation legislation such as the Wildlife and Countryside Act 1981, The Conservation of Habitats and Species Regulations 2010 etc.

## **8. Impact Of The Proposal On Existing Hedgerows**

- 6.23 Policy GI6 of the local plan seek to ensure that proposals for new development should provide for the protection and integration of existing trees and hedges. In respect of new development, the City Council will resist proposals which cause unacceptable tree loss, and which do not allow for the successful integration of existing trees and hedges. This aim is further reiterated in Policy SP6 of the local plan which requires all developments to take into account important landscape features and ensure the enhancement and retention of existing landscaping.
- 6.24 The City Council's SPD 'Trees and Development' outlines that native large growing species are intrinsic elements in the landscape character of both rural and urban areas alike and acquire increasing environmental value as they mature. Large trees need space in which to grow to maturity without the need for repeated human intervention. Not only should the design of the development seek to retain existing tree and hedgerow features, but sufficient space should be allocated within the schemes to ensure integration of existing features and space for new planting it is important that these issues are considered at the very start of the planning process.
- 6.25 The submitted drawings illustrate that the northern and eastern boundaries of the site would be delineated by a new native species hedge with native trees. To protect the mature trees along the northern boundary of the application site a condition is recommended ensuring that tree protection barriers are in situ prior to and during the course of the development. In overall terms, existing and proposed landscaping would help to soften and blend the development into the landscape.

## **9. Other Matters**

- 6.26 As highlighted earlier in the report, an application for the erection of 5 dwellings on part of the application site was dismissed by the Planning Inspectorate in February 2019. The Inspector found that one of the main issues centred on: where or not the proposed development would provide for

acceptable living conditions for future occupiers with particular regard to refuse collection facilities. The Inspector found that: *"The proposed access to the site is via a shared drive to the side of No 46. The drive would measure approximately 70 metres in length from the boundary with the highway on Broomfallen Road to the top of the turning head which fronts the proposed split-level dwellings. A shared bin collection point is proposed close to the access point off Broomfallen Road. The distance for residents to take their bins for collection would be considerable, particularly for the future occupants of the split-level dwellings who would have a return walk of approximately 140 metres on a steeply sloped site. Taking these factors into account, I conclude that the proposals would not provide convenient refuse collection facilities for future occupiers".*

- 6.27 In respect of the application now before Members, the weekly refuse collection point for the proposed dwelling would be the same as for the other four properties within Ridge Close. However, the setting down of the dwelling within the topography of the land addresses the concerns of the Planning Inspector in respect of the distance and steepness of the site. Furthermore, the shared use of the bin trolley would also benefit the future occupiers of the proposed dwelling should Members approve the application.
- 6.28 The parish council have questioned the submission of 'piecemeal' planning applications for the dwellings within the development site. As Members are aware, each application is dealt with on its own merits and there is nothing in planning legislation to prohibit the applicant submitting multiple applications.

## **Conclusion**

- 6.29 In overall terms, the principle of residential development on the site remains acceptable under the provisions of the NPPF and the local plan. The application site is well contained within existing landscape features, it is physically connected, and integrates with, the settlement, and would not lead to an unacceptable intrusion into open countryside. The development of 1no. dwelling is of an appropriate scale for the village to accommodate and would not be considered a threat to the delivery of the local plan spatial strategy.
- 6.30 The scale, design and massing of the proposed dwelling set down within the topography of the land would be appropriate and would not have a detrimental impact on the occupiers of neighbouring properties through unacceptable overlooking, loss of light or over-dominance. Existing and proposed landscaping together with the proposed palette of materials would also help to soften and blend the proposed dwelling into the landscape, thereby, minimising any perceived visual impact.
- 6.31 In all other aspects, the proposal is compliant with the objectives of the NPPF, PPG, relevant local plan policies and SPD's. Accordingly, the application is recommended for approval.

## **7. Planning History**

- 7.1 In 2014, outline planning permission was granted for the erection of 3no. dwellings (application reference 13/0950).
- 7.2 In 2017, outline planning permission was granted for erection of 3no. dwellings (renewal of outline permission granted under reference 13/0950 (application reference 17/0617).
- 7.3 In 2018, full planning permission was refused for the demolition of lean to at 46 Broomfallen Road and erection of 5no. dwellings with associated infrastructure (application reference 18/0506). A subsequent appeal was dismissed by the Planning Inspectorate on the 14th February 2019.
- 7.4 In 2019, full planning permission was granted for the erection of 2no. dwellings and associated infrastructure (revised application) (application reference 18/0907).
- 7.5 Also in 2019, an application for the discharge of discharge of conditions 4 (surface water drainage scheme); 5 (carriageway, footways, footpaths, cycleways); 13 (parking of vehicles for construction); 14 (materials); 15 (hard surface finishes) & 16 (construction method statement) of previously approved permission 18/0907 was granted (application reference 19/0225).
- 7.6 Again in 2019, full planning permission was granted for the erection of 1no. dwelling and provision of refuse bin access point (application reference 19/0374).
- 7.7 An application to discharge of conditions 3 (materials) & 4 (construction surface water management plan) of previously approved permission 19/0374 was granted in December 2019 (application reference 19/0841).
- 7.8 In 2020, an application for a non material amendment of previously approved application 18/0907 was granted (application reference 20/0072).
- 7.9 Also in 2020, an application for the variation of condition 2 (approved documents) of previously approved application 18/0907 (erection of 2no. dwellings and associated infrastructure) to reposition the dwelling on plot 2 was approved (application 20/0557).
- 7.10 Earlier this year, an application to discharge of conditions 3 (surface water drainage scheme); 4 (construction surface water management plan) & 5 (scheme for the provision of foul water drainage works) of previously approved permission 20/0709 was granted (application reference 21/0098).

## **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 development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:
  1. the submitted planning application form received 2nd August 2021;
  2. the contamination report received 2nd August 2021;
  3. plot 5 site section, elevations, floor plans received 2nd August 2021 (Drawing No. 17042-42);
  4. plot 5 site plan & site section received 6th October 2021 (Drawing No. 17042-43C);
  5. plot 5 block plans, location plan received 2nd August 2021 (Drawing No. 17042-44);
  6. the Notice of Decision;
  7. any such variation as may subsequently be approved in writing by the local planning authority.

**Reason:** To define the permission.

3. Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the local planning authority.

The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the local planning authority, no surface water shall discharge to the public sewerage system either directly or indirectly.

**Reason:** To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution in accordance with Policy CC5 of the Carlisle District Local Plan 2015-2030.

4. No development approved by this permission shall be commenced until a scheme for the provision of foul water drainage works has been approved in writing by the local planning authority. Such a scheme shall be constructed and completed in accordance with the approved plans.

**Reason:** To ensure a satisfactory means of foul water disposal and in accordance with Policy IP6 of the Carlisle District Local Plan 2015-2030.

5. No development shall commence until a construction surface water management plan has been agreed in writing with the local planning authority.

**Reason:** To safeguard against flooding to surrounding sites and to safeguard against pollution of surrounding watercourses and drainage systems in accordance with Policy CC4 of the Carlisle

District Local Plan 2015-2030.

6. Before any development is commenced on the site, including site works of any description, a protective fence in accordance with Fig. 2 in B.S. 5837: 2012 shall be erected around the trees and hedges to be retained at the extent of the Root Protection Area as calculated using the formula set out in B.S. 5837. Within the areas fenced off no fires shall be lit, the existing ground level shall be neither raised nor lowered, and no materials, temporary buildings or surplus soil of any kind shall be placed or stored thereon. 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 Policies SP6 and GI6 of the Carlisle District Local Plan 2015-2030.

7. The dwelling shall not be occupied until the access, turning and parking facilities have been constructed in accordance with the approved plan. The access and turning provision shall be retained and be capable of use thereafter and shall not be removed or altered without the prior consent of the local planning authority.

**Reason:** In the interests of highway safety and in accordance with Policies SP6 and IP3 of the Carlisle District Local Plan 2015-2030.

8. The development hereby approved shall be undertaken in strict accordance of the Construction Management Plan Rev B (May 2019) approved under planning approval 19/0225.

**Reason:** To protect the living conditions of the occupiers of the adjacent residential properties in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

9. As part of the development hereby approved, adequate infrastructure shall be installed to enable telephone services, broadband, electricity services and television services to be connected to the premises within the application site and shall be completed prior to the occupation of the dwellings.

**Reason:** To maintain the visual character of the locality in accord with Policy IP4 of the Carlisle District Local Plan 2015-2030.

10. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or the completion of the development, whichever is the sooner, and maintained thereafter to the satisfaction of the Council; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority



gives written consent to any variation.

**Reason:** To ensure that a satisfactory landscaping scheme is implemented and that it fulfils the objectives of Policy GI6 of the Carlisle District Local Plan 2015-2030.

11. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the local planning authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority.

**Reason** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

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**PROPOSED BLOCK PLAN**  
SCALE 1:500



**EXISTING BLOCK PLAN**  
SCALE 1:500



**LOCATION PLAN**  
SCALE 1:1250

PLANNING

**ARCHITECTS**  
PLUS

Residential Development  
U/R 46 Broomfield Road, Scotby

Client  
Simpsons The Builders

Plot 5

Block Plans, Location Plan

Scale	Date	Drawn	Checked	Project No.
1:500	07/21	DB	P12	17042-44
1:1250				



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Revised by: [Signature]  
 Date: 08/10/21  
 Description: The plan is updated to show the proposed boundary and the proposed boundary is updated.

Project: Residential Development  
 Location: U/R 46 Broomfallen Road, Scooby  
 Client: Simpsons The Builders  
 Drawing: Plot 5 Site Plan & Site Section  
 Scale: 1:200  
 Date: 07/21  
 Drawn by: DB  
 Checked by: P12  
 Project No: 17042-43C  
 Sheet No: 08A1

**PLANNING**

**ARCHITECTS PLUS**

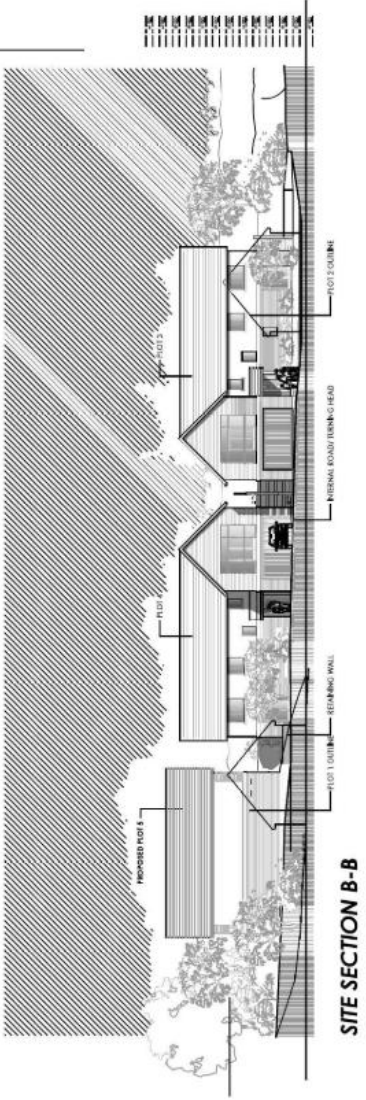
Residential Development  
 U/R 46 Broomfallen Road, Scooby

Simpsons The Builders

Plot 5  
 Site Plan & Site Section

Scale: 1:200  
 Date: 07/21  
 Drawn by: DB  
 Checked by: P12  
 Project No: 17042-43C  
 Sheet No: 08A1

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ARCHITECTS PLUS

## SCHEDULE A: Applications with Recommendation

21/0649

Item No: 06

Date of Committee: 22/10/2021

**Appn Ref No:**  
21/0649

**Applicant:**  
Mr Paterson

**Parish:**  
Wetheral

**Agent:**  
Harraby Green Associates

**Ward:**  
Wetheral & Corby

**Location:** Land to the south of The Coach House, Allenwood, Heads Nook

**Proposal:** Formation Of Vehicular Access Into Field

**Date of Receipt:**  
28/06/2021 13:00:45

**Statutory Expiry Date**  
23/08/2021 13:00:45

**26 Week Determination**  
25/10/2021

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### REPORT

**Case Officer:** Richard Maunsell

#### 1. Recommendation

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

#### 2. Main Issues

- 2.1 Whether The Scale, Design And Impact On The Character And Appearance Of The Area Is Acceptable
- 2.2 Highway Matters
- 2.3 The Impact On The Living Conditions Of Residential Properties
- 2.4 Biodiversity
- 2.5 Other Matters

#### 3. Application Details

##### The Site

- 3.1 The application site is parcel of agricultural grazing and to the south of the former Coach House situated between Corby Hill and Heads Nook. The land slopes down from west to east and a mature hedgerow flanks the western boundary. There are residential properties further to the north.

##### The Proposal

- 3.2 This application is for full planning permission for the formation of a vehicular access that would include a bell-mouth entrance with visibility splays in either direction.

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

- 4.1 This application has been advertised by means of a site notice and direct notification to the occupiers of 11 properties. In response, seven representations have been received objecting to the application and the main issues raised are summarised as follows:

1. there is an existing access into the field. It is clear that the access proposed into this agricultural field is to pave the way towards further development as per the previous application for holiday cabins on this land. I'm opposed to any increase in traffic which will in my opinion be unsafe, unsightly, and only serve to increase pollution and noise in this scenic hamlet;
2. this busy stretch of road is on a very long straight from both directions and that unfortunately encourages people to drive too fast given the presence of and limited visibility at the crossroads at Allenwood and the number of vulnerable road users;
3. there is an increase number of walkers, cyclists and horse riders using this road who are at risk from speeding vehicles. Additional traffic would make this worse;
4. the entrance onto the road from Heads Nook to Warwick Bridge is a fast 60 mph road. A short distance from the entrance is a crossroads with a blind exit from Allenwood cottage, well known for accidents;
5. creating access into the field at this point on this stretch of road would increase the likelihood of accidents here unless significant traffic calming measures were put into place. The previous application showed 90% objections based on safety of access;
6. the required visibility splay for a 54 to 62mph is 214metres, not 160metres as the plans show. The visibility was lowered due to the speed strip that was placed at the existing entrance not the new access therefore giving a false reading;
7. the previous application showed 90% objections based on safety of access;
8. the hedges are high beyond the access further obscuring the view.
9. it is well known that there are bats nesting in nearby buildings which feed over the field. It is a concern that the headlights from traffic turning in here at night would disturb them and disrupt their feeding patterns;
10. any future development of any holiday park/ caravan/ cabins/ camping in this location will be detrimental to the appearance and character of our local area. It will contribute to increased noise and disturbance, seriously impacting the privacy of the neighbouring properties, especially those closest;
11. the proposed access would involve removing a substantial section of a mature hedge which currently acts as a safe corridor for wildlife to be able to travel up and down this stretch of road and is home to a wide variety of

- birds and small mammals;
12. a commercial development is opposed with previous concerns regarding sewage, lighting, water supply, noise and access;
  13. large slower vehicles such as lorries, caravans would be a greater hazard.

## 5. Summary of Consultation Responses

**Hayton Parish Council:** - the parish council submitted the following observations:

- parishioners are concerned that permitting the vehicular access would enable other developments. If it is approved they would want a condition that the access is only for agricultural use;
- the visibility improvements do not meet national standards. The visibility of 160m cannot be achieved to the north. The block plan clearly shows that the distance has been measured to the centre of the carriageway and not along the road channel where it should be measured to. Visibility splay to the south involves land that belongs to an adjacent landowner and is used for agricultural purposes;

**Wetheral Parish Council:** - no response received;

**Northern Gas Networks:** - no objection, however there may be apparatus in the area that may be at risk during construction works and should the planning application be approved, the promoter of these works should contact Northern Gas Networks to contact us directly to discuss our requirements in detail. Should diversionary works be required these will be fully chargeable.

**Cumbria County Council - (Highways & Lead Local Flood Authority):** - the following response has been received:

### Local Highways Authority

The development under consideration has a detailed planning history. As part of the withdrawn planning application 20/0733 for the siting of 5 log cabins, and following a speed survey, it was demonstrated that for the proposed access visibility splays of 2.4m x 160m were achievable. It is noted that the Highways Authority raised no objections with regards to the approval of planning permission as part of the consultation process.

Following on from this the applicant is seeking planning permission for the proposed new access only to serve the field, therefore removing the 5 log cabins. The initial Highways Authority comments to the current application stated that the visibility splays demonstrated for the proposed access crossed over into third party land which was unacceptable. In light of these comments the applicant has submitted a revised visibility splay plan for review by the Highways Authority. The visibility splays demonstrated within the revised plan do not cross into third party land and illustrate that visibility splays of 2.4m x 160m are achievable.

Therefore it is confirmed that no objections are raised with regards to the

approval of planning permission subject to the conditions stated at the end of this response being applied to any consent granted.

#### Lead Local Flood Authority (LLFA)

This is a minor development which is below the LLFA threshold for comment. As such the drainage arrangements for this development are to be scrutinised by Building Control. It should be noted that the surface water discharge rate should not be greater than the existing, and if installing a soakaway it is advised that it is not positioned within 5 metres of a highway or property.

#### Conclusion

No objections are raised with regards to the approval of planning permission subject to the imposition of a conditions requiring the surfacing of the access being applied to any consent that the council may wish to grant.

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

- 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 is the National Planning Policy Framework (NPPF), the National Planning Practice Guidance (NPPG) and Policies of SP6, IP2, IP3, CM5 and GI3 of the Carlisle District Local Plan 2015-2030 are also relevant. The proposal raises the following planning issues.

#### **1. Whether The Scale, Design And Impact On The Character And Appearance Of The Area Is Acceptable**

- 6.3 Paragraphs 126 to 136 of the NPPF which emphasises that the creation of high quality buildings and places is fundamental to what the planning system and development process should achieve. The Framework has a clear expectation for high quality design which is sympathetic to local character and distinctiveness as the starting point for the design process. Paragraph 130 outlines that:

*“Planning policies and decisions should ensure that developments:*

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*



- d) *establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) *optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) *create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”*

6.4 It is further appropriate to be mindful of the requirements in paragraph 134 of the NPPF which states:

*“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).”*

6.5 Policies seek to ensure that development is appropriate in terms of quality to that of the surrounding area and that development proposals incorporate high standards of design including siting, scale, use of materials and landscaping which respect and, where possible, enhance the distinctive character of townscape and landscape. This theme is identified in Policy SP6 of the local plan which requires that development proposals should also harmonise with the surrounding buildings respecting their form in relation to height, scale and massing and make use of appropriate materials and detailing.

6.6 The principle of the formation of the access would be acceptable in the context of allowing vehicular access and egress to the land. The scale, layout and design is appropriate and would not form a discordant feature with the character of the locality.

## **2. Highway Matters**

6.7 There is an existing access into the field from the north-west corner of the site. This access is at an angle to the boundary and faces north-west, meaning that access from the south and subsequent egress is awkward and depending on the type of vehicle using the access, may in fact not be possible.

6.8 The application seeks permission for the formation of an access further to the south, approximately half way along the western boundary. The access would include a bell-mouth with visibility splays of 2.4 metres by 160 metres in either

direction. The Cumbria Development Design Guide 2017 states that the visibility splay for a road with a speed limit of 60 miles per hour should be 215 metres.

- 6.9 The representations that have been received raise concerns about the impact of the development on the safety of users of the highway, particularly given the relatively straight section of road.
- 6.10 Prior to the submission of the previous application, the use of the existing access was not seen to be satisfactory by the Local Highways Authority (LHA). Consequently, the applicant commissioned a speed survey and as based on the speed survey, a new access with a visibility of 160 metres in either direction was prepared and was accepted by Cumbria County Council.
- 6.11 The current application is based on this scheme and as such, the principle is acceptable and raises no issues in terms of highway safety.
- 6.12 The LHA has requested that conditions are imposed on any planning permission in relation to the surfacing and drainage of the access together with the provision and retention of visibility splays. The conditions are considered to be reasonable and necessary as part of the development.

### **3. The Impact On The Living Conditions Of Residential Properties**

- 6.13 In addition to the NPPF, policies of the local plan require that proposals ensure that there is no adverse effect on residential amenity or result in unacceptable conditions for future users and occupiers of the development and that development should not be inappropriate in scale or visually intrusive.
- 6.14 The access would be approximately 72.5 metres south from the nearest residential property, The Coach House. There are also other residential properties that are adjacent to this dwelling. The formation of the access would not adversely affect the living conditions of the occupiers of neighbouring properties though an increase in noise or disturbance nor would it be visually intrusive.

### **4. Biodiversity**

- 6.15 Planning Authorities in exercising their planning and other functions must 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). Such due regard means that Planning Authorities must determine whether the proposed development meets the requirements of Article 16 of the Habitats Directive before planning permission is granted. Article 16 of the Directive indicates that if there is reasonable likelihood of a European protected species being present then derogation may be sought when there is no satisfactory alternative and that the proposal will not harm the favourable conservation of the protected species and their habitat.

- 6.16 The Councils GIS Layer has identified that the site has the potential for protected species to present on or in the vicinity of the site. As the proposed development involved the formation of an access on agricultural land, the development would not harm a protected species or their habitat; however, an Informative has been included within the decision notice ensuring that if a protected species is found all work must cease immediately and the local planning authority informed.

## **5. Other Matters**

- 6.17 The objections have questioned the need for the access or that following the formation of the access, additional commercial activities may take place on the land. The application can't be determined on the premise that future activities may or may not occur. Where appropriate, conditions can be used to control future development. Hayton Parish Council has requested that a condition is imposed on any planning permission limiting the use of the access to be for agricultural purposes only.
- 6.18 Planning conditions are required to meet several tests, namely that they are necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise; and reasonable in all other respects. In this instance, there's no evidence to suggest that the field would be used for any other purpose or what any alternative use might be. It is not common practice to limit the use of an access. If the use of the land requires planning permission for a change of use, this would subject to separate application. Permitted development rights do allow for the temporary use of land but again, subject to certain criteria, planning permission would not be required. As such, the imposition of a restrictive condition is not considered to be necessary or reasonable.

## **Conclusion**

- 6.19 In overall terms, it has been demonstrated that the scale and design of the structure and the access are commensurate with the surrounding land uses and operational needs of the applicant. As such, the character or appearance of the area would not be adversely affected by the development.
- 6.20 The development would not affect the living conditions of the occupiers of any neighbouring properties and the proposal doesn't raise any issue in terms of drainage, highway or biodiversity issues nor would it impact on the Hadrian's Wall World Heritage Site Buffer Zone. In all aspects the proposal is considered to be compliant with the objectives of the relevant local plan policies.

## **7. Planning History**

- 7.1 An application for planning permission for the development of a caravan site for static and touring caravans, with associated sanitary facilities was submitted in 1999 but was withdrawn.

- 7.2 In 2020, an application was submitted for planning permission for the siting of 5no. holiday chalets and associated works including new site access and access track but was withdrawn.

## **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 development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:
1. the Planning Application Form received 28th June 2021;
  2. the Location Plan received 28th June 2021 (Drawing no. 2191-01);
  3. the Block Plan As Proposed received 1st October 2021 (Drawing no. 2191-02);
  4. the Notice of Decision;
  5. any such variation as may subsequently be approved in writing by the local planning authority.

**Reason:** To define the permission.

3. The visibility splays as illustrated on Drawing No. 2191-02 received 1st October 2021 should be provided at the junction of the access road with the county highway. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grow within the visibility splay which obstruct the visibility splays.

**Reason:** In the interests of highway safety to ensure compliance with Policies SP6 and IP2 of the Carlisle District Local Plan 2015-2030.

4. The surfacing of the access road shall extend for at least 10 metres inside the site, as measured from the highway boundary prior to the use first being commenced and shall be carried out in accordance with details of construction specified by the Local Highways Authority.

**Reason:** In the interests of highway safety in accordance with Policies SP6 and IP2 of the Carlisle District Local Plan 2015-2030.

5. Measures to prevent surface water discharging onto the public highway shall be constructed in accordance with the specifications of the local highway authority and shall be maintained operational thereafter.

**Reason:** In the interests of highway safety and to minimise potential hazards in accordance with Policies SP6 and IP2 of the Carlisle District Local Plan 2015-2030 .

KEY:  
— Extent of development site  
— Extent of other site ownership



June 2021 Planning submission. GC

Mr. J. Paterson

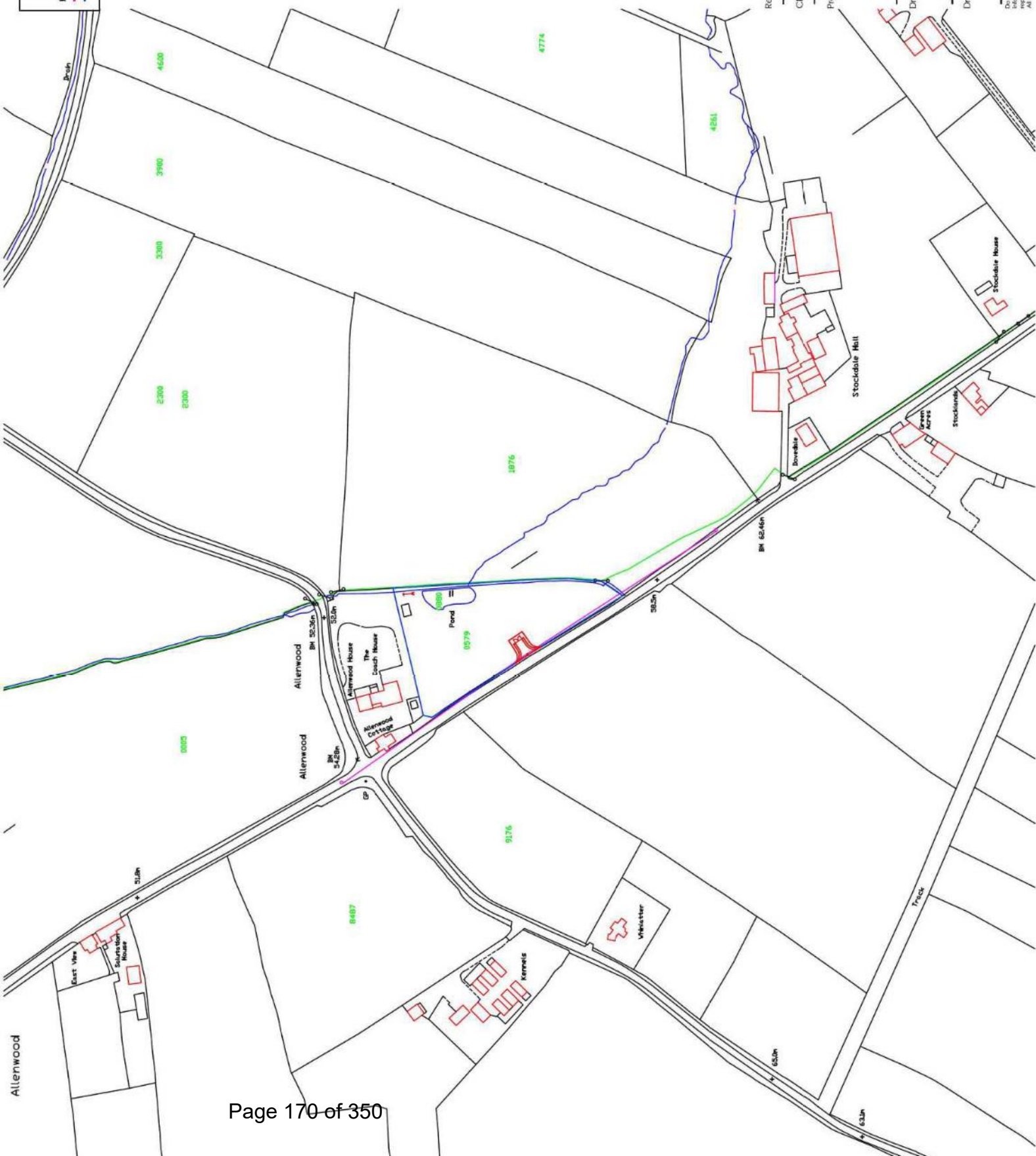
**Proposed New Access**  
Land Adjacent to The Coach House  
Allerwood  
Heads Nook  
Carlisle  
CA8 9AJ

### Location Plan

Drawing No. 2191-01

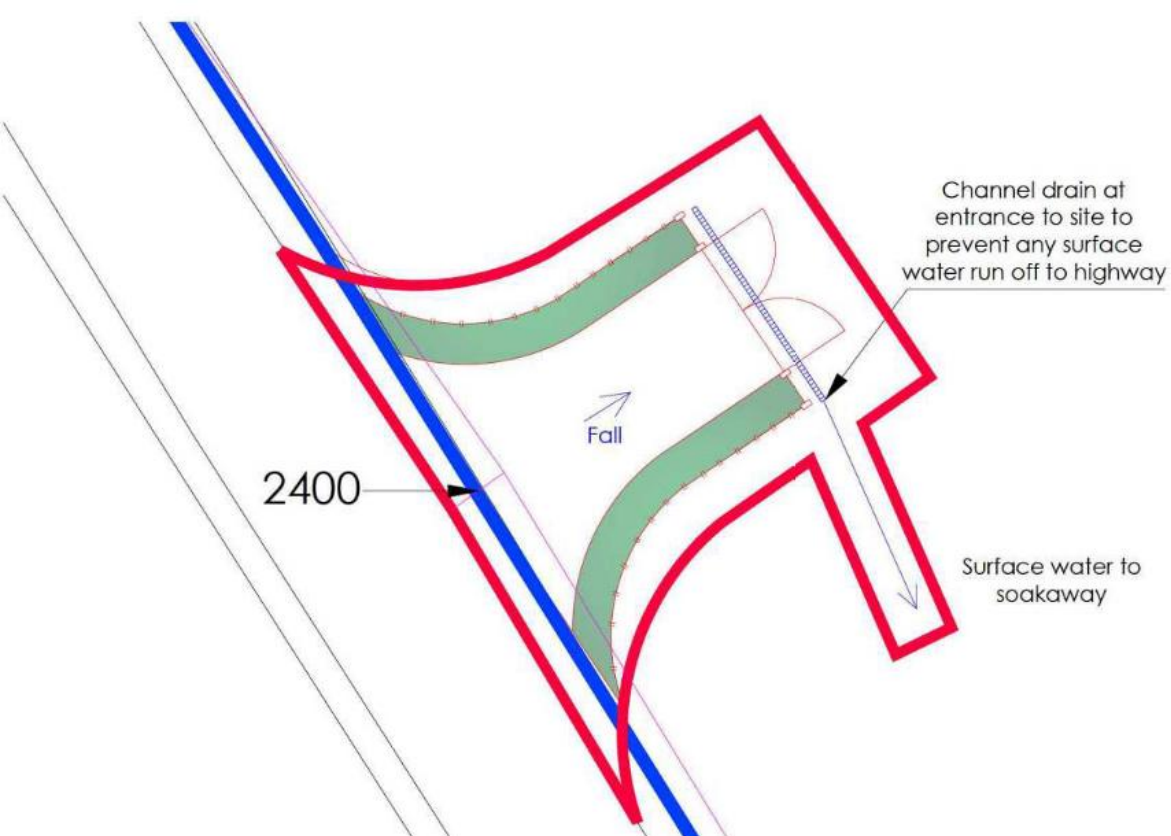
Scale 1:2500 @ A3 Drawn GC Date Jun. 2021

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KEY:  
 - Extent of development site  
 - Extent of other site ownership



Gate view 1:100 @ A3



Revisions  
 A Oct 2021 Visibility study amended, OK  
 June 2021 Planning submission, GC

Client Mr. J. Paterson

Project Proposed New Access  
 Land Adjacent to The Coach House  
 Allenwood  
 Heads Nook  
 Carlisle  
 CAB PAJ

Drawing Block Plan  
 As Proposed

Drawing No. 2191 - 02  
 Scale 1:100 @ A1  
 1:1000 @ A3 Drawn GC Date Jun. 2021

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## SCHEDULE A: Applications with Recommendation

21/0545

Item No: 07

Date of Committee: 22/10/2021

**Appn Ref No:**  
21/0545

**Applicant:**  
Mrs Samar Nijem

**Parish:**  
Wetheral

**Agent:**  
Peter Ashworth Chartered  
Architect

**Ward:**  
Wetheral & Corby

**Location:** Former Methodist Chapel, Cumwhinton, Carlisle, CA4 8DT

**Proposal:** Change Of Use Of Former Methodist Chapel To 1no. Dwelling

**Date of Receipt:**  
16/06/2021

**Statutory Expiry Date**  
11/08/2021

**26 Week Determination**

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### REPORT

**Case Officer:** John Hiscox

#### 1. Recommendation

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

#### 2. Main Issues

- 2.1 The principle of conversion of the former chapel to a dwelling
- 2.2 Design of the proposed conversion
- 2.3 Impacts on highway safety
- 2.4 Impacts on biodiversity
- 2.5 Impacts on private amenity
- 2.6 Drainage

#### 3. Application Details

##### The Site

- 3.1 The application site is located within the village of Cumwhinton, on the south-east side of the B6263 road that connects the village to Junction 42 (Golden Fleece).

It comprises a former Methodist chapel and associated strips of ground on

the south-west side (ramp to rear access door) and at the front (grass/informal parking). The building is not listed and Cumwhinton does not have a conservation area designation. However, the building is ornate, is prominent and has some value as an undesignated heritage asset, especially in terms of its contribution to the local street scene/setting.

- 3.2 The chapel is perpendicular to the road and is positioned in between two modern dwellings; to the north-east is Chapel Cottage, a substantial detached dwelling within its own curtilage. A strip of ground between the chapel and the previous curtilage to Chapel Cottage has recently been acquired by the owners of Chapel Cottage, and has been incorporated into the curtilage of that dwelling. The strip rises from the roadside along the side wall of the chapel to ground beyond/behind. Ground immediately to the south-east of the chapel is also understood to have been acquired by Chapel Cottage and incorporated into the curtilage of Chapel Cottage. It is not known whether either of these areas of ground used to belong to the chapel.
- 3.3 To the south-west is Netherwood, a two-storey semi-detached dwelling. The north-east end of Netherwood, nearest to the chapel, comprises a single storey garage. The driveway/frontage to Netherwood abuts the original wall forming the side enclosure to the chapel.
- 3.4 The new housing development known as Reeds Way occupies ground to the east of the chapel site.
- 3.5 The building itself is in reasonable structural condition although not much is left of whatever used to occupy the interior when it was a chapel. It has most recently been utilised as storage associated with an office (office elsewhere - users unknown). It is accepted that it could physically be converted without recourse to major demolition. The roof covering (all natural slate) is complete although lack of maintenance means it is in need of attention.
- 3.6 The chapel is tall and narrow with steep pitches to its roofslopes which face north-east and south-west. The building steps up at around its central point following the natural rise in the land upon which it was built.
- 3.7 The front end onto the public road contains a projecting porch vestibule leading to the main pedestrian entrance to the building via a short set of stone steps. This elevation is attractive and has some symmetrical values, with two tall pointed-arch windows in situ either side of the front projection and upper and lower gable features. The frontage contains a low understorey storage room accessed via an external timber door. In front of this area is an irregular four-sided area of grass that has been used to park one vehicle in the past in association with usage of the chapel and subsequent store. between this patch of ground and the public road is the public pavement which is in good condition, is wide enough for modern usage and which stretches well beyond the frontage in both directions.
- 3.8 The south-west and north-west side elevations both contain tall pointed-arch church-style windows in the taller front section of the building; further back, less ornate windows exist in each of these side walls.

- 3.9 A single storey section of building exists towards the rear of the building on the south-west side, this being a former w/c and store. A separate external door allows access into this section, as well as an internal connecting door.
- 3.10 The rear (south-east) gable end contains two large window openings and a smaller opening from the single storey section.
- 3.11 All of the windows on the north-west side and the rear are situated in external walls that are on a shared boundary with land belonging to others.

## **Background**

- 3.12 The application is referred to the Development Control Committee in the light of the objections from Wetheral Parish Council, and the advice from Cumbria County Council relating to lack of parking.

## **The Proposal**

- 3.13 The chapel building would be converted to a dwelling with two main bedrooms in the rear section (one with en-suite) and a further bedroom/office near the centre. The front half of the building would provide an open plan living, dining and kitchen area. Other accommodation would include a bathroom towards the centre, a w/c and utility room in the single storey rear section, and a balcony on the raised area on the north-east corner of the building (on top of understorey store and contained by existing iron railings). The understorey would be utilised for bin storage and the grassed frontage area as a drop-off/vehicle standing area.
- 3.14 Within the centre of the building, a mezzanine gallery area would be created above the bathroom/bedroom/office.
- 3.15 The left hand window in the front elevation would be lengthened and converted into a door giving access to the balcony area.
- 3.16 In each of the main roofslopes, five rooflights would be installed at high level to provide light to the accommodation below. Two further rooflights would be installed within the monopitched roof of the single storey rear section.
- 3.17 The entire building would be restored as necessary externally with new timber doors installed in existing openings. It is intended to strip and repair the roof, then to re-cover with reclaimed Welsh slates. All external stonework would be repointed/repared as necessary.
- 3.18 All existing windows, which are in dilapidated condition, would be replaced either with aluminium or with timber items to match the style of the existing windows. The windows would contain a mixture of obscure and clear glass, the former to protect private amenity of existing occupiers next door and future occupants of the development.
- 3.19 The drawings indicate that the resultant dwelling would connect into the

public sewer (as existing) via a drain that runs down the ramp on the south-west side of the building.

- 3.20 The existing building is equipped with rainwater goods on its main and secondary roofs; these would be re-established to enable all rainwater falling onto the building to be channelled into the public sewer which, according to submitted information, runs along the frontage, actually passing within the grassed area in front of the understorey.

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

- 4.1 The application has been advertised by way of a site notice and neighbour letters sent to two neighbouring properties. There have been no written or verbal representations submitted to the local planning authority either in support or in objection to the application.
- 4.2 The planning service was provided with a copy of a letter sent to the architect by a third party which is not intended to be submitted as a representation.

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

##### **Wetheral Parish Council:**

29 June 2021:

Objects to the application on the following grounds:

- (i) development/site has no parking available to it - users and workers during development would park on road/pavement;
- (ii) remote parking allocated to other developments/users;
- (iii) concerns relating to drainage - development could exacerbate existing issues with surface water caused in part by earlier nearby developments;
- (iv) objects until such a time as adjoining land is owned to address parking concerns;

Also recommends utilising frosted glass in windows to preserve neighbouring amenity, if permission is granted.

