

Development Control Committee Main Schedule

Schedule of Applications for
Planning Permission

11th June 2010

Applications Entered on Development Control Committee Schedule

Item No.	Application Number/ Schedule	Location	Case Officer	Page No.
01.	<u>09/0512</u> A	L/A Junction of Bridge Street and Bridge Lane, Carlisle CA2 5TA	<u>SG</u>	1
02.	<u>10/0265</u> A	Brampton Playhouse, Moat Side, Brampton, CA8 1UH	<u>SD</u>	101
03.	<u>10/0266</u> A	Brampton Playhouse, Moat Side, Brampton, CA8 1UH	<u>SD</u>	119
04.	<u>10/0245</u> A	14 Morpeth Close, Brampton, CA8 1DS	<u>BP</u>	125
05.	<u>10/0221</u> A	Site Between 1 Eden Mount and 4 St Georges Crescent, Stanwix, Carlisle	<u>SG</u>	136
06.	<u>10/0262</u> A	Site Between 1 Eden Mount and 4 St Georges Crescent, Stanwix, Carlisle	<u>SG</u>	158
07.	<u>10/0141</u> A	15 Capon Hill, Brampton, CA8 1QJ	<u>DNC</u>	165
08.	<u>10/0346</u> B	Former Highways Depot & Dandycroft, Station Road, Brampton, CA8 1EU	<u>ARH</u>	184
09.	<u>10/0408</u> B	Former Premises of Glenwarwick Shirt Co Ltd, Lime Street, Carlisle	<u>ARH</u>	219
10.	<u>10/0415</u> B	Land off Constable Street, Denton Holme, Carlisle	<u>ARH</u>	235
11.	<u>10/9005</u> A	Jewsons Builder's Merchants, Eastern Way, Carlisle, Cumbria, CA1 3QZ	<u>AMT</u>	253
12.	<u>10/0167</u> A	Castanea, Kirkclinton, CA6 6DX	<u>RJM</u>	277
13.	<u>10/0420</u> A	45 Housesteads Road, Carlisle, CA2 7XG	<u>SE</u>	287
14.	<u>10/0200</u> A	Springwell Farmhouse, Talkin, Brampton, CA8 1LB	<u>RJM</u>	295
15.	<u>10/0238</u> A	Hirta, Tree Road, Brampton, CA8 1TX	<u>ST</u>	315

Applications Entered on Development Control Committee Schedule

Item No.	Application Number/ Schedule	Location	Case Officer	Page No.
16.	<u>10/0239</u> A	Hirta, Tree Road, Brampton, CA8 1TX	<u>ST</u>	328
17.	<u>10/0206</u> A	Wheelbarrow Farm, Scotby, Carlisle, CA4 8AD	<u>RJM</u>	333
18.	<u>10/0005</u> A	Willowdene, 14 Broadwath Holdings, Heads Nook, CA8 9BB	<u>RJM</u>	345
19.	<u>10/9002</u> C	Upperby Primary School, Uldale Road, Carlisle, CA2 4JT	<u>BP</u>	364
20.	<u>10/9004</u> C	North Bank House, Roadhead, Carlisle, Cumbria, CA6 6NA	<u>SD</u>	368
21.	<u>07/0088</u> D	Land Barns at Stonehouse Farm, Hayton, Brampton, CA8 9JE	<u>ARH</u>	373

The Schedule of Applications

This schedule is set out in five parts:

SCHEDULE A - contains full reports on each application proposal and concludes with a recommendation to the Development Control Committee to assist in the formal determination of the proposal or, in certain cases, to assist Members to formulate the City Council's observations on particular kinds of planning submissions. In common with applications contained in Schedule B, where a verbal recommendation is made to the Committee, Officer recommendations are made, and the Committee's decisions must be based upon, the provisions of the Development Plan in accordance with S54A of the Town and Country Planning Act 1990 unless material considerations indicate otherwise. To assist in reaching a decision on each planning proposal the Committee has regard to:-

- relevant planning policy advice contained in Government Circulars, Planning Policy Guidance Notes, Development Control Policy Notes and other Statements of Ministerial Policy;
- the adopted provisions of the Cumbria and Lake District Joint Structure Plan;
- the City Council's own statement of approved local planning policies including the Carlisle District Local Plan;
- established case law and the decisions on comparable planning proposals
- including relevant Planning Appeals.

SCHEDULE B - comprises applications for which a full report and recommendation on the proposal is not able to be made when the Schedule is compiled due to the need for further details relating to the proposal or the absence of essential consultation responses or where revisions to the proposal are awaited from the applicant. As the outstanding information and/or amendment is expected to be received prior to the Committee meeting, Officers anticipate being able to make an additional verbal report and recommendations.

SCHEDULE C - provides details of the decisions taken by other authorities in respect of those applications determined by that Authority and upon which this Council has previously made observations.

SCHEDULE D - reports upon applications which have been previously deferred by the Development Control Committee with authority given to Officers to undertake specific action on the proposal, for example the attainment of a legal agreement or to await the completion of consultation responses prior to the issue of a Decision Notice. The Reports confirm these actions and formally record the decision taken by the City Council upon the relevant proposals. Copies of the Decision Notices follow reports, where applicable.

SCHEDULE E - is for information and provides details of those applications which have been determined under powers delegated by the City Council since the previous Committee meeting.

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

If you are in doubt about any of the information or background material referred to in the Schedule you should contact the Development Control Section of the Department of Environment and Development.

This Schedule of Applications contains reports produced by the Department up to the 28/05/2010 and related supporting information or representations received up to the Schedule's printing and compilation prior to despatch to the Members of the Development Control Committee on the 02/06/2010.

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

SCHEDULE A

SCHEDULE A

SCHEDULE A

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SCHEDULE A

SCHEDULE A

SCHEDULE A: Applications with Recommendation

09/0512

Item No: 01

Date of Committee: 11/06/2010

Appn Ref No:
09/0512

Applicant:
Sainsburys Stores Limited

Parish:
Carlisle

Date of Receipt:
29/06/2009 13:00:41

Agent:
HOW Planning LLP

Ward:
Castle

Location:
L/A Junction of Bridge Street and Bridge Lane,
Carlisle CA2 5TA

Grid Reference:
339431 556022

Proposal: Erection Of A Class A1 Foodstore Comprising 8,886 Sq.m. Gross External Area (5,514 Sq.m. Net Sales) Floorspace, A Petrol Filling Station Of 132 Sq.m. Gross External Floorspace (70 Sq.m. Net Sales), Ancillary Development And Car Parking At Land At The Junction Of Bridge Street And Bridge Lane, Carlisle.

Amendment:

1. Relocation of the petrol filling station to accommodate two small retail units with separate office accommodation above.
 2. Relocation of the petrol filling station and the position of the two storey retail/office building to accommodate revised access arrangements.
 3. Omission of the Sainsbury's "sky sign" from the roof of the store.
-

REPORT

Case Officer: Sam Greig

Reason for Determination by Committee:

This application is brought before the Development Control Committee for determination due to the scale and nature of the proposal. Councillor Tootle and Councillor Collier have also requested a "right to speak" in favour of the proposed development.

