# **SCHEDULE A: Applications with Recommendation**

13/0521

Item No: 02 Date of Committee: 20/12/2013

Appn Ref No:Applicant:Parish:13/0521Citadel Estates LtdWetheral

**Agent:** Ward: Holt Planning Consultancy Wetheral

Ltd

Location: Skelton House, Wetheral, CA4 8JG

Proposal: Variation Of Condition 2 (Approved Documents) Of Previously Approved

Permission 10/1066

Date of Receipt: Statutory Expiry Date 26 Week Determination

11/07/2013 04/09/2013

REPORT Case Officer: Richard Maunsell

# Update

Members will recall that this application was deferred at the previous meeting of this Committee following an objection that raised concerns about the accuracy of figures reproduced in the report. Reference is made in the report to the percentage increase of the footprint of the building. The objectors have quoted that the footprint of the approved building, as detailed by the Officer at the time relating to the planning application submitted under reference 10/1066, to be 648 square metres. In respect of the current application, the applicant has confirmed that the proposed footprint will be 834 square metres. Based on this information, the objectors to the scheme have cited that the proposal represents a 27.16% and consequently should not be dealt with as a minor material amendment.

There are several issues with this conclusion. Firstly, following a number of checks, the figure quoted in the report for the approved scheme is a typing error and is therefore incorrect. Instead of reading 648 square metres it should have stated 684 square metres. All the approved drawings relate to the 684 square metre scheme. Secondly, this figure did not include the barn that was proposed to be retained and used a cycle/ bin storage area. When the figures are added together, the total footprint of the approved scheme (including the building and outbuilding) is 748 square metres resulting in a proposed increase footprint of 10.1% which is an increase to the 9.8% quoted in the previous report to Members in November. Other issues raised are covered in the report.

### 1. Recommendation

1.1 It is recommended that this application is approved subject to legal agreement for a Deed of Variation to the S106 Agreement. If the S106 agreement is not completed within a reasonable time, Authority to Issue is requested to the Director of Economic Development to refuse the application.

### 2. Main Issues

- 2.1 Principle Of Development
- 2.2 Scale, Layout And Design Of The Development
- 2.3 Highway And Parking Issues
- 2.4 The Impact Of The Proposal On The Living Conditions Of Neighbouring Residents
- 2.5 Affordable Housing
- 2.6 Landscaping/Ecology

# 3. Application Details

### The Site

3.1 This application seeks consent for the variation of a planning condition on land previously occupied by Skelton House and its associated buildings, which are located at the northern extent of Pleasant View in Wetheral, to enable the erection of 15 apartments. The application site is situated within the Wetheral Conservation Area and a Grade II Listed Property, known as Acorn Bank, is located immediately to the east of the site. The surroundings to the site are wholly residential with the exception of the agricultural land that lies beyond the northern boundary.

### Background

- 3.2 The site was vacant following the demolition of Skelton House, a former farmhouse, with an attached two storey barn, detached stables and two polytunnels, which were associated with is former use as a commercial nursery; however, building work has recetly commenced.
- 3.3 Planning permission and conservation area consent were granted in 2012 and 2011 respectively for the demolition of the buildings together with the redevelopment of the site to provide a 3 storey building comprising of 15 apartments together with associated car parking.

### The Proposal

3.4 When planning permission was granted in 2012 for the redevelopment of the site, the consent was subject to a number of planning conditions. Of relevance to this application is condition 2 which detailed the list of approved drawings. The current application seeks consent to vary this condition and

effectively substitute these drawings with the current proposal and thereby introduce a series of changes to the scheme. Briefly these comprise:

- 1. enlargement of the footprint by 86m2 (an increase of 10.1%);
- 2. the inclusion of a fourth floor;
- 3. internal alterations to the layout of the building;
- 4. the ridge height of the rear projections reduced by 2 metres;
- 5. repositioning of the building so that the front bays line up with the frontage of other buildings in the street;
- 6. alterations to the façade of the building including the introduction of water tables, stone facades to the gables and stone string courses;
- 7. omission of the retained barn as a cycle/ bin store;
- 8. inclusion of glazed balconies;
- 9. inclusion of flat roofs;
- 10. alteration to the layout of the car park/ landscaping areas;
- 11. the building will be 1.4 metres closer to the front boundary;
- 12. the width of the building will be reduced in width by 2.5 metres;
- 13. the building will be 4 metres longer;
- 14. the building will be 0.2 metres further away from the eastern boundary with Acorn Bank;
- 15. the building will be 2.1 metres further away from the western boundary with Caerluel.

# 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 59 of the neighbouring properties. In response, 99 letters of objection were received and the main issues raised are summarised as follows:
  - 1. this is a new proposal and should not be considered as a variation to the planning permission;
  - 2. there is a greater degree of overlooking to the neighbouring property, Caerluel, with 16 windows facing the property, excluding the ground floor;
  - 3. the parking is now proposed adjacent to the western boundary which will be visually more prominent and lead to a greater degree of noise and disturbance from vehicles manoeuvring and doors closing etc.;
  - 4. the size of the site has been increased to the north resulting in a loss of agricultural land;
  - 5. much of the planting has been lost at the expense of the increased size of the building;
  - 6. the stone barn which was to be retained adjacent to the western boundary afforded privacy to the occupiers of the neighbouring property. This building has been removed and is not proposed to be replaced;
  - 7. the building that was to be converted for the bin store has been replaced by a much smaller building and the green credentials provided by the recycling centre have been lost;
  - 8. it is questionable whether refuse vehicles would be able to enter the site thus resulting in rubbish bins lining the street;
  - 9. the enlargement of the site means that it is not in keeping with the scale