##### **Cumbria County Council - (Highways & Lead Local Flood Authority):**

2 July 2021:

Does not support the application because inadequate parking has been provided and parking would encroach onto road. However, does not object to the principle, which would lead to a reduction in use.

27 July 2021:

Continues not to support the application due to lack of parking available for future use/users.

## **Natural England - relating to protected species, biodiversity & landscape:**

18 June 2021:

No comment; refers planning service to standing advice regarding protected species.

## **Cumbria County Council - (Archaeological Services):**

22 June 2021:

No objection; recommends condition relating to recording of building prior to conversion.

## **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 proposed development requires to be assessed against the National Planning Policy Framework (2019 - as amended in July 2021) and the Policies of the Carlisle District Local Plan 2015-2030 listed in paragraph 6.4 below.
- 6.3 The main issues, as listed earlier in the report, are as follows:
- (i) The principle of conversion of the former chapel to a dwelling
  - (ii) Design of the proposed conversion
  - (iii) Impacts on highway safety
  - (iv) Impacts on biodiversity
  - (v) Impacts on private amenity
  - (vi) Drainage
- 6.4 The most relevant Policies from within the adopted Carlisle District Local Plan 2015-2030, therefore, are as follows:
- CC 5 - Surface Water Management and Sustainable Drainage Systems
  - GI 3 - Biodiversity and Geodiversity
  - HO 2 - Windfall Housing Development
  - IP 3 - Parking Provision
  - IP 6 - Foul Water Drainage on Development Sites
  - SP 6 - Securing Good Design
  - SP 7 - Valuing our Heritage and Cultural Identity
- 6.5 From the NPPF, the following paragraphs are to be considered:

**Paragraph 38:**

- 6.6 Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

**Paragraph 55:**

- 6.7 Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

**Paragraph 69:**

- 6.8 Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should:
- a) identify, through the development plan and brownfield registers, land to accommodate at least 10% of their housing requirement on sites no larger than one hectare; unless it can be shown, through the preparation of relevant plan policies, that there are strong reasons why this 10% target cannot be achieved;
  - b) use tools such as area-wide design assessments and Local Development Orders to help bring small and medium sized sites forward;
  - c) support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes; and
  - d) work with developers to encourage the sub-division of large sites where this could help to speed up the delivery of homes.

**Paragraph 111:**

- 6.9 Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

**Paragraph 120:**

- 6.10 Planning policies and decisions should:
- a) encourage multiple benefits from both urban and rural land, including through mixed use schemes and taking opportunities to achieve net environmental gains – such as developments that would enable new habitat

creation or improve public access to the countryside;

b) recognise that some undeveloped land can perform many functions, such as for wildlife, recreation, flood risk mitigation, cooling/shading, carbon storage or food production;

c) give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land;

d) promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (for example converting space above shops, and building on or above service yards, car parks, lock-ups and railway infrastructure); and

e) support opportunities to use the airspace above existing residential and commercial premises for new homes. In particular, they should allow upward extensions where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, is well-designed (including complying with any local design policies and standards), and can maintain safe access and egress for occupiers.

**Paragraph 126:**

- 6.11 The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.

**Paragraph 130:**

- 6.12 Planning policies and decisions should ensure that developments:

a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

**Paragraph 152:**

- 6.13 The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

**Paragraph 197:**

- 6.14 In determining applications, local planning authorities should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - c) the desirability of new development making a positive contribution to local character and distinctiveness.

**Applicants' Supporting Information:**

*Design and Access Statement:*

- 6.15 This document discusses (i) existing and proposed use; (ii) reasons for the proposed layout; (iii) landscaping, (iv) scale, (v) amount; (vi) appearance; (vii) materials and access opportunities available.

*Heritage Statement:*

- 6.16 This document describes origins and development of the chapel from the middle of the 19th Century.

*Highways/Vehicular Statement (and associated plan):*

- 6.17 Discusses highways implications in relation to previous/proposed uses; identifies possible opportunities for off-site parking in the locality.

*Structural Statement:*



- 6.18 Sets out information relating to current condition of building and remedial measures proposed.

*Survey for Bats, Barn Owls and Breeding Birds (S Wake, May 2021):*

- 6.19 Recommends installation of bat box on building (bats foraging in locality during survey period).

**Consideration of Development Proposals:**

(i) *The principle of conversion of the former chapel to a dwelling:*

- 6.20 The chapel is situated within Cumwhinton village and is located in an area which is almost purely residential. The chapel is the only principal building on the frontage of the B6263 in this locality that is not in residential use.
- 6.21 The chapel is a prominent and striking building and notably adds interest to the street scene and setting in this part of Cumwhinton, which is otherwise not well populated by characterful buildings. It is without doubt an undesignated heritage asset of such value that genuine ambitions to enable it to be re-used in an appropriate manner should be supported if at all possible.
- 6.22 It could be argued that the future use of the building as a dwelling would be more compatible with the locale than the existing congregational use; however, said current use is not presently undertaken and has not been for many years. Hence, it has been utilised occasionally for ad hoc, unauthorised storage associated with a remote office use.
- 6.23 Although Policy HO 2 is not normally applicable to conversions of redundant buildings within settlements (this mode of development is not discussed in the Policy), it is the most relevant policy of the Local Plan in this instance. It would permit the introduction of a single new dwelling on a 'windfall' site as long as it would be compatible with surrounding uses and development. In the context of this application, the policy would be supportive of the principle even though it is a conversion.
- 6.24 Paragraphs 69, 120, 162, 197 of the NPPF are also all relevant and all are supportive in relation to the principle.

(ii) *Design of the proposed conversion:*

- 6.25 The submitted application is considered to reflect a very well designed and empathetic development approach. The Carlisle City Council Conservation Officer (CCCCO) inspected the draft drawings at pre-application stage on the basis that the building is of heritage significance and was fully supportive. The design/appearance/development approach remains the same.
- 6.26 The development would mildly change the appearance and character of the building, but not to its significant detriment. It is of sufficient robustness in terms of its character and stature to absorb the modernisation, as set out in the application, without changing the essence of the building or its setting. In

terms of a residential conversion, the scheme proposed is considered to be appropriate and of very good quality. The application, therefore, is in accord with Policies SP 6, SP 7 and HO 2 in this regard. It is also consistent with Paragraph 130 of the NPPF.

(iii) Impacts on highway safety:

- 6.27 The site does not presently benefit from any off-street parking, other than the narrow trapezoidal strip at the building frontage, which is and which has historically been used to park a vehicle, but potentially with one corner hanging over the pavement edge. This piece of ground is easily accessed because it is unenclosed; a vehicle parking there would tend to pull onto the ground heading in a westerly direction out of Cumwhinton, and pull off the same way. The layout of the frontage (and the position of the driver's door on the right hand side of most vehicles) makes it difficult and impractical for this to be done in the opposite direction, although it is possible.
- 6.28 The site does not have any other areas outwith the building of any note in this context. The footprint of the building occupies such an extent of the site that no other pieces of ground would be able to accommodate a vehicle. There are no adjacent or adjoining areas of ground available and the ground up to both sides and the rear of the building are in clear control of others.
- 6.29 Both the Parish Council and Cumbria County Council as statutory consultees have cited lack of parking in their consultation responses as reasons not to support the application. There are not enough spaces to satisfy the parking standards operated by the County Council, which would require at least two parking spaces to be provided for the development.
- 6.30 The applicants have been encouraged to consider what parking opportunities might be available for vehicles using the development if it is undertaken. Investigations have been undertaken as to whether areas of ground might be transferred to them in the vicinity, but none is available. The potential use of existing spaces both on the north side of the public road and around the corner where the B6263 meets with Broomfallen Road have been investigated, and although it is understood that said spaces are already likely to be in occasional use or allocated in relation to other development(s), these areas do present possible opportunities for remote parking to serve the development.
- 6.31 The applicant has been advised that transfer of a section of ground directly opposite would be highly unlikely to be achievable and would possibly lead to a difficult intervention to achieve without causing harm to the gentle, 'green' approach to the village from this direction.
- 6.32 The applicant has alluded to other possible opportunities on land of others known to them, but no detail of whereabouts is provided.
- 6.33 If the development were to go ahead, there would be an element of uncertainty outstanding in respect of parking. The frontage strip would continue to be available for parking of one vehicle, and although it isn't

sufficiently wide to contain the entirety of a larger vehicle it could contain a domestic vehicle without such an overhang onto the pavement that it blocks the way past for pavement users. It would to a degree depend on sensible placement of any vehicle on the piece of ground, but it could in actuality continue to serve the site without causing significant problems for road users.

- 6.34 The main concern relating to this issue is that a second vehicle attending the property would have to find somewhere else to park. Parking that partially overlaps the pavement and road would likely be problematic for pavement and road users and would therefore not be encouraged; whereas, utilisation of a remote space within easy walking distance would be satisfactory. This latter scenario is feasible despite no detail of whereabouts being known. Cumwhinton village is not devoid of other parking opportunities and in particular the area just around the corner on Broomfallen Road, more often than not, is not full.
- 6.35 Whatever the scenario may be for parking, however, recognition has to be given that the existing building/site has a congregational use that would promote less regular, but more widespread parking requirements. Congregational events would likely involve visitation by a mixture of pedestrians and drivers that could take the number of vehicles coming into the village into double figures.
- 6.36 Furthermore, consideration must be given to what other potential uses could take place within this building/site. It could lend itself to a community resource, which would be similar to a congregational building in terms of its pattern and intensity of usage. It could perhaps be converted to a place for the storage and sale of goods e.g. antiques, books, crafts - any number of pseudo-retail uses could be accommodated within the building, and each of these would potentially generate more parking requirement than a 2/3 bedroomed dwelling. Other uses such as a museum or a cafe would also be likely to promote a greater requirement for parking.
- 6.37 The balance of the recommendation must reflect the fact that although the application would struggle to meet with all of the objectives of Policy IP 3, other such uses as mentioned above are all likely to generate more of a parking issue than the proposed residential use as described (including its current authorised use). The balance of the recommendation must also be sympathetic towards other benefits arising, which will be discussed in the conclusion of this report.
- (iv) Impacts on biodiversity:
- 6.38 The site contains a building and its hard boundaries to the south and west. There is no vegetation of note within the site and no tangible space to create a planted wildlife resource of the magnitude that would be influential.
- 6.39 The submitted protected species report recognises that bats are foraging in the locality, and as a result recommends that a bat box is installed to support this usage. This level of mitigation is appropriate to the building and its environs, and would be an adequate way of containing the site's value to bats.

The implementation of the recommendations within the report could be secured through a planning condition, if permission is granted, to enable the application to accord with Policy GI 3.

(v) Impacts on private amenity:

- 6.40 The building has been neglected for many years, and as a result, although certainly in salvageable condition, could be described as becoming tatty and open to question about its future structural integrity. Its re-use for an appropriate purpose would in theory immediately improve (after building works) the amenity of private occupiers adjacent by capturing an opportunity while the building is still in salvageable condition. The principle therefore, is positive but it would depend on the detail of conversion as to whether it could be implemented harmoniously.
- 6.41 The building is quite close to two neighbours and has its long sides facing towards them, within which large windows exist. They are currently obscure glazed and, where facing towards the properties either side, would continue to be obscure-glazed at least at lower level where occupiers would look directly at Chapel Cottage and Netherwood. This would ensure that privacy of those occupiers is maintained in respect of window openings. This issue is cited as a concern in the consultation response of the Parish Council, and recommends use of obscure glass if the development goes ahead.
- 6.42 Perhaps the only other element of the development proposed with the potential to cause any impact on neighbouring amenity is the small outside area intended to be created on top of the store at the northernmost corner of the building. This area, however, due to its size, its location on the front of the building and its relationship with Chapel Cottage is highly unlikely to promote any conflict because it is separated from Chapel Cottage by the aforementioned access strip, is set well in front of the frontage of that dwelling, does not relate to any private, enclosed area of garden ground and does not relate significantly to any external windows in it.
- 6.43 A condition would be required, in the event of planning permission being granted, to ensure that the arrangement of the windows is known in detail, with an emphasis on which areas are intended to be obscure-glazed - this is not apparent with any clarity at present.
- 6.44 However, in respect of private amenity impacts, the development is compatible with its residential neighbours either side and would not project negatively on the privacy and quiet enjoyment afforded to adjacent residents, who would benefit from this neglected building being brought back into a futureproofed condition. The application, therefore, would accord in this respect with Policies HO 2 and SP 6.

(vi) Drainage:

- 6.45 The site is sharply contained by its hard boundaries on 3 sides and includes only very limited external space, which in itself is mainly hardsurfaced. It also includes the grassed frontage/parking space. Surface water and foul water

are diverted to the public sewer system via items already in existence on the site i.e. gutters and downpipes connecting to underground apparatus that subsequently connect to the mains drain. Rainwater falling on the grassed frontage area is likely to soakaway to a degree but also to run off in an easterly direction with the fall of the land if permeability or saturation cause that to occur.

- 6.46 Overall, the development would be highly unlikely to change the circumstances relating to drainage by a significant amount, although improvement is likely. The existing building is equipped with surface and foul drainage systems (NB - and mains water) and the system would be refurbished to enable it to take all rainwater to ground via gutters and downpipes as set out on the roof plan included within the application drawings. Given the scale of development proposed through conversion, and the existence of existing systems which already take foul water from a w/c and sink, drainage is not considered to be a matter that requires further detailed consideration in the planning context. However, it is considered to be highly likely that the drainage systems would be adapted, repaired or renewed to bring them up to modern standards, which would be a positive undertaking.
- 6.47 The application, therefore, is in accord with both Policies CC 5 and IP 6 of the Local Plan.
- 6.48 It may be noted that the necessary approval under the Building Regulations would require drainage mechanisms and systems to be inspected and properly installed to serve the development.

## **Conclusion**

- 6.49 The application represents a well thought-out and designed proposal that would re-use an existing building of local architectural and historic interest for an acceptable purpose. If it is changed to a private residence, it will become compatible with all the other frontage uses in the street in this locus. The scheme has been designed to preserve the amenity and privacy of future occupiers within the development and adjacent to it. Matters relating to drainage and biodiversity have been largely addressed and would not prevent support of the development as proposed. Conditions relating to secondary matters such as biodiversity, fenestration and materials would likely be imposed to ensure details are considered prior to, or during development if it goes ahead.
- 6.50 The availability of parking at/within the site or in the locality is an outstanding issue, insofar as the scenario of one vehicle parking on the frontage area with a slight overhang of the pavement, and other visiting vehicles having to find a legal place to park remotely from the site, requiring visitors to walk a little way, likely from the direction of the village, is not ideal.
- 6.51 The scheme as set out would promote creation of 2/3 bedrooms within the former chapel, representing a modest home, albeit one that could be occupied by a number of residents that would inevitably require, at some times, a place to be found for additional users/occupiers vehicles to park over

and above the first vehicle.

- 6.52 A degree of pragmatism would be required in considering whether this is an overriding factor that would prevent support of the application, and a number of other considerations should be reviewed in the balance. Paragraph 111 of the NPPF is reiterated here:

*"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."*

- 6.53 Firstly, consideration must be given to the architectural value and historic relevance of the building to the locality. It adds variety and interest to an otherwise relatively plain section of the village, by virtue of its prominence and attractive appearance, its orientation and traditional materials, both of which make it stand out in terms of visual quality; its historic character and indication of past activity. Its condition is such that this is an opportunity in time when it could be saved so that these positive contributions are sustained for the future. Left neglected for a few more years, it might not be feasible because deterioration is inevitable.
- 6.54 Secondly, consideration must be given to the pressure Cumwhinton has been under in recent decades to provide more housing via re-development of previously developed sites, and through the development of new sites. Although only a very small contribution would be made through this development, it would support the need to provide new homes in sustainable locations by increment, and would help in terms of meeting longer term housing provision objectives overall within the District.
- 6.55 Thirdly, cognisance must be taken of what other uses could possibly be introduced in this building, in this setting, especially having regard to the absence of more than one imperfect parking space. It is hard to envisage any other future use (or existing authorised use) that would promote less of a parking issue. The only use that would promote less parking is no use - to leave the building/site unused. That option would be highly undesirable because it would likely lead to deterioration to, and ultimately the loss of, the undesignated heritage asset.
- 6.56 Fourthly, the cost of restoration must be taken into consideration. Viability is essential, and although other uses could invoke investment in the building's re-development, the outlay would likely be too great unless it were to be done altruistically. Through its conversion to a dwelling, the investment required to change the building could be regained in the future because the value of the resultant development would be highly likely to exceed the sum total of the cost of the building and the cost of undertaking the development. This has to be a reality for investment to go ahead.
- 6.57 The applicants have investigated ways of acquiring an additional space allocated to the development, but have been unable to secure a formal arrangement. The lack of parking is the only significant issue arising in respect of the proposals, and although noteworthy the potential effects would

be not be severe; they would likely be slightly adverse but not to such an extent that the application should not be supported. The development is self-limiting in terms of potential future extension leading to worsening of the situation, and in any event due to the lack of outdoor amenity space would be unlikely to attract occupancy by a large family.

- 6.58 In the overall balance, therefore, this single matter is not overriding, and would not place the application in such conflict with any national or local policies so as to preclude support. It is therefore recommended that the application is approved.

## **7. Planning History**

- 7.1 There are no planning applications relating to the property since 1974. The assumed authorised use is as a place of worship.

## **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 development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:

1. the submitted planning application form;
2. drawing ref. 21-08-09 'Location', received on 16 June 2021;
3. drawing ref. 21-08-10 'Existing Plan: Ground Floor', received on 16 June 2021;
4. drawing ref. 21-08-11 'Existing Sections and Elevation', received on 16 June 2021;
5. drawing ref. 21-08-12 'Existing North-West and North-East Elevations', received on 16 June 2021;
6. drawing ref. 21-08-13 'Existing South-West and South-East Elevations', received on 16 June 2021;
7. drawing ref. 21-08-14 'Existing Plan: Roofs', received on 16 June 2021;
8. drawing ref. 21-08-16 'Proposed Plan: Ground Floor', received on 16 June 2021;
9. drawing ref. 21-08-17 'Proposed Sections and Elevation', received on

16 June 2021;

10. drawing ref. 21-08-18 'Proposed North-East and North-West Elevations', received on 16 June 2021;
11. drawing ref. 21-08-19 'Proposed South-West and South-East Elevations', received on 16 June 2021;
12. drawing ref. 21-08-20 'Proposed Roof Plan', received on 16 June 2021;
13. the Survey for Bats, Barn Owls and Breeding Birds (S Wake, 2021), received on 16 June 2021;
14. the Agent's letter (P Ashworth) dated 3 July 2021 to the local planning authority, published on 5 July 2021, specifically the section entitled 'Windows and Glazing';
15. the Notice of Decision;
16. any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason:** To define the permission.

3. Prior to the carrying out of any conversion work, the building affected by the proposed development shall be recorded in accordance with a Level 2 Survey as described by Historic England's document 'Understanding Historic Buildings A Guide to Good Recording Practice, 2016'. Within 2 months of the commencement of construction works, a digital copy of the resultant Level 2 Survey report shall be furnished to the local planning authority.

**Reason:** To ensure that a permanent record is made of the building of architectural and historic interest prior to its alteration as part of the proposed development, and to accord with the objectives of Policy SP 6 of the Carlisle District Local Plan 2015-2030.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and/or re-enacting that Order) the following forms of development within the provisions of Part 1 to Schedule 2 of the Order shall not be undertaken without the express permission in writing of the council:

1. Extension or enlargement
2. Additions or alterations to roofs
3. Detached outbuildings
4. Porches
5. Chimneys and flues



**Reason:** The further extension or alteration of this the dwelling or erection of detached buildings requires detailed consideration to safeguard the amenities of the surrounding area, to accord with Policies SP 6 and HO 8 of the Carlisle District Local Plan 2015-2030.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and/or re-enacting that Order) no windows, other than those shown on the approved plans shall at any time be placed in the south-west, north-east or south-east elevation of the building/extension hereby permitted without the grant of a separate planning permission from the local planning authority.

**Reason:** To safeguard the amenities of the adjoining premises from overlooking and loss of privacy, to accord with Policies SP 6 and HO 8 of the Carlisle District Local Plan 2015-2030.

6. Prior to the installation of any new window within any opening as shown on the approved planning drawings, a schedule shall be submitted to and approved in writing by the local planning authority, identifying the proposed materials, frame colour, specification, means of opening, means of obscurement (partial or full) and depth of recession from the external wall of each replacement window within its opening. Any window identified as a non-opening item shall be permanently maintained as non-opening; and any window identified to be obscure-glazed shall be obscured to a minimum of obscurity factor 3 and shall be permanently maintained thereafter in an obscure-glazed manner.

**Reason:** To safeguard the amenities of the adjoining premises from overlooking and loss of privacy, to accord with Policies SP 6 and HO 2 of the Carlisle District Local Plan 2015-2030.

7. The development shall at all times be undertaken and occupied in strict accordance with the mitigation and actions stated in the Survey for Bats, Barn Owls & Breeding Birds (S Wake, 2021), in particular those within Section E 'Mitigation' and Section F 'Summary of development and mitigation.' The bat box identified in the mitigation shall at all times be retained in situ and maintained in good condition to ensure it is available as a biodiversity resource.

**Reason:** The site is known to encounter bat activity. The mitigation measures identified within the aforementioned survey will ensure adequate mitigation is provided to offset potential disturbance and/or destruction of protected species and their habitats, to accord with Policy GI 3 of the Carlisle District Local Plan 2015-2030.

8. The vehicle standing/drop-off area identified on approved drawing ref 21-08-16 ('Proposed Plan: Ground Floor') and the associated trapezoidal area of ground in front of the building, extending to the pavement edge across the entire width of the building, shall be kept available at all times for the manoeuvring and parking of one domestic car and shall not be enclosed or obstructed in any way that prevents one domestic car from parking safely in the space.

**Reason:** To ensure that the resultant development will always provide space for one domestic car to park upon in connection with the dwelling, in the interests of highway safety and amenity, and to accord with Policy IP 3 and Policy SP 6 of the Carlisle District Local Plan 2015-2030.

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Produced 28 May 2021 from the Ordnance Survey MasterMap (Topography) Database and incorporating surveyed revision available at this date.

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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Centre coordinates: 344849 552555

Metres 0 10 20 30 40 50  
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Cumwhinton  
Chapel  
CA4 8DT

**Location** Former Methodist Chapel  
Cumwhinton CARLISLE CA4 8DT

**Project** Change of Use to Dwellinghouse.

**Stage** Planning Application.

**Date** June 2021

**Subject** SCHEDULE OF INFORMATION.

Dwg No.	DESCRIPTION	SCALE
21.08.09	Location Plan, Schedule of Information.	1: 1250
21.08.10	Existing, Ground Floor Plan.	1:100
21.08.11	Existing, Sections and Elevation.	1:100
21.08.12	Existing, Elevations, North East and North West.	1:100
21.08.13	Existing, Elevations, South West and South East.	1:100
21.08.14	Existing, Plan, Roofs.	1:100
21.08.16	Proposed, plan, ground floor.	1:100
21.08.17	Proposed, Sections and Elevation.	1:100
21.08.18	Proposed, Elevations, North East and North West.	1:100
21.08.19	Proposed, Elevations, South West and South East.	1:100
21.08.20	Proposed, Plan, Roofs	1:100



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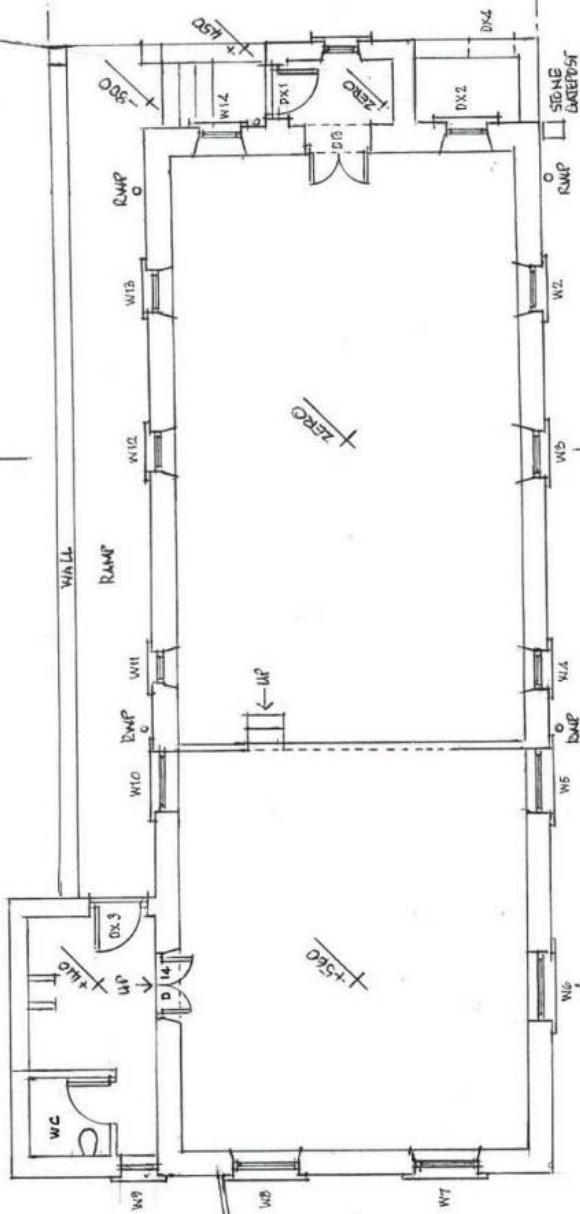


CUMWHINTON

NETHERWOOD

C

B



GROUND FLOOR AREA 133.26m<sup>2</sup>

CHAPEL COTTAGE

EXISTING: PLAN: GROUND FLOOR

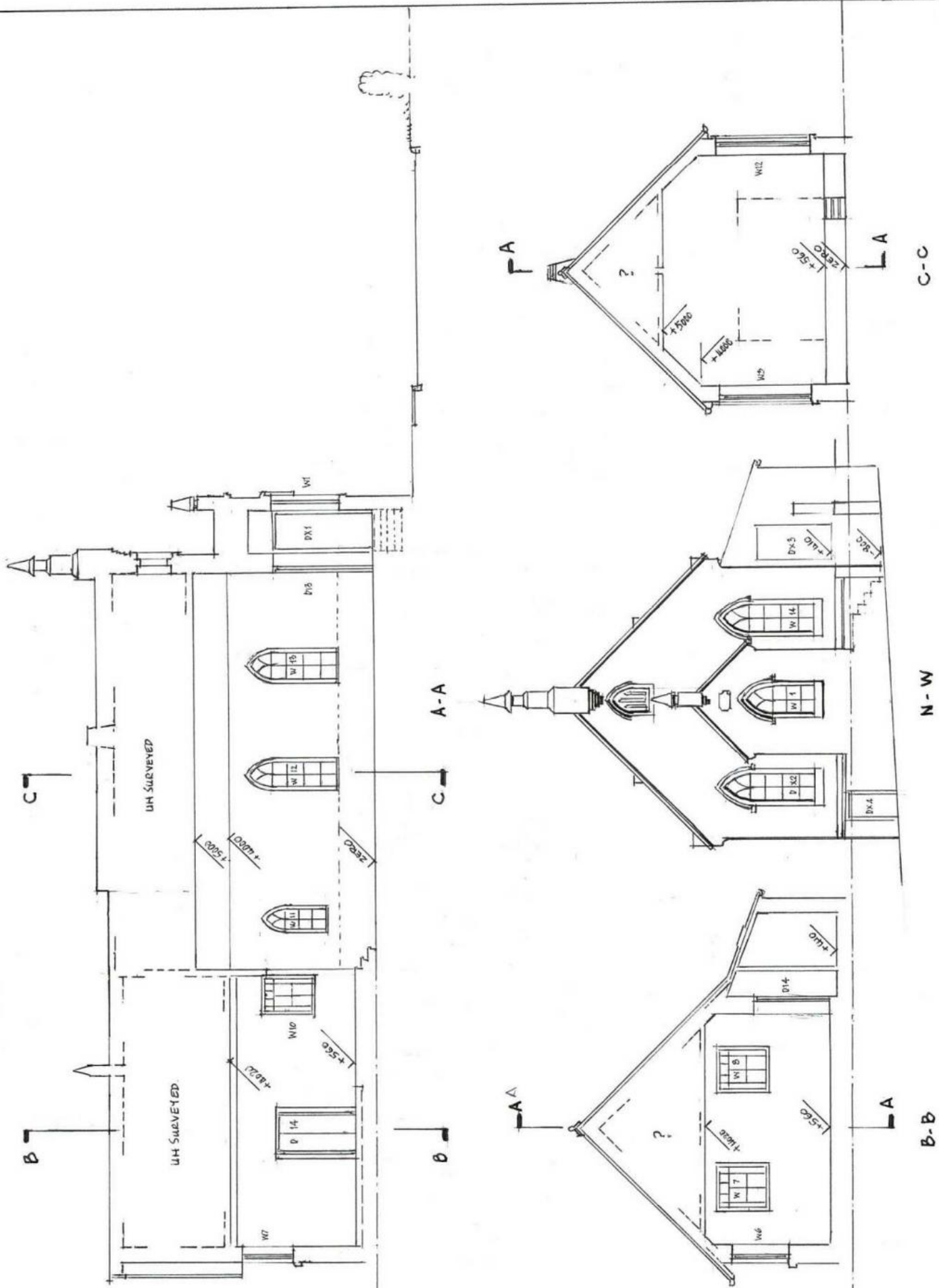


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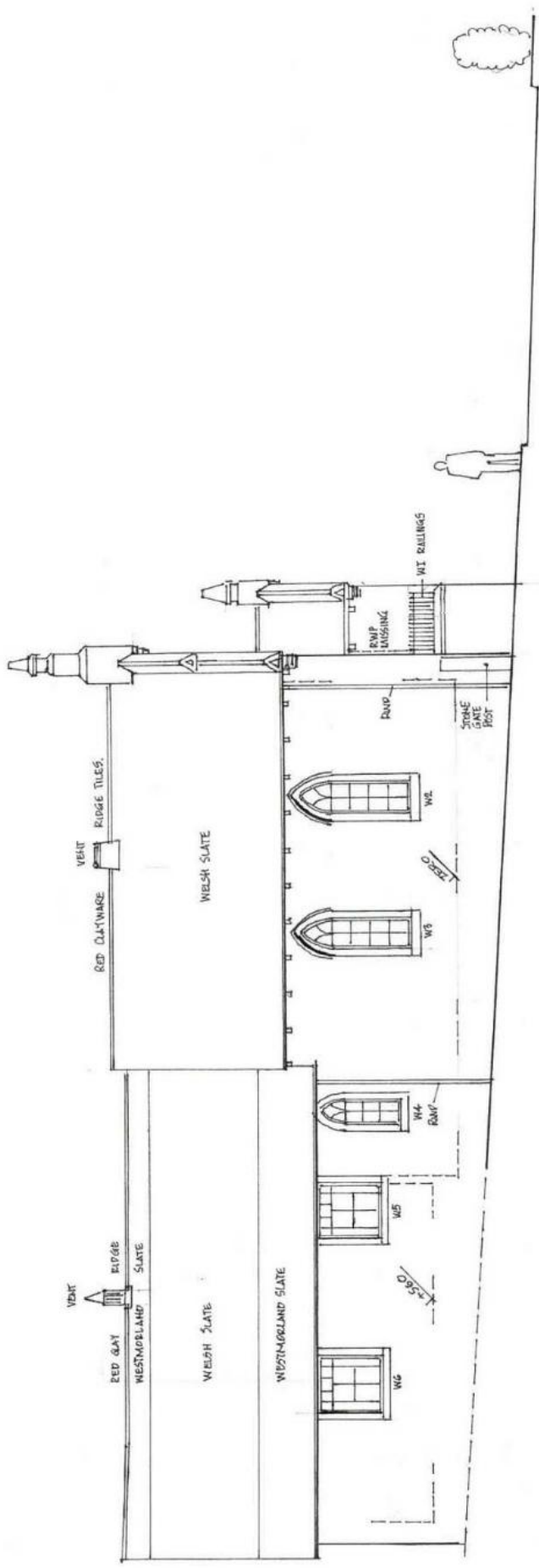


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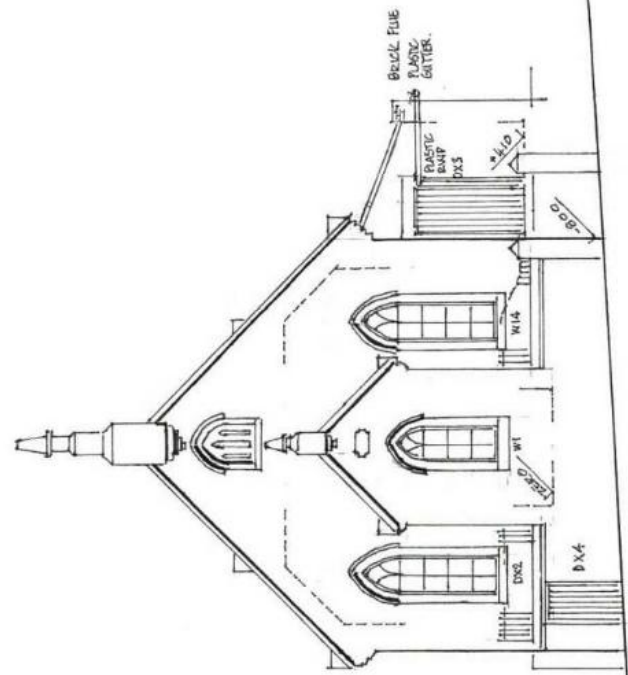
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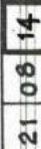


NORTH EAST



NORTH WEST





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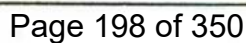
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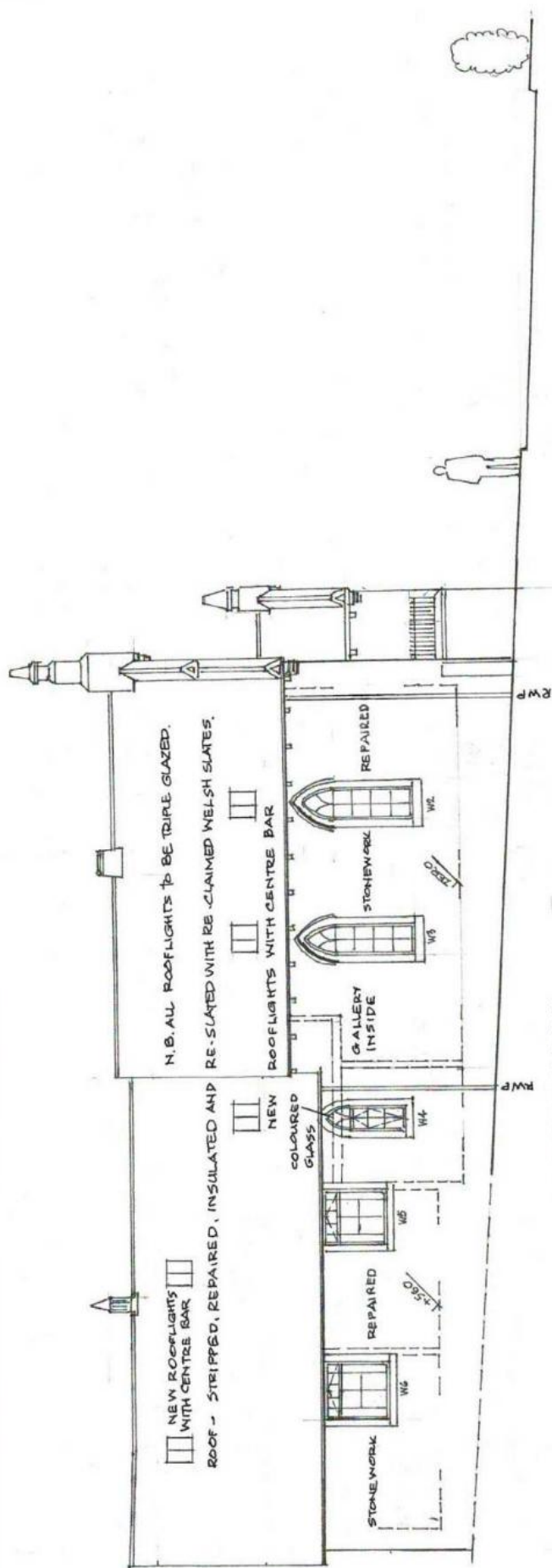
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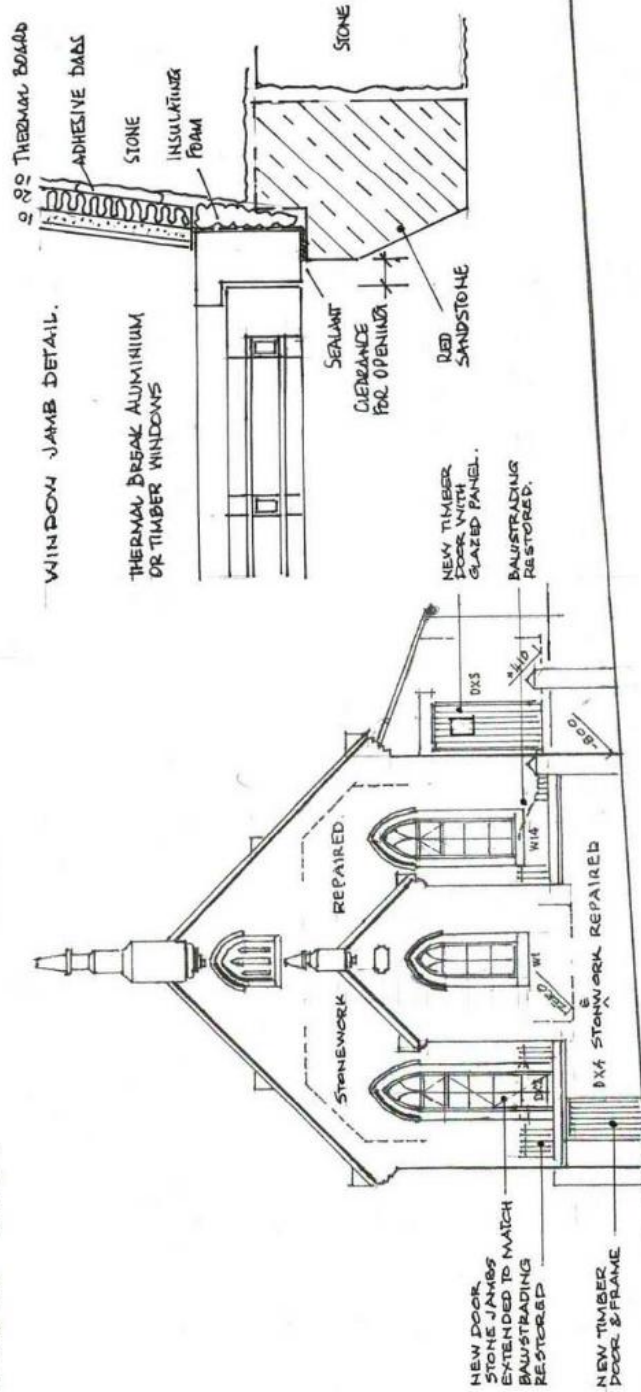






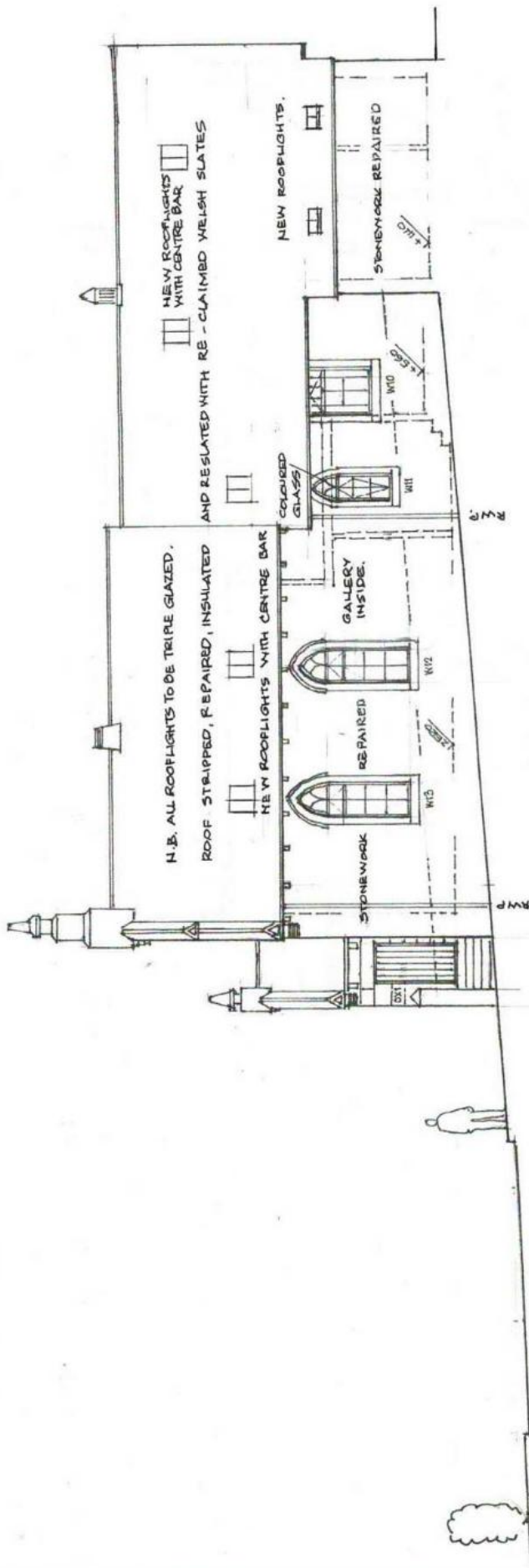


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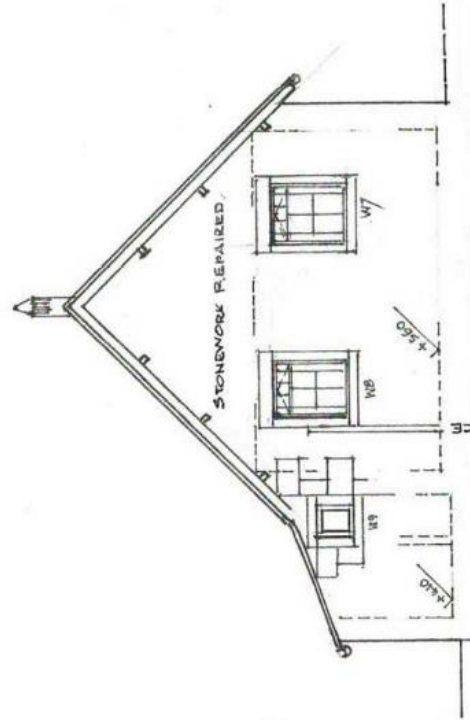


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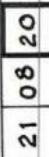




SOUTH WEST



SOUTH EAST



SCALE 1:100 app.