1. Constraints and Planning Policies

Gas Pipeline Safeguarding Area

The proposal relates to land or premises situated within or adjacent to the Gas Pipeline Safeguarding Area.

Flood Risk Zone

RSS Pol DP 1 - Spatial Principles

RSS Pol DP 2 - Promote Sustainable Communities

RSS Pol DP 3 - Promote Sustainable Economic Development

RSS Pol DP 4 - Make Best Use Exstg.Resources&Infrastructure

RSS Pol DP 5 - Manage Travel Demand. Reduce Need to Travel

RSS Pol W 1 - Strengthening the Regional Economy

RSS Pol W 2 - Locations Reg.Significant Economic Development

RSS Pol W 5 - Retail Development

RSS Pol RT 2 - Managing Travel Demand

RSS Pol EM 2 - Remediating Contaminated Land

RSS Pol CNL 1 - Overall Spatial Policy for Cumbria

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

Joint Str. Plan Pol ST4: Major development proposals

Joint Str.Plan Pol ST5: New devt & key service centres

Joint Str. Plan Pol EM13: Employment land provision

Joint Str. Plan Pol EM14: Dev.employment land other purposes

Joint St. Plan Pol T31: Travel Plans

Joint St. Plan Pol E38: Historic environment

Local Plan Pol DP1 - Sustainable Development Location

Local Plan Pol DP2 - Regeneration

Local Plan Pol CP1 - Landscape Character

Local Plan Pol CP2 - Biodiversity

Local Plan Pol CP5 - Design

Local Plan Pol CP6 - Residential Amenity

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

Local Plan Pol CP10 - Sustainable Drainage Systems

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

Local Plan Pol CP13 - Pollution

Local Plan CP15 - Access, Mobility and Inclusion

Local Plan Pol CP16 -Public Trans.Pedestrians & Cyclists

Local Plan Pol CP17 - Planning Out Crime

Local Plan Pol EC2 - Mixed Commercial Areas

Local Plan Pol EC5 - Large Stores and Retail Warehouses

Local Plan Pol EC22 - Employment & Commercial Growth Land Al

Local Plan Pol LE2 - Sites of Special Scientific Interest

Local Plan Pol LE4 - River Corridors

Local Plan Pol LE5 - Hadrian's Wall World Heritage Site

Local Plan Pol LE6 - Scheduled/Nat. Imp. Ancient Mon.

Local Plan Pol LE9 -Other Known Sites&Mons of Arch.Sig.nific

Local Plan Pol LE19 - Conservation Areas

Local Plan Pol LE27- Developed Land in Floodplains

Local Plan Pol LE29 - Land Affected by Contamination

Local Plan Pol T1- Parking Guidelines for Development

Local Plan Pol H2 - Primary Residential Area

2. Summary of Consultation Responses

Development Services Planning & Housing Services - Local Plans: there are a number of fundamental issues raised by the proposal which conflict with the Council's current Development Plan policies and strategy.

The Plan Led System

Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires local planning authorities to determine planning application in accordance with the

Development Plan unless material considerations indicate otherwise. The proposal and location are at odds with the Carlisle District Local Plan which is up-to-date, has only recently been adopted and considered retail allocations as part of the Local Plan process. The site is not allocated in the Local Plan for retail use and a sequentially preferable district centre, with a capacity for a 2,500 square metre net convenience goods store at Morton is allocated in the Local Plan.

Quantitative need

The Council's Local Plan was based upon the technical report referred to as the Carlisle Retail Study Update 2006. This set the basis for formulation of the Local Plan policies and was accepted by the Inspector (despite objections) as the basis for the allocation of a district centre at Morton and the lack of retail allocation at Caldew Riverside. Taking account of the current retail commitments (with planning permission) the plan makes provision only for an additional 2,500 net food retail store as part of a district centre at Morton. This is based on quantitative need. This position alone suggests that there is no additional capacity for a further store (over and above allocations and outstanding permissions).

The supporting planning and retail assessment provided by Sainsbury's agents also (at paragraph 6.30) refers to the lack of quantitative need; however, the applicants still conclude that there is capacity for their proposal.

In the case of any doubt over the quantitative capacity and the impact of the current economic climate (which has changed considerably since 2006) the Council has updated its Retail Study as a consequence of this application being submitted.

As with the 2006 update, the conclusions state that there is no additional quantitative capacity for a convenience store other than through the allocation of a district centre at Morton, which confirms the Local Plan position.

The agent's statement therefore considers that the qualitative aspects of the proposal outweigh the lack of quantitative capacity.

It is agreed that the south west sector of the City is poorly served by supermarkets and this results in cross City traffic movement. This was one of the reasons for locating a store at Morton to overcome this deficiency. The consequence of that location was that whilst relieving some cross city movement it would also assist in reducing traffic in the Caldewgate/ Shaddongate area. Bridge Street together with parts of Wigton Road are Air Quality Management Areas, primarily arising from queuing traffic. This proposal which seeks to add a further junction and act as an attractor of cars to that area will only exacerbate this problem and do nothing to relieve it.

The applicant considers that the Morton allocation is not suitable for this proposed store. The Morton site allocation was confirmed in 2008 and whilst it was previously allocated, the marketing was reliant upon the housing development. "Call-in" of the earlier residential planning applications delayed the implementation process and without certainty it would have been difficult to market a retail site. This certainty has now been provided by confirmation of the land allocations following the Local Plan Inquiry and the submission of a planning application for residential

development. It is only a matter of course that the retail will follow as part of the district centre.

The reference to a district centre is also worthy of note at Morton. The inclusion of a number of uses has been provided in order that the centre will function as a focal point for residents of the new housing as well of those of the wider area. As a consequence of the Local Plan process the Morton development will be sequentially preferable to any out-of-centre location such as Caldewgate.

It is also noted that there is reference to middle of the plan period for the development in terms of the availability of the site. The base line for the local plan for housing and employment all coincides with the Structure Plan which is 2001-2016. We are in the middle of the plan period so the site is expected to be coming forward in the near future.

It is acknowledged that investment in an area will provide jobs and could act to regenerate the area. How many jobs depends upon the turnover of other stores as a consequence. The report claims that, in line with company averages, other stores are overtrading and, if this is the case, there will be a reduction in trade in those stores. One could surmise from that process that there would also be reduction in employment as staff relocate to the new store. Whilst a store of the proposed capacity may have 500 jobs it is not clear whether any will come from existing stores. The proposal to use local labour and training is however welcome.

In reference to regenerating the area the City Council published a draft Planning Brief which raises many issues and promotes some ways forward to encourage development of the area. It does recognise that the area will continue to operate with a mix of uses. This is a draft brief and the Council has more work on flood risk to undertake before the brief can be adopted. There are, however, some fundamental issues with which this proposal conflicts; the main one being the location of the store on site.