- and character of the village;
- 10. the roof terraces are not in keeping with the Wetheral Conservation Area;
- 11. there are now 13 windows above ground floor level facing Acorn Bank in place of the previously approved 3 which will result in a loss of privacy and amenity;
- 12. previously, there were entrances to the front and rear of the building, now there is only 1 on the west elevation;
- 13. the changes to the building are designed to optimise the value of the property, thus questioning the ability to provide affordable housing;
- 14. the building is too close to the site boundaries;
- 15. given the increase size of the building, there is no indication where the additional surface water will go;
- 16. there will be 49 windows overlooking neighbouring properties as opposed to the 22 approved;
- 17. the occupiers of the neighbouring properties will suffer an even greater loss of natural daylight;
- 18. visitors to the properties will be forced to park on Scotby Road which will cause traffic problems, particularly for the local bus which passes the site;
- 19. the scale and massing will adversely affect the setting of the adjacent listed building;
- 20. the separation distances between the proposed windows and neighbouring properties are unacceptable;
- 21. there is no provision within the building for emergency escape in the event of a fire:
- 22. the access to the rear is of an insufficient size for emergency vehicles.
- 4.2 Following the receipt of amended plans which alter the design and layout of the building and the site, a further 28 letters of objection have been received. The further representations reiterate the original objections to the scheme.
- 4.3 Following the publication of the report to Members at the November meeting of this Committee, 2 further letters have been received from the Save Wetheral Village Group which raise the following issues:
  - 1. the report incorrectly states the increased footprint of the building will be 27% and not 9.8%;
  - 2. the report implies that the building will be lined up with the frontage of Pleasant View and will therefore stand well forward of Acorn Bank;
  - 3. the barn was proposed to be retained and has been demolished without permission;
  - 4. the building will be 1.6 metres closer to the front boundary and not 1.4 metres as stated;
  - 5. the building will be 7 metres longer and not 4 metres;
  - 6. given the amount and significance of the changes, the application can't be considered as an amendment:
  - 7. the drawings are dated February 2011 which predates the submission of the application;
  - 8. approval of this much larger scheme under this application procedure could lead to a dangerous precedent;
  - 9. the Highway Authority require 30 car parking spaces and the scheme only provides for 24;

- 10. the additional parking on the western side of the site will be visually prominent;
- 11. the window positions will affect the living condition of the occupiers of adjoining properties and be less than the minimum 21 and 12 metres;
- 12. the approved scheme included a requirement to increase the height of the wall on the western boundary;
- 13. the response from the Conservation Area Advisory Committee does not give Members any guidance as to whether the concerns of the residents have been evaluated and taken into account:
- 14. the report is unsafe and the application should be withdrawn and resubmitted as a full application.

# 5. Summary of Consultation Responses

Cumbria County Council - (Econ. Dir. Highways & Transportation): - the amended access has been narrowed below the 4.8 metre width at the 'gateway' which is unacceptable. The new pillars must be at least 7.3 metres from the carriage way edge and be 5 metres apart, thereby allowing a car to be leaving as another enters.

Additionally the number of parking spaces has been reduced to 24 (incl. 2 disabled), whereas the standards indicate 30.

Thus the amended details are no longer acceptable to this authority and thus the recommendation is now that the Application be refused as the levels of parking provided are well below the Cumbria Standards;

Clerk to Wetheral PC, Downgate Community Centre: - the Parish Council object on the following grounds:

- this is a new planning application and not a Variation of Condition 2.
- whilst the Parish Council did not agree with the approved application they
  had come to accept it. They consider this to be over development of this
  site with a bigger footprint than previously considered;
- the new plan allows only 8 metres and not 12 metres as previously approved between Acorn Bank. The new building is 1.5 metres closer to the road and extends 3.5 metres farther back;
- the Parish Council object to the increase in number of windows over looking the existing properties;
- there are concerns regarding the need for a fire escape in view of the fact that the design now covers 4 floors, where the previous only covered 3 floors. Have the fire precautions been considered?
- there are concerns about the emergency vehicle access into the development. The increased traffic entering and exiting the site onto a busy road adjacent to a bus stop, where parked cars already cause problems to passing traffic.

Cumbria Constabulary - North Area Community Safety Unit (formerly Crime Prevention): - no comment;

English Heritage - North West Region: - comments awaited.

# 6. Officer's Report

### Assessment

The relevant planning policies against which the application is required to be assessed are the National Planning Policy Framework (NPPF) and Policies CP3, CP5, CP17, H1, H2, H5, LE12, LE19, T1 and LC4 of the Carlisle District Local Plan 2001-2016. The proposal raises the following planning issues.

# 1. Principle Of Development

- The application site lies within the settlement boundary of Wetheral and as such the principle of residential development is acceptable, subject to compliance with the criteria identified in Policy H1 and other relevant policies contained within the adopted Local Plan. In addition, planning permission has previously been granted for the redevelopment of the site.
- The Parish Council together with the objectors have questioned whether the proposed changes can be considered as a variation to the original planning permission. In 2010 the Government published "Greater flexibility for planning permissions Guidance." Paragraph 60 reads:

"The Killian Pretty Review recommended that 'Government should take steps to allow a more proportionate approach to minor material changes in development proposals after permission has been granted'.

In response to this recommendation, WYG Planning and Design were commissioned to consider the options for either introducing a new procedure for making minor material amendments, or for using or adapting existing procedures.

WYG's recommendation, given that there is currently no legislative vehicle for making changes to primary legislation, was that the existing route under s.73 of the Town and Country Planning Act 1990 (which allows changes to the conditions applying to existing permissions) should be streamlined and clarified. We agree that this option provides the best short-term solution."

6.4 The Guidance continues in paragraph 62 by providing clarity:

"We agree with the definition proposed by WYG: "A minor material amendment is one whose scale and nature results in a development which is not substantially different from the one which has been approved." This is not a statutory definition."

