

SCHEDULE A: Applications with Recommendation

09/0170

Item No: 09

Date of Committee: 16/07/2010

Appn Ref No:
09/0170

Applicant:
Kingmoor Park Properties Ltd

Parish:
Kingmoor

Date of Receipt:
11/03/2009

Agent:
How Planning

Ward:
Stanwix Rural

Location:
Brunthill, Kingmoor Park, Carlisle CA6 4SJ

Grid Reference:
338109 559796

Proposal: Proposed B1, B2 and B8 Development With Associated Infrastructure And Minor Relocation Of Previously Consented Hotel (Application Reference 07/0015) And Pub/Restaurant (Application Reference 05/0531) (Outline Application)

Amendment:

REPORT

Case Officer: Alan Taylor

Reason for Determination by Committee:

The application is brought before the Committee at the request of a Ward Member.

1. Constraints and Planning Policies

Public Footpath

The proposal relates to development which affects a public footpath.

Contaminated Land

Health & Safety Executive Consultation

The proposal relates to development involving or affected by hazardous substances or noise.

RSS Pol DP 1 - Spatial Principles

RSS Pol DP 3 - Promote Sustainable Economic Development

RSS Pol CNL 1 - Overall Spatial Policy for Cumbria

RSS Pol CNL 2 - Sub-area Development Priorities for Cumbria

Local Plan Pol CP10 - Sustainable Drainage Systems

RSS Pol W 1 - Strengthening the Regional Economy

RSS Pol W 2 - Locations Reg.Significant Economic Development

RSS Pol W 3 - Supply of Employment Land

RSS Pol EM 1- Integrated Enhancement &Prot.of Reg.Env.Assets

RSS Pol EM1 (A) - Landscape

Local Plan Pol DP1 - Sustainable Development Location

Local Plan Pol DP6 - Carlisle Northern Developmnt Route

Local Plan Pol CP2 - Biodiversity

Local Plan Pol CP3 - Trees and Hedges on Development Sites

Local Plan Pol CP5 - Design

Local Plan Pol CP9 - Devel., Energy Conservation and Effic.

Local Plan Pol CP11-Prot.Groundwaters &Surface Waters

Local Plan Pol CP12 - Foul&Surf.Water Sewerage/Sew.Tr.

Local Plan Pol CP16 -Public Trans.Pedestrians & Cyclists

Local Plan Pol EC22 - Employment & Commercial Growth Land Al

Local Plan Pol T1- Parking Guidelines for Development

Local Plan Pol IM1 - Planning Obligations

2. Summary of Consultation Responses

Department for Transport (Highways Agency): following notification of receipt of this application the Highways Agency issued a series of "Holding Directions" preventing the Council from determining the application until such times as its consultants had considered the potential traffic implications of the proposals in relation to the strategic network. The analysis was concluded and the Agency issued its formal response in May 2010, as follows-

"Following further discussion with the applicant's Transport consultants, DTA Transportation, on matters of travel planning for this site, please find appended the Highways Agency's response, with directed condition and reason in relation to this proposed development.

One of the outcomes of discussions we have had with others is as follows: the Agency wishes to emphasise a preference for a strong physical connection to ideally be established between the Brunthill development and the Crindledyke housing proposed to the north - this, in the event that both of these were to be granted planning permission and then developed. This we feel would serve to assist in reducing the need for longer journeys and for making other modes of transport than the private car more attractive : clearly aims that the Agency would give its support to through its Influencing Travel Behaviour agenda, the programme for which is reviewed regularly.

The following condition has been Directed to be attached to any planning permission the Council may grant-

Prior to first occupation of any part of the development on site a full site Travel Plan based on the Framework Travel Plan,(and as subsequently amended), shall be submitted to and approved by the Local Planning Authority, in consultation with the Secretary of State for Transport (Highways Agency). The approved Travel Plan shall be monitored in accordance with the details set out therein and the results of the monitoring shall be submitted to the Local Planning Authority within one month of the end of each reporting period. Where targets are not achieved, the Travel Plan Co-ordinator will be notified in writing by the Local Planning Authority and the Travel Plan shall then be reviewed and updated and submitted to the Local Planning Authority, in consultation with the Secretary of State for Transport for approval within one month of receipt of the Local Planning Authority's notification. The updated Travel Plan shall then be implemented within one month of the date of the Local Planning Authority's approval having been obtained.

Reason(s) for the direction given:

In order to minimise the use of the private car and promote the use of more sustainable forms of transport and so as to ensure that appropriate management and monitoring of the Travel Plan process can be secured in order to reasonably minimise the impact of additional vehicle flows which would be generated by the proposed development upon affected highway networks and in accordance with the provisions in 'Planning Policy Guidance Note13: Transport and the relevant policy(ies) in Carlisle city Council's Adopted Local Plan;

Network Rail: With reference to the protection of the railway, NR has no objection in principle to the development, but below are some requirements which must be met, especially with the close proximity to the development of an electrified railway.

- All surface and foul water arising from the proposed works must be collected and diverted away from Network Rail property. In the absence of detailed plans all soakaways must be located so as to discharge away from the railway infrastructure.

- All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the nearest rail of the adjacent railway line, or where the railway is electrified, within 3.0m of overhead electrical equipment or supports.
- All excavations/ earthworks carried out in the vicinity of Network Rail property/ structures must be designed and executed such that no interference with the integrity of that property/ structure can occur.
- Security of the railway boundary will require to be maintained at all times. If the works require temporary or permanent alterations to the mutual boundary the applicant must contact Network Rail's Territory Outside Parties Engineer.
- Because of the nature of the proposed developments we consider that there will be an increased risk of trespass onto the railway. The Developer must provide a suitable trespass proof fence adjacent to Network Rail's boundary (minimum approx. 1.8m high) and make provision for its future maintenance and renewal. Network Rail's existing fencing / wall must not be removed or damaged.
- Method statements may require to be submitted to Network Rail's Territory Outside Parties Engineer at the below address for approval prior to works commencing on site. Where appropriate an asset protection agreement will have to be entered into. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. "possession" which must be booked via Network Rail's Territory Outside Parties Engineer and are subject to a minimum prior notice period for booking of 20 weeks. Generally if excavations/ piling/ buildings are to be located within 10m of the railway boundary a method statement should be submitted for NR approval.
- Where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. We would wish to be involved in the approval of any landscaping scheme adjacent to the railway.
- Where new lighting is to be erected adjacent to the operational railway the potential for train drivers to be dazzled must be eliminated. In addition the location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway. Detail of any external lighting should be provided as a condition if not already indicated on the application.

Standard lighting condition: For the first three months following the installation and operation of the new lighting an assessment will be made to check the effect of the lighting on the nearby railway line. If it is found that there is a problem with driver visibility additional screening/cowling or light adjustment will be employed as appropriate to alleviate the problem, to the satisfaction of the local planning authority in association with Network Rail and the train operating companies

Standard drain monitoring:

“The surface drainage system of the development will be monitored for a period of two years from the completion of the development and any unforeseen problems caused by the increase of surface water into the nearby drainage system/culvert which passes under the railway to the West of the proposed site shall be rectified by the applicant to the approval of the LPA “

Network Rail is required to recover all reasonable costs associated with facilitating these works.

It is realised that much of the above does not apply directly to the application but should be taken into consideration as appropriate. Nevertheless it gives a useful guide as to the considerations to be taken into account in relation to development adjacent to the railway. It is advised that in particular the boundary fencing, method statements, drainage, lighting and landscaping should be the subject of conditions, the reasons for which can include the safety, operational needs and integrity of the railway. For the other matters Network Rail would be pleased if an informative could be attached to the decision notice;

Cumbria County Council - (Highway Authority): please refer to the above consultation dated 24 March 2009 and the recommendation from this office dated 6 April 2009.

It is confirmed that there have been various additional modelling works done for this development, looking at the impact across the city; having reviewed these impacts, the Highway Authority can confirm that the initial objection is now withdrawn.

It is however clear that the Application requires a well structured Travel Plan with clear targets and penalties for non compliance, as well as a monetary contribution for the annual monitoring of this Travel Plan, which is currently £1225 p.a. with an additional £1500 for field survey work. The Financial contribution will therefore be £2725 per year for 5 years.

It is therefore requested that this element forms part of a Section 106 agreement (including the need for a transferable bond). It is suggested, to regulate this Travel Plan commitment and make this Travel Plan enforceable for future occupiers of the individual plots, the basis for the penalty to be applied, is the price of annual Carlisle mega rider (or equivalent) times the number of single occupancy car trips over the target (assuming this is done on a yearly basis, if not then also multiply by 5 if undertaken at the end of the Travel Plan period).

The Travel Plan should therefore be secured via a S106 agreement rather than condition, in accordance with the DfT, CLG's Good Practice Guidelines: Delivering Travel Plans through the Planning Process.

It is preferred that this development does not take place until the CNDR is completed, given the construction activity connected with the existing Kingmoor Park Developments and the northern end of the CNDR; however if construction of this development commences before the northern end of the CNDR is open to traffic,

construction traffic must be routed via the Kingstown Broadway links to the Kingmoor Park private road network.

It is therefore proposed that the following conditions be included in any consent your Council may grant:

1. 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.

To support Local Transport Plan Policies: LD7, LD8

Even though it is the intention that the estate roads will remain private it is expected that the roads are build to adoptable standards with the following condition (It is however assumed that all future maintenance , including lighting and drainage will fall to the applicant.)

2. The carriageways, 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. 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.

To support Local Transport Plan Policies: LD5, LD7, LD8

3. The full use shall not be commenced until the access roads have been constructed in accordance with the approved plan (for each possible future phase) and the whole of the CNDR is opened to traffic. All such access roads (and parking provision where applicable) shall be retained and be capable of use when the development is completed 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 and is retained in use as long as the development continues and to support Local Transport Plan Policies: LD5, LD7, LD8 and Structure Plan Policy: T32

If it is your intention to condition the Travel Plan and not follow the preferred Section 106 route suggest above then the following conditions are recommended

Before any development sites are sold / rented, the applicant shall have their Travel Plan approved Local Planning Authority. The Travel Plan shall identify the measures that will be undertaken by the developer (and subsequent tenants/developers) to encourage the achievement of modal shift away from the use of private cars to sustainable transport modes. The measures identified in the Travel Plan shall be implemented by the developer and be binding on subsequent developers within 12 months of the future development (or any part thereof) opening for business.

Reason: To aid in the delivery of sustainable transport objectives and to support Local Transport Plan Policies: WS1, LD4 and Structure Plan Policy T31

An annual report reviewing the effectiveness of the Travel Plan and including any necessary amendments or measures shall be prepared by the developer/occupier and submitted to the Local Planning Authority for approval.