The reason for the planning brief for the area was the recognition that the area was a main gateway into Carlisle. As such, it required improvements to public realm and a stimulus for new development in the area. The proposed store places a large car park and petrol station as the main frontage, which acts to open up a wide expanse of parking rather than a sense of arrival and a gateway location. The proposal is, therefore, completely contrary to the intentions of the brief and although not adopted it still exemplifies the character of the area and the role that area performs. The proposed store will not improve the area although the applicants appear to consider that their proposed design is well integrated. This is not agreed with and it is considered that the opposite effect is achieved, ignoring completely the Bridge Street frontage.

There are other issues such as the addition of comparison goods shopping in the store. There is no expectation that a superstore will deliver anything but the usual proportion of goods between convenience and comparison. The Retail Study Update indicates that there is no spare comparison goods capacity for out-of-centre locations. This means that there will be an impact on the City Centre should any available capacity be directed elsewhere. This must therefore be a negative impact.

In conclusion, having considered all the issues raised it is not considered that the applicants proposed qualitative benefits outweigh the potential conflicts. On quantitative and qualitative grounds the proposal conflicts with the current development plan and an objection to the application is raised on this basis;

Urban Designer (Carlisle Renaissance): the Urban Designer's consultation response to the original scheme submitted provided advice in relation to four distinct aspects of the development:

Planning Context

Part of the site has the benefit of a planning consent for student accommodation approved under application 06/0845. This was recommended for approval by Officers following lengthy negotiations with the applicant. It was refused by Development Control Committee, contrary to the Officers recommendation, and subsequently allowed on appeal. This was for a 4-5 storey development, hard-up against the corner of the site, which articulated the junction and was scaled appropriately so as to enclose the broad highway at this key gateway to the City Centre.

The City Council's Urban Design Guide and Public Realm Framework (UD&PRF) is an adopted Supplementary Planning Document (SPD) and should be regarded as a significant material consideration. Referring to the key design principle of *"continuity and enclosure"* it states that *"Streets must never be defined by blank walls and dead frontages...service areas and car parks should generally be located behind (development) to avoid breaking up and deadening the street frontage"* (p13). It states that *"a strong degree of enclosure should be provided for all streets in the city centre. Building heights should generally be scaled to the proportion of the street. This results in wider, primary routes requiring taller buildings"*, (p13). It identifies the *"Western Approaches"* (Caldewgate /Shaddongate) as currently of *"poor quality, with car parks and forecourts creating a poor western city approach"* (p35).

It identifies on the accompanying diagram a *"gateway site"* which straddles the application site. Accompanying text states that *"gateway and perimeter sites to Bridge Street and Shaddongate should present a distinct built form to the roadway edge"* (p35).

The City Council's emerging Planning Brief for Shaddongate/Caldewgate (PBSC) SPD is also a significant material consideration. This document addresses in detail the urban design and land use principles for the Shaddongate/Caldewgate area. Page 13 of the document identifies the existing Victorian buildings fronting the proposal site as *"positive frontage"*. The small cleared portion of the current site is identified as *"weak frontage"*. Page 15 of the document identifies a weakness of the area as *"fractured urban form, empty plots, car parks and bland forecourts create ill-defined edge and compound poor approach"*. It identifies the cleared portion of the application site as an *"opportunity site"* (p19). Page 20 suggests the site is appropriate for mixed use development, with page 21 clearly identifying the corner of Bridge Lane and Bridge Street as requiring a *"statement corner building"*. It further stipulates the provision of restoration of the block frontage and the generation of an active frontage. Page 27 of the document states that the corner of Bridge Lane/Bridge Street should seek to have a frontage set to the back of the pavement,

in order to *“reduce the scale of the road and create a greater sense of enclosure”*.

Page 28 of the document states that *“it is not acceptable to have frontage car parking which sets the buildings back from the streets”*. Page 29 states that *“the Church Street/Bridge Street frontage should be considered for a mix of uses at ground floor to include an extension of existing retail use on street level, with flats or offices above”*.

Accordance With Design Guidance

Page 11 of the applicants' Design and Access Statement (DAS) maintains that regard has been taken of the Council's UD&PRF SPD. The document also refers to the PBSC. Page 13 of the DAS maintains that *“the Urban Design Guide highlights the corner of the site on Bridge Street and Bridge Lane as a location for a landmark feature or public art”*, but no clarification is given as to where this belief arises. While both the UD&PRF and the Planning Brief emphasise the importance of creating a frontage development at the corner of Bridge Lane/Bridge Street, at no point does either document suggest that public art is acceptable as an alternative to built form articulating this edge.

Page 14 of the DAS notes the aim of *“creating a presence at the junction of Bridge Lane and Bridge Street and to create a frontage to the Bridge Lane and Bridge Street Junction”*. It suggests an intention to *“remove low quality existing buildings on site”* and *“to replace existing site buildings with a high quality development”*. The assessment of existing buildings on the site as *“low quality”* requiring clearance does not accord with the assessment in the SPD of Nos. 30-42 Bridge Street as *“positive frontage”*. There are also buildings of interest within the three court areas and along the development facing Byron Lane, albeit of an industrial nature.

Page 5 of the DAS illustrates the applicants attempt to align the standard operational needs of a large food store with the evident urban design requirements of the site and indeed basic urban design principles that would be applicable in any urban area. The dismissal of three alternative options, the latter of which generates the active frontage that is clearly stipulated in the relevant design guidance, as *“not functional”* illustrates that the primary driver for the configuration proposed is the operational requirements of the standard store and not the particular needs of Carlisle, nor the principles of good place making and urban design.

Page 16 of the DAS identifies the design solution preferred by the applicant. It notes as an advantage that this solution *“provide(s an) iconic gateway feature on the key corner of the site, as outlined in the Urban Design Guide”*. As detailed above, neither the UD&PRF nor the PBSC suggest that an artwork accompanied by a petrol station is an appropriate design solution to this key corner site. The accompanying diagram clearly illustrates the negative townscape impact of this proposal, blowing open any sense of enclosure at the junction, and setting the development back behind a swathe of car parking. The artists' impressions on p19, p36 and p37 also illustrate the negative impact on the streetscape which this proposal would create.

Additional points

The overall proposal will have a marked negative impact on the streetscape of

Caldewgate. Its layout, scale and relationship to the street and its neighbours contravene the clear guidance set out in the UD&PRF and the PBSC. In addition to the points already raised, the proposed termination of Byron Street, currently a street of some townscape interest due to its historic basalt setts and the public house/industrial buildings flanking it, will result in dead-end of no apparent utility. This failure to integrate the store with existing highways and the creation of what will become an area for nuisance and anti social behaviour illustrates the general lack of sound design that characterises this proposal.

In addition the proposed landscape boundary to Bridge Street, with its low shrubs is not appropriate as an urban boundary. The Hornbeam proposed as boundary planting on this strip is unsuitably small when mature and will fail to create the sense of enclosure which the applicant presumably includes them for. No attempt is made to ameliorate the lack of built frontage by proposing similar tree planting on Bridge Lane/Willowholme Road (p36).