6.5 The issues regarding the amendments and the scale and nature of the proposal are discussed later in this report but it is clear given the percentage increase in the footprint of the building, that this application procedure is legitimate. It is also transparent and all neighbours and interested parties have had the appropriate opportunity to comment as if it were any other planning application.

## 2. Scale, Layout And Design Of The Development

- 6.6 The building occupies a significant footprint measuring approximately 824 sqm, with the floor area progressively reducing over the floors above, resulting in a staggered rear elevation.
- 6.7 The building will be set back from the pavement by 4.6m and the front elevation will be characterised by three projecting bays. This compares to 1.4 metres closer to the boundary compared to the previously approved scheme being 6 metres from the boundary. The building retains many of the approved architectural features including traditional features such as chimney stacks, stone copings to the gables, stone archways and window surrounds. The front elevation has been designed to retain an asymmetrical frontage and staggered roof lines and also includes extensive use of natural stone mixed with render. Natural slate is to be used on the roof and all new windows and doors would be manufactured from timber.
- 6.8 The front of the site, where it abuts the pavement, is to be demarcated by a natural stone wall, supplemented with planting. Vehicular access is via the existing access point to the west of the site and will lead to the side and rear parking area, which comprises 24 spaces.
- 6.9 The Parish Council and several residents have objected to the scheme on the basis that the scale of the building is inappropriate to the site and that it will harm the setting of the Wetheral Conservation Area. The principle of a building of this height has already been approved under the previous application. Whilst a further floor has been created, this does not increase the height of the roof nor increase the number of proposed apartments.
- 6.10 The perceived height of the building when viewed from the front elevation is broken up by the projecting gables and the attention to the architectural detail. As the rear elevation projects outwards towards the rear of the site it is reduced in both height and width thereby decreasing its physical mass. In addition, the ridge of this element of the building is reduced from that of the previously approved scheme. The roadside frontage retains its natural stone boundary wall and landscaped backdrop. Although some parking is now proposed to the side of the building, additional landscaping is proposed between this and the junction with the County highway, thereby reducing its visual impact.
- 6.11 The flat roof areas would be to the rear of the building and would not be unduly prominent in the context of the building. Given the adjacent pitched roofs, they would be appropriately screened from the wider public vantage points.
- 6.12 Notwithstanding the significant objections raised, it is the Officer's view that the scale, layout and design of the building are acceptable in relation to the site and do not detract from the character and appearance of the conservation area. With the exception of the comments about the entrance which the Conservation Area Advisory Committee (CAAC) preferred the

- arrangement from the approved scheme in 2012, the revisions to the current proposal have been welcomed and CAAC has not objected to the application.
- 6.13 Given the size of the site within a designated conservation area, the views of English Heritage have been sought and these should be available for Members prior to the Committee meeting although given the increase in scale of 10%, this is lower than the threshold to consult English Heritage.
- 6.14 The proposal also safeguards the setting of the adjacent Listed Building, Acorn Bank. The objectors have raised concerns that paragraph 3.5 (5) of this report is misleading insofar as this makes reference to the building lining up with Pleasant View, thereby obscuring Acorn Bank. The frontage is broadly in line with the forward most projection of Acorn Bank but due to the curvature in the road and the position of the building there is no defined building line in the street scene. The reposition of the building will not have a significant visual impact on the setting of the adjacent property over and above that of the approved scheme. A condition requiring samples of the external materials to be used to be agreed prior to work commencing to ensure the design is not compromised through the use of inappropriate external finishes was imposed on the original consent and is still relevant to this application.
- 6.15 The proposed development introduces architectural features that were missing from the approved scheme such as ventilation slit windows, water tables, and slit windows. The scheme is of an appropriate architectural merit in its own right and the scale and use of appropriate materials is acceptable.

# 3. Highway And Parking Issues

- 6.16 One of the principal concerns raised by the local residents relates to their perception that there are insufficient parking spaces to serve the development. The number of parking spaces is reflective of the number of proposed apartments. The Highway Authority requested some alterations to the width of the proposed access and amended plans have been received which address this.
- 6.17 In addition, the Highway Authority has calculated that the development should provide 30 parking spaces within the site. The approved scheme allowed for the provision of 24 spaces. The number of apartments and the number of bedrooms has not increased and it is therefore unreasonable to support any additional increase in parking spaces. The County Council has verbally confirmed that they would be unable to support any refusal of this application on this basis and a formal response will be available for Members prior to the meeting.
- 6.18 The previous application considered the issue of the potential for additional on-street parking. At the time, the Highway Authority recognised that there was potential for increased parking on the highway but did not consider that these levels were such that any increase in on-street parking would be detrimental to highway safety or that the application should be refused on this basis. To ensure that parking does not occur on the bus stops adjacent to

the site the Highway Authority requested that a financial contribution of £3500 is provided to enable an amendment to the Traffic Regulation Order to provide "bus clear way" markings. The applicant agreed to this payment which was secured through a S106 agreement which remains valid.

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

- 6.19 The position of neighbouring properties and location of windows within those dwellings is such that the living conditions of surrounding residents are unlikely to be adversely affected by the proposal. Those properties on the opposite side of the road to the site, No.1 and No.20 Jennet Croft, are located 23m and 25m away from the building respectively. Acorn Bank to the west of the site has no openings in the side elevation of the dwelling, together with a high boundary wall that delineates its boundary.
- 6.20 The neighbouring property, Caerluel, has the potential to be most affected; however, the position of windows in the apartment building is such that there would be no direct overlooking. Although they are less than 21 metres, the windows in Caerluel are not primary windows and therefore fall to be considered under the 12 metre requirement which is achievable.
- 6.21 The amount and position of windows has been amended during the course of this application. The windows have been revised to reduce the potential for overlooking of the neighbouring properties. Where there are windows in the side of the building, these would either face a blank gable or achieve the Council's minimum distance of 21 as defined the Supplementary Planning Document "Achieving Well Designed Housing".
- 6.22 The approved scheme included a condition to increase the height of the boundary wall between the application site and Caerluel. No variation to this condition is sought as part of this application which is particularly relevant given the omission of the detached barn and the condition requires the developer to undertake the improvements to the boundary.
- 6.23 On balance, there would be no significant adverse effect on the living conditions of neighbouring residents.