Reason: To aid in the delivery of sustainable transport objectives and to support Local Transport Plan Policies: WS3, LD4 and Structure Plan Policy T31.

Subsequent to consultation on revised indicative proposals the Highway Authority has further commented:

The Recommendation from this office dated 28 September 2009 and all contained therein should still apply. However considering all the various comments and submissions following on from this the aforementioned recommendation is expanded with the following:

The Highway Agency has raised the issue of having a strong physical connection between Brunthill and the neighbouring sites. Particularly the site to the north (Crindledyke) which is also the subject of a planning application at this moment in time. This Authority too has to state its preference for such a link; more particularly a direct cycling /pedestrian link, in the event that both of these Applications were to be granted planning permission

Such a link will serve to assist in reducing the need for longer journeys and for making other modes of transport other than the private car more attractive. These aims are intrinsic in the Travel Plan for Brunthill.

Whilst there are existing PROW's 120008 and 20010 running through the site and connecting the two application sites. Kingmoor Park Properties (The Applicant) stated that Pedestrian footways will be provided to provide good connectivity with the existing wider network of pedestrian routes. Staff entrances will be conveniently reached from the footways. Considering the Nursery proposed at the Hub (and its likely future catchment), it is therefore recommended that this footway 120010 (as it will be diverted) should be suitable to accommodate buggy users and should be at least 2m in width and lit.

This PROW will thereby create a strong link between the sites and benefit both. This element is already included in the application and the Highway Authority did therefore not comment on it, as this will be dealt with when the PROW is diverted.

The applicant has also included sections in the application relating to the bus service , and improved bus stops in the site. This is accepted and is welcomed.

Considering the nature of this proposed development and the additional information received, it is now recommended that the following additional conditions are included in any consent you might grant:

The development shall not commence until agreement has been reached for the funding by the developer of a satisfactory Local Bus service to serve the development. (if the bus service provider is willing to extend the current service into the site without additional cost then confirmation of the route and timing must be provided)

Reason: In the interests of highway safety, accessibility by sustainable transport

modes and to minimise potential hazards.

To support Local Transport Plan Policies: C2, LD5, LD6 LD7, LD8 and Structure Plan Policies: T25, T27, L53

PROW (Public Footpath) numbers 120010 & 12008 run through the site. The Applicant must ensure that no obstruction to the footpath occurs during, or after the completion of the site works. Any diversion of the said footpaths and the location and standard of the reinstated/diverted footpath to be agreed with the Local Planning Authority prior to works commencing on the site.

Reason: To support Local Transport Plan Policy W1, W2;

Kingmoor Parish Council: no comments received relating to the initial application awaited. Any observations that are received following notification of the amended proposals, reducing the landtake of the development, will be reported;

Environment Agency (N Area (+ Waste Disp)): The Environment Agency has considered the proposal and comments as follows:

Development Control

The site is located within Flood Zone 1 as defined in Table D.1 of Planning Policy Statement 25: Development and Flood Risk (PPS25). With reference to the Agency's Flood Zone Mapping the site is at little or no risk of flooding from River, tidal & coastal sources and indicates the extent of flooding at below 0.1% annual probability of occurrence.

The Agency have been involved in some pre-application discussion with the applicants consulting engineers on the subject of surface water management and the scope of any FRA.

Section 9 of the EIA (Drainage and Flood Risk) addresses the requirements of PPS25 in relation development and flood risk arising from the proposed employment development at Kingmoor Park, Brunthill Estate.

As part of the development Sustainable Drainage Systems (SUDS) are proposed to restrict the rate of flow of surface water runoff generated by the development into existing main river systems of Cargo Beck and tributaries, which are in turn ultimately restricted by the capacity of the West Coast Main Line culvert.

SUDS are therefore ideally suited to the Kingmoor Park Site and have been shown to add greatly to the amenity value of the site generally.

The details outlined in section 9 of the EIA should be taken forward into further detailed design of the surface water management system, including design calculations, drawings and watercourse modification details (which will require the prior written consent of the Agency).

Looking at the proposal in general Landscape Masterplan terms:

The Agency understand that while it may only be indicative at present, it does represent the loss of a significant portion of the natural channel of Cargo Beck into culvert and another large portion diverted into a new straight channel. Ecology mitigation must be provided for the loss of remnant natural habitat.

In relation to the siting of proposed development on the site the Agency would advise that any development takes regard of the access for the maintenance requirements to all existing and proposed detention ponds, swales and sections on Beck.

AGENCY INFORMATIVE

Cargo Beck and tributaries are designated 'main river'. Therefore, under the terms of the Water Resources Act 1991 and Land Drainage Byelaws, the prior written consent of the Agency is required for any works in, over, under or within 8m of the 'main river'.

The applicant should note that the Agency has a period of two months to determine a valid application for Land Drainage Consent. We would advise that this period is taken into account when planning works which require such consent.

Recreation and Biodiversity

The Landscape Masterplan may only be indicative but it involves the loss of approximately quarter of Cargo Beck into culvert and another quarter diverted into a new straight channel. This should be considered in more detail. In particular the new position of the hotel and public house results in the direct loss of open beck and appears to cut off the access to the main existing balancing pond (outside this application site). In general, access (for machines) to the balancing ponds appears to be somewhere between poor and non-existent.

This could be a significant issue for whoever adopts the scheme as de-silting of these waterbodies may be very difficult with the proposed layout.

Although the Masterplan does show stretches of open water that appear to be becks between balancing ponds, and hence mitigation for the impacts on Cargo Beck, we currently assume that these are actually swales and will be dry most of the time?

The Agency would welcome further discussions to resolve some of the existing queries and a means of avoiding potential objections at a later stage in the process;

Community Services - Drainage Engineer: no comments received;

United Utilities (former Norweb & NWWA): UU has no objection to the proposal provided the site is drained on a separate system, with only foul drainage connected into the foul sewer. Surface water should discharge to the soakaway/watercourse/surface water sewer and may require the consent of the Environment Agency. If surface water is allowed to be discharged to the public

surface water sewerage system UU may require the flow to be attenuated to a maximum discharge rate determined by United Utilities. Foul drains must have adequate grease traps;

Cumbria County Council - (Archaeological Services): Our records and the EIA indicate that the site is of some archaeological significance and lies in an area of archaeological potential. The nature of the field patterns within the site are indicative of medieval strip fields and the site of a farmstead and a well called 'Boiling Well' are shown on historic maps as having been located within the application area. A railway building dating to the mid 19th century is situated on the western boundary of the site and there is also a probable area of peat which has the potential to contain palaeoenvironmental evidence for past environmental conditions. Furthermore, the wider vicinity contains a series of cropmark complexes indicative of prehistoric settlement and agricultural practices and a Roman camp indicating that the site has the potential to contain currently unknown archaeological remains below ground.

It is therefore recommended that the site should be subjected to a programme of archaeological investigation comprising an evaluation, a building recording project and, where appropriate, a scheme of archaeological recording, undertaken in advance of development. It is advised that this programme should be commissioned and undertaken at the expense of the developer and can be secured through the inclusion of three conditions in any planning consent that may be granted. The following form of words is suggested-

Condition 1:

No development shall commence within the site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

This written scheme will include the following components:

- i) An archaeological evaluation, including a palaeoenvironmental assessment, to be undertaken in accordance with the agreed written scheme of investigation;*
- ii) An archaeological recording programme the scope of which will be dependant upon the results of the evaluation and will be in accordance with the agreed written scheme of investigation.*

Reason: To afford reasonable opportunity for an examination to be made to determine the existence of any remains of archaeological interest within the site and for the examination and recording of such remains

Condition 2:

Where appropriate, an archaeological post-excavation assessment and analysis, preparation of a site archive ready for deposition at a store, completion of an archive report, and publication of the results in a suitable journal as approved beforehand by the Local Planning Authority (LPA) shall be carried out within two years of the date of commencement of the hereby permitted development or otherwise agreed in writing

by the LPA.

Reason: To ensure that a permanent and accessible record by the public is made of the archaeological remains that have been disturbed by the development.

Condition 3:

“Prior to the carrying out of any construction works the existing railway building affected by the proposed development shall be recorded in accordance with a Level 3 survey as described by English Heritage’s document Understanding Historic Buildings A Guide to Good Recording Practice, 2006 and, following its completion, 3 copies of that 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 demolition as part of the proposed development;

Cumbria County Council (Strategic Planning Authority) Wind Energy

Consultations: no response received;

Development Services Planning & Housing Services - Access Officer: no comments received;

Cumbria Constabulary - Crime Prevention: the proposals have been considered from a Community Safety and Architectural Liaison perspective-

Section 7.0 of the Design and Access Statement makes reference to the security arrangements already in place on Kingmoor Park. Unfortunately, there is no indication of the crime prevention measures that will be incorporated into this design. (Paragraph 87 DCLG Circular 1/2006 - Guidance on Changes to the Development Control System). Consequently, it is difficult to establish if this application complies with Policy CP17 of the Carlisle District Plan (Designing out crime).

The ALO raised various issues in my consultation response to application 05/0531 including

- Boundary treatments
- Impact of the landscaping scheme on surveillance opportunities
- Security of car parking areas
- Proposed security lighting scheme
- Specification of exterior doorsets and windows
- Incorporation of Intruder Alarm Systems
- Provision of CCTV surveillance

A letter was received from the applicant’s agent advising that as 05/0531 sought outline permission only the issues raised would be better addressed at reserved matters stage.

Diverted Footpaths

Drawing 08027-05 indicates the footpaths which have been diverted or stopped up to accommodate this development. Footpaths provide a legitimate reason to approach

buildings, from a direction which may be unobserved. There is no indication whether the new footpaths will be fenced or configured in some manner to prevent variation from the intended routes or to prevent short-cutting.

Section 106 Agreement

In view of the extensive development proposed it is believed reasonable to suggest that the developer should contribute to enhancing the security measures referred to in the Design and Access Statement, as presumably they would expect to benefit from them. Consideration should be given to enhancing site access controls, extending and improving the Estate's CCTV system and safeguarding the employment of security staff.

Following re-consultation the ALO advises that:

The amended details do not affect the observations already provided in my response dated 3 April 2009 under this reference. (I enclose a further copy for your perusal). The Agent suggests that issues relating to security of the development should be addressed at Reserved Matters stage;

Development Services Planning & Housing Services - Local Plans: awaited;

Development Services Planning & Housing Services - Local Plans (Trees):
comments as follows regarding the constituent elements of the proposals-
Hotel/Pub/Restaurant-No comments/Observations

Brunthill Industrial Development-Whilst the site is designated for industrial development it is at present agricultural land. There are a number of important features on the site including species rich hedgerows, woodland, and an area of common land.

The proposals should seek to improve these sites where reasonably practical. Planting proposals should enhance and strengthen retained features such as hedgerows and areas of existing trees. There must be a significant degree of structural landscaping that includes large growing trees native to the local area to offset the loss of existing landscape features due to development.