In conclusion, it is clear that the proposed demolition of existing frontage buildings to Bridge Street, and implementation of this proposal would have a wholly detrimental impact on the built environment and townscape of the Caldewgate/Shaddongate area. The proposed mitigation of this, in the form of boundary tree planting to Bridge Street, is wholly inadequate in compensating for the poor urban design which underpins this proposal. The two design guides relevant to this area – the UD&PRF and the PBSC clearly indicate the requirements for this important gateway, and show why this current proposal fails to deliver an appropriate solution on this site.

The Urban Designer recommended that the original scheme should be refused on design grounds.

In respect of the amended scheme, which includes the provision of a two storey building on the corner of Bridge Lane/Bridge Street and the relocation of the filling station, the Urban Designer made the following comments:

The applicant has made a limited attempt to address concerns raised over the lack of frontage by the provision of a two storey building on the corner of Bridge Street/Bridge Lane and by pulling the filling station and its retail unit closer to the Bridge Street boundary. Some additional tree planting has been added along with a boundary wall; however, the proposed units still represent only a small portion of the existing frontage that will be lost to demolition. Demolition of this frontage will have the adverse effect of removing the enclosure of the street provided by existing buildings. The 150m set-back of the storefront will also expose the flank wall of the adjacent factory unit to fuller view. This is not compensated for by the provision of either sufficient new built-frontage or by the evident provision of sufficient on or off-site landscaping works. The Willowholme Road elevation remains bleak and is not adequately addressed through either the design of the store or via appropriate planting.

This is a gateway to Carlisle City Centre and, as set out in the adopted SPD that covers the area, a high design standard should be sought. The existing permission on a portion of this site for the four storey student residences was of a far higher standard and created an appropriate scale at this key junction. The current proposal does not make the best use of the opportunities afforded by this site.

This is an improvement of sorts over the initial design but the modest frontage proposed is still an inadequate replacement for the frontage lost;

Development Services Planning & Housing Services - Local Plans

(Conservation): in response to the original scheme submitted the Conservation Officer stated that this site currently consists of a number of buildings of modest architectural merit, but they are significant in that those which front onto Caldewgate provide definition to this part Carlisle's historic townscape. Their scale and appearance are traditional and the 19th century detailing that survives is of interest. Of greater significance, however, is the importance of these buildings in delineating an integral part of the setting of the City's most iconic and historic features, namely the medieval Castle and the City Wall. This is one of the most sensitive parts of the City Centre Conservation Area and to remove these buildings and replace them with a petrol filling station neither preserves nor enhances the Conservation Area or these important views into it.

The destruction of the solid, built-up, curved edge to this part of Caldewgate's townscape without an appropriate replacement building is contrary to all of the current advice that has been provided in the "Urban Design and Public Realm Framework". The filling station at the front of the site is quite intrusive, particularly with the very prominent Sainsbury Logo at high level. Equally prominent and intrusive are the unfortunate pillar hoardings presumably advertising fuel prices, etc. The true impact of these features is much diminished on the visualisations which apparently will be completely cloaked with very tall and dense planting.

The design of the actual store is also of great concern. It is essentially a tall and broad box lacking in any character or interest that would help to modify its impact in any location other than a modern industrial estate. It is clear that the developers consider the Willow Holme site to be so out of the way as to merit very little design intervention. This is not the case. The site is visible from within the City Centre Conservation Area and the Sainsbury's building will be visible from the Castle and the footpath at the foot of the Castle Wall. Some of it is obscured by existing buildings, but there are sufficient gaps for the store to have an adverse impact on the views out of the Conservation Area.

In conclusion, the proposal has ignored the Council's guidance for this site and with damaging consequences to the character of the City Centre Conservation Area, in particular views both into and out of the Conservation Area. The impact of the proposed development does not preserve or enhance the City Centre Conservation Area and the application should be refused.

In response to the amended plans submitted, which includes the provision of a two storey building on the corner of Bridge Lane/Bridge Street and the relocation of the filling station, the Conservation Officer stated that the very modest proposal for a building on the corner of Bridge Street and Bridge Lane fails to satisfy the need for a built up frontage along Bridge Street and the kiosk for the petrol filling station does not serve any valuable purpose in helping to create this effect.

The height of the large modern shed at the rear of the site, topped off with its illuminated signage, will still have an impact on views out of the Conservation Area

and from the Castle walks. The intervening buildings are mostly two and three storeys, built of brick and/or stone, with traditional pitched roofs that are mostly slated. Their character, scale and materials blend well so that the greater part of the views from do little harm to the areas character and appearance. The height of these structures is such that the 11 metre high Sainsbury's shed and its 13 metre high Sainsbury's sign will be visible both over and between these buildings.

There are a couple of intrusive buildings in these views at present. One is on the McVities site which is mostly dark boarding and sheet material that helps to neutralise its impact. The other is a long view of the office block at the Infirmary. Despite these buildings it is not acceptable to introduce a further unsightly intrusion into an area that the Council is trying to improve and enhance as it develops its association with the World Heritage Site and the Hadrian's Wall Footpath through its Roman Gateway project. This aims to draw walkers and visitors from the footpath itself into the City and Tullie House in particular. This is very likely to increase the numbers of people who use the Castle walks and who will be able to view this modern store. In view of this and the other points raised above the careful improvement of areas adjacent to the Path becomes a significant issue, not only through renovation but also by carefully considering new development proposals and, where appropriate, seeking better siting, designs and materials. In the Conservation Officer's opinion the applicant has failed to do this and the proposal is unacceptable.

Members will be aware that further revised plans have been submitted which omit the "sky sign" and alter the access arrangements, which includes the repositioning of the filling station; however, these changes do not alter the fundamental concerns of the Conservation Officer who is of the opinion that the scheme remains unacceptable.

Conservation Area Advisory Committee: in response to the original scheme submitted the Committee commented that it was aware that the Council had set out its aspirations for the improvement of the approaches to the City in the Development Framework and Movement Strategy. More detail was contained in the Council's "Urban Design and Public Realm Framework" SPD and it was apparent that this advice had been ignored by the applicant. The submitted proposal with a filling station on the frontage and a large, ugly, box-like shed at the back of the site may have taken the industrial units on Willow Holme as the basis for their design. Unfortunately the development does have an impact on the setting of City Centre Conservation Area. The unsympathetic scheme has a detrimental effect on the setting of the Castle and its Walls and it neither preserves nor enhances these areas.

The Committee were aware that in other areas where conservation issues were important the applicant had made considerable efforts to make its proposals sympathetic and the fact that no similar attempt had been made here was an insult to the City. The Committee had no objections to the type of proposal but were deeply concerned about the form of the development, its lack of sympathy and a complete lack of imagination.

The Conservation Area Advisory Committee reiterated its concerns in respect of the amended plans that proposed the provision of a two storey building on the corner of

Bridge Lane/Bridge Street and the relocation of the filling station. In doing so it stated that the applicant needs to consider the importance of the site and enter into discussions as to why it cannot follow the Council's vision for Caldewgate, as expressed in the Design Guide. The Conservation Area Advisory Committee stated that this amendment does not go anywhere near the requirements of the Council and remains unacceptable.