### 5. Affordable Housing

6.24 The approved scheme included the provision of 3 affordable properties to be made available by discounted sale and this was secured through a S106 agreement. This agreement is unaffected by this application.

# 6. Landscaping/Ecology

6.25 The Council's Landscape Architect has raised no objections to the proposed development subject to the imposition of planning conditions to regulate the submission of a detailed landscaping scheme; the erection of protective fences to safeguard those trees that overhang the site but lie out with the application boundary and the details of the means of construction where

development is to take place within the root protection areas of those trees. The latter condition would relate principally to the construction of the car parking area.

### 7. Waste Collection

6.26 The objectors have made reference to the recycling/waste collection arrangements, with concerns being expressed that 15 individual bins/recycling boxes could litter the pavement on collections days. To address these concerns the applicant has confirmed that this waste will be collected by a private contractor. That arrangement, including the maintenance of the site/building, will be overseen by a management company which has been secured in perpetuity through the completion of a S106 agreement.

# 8. The Impact On Human Rights

- 6.27 The human rights of the occupiers of the neighbouring properties have been properly considered and taken into account as part of the determination of the application. Several provisions of the Human Rights Act 1998 can have implications in relation to the consideration of planning proposals, the most notable being:
  - Article 6 bestowing the "Right to a Fair Trial" is applicable to both applicants seeking to develop or use land or property and those whose interests may be affected by such proposals;
  - Article 7 provides that there shall be "No Punishment Without Law" and may be applicable in respect of enforcement proceedings taken by the Authority to regularize any breach of planning control;
  - Article 8 recognises the "Right To Respect for Private and Family Life".
- 6.28 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.
- 6.29 Article 8 and Article 1 Protocol 1 are relevant but the impact of the development in these respects will be minimal and the separate rights of the individuals under this legislation will not be prejudiced. If it was to be alleged that there was conflict it is considered not to be significant enough to warrant the refusal of permission.

### Conclusion

6.30 In overall terms, the principle of the proposed development has previously been accepted. The proposed apartment building could be accommodated on the site without detriment to the living conditions of the neighbouring properties or the character/setting of the Wetheral Conservation Area and adjacent Listed Building. The Highway Authority has advised that the parking/access arrangements and the anticipated level of traffic generated by the proposal would not prejudice highway safety. In all aspects the proposals

are considered to be compliant with the objectives of the relevant Local Plan policies.

- 6.31 There are a significant number of objections to the proposal from residents and the Save Wetheral Village action group. Many of the issues relate to the scale, design and visual impact on the character of the Wetheral Conservation Area. Members will note the response from the Conservation Area Advisory Committee and the assessment in the report. On the basis of the approved scheme together with the amendments proposed, the proposal is acceptable and would not have a detrimental impact on the character of the consideration area.
- 6.32 Members are reminded that all other conditions of the approved scheme remain applicable. If Members are minded to grant consent, the S106 that secured the provision of 3 affordable units, a financial contribution of £3,500 to secure an amendment to the Traffic Regulation Order to provide bus clearway markings, a financial contribution of £3000 to be spent by the Parish Council towards the provision of play facilities for older children and/or the provision of allotments and the provision of a management company to oversee the maintenance of the building and the collection of refuse needs to be varied to take account of the revised consent; therefore, authority to issue approval is sought.

# 7. Planning History

- 7.1 In 2011, conservation area consent was granted for the demolition of house, adjoining barn and outbuildings.
- 7.2 Planning permission was granted in 2012 for the demolition of the house, adjoining barn and outbuildings; redevelopment of site for the erection of single block comprising 15 two-bed apartments with dedicated access, off-street parking and private amenity spaces.

# 8. Recommendation: Grant Subject to S106 Agreement

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

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

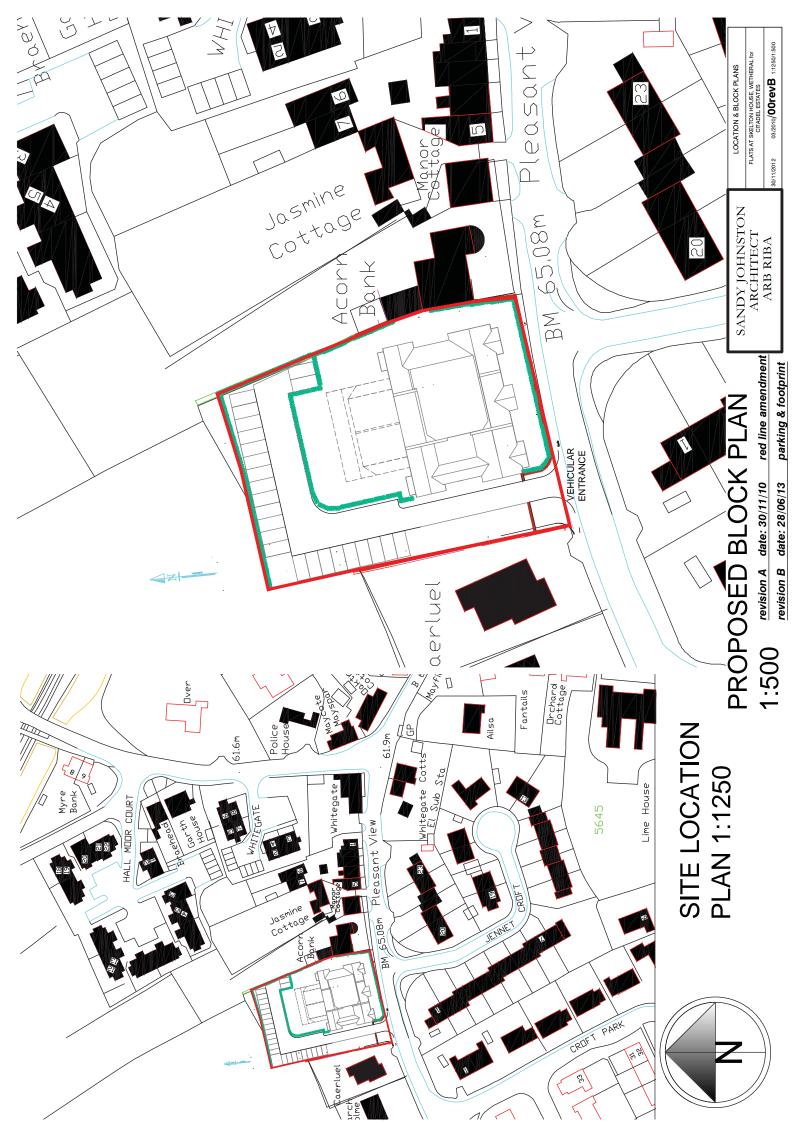
- 2. The approved documents for this Planning Permission comprise:
  - 1. the Planning Application Form received 2nd July 2013;
  - 2. the Location And Block Plans received 18th September 2013 (Drawing no. 03/2010/00revC);
  - the Approved And Proposed Layouts received 2nd July 2013 (Drawing no. 03/2010/100);