PROPOSED: PLAN: ROOFS

27 May



## SCHEDULE A: Applications with Recommendation

21/0782

Item No: 08

Date of Committee: 22/10/2021

**Appn Ref No:**  
21/0782

**Applicant:**  
Joey Seenarine

**Parish:**  
Carlisle

**Agent:**

**Ward:**  
Newtown & Morton North

**Location:** 153 Newtown Road, Carlisle, CA2 7LL

**Proposal:** Change Of Use From Hairdressers To Hot Food Takeaway

**Date of Receipt:**  
05/08/2021

**Statutory Expiry Date**  
30/09/2021

**26 Week Determination**  
25/10/2021

---

### REPORT

**Case Officer:** Richard Maunsell

#### 1. Recommendation

- 1.1 It is recommended that this application is refused.

#### 2. Main Issues

- 2.1 Whether The Principle Of Development Is Acceptable
- 2.2 Impact Upon The Amenity Of Occupiers Of Residential Properties
- 2.3 Highway And Parking Issues
- 2.4 Whether The Scale, Design And Impact On The Character Of The Area Is Acceptable
- 2.5 Other Matters

#### 3. Application Details

##### The Site

- 3.1 This application relates to 153 Newtown Road which is a two storey end of terrace property, located on the south side of Newtown Road approximately 0.5 miles (0.8 kilometres) west of the roundabout with the A595. The building occupies a corner site with residential properties adjacent. There are double yellow lines around the corner of the building with on-street parking adjacent.

- 3.2 On the opposite side of the road and to the north west, is a bakers currently occupied by Routledges. Approximately 140 metres further to the west, is a small neighbourhood centre on Raffles Avenue comprising of a flower shop, hot food takeaway and Newtown Community Primary School.
- 3.3 The surroundings to the property are wholly residential with the site and its surroundings identified as being located within a primary residential area in the proposal maps which accompany the Carlisle District Local Plan 2015-2030.

## **Background**

- 3.4 As stated in Section 7 of this report, planning permission was refused in 1990 for the change of use of the ground floor to a hot food takeaway. The reasons for refusal are as follows:

- “1. The proposed development would conflict with the provisions of the approved Carlisle Urban Area Local Plan which allocates the area in which the proposal is located as Primary Residential.*
- 2. The proposal would result in the intensification of a commercial use in a predominantly residential area and would, in combination with similar uses in existence or with planning approval, be likely to effect an inappropriate change in the character of the area as a result of increased levels of noise, disturbance, traffic generation and activity.”*

## **The Proposal**

- 3.5 The current application seeks permission for the change of use of the premises from a hairdressers to a hot food takeaway. The frontage of the building would be unaltered but it is proposed to install an extraction flue on the gable of the building that would face Cranbourne Road. The proposed hours of opening would be 10:00 hours until 22:00 hours each day.

## **4. Summary of Representations**

- 4.1 This application has been advertised by means of a site notice and direct notification to the occupiers of four properties. In response, seven representations have been received objecting to the application and the main issues raised are summarised as follows:
1. the area already struggles with people parking for the hospital, and local shops and services and this proposal will result in additional vehicles collecting or delivering food;
  2. the existing use has long been a problem with customer parking (sometimes all day) close to the junction which raises safety issues;
  3. additional vehicles will result in car doors slamming, engines running and noise pollution which is unacceptable;
  4. the local road network is already used as a racetrack which would



- increase;
5. there is no adequate parking for the takeaway;
  6. there are already a number of chip shops, cake shop and convenience stores in the vicinity with problems of discarded litter in the area;
  7. the hours of business for takeaways are unsociable;
  8. the use will result in odours into neighbouring properties;
  9. increased levels of noise will be generated at night;
  10. the takeaway will lower the value of neighbouring properties;
  11. the rear yard of the premises is shared and is unsuitable for use with the residential property above;
  12. there is nowhere safe and hygienic to store food waste potentially leading to an influx of vermin.

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

**Cumbria County Council - (Highways & Lead Local Flood Authority):** - the following response has been received:

Cumbria County Council as the Local Highway Authority (LHA) and Lead Local Flood Authority (LLFA) can confirm that we have no objection to the proposed development as it is considered that it will not have a material effect on existing highway conditions nor will it increase the flood risk on the site or elsewhere.

Although it is noted that the change of use may cause more vehicles to visit the premises, as these are likely to be spread out over a longer period of time, it is anticipated that any impact will be slight.

The LLFA Surface Water Map shows that there is an area of minor surface water flooding close to the site, with a 1 in 1000 chance of Surface Water flooding occurring each year;

**Local Environment - Environmental Protection:** - businesses such as the one proposed can give rise to complaints about odour, from occupiers of nearby residential properties. The potential for such complaints may be reduced, though not entirely obviated, by the installation and use of a suitable extract ventilation system. Such a system should be designed, for the cuisine in question, and installed by a competent ventilation engineer. In order for such systems to work successfully they will usually need a high level termination point. The system will also need to be designed such that its operation does not cause a noise nuisance. To this end, the resulting system will also need regular maintenance by a competent person. In addition, suitable apparatus will need to be installed to ensure that excessive amounts of oil and grease do not enter the drainage system.

Complaints may also be received which concern the hours of operation of such premises and the consequent comings and goings of customers and delivery drivers. The hours proposed for this application do not seem excessive and so it is recommended that any consent should reflect this.

If the application is successful then the applicant should contact this

department in order to be advised with regard to legislative compliance for food safety and occupational health and safety.

## 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 National Planning Practice Guidance (NPPG) together with Policies SP2, SP6, SP9, EC6, EC8, HO12, CM5 and IP3 of the Carlisle District Local Plan (CDLP) 2015-2030. The proposal raises the following planning issues.

#### 1. Whether The Principle Of Development Is Acceptable

- 6.3 Within the NPPF there is a presumption in favour of sustainable development. Paragraph 7 requires that:

*“The purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.”*

- 6.4 Paragraph 8 continues and identifies that to achieve sustainable development there are three overarching objectives. Paragraph 10 states *“so that sustainable development is pursued in a positive way, at the heart of the Framework is a **presumption in favour of sustainable development** (paragraph 11).”*
- 6.5 The application site is within a Primary Residential Area and although cited as a reason for refusal for the previous planning application in 1990, policies have changed since that time. Commercial uses of premises may be acceptable in residential areas, as highlighted by Policy HO12 of the local plan, subject to consideration against that other relevant local plan policies.
- 6.6 Policy EC6 of the local plan reflects the hierarchical approach of retail and main town centre uses for the district in Policy EC2 which is itself consistent with the Framework which seeks to protect vitality and viability of existing centres and also provides for new centres within strategic sites across the district. Under the NPPF, a hot food takeaway is defined as a ‘Main Town Centre’ use. Paragraph 87 of the Framework states that:

*“Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable*

*sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.”*

- 6.7 Paragraph: 011 Reference ID: 2b-011-20190722 Revision date: 22 07 2019 clarifies that it is “...for the applicant to demonstrate compliance with the sequential test (and failure to undertake a sequential assessment could in itself constitute a reason for refusing permission).”
- 6.8 Paragraph 90 of the NPPF requires impact assessments to be completed on retail and leisure proposals over 2,5000 square metres if there is no locally set threshold. The impact assessment should include consideration of “the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal” and “the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).”
- 6.9 Policy EC6 of the local plan outlines the locally set thresholds for retail floorspace within the urban area being proposals which exceed 1000sqm (gross) for convenience retail and 500sqm (gross) for comparison retail.
- 6.10 The application form which accompanies the application states the floorspace of the building is 43 square metres which is significantly less than the impact thresholds set. Additionally, the proposal seeks to reuse an existing commercial building and as such, it is not considered necessary in this instance to provide a Sequential Test.
- 6.11 Based on the foregoing, the principle of the reuse of the building for a commercial use is not precluded by planning policies. The issues raised by this application are discussed in the following paragraphs.

## **2. Impact Upon The Amenity Of Occupiers Of Residential Properties**

- 6.12 Policy EC8 of the local plan specifically relates to proposals for food and drink premises. The policy states that development proposals for uses within Use Class A3 (restaurants and cafes), A4 (drinking establishments) and A5 (hot food takeaways) will be approved provided that: 1) they are in defined centres or, if not, accord with the sequential and impact tests; 2) the amenity of adjacent uses would not be adversely affected; 3) the proposal would not cause unacceptable levels of traffic generation or highway obstruction, particularly where customers are collecting food from takeaways, or jeopardise highway or pedestrian safety; and 4) the proposal would not lead to an unacceptable concentration of a particular use or business type within and given locality. Policy EC8 states that opening hours will be imposed having regard to the surrounding uses, the character of the area, possibility of nuisance to residential areas and public safety. Although following changes to the use classes order, from 1 September 2020, hot food takeaways are now considered to be a sui generis use, this does not affect the meaning or application of the policy and its criteria.
- 6.13 Furthermore Policy HO12 of the local plan which relates to proposals for

other uses in primary residential areas seeks to protect the amenity of residential areas from inappropriate development. The policy further states that proposals for non-residential uses will only be permitted providing that 1) such uses maintain or enhance the overall quality and character of the immediate area; 2) there is no detrimental effect on residential amenity either through noise, nuisance, damage to visual amenity or increase in traffic; and, 3) the proposed use will provide a beneficial service to the local community. Policy HO12 also states that the character and residential amenity of the area should not be compromised by the cumulative impact of such proposals, either through increase in traffic or the intensity or intrusive nature of such proposals.

- 6.14 Local plan Policies SP6 and CM5 are also relevant to the proposal, in that they seek to ensure that the developments would be acceptable in terms of their relationship with existing uses. Both policies refer specifically to making sure development is not prejudicial to existing uses.
- 6.15 The application site is located on Newtown Road. There are several commercial uses further to the east along Newtown Road, close to the junction with the Cumberland Infirmary including (but not exclusively) a vehicle repair garage, sandwich shop, convenient store, hot food takeaway and barbers. Part way along Newtown Road between these premises and the application site are a funeral directors, hairdressers and Post Office. Diagonally opposite the site is a bakers. Further past the site on Raffles Avenue is a florist, school and hot food takeaway. As such, to the east and west of the site are areas anchored with commercial uses close to the Infirmary and Raffles Avenue. In between, there is a peppering of businesses adjacent to residential properties. As stated in Section 1 of this assessment relating to the principle of the change of use, this is not in question. The issue is the relationship with the neighbouring properties and the potential impact on the amenity of the occupants.
- 6.16 The current use of the premises as a hairdressers is likely to have only one or two clients, arriving on an appointment basis and spending a reasonable amount of time in the building. At the time of writing this report, the hours of opening varied with the latest opening times being 10:00 hours until 19:00 hours. By contrast, the proposed use would operate seven days a week between the hours of 10:00 and 22:00. In addition, the frequency of patrons to the premises is likely to be significantly different which greater numbers and a more frequent turnover through the takeaway. As well as pedestrians and customers in their own vehicles, the nature of takeaways has changed with more premises offering delivery services through companies such as Deliveroo and Just Eat or via their own drivers. It would be unlawful to impose a condition prohibiting any restriction on takeaway deliveries as it would be unenforceable. It is therefore reasonable to assume when assessing the current proposal that there could be coming and goings from the takeaway based on the proposed operating hours by customers, staff and delivery drivers by various transport modes, i.e. on foot, by motor vehicle or by cycle.
- 6.17 The proposed use of the premises as a hot food takeaway would result in the business operating late into the evening as well as on Sundays and bank

holidays when occupants of neighbouring residential properties would expect a reasonable amount of peace and quiet. Although located adjacent to a main route into the city from the west, the levels of vehicle movements in the evening and night, would be considerably less than the daytime and the noise levels from the traffic would therefore be much reduced. The proposed use would significantly increase the amount of noise, activity and disturbance emanating from the premises and within the surrounding area from patrons and staff including delivery drivers entering and leaving the premises on foot or within vehicles at anti-social hours when low ambient noise levels within residential areas are to be expected. This level of disturbance (from general chatter between patrons, vehicle engines stopping and starting, car doors slamming etc.) would be significantly compounded due to the application site's position within a primary residential area with no other late-night commercial uses present thereby resulting in the additional coming and goings from the takeaway being particularly noticeable to surrounding residents given the relative quiet residential nature of the existing street scene. The building is subdivided between the ground floor use and a first floor flat which is in separate ownership and would be disassociated from the business. In the absence of any attenuation measures, the use would result in significant levels of noise travelling through the ceiling that would be detrimental to the occupier of this flat. In such circumstances it is considered that the proposal would significantly intensify noise, activity and disturbance within the area to the detriment of the residential amenity of the surrounding area.

- 6.18 Objectors have raised concerns about the potential for odour to emanate from the premises. The submitted plans show a ventilation flue on the gable of the building; however, no technical details have been provided as to the method or equipment that would be used in the extraction. There is also no evidence to suggested that the illustrated size of the flue is adequate; however, such details could be secured through the imposition of a planning condition.

### **3. Highway And Parking Issues**

- 6.19 Planning policies, including Policy EC8 of the local plan, require that development proposals make adequate provision for parking and do not result in highway safety issues. Specifically, criterion 3 of Policy EC8 states the proposals for food and drink will be acceptable provided that:

*“the proposal would not cause unacceptable levels of traffic generation or highway obstruction, particularly where customers are collecting food from takeaways, or jeopardise highway or pedestrian safety;”*

- 6.20 Objectors have raised concerns regarding the potential for parking problems and the impact upon highway safety. The premises occupies a corner position where along the immediate roadside frontage are double yellow lines which prohibit the parking of any vehicle. Adjacent to these, are on-street parking spaces; however, these are generally occupied no matter the time of day or night.

6.21 Cumbria County Council as the relevant Highway Authority has been consulted on the proposal and has confirmed no objection to the proposed development as they considered that the proposal will not have a material effect on existing highway conditions. The Highway Authority have noted that although the hours will be increased which may cause more vehicles to visit the premises as these are likely to be spread out over a longer period of time it is anticipated that the impact will be slight.

6.22 The comments of the Highway Authority are noted and their advice is generally accepted in the determination of planning applications; however, in this instance, the proposal would result in a significant change to vehicle movements on this corner site, as outlined in this report through patrons, delivery drivers of the business and those employed by third party food delivery companies. It is also doesn't align fully with advice previously given or other sites in the city for similar proposals, namely 57 Scotland Road where a change of use to a hot food takeaway was refused and dismissed at appeal due the restricted parking and proximity to a busy junction. More recently, during the course of an application for a change of use at 53/53a Scotland Road, the Highway Authority stated:

*"The access from the A7 Scotland Road / junction of Thornton Road the U107 double yellow lines along this junction. No parking has been provided, and could result in parking on the double yellow lines at this junction."*

6.23 Whilst not ignoring the response from Cumbria County Council, in making a balanced assessment of the proposal, it is considered that the limited available on-street parking facilities will result in patrons parking on the double yellow lines to the detriment of users of the highway. As such, the proposal would be unacceptable in this regard.

#### **4. Whether The Scale, Design And Impact On The Character Of The Area Is Acceptable**

6.24 Paragraphs 126 to 136 of the NPPF which emphasises that the creation of high quality buildings and places is fundamental to what the planning system and development process should achieve. The Framework has a clear expectation for high quality design which is sympathetic to local character and distinctiveness as the starting point for the design process. Paragraph 130 outlines that:

*"Planning policies and decisions should ensure that developments:*

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) establish or maintain a strong sense of place, using the arrangement of*

- streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
  - f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”*

6.25 It is further appropriate to be mindful of the requirements in paragraph 134 of the NPPF which states:

*“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).”*

- 6.26 Policy SP6 of the local plan requires that development proposals demonstrate a good standard of sustainable design that responds to local context taking account of established street patterns, making use of appropriate materials and detailing, and reinforcing local architectural features to promote and respect local character and distinctiveness. The preparation and cooking of food for consumption off the premises, is likely to require the installation of a substantial mechanical extraction system which would include a flue for ventilation as stated earlier in this report.
- 6.27 When approaching the building from the east, Newtown Road rises up and the gable of the building is exposed within the street scene. The installation of a large stainless metal flue on this gable would be a discordant feature and one which would be detrimental to the character of the street scene.

#### **4. Other Matters**

- 6.28 Some of the representations received raise concerns about the number of food outlets, including takeaways, in the locality and consequently, that the development may have an adverse impact upon healthy living. It is acknowledged that some of the food provided by takeaways may not always be a healthy choice but it is essential to recognise that offering choice to consumers is logical, reasonable and influenced by the consumer market. It also has to be considered that the scale of the business is modest by comparison to other national chains providing other forms of fast food. Whilst there are food outlets, it isn't considered that there would be an unacceptable concentration of such business types in the locality as prohibited by Policy

EC8. In relation to this, it is considered that the proposed alteration to opening hours wouldn't give rise to an unacceptable adverse impact on human health, therefore the proposal would be consistent with Policy SP9 of the local plan.

- 6.29 Concerns have also been raised that the proposal may result in an increase in anti-social behaviour. Although the use is likely to lead to increase levels of noise and disturbance, it is unreasonable to assume that all customers from hot food takeaways would take part in anti-social behaviour. If anti-social behaviour was to take place this would be a matter for Cumbria Constabulary as the relevant appropriate authority for dealing with crime and disorder.
- 6.30 The reference made in the objections to the potential impact on property values in the area isn't a material planning consideration.

## **Conclusion**

- 6.31 In overall terms, the application site is located within a primary residential area. The principle of a commercial business in juxtaposition with residential properties isn't discounted by planning policies. Moreover, it is the potential impact of the use on the living conditions of the occupiers of these properties that needs to be assessed.
- 6.32 The NPPF together with local plan policies aims to build a strong, competitive economy and generating employment opportunities which would be the outcome from this development should the application be approved; however, the conclusion from the foregoing assessment, is that the proposal would be detrimental to the living conditions of the occupiers of residential properties in the locality and would generate issues in terms of parking and highway safety.
- 6.33 The installation of a large stainless extraction flue on this prominent gable wouldn't add to the overall quality of the area and is likely to result in a discordant feature within the street scene.
- 6.34 Any perceived benefit from the proposal would be demonstrably outweighed by the harm that would result and for these reasons, the proposal is considered to be contrary to the objectives of national and local planning policies.

## **7. Planning History**

- 7.1 Planning permission was refused in 1990 for the change of use of the ground floor to a hot food takeaway.

## **8. Recommendation: Refuse Permission**

1. **Reason:** Although located close to a main highway thoroughfare, the application site is located in a Primary Residential Area. The

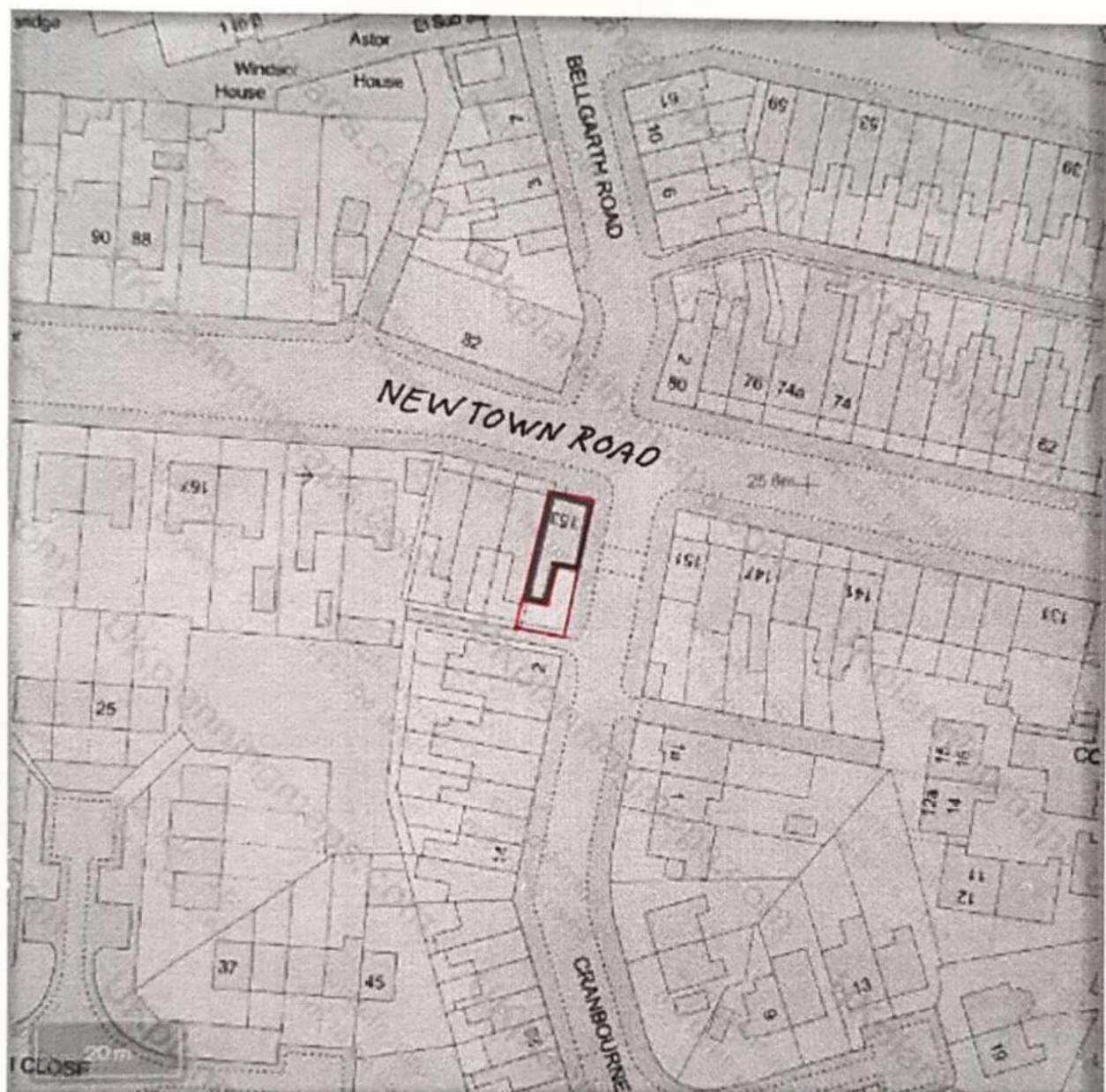


proposed change of use of the premises to a hot food takeaway, would result in the takeaway operating throughout the day and late in the evening as well as on Sundays and bank holidays when occupants of neighbouring residential properties would expect a reasonable amount of peace and quiet and in particular to the occupier of the first floor flat above the premises. As such, the proposed use would significantly increase the amount of noise, activity and disturbance emanating from the premises and within the surrounding area from patrons and staff including delivery drivers entering and leaving the premises on foot or within vehicles at anti-social hours when low ambient noise levels within residential areas are to be expected. This level of disturbance (from general chatter between patrons, vehicle engines stopping and starting, car doors slamming etc) would be significantly compounded due to the application sites position within a primary residential area with no other late-night commercial uses present thereby resulting in the additional coming and goings from the takeaway being particularly noticeable to surrounding residents given the quiet residential nature of the existing street scene. In such circumstances it is considered that the proposed use as a hot food takeaway would significantly intensify noise, activity and disturbance within the area to the detriment of the residential amenity of the surrounding area. The proposal is therefore contrary to criterion 2 of Policy EC8 (Food and Drink); criterion 7 of Policy SP6 (Securing Good Design); criterion 2 of Policy HO12 (Other Uses in Primary Residential Areas); and the objectives of Policy CM5 (Environmental and Amenity Protection) of the Carlisle District Local Plan 2015-2030.

2. **Reason:** The application site is located on the corner of Newtown Road and Cranbourne Road where parking is prohibited by double yellow lines. Adjacent parking facilities in the form of on-street parking is generally at capacity which would be the case during the evening when residents would normally return from work. A hot food takeaway would result in an intensification of the use in highway terms generated by the amount of visits from patrons and delivery drivers on a short-term basis. This is likely to result in parking outwith designated on-street parking areas that would cause interference in the free flow of traffic, additional danger and inconvenience to road users and would therefore be contrary to criterion 7 of Policy SP6 (Securing Good Design); criterion 3 of Policy EC8 (Food and Drink); criterion 2 of Policy HO12 (Other Uses in primary Residential Areas); and the objectives of IP3 (Parking Provision) of the Carlisle District Local Plan 2015-2030.
3. **Reason:** The use of the premises as a hot food takeaway will necessitate the installation of an extraction flue. When approaching the building from the east, Newtown Road rises up and the gable of the building is exposed within the street scene.

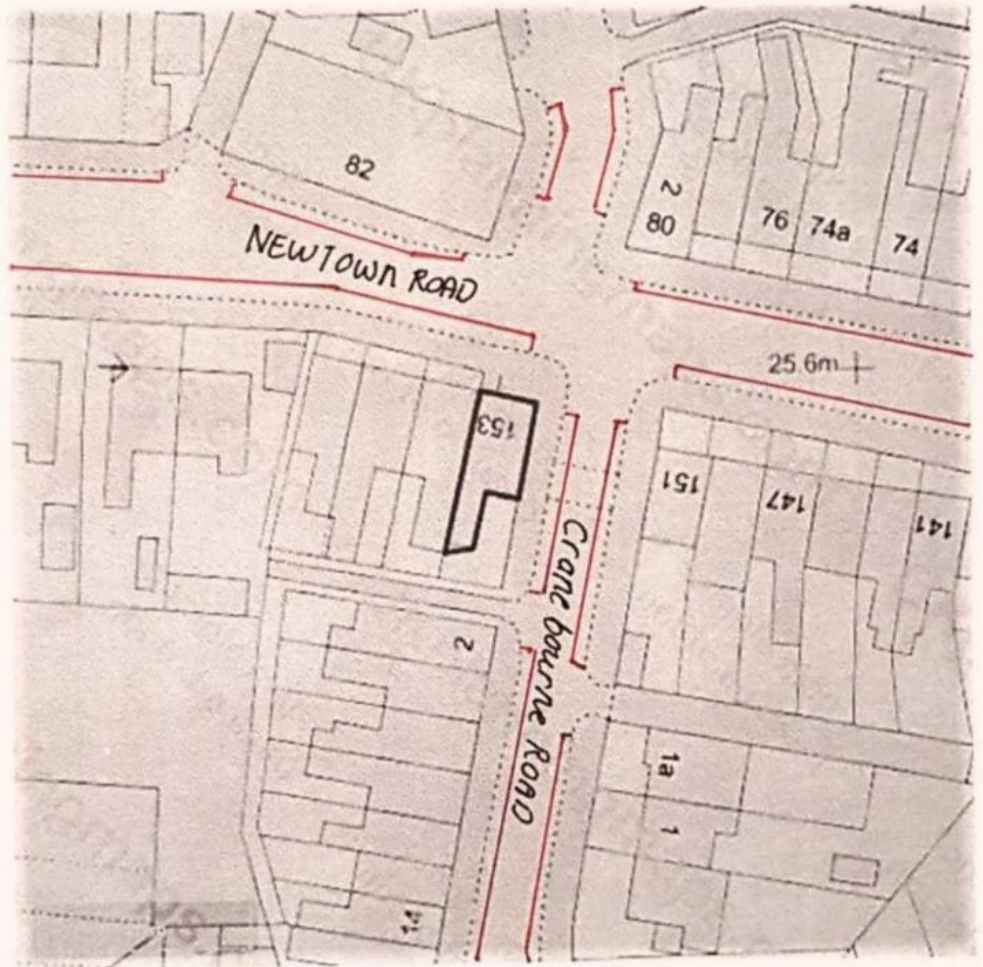
The installation of a large stainless metal flue on this gable wouldn't positively contribute to the overall character of the area resulting in a discordant feature and one which would be detrimental to the character of the street scene contrary to criterion a) of Paragraph 130 of the National Planning Policy Framework; and criterion 1 of Policy SP6 (Securing Good Design) of the Carlisle District Local Plan 2015-2030.

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scale 1:1250 Location Plan

Parking spaces



Block plan 1:500 SCALE





## SCHEDULE A: Applications with Recommendation

21/0382

Item No: 09

Date of Committee: 22/10/2021

**Appn Ref No:**  
21/0382

**Applicant:**  
Mr Roger Boardman

**Parish:**  
Rockcliffe

**Agent:**  
Phoenix Architects

**Ward:**  
Longtown & the Border

**Location:** Metal Bridge Inn, Metal Bridge, Blackford, Carlisle, CA6 4HD

**Proposal:** Change Of Use To Add Provision Of Overnight Parking Of Motor Homes & 5no. Camping Pods; Erection Of Toilet Block (Part Retrospective)

**Date of Receipt:**  
24/06/2021

**Statutory Expiry Date**  
19/08/2021

**26 Week Determination**

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### REPORT

**Case Officer:** John Hiscox

#### 1. Recommendation

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

#### 2. Main Issues

- 2.1 Development principle
- 2.2 Public amenity
- 2.3 Private amenity
- 2.4 Highway safety
- 2.5 Flood risk
- 2.6 Surface water management
- 2.7 Foul drainage
- 2.8 Public rights of way
- 2.9 Biodiversity & nature conservation
- 2.10 Landscaping
- 2.11 Economic development

#### 3. Application Details

##### The Site

- 3.1 Metal Bridge Inn (and the associated hamlet of houses) can only be accessed via the minor road (U1265) which connects to the C1016 near Floriston. The U1265 is situated close to the M6 motorway, running south-east to north-west for approximately 500m alongside the motorway boundaries. The U1265 may have been a 'through route' previously, but for a long time has been closed off just beyond the point where it meets with the entrance to the inn.
- 3.2 The inn is a going concern as a public house and restaurant. It has a very large hardsurfaced parking area associated with it.
- 3.3 The site area is all contained within the overall curtilage to the inn, on ground to the south-west of the courtyard of buildings occupying the north-east end of the site. Generally, the site area was until recently ostensibly used for the parking of vehicles for staff and visitors.
- 3.4 The ground is generally flat but drops away substantially beyond the north-west boundary towards the river Esk basin.
- 3.5 Immediately to the south-west beyond a public footpath (the footpath runs along the edge of the field just outside the site) is open agricultural ground (field). Immediately to the north-west is the riparian bank area associated with the River Esk. The inn is bounded on its north-east side by the M6 motorway corridor.
- 3.6 A number of private, detached dwellings align the U1265 on its south-western side. In total, there are 5 residences, all with individual accesses onto the public road. The nearest dwelling to the application site is Metal Bridge House. Metal Bridge House is independently owned and is not part of the curtilage or complex of the inn.

## **Background**

- 3.7 The application was submitted in response to an planning enforcement investigation, hence the development description referring to this being partially retrospective.

## **The Proposal**

- 3.8 The application relates to the introduction of a row of glamping pods and change of use of an adjacent area for overnight parking of motorhomes. As part of the application, a toilet block, erected without planning permission, is included.
- 3.9 At the time of the planning site visit, the five glamping pods now applied for were already in situ, and although official opening had not taken place, they appeared to be substantially complete. At the time of the visit, there were no motorhomes present on the site. The toilet block was completed and operational at the time of the visit.
- 3.10 The 5 pods are identical (other than external paint/stain finishes), and are



aligned/orientated so that their entrance doors face away from the car park, and towards the adjacent field. Each is 3m x 4m with a curved ridge at 2.6m height and is externally clad in timber at the ends, with a mock shingle roof. Each has its own timber access deck to the side/rear. They are aligned with the boundary at the south-west end of the site on a grassed strip between the pre-existing car park and the boundary, and are regularly spaced with the gap between each pod being the same - at least 6m separation. The pods do not have water or sewage connected - ablutions are via the toilet block only.

- 3.11 The area being utilised for overnight parking of motorhomes is part of the wider car park serving the overall business/site. It is situated just to the north-east of the pod area and is centred around a hardsurfaced area of the car park that is punctuated by several mature trees. Other than a number of timber poles laid down to indicate notional parking spaces, there is no physical development relating to this element of the development proposed (change of use). 17 berths are proposed on this area/site.
- 3.12 The toilet block applied for is approximately 2.5m wide (including the overhang), 8m in length and 3m to the ridge. It is clad in profile sheeting and door openings are in the north-west elevation, facing away from the car park.
- 3.13 The overall area of development is approximately 0.22 hectares including the pod and parking area. The overall site area of the inn and its curtilage is approximately 0.58 hectares.
- 3.14 A landscaping scheme has been submitted belatedly relating to the south-west edge of the site and also to part of the south-east edge - between the south corner of the car park and the adjacent field, and also between the site and a short section of the rear garden to Metal Bridge House.
- 3.15 Advance bookings are required to secure spaces on Friday and Saturday nights, but the site accepts guests on any night. According to the applicants, it is only on Fridays and Saturdays that they are currently finding a likelihood of approach anywhere near capacity. Occasional 'call-ins' are accepted, but only when there is capacity.
- 3.16 The latest accepted arrival time is 8pm; only one night stopovers are allowed.