There is an area of common land in the south west corner of the site which is probably one of the most ecologically important areas within the development. Whilst this area is shown as being retained it will inevitably suffer a significant degree of damage and disturbance, being as it is hemmed in on all sides by large industrial units. The developer should reconsider the proposals around this area with a view to ensuring the retention of this area in a favourable condition that provides for the continuity of the biodiversity and important ecological features of this location;

Council for Protection of Rural England/Friends of the Lake District: no comments received;

Natural England: when initially consulted NE advised that due to resulting time limitations, the comments provided are not as comprehensive as NE may have liked. The limited time we have had to study the documentation means relevant

information may have been missed and pertinent issues not addressed.

NE's comments were as follows:

Cargo Beck

As a tributary of the River Eden SAC (and the other European sites listed) it is, in NE's view a sensitive ecological receptor. The proposal will need to undergo a Habs Regs assessment to be undertaken by Carlisle City Council and should be considered alone and in-combination with other plans and proposals (NE is aware of several developments in this area of Carlisle so the in-combination assessment is important).

The main areas for concern are:

- Potential impacts on water quality of the River Eden SAC, particularly pollution, contaminated land and sedimentation issues. Comments on Ecological Chapter: Pollution prevention is outlined but should adhere to EA guidelines. Measures should be implemented to prevent sediment entering the beck – it is not sufficient to state that sediment will settle out of suspension before it reached the river (10.217).
- Potential off-site impacts on SAC/SSSI interest features, such as lamprey. Has the beck been assessed for lamprey? It may provide suitable breeding habitat. Also brown trout which are now a BAP species (for research). The diversion of the beck may result in direct and indirect loss of habitat for such species. Survey work should be carried out if necessary.
- NE would want to be consulted on detailed working method statements for any works that have potential to impact water courses.
- Implications of the scheme on the water resource status of this part of the River Eden catchment (via consultation with EA and UU) should be addressed

Habitats

NE support CWT's comments about the habitats on site and share their concerns about the overall loss of bio-diversity, particularly the mature trees and marshy grassland which cannot be fully mitigated. NE just has the following additional comments:

- Section 10.145 of the Ecological chapter - request confirmation that the 1.6km of hedgerow to be lost do not qualify as BAP habitat or 'important' hedgerows under the Hedgerows Regulations 1997 (because Appendix 10.1 doesn't give details of species composition or in-depth descriptions)
- Wet woodland is also a BAP habitat – does the woodland on site qualify?

Bats

Given that surveys only carried out in September found one confirmed and four probable roosts, Natural England recommend further survey work to establish a more accurate idea of seasonal usage of site. If surveys find the site is used as a maternity site, the value of the site should be re-assessed.

High risk bat roost trees proposed for felling must be subject to further survey work and recommendations including addressing the need for licence. This process will take time.

As further survey work of the disused sewage treatment building is proposed, we recommend they extend this to the rest of the site to conform to good practice guidelines re. surveying throughout the activity season to get a more accurate picture of seasonal usage. They should also assess the importance of the hedgerows to be lost in terms of commuting routes and connecting roosting sites to foraging grounds.

Birds

Due to the time constraints placed upon this consultation, we are unable to comment fully on the impact of this development upon birds; Natural England recommend the RSPB be consulted in depth with regard to birds on this site.

NE is, however, able to highlight a couple of issues of concern:

- Section 10.242 of Ecological Chapter re. breeding bird legislation. If planning permission is granted, it should specify that works should be timed to avoid the bird breeding season where this is an issue or at the very least should be checked by an experienced ecologist to ensure there are no active nests before works commence. It is not acceptable to rely on the Incidental Result of an Otherwise Lawful Operation defence.
- Whole site should be subject to a barn owl survey as it provides suitable habitat and there are records in the vicinity.

Great Crested Newts

We are surprised at the findings of the GCN survey given the known records in the immediate vicinity – including one on Kingmoor Road itself.

Reptiles

Ecological chapter sections 10.14 - 10.39, as habitat has been described as optimal for reptiles and there are records of common lizard, adder and grass snake then a watching brief during the Phase One survey not sufficient. The survey guidelines in 'Thomson's wildlife on site handbook' recommend surveys on any suitable habitat types proposed for development. Natural England advise survey work to be carried out. Five to seven survey visits should be carried out in the recommended reptile survey period of April to June inclusive and September. These surveys should entail both a visual search for basking reptiles and the checking of artificial refugia put down specifically to attract reptiles.

Mitigation

The mitigation proposals should also consider whether any new builds could incorporate bird and bat roosting features.

It should be remembered these comments are by no means comprehensive; having not been included in the original consultation, NE has had very limited time in which to study the documentation. As a result relevant information may have been missed and pertinent issues not addressed.

Subsequent to the foregoing, and also reflecting comments made by Cumbria Wildlife Trust, the applicants were required to review their proposals with particular regard to an area of land close to the boundary with the West Coast Main Line [WCML] where it was determined following detailed survey that it has considerable wildlife importance. that has resulted in a revised indicative layout which omits the most sensitive land and also provides a Landscape and Ecology Mitigation Plan.

Following these revisions and consultation upon them, Natural England has advised that:

Natural England have no further concerns (re. species or habitats) with the Brunthill proposal as it currently stands.

However, if the plans are modified to include a road link between Brunthill and Crindledyke this position would certainly change. From your description, a road link would impact on a number of key ecological features that have been carefully weighed up and planned as part of the mitigation strategy. If this is the case, we would require the amended proposal to be re-assessed in terms of impacts on both existing ecology and proposed mitigation. I have spoken with Cumbria Wildlife Trust about this today and the Trust's representative agrees with this stance;

Cumbria County Council - Transport & Spatial Planning: does not wish to comment as the proposals are not regarded as a Category 1 Application requiring a "strategic" planning response as the site is allocated and identified within the adopted Carlisle District Local Plan;

Health and Safety Executive: the proposals have been evaluated using the software tool for these purposes (PADHI+) but HSE does not advise, on safety grounds, against the granting of planning permission in this case;

East Cumbria Countryside Project: no comments received;

Ramblers Association: no comments received;

Cumbria Wildlife Trust: this application has been brought to our attention because of the damage and loss it will cause to biodiversity. The proposed development will destroy an area of species rich marshy grassland of high local (County Wildlife Site quality) importance at the south west of the site, and will also have an adverse effect on red list birds species and bats which use the entire site. Cumbria Wildlife Trust therefore objects to this application.

The piece of marshy grassland to the west of the site is of potential Wildlife Site quality and has only come to light through the survey process for this application. Cumbria Wildlife Trust and the Cumbria Local Sites Partnership were unaware of its existence until it was described in the ecological survey which accompanies the application. If The Trust had been aware of the site, we would have drawn it to the attention of the developer's consultants during the scoping and data collection process.

The application as it stands is contrary to PPS9 and Regional Spatial Strategy policies EM1 and EM1a as it constitutes a net loss of biodiversity from the site and there is no step change to enhance or increase biodiversity. The proposed development is also contrary to policies CP2, CP3 and CP5 (Biodiversity, Trees and Hedgerows on Development Sites, and Design) of Carlisle's saved deposit as it will result in a net loss of biodiversity from the site, cause unacceptable tree and hedgerow loss, and cause loss of biodiversity without appropriate mitigation measures in the case of the loss of marshy grassland.

A large area of species rich marshy grassland (a UK Biodiversity Action Plan Priority Habitat) will be lost along with the species that this area supports, including the red-listed and BAP species reed bunting. The reed bunting is in severe decline in the UK and its loss is mainly due to areas of unprotected marshy grassland such as this being lost to development. The marshy grassland is a habitat that is threatened in the UK due to agricultural improvement practices and development. This particular area of marshy grassland is species rich and is part of the wildlife "corridor" formed by the railway line.

The loss of agricultural grassland will displace breeding waders from the site. There will also be significant loss of trees with 36 individual mature trees and five groups of trees lost from the site. The loss will be compounded by the loss of 1.6km (40%) of the hedgerows on the site. These have not been evaluated as "special" hedgerows, but are of value in themselves as they act as corridors for species, particularly bats and birds, to move across the site. It is acknowledged that the developer has attempted to integrate some of the trees and hedges on the site, but the entire development will displace mobile wildlife and destroy BAP habitats.

It is very unfortunate that an option to exclude the highly biodiverse fields at the southern end of the site was not looked at during the "Alternatives" discussion as described in Chapter 3. Had the southern fields been excluded, the biodiversity issues would not be as severe and probably would be mitigated for by the planting scheme described in the consultation document.

To reiterate, Cumbria Wildlife Trust objects to this application on the grounds of the loss of an area of species rich marshy grassland of County Wildlife Site importance and of a number of mature trees and associated loss of habitat for birds and bats.

Subsequent to the revision of the proposals, reducing the land to be developed to retain the most valuable and most vulnerable areas near to the western boundary and safeguard it from development, Cumbria Wildlife Trust has been re-consulted and now advises:

The Trust and Natural England seem to have come to an agreement with How Planning. They have removed both buildings from the marshy grassland site to the west of the development on the basis that this will get over our objections to the application. They have also removed the "biodiversity enhancement" to the east of the site, but this loss will be more than outweighed by the net gain of the management of the wetland area.

The Trust has requested that they forward a condition regarding the management of the site for the permission that reads something like:

"Prior to the commencement of development a detailed habitat management plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include full details of habitat management and shall include;
- details of how those features/ habitats on site to be retained will be protected
- details of the long term management strategy of those features/ habitats on site to be retained and protected
When approved, the detailed management plan shall be implemented in full. A management action report will be submitted to the council on a X-yearly basis"*

*where X is a mutually agreed time period - the Trust would be happy with two-yearly.

If the above condition is put into the permission and Cumbria Wildlife Trust is consulted with regard to the management plan, then we will withdraw our objection to the application.

For information, at the moment, we are trying to organise someone from the Trust to undertake a survey of the site at some point this summer to put it forward as an official County Wildlife Site. This would formalise the situation and give formal recognition of the site's County level value for wildlife.