Following the revisions to the scheme, as a consequence of the modifications to the access arrangements, the Advisory Committee has commented that the two buildings [the petrol filling station and office/retail units] look lost and are completely out of context. The actual store, despite the removal of the sky sign, is still a very large shed of little or no quality;

Environment Agency (N Area (+ Waste Disp)): advice is provided in relation to four distinct aspects of the development:

Development and Flood Risk

The site is located within Flood Zone 3 as defined in Table D.1 of Planning Policy Statement 25: Development and Flood Risk (PPS25). The area flooded to a significant depth during the January 2005 Flood Event.

With reference to the Agency's Flood Zone Mapping the site is currently mapped as situated in an area at high risk from fluvial flooding which shows the extent of floods with a 1% annual probability of occurrence. On completion of the Carlisle and Caldew Flood Alleviation Scheme the site will lie in an Area Benefiting from Defences (ABD)

The proposal to create a supermarket is classified as "less vulnerable" as defined in Table D.2 of PPS25. Table D.1 of PPS25 recommends that for planning applications within a high risk flood zone, a Flood Risk Assessment (FRA) appropriate to the scale and nature of the development, should be provided by the applicant.

The Agency has been involved in the discussion and provision of information to the applicant's consulting Engineers, Hadfield Cawkwell Davidson. The Agency had a pre-application review of the FRA submitted with planning application and fed a number of minor comments back prior to the application being made. Unfortunately, there has been insufficient time for consideration of these comments to be incorporated in a revised FRA. Notwithstanding these omissions, the FRA has been produced in accordance with the current guidance and seeks to address the main areas of concern.

The Agency's main concern is in relation to the setting of finished floor levels considering that historic flood levels have been recorded at the site, which were approximately 2.30m above ground level at the proposed store location. As finished floor levels are proposed to be set at 13m AOD this relates to 1.85m of flooding had the store been constructed and subject to the January 2005 flood event.

The FRA has considered risk associated with breach and overtopping in line with current DEFRA/ Environment Agency "Flood Risk Assessment Guidance for New Development" (FD2320/TR2), October 2005, adopting the "Intermediate Approach"

to breach and overtopping analysis.

The FRA places focus on the risk receptors to flooding i.e. customers, rather than the proposed building, which should be further detailed through the production of a Flood Action Plan. In setting Finished Floor Levels at 13m AOD, the applicant should be fully aware of the potential flood risk and frequency. The applicant should be satisfied that the impact of any flooding will not adversely affect their proposals.

The proposed development will only be acceptable if the measures as detailed in the Flood Risk Assessment, which was submitted with this application are implemented and secured by way of a planning condition on any planning permission.

Recreation and Biodiversity

This proposal may require an assessment under the Habitats Regulations because of the potential risks to the ecology of the River Caldey, which is part of the River Eden Special Area of Conservation (SAC) - as the confluence of the Little Caldey and River Caldey (part of the SAC) is only a very short distance downstream of this development.

Contaminated Land

Site investigations are recommended prior to construction taking place rather than during construction stage to enable appropriate risk assessment of contaminants of concern (if any) and remediation of soils and or groundwater.

The Environment Agency considers that planning permission should only be granted for the proposed development if a planning condition is imposed requiring further investigation into the nature and extent of potential contaminants within the site boundaries, together with the proposed remediation scheme and timetable should any contaminants be identified.

Environment Management

In England, it is a legal requirement to have a site waste management plan (SWMP) for all new construction projects worth more than £300,000. The level of detail that the SWMP should contain depends on the estimated build cost, excluding VAT. Developers must still comply with the duty of care for waste. Because of the need to record all waste movements in one document, having a SWMP will help to ensure compliance with the duty of care. If any waste is to be used on site, the applicant will be required to obtain the appropriate exemption or authorisation from the Environment Agency.

All surface water drainage should be fitted with oil interceptors.

United Utilities: no objection, in principle, provided that 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 United Utilities may require the flow to be attenuated to a maximum discharge rate determined by United

Utilities. All surface water drains must have adequate oil interceptors.

There are two combined sewers that cross the site. United Utilities would require the diversion works to be completed prior to the construction of the foodstore.

Discharges from the yard storage areas, vehicles washing areas, loading/unloading area and any other areas likely to be contaminated by spillage should be connected to the foul sewer. They may be regarded as trade effluents and may require the formal consent of United Utilities. If this proposal results in a trade effluent discharge to a public sewer, the applicant may need Trade Effluent Consent;

Cumbria County Council - (Archaeological Services): the Environmental Statement identifies that the site lies in an area of high archaeological potential. Caldewgate was a medieval suburb of Carlisle and documentary records suggest that the medieval Holy Trinity Church was located nearby. Workmen uncovered graves in Bridge Street that were possibly from the cemetery of the church in the 1950's. Furthermore a recent archaeological investigation on the opposite side of Bridge Street revealed important remains dating back to the Roman and medieval periods. It is therefore likely that significant archaeological remains survive below ground and that these would be damaged or destroyed by the proposed development.

It is recommended that an archaeological evaluation, and where necessary, a scheme of archaeological recording of the site is undertaken in advance of the development. This programme of work can be secured through the imposition of two planning conditions;

Environmental Services - Food, Health & Safety: no comments received;

Environmental Services - Environmental Quality: advice is provided in relation to two distinct aspects of the development:

Air Quality

Whilst the report has several shortcomings it is considered that the magnitude and impact of the development on air quality using the descriptors suggested in the National Society for Clean Air guidance document "Update of Development Control - Planning for Air Quality" is likely to be "very small" and "slight adverse".

On this basis the Environmental Quality Section does not have any objections to this application.

Noise

A development such as this has the potential to adversely impact upon those living near to the site, particularly with regard to noise. The Environmental Protection Services Officer concurs with the applicant's noise consultants in that the potential impact upon the residents of the nearby properties is not significant and can be mitigated against through the imposition of appropriate planning conditions;

Development Services Planning & Housing Services - Local Plans

(Trees): this proposal seeks to develop an area of land that at present is somewhat derelict. The site is close to the City Centre, and adjacent one of the main routes into and out of Carlisle. The opportunity arises to improve this area considerably and in so doing enhance the overall character of the area.

A detailed landscaping scheme should be submitted and agreed, in writing, with the Local Authority prior to a decision being made. This will ensure that the landscaping of the site is not a secondary consideration but considered as a part of the process as a whole.

The majority of the trees/vegetation on the site will be cleared to implement the development. It is noted that the majority of the trees are categorised as B and the loss of these trees/vegetation must be compensated for.

The indicative landscaping shown on the various drawings is inadequate and any detailed scheme must considerably improve on this. The main areas of concern are the frontage onto Bridge Street, the boundary with Bridge Lane/Willow Holme Road, and the car park.