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

- 4.1 This application has been advertised by means of site and press notices as well as notification letters sent to five neighbouring properties.
- 4.2 In response to advertisement, two letters of support (representing two separate third parties/households) and one letter of objection have been received.
- 4.3 A summary of the matters of relevance stated in the letter of objection is as follows:

- (i) Although not objecting to principle of some development on a significantly reduced scale, lists concerns requiring resolution before a decision is made
- (ii) Adverse visual impact on visiting motor homes on locality
- (iii) Adverse impact of lighting on nearby residential amenity
- (iv) Adverse impact of lighting on designated nature conservation areas (SSSI, SAC, SPA - relates to nearby River Esk)
- (v) Inadequate consideration/information relating to potential impact on SAC/SSSI/SPA
- (vi) Inadequate information available regarding management/processing of waste (human waste from motor homes)
- (vii) Dog waste bins should be provided - many visitors bring dogs and spending is taking place on verges outside nearby homes
- (viii) Development would increase noise emanating from pub/site - should be controlled/limited in respect of number of visitors allowed and arrival times
- (ix) Development is giving rise to users of the site frequenting areas in front of existing residences, causing adverse impact on quiet enjoyment of residents (if development was limited only to pods, this would be less likely - addition of motorhomes identifies that site is not big enough for its users)
- (x) Lack of clarity relating to adequacy of site to provide parking for all elements of development plus the public house - should be investigated in context of Cumbria County Council Design Guide
- (xi) Development could promote parking of excess vehicles outside site (on highway) - causing potential road safety issues
- (xii) Lack of clarity relating to where pod users would park
- (xiii) Numbers of motor homes should be strictly limited, to ensure there are not an excess (i.e. that would not be accommodated within the site and would spill out beyond the site)
- (xiv) Development would promote increase in number of road users including pedestrians, causing potential danger to users, especially as there are no pavements present.

4.4 A summary of the matters of relevance stated in the letters of support is as follows:

- (i) Provides good amenity for tourists passing on M6/M74
- (ii) No detrimental affect on local community
- (iii) Development does not promote excessive noise
- (iv) Development not giving rise to problems emanating from additional traffic
- (v) Lighting unobtrusive and not having adverse effect on nearby residential amenity
- (vi) Operators are managing visitor numbers and arrivals appropriately.

## 5. Summary of Consultation Responses

**Rockcliffe Parish Council:** - No objection. Observations submitted in relation to: (i) impact of additional traffic, noise and disturbance on existing residential properties; (ii) consideration to be given to setting 'last arrival time' for site users; (iii) consideration also to be given to specifying limit of number of vehicles to limit noise and traffic; (iv) lack of footpaths in the locality for people to walk along; (v) need to provide and empty bins in relation to litter and dog waste; (vi) landscaping and bunding required to be in place to reduce disturbance via noise and light pollution on

amenity of residents nearby; (vii) consideration to be given to potential impact of floodlighting on amenity of nearby residents; (viii) application very close to the river - Wastewater License should be in place with an emergency backup plan available if a break down occurs; facilities need to be available for campers to dispose of wastewater and toilet waste if necessary.

**Kirkandrews Parish Council:** - Supports the application.

**Cumbria County Council - (Highways & Lead Local Flood Authority):** - No objection. Advises in respect of (i) presence of public footpath and need not to obstruct; (ii) site adjacent to Flood Zone 2 and 3 (advice should be sought from Environment Agency)

**The Ramblers:** - No response.

**Cumbria County Council - (Highway Authority - Footpaths):** - No objection. Advises in respect of (i) presence of public footpath and need not to obstruct.

**Carlisle City Council Environmental Health Service:** - No objection; provides guidance relating to minimisation of nuisance through lighting. Advises in respect of distances between pitches for pods and motorhomes. Advises regarding distance between pitches and site boundaries. Mentions requirement for licence under Caravan Control and Development Act (1960).

**Planning - Access Officer:** - Initial response querying whether facility include wheelchair access to one of the pods and a dedicated parking space for disability users.

## **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 proposed development requires to be assessed against the National Planning Policy Framework (2019 - as amended in July 2021) and the Policies of the Carlisle District Local Plan 2015-2030 listed in paragraph 6.4 below.
- 6.3 The main issues, as listed earlier in the report, are as follows:
- (i) Development principle
  - (ii) Public amenity impacts
  - (iii) Private amenity impacts
  - (iv) Highway safety
  - (v) Flood risk
  - (vi) Surface water management
  - (vii) Foul drainage
  - (viii) Public rights of way
  - (ix) Biodiversity & nature conservation
  - (x) Landscaping
  - (xi) Economic development
- 6.4 Taking into consideration the range and nature of matters for consideration in

respect of this planning application, the following Policies of the aforementioned Local Plan are of relevance to this application:

Policy SP 2 - Strategic Growth and Distribution  
Policy SP 6 - Securing Good Design  
Policy CC 4 - Flood Risk and Development  
Policy CC 5 - Surface Water Management and Sustainable Drainage  
Policy CM 5 - Environmental and Amenity Protection  
Policy GI 3 - Biodiversity and Geodiversity  
Policy GI 5 - Public Rights of Way  
Policy IP 2 - Transport and Development  
Policy IP 3 - Parking Provision  
Policy IP 6 - Foul Water Drainage on Development Sites  
Policy EC 9 - Arts, Culture, Tourism and Leisure Development  
Policy EC 10 - Caravan, Camping and Chalet Sites

- 6.5 Furthermore, the most relevant paragraphs from the NPPF in relation to this development would be as follows:

**Para. 81:**

- 6.6 Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.

**Para. 84:**

- 6.7 Planning policies and decisions should enable:
- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
  - b) the development and diversification of agricultural and other land-based rural businesses;
  - c) sustainable rural tourism and leisure developments which respect the character of the countryside; and
  - d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.

**Para. 85:**

- 6.8 Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that

development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

**Para. 93**

- 6.9 To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

- a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;
- b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;
- c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;
- d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and
- e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.

**Para. 111**

- 6.10 Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

*Development principle:*

- 6.11 Metal Bridge Inn is unusually sited in a location where access to the locus is achieved slightly convolutedly. It seems to be well established and well used, and although there is an immediately local residential community of sorts, its existence and ongoing commercial success depends on its ability to continue to attract customers from a wider realm. Its location could render it slightly precarious in terms of being able to continue to sustain itself as a commercial entity.
- 6.12 It is essential that support is given to rural facilities, through planning, when they are proposed to be augmented or diversified appropriately to help sustain and maintain them. This approach accords with Paragraphs 81 and 84 of the NPPF. However, developments must be appropriate to their locus in terms of nature and scale, and should not be prejudicial to existing occupiers or have any other significant adverse effects that would otherwise render them unacceptable. For example, such developments should not give rise to unacceptable levels of additional noise, should not impact on biodiversity and

should not harm the environment. They should also not promote risk to highway users including those who reside there. If it can meet with these caveats, development will accord with Paragraphs 85 and 111 of the NPPF.

- 6.13 The Metal Bridge Inn site and curtilage is sizeable and much of it has been, and remains as car park notwithstanding the unauthorised introduction of the development. There is plenty of room for additional items to be sited within the curtilage, and yet for a substantial area of car park to remain available for non-camping customers and staff. The development applied for occupies only a modest part of the overall site and is located in a logical area not immediately adjacent to the nearest dwellings. The overnight element is busier at weekends (although available for customers also from Sunday to Thursday night inclusive).
- 6.14 The pods are sited close to a boundary with an adjacent field. The scale of development is proportionate to the site and is well related to its overall operation. The level and nature of diversification is appropriate to the location and enhances the attractiveness of the venue for visitors, thereby providing greater footfall within the pub/restaurant and subsequent increased revenue.
- 6.15 In terms of the most relevant policies of the Local Plan, which are SP 2, EC 9 and EC 10, and having regard to the NPPF, the principle is considered to be positive and not in conflict. This is because:
- (i) the location of the development is dictated by the location of the public house and does not give rise to a new development in a virgin location (SP 2, Criteria 8; EC 10)
  - (ii) the development would contribute towards the tourism offer of the District and support the economy of the area, and the scale and design of the development is compatible with the character of the surrounding area (EC 9 & EC 10);
  - (iii) adequate access and appropriate parking arrangements are provided (EC 10);
  - (iv) flood risk is not a pivotal concern because the site is outside the flood zone and separated from the adjacent watercourse by substantial rising topography (EC 10);

*Public amenity impacts:*

- 6.16 Impacts on public amenity through this development could arise from landscape and visual impacts, because it all occupies ground that is visible from the public realm to some extent. It is visible at close quarters from a public right of way that runs first along the eastern boundary, and then along the southern boundary of the site (outside the site). It could also be viewed from outside the site from wider environs, across the landscape. It is highly likely to be visible/viewed from the environs of the residences adjacent to the site entrance, in particular from Metal Bridge House, the nearest of the 5 dwellings present on this side of the lane.
- 6.17 However, this would only be a cause for concern if the landscape and visual impacts would be adverse. The scale and nature of the development, laid out

as it has been with some logic and intelligence, do not make it adverse and it is not incongruous. Regard must be had to the presence of the nearby M6 motorway and its enclosures which are very close to the site, and which both screen and backdrop the development site, offsetting its presence as a visual component of the locality - it is not readily visible other than the upper parts of the main pub building from the motorway corridor.

- 6.18 Regard must also be had to the presence of mature vegetation in and around the site which helps assimilate the site into its surroundings (as well as providing shielding from wind) and which are positive elements of the pub/restaurant setting.
- 6.19 In respect of public amenity, the development is of a nature, design/layout, scale and intensity (having regard to 'weekend focus') that allows it to accord with Policies SP 6, EC 9 and EC 10.

*Private amenity impacts:*

- 6.20 Private amenity impacts relating to this site/development would only relate to the 5 houses closest to the site. The most obvious impacts potentially arising would be noise (generated by persons occupying the site, associated movements etc) and light pollution (generated within the development by installed lighting or by site users). Other effects could include the perception that privacy is being lessened because there are more 'passers-by' moving to and from, and at the locality.
- 6.21 **Criteria 7 of Policy SP 6** requires that proposals should ensure there is no adverse effect on the residential amenity of existing areas, or adjacent land uses, or result in unacceptable conditions for future users and occupiers of the development;
- 6.22 **Policy CM 5**, in respect of **Criteria 1**, states that development will not be permitted where it would generate or result in exposure to, either during construction or on completion, unacceptable levels of pollution (from contaminated substances, odour, noise, dust, vibration, light and insects) which cannot be satisfactorily mitigated within the development proposal or by means of compliance with planning conditions.
- 6.23 Looking first at noise, there is no noise report submitted and such an item would not be required. To require such an item to be submitted in relation to this application would be disproportionate to the level and nature of development. In making this judgement, regard is had to the location of the site so close to the M6/M74 corridor. Noise from the motorway is a significant and relatively constant sound in the locality, both during the day and at night.
- 6.24 It may be noted that the Carlisle City Council Environmental Health Officer/Service has not requested any such item and has not cited noise as an issue for consideration in its consultation response.
- 6.25 That is not to say that noise will not be a consideration, because it is likely that the outdoor nature of the development means that its users will generate

external noise to some extent through conversation, which could include laughter and shouting between individuals. It could also be generated through the closing of doors on motorhomes or the toilet block and by the movement of vehicles. It is possible that individuals could play music either in the pods or in their own motorhomes, and that this could be heard by residents nearby.

- 6.26 In mitigation, as well as this being so close to the motorway and therefore already having an inherent, relatively constant background noise, the following can be acknowledged:
- (i) within their own homes, nearby residents are likely already to benefit from good sound insulation because measures will be in place (e.g. modern glazing) to account for the nearby motorway;
  - (ii) the nearest habitable rooms within the nearest residence (Metal Bridge House) are just over 30m away;
  - (iii) the pod development is focussed away from the site and similarly away from the residences, with its external/activity areas a little under 40m away at the nearest point(s);
  - (iv) the development/site is understood to be operated with reasonable controls in place which include ensuring all residents arrive by a 8pm and mainly only allowing users through advance bookings;
- 6.27 Turning to light, the site is lit with a series of 15 low lights (footlights) and no floodlights. These are to be positioned close to the edges of the motorhome parking area and the row of pods. This mode of lighting is not invasive and would be appropriate to most car parks frequented by the visiting public. This part of the development does not raise any significant concerns in respect of private amenity impacts.
- 6.28 Light is also likely to be generated by the visiting vehicles, and potentially personal torches utilised by residents to find their way, for example if pod occupants want to augment the light available to them if walking to the toilet block during the night. This is potentially a significant implication, which would possibly promote concerns from residents if light pollution were to become a persistent nuisance issue.
- 6.29 Consideration has been given to requiring provision (i.e. through condition if planning permission is granted) of a management plan relating to movement, noise, light etc. on the site, especially during quiet hours/hours of darkness. This consideration is in the light of the future relationship of the site with the nearby residents. However, this potential additional control is considered not to be strictly necessary, for the following reasons:
- (i) the situation of the group of buildings at Metal Bridge is already affected significantly by its proximity to the motorway in terms of light and noise pollution;
  - (ii) the introduction of this development, by virtue of its nature and scale, would not significantly increase disturbance in this wider context;
  - (iii) the development is logically and reasonably located in relation to the nearby residences;
  - (iv) 'other' visitors/users could come and go earlier or later on any given



- day when the pub/restaurant is open and give rise to greater impacts on private amenity;
- (v) visitor numbers could increase more in relation to other alternative activities already authorised in the context of the pub/restaurant/inn use; and
  - (vi) the site is monitored by the owners/operators as part of the wider activity at the premises.
- 6.30 To conclude in relation to private amenity impacts, the application is considered to be in accord with Policies SP 6 and CM 5, and no conditions to further limit or control the development would be proposed in this context.

Highway safety:

- 6.31 It should be noted that Cumbria County Council, as specialist highway safety consultee, has submitted a consultation response with reference to the potential increase in use by user/visitor vehicles. The response advises that the slight increase in vehicular use of the existing access is unlikely to have a significant material effect on highway conditions. The response also advises that the layout details are considered to be satisfactory from a highway perspective.
- 6.32 The area (proportion) of the site allotted to the new uses and development is reasonable and not out of scale in relation to the overall use of the site; as mentioned earlier in this report, the Metal Bridge Inn site and curtilage is sizeable and much of it has been, and remains as car park notwithstanding the unauthorised introduction of the development. There is plenty of room for additional items to be sited within the curtilage, and yet for a substantial area of car park to remain available for non-camping customers and staff.
- 6.33 Officers tends to agree with Cumbria County Council in respect of these considerations, in particular because the pub/restaurant and its overall curtilage is sizeable; plus, the site would have the potential to generate more traffic via other means, for example if activity within the pub and associated buildings were to be intensified as a result of other special events, or as a result of changes/augmentation to the buildings and layout to provide more restaurant seating or overnight accommodation. This option is not out of keeping with the existing or potential usage of the site, therefore any additional traffic generated would not be problematic to such an extent that it causes danger to road users.
- 6.34 For these reasons, the application is not in conflict with either Policy IP 2 or IP 3, or Paragraph 111 of the NPPF.

Flood risk:

- 6.35 Although the entire site is outside Flood Zones 2 and 3, and therefore not considered to be at risk of potential flooding, specifically because it is situated at such a height above the River Esk, on occasion the running water of the river rises substantially and has been witnessed to lap close to the outer edges of the site on the river side, although not over and into it.

- 6.36 Cumbria County Council, as Lead Local Flood Authority, has advised that it has no records of minor surface water flooding to the site, but that the Environment Agency surface water maps indicate that the site is in an area of risk adjacent to Flood Zones 2 and 3. This specialist consultee has advised that consultation with the Environment Agency should be undertaken.
- 6.37 The applicants have advised that the site did not flood in 2005 or 2015 despite extreme weather events and disastrous flooding elsewhere in the District. However, in acknowledgement that extreme weather events such as those cannot be fully predicted, the applicants have indicated a willingness to consider a basic flood plan.
- 6.38 Given that the site has not previously flooded, despite the proximity to the River Esk it would be appropriate and proportionate to advise that a flood plan is prepared through an advisory note, rather than require it to be provided via condition. This would bring the application appropriately in accord with Policy CC 4. Consultation with the Environment Agency is not a statutory requirement and on this occasion, having regard to what is known about the absence of flooding at the site and to the willingness of the operators to prepare a flood plan, such an additional consultation is not deemed to be necessary.

Surface water management:

- 6.39 Surface water dispersal provisions are unlikely to change due to the introduction of the development or the change of use. No changes are proposed to the surface of the area affected by the change of use for overnight parking of motorhomes, and although placement of the pods covers over 5 modest areas of potentially permeable ground, this would not significantly change the level of drainage available for surface water at the site.
- 6.40 It may have been helpful for the application to indicate in some way how surface water is managed (no indication in the planning application form or drawings and no supporting statement submitted); however, it is not considered to be a significant issue for further consideration, given how little circumstances are likely to have changed. The application is therefore in accord with Policy CC 5.

Foul drainage:

- 6.41 Within the application form it is indicated that foul sewage would be processed via the existing sewage treatment plant serving the public house. Given the level and nature of development proposed, this is logical and there is no planning reason to further investigate. A large treatment plant is in situ and operational in relation to the overall site - positioned just behind the new toilet block.
- 6.42 In another area of the site, provision has been made for the emptying of waste water and toilet waste from the motorhomes. It is well signed and is

clearly intended to be utilised by persons using the site. This is not necessarily a matter for planning, but the availability of this provision is appropriate. Subsequent management of the waste arising would likely be a matter for the Environment Agency to consider.

- 6.43 In relation to foul drainage, therefore, the application is not in conflict with Policy IP 6 of the Local Plan.

Public rights of way:

- 6.44 Public Footpath ref. 128005 is closely adjacent to the site on its south-east and south-west boundaries. However, it is entirely outside the application/development site. Its useability would not be affected by the implementation of the development in terms of deviation or obstruction and therefore the application is not in conflict with Policy GI 5 of the Local Plan.
- 6.45 In the event of planning permission being granted, an advisory note regarding the location of the path may appropriately be included in the Decision Notice.

Biodiversity and nature conservation:

- 6.46 The overall site is close to the riparian area belonging to the River Esk. Designations exist in relation to nature conservation aspects of the river, but of all of these officially terminate approximately 95m west of the site. The designations include (i) Special Area of Conservation; (ii) Site of Special Scientific Interest; (iii) RAMSAR site; and (iv) Special Protection Area.
- 6.47 The absence of designation of the section of the Esk nearest to the site perhaps signifies the proximity of the locale to the motorway corridor. However, it does not mean that the section of river is of no conservation value because it obviously is part of the same river.
- 6.48 It is not likely that the application represents a potential threat to biodiversity or habitat. Overnight parking of motorhomes is occurring within an existing overspill parking area, at a level (in terms of numbers) which does not intend to push beyond the confines of this area of the site, so in this respect there would be no real change. The new toilet block is plumbed into the existing foul water drainage system (into the sewage treatment plant) and therefore any dispersal towards the river is controlled through relevant regulations.
- 6.49 The application would therefore not promote any significant effects that are relevant to the consideration of the application, in relation to biodiversity and nature conservation, and it would accord with Local Plan Policy GI 3.

Landscaping:

- 6.50 Consideration can be given as to whether the likely development impacts, for example noise, light and visual impacts, could or should be mitigated through landscaping.
- 6.51 The site includes several mature trees and a belt of trees close to the top of

the river bank, and all of these add to the quality of the site. However, it is not enclosed on all sides. There is no vegetation of note on the south-east edge of the site where it is nearest to the row of dwellings.

- 6.52 It could be beneficial both in terms of the quality and use of the site, and also in respect of introducing a degree of separation, for landscape planting to be added within, and on the margins of the site. This would potentially have the effect of increasing the application's alignment with Policy EC 10. However, it would not be a necessary augmentation in relation to landscape and visual impacts of the overall site, because in this wider context the development impacts are not adverse.
- 6.53 At the time of concluding this report, negotiations have resulted in the provision of a landscaping proposal. The proposal includes details of new hedging and tree planting in the development area, which is appropriate to the development and site. This has assisted in bringing the application more in accord with Policies SP 6 and CM 5.

*Economic Development:*

- 6.54 The NPPF guides local planning authorities towards supporting sustainable economic development, whenever possible. All of the paragraphs of the NPPF listed above are applicable, and in particular the application accords with Paragraphs 81, 84, 93 as a site where support through planning should be given to enable rural businesses to continue and to thrive. The development is not in conflict with Paragraphs 85 and 111, having particular regard to access and highway safety.
- 6.55 To a great extent, this area of consideration is covered earlier under development principle. The inn is located a little 'off the beaten track', which is the hallmark of many rural public houses that have closed as they have become less profitable. It is, therefore, potentially precarious in terms of its ability to survive in an economic development context, which increases the significance of how planning decisions can affect its viability.
- 6.56 When businesses existing in this scenario seek logical and proportionate ways to sustain themselves and to improve, support should be given in all circumstances unless there are overriding issues that cannot be mitigated. This is not a development with overriding issues arising, and there are no matters of such significance that the application would only be acceptable if onerous conditions are imposed. It may therefore be concluded that the application is not in conflict with the NPPF and that it represents an appropriate level and nature of noteworthy economic development, which is proportionate to the existing rural business.

**Conclusion**

- 6.57 Development has already been undertaken, including the toilet block, the change of use and the installation of the pods, without first having obtained planning permission. This is unfortunate and may be regarded as premature, but further to being contacted by the planning service, the current application

was forthcoming to seek to regularise the planning situation. However, even though the undertakings requiring planning permission were premature, this must not prejudice consideration of the application.

- 6.58 Careful consideration has been given to how the proposals within the application relate to and supplement the primary use and operations of the inn/restaurant, taking into account its need to sustain itself in this rural position, where many other similar premises in similar locations are no longer in existence.
- 6.59 The relationship of the site and the development with nearby residents has been given due consideration, especially in respect of noise and light pollution and the movement of vehicles to and from the site. This has resulted in the inclusion of conditions relating to arrival time being limited to before 8pm, and limitation of motorhomes to the area identified for said purpose. It has also led to the emergence of a landscaping scheme to provide a degree of enclosure between the site and the nearest dwelling. Overall, however, the scale of development and the layout including the way lighting has been provided at low level reflect attention to potential conflict mitigation and have resulted in a reasonable and compatible arrangement that would not promote overriding, or even significant adverse effects, especially taking into consideration that this is already a sizeable and potentially busy pub/restaurant.
- 6.60 The installation of the pods, the toilet block and the change of use of the area of overspill car park for overnight stopping for motorhomes is consistent and compatible with the existing operations, use and scale of development, and as part of the overall 'offer' at the Metal Bridge Inn', will help sustain an important local facility, promoting sustainable economic development of a level suitable for the locus, and helping to secure employment opportunities associated with running of the premises. There are no outstanding and/or overriding concerns relating to biodiversity, drainage, flood risk, impacts on private amenity or highway safety. Therefore, as long as undertaken at all times in accord with the terms of this planning permission, the proposals would be acceptable in the context of all national and local planning policies and can be supported. Approval of the application is therefore recommended.

## **7. Planning History**

- 7.1 In 1988, under ref. 88/0157, planning permission was granted for a ground floor extension to lounge and beer cellar and internal alterations;
- 7.2 In 1978, under ref. 78/0100, planning permission was granted for demolition of outbuildings, alterations and extensions;
- 7.3 In 1974, under ref. BA8392, planning permission was granted for use of land as a car park.
- 7.4 Other planning history exists, but it is not relevant to the current application.

**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;
  2. drawing ref. PA20/743/01A (site plan/pod details), received on 28 June 2021;
  3. drawing ref. PA20/743/03 (location plan), received on 28 June 2021;
  4. drawing ref. PA20/743/04 'Toilet Block', received on 28 June 2021;
  5. drawing ref. PA20/743/05 'Landscaping', received on 11 October 2021;
  6. the Notice of Decision;
  7. any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason:** To define the permission.

2. All visitors utilising the pods and/or motorhome parking area/facility for overnight stopovers shall arrive by 8pm.

**Reason:** To limit movement and associated disturbance or nearby residents, to accord with Policies CM 5 and SP 6 of the Carlisle District Local Plan 2015-2030.

3. Other than the footlights shown on the approved site plan, no additional lighting shall be installed unless in strict accord with details that have first having been submitted to, and approved in writing by the local planning authority.

**Reason:** In the interests of private amenity, to accord with Policies CM 5 and SP 6 of the Carlisle District Local Plan 2015-2030.

4. Overnight parking of motorhomes in connection with this planning permission shall only occur within the 17 no. parking spaces identified in the approved site plan ref. PA20/743/01A, received on 28 June 2021.

**Reason:** To ensure the development/change of use operates in accord with the planning permission, by ensuring that activity is confined to the dedicated areas within which it is proposed, and not within the main pub/restaurant car park, to protect the amenity of nearby residents in accord with Policies SP 6 and CM 5 of the Carlisle District Local Plan 2015-2030.

5. All planting, seeding or turfing comprised in the approved details of landscaping shown within approved drawing ref. PA20/743/05 'Landscaping'

(and stated within Condition 1 of the planning permission as an approved document) shall be carried out within a timeframe that has first been submitted to and approved in writing by the local planning authority and maintained thereafter in accordance with maintenance measures identified in the approved landscaping scheme. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

**Reason:** To ensure that a satisfactory landscaping scheme is implemented and maintained, in the interests of public and environmental amenity, in accordance with Policies SP 6 and CM 5 of the Carlisle District Local Plan 2015-2030.

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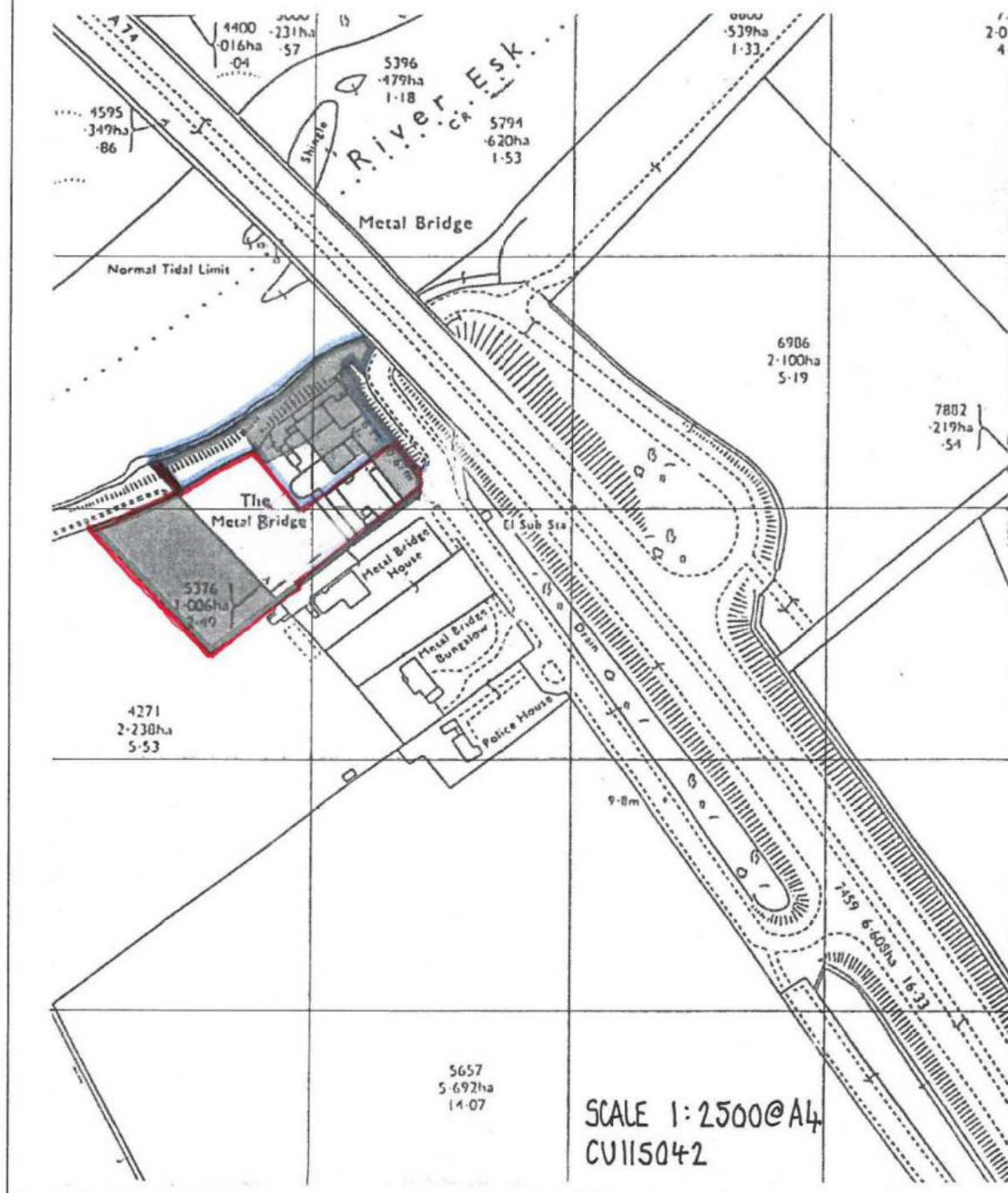
28 Abbey Street, Carlisle, Cumbria, CA3 8TX  
Tel: 01228 539537 Fax: 01228 531306

ARCHITECTS  
&  
TOWN PLANNERS



PA20/743/Q3

Date: APRIL 2021



PRINCIPAL:  
JOHN L KELSALL, DIP ARCH, MA, RIBA, MRTPI, FRSA

mail@phoenixarchitects.co.uk

**RTPI**

Chartered Town Planner

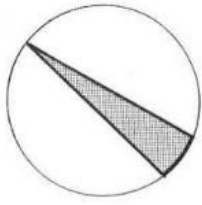


Chartered Architects









M6

River Esk

Embankment

Toilet Block

Existing  
Treatment  
Plant

Grass

Motor Home  
Parking

Stone Surface

Holiday Pods

Car Park

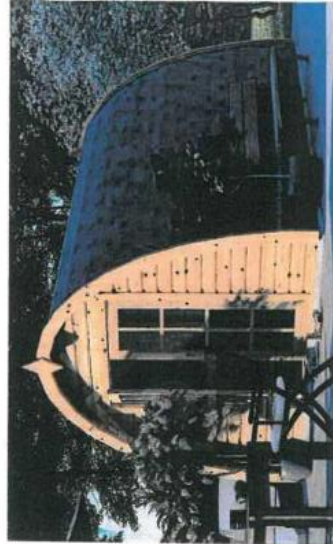
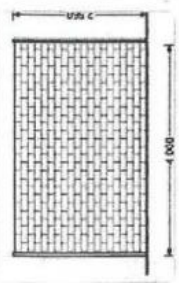
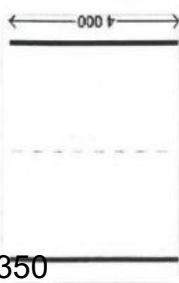
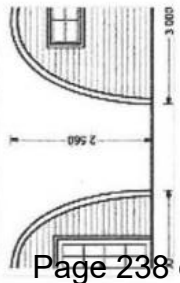
Metal Bridge Inn

Access Road

Metal Bridge House

• FOOTLIGHTS

1:100



Phoenix

ARCHITECTS  
&  
DESIGNERS



28 Abbey Street, Carlisle, Cumbria, CA3 8TX  
Tel: 01228 538537

Change of Use

To Accommodate Motor Home Parking/Holiday Pods

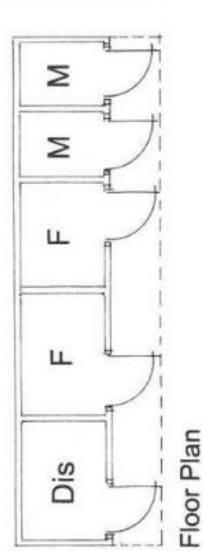
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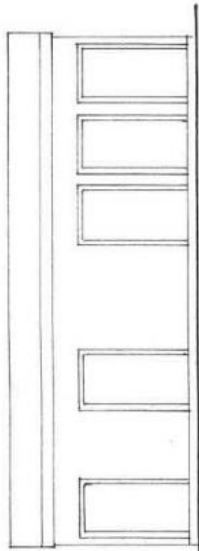
PA20/743/01A

Metal Bridge Inn

View of Toilet Block from the West

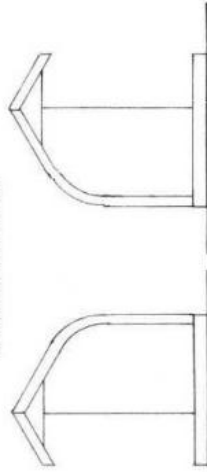


Floor Plan



North West Elevation

Vertical timber cladding  
& doors stained brown



Side Elevations



South East Elevation



Toilet Block

- 1 x Disabled WC
- 2 x Male WC's
- 2 x Female WC's
- Soap and drying facilities
- Automatic LED LV lights

Providing a toilet block means motor homes do not need to plumb in or use chemical facility

Drinking water tap

Sanitation bins

Sand and foam fire extinguisher point

Board with 'overnight stop' rules

# Metal Bridge Inn

## Toilet Block

# Phoenix

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&  
DESIGNERS



28 Abbey Street, Carlisle, Cumbria, CA3 8TX  
Tel: 01228 539337

## Change of Use

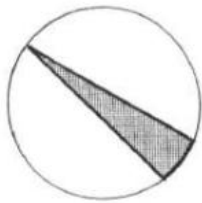
To Accommodate Motor Home Parking/Holiday Pods

April 2021

Scale 1:100@A3

PA20/743/04





M6

Phoenix

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28 Abbey Street, Carlisle, Cumbria, CA3 8TX  
Tel: 01228 539537

Change of Use

To Accommodate Motor Home Parking/Holiday Pods

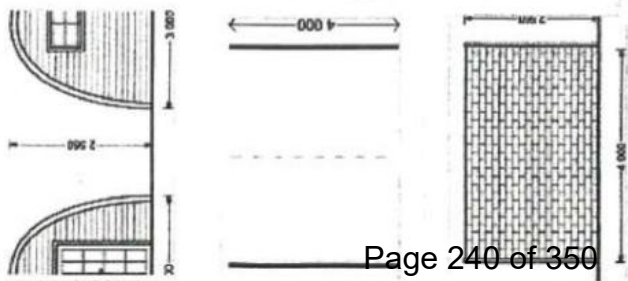
October 2021

Scale 1:500 @ A3

PA20/743/05 (Landscaping)



1:100



## Landscaping Legend

1. Sorbus aria 'Lutescens'
2. Sorbus aucuparia 'Sheerwater Seedling'
3. Hedge mixture – Carpinus betulus 80% with Ilex aquifolium 20%

# Metal Bridge Inn

## SCHEDULE A: Applications with Recommendation

21/0698

Item No: 10

Date of Committee: 22/10/2021

**Appn Ref No:**  
21/0698

**Applicant:**  
Magnus Homes Ltd

**Parish:**  
Wetheral

**Agent:**  
Harraby Green Associates

**Ward:**  
Wetheral & Corby

**Location:** Land North of Holme Meadow, Cumwhinton, Carlisle, CA4 8DR

**Proposal:** Erection Of 5no. Market Dwellings; Erection Of 9no. Self/Custom Build Dwellings; Formation Of Vehicular Access And Road; Provision Of Structural Landscaping/Planting; Formation Of Amenity Area And Provision Of Associated Infrastructure And Services (Outline) (Revised Application)

**Date of Receipt:**  
09/07/2021

**Statutory Expiry Date**  
11/10/2021

**26 Week Determination**

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### REPORT

**Case Officer:** Christopher Hardman

#### 1. Recommendation

- 1.1 It is recommended that authority to issue an approval be given to the Corporate Director of Economic Development subject the completion of a Section 106 Agreement regarding:
- limiting defined units to self-build and custom build dwellings;
  - maintenance and management of on-site open space, amenity space and strategic landscaping areas.
- Should the S106 not be completed, authority to refuse the application be given to the Corporate Director of Economic Development.

#### 2. Main Issues

- 2.1 Whether the principle of development is acceptable
- 2.2 Impacts on residential amenity;
- 2.3 Whether the proposals are acceptable in terms of road/pedestrian safety;
- 2.4 Whether the proposals are acceptable in terms of surface water, foul water and any potential flood risk impacts;
- 2.5 Impacts on trees, hedgerows and biodiversity; and
- 2.6 Requirement for Section 106 Legal Agreement

### **3. Application Details**

#### **The Site**

- 3.1 The site (2.25 hectares) is an agricultural field adjacent to Broomfallen Road at the western end of Cumwhinton village. Broomfallen Road abuts the site's entire western boundary, which consists of two long sections of hedgerow either side of a field gate access. The section north of the existing field access is more substantial hedgerow than the section to the south of the access. It 'crests' near the centre, falling gently to the south and north and a little steeper in the north-east corner, where it slopes downhill in a north-easterly direction.
- 3.2 The northern boundary connects to the western boundary by the road and is formed by a field hedge containing a number of mature trees, several of which are in the central section of the hedge and 2-3 clumped in each corner.
- 3.3 The southern boundary is demarcated by vegetation and fences installed when the Holme Meadow development was constructed and augmented by householder planting. To the south of this boundary are the rear garden areas to 1, 2, 3, 4 and 5 Holme Meadow. Trees planted as part of the landscaping are beginning to mature and, alongside other vegetative and hard landscaping installations, provide a fairly deep separation between the site and Holme Meadow dwellings.
- 3.4 The eastern boundary is more variable and extends in smaller sections incorporating an offshoot of the field at the north-east corner of the site and aligns to an extended garden boundary of number 6 Holme Meadow. The extended garden area boundary to 6 Holme Meadow consists of a close-boarded timber fence (approximately 1.8m height) supplemented by trees and shrubs behind (on the garden side).
- 3.5 At the southern corner a small strip of land is included within the site which would facilitate installation of a connecting footpath/pavement, meeting with the path that then goes into Holme Meadow.
- 3.6 To the east and north of the site are agricultural fields. On the opposite side of Broomfallen Road in relation to the northernmost part of the site is open farmland (currently arable) for a length of around 150m; south of that is an area of mature woodland fronting the road for a length of around 145m now covered by a Tree Preservation Order.
- 3.7 The main site access is opposite the point where the northern corner of the curtilage to a detached dwelling called The Brambles meets the mature woodland mentioned above.
- 3.8 A gas pipeline is situated in the verge alongside the road, along the entire western boundary of the site.