3. Summary of Representations

Representations Received

Initial:	Consulted:	Reply Type:
High Crindledyke Farm	24/03/09	
Unit A	24/03/09	Undelivered
Unit B	24/03/09	Undelivered
Unit F	24/03/09	Undelivered
Unit B	24/03/09	
Unit J	24/03/09	Undelivered
Unit K	24/03/09	Undelivered
Unit L	24/03/09	Undelivered
Unit P	24/03/09	Undelivered
Unit H	24/03/09	Undelivered
Unit I	24/03/09	Undelivered
Unit A	24/03/09	Undelivered
Unit G	24/03/09	Undelivered
Unit E	24/03/09	Undelivered
Unit H	24/03/09	Undelivered
Unit C	24/03/09	Undelivered
Unit F	24/03/09	Undelivered
Unit E	24/03/09	Undelivered
Unit L	24/03/09	Undelivered
Unit N	24/03/09	Undelivered
Unit E	24/03/09	Undelivered
Unit J	24/03/09	Undelivered

Unit G	24/03/09	Undelivered
Unit F	24/03/09	Undelivered
Unit I	24/03/09	Undelivered
Unit C	24/03/09	Undelivered
Unit K	24/03/09	Undelivered
Unit M	24/03/09	Undelivered
Unit A	24/03/09	Undelivered
Unit B	24/03/09	Undelivered
Capita Building	24/03/09	
Unit D	24/03/09	Undelivered
Marketing Suite	24/03/09	
Burgh Road Industrial Estate		Comment Only
Westview		Objection
Carlisle Branch		Objection
Cargo Farm		Objection
Crookdyke Ltd		Objection

3.1 This application has been advertised by means of a statutory Press Notice reflecting the fact that the application is supported by an Environmental Statement, by the display of Site Notices around the boundary of the application site together with the direct notification of the application sent to occupiers of a number of adjacent premises.

3.2 Although there were no representations received following the immediate receipt of this application, 5 letters have followed since a public exhibition of development proposals for adjacent land was carried out in May of this year. The issues raised are:

1. Two writers specifically object on the grounds that the land subject of this application and the land subject to the application that featured in the separate public exhibition should be linked by road, as existing roads in the area are already far too congested;
2. One writer regards part of the proposed development area as sensitive with considerable nature conservation features due to its wetland character and wealth of species that have been observed. In fact the land in question is now omitted from development;
3. The fourth writer objects if the access does not tie in with the Carlisle Northern Development Route as traffic might otherwise obstruct the movement of livestock from his farm.

3.3 The 5th letter is effectively one of "comment" and has been submitted on behalf of the applicants for the development of adjacent land [at Crindledyke]. It endorses comments made by the Highways Agency that it would be preferable for a road to connect the proposals made by the Company the writer represents, i.e. for housing development, with the development subject to this present application. It adds that his Company is committed to providing adopted highway links at their application site up to the boundary with the land subject of this present application and points out that it is for the Planning Authority to determine the merits of such links when considering the two applications.

4. Planning History

- 4.1 There has been no previous planning history relating to the entirety of this land.
- 4.2 However, Planning Permission was granted in 1993 for the development of land at the former RAF 14MU for employment purposes (Use Classes B1, B2 & B8) together with related landscaping and access from Kingstown Broadway.
- 4.3 In 2002, planning consent was granted for a new access road to serve Baxters and Bendalls development.
- 4.4 Outline planning permission was granted in 2006 for a proposed 'hub' development - uses to include: A1 & A3/A5 small scale retail and cafe facilities; creche; A3 restaurant; A4 public house/restaurant; petrol filling station; and B1 offices together with a small bus interchange, associated infrastructure, servicing and parking areas [application reference 05/0531].
- 4.5 In 2007, outline planning consent was granted for a proposed development of a 130 bedroom hotel with ancillary conference centre, health and fitness centre, restaurants and bar together with associated infrastructure, servicing and parking areas.
- 4.6 In April 2008 planning permission was obtained for a variation of Condition 09 of the approval granted under application reference 05/0531 to enable an amendment to the access arrangement from the roundabout.
- 4.7 In May 2010, planning permission was obtained for a minor re-alignment of a spur from the roundabout junction of CNDR with the access serving the "Hub" development to effect a better arrangement for the central access road into Kingmoor Park Central, the future "hotel" site and, ultimately, northwards to the intended development land at Brunthill [subject of the current application]. These works were part of an overall modification to the roundabout, from a 5-arm to a 4-arm design, approved in April 2008.

5. Details of Proposal/Officer Appraisal

Introduction

- 5.1 This application relates to an extensive area of what is, essentially, agricultural land wedged between Kingmoor Park Central to the south and Kingmoor Park North [perhaps better known as the former "Headquarters Site"] to its north. Amounting to 42 hectares in extent the land, which was formerly part of Brunthill Farm, is bounded by the West Coast Main Railway Line [WCML] on its western side and by the internal road system for Kingmoor Park to the east although its eastern limits also extend close to the line of the former Waverley Railway line. Much of its northern boundary is with

open agricultural land forming part of High Crindledyke Farm but otherwise is formed by the southern fringes of the employment development focussed upon Kingmoor Park North.

- 5.2 The application has been made in "Outline" form with all matters "Reserved" for later approval except for "Access" which is identified as being secured from an arm of the 4-arm roundabout with CNDR adjacent to the application site's southern boundary. In addition to that primary access, the site's northern boundary abuts the existing road system within Kingmoor Park North. The land is bisected by Public Footpath Number 120010 the route of which runs through the site in a broadly north-south direction, almost parallel with the site's western boundary but to the east side of the Common Land, before it connects with Public Footpath 120008 which continues north-eastwards, partly skirting the site's southern boundary with Kingmoor Park Central, before connecting with Public Footpath 120007, running east almost alongside the site's boundary with Kingmoor Park North, to ultimately connect with Public Rights of Way at Kingmoor Nature Reserve.
- 5.3 In addition to the standard planning application form, a Site Location Plan and Indicative Masterplan, the application is accompanied by a Planning Statement, Statement of Community Involvement, Design & Access Statement, Transport Assessment, Sustainability Statement and Utilities Statement. Since the proposal is for the development of an Industrial Estate over 20 hectares in extent, it is clearly Infrastructure Development under Schedule 2 of the Town & Country Planning (Environmental Impact Assessment) (England & Wales) Regulations 1999 and, so, the application is required to be and is accompanied by an Environmental Impact Statement. It comprises Volume 1: Non-Technical Summary; Volume 2: Environmental Statement containing chapters assessing the potential environmental effects of the proposals in relation to topics such as Landscape and Visual Impact, Archaeology and Cultural Heritage, Ground Conditions, Flood Risk and Drainage, Ecology & Nature Conservation, Transport, Noise and Air Quality; and is completed by its Volume 3: Technical Appendices.
- 5.4 Statutory Notices, published within the Local Press and through display of Site Notices, have observed the legislative requirements to publicise applications supported by an Environmental Statement and to afford the opportunity for members of the public and any other interested parties to view the proposals and/or obtain copies of the ES. A copy of the application, and the supporting ES, has been forwarded by the Council to the Government Office for the North West, as is also required by legislation.

Background

- 5.5 The bulk of the application site has been allocated for development for Employment purposes in the adopted Carlisle District Local Plan 2001-2016. That allocation includes provision of 10 hectares of land designated as an extension to the existing Regional Investment Site at Kingmoor Park together with a further 20 hectares that is allocated as a Strategic Employment Site. An area of Common Land near to the southwest margins is excluded from the allocation: although it is included within the "red line" of the application site,

that land is to be retained in its existing form.

Details of the Proposals

- 5.6 As indicated earlier, the applicants have submitted an Indicative Masterplan demonstrating how it is anticipated the application site would be developed. When first submitted, the proposals included a Schedule of Indicative Floorspace that, together with the draft disposition of buildings to which it related, suggested the proposals would bring forward circa 96,400 m² [1,037,650 ft²] of B2/B8 floorspace together with circa 16,200 m² [circa 175,00 ft²] floorspace for B1 use. The B2/B8 units were shown as ranging in size from 1500m² to 7200 m² gross floorspace while B1 uses were anticipated as being provided in units varying in size from 450m² to 1750m² floorspace.
- 5.7 The indicative plan suggested the 10 hectares allocated to extend the existing Regional Investment Site would be concentrated along the western site boundary [with the WCML] and close to the existing northern edge of Kingmoor Park Central. The proposed B1 uses were shown located immediately adjoining the northern side of "The Hub" Development [which Members may recall wraps around the roundabout forming links from Kingmoor Park Central, Kingmoor Park East and Kingmoor Park North onto a section of the Carlisle Northern Development Route]. There is, clearly, logic in siting the B1 uses adjacent to the Hotel, pub/restaurant, creche, bus interchange, retail and other B1 pods that comprise the proposals for "The Hub" as, in land use, the likely scale of development, finishes and physical form there is greater synergy between these uses than would be the case with the much larger, "warehouse" character of B2 and B8 uses.
- 5.8 During the consultation process, however, both Cumbria Wildlife Trust and Natural England drew attention to the fact that the western fringes of the site, immediately between Public Footpath Number 120010 and the site's boundary with the WCML, is an area of considerable ecological significance as it comprises marsh/marshy grassland habitat of intrinsic nature conservation interest as an uncommon form of lowland meadow/wet pasture. It also represents UK BAP [Biodiversity Action Plan] Habitat and Cumbria LBAP habitat, the loss of which would be a material planning consideration. The area is also important as it supports four breeding pairs of Reed Bunting which is a red-listed and UK BAP Priority species and is listed as a species of principal importance for the conservation of biological diversity in England. Natural England and CWT were also concerned that inadequate survey work had been undertaken in relation to protected species i.e. reptiles, Great Crested Newts and that proper provision was being made for mitigation of loss of a bat roost within a building that would be demolished.
- 5.9 The applicants' Development Team responded to these issues by appointing a specialist consultancy to carry out further detailed site survey work, following which it became apparent that the principal area of land in question- west of Public Footpath Number 120010 up to the western site boundary- displayed a higher quality presence of species rich grassland than had been previously appreciated. Reptile survey work, however, identified a very

limited population of Common Lizard while the extremely high levels of night-time illumination, largely derived from Kingmoor Sidings to the west, significantly constrained Bat use.