Trees that are to be retained during development must be protected by suitable barriers to the specification set out in BS 5837 Figure 2. The location of protection barriers and their specification must be agreed by the Local Planning Authority, in writing, prior to commencement of any works on site. The barriers must be erected prior to commencement on site and maintained at all times;

Natural England: advice is provided in relation to two distinct aspects of the development:

Designated Conservation Sites

The application site is approximately 35m away from the Little Caldew and less than 1km away from the Caldew. The Caldew is part of the River Eden and Tributaries Site of Special Scientific Interest (SSSI) and River Eden Special Area of Conservation (SAC).

The location of the proposal in relation to this European Site means that the application must be determined in accordance with the requirements of the Habitat Regulations. Part I B of *ODPM Circular 06/2005 - Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System* describes the procedure for the consideration of plans and projects that may affect European and Ramsar sites.

Natural England agree with the applicant's agents that, in this instance, the overall risk to the River Caldew is not sufficient to require submission of the site investigation report prior to determining the application.

Natural England has requested that it is consulted again when the site investigation has been carried out and that Carlisle City Council build the necessary safeguards into planning permission [should it be granted] to ensure full consideration of this issue. Natural England recommends that this advice be recorded in the relevant section of the "Assessment of Likely Significant Effect"; however, this exercise would

only be undertaken if the Council is minded to approve the application.

Protected Species/General Ecology

Natural England notes that three further bat surveys were carried out in May, June and July of this year and that a bat roost was confirmed in one of the buildings. As highlighted in the mitigation section of the bat report a European Protected Species Development Licence will be required before the building in question is demolished.

It is also proposed that a replacement structure be erected specifically for bats and that this will be monitored for two years post construction. Natural England supports the suggestion that the mitigation measures outlined in bat report should be secured through either planning conditions or a Section 106 Agreement;

Cumbria County Council - Transport and Spatial Planning: the Development Control and Regulation Committee resolved that:

- No objection is raised to the application, subject to all the transport & highways issues identified in the Category 1 report (dated 27th October 2009) and Addendum be satisfactorily addressed in accordance with Cumbria and Lake District Joint Structure Plan Policies T30 and T31 and Local Transport Plan Policies LD4, LD7, LD8, C1 and C3.

The Development Control and Regulation Committee considered that in weighing up the merits of the application, Carlisle City Council should take account of the opportunity for wider retail choice, the apparent lack of impact on the existing District Centres in the Carlisle area and the potential regeneration/community benefits that could result from the development. Together these could indicate a significant material planning consideration to support the development in accordance with Planning Policy Statement (PPS) 6 "Planning for Town Centre" [Members should be mindful that since the County Council provided its response PPS6 has been replaced by Planning Policy Statement 4 "Planning for Sustainable Economic Growth"].

Should Carlisle City Council be minded to approve the development:

- a Section 106 agreement should be drawn up to ensure delivery of all the stated employment and regeneration benefits;
- the conditions set out in Annex 1 of the County Council's response should be applied to the approval to deal with the archaeological interests on the site; and
- Carlisle City Council should ensure that the potential issues of flood risk are satisfactorily addressed by this application, having taken advice from the Environment Agency and United Utilities.

The Transport and Spatial Planning Highway Team has provided a separate consultation response, which takes into account a supplementary report to the Transport Assessment provided by the applicant's transport consultants, Savell Bird & Axon.

In summary, it identifies that all outstanding highway issues have been satisfactorily addressed. The Highway Authority has no objection to the proposed development

subject to agreement being reached with regards to the level of contribution for the Caldew Cycleway link and the imposition of seven highway related planning conditions.

In addition to these conditions a s106 agreement is required to cover the following elements:

- A financial contribution (exact amount to be agreed) in respect of a specific section of Caldew Cycleway to link into cycle provision on Castle Way.
- £48,000 in respect of traffic calming measures on Rigg Street and Broadguards.
- £6,125 to cover associated staff time relating to ongoing monitoring and review of the Travel Plan.
- £40,000 in respect of providing an access to the development via Bridge Lane if required at a future date.
- £165,000 to enable highway improvements to the A595 Church Street / Morton Street / A595 Wigton Road / B5307 Caldcotes roundabout.

Community Services - Drainage Engineer: the applicant indicates disposal of foul sewage to the mains (public) sewer, which is acceptable.

The applicant indicates disposal of surface water to the mains (public) sewer on their application form. However, in the drainage statement, appendix 4.2, the applicant does discuss that further investigations in to sustainable methods will be made first of all. Every effort should be made to investigate sustainable methods before surface water is discharged to the public sewer.

The proposed site is located within a flood risk area and, as such, the applicant has consulted with the Environment Agency to develop their Flood Risk Assessment.

Public sewers run across this site and the applicant should contact United Utilities for further advice;

Development Services Planning & Housing Services - Access Officer: has highlighted the following issues:

- The location of toilets are noted within the store but as yet there is no detail;
- Adapted trolleys for wheelchair users should be provided;
- Care should be given to colour contrast, lighting and fire alarm provision; and
- Any alarms within disabled toilets should be linked to a permanently staffed area.

Policy CP15 of the Carlisle District Local Plan 2001-2016 should be complied with as well as Approved Document M. Guidance is available within BS8300/2009. The applicants should be aware of their duties within the Disability Discrimination Act;

Cumbria Constabulary - Crime Prevention: no objections;

Cumbria Fire Service: once occupied the building will be subject to the requirements of the Regulatory Reform (Fire Safety) Order 2005;

Development Services Planning & Housing Services - Building Control: no comments received;

Government Office for the North West: acknowledged receipt of the application;

Northern Gas Networks: no objections.

3. Summary of Representations

Representations Received

Initial:	Consulted:	Reply Type:
26 Skiddaw Road	07/07/09	
42a Bridge Street	07/07/09	
Unwin Jones Partnership	07/07/09	
1 Little's Court	07/07/09	Undelivered
2 Little's Court	07/07/09	Undelivered
3 Little's Court	07/07/09	Undelivered
4 Little's Court	07/07/09	Undelivered
Joiners Arms	07/07/09	Petition For
2 Bridge Lane	07/07/09	Support
1 Willowbank Apartments	07/07/09	
2 Willowbank Apartments	07/07/09	
3 Willowbank Apartments	07/07/09	
4 Willowbank Apartments	07/07/09	
5 Willowbank Apartments	07/07/09	
6 Willowbank Apartments	07/07/09	
7 Willowbank Apartments	07/07/09	
8 Willowbank Apartments	07/07/09	
9 Willowbank Apartments	07/07/09	
10 Willowbank Apartments	07/07/09	
11 Willowbank Apartments	07/07/09	
12 Willowbank Apartments	07/07/09	
13 Willowbank Apartments	07/07/09	
14 Willowbank Apartments	07/07/09	
15 Willowbank Apartments	07/07/09	
16 Willowbank Apartments	07/07/09	
17 Willowbank Apartments	07/07/09	
18 Willowbank Apartments	07/07/09	
19 Willowbank Apartments	07/07/09	
20 Willowbank Apartments	07/07/09	
21 Willowbank Apartments	07/07/09	
22 Willowbank Apartments	07/07/09	
23 Willowbank Apartments	07/07/09	Support