- 3.9 There is a surface water sewer passing through the eastern area of the site which has been indicated as being within an easement strip affecting several potential house plots. This comes into the site from the extended rear garden to No. 6 Holme Meadow, runs north-west for approximately 80m and turns north-east, where it is shown to run for approximately 100m before it meets an outlet point in a neighbouring field. Just before it reaches this outlet point, the surface water sewer is shown to cross the path of an existing foul sewer, part of which is just within the application site in its north-east corner.

## **The Background**

- 3.10 This application is a revised application and was submitted following the Development Control Committee's consideration of application 19/0871. That application was for the "Erection of 5 no. market dwellings; erection of 9 no. self/custom build dwellings; formation of vehicular access and road; provision of structural landscaping/planting; formation of amenity area and provision of associated infrastructure and services (outline)". At the meeting on the 11th June 2021 the application was refused for the following reason:  
*"The proposed development will lead to an unacceptable intrusion into the open countryside and therefore conflicts with criterion 3 of Policy HO2 of the Carlisle District Local Plan 2015- 2030."*
- 3.11 An appeal has been lodged with the Planning Inspectorate however at the time of writing this report, the appeal process has not yet commenced.
- 3.12 Following consideration of the refusal reason and the points discussed by Members of the Development Control Committee at its meeting on the 11th June, the applicant has undertaken additional work to address members concerns.

## **The Proposal**

- 3.13 The proposed development is applied for in outline with only "appearance" a reserved matter. The submissions indicate a potential layout including locations for 14 plots, an access road, woodland areas, attenuation area, structural landscaping (tree planting) and open spaces. The layout would include a single service road which enters the site close to where a current field gate is situated, the road running first east then north to work with the contours of the land i.e. road position set to avoid highest area and to loosely follow a lower contour.
- 3.14 Of the 14 plots, 9 would be self-build in accordance with self-build housing definitions and 5 plots would be market housing. It is intended that the applicant would provide the infrastructure and structural planting for the site and by the location of the market housing would ensure that the self-build plots are serviced and available. The illustrative layout would become adopted as a 'plot map' if this particular application achieves a planning permission. A design code accompanies the application to establish parameters for development of the self-build plots.

- 3.15 A substantial tract of land forming the northern area of the overall site, plus a significant area of land between plots 11-14 and Broomfallen Road are identified as amenity space including woodland areas and pathways. The amenity/woodland areas would occupy around half of the overall site, and would therefore be in the region of 1.2 hectares in area.
- 3.16 Revisions to this proposal include the provision of a an attenuation pond which will help to slow down the discharge of water from the site and act as a sediment trap thus ensuring that sediment does not build up downstream towards the village. The pond will also act to improve the biodiversity offer on site combined with the woodland planting and open space.
- 3.17 This revised application includes a Landscape and Visual Assessment from a landscape architect who assesses the degree of impact of the development and how this would appear over time.

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

- 4.1 The application was advertised by way of a site notice, press notice and neighbour letters sent to 28 addresses. Ten letters of representation were received all of which object to the application. Four of the objectors have referenced their earlier correspondence to application 19/0871 and additional points have been added into the summaries in this section. Members are provided with the full correspondence separate to this report.

- 4.2 A summary of the matters raised in objections are as follows:

Myself and the other objectors are outraged at this application. Formally request that this be rejected as I cannot see how it can be described as a revised application. There are no significant or material changes. The applicant has simply employed another consultant to agree with them and resubmitted the same application. It would be an affront to the taxpayer, the successful objectors, the members of the committee and the democratic process to accept this as a valid application.

As the applicant concedes in their Access, Planning and Design Statement they are simply asserting that the committee were wrong in their conclusion. This is simply akin to a child stamping its feet and having a temper tantrum in response to an adults decision and rightly this is no part of the planning process. I cannot see that there is any basis for concluding that this is a valid application and to so conclude would therefore be unreasonable.

The committee were perfectly clear in their decision that this site should not be developed as it is in open countryside, nothing in this application in any way changes that perfectly valid conclusion. Indeed the only proper and legitimate way for the applicant to seek to have that decision reviewed is to appeal, that is surely both clear and simple logic. Anything else would amount to an abuse of process.

I again ask that this application is simply rejected as not a valid revised application, indeed no such way forward is appropriate or proper in these circumstances.



We object to this application please apply our objections to the earlier refused application to this new application.

We have already asked that our objections to the previous applicant be applied to this application.

For the avoidance of doubt we also wish to make it clear that we disagree with the ecological and environmental impact claims made by the applicant. Firstly, of course, no such claims are necessarily true simply because the applicant asserts them. Secondly any such credentials are irrelevant where the application has or should be rejected on other planning grounds. Thirdly, as we demonstrated at the committee meeting which rejected the previous application, much wildlife already uses the existing field and hedgerow habitats, most of which will inevitably be displaced by residential development and will not find the proposed planting to be suitable alternative because of its immaturity, proximity to buildings and the fact that as community space it will be used by people and pets both of which will scare away the present species which use this area many of which will simply not tolerate such disturbance. As amateur naturalists, Life Fellows of the RSPB and having closely observed this area for over 21 years it is clear that the applicant grossly overstated any ecological benefits and totally ignores the negative effects on existing rare species. The proposed planting will only provide habitat for garden birds which in this locality tend to be dominated by wood pigeons and sparrows which can out compete other more endangered species which are currently present but will be lost.

As this issue has been ongoing since November 2019 and there has been much correspondence we thought it might be helpful if we listed the communications which we wish you to take account of and which contain our objections to this new application.

1. Our letter of 4/12/19 containing our initial objections.
  2. Our letter of 4/01/20 contains our response to the applicants revisions and additional information.
  3. Our letter of 18/11/20 containing our objections to the applicants revised application.
  4. My statement to the Planning Committee when it met on 11/06/21 (a copy of which I left with the committee clerk)
  5. My on-line comments in July.
- Finally (and without in any way conceding that such would merit approval) if the applicant had genuinely wished to respond to the committee's previous refusal and reduce the impact on open countryside then they could have simply switched the respective locations of the self build and single storey dwellings. This would have taken the large individual dwellings away from the highest part of the site and also meant that the proposed planting scheme would have started to have some screening effect over a much shorter timescale.

We trust that you will be recommending that this application be refused  
*Initial objections on application 19/0871 from same resident:*

This proposal would be the largest, densest and most intense development in the village. Cannot say that scale and design is appropriate.

Cannot be said that it meets the requirements of HO2 (3) requiring sites to be well contained within existing landscape features, physically connected and integrates to the settlement and does not lead to an intrusion into then open

countryside.

Local Plan identified sites in Cumwhinton and these have been developed. No more are needed.

Traffic issues are a major concern with speeding, congestion, and on-street parking and the use of the village as a rat run.

The school is full and cannot physically expand, development should be where capacity exists or can be provided

Retention of existing trees and hedges on southern and eastern boundary benefits their assertions but there no safeguarding proposals.

Serious questions regarding surface water drainage and capacity to take additional flow

Prevalent waterlogged ground north of Holme Meadow

Issue of construction vehicles need to be addressed

Local Plan indicates 30% growth in rural settlements, Cumwhinton has already accommodated more than its fair share, neither needs nor wants any further development.

The Garden Village can meet identified needs, and this would drive a coach and horses through that concept.

Local residents, MP and CPRE have all objected to the development on planning grounds, although the revised proposal is less intrusive it remains in breach of these important planning policies and should be refused.

There are already 8 recent modern urban style cul-de-sacs and another has planning permission, enough is enough

The village already has a limit imposed by Holme Meadow

The extent of approvals prove overdevelopment and should rule out further approvals.

Children from the development will not be able to get to the school.

The amended application includes market dwellings which erodes any argument for exception as self-build

Claimed that because of revised planting it is a similar scale to Holme Meadow so should have approval

Can only assert that it "should" comply with the SPD

New properties will also be at risk from surface water discharge

No reason why these dwellings can't be provided in the Garden Village

An improved design in the wrong place is still wrong and should not be accepted

Raises questions about the efficacy of the drainage system and flood risk impacts.

I object to this application please apply our objections to the earlier refused application to this new application. To date, it does not appear that anything has altered in the application and the objections that have already been raised by ourselves and many other parties still exist

*Initial objection on application 19/0871 from same resident:*

Health and safety issues need to be addressed and refer to NPPF section 8.

Physical and mental health issues are now a premium consideration.

Urban development which result in the capping of natural rain draining land will increase the risk of flash flooding. To counter flash flooding sustainable drainage needs to be in place and risk assessment done, none of this has worked since flooding is increasing in Cumwhinton.

The boundary was subject of detailed consideration when Holme Meadow was built, this breaches the boundary and is in open countryside. There are enough new builds ongoing at present. Traffic and drainage is a problem.

I wish to object to the above appeal on the following grounds:-  
The development would be an intrusion into open countryside.  
There would be much lost habitat for wildlife, including bees.  
Highway safety is an issue, and the road near to the entrance of the proposed site has for some time now been used for parking.  
It is likely to result in a loss of privacy for existing homes in Holme Meadow.  
The village of Cumwhinton does not, in my opinion, have the amenities to support further development of this nature. We lack a proper General Store, a Hotel, and a Health Club and Spa, and we lack the public transport choices available in our neighbouring village of Wetheral (i.e. a Railway Station).

In reference to the application, the following outline our objections to this development.

1.) The expansion of the village into the open countryside - The new proposal does not significantly differ from application 19/0871 which was refused primarily on the basis of one element of criterion 3 of Policy HO2, namely the concern that the proposal would lead to an unacceptable intrusion into open countryside.

Part of the planning states it will still provide a northern edge to the village however this is already in place with Holme Meadow, which already has established trees, hedgerows and foliage to provide the barrier between open countryside and the village. Should the development of these houses take place at what point will it be decided that the edge of the village is defined, or will neighbouring fields be developed with dwellings in the future and so the village would just continue to grow in size?

2.) Village growth and recent housing developments - The village area and size has already increased significantly since 2014 with over 8 new housing developments already in place. The additional population growth is changing the traditional village characteristics, it will also have an impact on the local amenities and education of local residents. The size and type of houses being proposed would be more likely for families and therefore a direct impact on the local school. Having young children ourselves we are already aware of the local primary school being oversubscribed, where there is only 1 class per year group. The environmental impact of village children having to be driven to another school to meet their education needs due to additional houses being built is preposterous.

3.) Road infrastructure and road safety - the traditional linear village already receives a high proportion of traffic travelling through to neighbouring villages and towns. The police and local residents are aware of the issues and the increase of residential properties with their own vehicles will only increase the known infrastructure risks will heighten the probability of a serious incident or fatality. By minimising the through traffic to the village this will only help to reduce the risks of such tragic events.

4.) The Garden Village to the south of Carlisle has been approved where by this development was put into place to prevent the overdevelopment of existing villages, such as Cumwhinton. The historical linear village should be

maintained where new 'self build' properties will have no common visual appeal and to many be a modern eye sore when approaching what should be a traditional village outlook.

5.) The plans on this planning application 21/0698 alters from its subsequent planning application 19/0871 by the introduction of a pond - stating a biodiversity plan. There is already wildlife in place on this land where we have already seen rabbits, hares, stoats, foxes, hedgehogs and owls to name a few and these will have their current habitats removed.

In conclusion:

- There is already a clear distinction of the open country and the start of the village on the road approaching the village while travelling on Broomfallen Road.
- Oversubscription to the local school, inhibiting educational needs, is already creating unnecessary travel to alternative schools for local residents.
- Local road infrastructure is at a greater risk of serious incidents by the increase of traffic through the village.
- The garden village planning was approved with the aim to reduce the development of existing villages, such as this application.
- Wildlife and habitats are going to be destroyed with many animals and organisms being affected.

As a regular visitor to the village, I had noticed the planning application on the field gate where I would like to object to the planning with the following reasons :

There would be loss of habitats for wildlife and animals including endangered species.

The expansion of the village into the open countryside would make the village not as traditional and in-keeping with village populations.

Infrastructure and road safety is a huge concern that additional houses would bring for motorists, horse riders, pedestrians, and cyclists.

The lack of amenities in the village is not suitable for additional houses with a major concern of the school being oversubscribed, where already village children are not able to get into the school.

Finally the privacy of the local houses would be affected.

I strongly object to this proposed development on the following grounds.

1. Insufficient infrastructure to support such a development, ie, local schools are over subscribed already ( Scotby, Cumwhinton ).
2. Insufficient local amenities to support yet more housing, ie, public transport, shops/retail , leisure facilities etc.
3. Cumwhinton has already endured 3 recent new housing developments, Magnus Homes @ Thornedge, Genesis Homes at south end of village , Andy Brown development opposite the Lowther Arms public house in conjunction with a new Story development on Broomfallen Road outside Scotby village on road leading to Cumwhinton.
4. Why are you building a proposed new development in Cumwhinton when planning permission has been granted for 10,000 new houses for Garden Village on west side of Carlisle ?.
5. Totally unethical and unacceptable to build new builds and "en encircle" completely an established Holme Meadow housing estate.
6. " Over saturation" point of Cumwhinton has already been established.

7. The original planning permission for this development has already been refused, why has original objections not been "read accross" to this new planning proposal ?.
8. You cannot accept this new proposal based upon re-submitting because of a "few tweaks" or adjustments.
9. Environmentally unacceptable for new development.
10. Is it Carlisle City Councils objective to completely "join up the villages of Scotby, Wetheral and Cumwhinton with new developments ?

Once more I find myself having to stand up against the fact that more housing estates are proposed on the land of little villages in the countryside i.e. Cumwhinton where there is no room to provide new schools and amenities for the tenants. All schools in Cumwhinton, Scotby and Wetheral are oversubscribed but the building of new properties carries on regardless and estates are being built on every spare piece of land. We have all spoken up about this before but the powers that be go ahead without listening to the people who live in these areas. Our worries fall on deaf ears so what do we do to get our point over? A new estate off Broomfallen Road now so more country roads congested also potholes rife. Enough is enough in this area. Start to listen to people's views. Please.

I strongly object to this planning application. The development is proposed on open countryside which should be protected. Trees and fields are important for carbon capture, provide habitats for wildlife and wildlife corridors. The flora, particularly trees are very important for helping to prevent climate change, the destruction of the open countryside does not support the Climate Emergency which the Council declared in 2019.

The infrastructure of the area is already at its maximum with schools oversubscribed and the transport network very busy. The addition of new houses will only exacerbate the current situation.

The addition of new homes and concrete areas will increase the flood risk. The aim of the garden village was to avoid developing smaller villages and this proposal does not support the garden village objective.

I object to the proposed development to the side of my property.

This is a small village which will spoil the look and also cause implications in the future (infrastructure)

There are other developments going ahead i.e. Carlisle Garden Village. Is it really necessary to build in a small village and spoil the look of it.

I'm aware since living in the village there has been a risk of flooding. We have seen this on a few occasions since moving here in December 2019

I feel this would harm the wildlife in the immediate area. We have seen birds of prey and other species and would not want their habitat to be affected. Agricultural land dissipating.

Village noise would rise with extra pollution of cars.

In reference to the above application, I find myself once more objecting to this development.

The proposed expansion of the village into the open countryside - The new proposal does not significantly differ from application 19/0871 which was refused namely due to the concern that the proposal would lead to an

unacceptable intrusion into open countryside.

Village growth and recent housing developments Have already created additional pressures on the local infrastructure such as school capacity  
The village area and size has already increased significantly since 2014 with over 8 new housing developments already in place.

The Garden Village to the south of Carlisle has been approved where by this development was put into place to prevent the overdevelopment of existing villages, such as Cumwhinton. The historical linear village should be maintained!

We are writing to request that our previous objections to the earlier refused application now be applied to this Revised Application

*Initial objections on application 19/0871 from same resident:*

Huge detrimental effect on the village.

Cumwhinton will no longer be a village if future residential developments go ahead.

Would create a lot of additional traffic up and down and put a huge strain on local services.

This application is identical in substance to application ref 19/0871. I have therefore submitted as attachments my three objections (three amendments) to 19/0871.

19/0871 was refused on 11/06/2021 Therefore I expect 21/0698. submitted 13/07/2021, to be refused also. If not there is something sadly amiss with the planning processes.

I find it strange that a refused application can be made again with a different ref number. That implies that the whole planning process is flawed and can be jammed completely with repeats.

I will of course be requesting explanations from the planning ombudsman.

*Initial objections on application 19/0871 from same resident:*

Main concern is ability of current drainage systems to disperse additional amount of rain and foul satisfactorily.

Centre of Cumwhinton already subject to flash floods and additional water volumes will make this worse.

Represents a health and safety issue, need to cross contaminated ground to get to transport and village shop. Parents and children also use this road to access the primary school.

Old and young are most at risk

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

**Cumbria Fire & Rescue Service:** - No response received

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

**Cumbria Constabulary - North Area Community Safety Unit (formerly Crime Prevention):** -

It is acknowledged that this is a revised application for outline permission, but the proposed layout has not changed from application 19/0871 - suggesting that this is the preferred option.

1.2 The purpose of this document is to determine at the outset the initial design parameters to control the type of unit and its positioning on the plot.

1.3 This outline planning application defines in clear terms the layout of the development, location of each plot, the infrastructure provisions and structural landscaping.

Item 6 (Planning Policy) of the published Planning, Design and Access Statement advises that Policy CM 4 of the Local Plan is a relevant policy to determine this application. However there is no additional information that indicates how the proposal complies with CM 4, or addresses the issues I raised in my previous consultation responses (copies attached for perusal). In the event of this outline application being approved, an application for full permission must include details that demonstrates how the proposal confirms to the Local Plan:

New development should make a positive contribution to creating safe and secure environments by integrating measures for security and designing out opportunities for crime.

(Previous comments)

It is acknowledged that this application is for outline permission and the proposed layout may only be considered as indicative.

Despite the individuality of house design being encouraged under a scheme of this nature, compliance with Policy CM 4 is still essential.

In the event of an application for full permission being submitted, the proposals should incorporate the following features, to reduce the opportunities for crime and to demonstrate compliance with council policy:

- Communal spaces and the access routes shall be in full view from the dwellings – from a variety of directions
- Public and private spaces shall be clearly and obviously delineated to promote the concept of ownership
- The landscaping scheme shall be designed to prevent views being obstructed or hiding places being created as plants mature
- Street and dwelling exterior lighting schemes shall be configured to acknowledge the rural nature of the site
- Rear and side garden boundaries will be formed to deter intrusion
- Dwellings shall be protected against forced entry (also demonstrating compliance with Building Regulations Approved Document Q)
- Provision for secure car parking

I shall be pleased to advise on any crime prevention issues arising from this application.

It is acknowledged that this application is for outline permission and the published Site Layout is indicative only.

I refer to my consultation response dated 30th December 2019, which explains various measures that should be implemented to reduce the opportunities for crime and to demonstrate compliance with Policy CM 4 of the Local Plan:

- Communal spaces and the access routes shall be in full view from the dwellings – from a variety of directions

It is not clear from the proposed layout drawing if Units 11 – 14 are orientated to address the vehicle access road (and Units 7 – 10), or orientated to

address the footpath and heavily landscaped area adjacent to Broomfallen Road – all of these public realm features should be under direct supervision. Is it intended that the footpath shall be lit?

If the outline application is successful, information regarding the other measures I have previously mentioned should be included at Reserved Matters. I shall be pleased to advise on any of these issues as this proposal progresses.

**Wetheral Parish Council, Wetheral Community Centre:** - Objection. The committee reiterates its previous objections. The Parish Council considers this to be over-development of the village, especially in light of the planned Garden Village which is supposed to reduce excessive development. The developer's plans do not show other new developments already underway in the village.

There is already a problem with drainage in Cumwhinton which is causing flooding in a number of properties. Until this is resolved there should be no further development permitted in the village. The proposed site and surrounding land are already waterlogged and unsuitable for building.

This application is contrary to Policy HO2 Criterion 3 of the Local Plan, unacceptable intrusion into open countryside, and Policy SP2 Criterion 7, development opportunities of appropriate scale and sizing. It is not possible for a community to thrive when its infrastructure is being overloaded by excessive development.

**Council for Protection of Rural England/Friends of the Lake District:** -

We previously objected to application 19/0871. This proposal (21/0698) is essentially a re-submission of 19/0871. Our concerns, set out in the email below, related predominantly to the principle of developing this site in the context of overdevelopment of the village, evidence that was used to inform the local plan, the Cumbria Landscape Character Guidance and Toolkit and local plan policy. As such, whilst we note the proposed planting and wildlife pond, these could be put in place without developing the site and ultimately, the reason given for the refusal of 19/0871 remains valid and our concerns about developing this site still stand. Previous harm to Cumwhinton's historically linear settlement form should not be used to justify further harm.

Original comments:

Friends of the Lake District (FLD) welcome the opportunity to comment on the above application. We are the only charity wholly dedicated to protecting the landscape and natural environment of Cumbria and the Lake District. Friends of the Lake District object to the above application on the grounds of impacts on landscape and settlement character and overdevelopment.

The Carlisle Local Plan states that there is a requirement of 478 (net) new homes per year between 2013 and 2020. This amounts to a total of 3346 new homes. It also states at para. 3.13 that 30% of housing growth will take place in rural settlements. 30% of 3346 is 1003.8. The Local Plan states that there are 'many' rural settlements (para. 3.29) but does not make clear which settlements are 'rural settlements'. However, during the preparation of the Plan, its 'Rural Master planning' exercise covered 22 settlements, meaning that each settlement, on average, would be expected to accommodate 46 dwellings each between 2013 and 2020. Even if 'many' meant as few as half



the settlements covered in the exercise, this would require each settlement to accommodate 91 dwellings each on average.

The amount of development already permitted in Cumwhinton during the 2013-2020 period has already resulted in 81 dwellings (19+62). Permissions for housing on the two sites allocated for housing there in the Local Plan alone amount to 34 new dwellings (although 15 of these (12/0856) were permitted before the Plan Period began). 19 were permitted under 18/1104. Permissions on windfall sites amount to 62 (22 resulting from 15/1011, 22 resulting from 14/0816, 8 resulting from 16/1087, 5 resulting from 15/0494, 3 resulting from 19/0611 and 2 resulting from 17/0561). Whilst recognising that the figures in the Local Plan are not intended to result in precise targets or maximums for each settlement, and that some rural settlements are more remote from Carlisle or may have fewer services and facilities than Cumwhinton, a further 24 houses through the development of this site would mean that the village had accommodated 105 new dwellings in just 7 years, clearly exceeding the amount indicated in the Local Plan and by over 125% assuming there are 22 rural settlements. The cumulative impact with application 19/0898 for a further 9 dwellings must also be taken into account.

As well as demonstrating the ability of the plan area to deliver housing in relation to an overall target, one of the purposes of indicating numbers in the Local Plan is to give local people, developers and anyone else with an interest in the area an idea of what development to expect, when and where. These groups could not reasonably expect, on the basis of the numbers indicated, that Cumwhinton would be expected to accommodate this level of development. Similarly, assessments of the Local Plan and its proposals, during its preparation and including by the Inspector when it was examined, took into account various factors of capacity and sustainability and the Plan indicated the numbers it did accordingly. On this basis, it is possible that the Plan would not have been found sound at Examination had the numbers now proposed been set out in the Plan as it was on the basis of the indicated lower level of development that the Plan was approved.

The Local Plan states at policy SP2 that development in rural settlements must be of a 'an appropriate scale and nature', 'commensurate with their setting' and 'enable rural communities to thrive'.

To expect Cumwhinton to accommodate over 125% more new housing than indicated in the Local Plan cannot be described as appropriate in scale. A development that compromises a green space that provides an important role in the settlement's character and which would sever the settlement's visual connectivity with the countryside beyond is not commensurate with the village's setting. To thrive, communities of all kinds require many aspects to be taken into account beyond economic gains; health and wellbeing, and a sense of community, place and history are all important. By compromising, as described above, a space that plays a key role in these factors, this proposal will not enable Cumwhinton to thrive in these ways.

**Policy HO2** applies to windfall sites such as this proposal. It states that '[w]ithin rural settlements applicants will be expected to demonstrate how the proposed development will enhance or maintain the vitality of rural

communities'. Again, Cumwhinton has already accommodated its fair share of new development and to allow further development of the scale proposed that is not supported by the community will not enhance or maintain the vitality of the village. The proposal fails to meet the requirements of points 1, 2 and 3 of HO2. The proposed development:

1. is not 'appropriate to the scale, form, function and character of the existing settlement'
2. will not 'enhance or maintain the vitality of the rural community within the settlement where the housing is proposed'
3. is not 'well contained within existing landscape features', does not integrate with the settlement, and does lead to an unacceptable intrusion into open countryside.

Policy GI1 states that 'all landscapes are valued for their intrinsic character and will be protected from excessive, harmful or inappropriate development' and that 'proposals for development will be assessed against the criteria presented within the Cumbria Landscape Character Guidance and Toolkit. Cumwhinton lies within character type 5 Lowland and sub-type 5b, low farmland. Within this sub-type, the Toolkit states that the 'traditional feel of villages and farms can provide a sense of stepping back in time in places and is sensitive to unsympathetic village expansion' and that 'views can be wide and long distance to the Fells and sea and have an expansive feeling'. This proposal would compromise both these characteristics, which are very relevant in the case of Cumwhinton and this site in particular as the site contributes to the setting of the village and provides an open aspect and expansive views to the open countryside.

Amongst the guidelines in the Toolkit for this sub-type are 'ensure new development respects the historic form and scale of villages', 'encourage stronger definition of gateway entrances and exits' and 'enhance and strengthen green infrastructure to provide a link between urban areas and the wider countryside'. Again, this proposal would achieve the opposite of these guidelines as it would result in overdevelopment and would wholly compromise both the existing strong link between village and countryside (provided by the visual link between this part of the village and the site) and the defined sense of entering the village, which has already been somewhat compromised by the Holme Meadow development.

The 'Rural Masterplanning' exercise referred to above, undertaken as part of the preparation of the Local Plan, also concluded that the 'distinctive hummocky landform to the north' of Cumwhinton should be 'conserved' and a notation placed on this site on the resulting map states 'little expansion northwards is possible before it creeps over the crest and becomes visible from the north'. The Commission for Architecture and the Built Environment (CABE) noted as part of the process that allowing substantial development in Cumwhinton would 'readily become incongruous and change the character of the village'.

The Council confirmed at April 2018 that it could demonstrate a 5 year housing land supply and has also recently won Government support to go ahead with a 'garden village' development of 10,000 houses only minutes

from Cumwhinton. This suggests that there are ample opportunities to meet identified needs, including for self-build, without requiring historic villages such as Cumwhinton to accommodate significant development amounting to over 125% more than that allocated to them in the Local Plan. Particularly where this would have unacceptable impacts on landscape character and settlement character, including the setting of Cumwhinton and where it clearly conflicts with relevant Local Plan policies as set out above.

**Cumbria County Council - (Highways & Lead Local Flood Authority): -  
*Local Highway Authority response:***

The planning application under consideration seeks full planning approval for 14 dwellings at Cumwhinton near Carlisle. The application considers the access, landscaping, layout and scale of the development. It is noted that 5 of the 14 units are to be open to the market with the remaining 9 to be self build; in addition 5 of the units are to be single storey.

The access to the site is north of Holme Meadow, Cumwhinton and is proposed to be 4.8m in width with a 1.8m footway which connects into the existing footway to the south. This provision is in accordance with the Cumbria Development Design Guide and is acceptable to the Highways Authority in principal. However, the radii of the kerbs on the access is stated to be 10.5m and this is to be altered to 6m which is considered more appropriate for a residential development. There is a known speeding issues at this location and it is a requirement that this is considered as part of this application as there will be an increase in traffic flows along Broomfallen Road post development. We would therefore require that the applicant fund, at the northern approach to the village at the revised 30mph sign location, a gateway feature which would reduce vehicle speeds entering the village. This will also require that the current speed limit and its signage are revisited and potentially amended.

The cost of the aforementioned would be:

□ £5,500 for the gateway feature and speed limit changes.

The visibility splays at the proposed access have been agreed between the applicant and the Highways Authority as part of pre-application discussions at 2.4m x 60m for the main access into the development site. This visibility splay proposed meets the requirements of the Cumbria Development Design Guide as the access point is to be within a 30mph zone. A new hedge is proposed to be planted across the western extent of the development and this has the potential to impact upon the visibility splays associated with the access.

Therefore the applicant at a later stage of the planning process is to detail the location of the hedge so as it does not impede any visibility splays and is less than 1.05m in height. Therefore to conclude the Highways Authority have no objections with regards to the approval of planning permission subject to the conditions stated at the end of this response being applied to any consent you may wish to grant and a contribution of £5,500 towards the cost of a gateway feature.

***Lead Local Flood Authority response:***

The applicant has submitted a proposed drainage strategy to compliment this full application at Cumwhinton. It is stated that there is an existing United Utilities 225mm diameter surface water sewer which runs through the development site. The applicant is therefore proposing to discharge the

surface water from the development into this existing surface water sewer at a rate no greater than 2.8l/s in line with the greenfield runoff rate.

The applicant has worked through the hierarchy of drainage options as stated within the Cumbria Development Design Guide through undertaken a series of infiltration tests in accordance with the BRE365 method. The LLFA have reviewed the results of the infiltration testing against the requirements of the BRE 365 method and can confirm that infiltration is not a viable method of surface water disposal. As such discharge into the surface water sewer as per the applicant's preferred option is acceptable.

The discharge rate of 2.8l/s is equal to the greenfield runoff rate as demonstrated within the drainage strategy report submitted by the applicant. Further to this detailed calculations have been submitted to demonstrate that attenuation is provided on the development site to be able to accommodate a 1 in 100 year plus 40% to account for climate change storm event. This is acceptable in principle; however it is noted that the discharge rate within the calculations is a maximum of 2.9l/s when the discharge rate should be a maximum of 2.8l/s. This is to be amended by the applicant. The LLFA determine that this information can be provided at a later stage of the planning process along with a detailed drainage plan and exceedance routes which relates to the calculations.

The applicant has detailed with the drainage strategy report that the drainage proposals incorporate sufficient treatment of the surface water prior to discharge for a residential development in accordance with page 568 of the SuDS manual (table 26.2). The SuDS manual dictates that for a very low and low risk residential development that the following pollution control is required:

Suspended Solids = 0.7

Metals = 0.6

Hydrocarbons = 0.45

The applicant with their drainage strategy has illustrated that a detention basin and pond are to be provided as part of any development. The mitigation indices of the SuDS components proposed are detailed below:

Suspended Solids = 0.7

Metals = 0.7

Hydrocarbons = 0.5

As such the drainage proposals are in accordance with page 568 of the SuDS manual (table 26.2) and are acceptable to the LLFA.

Therefore to conclude the Lead Local Flood Authority have no objections with regards to the approval of planning permission subject to the conditions stated at the end of this response being applied to any consent you may wish to grant.

Conditions relating to : adoptable standard, ramps, access drive surfaces; existing boundary reduced for visibility splay; visibility splays; footway provision; parking for construction vehicles; Construction phase plan; surface water drainage scheme; construction surface water management plan;

#### **Local Environment - Environmental Protection: -**

##### Land Contamination.

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and

risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Further guidance can be found on the Carlisle City Council website "Development of Potentially Contaminated Land and Sensitive End Uses – An Essential Guide For Developers."

Site investigations should follow the guidance in *BS10175:2011 (or updated version)* "Investigation of Potentially Contaminated Sites.- Code of Practice".

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

#### Air Quality and Transport

Prior to the occupation of any dwelling, a 32Amp single phase electrical supply shall be installed to allow future occupiers to incorporate an individual electric car charging point for the property. The approved works for any dwelling shall be implemented on site before that unit is first brought into use and retained thereafter for the lifetime of the development.

Reason: To ensure the provision of electric vehicle charging points for each dwelling, in accordance with Policy IP2 of the Carlisle District Local Plan 2015-2030.

#### Noise & vibration

Consideration should be given to limit the permitted hours of work in order to protect any nearby residents from possible statutory noise nuisance, this includes vibration. Any other appropriate noise mitigation measures should be considered, for example, the use of noise attenuation barriers, the storage/unloading of aggregates away from sensitive receptors and the use of white noise reversing alarms, where possible. These measures should aim to minimise the overall noise disturbance during the construction works.

#### Dust

It is necessary to protect any nearby residents or sensitive receptors from statutory nuisance being caused by dust from the site. Given that the site is located in a residential area it would be advisable to consider all appropriate mitigation measures. Vehicles carrying materials on and off site must be sheeted or otherwise contained, water suppression equipment should be present on site at all times and used when required, wheel wash facilities should be made available for vehicles leaving site and piles of dusty material should be covered or water suppression used.

#### Public Information

It would be advisable for the applicant to write to all residents and businesses within the vicinity of the site, which could be potentially adversely affected by the works. This could include detail of the planned hours of work and duration of the project, prior to commencement of works. The applicant should also distribute details of a suitable contact number which can be used in the event of issues/complaint.

#### **United Utilities: - Drainage**

In accordance with the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG), the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way.

Following our review of the submitted information, we understand that the Lead Local Flood Authority (LLFA) is satisfied that infiltration at this site has been discounted as an option for surface water management.

With regards to the option of discharge to watercourse, no information has been submitted which demonstrates that a direct discharge to the watercourse to the north east is not feasible. We note this after having reviewed the drawing titled '*Site Plan As Proposed*' drawing number '*2064 - 04 Rev. E*', which shows a blue line boundary that abuts the watercourse. We therefore request that the applicant confirms why a direct discharge to watercourse cannot be achieved without recourse to the public sewer for the management of surface water. We are happy for this to be dealt with conditionally in accordance with our recommended conditions.

We also note that the submitted drainage report confirms that there are a number of existing field drains present within the site which enter the public surface water sewer system. We wish to note that United Utilities has no obligation to accept land drainage and therefore as a result of the development the land drains should be disconnected from the public surface water sewer. This is also reflected in our recommended conditions.

The local planning authority should note that the submitted drainage report confirms the intention of the applicant to maintain both the foul and surface water drainage systems privately. As such, United Utilities will have no role in the assessment of the detailed design of the future on-site drainage proposals save for considering the detail of any interaction with the existing public sewerage system. We therefore wish to highlight that the local planning authority and LLFA will need to carefully consider the detail of the foul and surface water drainage designs including the proposed finished floor and ground levels. We mention this with specific reference to the individual drainage runs for each proposed dwelling, some of which have finished floor levels (FFLs) lower than the cover level on the receiving sewer. It is good practice for the FFLs for a proposed property to be higher than the manhole cover level at the point of connection to the receiving sewer. Also, given the proposed site levels, careful consideration should be given to safe overland flow routes within and outside the development.

We wish to also highlight that the detail of the gradients of the drainage proposals prior to their interaction with the public sewer will need further consideration. This should be discussed with our Wastewater Developer Services' team prior to finalising the detail of any drainage design and prior to making any connection with the public sewer.

Finally we note the submitted landscaping proposals and we request that the applicant confirms that any landscaping proposal in the vicinity of the public sewer accords with the landscaping advice in our '*Standard Conditions for Works Adjacent to Pipelines*'. Deep rooted shrubs and trees should not be planted in the vicinity of the public sewer and overflow systems.

Notwithstanding the above points for further consideration, we have no objection to the proposed development in principle subject to the attachment of drainage conditions. The drainage conditions we have recommended are based on those recommended by Cumbria County Council.

If the applicant intends to offer wastewater assets forward for adoption by United Utilities, the proposed detailed design will be subject to a technical appraisal by an Adoption Engineer as we need to be sure that the proposal meets the requirements of Sewers for Adoption and United Utilities' Asset Standards. The detailed layout should be prepared with consideration of what is necessary to secure a development to an adoptable standard. This is important as drainage design can be a key determining factor of site levels and layout. The proposed design should give consideration to long term operability and give United Utilities a cost effective proposal for the life of the assets. Therefore, should this application be approved and the applicant wishes to progress a Section 104 agreement, we strongly recommend that no construction commences until the detailed drainage design, submitted as part of the Section 104 agreement, has been assessed and accepted in writing by United Utilities. Any work carried out prior to the technical assessment being approved is done entirely at the developer's own risk and could be subject to change.

If the applicant's development proposal incorporates any SuDS component(s) which interact with a sewer network that the applicant plans on offering for adoption to United Utilities, contact should be made with our technical team at the applicant's earliest convenience by completing the '*Section 104 pre-application form*'. These discussions can help prevent delays later in the development process.

### **Management and Maintenance of Drainage Systems**

Without effective management and maintenance, sustainable drainage systems can fail or become ineffective. As a provider of wastewater services, we believe we have a duty to advise the Local Planning Authority of this potential risk to ensure the longevity of the surface water drainage system and the service it provides to people. We also wish to minimise the risk of a sustainable drainage system having a detrimental impact on the public sewer network should the two systems interact. We therefore recommend the Local Planning Authority include a condition in their Decision Notice regarding a management and maintenance regime for any sustainable drainage system that is included as part of the proposed development.

### **Water Supply**

If the applicant intends to obtain a water supply from United Utilities for the proposed development, we strongly recommend they engage with us at the earliest opportunity. If reinforcement of the water network is required to meet the demand, this could be a significant project and the design and construction period should be accounted for.

### **United Utilities' Property, Assets and Infrastructure**

Public sewers cross this site and we may not permit building over them. We will require an access strip width of 10 metres, 5 metres either side of the centre line of each sewer for maintenance or replacement. The applicant should ensure that their proposal meets this requirement or a modification of the site layout will be necessary. Deep rooted shrubs and trees should not be planted in the vicinity of the public sewer and overflow systems.

Where United Utilities' assets exist, the level of cover to the water mains and public sewers must not be compromised either during or after construction. Both during and post construction, there should be no additional load bearing capacity on our assets without prior agreement from United Utilities. This would include earth movement and the transport and position of construction

equipment and vehicles.