- 5.10 The importance of the wetland area has consequently been re-assessed to the extent that it is regarded as potentially of County Wildlife Site value. As such, its loss would be strongly opposed by statutory and non-statutory nature conservation consultees since it would be contrary to advice within PPS9: "Biodiversity and Geological Conservation" and not accord with RSS Policies EM1 and EM1a and Carlisle District Local Plan Policies CP2, CP3 and CP5.
- 5.11 Reflecting that status, the applicants have now undertaken a major revision to the application proposals to retain, as undeveloped, the fields north of the Common Land between the Public Footpath 120010 and the WCML. In addition, they have provided a Landscape and Ecology Mitigation Plan and a Draft Ecological Management Plan Framework setting out the principles for a future management and mitigation for the overall site that has careful regard to its nature conservation value, features and opportunities for enhancement.
- 5.12 By reducing the site's developable area, with consequential increases in the area retained for its intrinsic nature conservation value coupled with the land set aside for landscape and mitigation works, the scale of anticipated future development has also been modified so that it now is indicated as: 87,870 m² [945,833 ft²] floorspace for B2 and B8 purposes. The expected B1 element remains unaltered. The range of sizes for the B2/B8 uses has also been modified to vary from a small unit of 830 m² [8,900 ft²] up to a unit with 9,130m² [98,275 ft²] gross floorspace. In addition, the location of the extension to the Regional Investment Site [RIS] has also been modified and it now occupies the south-eastern portion of the site, abutting "The Hub". It, thus, is capable of accommodating uses falling within the widest range of Use Classes for which the RIS at Kingmoor Park has been allocated, i.e. Classes B1, B2 and B8.
- 5.13 The broad principles within the Indicative Masterplan, as initially submitted, otherwise remains faithful to the objective of retaining existing hedge-lines and maximum number of existing trees. In that regard Members will note, from the site location plan, that the existing landscape is characterised by a field pattern running in a south-west to north-east direction, with field boundaries defined by continuous native hedgerows and hedgerow trees. That pattern, and those boundaries, is partly retained in the Masterplan save where removal of sections of hedgeline is unavoidable in order to form the access road system. However, even where sections are lost, the landscape strategy aims to strengthen those areas with additional tree and hedge planting.
- 5.14 The Indicative Masterplan incorporates a notional road pattern to serve the site. It envisages primary access being obtained from one arm of the 4-arm roundabout with CNDR [details of that junction are provided as this is not "reserved" for later approval]. That access spur is projected to extend as the site is developed into the heart of the site where a smaller roundabout, also with 4-arms, would disperse traffic to the north [linking into the established

road system in Kingmoor Park North], to the east to serve most of the extension to the Regional Investment Site, and to the west to serve the greatest area of the site. The latter arm has the potential to further extend to the adjacent, currently unallocated land to the north-west [presently subject of an Outline Application for residential development submitted by Story Homes]. It should be emphasised, however, that the development of the Brunthill allocation never has been, and remains, not dependent on that link being formed. From a planning point of view this potential connection is, nonetheless, prudent to cater for the possibility that the adjacent land might come forward for development in the future [not necessarily for housing purposes].

- 5.15 The Masterplan, as modified, also demonstrates the principle of drainage that pertains at Kingmoor Park which follows the SuDS approach i.e Sustainable Drainage System utilising a series of balancing ponds/swales to store, manage and control the rate of discharge. Part of that system will involve some diversion of the existing watercourse at the southern end of the site [adjacent to the boundary with Kingmoor Park Central]. The swale system is already employed to deal with surface water from the developed areas at Kingmoor Park and allows the incorporation of features that are both hydrologically suitable and result in semi-natural and strong landscape features. It is considered that this will further enhance the attractiveness of the development.

Assessment

- 5.16 As identified in para 5.5, these proposals relate to land that has been allocated within the adopted Carlisle District Local Plan under Policy EC22. That allocation accords with the [then] provisions of Policy EC5 of Regional Planning Guidance Note 13: Regional Planning Guidance for the North West [March 2003] and the still relevant, as a "saved" Policy, associated strategic Policy EM13 of the Cumbria and Lake District Joint Structure Plan 2001-2016.
- 5.17 Although RPG13 has now been replaced by the North West of England Plan: the Regional Spatial Strategy to 2021 [adopted in September 2008], and it no longer specifically refers to "Regional Investment Sites", its Policy W1 has a primary objective of strengthening the regional economy. Supporting Policy W2 specifically identifies Carlisle as one of the locations within the North-West Region where "regionally significant economic development should be located close to sustainable transport nodes within the urban area".
- 5.18 Sub-Regional Policies for Cumbria, set out as Policies CNL1 and CNL2 in the RSS, reinforce the need to accommodate major development proposals within Carlisle, in accord with sustainable principles and the overall spatial strategy of Policies RDF1 and Policies DP1-DP9.
- 5.19 The application proposals clearly enjoy the policy support accorded by RSS, Policy EM13 of the Structure Plan and Policy EC22 of the adopted Carlisle District Local Plan. The site is convenient to a major transport node [which will itself be strengthened when CNDR is completed within the next 18 months], is within the urban area, is close to established and maturing employment

areas, enjoys accessibility by a range of modes including public transport, walking and cycling and all of these will be enhanced by a combination of on-site provision and improvements to the adjacent wider network.

- 5.20 All of the analysis of potential environmental effects of these proposals, undertaken within the Environmental Assessment but in some instances augmented subsequently [notably in the Addendum relating to Nature Conservation but also in relation to further work undertaken by the applicant's Transport Consultants] has satisfactorily demonstrated that there are no adverse effects likely to arise from these proposals. Both the local Highway Authority [Cumbria County Council] and the Highway Authority responsible for the Motorway and Trunk Road system have carefully assessed traffic impacts and possible implications on the wider transport network coupled with the measures the applicants propose to encourage modal shift. Neither Authority opposes the application although specific conditions are recommended if the Council is minded to approve the application. These follow within the framework of recommended conditions that completes this Report.
- 5.21 When determining a planning application and, in particular, considering whether proposals to develop land properly safeguards the biodiversity and ecology of the area, the Courts have held that Local Planning Authorities must have regard to the requirements of the EC Habitats Directive (92/43/EEC) as prescribed by Regulation 3(4) of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) and Article 16 of the Habitats Directive and must fully consider these 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 favorable conservation of the protected species and their habitat. In this case, the proposal partly relates to land where nature conservation interests have been identified but, as a consequence of that, the applicants' proposals have been modified to protect those interests. The formal views of Natural England and Cumbria Wildlife Trust support the approach that has been adopted.

Conclusion

- 5.22 Kingmoor Park is already regarded as one of the premier employment sites in Cumbria and these proposals, which realistically will not happen overnight, can only add to its overall appeal to the business sector and reinforce Carlisle's attractiveness for investment.
- 5.23 Members are recommended to approve the proposals. However, they should particularly note that, whereas the normal "commencement" condition of an "Outline Consent requires a start within 3 years from the date of approval, the applicants have specifically requested that this be extended to 7 years since uncertain economic conditions, following the recession of the last 2 years, means that the implementation of the approval is highly likely to be later than 3 years from now. Clearly, however, if the applicants attracted a major inward investment that required a large site with the sort of transport connections that Kingmoor Park possesses, the site would be available and will come forward sooner. In addition, of course, the Highway Authority wishes to see CNDR

completed prior to development taking place at the site and the construction work is still on-going on the road. The later "start" date will accord with the Highway Authority's objective for CNDR to be completed and in use.

- 5.24 Finally, Members should also appreciate that the County Council indicated a requirement for a developers' contribution to Annual Monitoring of the Travel Plan [£2725 pa for 5 years following commencement of the development which includes £1500 for field survey work] and initially suggested that this should be delivered through a S106 Agreement. That Authority has, however, also provided an alternative approach that obviates the need for a S106 Agreement but deals with the matter, instead, by way of planning conditions. Those are incorporated in the recommendation.

6. Human Rights Act 1998

- 6.1 Several provisions of the above Act can have implications in relation to the consideration of planning proposals, the most notable being:

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

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

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

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

- 6.3 There does not appear to be any conflict with the operative provisions of the Act.

7. Recommendation - Grant Permission

1. In case of any "Reserved Matter" application for approval shall be made not later than the expiration of 7 years beginning with the date of this permission, and the development shall be begun not later than whichever is the later of

the following dates:

- i) The expiration of 7 years from the date of the grant of this permission, or
- ii) The expiration of 2 years from the final approval of the Reserved Matters, or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: In accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.

2. The approved documents for this *[insert Outline/Planning Permission/Listed Building Consent/ Conservation Area Consent] comprise:

1. the submitted planning application form;
2. the *[insert plans/documents as appropriate and re-number below accordingly];
3. the Notice of Decision; and
4. any such variation as may subsequently be approved in writing by the Local Planning Authority.

Reason: For the avoidance of doubt.

3. The development hereby approved may be carried out in phases. Before any phase of development is commenced approval shall first be obtained from the Local Planning Authority with respect to reserved matters for that phase of the site.

Reason: By reason of the significant scale of the proposed development and the need to provide adequate flexibility for the applicant and adequate certainty for the Local Planning Authority.

4. Before any work is commenced in relation to any phase of the development, details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called Reserved Matters) in respect of that phase shall be submitted to and approved by the Local Planning Authority.

Reason: The application was submitted as an outline application in accordance with the provisions of Article 3 of the Town and Country Planning (General Development Procedure) Order 1995.

5. No developments will take place in relation to any phase of the development until details of a landscaping scheme in respect of that phase have been submitted to and approved by the Local Planning Authority.

Reason: To ensure the satisfactory landscaping scheme is prepared in accordance with Policy E19 of the Carlisle District Local Plan.

6. All works comprised in the approved details of landscaping in respect of any phase of the development should be carried out in the first planting and seeding season contemporaneously with the commencement of use of the individual buildings hereby approved.

Reason: To ensure the satisfactory landscaping scheme is implemented in accordance with Policy E19 of the Carlisle District Local Plan.

7. Trees, hedges and plants shown in the landscaping scheme for each phase of the development to be retained or planted which, during the development works for each phase of the development or a period of five years thereafter, are removed without prior written consent from the Local Planning Authority, or die, become diseased or are damaged, shall be replaced in the first available planting season with others of such species and size as the authority may specify.

Reason: To ensure as far as possible that the landscaping scheme is fully affected in accord with Policy E15 of the Carlisle Local District Plan.

8. No development shall commence in relation to any phase of the development until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority. This written scheme in respect of each phase will include the following components:

- i) an archaeological evaluation to be undertaken in accordance with the agreed written scheme of investigation;
- ii) an archaeological recording programme the scope of which will be dependent upon the results of the evaluation and will be in accordance with the agreed scheme of written investigation.

Reason: To afford reasonable opportunity for an examination to be made to determine the existence of any remains of archaeological interest within the site and for the examination and recording of such remains.

9. Where appropriate, an archaeological post-excavation assessment and analysis, preparation of a site archive ready for deposition at a store, completion of an archive report and publication of the results in a suitable journal as approved beforehand by the Local Planning Authority shall be carried out within 2 years of the date of commencement of each phase of the hereby permitted development or otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that a permanent and accessible record by the public is made of the archaeological remains that have been disturbed by the development.

10. Prior to the carrying out of any construction works the existing railway building affected by the proposed development shall be recorded in accordance with a Level 3 Survey as described by English Heritage's document 'Understanding Historic Buildings: A Guide to Good Recording Practice 2006' and, following its completion, three copies of that survey report shall be furnished to the Local Planning Authority.

Reason: To ensure that a permanent record is made of the building of the architectural and historic interest prior to its demolition as part of the proposed development.

11. Development shall not begin in relation to any phase of the development until drainage works have been carried out in accordance with details to be submitted to and approved in writing by the Local Planning Authority in respect of that phase.