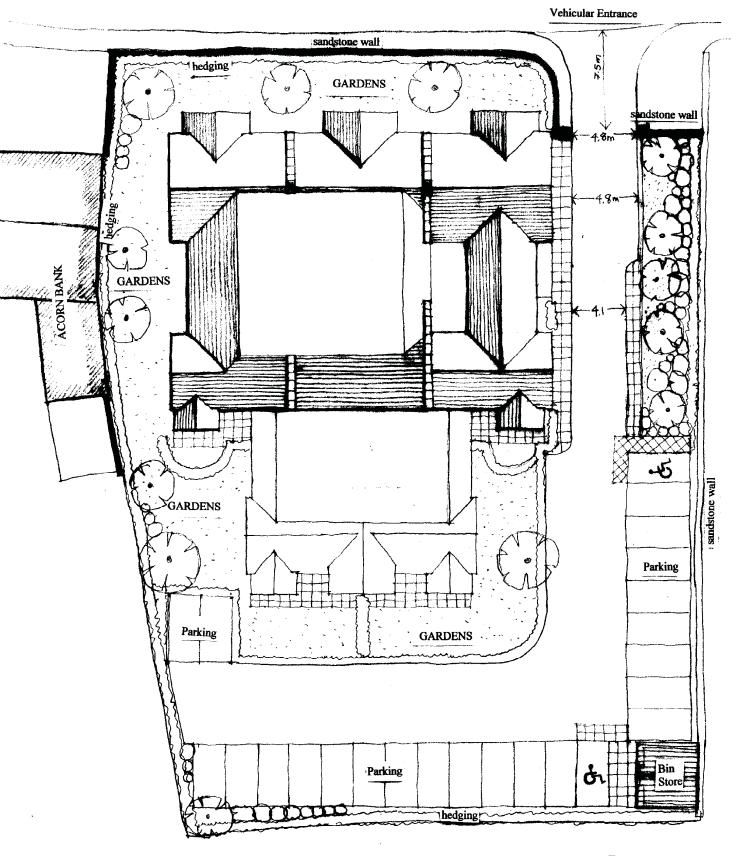
- 4. the site Layout Plan received 18th September 2013 (Drawing no. 03/2010/02A);
- 5. the Ground Floor Plan received 18th September 2013 (Drawing no. 03/2010/03B);
- 6. the First Floor Plan received 18th September 2013 (Drawing no. 03/2010/04C);
- 7. the Second Floor Plan received 18th September 2013 (Drawing no. 03/2010/05A);
- 8. the Attic Plan received 18th September 2013 (Drawing no. 03/2010/06);
- the North Elevation received 18th September 2013 (Drawing no. 03/2010/07A);
- the South Elevation received 18th September 2013 (Drawing no. 03/2010/08);
- 11. the West Elevation received 18th September 2013 (Drawing no. 03/2010/09A);
- 12. the East Elevation received 18th September 2013 (Drawing no. 03/2010/010A);
- 13. the Notice of Decision; and
- 14. any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason:** To define the permission.

3. The development shall be carried out in accordance with the remaining conditions attached to the "Full Planning" permission approved under application 10/1066.