24 Willowbank Apartments		
25 Willowbank Apartments	07/07/09	
26 Willowbank Apartments	07/07/09	Support
27 Willowbank Apartments	07/07/09	
28 Willowbank Apartments	07/07/09	
29 Willowbank Apartments	07/07/09	
1 Willow Court	07/07/09	
2 Willow Court	07/07/09	
3 Willow Court	07/07/09	
4 Willow Court	07/07/09	
5 Willow Court	07/07/09	
6 Willow Court	07/07/09	
7 Willow Court	07/07/09	
8 Willow Court	07/07/09	
9 Willow Court	07/07/09	
10 Willow Court	07/07/09	
11 Willow Court	07/07/09	
12 Willow Court	07/07/09	
13 Willow Court	07/07/09	
14 Willow Court	07/07/09	
15 Willow Court	07/07/09	
Alexandra Saw Mills	07/07/09	
Electrolux Ltd	07/07/09	Undelivered
David Hayton	07/07/09	
McVities	07/07/09	Support
Stagecoach	07/07/09	
Curry Master	07/07/09	
25 John Street	07/07/09	
27 John Street	07/07/09	
29 John Street	07/07/09	
U Student	07/07/09	
11 John Street	07/07/09	
13 John Street	07/07/09	
15 John Street	07/07/09	Undelivered
John Street Hostel	07/07/09	
Allied Carpets	07/07/09	
Brewmasters House	07/07/09	
Old Brewery House	07/07/09	
Unit 2	07/07/09	
Jacksons	07/07/09	
Speediserve Building	07/07/09	Undelivered
Unit 4	07/07/09	
BK Screenprint	07/07/09	
Eden Community Church	07/07/09	
J & F Car Sales Ltd	07/07/09	
1 Caldew Maltings	07/07/09	
2 Caldew Maltings	07/07/09	
3 Caldew Maltings	07/07/09	
4 Caldew Maltings	07/07/09	Support
5 Caldew Maltings	07/07/09	
6 Caldew Maltings	07/07/09	
7 Caldew Maltings	07/07/09	
8 Caldew Maltings	07/07/09	
9 Caldew Maltings	07/07/09	
10 Caldew Maltings	07/07/09	
11 Caldew Maltings	07/07/09	
12 Caldew Maltings	07/07/09	
13 Caldew Maltings	07/07/09	
	07/07/09	Support

14 Caldew Maltings		
15 Caldew Maltings	07/07/09	
16 Caldew Maltings	07/07/09	
17 Caldew Maltings	07/07/09	
18 Caldew Maltings	07/07/09	
19 Caldew Maltings	07/07/09	
20 Caldew Maltings	07/07/09	Objection
21 Caldew Maltings	07/07/09	
22 Caldew Maltings	07/07/09	
23 Caldew Maltings	07/07/09	Support
24 Caldew Maltings	07/07/09	
25 Caldew Maltings	07/07/09	
26 Caldew Maltings	07/07/09	
27 Caldew Maltings	07/07/09	Support
28 Caldew Maltings	07/07/09	Support
29 Caldew Maltings	07/07/09	
30 Caldew Maltings	07/07/09	
31 Caldew Maltings	07/07/09	Support
32 Caldew Maltings	07/07/09	
33 Caldew Maltings	07/07/09	
34 Caldew Maltings	07/07/09	
35 Caldew Maltings	07/07/09	Comment Only
36 Caldew Maltings	07/07/09	
37 Caldew Maltings	07/07/09	
38 Caldew Maltings	07/07/09	
39 Caldew Maltings	07/07/09	
40 Caldew Maltings	07/07/09	
41 Caldew Maltings	07/07/09	Support
42 Caldew Maltings	07/07/09	
43 Caldew Maltings	07/07/09	
44 Caldew Maltings	07/07/09	
45 Caldew Maltings	07/07/09	
46 Caldew Maltings	07/07/09	
47 Caldew Maltings	07/07/09	
48 Caldew Maltings	07/07/09	
49 Caldew Maltings	07/07/09	
50 Caldew Maltings	07/07/09	
51 Caldew Maltings	07/07/09	
52 Caldew Maltings	07/07/09	
53 Caldew Maltings	07/07/09	
54 Caldew Maltings	07/07/09	
55 Caldew Maltings	07/07/09	
56 Caldew Maltings	07/07/09	
57 Caldew Maltings	07/07/09	
58 Caldew Maltings	07/07/09	
59 Caldew Maltings	07/07/09	
60 Caldew Maltings	07/07/09	Support
61 Caldew Maltings	07/07/09	
62 Caldew Maltings	07/07/09	
63 Caldew Maltings	07/07/09	
64 Caldew Maltings	07/07/09	
65 Caldew Maltings	07/07/09	
66 Caldew Maltings	07/07/09	
Church Street	07/07/09	
Church Street	07/07/09	
The Lodge	07/07/09	
Alexandra House	07/07/09	
Willowholme Industrial Estate	07/07/09	
Willowholme Industrial Estate	07/07/09	Undelivered
Willowholme Industrial Estate	07/07/09	
	07/07/09	

Willowholme Industrial Estate		
Millrace Road	07/07/09	
Millrace Road	07/07/09	
Millrace Road	07/07/09	
Millrace Road	07/07/09	
Millrace Road	07/07/09	
Willowholme Road	07/07/09	
Willowholme Road	07/07/09	
Willowholme Road	07/07/09	
Willowholme Road	07/07/09	
Willowholme Road	07/07/09	
Willowholme Road	07/07/09	
Stephenson Industrial Estate	07/07/09	
Stephenson Industrial Estate	07/07/09	
Wastewater Treatment Carlisle	07/07/09	
Stephenson Industrial Estate	07/07/09	
Stephenson Industrial Estate	07/07/09	
Stephenson Industrial Estate	07/07/09	
Old Brewery Residences	07/07/09	
Hopping House	07/07/09	
Maltmill House	07/07/09	
Tun House	07/07/09	
Fountain Court	07/07/09	
Kawasaki	07/07/09	
30 Bridge Street	07/07/09	Undelivered
30a Bridge Street	07/07/09	Undelivered
36 Bridge Street	07/07/09	
38 Bridge Street	07/07/09	
40 Bridge Street	07/07/09	
42 Bridge Street	07/07/09	
Belle Vue		
1 The Barrel House		Support
277 Newtown Road		Support
69 Granville Road		Comment Only
90 Moor Park Avenue		Support
Longstone		Support
Longstone		Support
42 Morrhouse Road		Support
28 Coledale Meadows		Support
7 Buttermere Close		Support
31 Harvey Street		Support
46 Holmrook Road		Support
18 Kirkstead Close		Undelivered
46 Dunmallet Rigg		Support
79 Nelson Street		Petition For
11 Whinlatter Way		Support
226 Chesterholm		Support
30 Cumberland Court		Support
Swanrigg		Comment Only
127 Moorhouse Road		Support
13 Derwent Street		Comment Only
		Comment Only
91 Dobinson Road		Support
3 Chatsworth Square		Comment Only
Stable House		Support
6 Mackies Drive		Support
2 Clarence Street		Support
11 Burnsall Close		Support
11 Dunmail Drive		Support
10 Parham Grove		Comment Only
		Support