Reason: To ensure that the site is drained to the satisfaction of the local authority.

12. Prior to first occupation of any part of the development on site a full site Travel Plan based on the Framework Travel Plan (and subsequently amended), shall be submitted to and approved by the Local Planning Authority, in consultation with the Secretary of State for Transport (Highways Agency). The approved Travel Plan should be monitored in accordance with the details set out therein and the results of the monitoring shall be submitted to the Local Planning Authority within one month of the end of each reporting period. Where targets are not achieved, the Travel Plan Coordinator will be notified in writing by the Local Planning Authority and the Travel Plan shall then be reviewed and updated and submitted to the Local Planning Authority, in consultation with the Secretary of State for Transport for approval within 1 month of receipt of the Local Planning Authority Notification. The updated Travel Plan shall then be implemented within 1 month of the date of the Local Planning Authority's approval having been obtained.

Reason: In order to minimise the use of the private car and promote the use of more sustainable forms of transport and so as to ensure that appropriate management and monitoring of the Travel Plan process can be secured in order to reasonably minimise the impact of additional vehicle flows which should be generated by the proposed development upon affected highway networks and in accordance with the provision in Planning Policy Guidance Note 13 "Transport and the Relevant Policies in Carlisle City Councils Local Plan.

13. The carriageways, 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 any work commences on site. No work shall be commenced in relation to any phase of the development until a full specification has been approved in relation to that phase. Any work so approved shall be constructed before the development is complete.

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

14. The development shall not be occupied until the access roads have been constructed in accordance with the approved plan (for each possible future phase) and the whole of the CNDR is opened to traffic.

Reason: To ensure a minimum standard of access provision when the development is brought into use and to support Local Transport Plan policies LD5, LD7, LD8 and Structure Plan Policy T32.

15. No development shall commence in relation to any phase of the development until an investigation and risk assessment (in addition to any assessment provided with the Planning Application) has been completed in accordance with the scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The content of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- i) A survey of the extent, scale and nature of contamination;
- ii) An assessment of the potential risks to:
 - Human Health;
 - Property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - Adjoining land;
 - Ground waters and surface waters;
 - Ecological systems;
 - Archaeological sites and ancient monuments.
- iii) An appraisal of unremedial options and proposal of the preferred options. This must be conducted in accordance with DEFRA and Environment Agencies "Model Procedures for the Management of Land Contamination" CLR11.

Reason: To ensure that risks from land contamination to the future of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to

ensure the development can be carried out safely without unacceptable risks to workers, neighbours and other off site receptors.

16. The development shall not commence until agreement has been reached for the funding by the developer of a satisfactory Local Bus service to serve the development, unless the service provider is willing to extend the current service without additional cost. If the latter is the case confirmation of the route and timing must be provided..

Reason: In the interests of highway safety, accessibility by sustainable transport modes and to minimise potential hazards.

17. The total amount of employment (B1, B2 and B8) floorspace hereby consented will not exceed a total of 104,080 square metres of which no more than 16,200 square metres will be B1(a) Offices.

Reason: To ensure the development is acceptable in Highways terms.

18. Permission is hereby given for the access points shown in drawing numbers C379-900, C379-901 and C379-902.

Reason: To define this permission.

19. Prior to the commencement of development a detailed habitat management plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include full details of habitat management and shall include:

- details of how those features/ habitats on site to be retained will be protected;
- details of the long term management strategy of those features/ habitats on site to be retained and protected.

When approved, the detailed management plan shall be implemented in full. A management action report will be submitted to the council on a 2-yearly basis".

Reason: To ensure that habitat retention is suitably managed.

20. The measured noise levels at the Middle Farm, Eastmoor, Aspens, Low Crindledyke and Westmoor properties, for noise generated by the site operations, should not exceed:

- 42.8 dB LAeq(1 hour) during the daytime (0600-1900 hours) on a weekday and weekend
- 43.0 dB LAeq(1 hour) during the evening (1900-2300 hours) on a weekday and weekend
- 43.1 dB LAeq(5 minutes) during the night-time (2300-0600 hours) on a weekday night-time

- 37.2 dB LAeq(5 minutes) during the night-time (2300-0600 hours) on a weekend night-time.

The measured noise levels at the High Crindledyke property, for noise generated by the site operations, should not exceed:

- 47.9 dB LAeq(1 hour) during the daytime (0600-1900 hours) on a weekday and weekend
- 49.1 dB LAeq(1 hour) during the evening (1900-2300 hours) on a weekday and weekend
- 47.6 dB LAeq(5 minutes) during the night-time (2300-0600 hours) on a weekday
- 35.5 dB LAeq(5 minutes) during the night-time (2300-0600 hours) on a weekend

The measured noise levels at High Crindledyke Close, for noise generated by the site operations, should not exceed:

- 53.7 dB LAeq(1 hour) during the daytime (0600-1900 hours) on a weekday and weekend
- 52.6 dB LAeq(1 hour) during the evening (1900-2300 hours) on a weekday and weekend
- 48.9 dB LAeq(5 minutes) during the night-time (2300-0600 hours) on a weekday
- 41.5 dB LAeq(5 minutes) during the night-time (2300-0600 hours) on a weekend

The measured noise levels at the Beeches, Kingswood, Bank and Public House properties, for noise generated by the site operations, should not exceed:

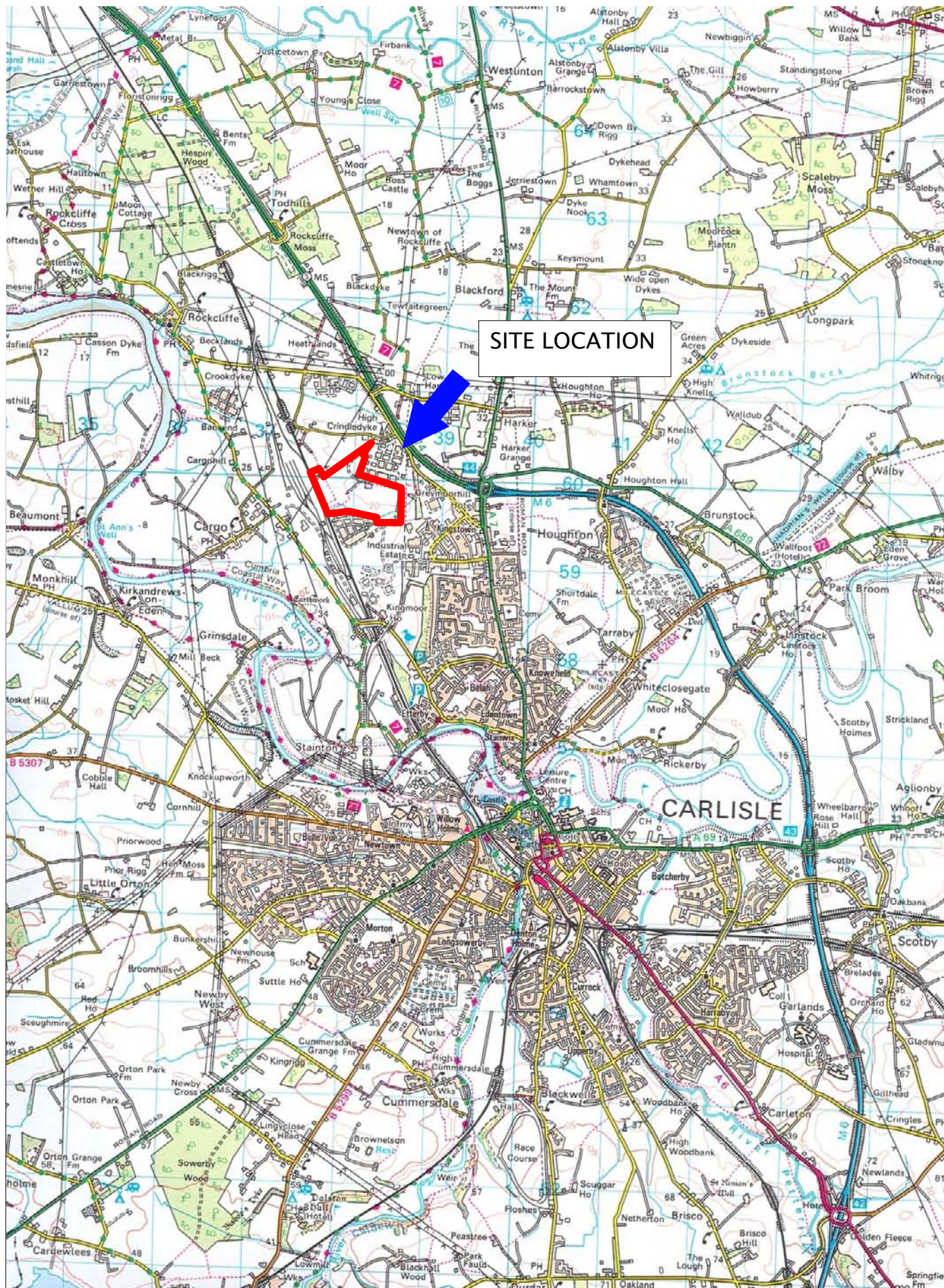
- 57.5 dB LAeq(1 hour) during the daytime (0600-1900 hours) on a weekday and weekend
- 54.8 dB LAeq(1 hour) during the evening (1900-2300 hours) on a weekday and weekend
- 50.3 dB LAeq(5 minutes) during the night-time (2300-0600 hours) on a weekday night-time
- 43.8 dB LAeq(5 minutes) during the night-time (2300-0600 hours) on a weekend night-time

Reason: In the interests of amenity.

21. Before any work is commenced in relation to any phase of the development, a Construction Environmental Management Strategy [including any related Plan or Plans] shall be submitted to and agreed in writing by the Local Planning Authority in respect of that phase. This shall include noise management measures, waste minimization, construction hours of working, wheel washing, vibration management, dust management, vermin control, vehicle control within the site and localised traffic management and 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 each phase of development and shall not be varied without the prior written agreement of the Local Planning Authority.

Reason: In the interests of amenity.



PROJECT: LAND KNOWN AS BRUNTHILL,
KINGMOOR PARK, CARLISLE

FIGURE 1.1: SITE LOCATION



N



HOW



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.