**Reason:** For the avoidance of doubt.





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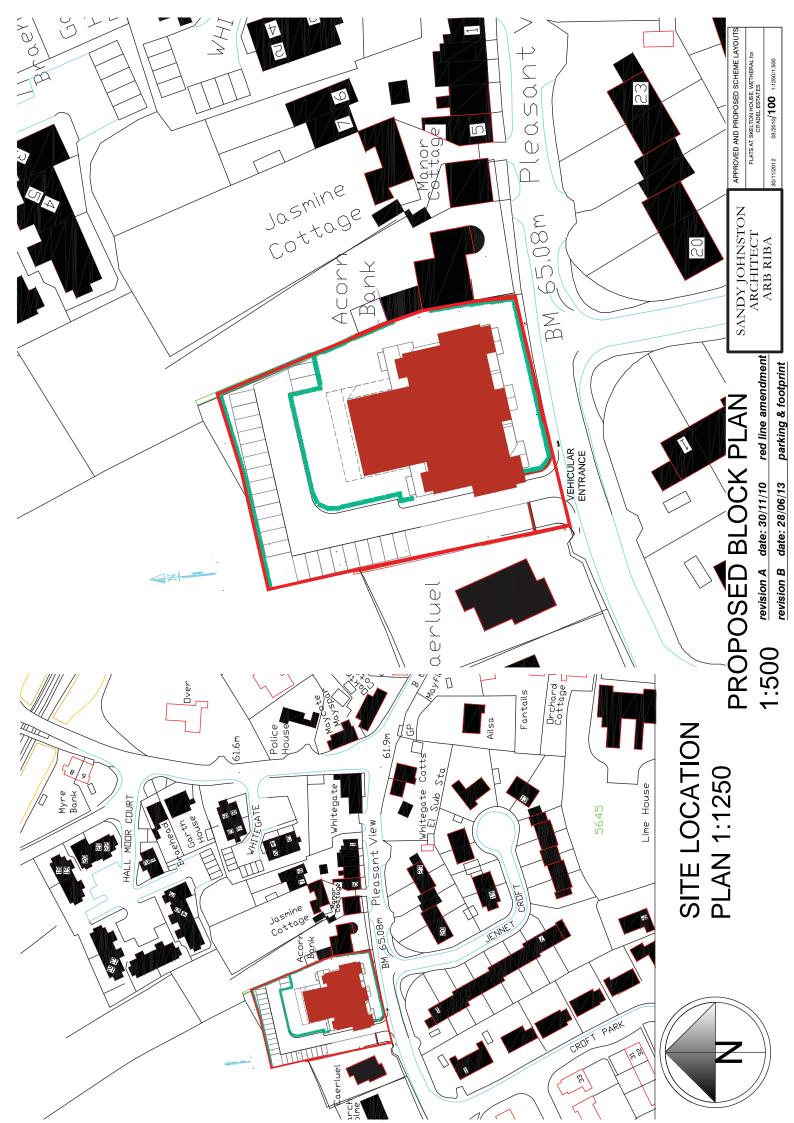
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SITE LAYOUT PLAN 1:200

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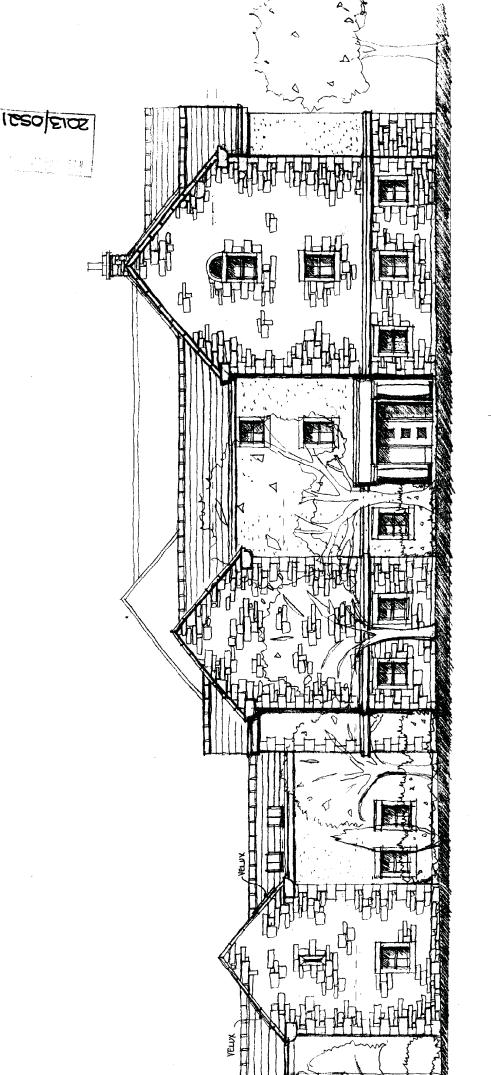
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EAST ELEVATION
FLATS AT SKELTON HOLGE, WETHERAL for
CITADEL ESTATES