**Local Environment, Waste Services:** - No objection as turning head provided

**Planning - Access Officer:** - No objections

**Northern Gas Networks:** - No objections

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

### **Assessment**

- 6.1 Section 70(2) of the Town and Country Planning Act 1990/Section 36 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 NPPF, NPPG and Policies SP1, SP2, SP6, SP8, SP9, HO2, IP2, IP3, IP4, IP5, IP6, IP8, CC3, CC4, CC5, CM4, CM5, GI1, GI4, GI6 of the Carlisle District Local Plan 2015-2030. Carlisle City Council's Achieving Well-Designed Housing, Affordable and Specialist Housing and Trees and Development Supplementary Planning Documents are also relevant.
- 6.3 Some objectors have raised concerns that this submission of this application should not have been a valid planning application and should not be considered by the local planning authority (LPA). For clarity, it has long been established that more than one application can be made on a plot of land and historically these have been done where some developers have twin-tracked the planning process putting in an early appeal for non-determination of an application whilst pursuing the same application with the LPA. This is not the case in this instance where the developer has revised proposals to deal with the issues raised in an earlier determination. Whilst the overall form of development is similar to the earlier submission there has to have been at least two applications of a similar nature and an appeal before the LPA can consider refusing to determine an application (we cannot refuse to validate and accept an application). This does not apply in this instance and we therefore have to consider the application and reach a determination.

### **1. Whether the principle of development is acceptable**

- 6.4 Objections have highlighted the concern about the scale of development which has also been echoed by the Parish Council in relation to this application and questioned the principle of development when it should be directed to the Garden Village. The Local Plan strategy is directing development towards St Cuthbert's Garden Village and this work continues. In parallel, work will commence on a review of the Local Plan for the remainder of the district and how development will be directed to different areas however until such work progresses, the Local Plan remains the Development Plan for



the area and proposals must be considered in accordance with those policies. This includes Policy HO2 and SP2 on the distribution of housing. The Garden Village work continues to progress however it is still early days in the development of the planning documents to bring forward development and therefore development proposals may still be considered premature in that area as the infrastructure requirements and delivery are still being determined. The current Local Plan policies remain in force and it is appropriate to consider the merits of any application outside the garden village area against other policies in the Local Plan. Development in other parts of the district cannot be put on hold whilst the Garden Village progresses.

- 6.5 Given Cumwhinton's proximity to Carlisle there have been a number of developments, some brought forward through Local Plan allocations and others as a result of the windfall policies. The two Local Plan allocations (How Park and adj Beech Cottage) are currently being completed and there has been a gradual redevelopment at Thornedge in the centre of the village which recognises the demand for housing in this village. There is however no limit on the number or scale of windfall sites and each must be treated on its merits in terms of scale and its relationship to the village.
- 6.6 When considering the principle of development, this site does not form part of an allocated housing site and must therefore be considered in relation to policy HO2 'Windfall Housing Development' in the Carlisle District Local Plan 2015-2030. This policy is linked to paragraph 78 of the NPPF, which requires that housing should be located where it will enhance or maintain the vitality of rural communities, and that opportunities for villages to grow and thrive should be identified through planning policies.
- 6.7 This development would meet the objectives of Policy HO2 if:
1. The scale and design of the proposed development is appropriate to the scale, form, function and character of the existing settlement;
  2. The scale and nature of the development will enhance or maintain the vitality of the rural community within the settlement;
  3. The site is well contained within existing landscape features, is physically connected, and integrates with the settlement, and does not lead to an unacceptable intrusion into open countryside;
  4. There are either services in the village or in nearby villages; and
  5. The proposal is compatible with adjacent land users
- 6.8 In considering these points, the development is appropriate in scale to other developments in Cumwhinton and reflects that layouts which have been integrated into the village over a number of years. Although there is no scale specifically mentioned in Policy HO2, the scale of the proposed development is comparable to the nearby housing. Objectors have raised concerns as to whether this will enhance the village as the services are potentially overstretched with additional housing. The proposed development seeks to contain the housing within a village envelope which is strengthened by woodland planting.

- 6.9 In addition, services like a village shop are unlikely to resist development for commercial reasons. It has been identified that the school is at capacity however a number of development have contributed towards additional works to accommodate more pupils and once the development is established, children from the village would lead to those from outside being displaced over time. Services are contained within the village satisfying criterion 4 of the policy and this site is close to the village pub. The proposed housing use is compatible with existing housing.
- 6.10 As a result of these considerations, when members considered application 19/0871 it was therefore resolved that the application did not satisfy criterion 3 of this policy.
- 6.11 In considering this application, the applicant has sought to address the concerns raised, by the production of a Landscape and Visual Assessment which demonstrates how the development of this site will be contained within the landscape and that the proposed structural planting as part of the application provides the strong landscape feature connected directly to the woodland to the west of the site. Some concerns have been raised that the landscape feature which is created would not be evident for some time. The Assessment considers this at a 10 year interval from development to illustrate how this would develop over time. Although acknowledging that the existing development has a clear northern boundary, these proposals clearly seek to ensure that not only would the development of the proposed housing integrate with the village, it will also ensure that a future woodland belt is created distinguishing the built area of the village from the surrounding countryside and creating a buffer for wildlife.
- 6.12 This revised application has therefore sought to strengthen the compatibility with Policy HO2.
- 6.13 The proposed development is therefore compatible with Policy HO2 of the Local Plan however given the earlier consideration of the principle of development some members may be concerned that their refusal has not been overcome. There is therefore an important element to consider about this proposed development which is the consideration of self-build housing.
- 6.14 Paragraph 60 of the NPPF requires planning authorities to provide a sufficient amount and variety of land where needed to address the needs of a variety of housing requirements which can be built without delay. Paragraph 62 specifically refers to a wide range of needs and includes people wishing to commission or build their own homes. The NPPF goes further to state that:  
*Under section 1 of the Self Build and Custom Housebuilding Act 2015, local authorities are required to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom house building. They are also subject to duties under sections 2 and 2A of the Act to have regard to this and to give enough suitable development permissions to meet the identified demand.*
- 6.15 Further guidance has been issued by the current Government in February 2021 update of Planning Practice Guidance, which states (Paragraph 025

*More widely, relevant authorities can play a key role in brokering and facilitating relationships to help bring suitable land forward. This can include:*

- supporting Neighbourhood Planning groups where they choose to include self-build and custom build housing policies in their plans;*
- effective joint working across service delivery areas and with local delivery partners including Housing Associations, Arms Length Management Organisations and housing developers;*
- using their own land (if available and suitable) for self-build and custom housebuilding and marketing it to those on the register;*
- working with Homes England to unlock land and sites in wider public ownership to deliver self-build and custom build housing;*
- when engaging with developers and landowners who own sites that are suitable for housing, and encouraging them to consider self-build and custom housebuilding, and facilitating access to those on the register where the landowner is interested.*
- working with local partners, such as Housing Associations and third sector groups, to custom build affordable housing for veterans and other groups in acute housing need.*

6.16 The Council's Housing Development Officer has confirmed that *"the Council has still not currently approved enough Custom/ Self-Build plots to meet its statutory obligations, as detailed in my e-mail of 23 November 2020. The latest situation, as of today's date, 23 July, is that since the Council's Custom & Self-Build Register was established in 2016 there have been 41 applicants registering for the scheme and 37 plots approved (a further 5 plots have been approved in principle on application 19/0898 but the S106 Agreement has not yet been signed off – this would still leave the Council in an extremely borderline situation, even if the S106 is signed off)." The number of requests for this type of accommodation is greater than the provision and the Government is aware that at a national level needs are not being fully addressed. It is clear from the 2015 Act above that the duty to provide sufficient homes is placed on the LPA and we are currently under-supplying this sector of the market.*

6.17 Whilst the numbers in the paragraph above may not appear large there is a significant latent demand in this sector of the housing market sufficient for the Prime Minister to commission a review into how the scaling-up of self-commissioned new homes can boost capacity and overall supply. That review (The Bacon Review) has reported and includes a number of recommendations including through the forthcoming planning reforms. Whilst the future of those planning reforms is still being considered by Government, it was clear that there was an increased importance to delivery of custom and self build housing. Those suggested reforms focussed on a number of ways from specific site allocations to setting targets for local authorities to ensure that the Duty is being met and potential sanctions if the registered need is not met. Members need to be cognisant of the duty to provide this type of housing and consider in light of the findings above and in relation to Policy HO2 that this site would provide a sustainable integrated development

helping to address that identified housing need. The duty to provide self build and custom housing is a material consideration and is incumbent on the LPA to provide sufficient housing to meet the need. In balance, when considering the duty and the overall conformity with Policy HO2 this weighs in favour of the principle of development being acceptable.

## **2. Impacts on residential amenity**

- 6.18 The proposals would introduce development that interacts with existing dwellings on its southern boundary (6 dwellings on the north side of Holme Meadow) in terms of its proximity and the presence of buildings and domestic settings. In order to address those concerns the developer has included a Design Code which sets out basic principles for development of the self build plots including distances for any buildings which will take into account the separation distances and boundary treatments. In consideration of application 19/0871 Members asked whether a TPO would be appropriate for consideration on the boundary of the properties in Holme Meadow however given the nature of the trees within the gardens they would not normally qualify for protection. The distance to the new dwellings would help preclude the chance of overshadowing from existing trees. There would be no issues of overlooking due to the distances between dwellings which would be up to 38 metres between primary windows.
- 6.19 The site access would be close to the exit from The Brambles however this is unlikely to impact on their ability to use their private access. In addition, the relocation of the 30mph signage would reduce the speed of vehicles entering the village improving their access arrangements by reduced vehicle speeds.
- 6.20 The developer has stipulated that 5 of the 14 plots including the cluster of 4 plots closest to the crest would be limited to single storey dwellings. Residents have raised concerns that the lower development should be closer to the rear garden boundaries however this is not the highest part of the site and to switch these plots around would increase the overall visual impact of the development. The separation distances would adequately deal with any amenity issues and is far greater than required in the Council's SPD.

## **3. Whether the proposals are acceptable in terms of road/pedestrian safety**

- 6.21 Consideration must be given to the impact of the main service road access, connecting vehicular traffic from Broomfallen Road to the site. Although it is not a major connecting route, the affected/nearby section of Broomfallen Road does attract significant traffic and speeds can be fairly high as vehicles leave or approach the 30mph zone, signposts for which are located 40m north-west of where the northern corner of The Brambles' garden meets the corner of the existing woodland. On last consideration, Members noted that there had been some road safety issues in the vicinity of the site.
- 6.22 The County Council as Local Highway Authority has no objection to the proposed access, subject to a range of conditions (adoption of roads, construction details, visibility splays) along with a relocation of the 30mph

limit. This advice has taken into consideration the potential for safe access into and from the main service road, on the basis that the frontage would be within an extended 30mph limit zone and that adequate visibility is available in each direction. Care would need to be taken to ensure that the area alongside the road would provide adequate visibility in perpetuity. This would be accompanied by a pedestrian pavement to join the existing pavement at the side of 1 Holme Meadow.

- 6.23 Each plot within the overall site would be large enough to accommodate in-curtilage parking.
- 6.24 Concerns have been raised about construction vehicles and any plant utilised during any plot development. To prevent vehicles parking on Broomfallen Road and thereby causing a hazard to road users, it would be reasonable and necessary to impose conditions requiring the developer to set out a proposal for the management of construction traffic.

#### **4. Whether the proposals are acceptable in terms of surface water, foul water and any potential flood risk impacts**

- 6.25 The application is accompanied by a drainage strategy which has been considered by both Cumbria County Council and United Utilities. The proposals are acceptable to both organisations subject to a number of planning conditions.
- 6.26 In the context of surface water the development would present an opportunity to improve circumstances for existing residents within the village. Objectors have commented that the rear gardens in Holme Meadow tend to be wet although the houses have not flooded. The moisture in those gardens is likely to be in part run-off from the application site/field. Placement of the housing development and infrastructure would potentially reduce the amount of permeable surface available for natural drainage, but the ground is already known not to have great capacity to store water because of its geological make-up. This latter point is reflected in the objection submitted by the Wetheral Parish Council, within which it states that the proposed site and surrounding land are already waterlogged and unsuitable for building.
- 6.27 Although the site is situated within Flood Zone 1 and is therefore considered not to be at significant risk of flooding, Cumwhinton village has relatively recently been the subject of flooding. This occurred in the centre of the village close to the war memorial, flooding the main street and at least one property on the southern side of the street. This was understood to have been caused by heavy rainfall rather than river flooding, and has been documented photographically.
- 6.28 Wetheral Parish Council has identified potential exacerbation of the existing problem in its objection, suggesting that until this has been resolved, no further development should be permitted in the village.
- 6.29 The application site is located on higher ground that links into the area that

floods through neighbouring fields. The Flood Risk Assessment concludes that the development would neither be at significant risk from flooding, nor would it give rise to flooding concerns elsewhere. The position is supported by the County Council as the Lead Local Flood Authority subject to conditions. United Utilities do not contend with the conclusions of the Assessment.

- 6.30 As part of the development, the developer proposes to provide on-site attenuation. This has been revised to include an attenuation pond which will provide not only for attenuation but also act as a filter to ensure that sediment does not continue downstream and cause further issues in the centre of Cumwhinton.
- 6.31 The proposed drainage strategy is acceptable and would improve the existing situation by attenuation and increase capacity to deal with predicted climate change.

## **5. Impacts on trees, hedgerows and biodiversity**

- 6.32 There is no direct threat to existing trees and hedgerows on the peripheries of the site. Indirectly, it is possible that inclusion of boundaries as part of housing plots could lead to pressure arising to trim or fell trees overhanging private gardens or encroaching towards dwellings. In order to overcome this issue the design code has included separation distances of at least 8m within the plot. These plots are long enough that the existing trees could be retained as end-of-garden features.
- 6.33 It may be noted that although some of the peripheral trees are of some significance in terms of their contextual contribution to the site setting, a Tree Preservation Order is unlikely to be required. The site is not substantially characterised by the trees on the boundaries, and the general condition of the trees is as expected in these circumstances. Whilst all show reasonable vigour, structurally there are likely to be issues with at least half of the mature specimens.
- 6.34 The woodland aspect of the proposal incorporates a large area of new woodland to provide a new strong edge to the village beyond (to the north and west of) the site; the woodland areas are intended to provide recreational/open space for residents with an attenuation pond as a feature with open space around with woodland to separate it from farmland to the north. It is also intended that this would serve as a new positive landscape feature. It is noted that there is an intention to provide a new native hedgerow along most of the southern boundary of the new woodland/amenity area within the site.
- 6.35 Introduction of the new woodland areas has several aims. The first is to provide a strong woodland feature separating the village from the open countryside to the north. The second is to provide areas which serve as informal recreation space(s); the area would be handed over to a management committee of those occupying the new development. Within the northernmost area, a clearing with no trees planted upon it would be created including SUDS attenuation. This space would be accessible to local

residents.

- 6.36 The woodland area is also intended to be planted with large species of trees with the potential to grow into a substantial feature akin to the area of woodland on the opposite side of Broomfallen Road. If successful, it would create the impression that the village approach would be 'wooded' generally, as the two areas would visually connect. The submitted Landscape and Visual Assessment considers both the landscape character and the visual impact. It is clear from the assessment and from the proposed layout that the large area of tree planting on the northern and western boundaries of the site would ensure that not only is the development screened (evident after a 10 year growth) it would visually align with the existing woodland providing a strong woodland vista. The trees would also become visible above the existing housing setting a significant backdrop to the existing village.
- 6.37 The site is an open field in the main, with associated hedgerows that include a number of mature trees. The site is not exceptional in biodiversity terms and is not designated for any special ecological reason. It links to minor watercourses in the north-east fringes of the site. Considering the level of woodland planting, the additional hedgerows and the attenuation pond, this development would significantly enhance the biodiversity levels as opposed to objectors concerns that gardens would diminish the variety and quality. A biodiversity gains plan and planting scheme set out the proposed species and planting illustrating the biodiversity net gain proposed for the site.

## **6. Requirement for Section 106 Legal Agreement:**

- 6.38 The provision of self and custom build housing is a definable sector of the housing market and as such should only be developed by those conforming to the defined need. This is not solely restricted to those on the Council's register but anyone who fits the eligibility criteria. In order to ensure that people meet the criteria and that the Council is fulfilling its Duty a legal agreement is required to set out the eligibility requirements.
- 6.39 It is accepted that the development would not promote a requirement to provide affordable housing on the overall site. Further, it is accepted that it would not be a requirement to seek a commuted off-site financial contribution towards affordable housing. These assessments relate to advice within the NPPF, which clearly advises that even within major developments, if the development is proposed or intended to be developed by people who wish to build or commission their own homes, this will invoke an exemption to the need to provide or contribute towards affordable homes.
- 6.40 Consultation responses of Cumbria County Council have identified a requirement for a sum of £5500 to be provided because if the site is implemented, it would be necessary to relocate/provide new signage identifying the increased length of road requiring a 30mph limitation. The applicants accept that this is an appropriate sum and are not challenging the requirement. They have however requested that as this relates to later development rather than the outline stage, this matter is deferred through

panning condition to enable this application agreement to focus on the self-build requirements.

- 6.41 The City Council's Greenspaces Officer had previously advised that there would be a requirement to make financial contributions including £5481 towards off-site sports pitches and £34800 towards upgrading of the existing play area in Cumwhinton. However as this development includes a element of non-market housing which is exempt from other contributions such as affordable housing the contribution would be reduced. In addition, the site is providing amenity space and large area of woodland to provide open space of a scale which would be beyond the normal requirements of a development of this scale. Those benefits for open space provision outweigh the additional requirements for contributions.

### **Conclusion:**

- 6.42 The principle of delivering a development of part open market, part self and custom-build homes within the village of Cumwhinton would be acceptable in overall planning policy terms, at national and local level. Its appropriateness, however, would depend on it being consistent with Local Plan Policies HO2 and SP2, plus Policies SP6 and GI1. Members had previously considered that the site was in conflict with criterion 3 of Policy HO2. Additional information and some changes to the scheme have formed a revised application to address those concerns. In addition, the provision of 9 self build and custom housing plots seeks to address the Duty on the Council to deliver housing for this sector of the market. An area of housing where the council is below its own requirements for provision for those on the register. This additional Duty is a significant material consideration which means that on balance this application is supported.
- 6.43 Concerns relating to drainage, highways, residential amenity and landscaping/biodiversity can all be addressed through appropriate conditions.
- 6.44 The proposals therefore accord with the development plan, National Planning Policy Framework and Planning Practice Guidance.
- 6.45 It is recommended that authority to issue an approval be given to the Corporate Director of Economic Development subject the completion of a Section 106 Agreement regarding:
- limiting defined units to self-build and custom build dwellings;
  - maintenance and management of on-site open space, amenity space and strategic landscaping areas.
- Should the S106 not be completed, authority to refuse the application be given to the Corporate Director of Economic Development.

## **7. Planning History**

- 7.1 Outline application 19/0871 for the erection of 5 no. market dwellings; erection of 9 no. self/custom build dwellings; formation of vehicular access and road; provision of structural landscaping/planting; formation of amenity



area and provision of associated infrastructure and services was refused by Development Control Committee at its meeting on the 11 June 2021.

## **8. Recommendation: Grant Subject to S106 Agreement**

1. Approval of the details of the layout of the development, the scale and appearance of the dwellings, the means of access and landscaping (hereinafter called "reserved matters") shall be obtained from the local planning authority in writing before the construction of the dwelling on that particular plot is commenced. The development of each plot shall be carried out as approved.

**Reason:** The application was submitted as an outline application in accordance with the provisions of Article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

2. Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 5 years from the date of this permission and the development of each individual plot hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved for that plot or 7 years from the date of this outline permission whichever is the longer.

**Reason:** In accordance with the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended by The Planning and Compulsory Purchase Act 2004).

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

1. the submitted planning application form received 9 July 2021;
2. the Location Plan - Dwg. No. 19-C-15617/01 Rev B received 9 July 2021;
3. the Block Plan (Dwg. No. 19-C-15617/02 Rev E excluding individual dwelling units) received 9 November 2020;
4. the Site Plan As Proposed (Dwg 2064-04 Rev E) received 9 July 2021;
5. the Site Section As Proposed (Dwg 2064-05 Rev A) received 9 July 2021;
6. the Site Plan Aerial (Dwg 2064-06) received 9 July 2021;
7. the Planting Schedule (Dwg 2064-07) received 9 July 2021;
8. the Biodiversity Gains Plan (Rev 2) received 9 July 2021;
9. the Topographical Survey (Dwg. No. 19-C-15617/08) received 9 July 2021;
10. the Long Drains Sections, Pipe Sections, Trial Pits, Inspection, Field Drains drawings received 9 July 2021;
11. the Drainage Plan (Dwg No. 19-C-15617/09 Rev G) received 9 July 2021;

12. the Proposed Kerb Layout (Dwg No. 19-C-15617/12 Rev B) received 9 July 2021;
13. the Proposed Manhole Details (Dwg No. 19-C-15617/16 Rev C) received 9 July 2021;
14. the Proposed Road Levels (Dwg No. 19-C-15617/10 Rev C) received 9 July 2021;
15. the Proposed Road Sections (Dwg No. 19-C-15617/11 Rev B) received 9 July 2021;
16. the Amended Pond Details (Dwg No. 19-C-15617/15 Rev E) received 9 July 2021;
17. the Vertical Stopping Sight Distance and Visibility Splay (Dwg. No. 19-c-15617-04 Rev E) received 9 July 2021;
18. the Plant Specification for Woodland copse, boundaries and internal/site landscaping areas (Dwg. No. 15617/05D) received 9 November 2020;
19. the Drainage Strategy Report by AL Daines and Partners (rev C) and associated appendices and drawings received 9 July 2021;
20. the Flood Risk Assessment by AL Daines and Partners received 9 July 2021;
21. the Landscape and Visual Assessment Statement (Galpin Landscape Architecture) received 9 July 2021;
22. the Design Code received 9 July 2021
23. the Notice of Decision; and
24. any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason:** To define the permission.

4. The number of self-build/custom build dwellings subject of this application shall be not less than 9no. in total and those dwellings hereby permitted on plots 10 -14 (inclusive) shall comprise single storey units

**Reason:** For the avoidance of doubt in accordance with Policies SP6 and HO2 of the Carlisle District Local Plan 2015-2030.

5. Development shall not commence until a Construction Phase Plan (CPP) has been submitted to and approved in writing by the Local Planning Authority. The CPP shall include details of:
  - pre-construction road condition established by a detailed survey for accommodation works within the highways boundary conducted with a Highway Authority representative; with all post repairs carried out to the satisfaction of the Local Highway Authority at the applicants expense;
  - details of proposed crossings of the highway verge;
  - retained areas for vehicle parking, maneuvering, loading and unloading for their specific purpose during the development;
  - cleaning of site entrances and the adjacent public highway;
  - details of proposed wheel washing facilities;
  - the sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials on the highway;

- construction vehicle routing;
- the management of junctions to and crossings of the public highway and other public rights of way/footway;
- details of any proposed temporary access points (vehicular / pedestrian);
- surface water management details during the construction phase

**Reason:** To ensure the undertaking of the development does not adversely impact upon the fabric or operation of the local highway network and in the interests of highway and pedestrian safety.

6. No development hereby approved by this permission shall commence until the developer has entered into and obtained a S106 Agreement to provide finance to fund the revision of the 30mph entry point along Broomfallen Road together with the formation of a gateway feature.

**Reason:** In the interests of highway and pedestrian safety, in accordance with Policies SP6, HO2 and IP8 of the Carlisle District Local Plan 2015-2030.

7. No work associated with the construction of the development hereby approved shall be carried out before 07.30 hours on weekdays and Saturdays nor after 1800 hours on weekdays and 1600 hours on Saturdays (nor at any times on Sundays or statutory holidays).

**Reason:** To prevent disturbance to nearby occupants in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

8. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Site investigations should follow the guidance in BS10175.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

**Reason:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

9. The planting of the woodland copse, boundaries and internal/site landscaping areas along with the associated amenity space, path and

means of enclosure shall be carried out in accordance with the approved details/plans not later than the first planting season following the construction to base course of the estate road and thereafter maintained. If at any time during the subsequent five years any tree or hedge forming part of the landscaping scheme shall for any reason die, be removed or be felled it shall be replaced with another tree or shrub of the same species and size during the next planting season unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To ensure that an acceptable structural landscaping scheme and associated amenity space is carried out in compliance with Policies SP6 and GI6 of the Carlisle District Local Plan 2015-2030.

10. The carriageway, footways and footpaths shall be designed, constructed, drained and lit to a standard suitable for adoption and in this respect further details, including longitudinal/cross sections, shall be submitted to the local planning authority for approval before any work commences on site. No work shall be commenced until a full specification has been approved. These details shall be in accordance with the standards laid down in the current Cumbria Design Guide. Any works so approved shall be constructed before the development is completed. In addition, the highway improvement works (revised 30mph zone and pavement) so approved shall be constructed before the occupation of the first dwelling hereby permitted.

**Reason:** To ensure a minimum standard of construction in the interests of highway safety and that the matters specified are designed to the satisfaction of the Local Planning Authority and to support Local Transport Plan Policies S3, LD11 and LD7

11. A 2.4 metre x 2.4 metre pedestrian visibility sight splay as measured from the highway boundary (or footpath boundary) shall be provided on both sides of the vehicular access. There shall be no obstruction above a height of 600mm as measured from the finished surface of the access within the area of the visibility sight splays thereafter.

**Reason:** To provide adequate inter-visibility between the pedestrians and users of the access and the existing public highway for the safety and convenience of users.

12. Ramps shall be provided on each side of every road junction to enable wheelchairs, prams and invalid carriages to be safely manoeuvred at kerb lines. Details of all such ramps shall be submitted to the Local Planning Authority for approval before development commences. Any details so approved shall be constructed as part of the development.

**Reason:** To ensure that pedestrians and people with impaired mobility can negotiate road junctions in relative safety and to support Local Transport Plan Policies LD12 and LD7.

13. Footways shall be provided and lit that link continuously and conveniently to

the nearest existing footway concurrently with the construction and occupation of the respective dwellings. The footways shall be lit such that the luminance levels do not exceed 600cd/m<sup>2</sup>.

**Reason:** In the interests of highway safety.

14. Prior to the commencement of any development, a site-wide foul and sustainable surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The drainage scheme must include:
- (i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of site conditions;
  - (ii) A restricted rate of discharge of surface water agreed with the local planning authority. The rate of discharge shall be restricted to no greater than 2.8 l/s for any storm event;
  - (iii) Levels of the proposed drainage system including proposed ground and finished floor levels in AOD;
  - (iv) Details of any existing land drainage and how this will be disconnected from the public sewer as a result of the development proposals;
  - (v) Foul and surface water shall drain on separate systems;
  - (vi) A management and maintenance plan. The management and maintenance plan shall include as a minimum:
    - a. Arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a management company; and
    - b. Arrangements for inspection and ongoing maintenance of all elements of the drainage systems to secure the operation of the drainage scheme throughout its lifetime including during construction.
  - (vii) A timetable for implementation.
- The approved scheme shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and no surface water shall discharge to the public foul or combined sewers either directly or indirectly.
- The drainage scheme shall be completed, maintained and managed in accordance with the approved details and retained thereafter for the lifetime of the development.

**Reason:** To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution. To ensure the delivery of drainage infrastructure in a co-ordinated manner.

15. As part of the development hereby approved, adequate infrastructure shall be installed to enable telephone services, broadband, electricity services and television services to be connected to any property within the application site and shall be completed prior to the occupation of the dwellings. Thereafter, notwithstanding the provisions of the Parts 15 and 16 of Schedule 2 to the Town and Country Planning (General Permitted

Development) (England) Order 2015 (as amended), (or any Order revoking and re-enacting that Order) no distribution poles or overhead lines shall be erected to serve the development, other than with the express consent of the local planning authority.

**Reason:** To ensure adequate infrastructure provision and to maintain the visual character of the locality in accordance with Policies IP4 and SP7 of the Carlisle District Local Plan 2015-2030.

16. Prior to the commencement of development within each plot, details of the relative heights of the existing and proposed ground levels and the heights of the proposed finished floor levels, eaves and roof ridges of that dwelling and any associated outbuilding/garage (if proposed) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in strict accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** In order that the approved development is appropriate to the character and appearance of the area in accordance with Policies SP6 and HO2 of the Carlisle District Local Plan 2015-2030.

17. Prior to the commencement of development within each plot, samples or full details of all materials to be used on the external surfaces of the respective dwelling shall be submitted to and approved in writing by the local planning authority. Thereafter, the development shall be carried out and completed in strict accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** In the interests of visual amenity in accordance with Policies HO2 and CM5 of the Carlisle District Local Plan 2015-2030.

18. Prior to the commencement of development within each plot, with the exception of any work in connection with the servicing of the plot(s), full landscaping details (which include the retention of the existing hedgerows within the application site) for the respective plot shall have been submitted to and approved in writing by the Local Planning Authority. The approved landscaping scheme shall be undertaken within each of the individual plots not later than the first planting season following the plastering out of that dwelling within the plot and thereafter maintained. If at any time during the subsequent five years any tree, shrub or hedge forming part of the landscaping scheme shall for any reason die, be removed or felled it shall be replaced with another tree or shrub of the same species during the next planting season unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To ensure that an acceptable landscaping scheme is prepared and to ensure compliance with Policies SP6 and GI6 of the Carlisle District Local Plan 2015-2030.

19. No development shall commence until a construction surface water management plan has been agreed in writing with the local planning authority and prior to commencement of development within each plot, a construction surface water management plan for that plot shall be submitted to and approved in writing with the Local Planning Authority. Thereafter, the development shall be carried out in strict accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To safeguard against flooding to surrounding sites and to safeguards against pollution running through the site. To support Local Transport Plan Policies: LD7, LD8.

20. Prior to commencement of any development of each plot, details of the vehicular access, parking and manoeuvring facilities serving that dwelling (including materials and drainage) shall be submitted to and approved in writing by the Local Planning Authority. The dwelling shall not be occupied until the vehicular access and turning requirements have been constructed in accordance with the approved details and has been brought into use. The vehicular access and turning provisions shall be retained and capable of use at all times thereafter and shall not be removed or altered without the prior written approval of the Local Planning Authority.

**Reason:** To ensure a minimum standard of access provision when the development is brought into use. to support Local Transport Plan Policies: LD5, LD7, LD8.

21. Prior to the formation of any boundary treatment within the individual plots, particulars of height and materials of all screen walls and boundary fences for that plot shall be submitted to and approved by the Local Planning Authority. Thereafter all works comprised in the approved details of means of enclosure and boundary treatment shall be carried out in accordance with the approved details prior to the occupation of that dwelling unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To ensure that the work is undertaken in a co-ordinated manner that safeguards the appearance and security of the area in accordance with Policies HO2 and CM5 of the Carlisle District Local Plan 2015-2030.

22. No dwelling hereby permitted shall be occupied until charging cabling to a dedicated socket fixed to the dwelling or an associated garage/outbuilding of sufficient capacity to enable a minimum Mode 3 at 3.7kW (16Amp) single phase electrical supply has been installed and thereafter shall be maintained for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To ensure the provision of electric vehicle charging points for each dwelling in accordance with Policy IP2 of the Carlisle District Local Plan 2015-2030.

23. No dwelling hereby approved shall be occupied until the vehicular access

and turning requirements serving that dwelling have been constructed in accordance with the approved plan and has been brought into use. The vehicular access and turning provisions shall be retained and capable of use at all times thereafter and shall not be removed or altered without the prior consent of the local planning authority.

**Reason:** To ensure a minimum standard of access provision when the development is brought into use. To support Local Transport Plan Policies: LD5, LD7, LD8.

24. No dwelling hereby permitted shall be occupied until it is connected to the approved surface water and foul drainage schemes.

**Reason:** To ensure a satisfactory form of development in accordance with Policies CC5 and IP6 of the Carlisle District Local Plan 2015-2030, the National Planning Policy Framework and Planning Practice Guidance..

25. Details showing the provision within the site for the parking, turning and loading and unloading of vehicles visiting the site, including the provision of parking spaces for staff and visitors, shall be submitted to the Local Planning Authority for approval. The development shall not be brought into use until any such details have been approved and the parking, loading, unloading and manoeuvring facilities constructed. The approved parking, loading, unloading and manoeuvring areas shall be kept available for those purposes at all times and shall not be used for any other purpose.

**Reason:** To ensure that vehicles can be properly and safely accommodated clear of the highway and to support Local Transport Plan Policies: LD7, LD8.

26. Any existing highway fence/wall boundary shall be reduced to a height not exceeding 1.05m above the carriageway level of the adjacent highway in accordance with details submitted to the Local Planning Authority and which have subsequently been approved (before development commences) (before the development is brought into use) and shall not be raised to a height exceeding 1.05m thereafter.

**Reason:** In the interests of highway safety and to support Local Transport Plan Policies: LD7 and LD8.

27. The access drive shall be surfaced in bituminous or cement bound materials, or otherwise bound and shall be constructed and completed before the development is occupied /brought into use.

**Reason:** In the interests of highway safety and to support Local Transport Plan Policies: LD5, LD7, LD8

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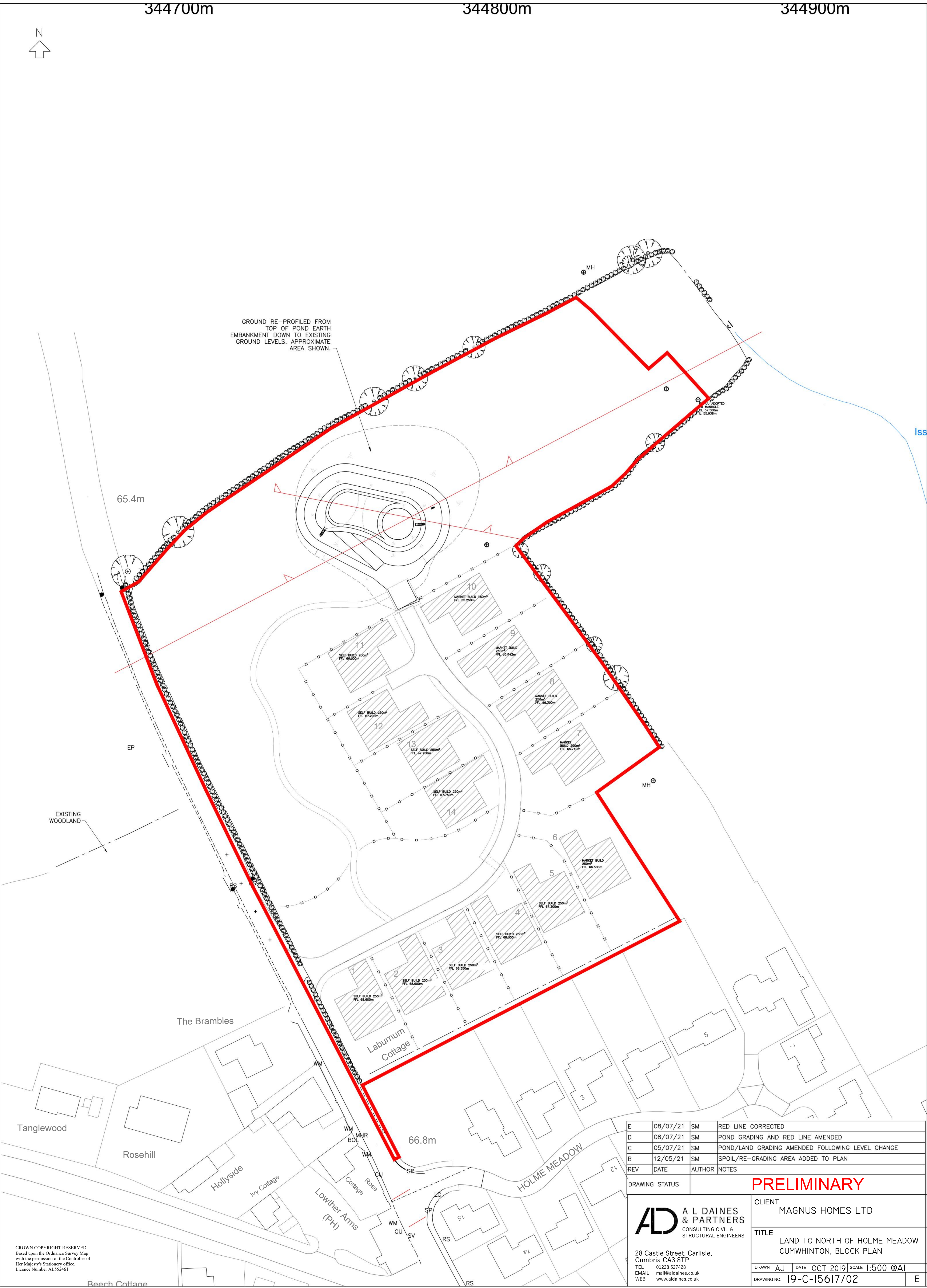
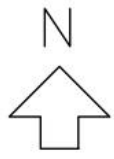




344700m

344800m

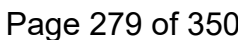
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E	08/07/21	SM	RED LINE CORRECTED
D	08/07/21	SM	POND GRADING AND RED LINE AMENDED
C	05/07/21	SM	POND/LAND GRADING AMENDED FOLLOWING LEVEL CHANGE
B	12/05/21	SM	SPOIL/RE-GRADING AREA ADDED TO PLAN
REV	DATE	AUTHOR	NOTES
DRAWING STATUS			<b>PRELIMINARY</b>
<b>AD</b> A L DAINES & PARTNERS CONSULTING CIVIL & STRUCTURAL ENGINEERS 28 Castle Street, Carlisle, Cumbria CA3 8TP TEL 01228 527428 EMAIL mail@aldaines.co.uk WEB www.alldaines.co.uk			CLIENT MAGNUS HOMES LTD
			TITLE LAND TO NORTH OF HOLME MEADOW CUMWHINTON, BLOCK PLAN
DRAWN AJ			DATE OCT 2019
DRAWING NO. 19-C-15617/02			SCALE 1:500 @A1
			E

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## Self-build plots

## Market housing plots

## Key to planting



### Existing hedgerows



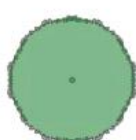
## Existing trees



Proposed hedgerow planting



Proposed copse planting



## Proposed standard trees

Type 1 - *Fagus sylvatica* (1no.)Type 2 - *Quercus petraea* (2no.)Type 3 - *Prunus avium* (9no.)

\*New hedegrow trees to be planted outside of site boundary but on land within applicants's control.



## Revisions

07 July 2021 Drawing updated ahead of planning submission.

## project

project  
Land Adjacent to Holme Meadow,

Cumwhinton

CA4 8DR

## Drawing

## Site Plan

## As Proposed

Drawing No.