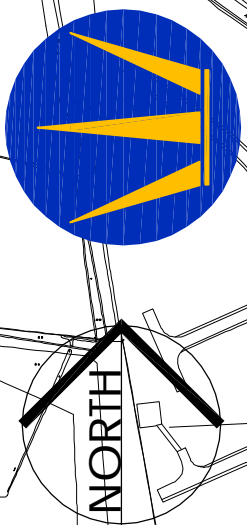
Revised by

Revision Date Description

KEY

BRUNTHILL PLANNING APPLICATION BOUNDARY

KINGMOOR PARK OWNERSHIP BOUNDARY



PROPOSED CNDR

ARCHITECTS PLUS

KINGMOOR PARK PROPERTIES LTD.
BRUNTHILL, KINGMOOR PARK, CARLISLE

FIGURE 1.3
SITE EDGE/RED PLAN

Number
08027-02

Comp. No.
C2C

Drawn
RJW

Scale
1/5000@A3

Date
01/09

Architects Plus Ltd Limited
Victoria Galleries, Viaduct House, Victoria Viaduct, Carlisle, Cumbria, CA3 8AN
tel: 01228 575744
fax: 01228 575033
email: ap@architectsplus.co.uk
web: www.architectsplus.co.uk

KINGMOOR
PARK

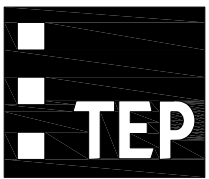




- KEY:**
- Planning application boundary
 - Land in the Ownership of Kingmoor Park
 - Retained rough grassland
 - Existing trees and hedgerows to be retained
 - Existing trees and hedgerows to be removed
 - Proposed buildings
 - Outstanding planning permissions
 - Proposed avenue tree planting
 - Proposed woodland / group tree planting
 - Proposed hedge planting
 - Proposed ornamental planting
 - Proposed amenity grassland
 - Waterbody
 - Proposed bat house
 - Diverted Public Right of Way

Reproduced from the Ordnance Survey with the permission of The Controller of Her Majesty's Stationary Office, Crown Copyright TEP, The Environment Partnership, Genesis Centre, Birchwood Science Park, Warrington, Cheshire, WA3 7BH, Licence No. AL 52685A

J	Amendments in accordance with building layout changes	LG	CG	17/06/10
I	Labels amended	NH	CG	04/06/10
H	New layout inserted, bat house, ponds and retained habitat added	NH	CG	02/06/10
G	Amendments to title, line types & layer ordering	RC	CG	18/02/09
F	Change to footpath location	SS	CG	07/01/09
E	Amendments in accordance with building layout changes	SS	CG	19/12/08
D	Amendments to planting	SS	CG	11/12/08
C	Amendments to building layouts and planting	SS	CG	04/12/08
B	Amendments in accordance with building layout changes	CZ	CG	14/11/08
A	Amendments according to the client's comments	CZ	CG	11/11/08
Rev	Description	Drawn	Approved	Date



Genesis Centre
Birchwood Science Park Warrington
WA3 7BH
Tel 01925 844004
Fax 01925 844002
e-mail tep@tep.uk.com

Project

Land at Brunthill, Kingmoor Park, Carlisle

Title

Landscape and Ecological Mitigation Plan

Drwg No	D1823.001J		
Scale	1:2000 @ A1	Date	07/11/08
Drawn	CZ	Checked	CG
		Approved	CG



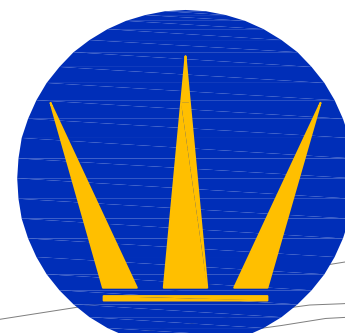
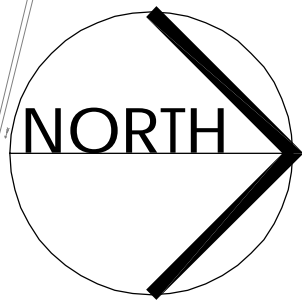
ARCHITECTS
PLUS

Project
KINGMOOR PARK PROPERTIES LTD
BRUNTHILL, KINGMOOR PARK, CARLISLE

Drawing
INDICATIVE MASTERPLAN
FOR BRUNTHILL

Scale 1/1500@A1 Date 01/09 Drawn RJW Comp.No. C2f Number 08027-04H

Architects Plus (UK) Limited
Victoria Galleries, Viaduct House, Victoria Viaduct, Carlisle, Cumbria, CA3 8AN
tel: 01228 515144
fax: 01228 515033
Registered in England No. 4221140
email: ap@architectsplus.co.uk
web: www.architectsplus.co.uk



KINGMOOR
PARK

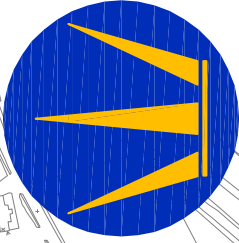
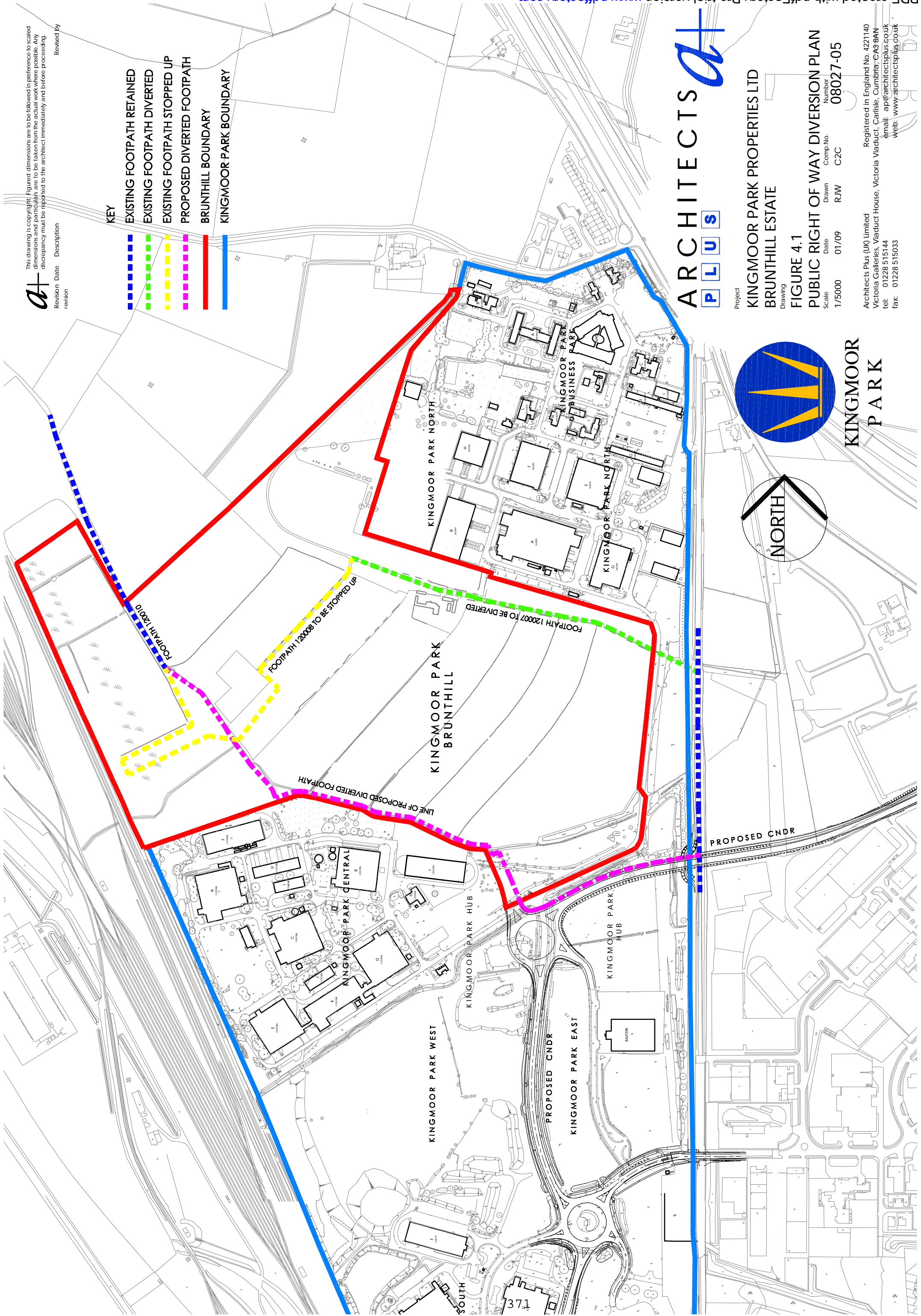


This drawing is copyright. Figured dimensions are to be followed in preference to scaled dimensions and particulars are to be taken from the actual work where possible. Any discrepancy must be reported to the architect immediately and before proceeding.

Revision	Date	Description	Revised by

KEY

- EXISTING FOOTPATH RETAINED
- EXISTING FOOTPATH DIVERTED
- EXISTING FOOTPATH STOPPED UP
- PROPOSED DIVERTED FOOTPATH
- BRUNTHILL BOUNDARY
- KINGMOOR PARK BOUNDARY



KINGMOOR
PARK

ARCHITECTS
PLUS

Project

KINGMOOR PARK PROPERTIES LTD
BRUNTHILL ESTATE

Drawing

FIGURE 4.1

PUBLIC RIGHT OF WAY DIVERSION PLAN

Scale 1/5000

Date 01/09

Drawn RJW

Comp No. C2C

Number 08027-05

Registered in England No. 4221140

Victoria Galleries, Viaduct House, Victoria Viaduct, Carlisle, Cumbria, CA3 8AN

email: ap@architectsplus.co.uk

web: www.architectsplus.co.uk

tel: 01228 515144

fax: 01228 515033



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.