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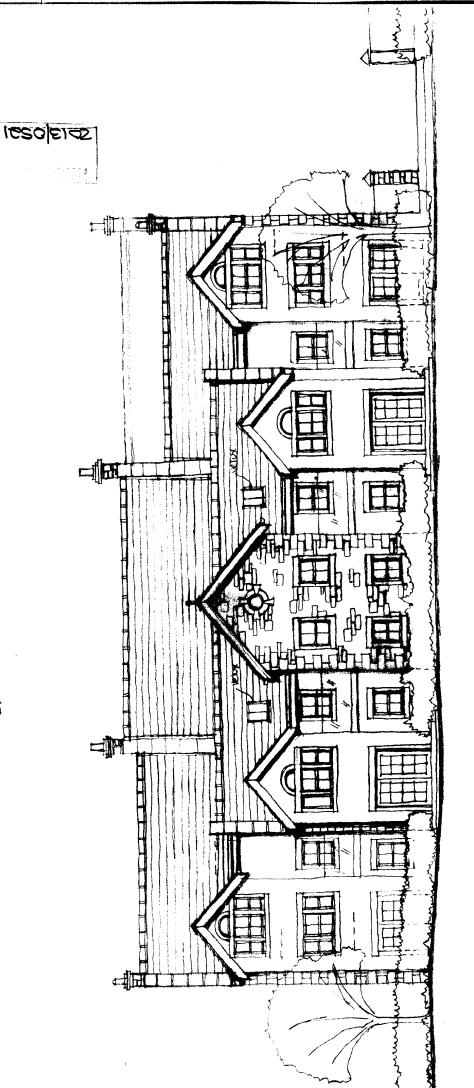
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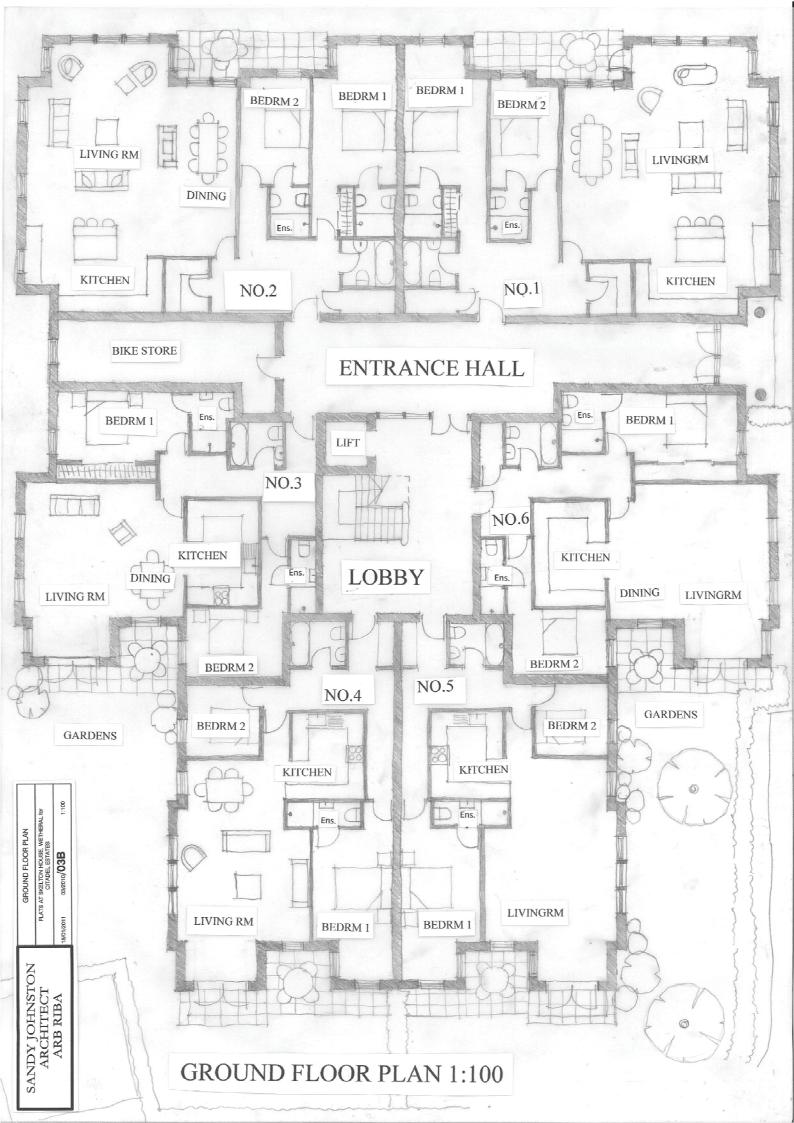
SOUTH ELEVATION 1:100

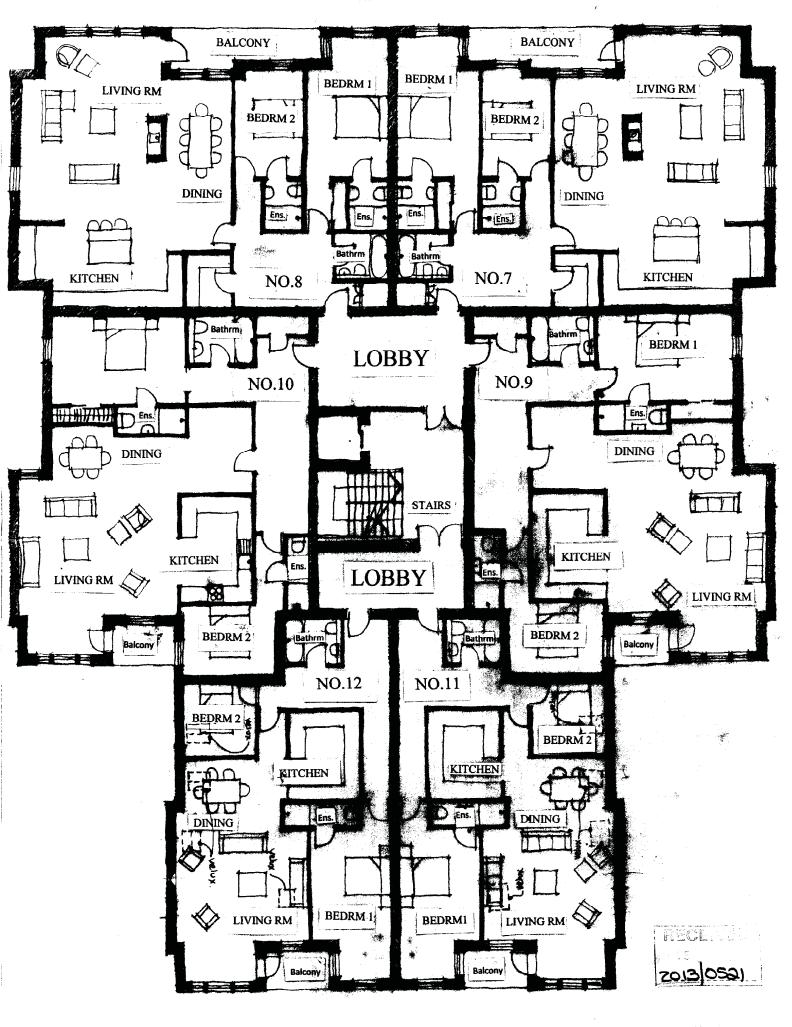
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NORTH ELEVATION 1:100