Drawing No. 2064 - 04 Rev F

Scale	1:500 @ A1	Drawn	GC	Date	Jun 2021
1:500 @ A1					
1:1000 @ A2					

1:500 @ A1 Drawn GC

1:500 @ A1 Drawn GC

do not scale from this drawing. Drawing to be read in conjunction with all other relevant drawing and information from all other consultants. Any discrepancies identified between drawing and site to be reported to CH Group immediately. CH Group accepts no liability for any omission or inconsistencies. All rights reserved this drawing is copyright of CH Design, part of CH Group.



Key to plots

- Self-build plots
- Market housing plots

Key to planting

- Existing hedgerows
- Existing trees
- Proposed hedgerow planting
- Proposed copse planting
- Proposed standard trees
- Type 1 - Fagus sylvatica (1no.)
- Type 2 - Quercus petraea (2no.)
- Type 3 - Prunus avium (9no.)

\*New hedegrow trees to be planted outside of site boundary but on land within applicant's control.



Revisions - July 2021 Planning submission.

Project Land Ajacent to Holme Meadow,  
Cumwhinton  
Carlisle  
CA4 8DR

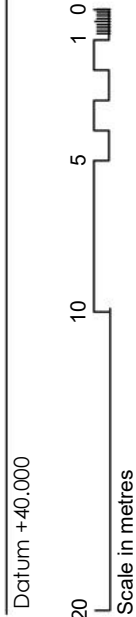
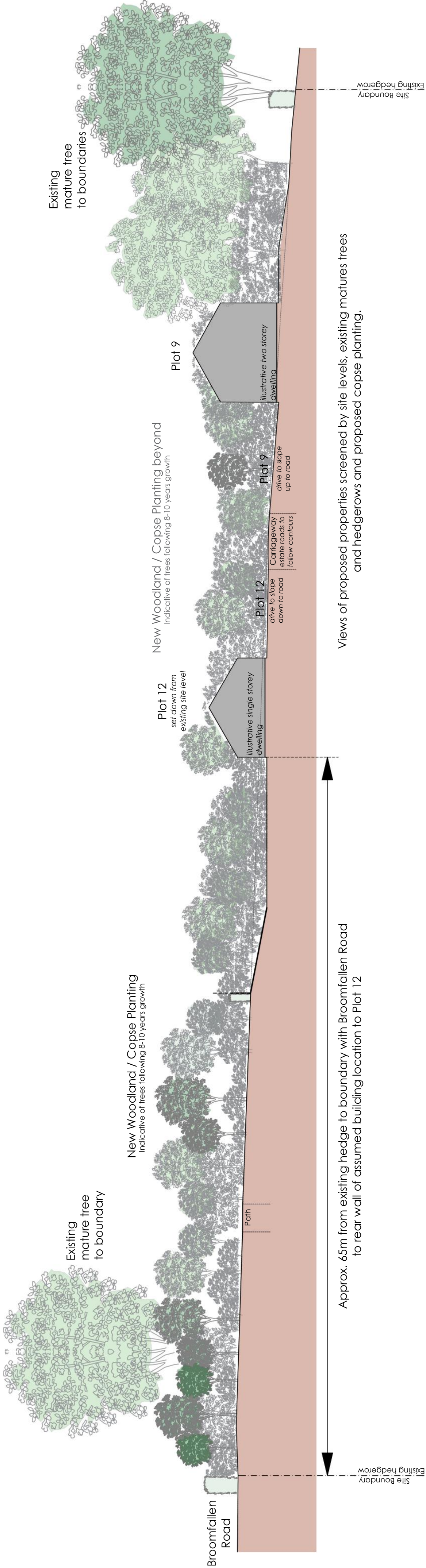
Drawing Site Plan overlaid onto Aerial Image  
As Proposed

Drawing No. 2064 - 06  
Scale 1:500 @ A1 Drawn GC Date Jun. 2021  
1:1000 @ A3

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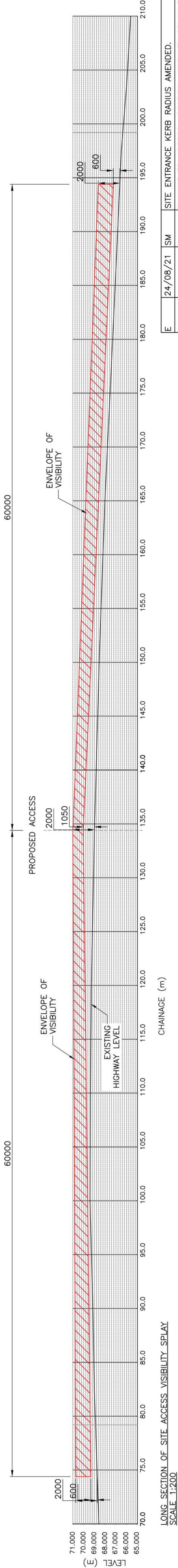
Revisions	A July 2021 Updated issue for revised planning applicaiton. GC		
Project	Land Ajacent to Holme Meadow, Cumwhinton Carlisle CA4 8DR		
Drawing	Site Section	As Proposed	
Drawing No.	2064 - 05 Rev.A		
Scale	1:250 @ A2	Drawn	GC
	1:500 @ A4	Date	July 2021

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PROPOSED ACCESS LOCATION & VISIBILITY SPLAY  
SCALE 1:500



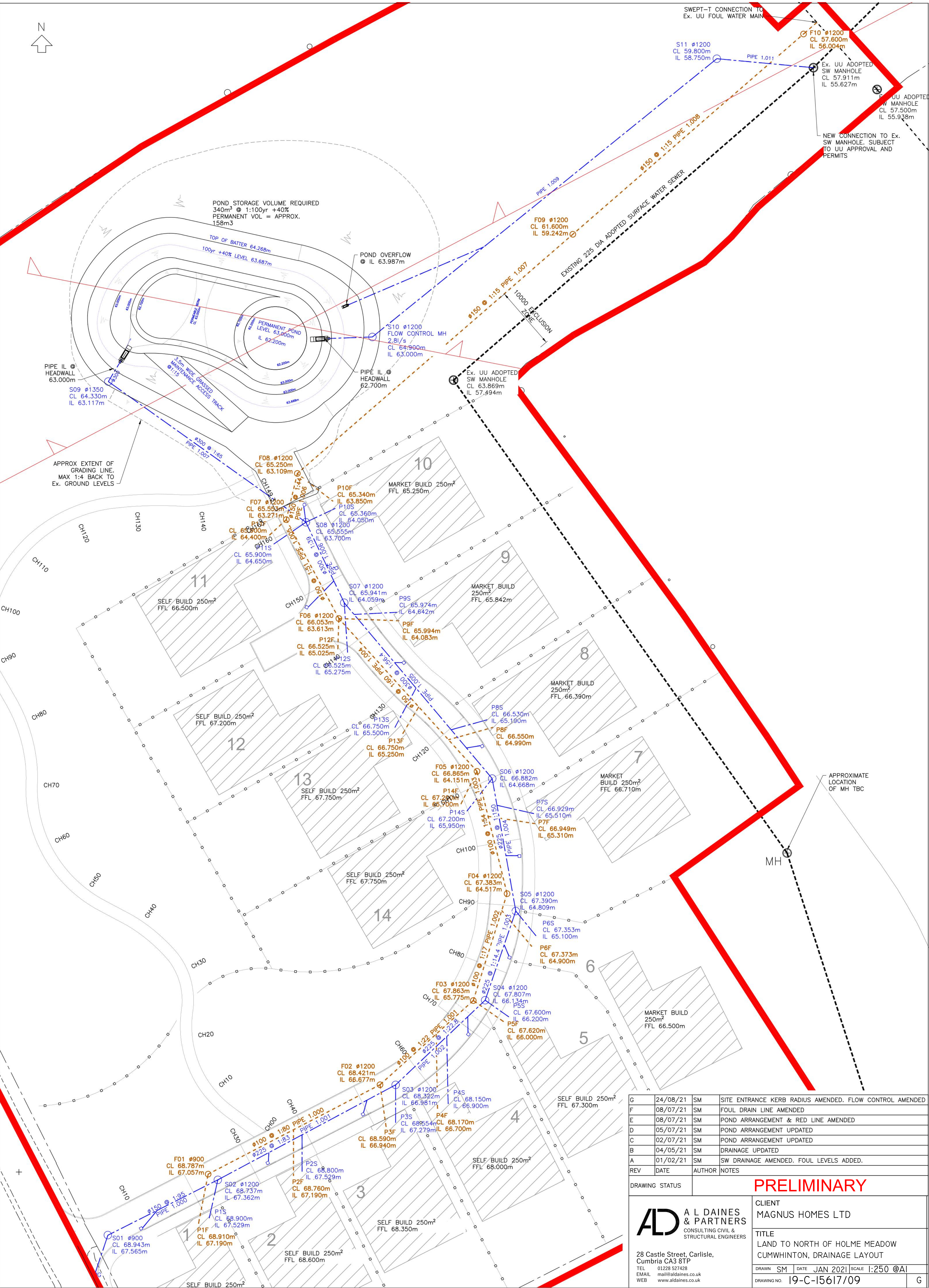
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D		AJ	CHANGE TO ACCESS LOCATION, VISIBILITY SPLAY PLAN ADDED.
C		AJ	CHANGE TO VISIBILITY SPLAYS
B		AJ	CHANGE TO MAIN ACCESS LOCATION & VISIBILITY SPLAYS
A		AJ	CHANGE TO MAIN ACCESS LOCATION
REV	DATE	AUTHOR	NOTES
DRAWING STATUS			

PRELIMINARY

CLIENT		MAGNUS HOMES LTD	
A L DAINES & PARTNERS		CONSULTING CIVIL & STRUCTURAL ENGINEERS	
TITLE		LAND TO NORTH OF HOLME MEADOW, CUMWHINTON	
VERTICAL STOPPING SIGHT DISTANCE & VISIBILITY SPLAY		SCALE AS SHOWN @A1	
DRAWN	AJ	DATE	NOV 2019
WEEK		SCALE	AS SHOWN @A1
DRAWING NO.	19-C-15617/04		
			E

28 Castle Street, Carlisle,  
Cumbria CA3 8TP  
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EMAIL info@aldaines.co.uk  
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REV	DATE	AUTHOR	NOTES
G	24/08/21	SM	SITE ENTRANCE KERB RADIUS AMENDED. FLOW CONTROL AMENDED
F	08/07/21	SM	FOUL DRAIN LINE AMENDED
E	08/07/21	SM	POND ARRANGEMENT & RED LINE AMENDED
D	05/07/21	SM	POND ARRANGEMENT UPDATED
C	02/07/21	SM	POND ARRANGEMENT UPDATED
B	04/05/21	SM	DRAINAGE UPDATED
A	01/02/21	SM	SW DRAINAGE AMENDED. FOUL LEVELS ADDED.

DRAWING STATUS	PRELIMINARY
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**AD**  
A L DAINES & PARTNERS  
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28 Castle Street, Carlisle,  
Cumbria CA3 8TP  
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CLIENT  
MAGNUS HOMES LTD

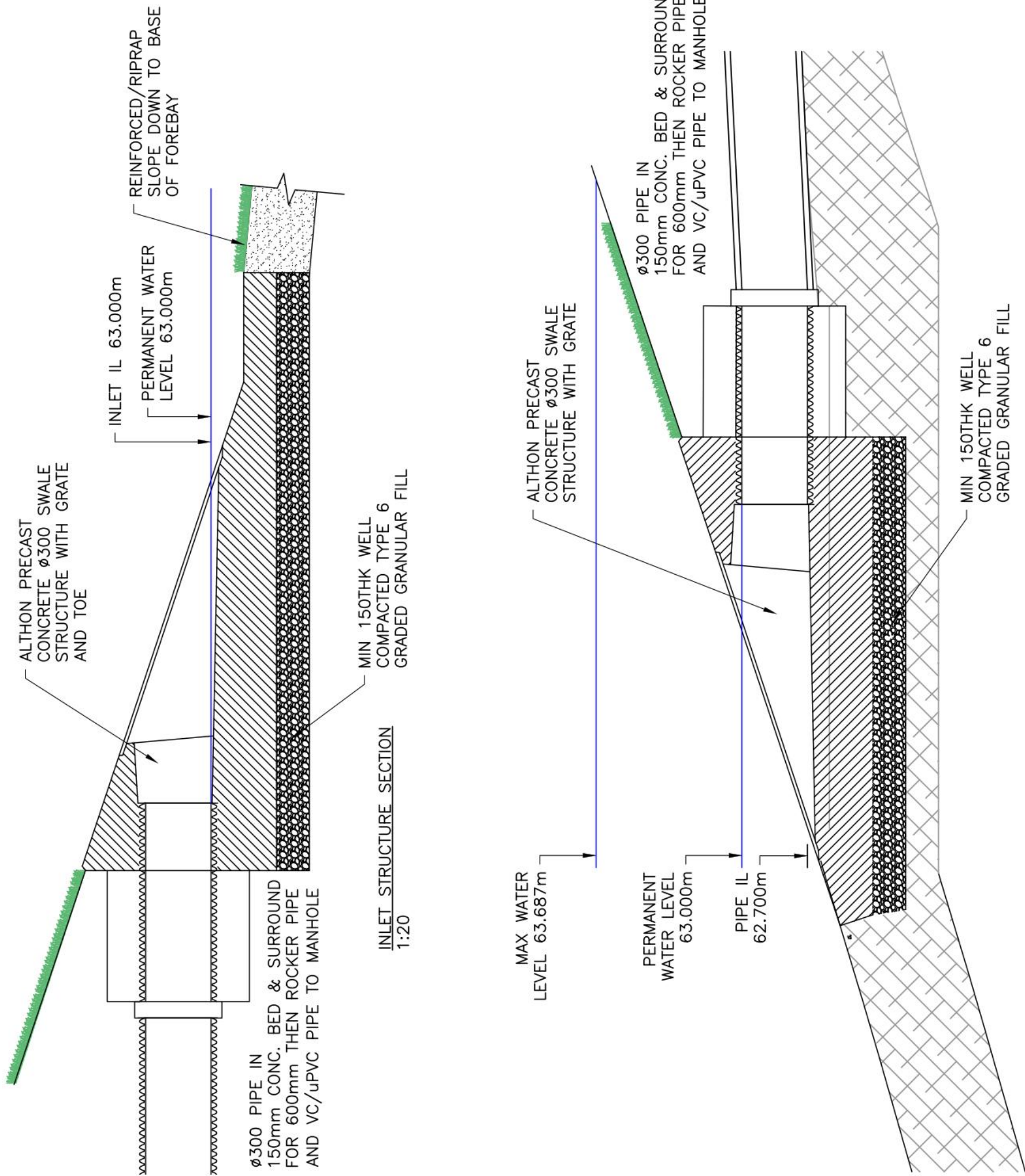
TITLE  
LAND TO NORTH OF HOLME MEADOW  
CUMWHINTON, DRAINAGE LAYOUT

DRAWN	SM	DATE	JAN 2021	SCALE	1:250 @AI
DRAWING NO.	19-C-15617/09				

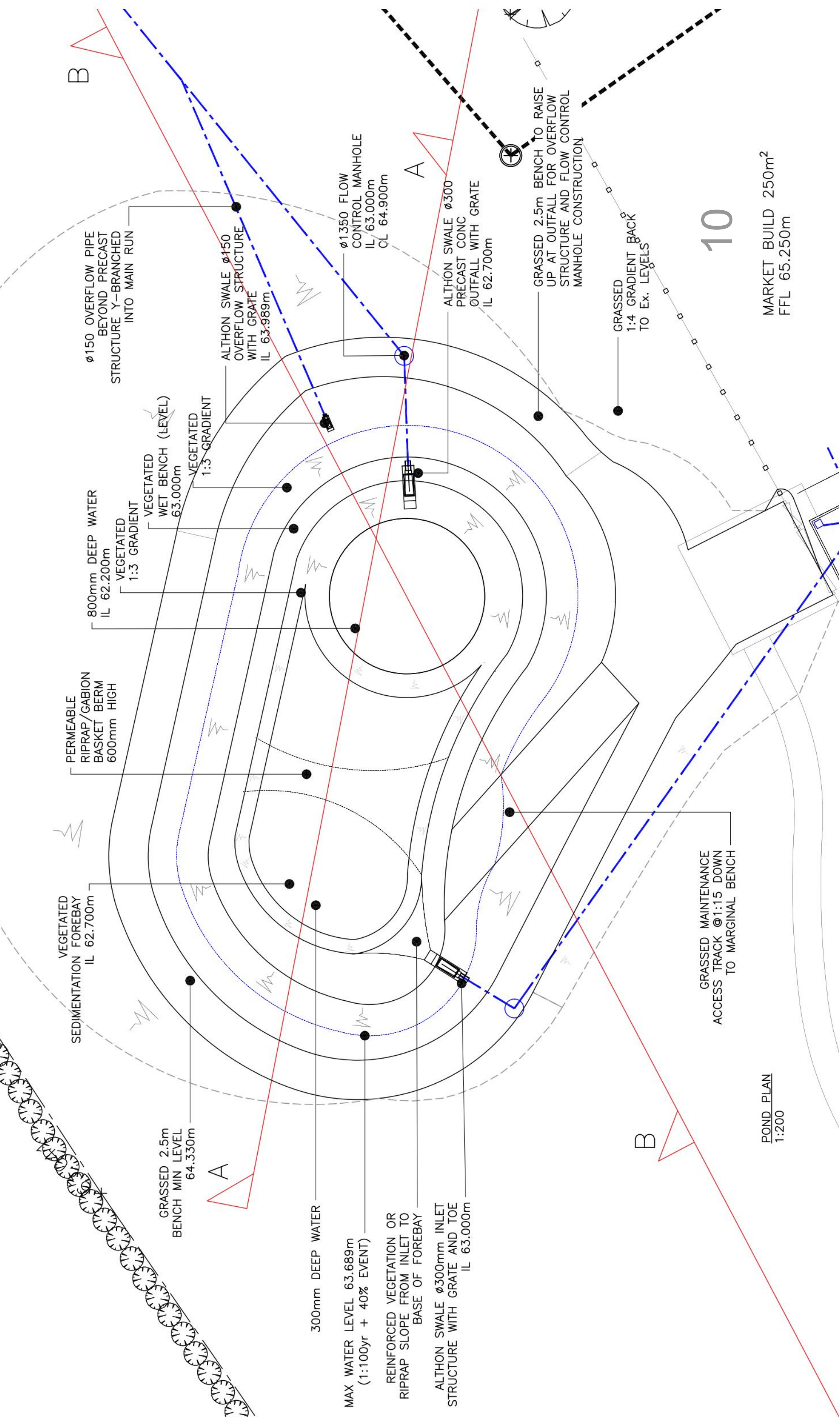
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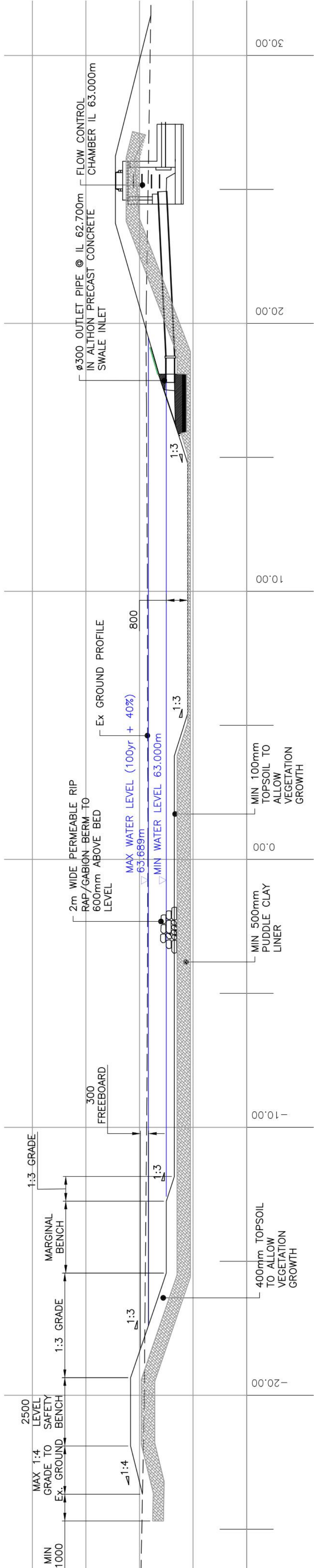
SPECIALIST SUPPLIER INFO  
Althon Limited  
MAG Group Building  
Vulcan Road South,  
Norwich  
Norfolk  
NR6 6AF  
Tel: 01603 488700  
Fax: 01603 488598  
E-mail: sales@althon.co.uk



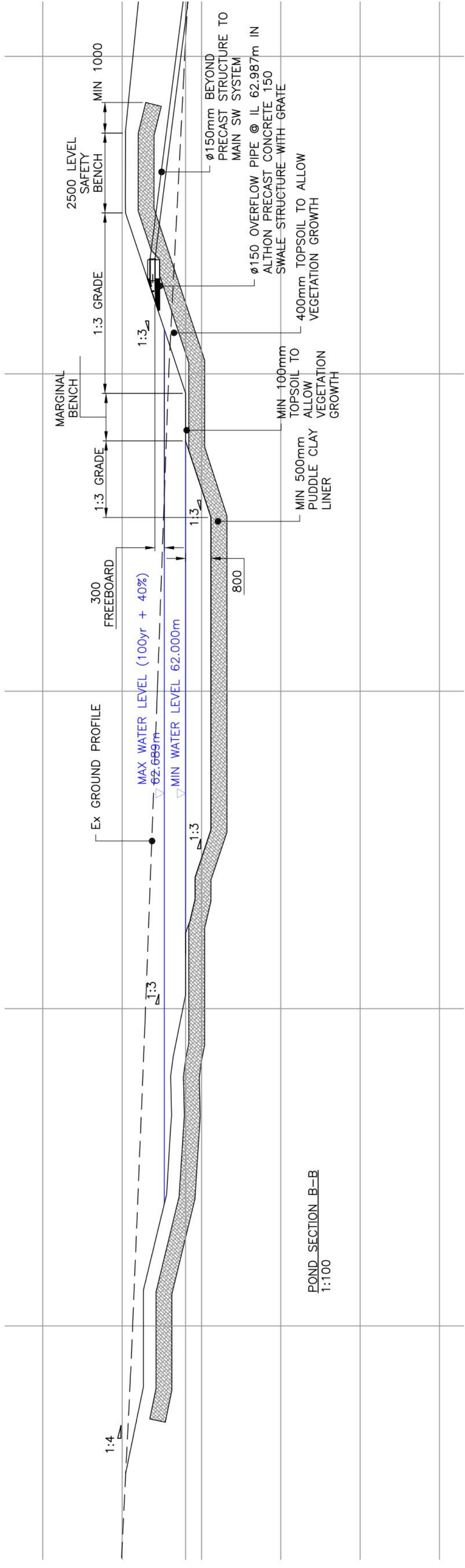
INLET STRUCTURE SECTION  
1:20



POND PLAN  
1:200



POND SECTION A-A  
1:100



POND SECTION B-B  
1:100





KEY

Biodiversity Indicators

New Wildlife Habitats

Improved Wildlife Corridors

New Wildlife Corridors

Bird Feeding Tables

Bird Nesting Boxes

Bat Nesting Boxes

General

Existing Trees

Existing Hedgerow

Proposed Trees

Proposed Copse Trees

Proposed Hedgerow Trees

Proposed Hedgerows

Proposed Wildlife Pond Planting

Proposed Pond

**NOTE:**

-The following species are to be included in the planting schedule

-Proposed Bat & Bird boxes will be located within proposed woodland once established .

Common Name	Botanical Name
Marginals-Aquatics	
Water Plantain	<i>Alisma plantago-aquatica</i>
Flowering Rush	<i>Butomus umbellatus</i>
Marsh Marigold	<i>Caltha palustris</i>
Lesser Pond Sedge	<i>Carex acutiformis</i>
Common Cotton Grass	<i>Eriophorum angustifolium</i>
Yellow Flag Iris	<i>Iris pseudacorus</i>
Water Mint	<i>Mentha aquatica</i>
Water Forget-me-not	<i>Myosotis scorpioides</i>
Marsh Cinquefoil	<i>Potentilla palustris</i>
Lesser Spearwort	<i>Ranunculus flammula</i>
Branched Bur-reed	<i>Sparganium erectum</i>

Common Name	Botanical Name
Tree Species	
Sycamore	<i>Acer pseudoplatanus</i>
Birch	<i>Betula pendula</i>
Common Hazel	<i>Corylus avellana</i>
Hawthorn	<i>Crataegus monogyna</i>
Beech	<i>Fagus sylvatica</i>
Crab Apple	<i>Malus sylvestris</i>
Scots Pine	<i>Pinus sylvestris</i>
Sessile Oak	<i>Quercus petraea</i>
Rowan	<i>Sorbus aucuparia</i>
Wild Cherry	<i>Prunus avium</i>

Common Name	Botanical Name
Hedgerow Species	
Common Hazel	<i>Corylus avellana</i>
Hawthorn	<i>Crataegus monogyna</i>
Holly	<i>Ilex aquifolium</i>
Honeysuckle	<i>Lonicera periclymenum</i>
Blackthorn	<i>Prunus spinosa</i>
Dog Rose	<i>Rosa canina</i>
Gelder Rose	<i>Viburnum opulus</i>

Habitat Creation:	
12Nr	Total New Trees
1,680Nr	Total New Copse Trees
11Nr	Total New Hedgerow Trees
460Nr	Total Hedgerow Plants
214lin.m	Total New Hedgerow
1,074Nr	Hedgerow Plants
5,535m <sup>2</sup>	Total New Habitat Areas
2Nr	Bird Feeding Tables
4Nr	Bird Nesting Boxes
3Nr	Bat Nesting Boxes

**Biodiversity Net Gain** is an approach to development that leaves biodiversity in a better state than before, providing an increase in appropriate natural habitat and ecological features over and above that being affected.

This plan shows habitats and wildlife corridors that would be created through the proposed planting scheme. Additional bat and bird boxes and bird tables further encourages wildlife around the site.

Galpin Landscape Architecture

info@galpinlandscape.com

www.galpinlandscape.com

Client

Magnus Homes Ltd - Harraby Green Associates

Project

Cumwhinton Housing

Location

Cumwhinton, Cumbria

Drawing

Biodiversity Gains Plan

Scale

1:500@A1

Date

July 2021

Drawn By

NB

Drawing Nr.

Planning

Revision

Rev 2

Checked by

SG





# SCHEDULE B

**Applications  
determined by other  
authorities.**

# SCHEDULE B

---

**Item No: 11**

Between 27/08/2021 and 07/10/2021

**Appn Ref No:**

20/0279

**Applicant:**

Gladmans

**Parish:**

Wetheral

**Date of Receipt:**

30/04/2020 15:01:24

**Agent:****Ward:**

Wetheral &amp; Corby

**Location:**Land at Rookery Park (South of Alders Edge),  
Scotby, Carlisle CA4 8EH**Grid Reference:**

344357 554934

**Proposal:** Erection Of Up To 90no. Dwellings, Public Open Space, Landscaping  
And Sustainable Drainage System (SuDS) And Vehicular Access Point  
From The Scotby To Wetheral Road (Outline/Revised Application)

---

**REPORT****Case Officer:** Christopher Hardman**Appeal Against:** Appeal against refusal of planning permission**Type of Appeal:** Written Representations**Appeal Decision:** Appeal Dismissed**Date:** 03/09/2021

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# Appeal Decision

Site visit made on 16 June 2021

**by C Dillon BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 03 September 2021**

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**Appeal Ref: APP/E0915/W/21/3269898**

**Land at Rookery Park, Scotby, Carlisle CA4 8EH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Gladman against the decision of Carlisle City Council.
  - The application Ref 20/0279, dated 30 April 2020, was refused by notice dated 4 December 2020.
  - The development proposed is described as outline application for the erection of up to 90 no. dwellings, public open space, landscaping and sustainable drainage (SUDs) and vehicular access point from the unnamed Scotby to Wetheral road. All matters reserved apart from access.
- 

## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is the effect of the appeal proposal on the character and appearance of the area, having particular regard to the scale and form of Scotby and its surrounding landscape character.

## Preliminary Matters

3. The planning application was made in outline with all matters, apart from access, reserved for future consideration. I have dealt with the appeal on that basis, treating any details of other reserved matters shown on the plans as illustrative.
4. A duly signed Unilateral Undertaking dated 3 June 2021 has been submitted in respect of addressing educational capacity, open space and affordable housing provision. The Council has been provided with an opportunity to comment on this document, which I have taken into account as part of my consideration of the appeal proposal.
5. The National Planning Policy Framework ('the Framework') was revised subsequent to the submission of the appeal. The main parties have been given the opportunity to draw my attention to any material changes which would impact on their respective cases and the appeal has been determined accordingly.

## Reasons

### *Character and appearance*

6. The appeal relates to a large field on the edge of the village of Scotby, one of the area's rural settlements. Policy HO2 of the Carlisle District Local Plan 2015-2030 (the Local Plan) permits new housing development on the edges of settlements in the rural area. Although this policy does not prescribe a size threshold for development, it requires that proposals do not prejudice the spatial strategy and meet certain criteria. Amongst other things, this includes ensuring that development is appropriate to the scale, form, function and character of the existing settlement, and, that sites on the edges of settlements are well contained within existing landscape features, integrate with the settlement and do not lead to an unacceptable intrusion into open countryside.
7. The original built form of Scotby has evolved over time through a number of subsequent housing developments. Whilst some side roads contain more recent housing, these tend to be roadside developments along the front of plots and are focused on historic patterns and groupings of houses. This approach has largely retained the perception of an elongated, linear settlement form on either side of the main road through the village. This form provides a real connection with the surrounding landscape context, particularly through the glimpses of open countryside which are afforded between buildings, and which are integral to Scotby's rural identity.
8. The appeal proposal would continue to contain residential development between the 2 existing railway lines and would not extend the village any further east than the recent Alders Edge development. However, by further expanding the village along the Scotby to Wetheral road axis in the manner proposed, the scheme would be at odds with prevailing elongated, compact form of Scotby.
9. Furthermore, within the vicinity of the appeal site, the village is characterised by the close-knit grouping of terraced and detached properties which frame the village green and contribute to forming a strong settlement edge. These reflect the traditional, rural character of the village and are defining characteristics. Although the appeal site is physically connected to the village, by enlarge it sits at a lower level to these. This serves to reinforce that the site forms part of the wider countryside context that surrounds this part of the settlement.
10. For this reason, the appeal proposal would represent a prominent protrusion from the traditional central core of Scotby into the surrounding open countryside. It would greatly urbanise and therefore alter how this edge of the village is read, including on approach to the village along the Scotby to Wetheral road. It would also reduce the extent to which the countryside provides an open, rural setting to the area around the village green.
11. I note that the detailed design and layout are reserved for future determination. The appellant has drawn my attention to paragraph 134 of the Framework and also the National Model Design Code and Part 2 Guidance Note. They consider that the appeal proposal reflects government policy on good design, and advance that this should be given significant weight in favour of the appeal proposal. However, considering the site's prominent outlying position, extent and limited physical containment, the submitted evidence does

not convince me that the scheme is capable of being successfully integrated and reflective of the character and appearance of the village even with mitigation. The illustrative details do not demonstrate that the appeal proposal could adequately reflect the compact built up form of the village.

12. Consequently, the appeal proposal would be neither well contained within existing landscape features nor would it integrate successfully with the settlement.
13. Neither the site nor the surrounding countryside falls within a designated landscape. The Cumbria Landscape Character Guidance and Toolkit (the CLGGT) defines the site and its environs as falling within the Low Farmland character typology. Key characteristics of this typology which are evident here include the undulating and rolling topography comprising the large scale and open landscape with patchy areas of woodland and large rectangular fields bound by hedgerows and fences and also the wide and long distance views afforded to the fells.
14. Despite the absence of a specific landscape designation here, the predominantly uninterrupted, extensive low farmland context contributes positively to the village's character and appearance from vantage points both within and outside the village. This is particularly so around the junction with the Scotby to Wetheral road.
15. The break in the built frontage and elevated position of this part of the village allow largely uninterrupted views down onto and across the appeal site. From here, the appeal site contributes positively to the foreground of open, longer distance elevated views from the village green, across the appeal site towards the North Pennines Area of Outstanding Natural Beauty (the AONB). This reinforces the identity and sense of place of this village core.
16. The illustrative plan seeks to demonstrate that a swathe of green landscaping through the centre of the site could link directly with the neighbouring fields to maintain a sense of openness and guide outward views from the village green. However, the proposed open space would be of a contrasting use and appearance to the surrounding countryside which tends to directly adjoin the existing settlement edge. It would not reduce or adequately distract from the resulting encroachment and visual intrusion that would be introduced into this extensive open landscape setting. Consequently, the appeal proposal would lead to an unacceptable intrusion into the open countryside.
17. Whilst the appellant's evidence advances that the scale of the proposed change across the wider character area as a whole is low, this does not justify the considerable level of harm that would arise on a more localised level to the character and appearance of the village and its open countryside setting.
18. In conclusion, the appeal proposal would cause considerable harm to the character and appearance of the area by reason of its inappropriate form, scale and landscape impact. Therefore, it conflicts with Policy HO2 of the Local Plan. It also conflicts with Policy SP2 and Policy GI1 of the Local Plan which, amongst other things, seek to support rural communities by allowing development of an appropriate scale and nature commensurate with their setting and to protect landscapes from excessive, harmful or inappropriate development.

19. Furthermore, in view of the identified harm, the appeal proposal would not accord with paragraph 130 of the Framework which, amongst other things, states that proposals should be sympathetic to local character. Nor would it accord with paragraph 174 of the Framework which states that proposals should recognise the intrinsic character and beauty of the countryside.

*Other planning considerations*

20. Paragraph 60 of the Framework states it is important that a sufficient amount and variety of land can come forward where it is needed and that the needs of groups with specific housing requirements are addressed. Furthermore, paragraph 74 of the Framework requires councils to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of 5 years' worth of housing. I return to this below, however, regardless of whether a shortfall exists, the appeal proposal would make a demonstrable contribution to the area's housing land supply. This is a benefit which carries great weight.
21. The Council's Strategic Housing Market Assessment (SHMA) identifies a notable need for affordable housing within the council area as a whole and past under delivery on this is evident. The development could provide a policy compliant and therefore reasonable contribution to this shortfall. The submitted Unilateral Undertaking provides an appropriate mechanism to secure this. The evidence before me does not challenge either its necessity or viability. I am also satisfied that this obligation is directly related to the development and fairly related in scale and kind. The level of contribution to the shortfall in the delivery of affordable housing in the council area is a benefit which also carries great weight.
22. The submitted evidence does not adequately substantiate the effect, if any, of the appeal site on the future delivery of the remaining similar scale housing allocation (Ref: R15) in the village. I therefore attribute no weight to that particular matter.
23. The appellant accepts that there would be a small degree of short-term adverse impact to living conditions of residents in the construction phase. The main parties agree that there is scope for this to be satisfactorily mitigated through planning conditions and I have no cause to find otherwise. Any residual adverse impacts would be negligible and would not amount to any material harm.
24. The level of accessibility to services and facilities is a sustainability credential which negates harm that would arise from unsustainable travel patterns rather than representing a benefit of the scheme. Given the low level of services and facilities within the village, limited weight is afforded to the potential benefit of the appeal scheme supporting these and generating local expenditure and revenues in the longer term. The economic benefit of housing development during the construction period also carries limited weight because of its relatively short duration.
25. Although public open space would be incorporated into the scheme, given the peripheral location of the site it is unlikely that this would be of benefit to anyone other than the residents of the appeal proposal. This carries limited weight as a benefit. For the same reason, the potential for tree-lined streets to be secured is a limited benefit.



26. The appeal proposal could secure some biodiversity enhancements in line with Policy GI3 of the Local Plan. This is recognised in the officer report and could both necessarily and reasonably be secured by the imposition of a planning condition. The level of enhancement over and above the necessary mitigation has not been clearly quantified. For these reasons it carries limited weight as a benefit.
27. The submitted Unilateral Undertaking provides an appropriate mechanism to secure open space provision, management and maintenance arrangements and also financial contributions to deliver off-site improvements to mitigate the pressures on educational capacity which would otherwise arise from the proposed development. The evidence before me does not challenge either the necessity or the viability of these obligations. I am also satisfied that all of these obligations are directly related to the development and fairly related in scale and kind. However, as these obligations relate to mitigation measures, they do not constitute benefits that would carry weight in favour of the appeal proposal.
28. There is a disagreement between the main parties as to whether or not the Council can demonstrate a supply of specific deliverable housing sites, with a range of between 4.57 years' and 5.16 years' worth of supply having been advanced. Whilst I find the evidence in this regard largely inconclusive, for the reasons set out above I have found that the appeal proposal would cause considerable harm to the character and appearance of the village and also the surrounding landscape. Even if the housing land supply position advanced by the appellant is accepted, I find that the adverse impacts arising from the appeal proposal would significantly and demonstrably outweigh the benefits of the scheme when assessed against the Framework taken as a whole, including the benefits arising from the provision of additional market and affordable housing. Consequently, the appeal proposal does not meet the Framework's presumption in favour of sustainable development.
29. In summary therefore, in this particular case the other material considerations do not justify allowing the appeal given the harm that has been identified and the conflict the development plan when taken as a whole.

### **Conclusion**

30. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*C Dillon*

INSPECTOR



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**Item No: 12**

Between 27/08/2021 and 07/10/2021

**Appn Ref No:**

20/0602

**Applicant:**

Mr Stamper

**Parish:**

Wetheral

**Date of Receipt:**

16/09/2020

**Agent:**Bruce Armstrong-Payne  
Planning**Ward:**

Wetheral &amp; Corby

**Location:**Land to the east of Cringles Farm, Cumwhinton,  
Carlisle, CA4 8DL**Grid Reference:**

344490 552810

**Proposal:** Erection Of 3no. Dwellings (Outline)

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**REPORT****Case Officer:** Stephen Daniel**Appeal Against:** Appeal against refusal of planning permission**Type of Appeal:** Written Representations**Appeal Decision:** Appeal Dismissed**Date:** 22/09/2021

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# Appeal Decision

Site Visit made on 12 July 2021

**by Paul Martinson BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 September 2021**

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**Appeal Ref: APP/E0915/W/21/3271830**

**Cringles Farm, Cumwhinton, Carlisle CA4 8DL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mssrs Steven, Richard and Andrew Stamper against the decision of Carlisle City Council.
- The application Ref 20/0602, dated 3 September 2020, was refused by notice dated 16 December 2020.
- The development proposed is described as: 'development of three two storey dwellings'.