Revision	Date	Description	Revised by

KEY



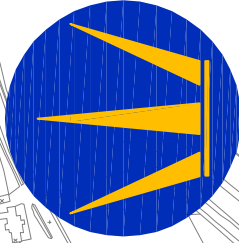
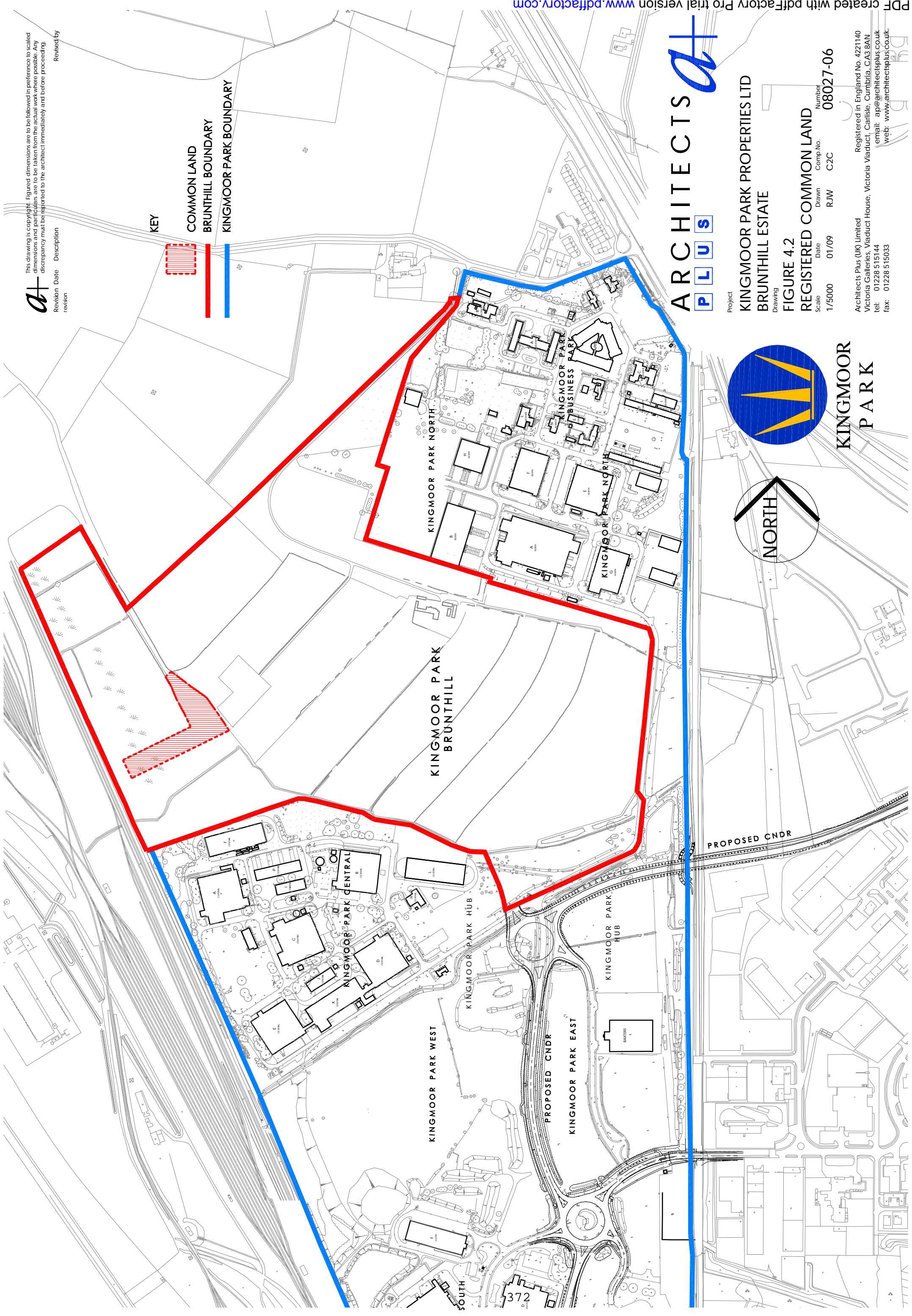
COMMON LAND



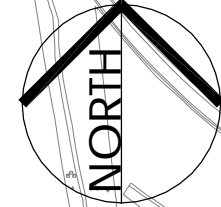
BRUNTHILL BOUNDARY



KINGMOOR PARK BOUNDARY



KINGMOOR
PARK



PROPOSED CNDR

ARCHITECTS **PLUS**

Project

KINGMOOR PARK PROPERTIES LTD
BRUNTHILL ESTATE

Drawing

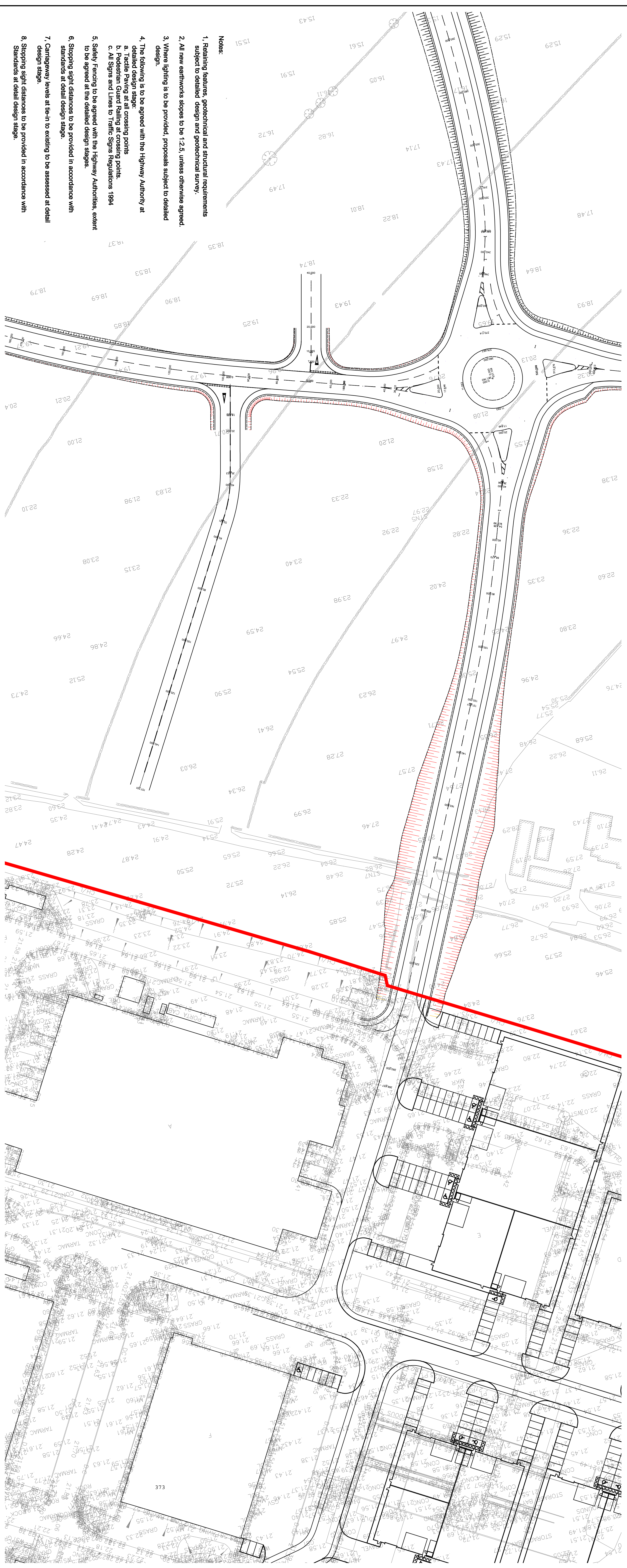
FIGURE 4.2

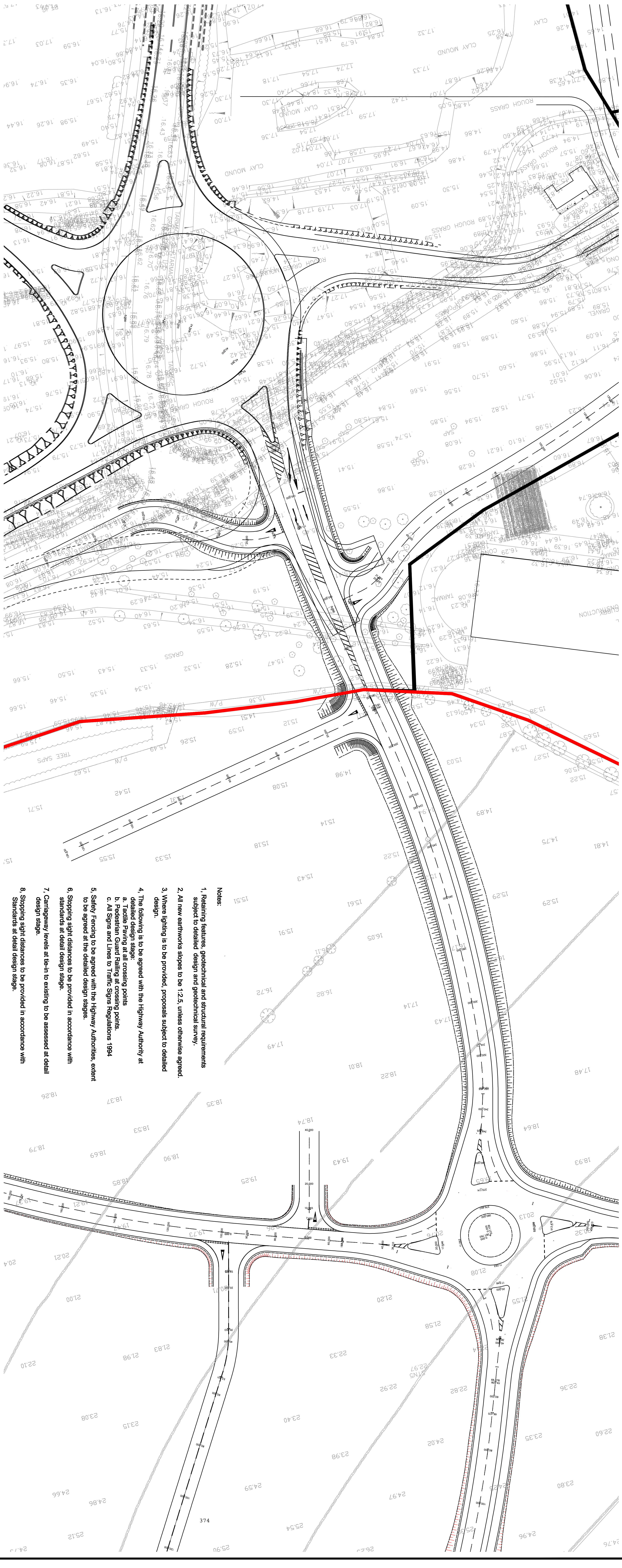
REGISTERED COMMON LAND

Scale	Date	Drawn	Comp. No.	Number
1/5000	01/09	RJW	C2C	08027-06

Architects Plus (UK) Limited
Victoria Galleries, Viaduct House, Victoria Viaduct, Carlisle, Cumbria, CA3 8AN
tel: 01228 515144
email: ap@architectsplus.co.uk
web: www.architectsplus.co.uk

Registered in England No. 4221140

[illegible]



- Notes:
1. Retaining features, geotechnical and structural requirements subject to detailed design and geotechnical survey.
 2. All new earthworks slopes to be 1:2.5, unless otherwise agreed.
 3. Where lighting is to be provided, proposals subject to detailed design.
 4. The following is to be agreed with the Highway Authority at detailed design stage:
 - a. Traction Paving at all crossing points
 - b. Pedestrian Guard Railing at crossing points
 - c. All Signs and Lines to Traffic Signs Regulations 1994
 5. Safety Fencing to be agreed with the Highway Authorities, extent to be agreed at the detailed design stages.
 6. Stopping sight distances to be provided in accordance with standards at detail design stage.
 7. Carriageway levels at tie-in to existing to be assessed at detail design stage.
 8. Stopping sight distances to be provided in accordance with Standards at detail design stage.