FIRST FLOOR PLAN 1:100

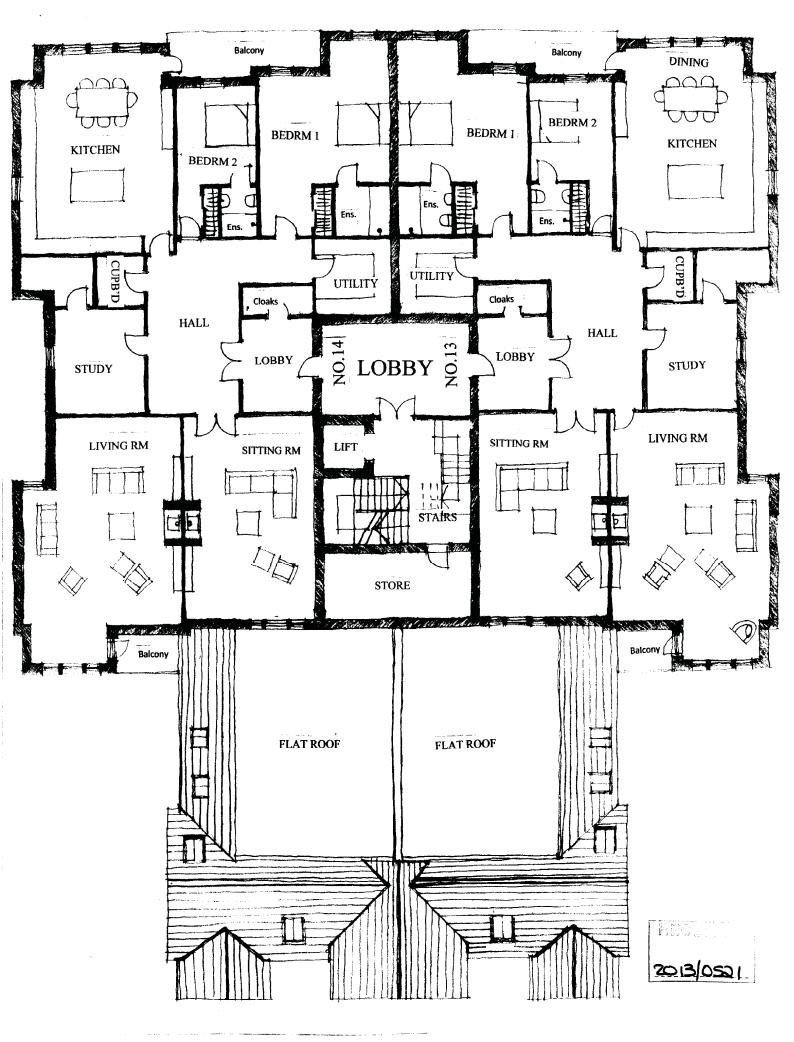
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FIRST FLOOR PLAN

FLATS AT SMELTON HOUSE, WETHERAL for
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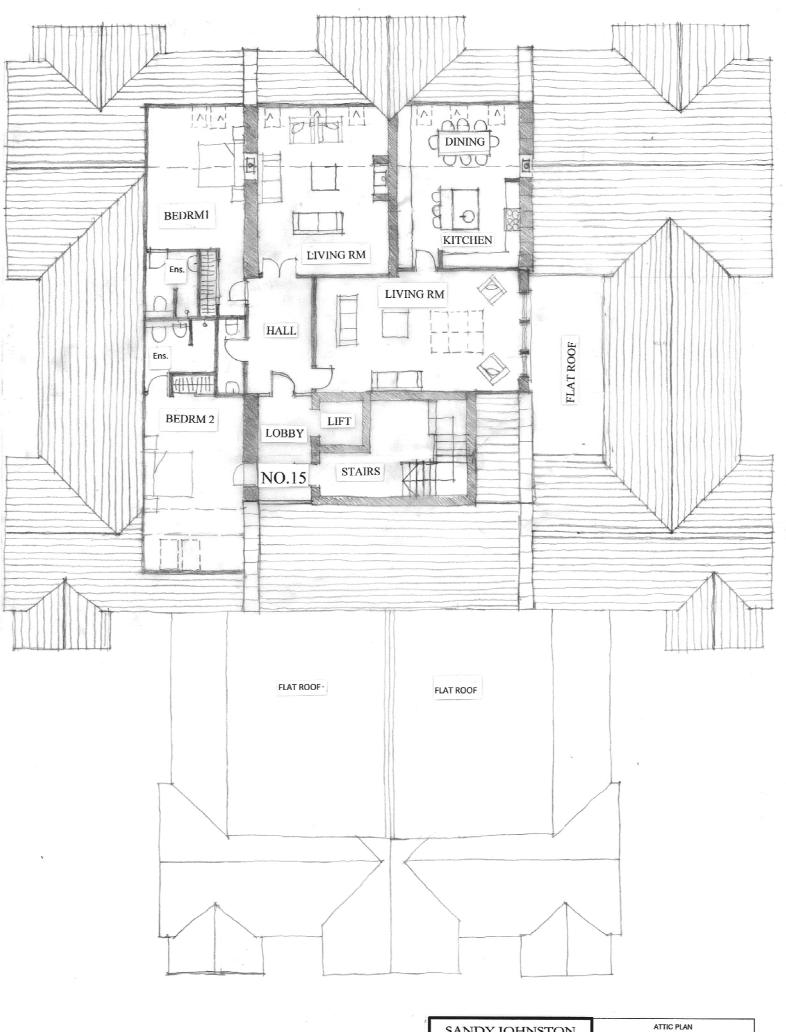


**SECOND FLOOR PLAN 1:100** 

SANDY JOHNSTON ARCHITECT ARB RIBA SECOND FLOOR PLAN

FLATS AT SKELTON HOUSE, WETHERAL for CITADEL ESTATES

18/01/2011 09/2010/05 A 1:100



ATTIC PLAN 1:100

SANDY JOHNSTON ARCHITECT ARB RIBA

FLATS AT SKELTON HOUSE, WETHERAL for CITADEL ESTATES

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