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The planning application was submitted in outline form with all matters other than access reserved for future consideration. I have determined the appeal on this basis, treating the submitted plans and details provided as illustrative, insofar as they relate to matters other than access.

## Main Issues

3. The main issues are:
  - the effect of the proposal on the character and appearance of the area; and
  - the effect of the proposal on trees.

## Reasons

### *Character and Appearance*

4. The appeal site is an agricultural field on the north side of the C1040 road lying roughly between the dwelling of Tanglewood and a farmhouse and converted buildings, comprising Cringles Farm. The area in the vicinity of the appeal site forms part of the approach to the settlement from the west which is undeveloped in character to both sides of the road. Further to the east, beyond the site, a consistent pattern of development emerges along the C1040 of predominantly detached dwellings positioned along the road. A new housing development is under construction on the opposite side of the road to Tanglewood and this adds to the more developed feel to the east of the appeal site.
5. The boundary of the appeal site with the highway verge is demarcated by a high hedge that is set forward of a post and rail fence which skirts the

- perimeter of the field. Although less dense in places, the hedge is reasonably substantial and extends along the roadside boundary to a much smaller parcel of land that separates the site from the garden of Tanglewood. This hedge then merges with the front boundary hedge of Tanglewood to form a consistent boundary for some length along this side of the highway.
6. There are a number of mature trees, some of which are very large, growing behind the boundary hedge and extending a considerable distance into the appeal site. These are growing close together in places, which together with the consistent hedge line form an attractive wooded approach to the settlement that contributes significantly to the rural character and appearance of the area and the setting of the village. The northern half of the site is less wooded but still includes trees growing along the boundary. The majority of trees on the site have been protected by a Tree Preservation Order ('TPO').
  7. The proposed three dwellings would be served by two new accesses from the C1040. Plots A and B would be provided with a shared access, whilst Plot C, to the east of the two aforementioned plots, would be provided with a single access. I note the proposed widths of the accesses are to be a minimum of 7.2 metres and 4.5 metres respectively, the creation of which would involve removing substantial areas of hedge. In addition, it is proposed to remove four trees, including two that are protected by the TPO, to allow for creation of the accesses.
  8. Furthermore, the plans show a 90 x 2.4 metres visibility splay. I note that the Highway Authority has suggested that 60 x 2.4 metres would be appropriate. However, notwithstanding this, the plan indicates that the hedge, as well as several of the trees, lies partly within the visibility splay. As such, on the basis of the evidence provided, I cannot be certain that additional portions of the hedge or branches of the trees would not need to be removed to facilitate the visibility splay, or whether the hedge would need reducing to a much lower height to allow views over it.
  9. As such, owing to the position, substantial widths and extent of the accesses, alongside the proposed loss of sections of the hedge and trees, the proposal would urbanise this setting and significantly detract from the attractive wooded approach to the settlement referred to above. The proposed access roads would therefore represent a discordant form of development that would be at odds with the rural character and appearance of the area and lead to an unacceptable intrusion into open countryside contrary to Criterion 3 of Policy HO2 of the Carlisle District Local Plan 2015-2030 (2016) ('the Local Plan').
  10. With regard to the further provisions of Criterion 3 of Policy HO2, even if I were to conclude that the proposal was physically connected to, and integrated well with the settlement, this would be a neutral finding and consequently would not outweigh the harm and conflict with that policy that I have found above.

#### *Effect on Trees*

11. The appeal site is well wooded with the majority of trees protected by a TPO. An Arboricultural Survey, Implication Assessment and Tree Protection Report ('the Tree Report') has been submitted in support of the proposals. The Tree Report was informed by an indicative layout plan which shows the location of the proposed properties including access and driveways.



12. The Tree Report states that potentially damaging activities are proposed in the Root Protection Areas ('RPAs') of the protected trees and the hedge and that this can have negative impacts on their roots. The Tree Report proposes a variety of construction methods in order to minimise damage to roots and limit works within the RPA through the use of a 'no dig strategy', introduction of a cellular paving grid system and fencing off of a 'construction exclusion zone'. It is also proposed to carry out works to the trees, such as five metre crown lifts to the trees overhanging the proposed accesses, prior to the development commencing.
13. The Council have provided a Tree Assessment that advises that the proposed development would not fit well within the site, given the presence of the trees. Concerns are expressed that the driveways are constructed through the RPAs. The Tree Assessment argues that the trees will dominate the front gardens of the proposed dwellings and there will be pressure to remove them by future occupiers.
14. Whilst the appellant has argued that they have planned the layout of the houses around the trees, this proposal is made in outline with all matters aside from access reserved. Therefore, the size of the plots, exact location of houses, habitable room windows and gardens are as yet unknown. As a result, there is an absence of convincing evidence that the proposed dwellings, driveways and access can be constructed within close proximity of the trees. There is therefore considerable doubt in my mind as to whether the development can be adequately constructed without harming the trees.
15. Furthermore, the trees are located to the south of the likely position of the proposed dwellings and consequently, given the significant height of some of the trees, have potential to cause considerable overshadowing of the plots. Given the amount and location of the trees to be retained and the lack of evidence regarding potential for overshadowing, I am not convinced that future occupiers would not be adversely affected by overshadowing effects that could result in pressure to remove trees. I note that prospective buyers of the proposed properties would be aware of the existing trees however, their effect on everyday living conditions may not be fully appreciated, particularly as the trees grow over time.
16. A minimal number of trees are to be removed with those identified as requiring removal being of low or moderate amenity value. Larger trees on the site would remain, retaining the group value of the trees, and additional planting and maintenance of trees on the site is also proposed. These matters however, do not outweigh the harm I have identified above. Whilst the appellant argues that removing the trees proposed would improve the chances of survival of the remaining trees, I have not been provided with any evidence to support this assertion. Furthermore, such benefits would nevertheless be outweighed by the harm to the trees I have found above.
17. On the evidence that is before me, I am not convinced that the proposed development could be constructed without causing harm to the trees. The proposed development would therefore be contrary to Policies GI1, GI6 and Criterion 2 of Policy SP6 of the Local Plan which, amongst other things, seek to ensure proposals for new development protect landscape character and successfully integrate existing trees and hedges into development proposals where they contribute positively to a locality.

## **Other Matters**

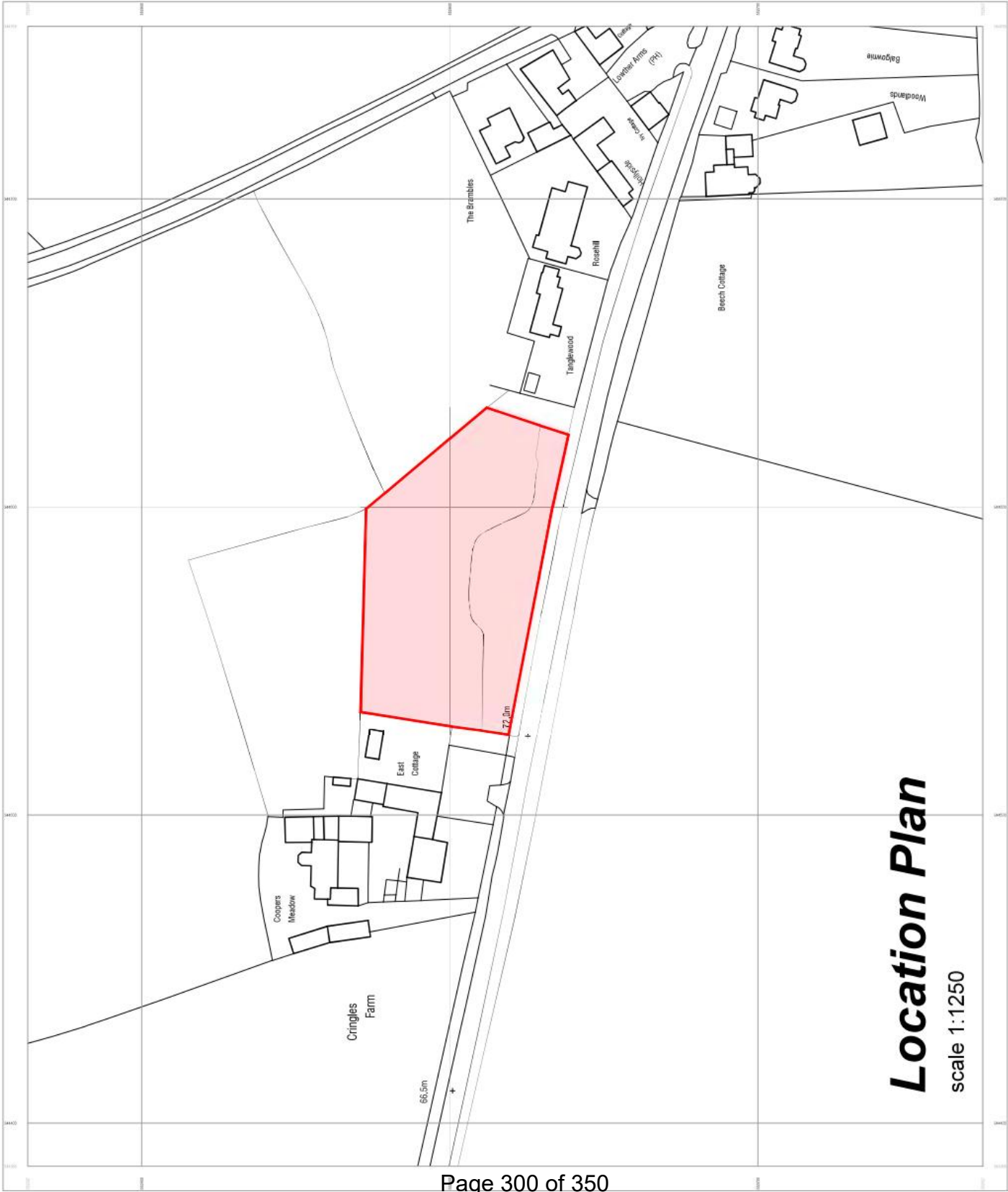
18. Whilst I acknowledge that the appellants' family have looked after these trees for many years and that they value them, I have found that the proposal would amount to harm to the character and appearance of the area. Furthermore, I am not convinced the development as proposed could be carried out without causing harm to the trees.
19. The appellant advises that there is a need for self-build plots in the locality and I note the Council's support for such proposals. However, the modest benefits arising from the provision of three self-build properties would be greatly outweighed by the harm to the character and appearance of the area and the trees that I have found above.
20. The proposed housing is intended to provide homes for the three sons of the occupiers of the main farmhouse at Cringles Farm. I accept that the proposal would be beneficial in this respect. However, this is essentially a personal benefit as opposed to the public harm to the character and appearance of the area and the trees that would arise from the proposal. Nonetheless, the proposal would boost the supply and choice of housing in the area. However, that contribution would be modest and carries limited weight in support of the appeal. Economic benefits would also arise from the associated construction works and occupation of the new houses. Nevertheless, together these would be relatively minor benefits that would not outweigh the harm that I have found above.

## **Conclusion**

21. For the reasons given, having considered the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be dismissed.

*Paul Martinson*

INSPECTOR



**Location Plan**  
scale 1:1250

This drawing is copyright. Figured dimensions are to be followed in preference to scaled dimensions and particulars are to be taken from the actual work, where possible. Any discrepancy must be reported to the architect immediately and before proceeding.

Rev.	Date	Description	Revised by

PLANNING

**ARCHITECTS**  
PLUS

Project	Residential Development on land adjacent to East Cottage, Cumwhinton		
Client	Mr S Stamper		
Drawing	LOCATION PLAN		
Scale	Code	Drawn	Number
1:1250@A307.19	P02	D8	19039-00
<a href="http://www.architectplus.co.uk">www.architectplus.co.uk</a> • <a href="mailto:info@architectplus.co.uk">info@architectplus.co.uk</a> • 01228 513144			
Victoria Galleries, Victoria Road, Cardiff, CF10 1AB			
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# Report to Development Control Committee

Agenda  
Item:  
**A2**

22<sup>nd</sup> October 2021

Meeting Date:

Portfolio:

Economy, Enterprise, and Housing

Key Decision:

Not Applicable:

Within Policy and  
Budget Framework

Public / Private

Public

Title:

TPO 312 SONEGARTH, MORTON PARK, CARLISLE

Report of:

CORPORATE DIRECTOR OF ECONOMIC DEVELOPMENT

Report Number:

ED37/21

## Purpose / Summary:

This report considers the confirmation of Tree Preservation Order 312 on Land at No.2 and No.4 Stonegarth, Morton Park, Carlisle considering representations to the making of the tree preservation order.

## Recommendations:

That Tree Preservation Order 312 be confirmed.

## Tracking

Executive:	
Scrutiny:	
Council:	

## **1. BACKGROUND**

- 1.1** The trees in question are situated within front gardens of No.2 and No.4 Stonegarth, Carlisle.
- 1.2** Both trees are mature oaks that may have formed part of an old field hedgerow prior to the council development and will be over 100 years old.
- 1.3** Section 197 of the Town and Country Planning Act 1990 places a duty on local planning authorities to ensure, whenever it is appropriate, adequate provision is made for the preservation of trees. The local authority may make a tree preservation order where it appears to the authority that it is expedient to do so in the interests of amenity value and/or if trees are in danger of being damaged or felled.
- 1.4** An application to protect 1no. mature oak tree situated in the front garden of No.4 Stonegarth was received in May 2021 from the landowners, Riverside Housing. This was in response to concerns received from the new owners of No.6 Stonegarth who were wanting to trim the tree and were also concerned about potential damage being caused by root growth into drains and foundations.
- 1.5** A full Tree Inspection Survey was commissioned by Riverside and carried out in March 2021 by qualified Tree Specialists 'Treewise Solutions Ltd'. A full visual ground inspection and quantified tree risk assessment was undertaken, and this report can be seen in Appendix A.
- 1.6** A site visit was made by us to assess the merits of making this tree the subject of a Tree Preservation Order, as recommended in the report. During the site visit, it became clear that 2 oak trees at No.2 and No.4 Stonegarth provided an important contribution to the street scene and are both prominent and visible to the public realm along the northern end of Stonegarth.
- 1.7** A copy of the plan relating to Tree Preservation Order 312 and the statement of reasons, are attached hereto at Appendix B

## **2. CONSULTATION**

- 2.1** Local councillors, residents of No2, 4 and 6 and Riverside Housing were consulted on the proposed Tree Preservation Order, in accordance with the requirements of The Town and Country Planning (Tree Preservation) (England) Regulations 2012.

2.2 Two letters of objection have been received in respect of the tree situated in the front garden of No.4. The letters are contained within the third-party representations.

2.3 The objections and our response are summarised below.

- 'The tree is actually touching the fence and roots are causing the block paving of No.6 Stonegarth to lift' – Development should not be undertaken within the root protection area of a tree unless a permeable cellular 'no dig' system is used that allows the roots to receive essential nutrients.
- 'Large overhanging branches span the full width of No.6 driveway and reaching No.8' - The report recommends crown lifting of 5 metres from ground level; pruning a 3-metre clearance from buildings, which should address these concerns
- 'potential public safety issue from falling branches' - The report also recommends the removal of deadwood and that the tree is put on an annual inspection regime to allay any fears of new defects being missed.
- Damage to vehicles from falling sap, blowing debris having to be swept up and lack of light into properties. – The tree is over 7 metres from the property. Urban trees are vital in stabilising the environment and providing clean air, as well as providing essential habitat for wildlife

2.4 The responsibility for the management of trees remains with the owner, even where a tree preservation order is in place. It is important that trees are inspected regularly by the owners to ensure they remain safe and healthy. There is an application process that is intended to encourage good tree management, which will help to maintain and enhance the amenity provided by protected trees.

### **3. CONCLUSION AND REASONS FOR RECOMMENDATIONS**

3.1 The Local Authority is sufficiently concerned that should the Order not be confirmed, work could be undertaken to overhanging branches that may not be in the best interests of the health of the trees or in accordance with British Standards, Tree work 3998:2010. The statement of reasons is valid and appropriate in this case.

### **4. CONTRIBUTION TO THE CARLISLE PLAN PRIORITIES**

4.1 Trees are an extremely important part of our environment that help to create a pleasant and healthy environment in which to live and work, engendering a pride in place and contributing to the City Council's Healthy City Agenda.

**Contact Officer: Sue Stashkiw**

**Ext: 7175**

**Appendices**                      **Appendix A – Treewise report**  
**attached to report:**        **Appendix B – TPO**

**Note: in compliance with section 100d of the Local Government Act 1972 the report has been prepared in part from the following papers:**

- **None**

#### **CORPORATE IMPLICATIONS:**

**LEGAL** - The validity of the tree preservation order cannot be challenged in any legal proceedings except by way of application to the High Court. An application must be made within six weeks from the date of the confirmation of the tree preservation order.

This tree preservation order needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the third parties, including residents, who have made representations, have the right to a fair hearing and to this end the Committee must consider their comments.

Article 8 and Protocol 1 Article 1 confer(s) a right of respect for a person's home and a right to peaceful enjoyment of one's possessions, which could include a person's home, other land, and business assets. In taking account of all material considerations, including Council policy it is considered that some rights conferred by these Articles on the residents/objectors and other occupiers and owners of nearby land that might be affected may be interfered with but that interference is in accordance with the law and justified by being in the public interest and on the basis of the restriction on these rights posed by confirmation of the tree preservation order is proportionate to the wider benefits of approval and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

**FINANCE – n/a**

**EQUALITY – n/a**

**INFORMATION GOVERNANCE – n/a**

# Tree Inspection Survey

4 Stonegarth  
Carlisle CA2 6NR

On Behalf of

**Riverside**



2 Estuary Boulevard

Estuary Commerce Park

Liverpool, L24 8RF

Report by



**TreeWise Solutions Ltd.**

Moorhouse Courtyard

Warwick on Eden

Cumbria CA4 8PA

**March 2021**

**Tree Inspector**

**Mr Kendall Rigg**

HND Arboriculture, M Arbor A, QTRA Licensed User, LANTRA-accredited Professional Tree Inspector

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## 4.0 RECOMMENDATIONS

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**Appendix II                      TREE SCHEDULE**

**APPENDIX II                      PHOTOS**

**APPENDIX III                      SOLICITOR LETTER FROM NO.6 STONEGARTH**

## 1.0 SCOPE

We are currently carrying out a planned Tree Inspection Survey on the communal sites owned by Riverside. We were informed that a complaint had been made by the private homeowner of No 6 Stonegarth, in respect of an Oak tree within the front garden of the Riverside property and No 4 Stonegarth. Whilst in the area, we arranged for our inspector to visit the site and inspect the tree. Our Inspector attended site on Thursday 25<sup>th</sup> March 2021.

The results of the Inspection are detailed below, along with the recommendations. The Tree Location Plan, Tree Schedule, Photos and a copy of the solicitor's letter are contained in the Appendices.

## 2.0 TREE SURVEY

### 2.1 Survey Method

A full 'Visual Ground Inspection' and Quantified Tree Risk Assessment (QTRA) of the tree was carried out. All observations were made from ground level, without detailed investigations using probing or invasive techniques. The weather during the surveys was clear and the visibility was very good.

The data is collected using the TreeWise software on a Tablet PC and generally consists of

- Tree Survey Data (species, height, measurements etc)
- Tree Inspection Data (defects, targets, condition, comments, risk assessment etc).
- Works Recommended in line with the inspection findings.

### 2.2 The Quantified Tree Risk Assessment

The Quantified Tree Risk Assessment (QTRA) system applies established and accepted risk management principles to tree safety management. QTRA is a target-led method that looks initially at the likelihood of there being people or property in the vicinity at the time of any tree failure. Where necessary, the tree or branch is then considered in terms of both impact potential (size) and probability of failure. Values derived from the assessment of these three components are used to calculate the probability of significant harm occurring.

The system thus provides the strongest case for only treating trees where an unacceptable level of risk of harm is identified. The system moves the management of tree safety away from labelling trees as either 'safe' or 'unsafe' and thereby away from requiring definitive judgements of either tree surveyors or tree managers. Instead, QTRA quantifies the risk of significant harm from tree failure in a way that enables tree managers to balance safety with tree values and to operate to a predetermined limit of reasonable or acceptable risk. Quantified Tree Risk Assessment is the Registered Trade Mark of Quantified Tree Risk Assessment Ltd.

### 2.3 Tree Survey Details

The Tree Survey details are contained in the Schedule in Appendix II.

### 3.0 TREE INSPECTION REPORT

The Oak tree is located in the front garden of No.4 Stonegarth and is located to the North of the property.

It was measured with a laser at 7.4m from the house frontage to the closest point to the stem. The tree height was measured 4 times in two different locations using a laser measuring device and height was recorded at 15.5m.

In terms of its crown spread, it has a southern, foreshortened and houseward crown spread of 4.4m, westerly over the tenant garden of 6m, easterly over neighbouring garden (No.6 Stonegarth) of 8m and northly over the highway of 7m with an aggregate crown spread of 14m diameter.

The tree has a stem diameter of 96cm, measured at 1.5m from ground (DBH). Forestry Commission data collected since 1922 informs us that English Oak with a stem diameter of 90cm is +/- 100 years old. Typically, what this means is that an Oak of this size will be at least 100 years old. In most cases the tree is older and in the case of hedgerow Oak trees they can be considerably older. The restrictive growing conditions that a tree is placed under in the built environment can greatly reduce a trees' ability to increase in size and it is our considered opinion that this tree is approximately 120 - 140 years of age.

The tree's characteristics are such that it is very reasonable to assume that this Oak tree is the remnant of an old field hedgerow and it was retained, probably with many more Oaks at the time, as part of the original council development plan. The houses are of a style and structure that suggests they were built mid 1950's, although, this would need to be validated by a land registry search.

Approximately 80% of the predicted root zone, (using the Root Protection Area (RPA) calculations as set out in BS:5837;2012 Trees in relation to design, demolition and construction -  $96\text{cm} \times 12 = 11.52\text{m}$  radial protection) is covered in hard standings. This constitutes a concrete path, flagged patio, front garden of No.4 Stonegarth, full block paved front garden of No.6 Stonegarth, flagged pedestrian highway, grass verge and tarmac road to North. This amount of hard standing, greatly reduces a trees' access to available water / nutrients and consequently reduces the rate at which a tree grows, which further supports our opinion on the tree's age.

The tree has had numerous works carried out in the past, with large stem wound occlusions indicating historic crown raising. More recently, in the last 15 years, works have included foreshortening of radial growth, a reduction in crown height and crown thinning works. The tree was reduced to approximately 12m in the past and, judging by the diameter of the re-growth, this work was carried out approximately 10 - 15 years ago with regrowth of approximately <12cm in diameter and 3 - 4m in length.



Past crown thinning works have resulted in a proliferation of epicormic arisings throughout the mid crown region, as the tree has naturally attempted to replace photosynthetic material that was arbitrarily removed in an effort to achieve an aesthetic appearance. Crown thinning as a practice has become much un-used as it always results in the tree adding more growth than was removed. Furthermore, the removal of large diameter secondary growth back to the main stem, which creates large diameter wounding, is largely no more supported under the guidance as set out in BS:3998;2010 Recommendations for tree work.

Reference has been made in the solicitor's letter to a Tree Survey Mortgage Report recommending the retention of the tree's current height in order to achieve some sort of control over the root system. Although it is well documented that crown loss through pruning or storm damage can have a resultant effect on the death of tree roots, there is no written, peer-reviewed evidence that would support the notion of control. The root system is below ground level and therefore not visible. It is known and proven, that trees respond through dynamic adaptation in both a localised and asymmetrical reaction, that is controlled by the trees' needs, rather than any desire over where tree roots should or shouldn't grow.

Other than a small amount of deadwood, typical for the size, age and species and its location, there are no external indications of defects, be they structural or physiological, that indicate there is a reasonably foreseeably risk of harm or damage.

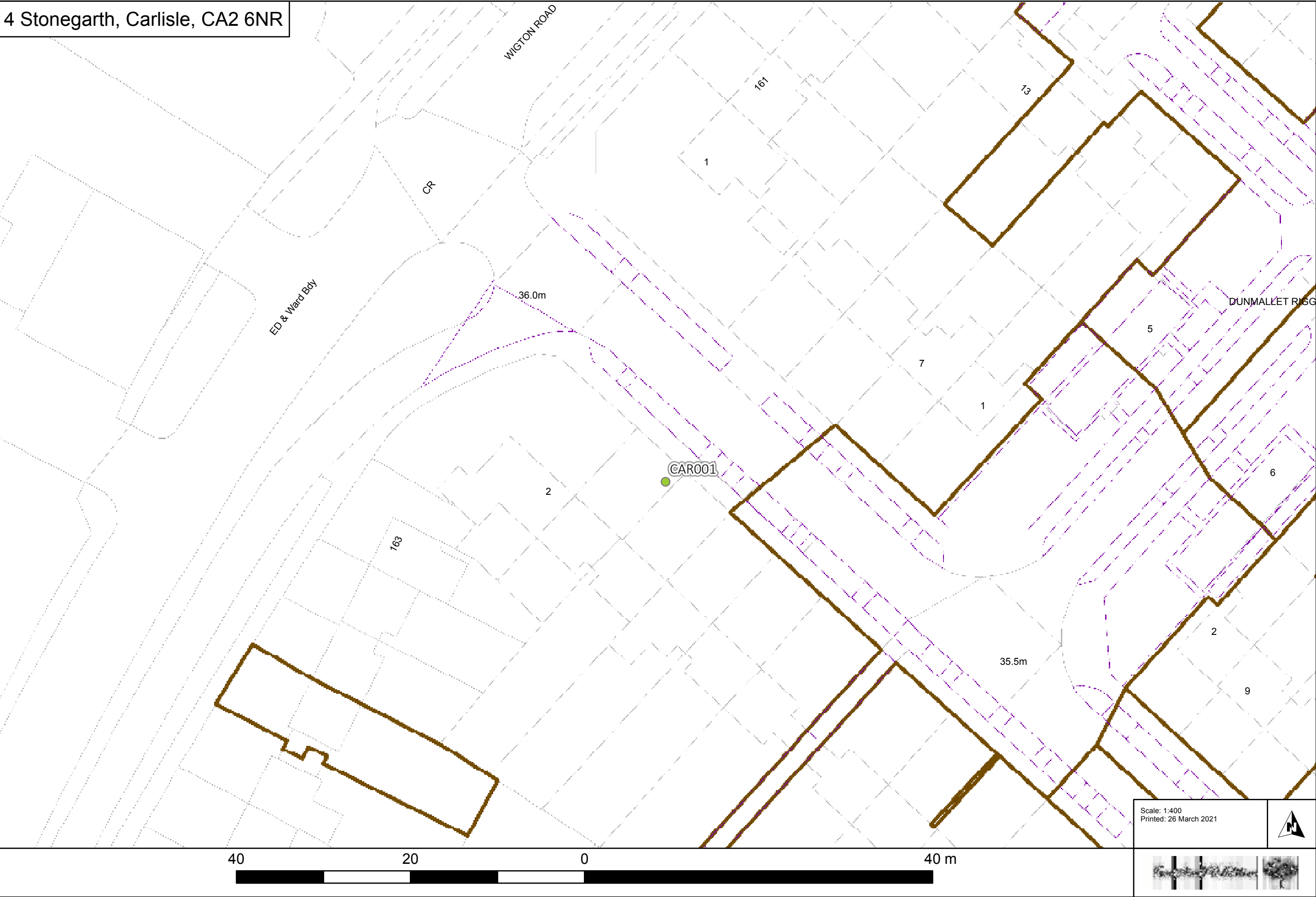
## **4.0 RECOMMENDATIONS**

The Inspector has made recommendations that the tree be placed on an annual inspection regime, to allay any fears of new defects being missed.

He has also recommended that the deadwood be removed from the tree and that the over ground clearance of the tree be raised to 5m from ground level, with a minimum clearance from the roof line of 3m.

He finally notes that the tree is visibly one of the oldest in the local treescape, it is highly visible and of a species that is known to be long lived. It is our recommendation that the tree be noted to the Local Authority and an application for a Tree Preservation Order be made.

The full list of works is contained in the Schedule in Appendix II.





Appendix II  
CAR0001 Tree Schedule

Feature Name	Species	Owner	Planting Year	Height (m)	DBH (cm)	Crown Spread (m)	Targets	Defects	Inspection Report	Priority	Work	Inspector's Comments	QTRA Score
CAR0001	English Oak	Tenant Front Garden	1900	16	96	14	2 Bus Routes, Building - Residence, Bus Stop, Driveway, Footpath-Highway, Garden, Road, Telephone Wires	Deadwood (Minor), Epicormics, Old Pruning Wounds, Previously Reduced, Root Compaction, Trifurcates at 5m	See Written Report		Crown Lift to 5-8m	Crown lift to 5m.	30,000
											Deadwooding (1-Light)	Remove deadwood above 2.5cm in diameter x 20cm in length, ensure that no live cambium is damaged while carrying out deadwooding, Hand tools only to be used for the works.	
											Prune Back from Building	Prune to allow 3m clearance from building roof line.	
											Remove Epicormics	Remove stem epicormics to a height of 5m.	
											Other (Specify)	Contact Local Authority and apply for TPO status for this highly visible and locally significant tree, in order to afford it the statutory protection its size, age and prominence warrants.	

## Appendix III - Photos





## Appendix III - Photos





## Appendix III - Photos



## Appendix III - Photos





## Appendix III - Photos



## Appendix III - Photos





## Appendix III - Photos





## Appendix III - Photos



## Appendix III - Photos





## Appendix III - Photos



## Appendix III - Photos





## Appendix III - Photos





## Appendix III - Photos



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## Appendix III - Photos





## Appendix III - Photos





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SOLICITORS

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WE DON'T ACCEPT SERVICE OF DOCUMENTS BY EMAIL

The Riverside Group Limited  
2 Estuary Boulevard  
Estuary Commerce Park  
Speke  
Liverpool  
L24 8RF

**Our Ref:** IC/IC/8011  
**Your Ref:** Alex Keegan  
**Date:** 2 December 2020

**FAO: Legal Department**

Dear Sirs,

**Your Client:** The Riverside Group Limited  
**Our Client:** Mr James Hunter and Mrs Diane Hunter  
**Property:** 6 Stonegarth, Carlisle, CA2 6NR and 4 Stonegarth, Carlisle, CA2 6NR

We are acting for Mr and Mrs Hunter who purchased the property at 6 Stonegarth on the 27 November 2020.

We note from Office Copy entries that the Riverside Group Limited owns the neighbouring property, namely 4 Stonegarth, Carlisle CA2 6NR and the property is currently rented.

Our client's mortgage valuation survey revealed that there is a mature oak tree (60-70m high) in the neighbour Number 4 Stonegarth's front garden which is 7 metres of front elevation of our client's property. The Survey Report recommended that the tree near to the property be restrained at current height to minimise possible damage by root growth to drains and foundations. The Survey Report also stated that a tree report is necessary.

We have been instructed by our client's lender to specifically write to you and request from you to take necessary action in order to ensure that the tree at the Riverside property does not cause damage to our client.

We should therefore be grateful if you could arrange a Tree Report to be prepared at Riverside's costs and ensure that necessary steps are taken in order to avoid any damage to our client's property.

We look forward to hearing from you.

Yours faithfully,

Isil Cowan  
Wragg Mark-Bell Solicitors Ltd  
Email: [ic@wraggmarkbell.co.uk](mailto:ic@wraggmarkbell.co.uk)

**TOWN AND COUNTRY PLANNING (TREE PRESERVATION) (ENGLAND)  
REGULATIONS 2012**

**Town and Country Planning Act 1990**

**The City Council of Carlisle**

**Land at Nos. 2 and 4 Stonegarth, Morton Park, Carlisle CA2 6NR – Tree  
Preservation Order 2021 (No.312)**

The City Council of Carlisle in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

**Citation**

1. This Order may be cited as Land at Nos. 2 and 4 Stonegarth, Carlisle CA2 6NR – Tree Preservation Order 2021 (No.312).

**Interpretation**

2.— (1) In this Order “the authority” means The City Council of Carlisle

(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

**Effect**

3.— (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—

(a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

**Application to trees to be planted pursuant to a condition**

4. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197





### **VARIATION OF ORDER**

This Order was varied by The City Council of Carlisle on the  
variation order under reference number

day of by a  
a copy of which is attached

Signed on behalf of The City Council of Carlisle

.....  
Authorised by the Council to sign in that behalf

### **REVOCATION OF ORDER**

This Order was revoked by The City Council of Carlisle on the day of

Signed on behalf of The City Council of Carlisle

.....  
Authorised by the Council to sign in that behalf

## SCHEDULE

### Specification of trees

#### Trees specified individually

(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Oak	338096 554846
T2	Oak	338103 554842

#### Trees specified by reference to an area

(within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
[A1]	None	

#### Groups of trees

(within a broken black line on the map)

<i>Reference on map</i>	<i>Description (including number of trees of each species in the group)</i>	<i>Situation</i>
[G1]	None	

#### Woodlands

(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
[W1]	None	

## SCHEDULE

### Specification of trees

#### Trees specified individually

(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Oak	338096 554846
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[A1]	None	

#### Groups of trees

(within a broken black line on the map)

<i>Reference on map</i>	<i>Description (including number of trees of each species in the group)</i>	<i>Situation</i>
[G1]	None	

#### Woodlands

(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
[W1]	None	

# STATEMENT OF REASONS

## TREE PRESERVATION ORDER NO. 312

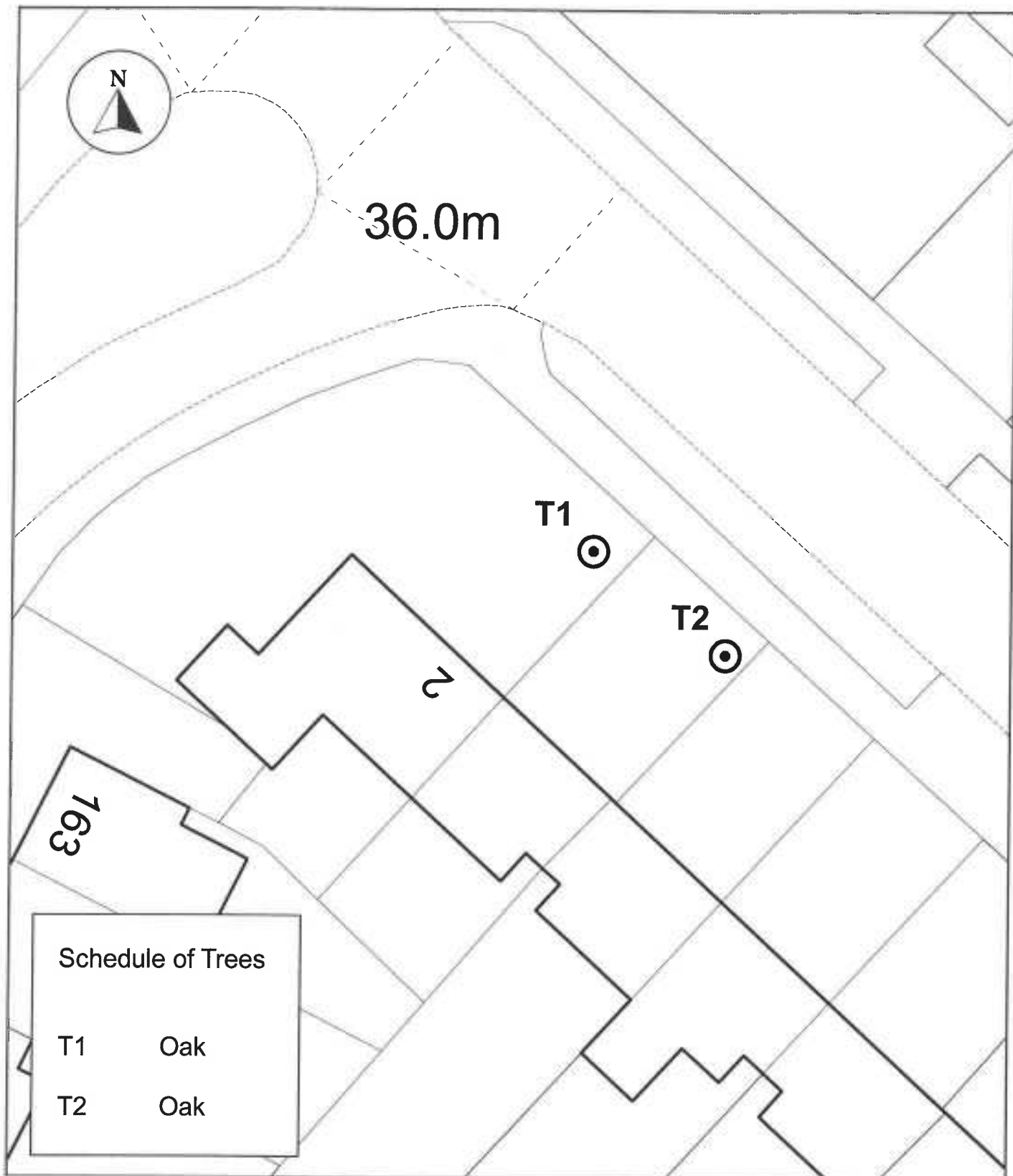
### LAND AT NOS. 2 AND 4 STONEGARTH, MORTON PARK, CARLISLE CA2 6NR

Section 197 of the Town and Country Planning Act 1990 places a duty on local planning authorities to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made for the preservation of trees. The local authority may make a tree preservation order where it appears to the authority that it is expedient in the interests of amenity.

The two mature Oak trees are prominent and visible to the public realm and positively contributes to the street scene along the northern end of Stonegarth.

Due to the substantial contribution and amenity value it is considered that the most appropriate way to protect the tree for the future is by means of a tree preservation order.





Act 1990 Section 198(1)

**Tree Preservation Order Number 312**  
**2 and 4 Stonegarth, Carlisle, CA2 6NR**

Scale: 1 : 250

Date: June 2021

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 ordnance survey LA100024459

Economic Development, Civic Centre, Carlisle, CA3 8QG  
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