16 Balfour Road	Objection
Fountain Court	Objection
Moordale Road	Support
29 Richardson Street	Comment Only
7 Bishops Close	Objection
Suite 9C	Support
25 Ruthella Street	Support
20 Yewdale Road	Support
81 Burnrigg	Support
10 Berkeley Grange	Support
99 Holmrook Road	Support
36 Wilson Street	Support
41 Criffel Road	Support
22 Sheehan Gardens	Comment Only
7 Inglewood Road	Support
4 Lowry Close	Support
4 Lewis Court	Support
33 Chesterholm	Support
35 Lawson Street	Support
20 Coledale Meadows	Support
126 Denton Street	Support
13 Morton Street	Support
6 Mackies Drive	Support
53 Berkeley Grange	Support
13 Pennine Way	Support
186 Dalston Road	Support
184 Dalston Road	Support
7 Westmorland Court	Objection
138 Dalston Road	Support
6 Graham Street	Support
13 Home Terrace	Support
12 Shap Grove	Support
9 Palmer Road	Support
115 Green Lane	Support
5 Garfield Street	Support
9 Coalfell Avenue	Support
9 Clift Street	Support
9 Caldbeck Road	Support
Scotch Firs	Support
22 Troutbeck Drive	Support
28 Criffel Road	Support
22 Silloth Street	Support
57 Castlesteads Drive	Support
37 Ruthella Street	Support
30 Criffel Road	Support
18 Morton Street	Support
162 Wigton Road	Support
13 Coledale Meadows	Support
61 Oxford Street	Objection
248 Chesterholm	Support
134 Newtown Road	Support
27 St Edmunds Park	Support
Brownmoor House	Support
Shanes Court	Support
104 Housesteads Road	Petition For
Milton Cottage	Support
The Stables	Petition For
Aronville	Support
15 Wentworth Drive	Support
95 Green Lane	Support
3 Chatsworth Square	Support
9 Beaver Road	Support

Chapel House	Support
1 Kirkstead Close	Support
69 Coledale Meadows	Support
55 Criffel Road	Support
93 Burgh Road	Support
129 Dalston Road	Support
2 Lazonby Row	Support
63 Ashley Street	Support
56 St James Road	Support
18 Weardale Road	Support
219 Green Lane	Support
55 Eden Park Crescent	Support
Dalston	Support
265 Wigton Road	Support
Roewath	Support
35 Borrowdale Road	Support
27 Fairfield Gardens	Support
Pathways	Support
86 Whernside	Support
7 Fellside Grove	Support
Burgh by Sands	Support
Castle	Support
259 Green Lane	Comment Only
1 Osprey Close	Support
54 Inglewood Crescent	Support
3 The Barrel House	Support
42 Eden Park Crescent	Support
Nook Street	Support
58 Burgh Road	Support
1 Castlesteads Drive	Support
Bourne House	Comment Only
8 Langsale Avenue	Support
16 Holme Head Way	Objection
1 Whitegate Cottage	Objection
10 Knowfield Avenue	Objection
Church Street	Support
149 Denton Street	Comment Only
39 Greenacres	Comment Only
37 Carlisle Road	Comment Only
21 Birchdale Road	Support
17 Nook Lane Close	Comment Only
7 Shap Grove	Support
25 Stainton Road	Support
Yew Tree Cottage Barn	Support
89 Scotland Road	Support
26 Kendal Street	Support
219 Wigton Road	Support
Green park	Comment Only
16 Silloth Street	Support
30 Moorpark Avenue	Support
21 Conisburgh Court	Support
Doreen Watson	Support
27 Hawick Street	Support
25 Gosforth Road	Support
Hawthorns	Support
6 Langdale Avenue	Support
	Support
111 Holmrook Road	Support
	Support

2 Troutbeck Drive
3 The Old Cornmill
45 Bassenthwaite Street
201 Holmrook Road
33 Beverley Rise
7 Beaver Road

Support
Support
Support
Support
Support

Summary of Representations

- 3.1 This application has been advertised by means of site and press notices as well as notification letters sent to one hundred and eighty neighbouring properties. In response one hundred and forty letters of support have been received, together with two petitions, both in favour of the development, signed by 116 and 327 people. In contrast, nine letters of objection have been received along with sixteen further letters that offer comments on the application.
- 3.2 The letters of support highlight the following issues.
1. At present the other large superstores are located to the north and east of the City and are not easily accessible by public transport. The provision of a store to serve the West quadrant, which is well served by public transport, will reduce cross-city travel;
 2. This is a substantial development which will create employment and be beneficial to this area. It will increase investment and have spin-off benefits for local businesses;
 3. The site is preferable to the Council's allocated site for a new foodstore at Morton, which is less accessible by public transport;
 4. The provision of a "Sainsbury's" superstore will increase competition and provide a high quality food retailer;
 5. The concerns raised regarding the design of the store are unfounded, particularly given the current appearance of the site and the fact that it will be seen against the backdrop of the McVities factory and other commercial buildings;
 6. The current appearance of the site is more harmful to the historic environment than the proposed development;
 7. The store is well related to a number of residential properties in the immediate vicinity, as well as two large employers (McVities and Carlisle Hospital);
- 3.3 The grounds of objection/comments are summarised as;
1. The potential increase in traffic could result in further traffic jams, which could hinder the progress of ambulances attending emergencies;

2. There are concerns that the potential traffic generated could adversely affect the living conditions of neighbouring residents and create increased air pollution;
3. The alterations to the highway network, including the provision of additional traffic lights, will increase congestion in this area at peak times;
4. The potential increase in traffic is such that the development should only be allowed to go ahead if the developer is prepared to contribute towards the “Connect 2” link, which would be to the benefit of cyclists and pedestrians, including those who use mobility vehicles. Without the provision of such a link the increase in traffic levels would be detrimental to cyclists;
5. The development lacks a strong street frontage, which will be detrimental to the appearance of the area and detract from views towards the Castle;
6. Appropriate landscaping should be provided to mitigate the visual impact of the car park;
7. The proposal is contrary to the objectives of the Development Plan and the draft development brief for the Shaddongate/Caldewgate area;
8. The introduction of another large retailer will have a detrimental impact upon the smaller, “family owned”, shops who will be unable to compete. This, in turn, may result in the loss of jobs;
9. The proposal fails the test of need and sequential approach outlined in PPS6 on the basis that:
 - The applicant has failed to demonstrate that there is sufficient convenience goods expenditure capacity to support the proposed floorspace;
 - There are significant weaknesses in the methodological approach adopted for the quantitative need assessment;
 - There are no significant qualitative considerations that outweigh the absence of quantitative need; and
 - There is a sequentially preferable site at Morton, which is suitable, available and viable to accommodate the proposed development.

[Members are reminded that PPS6 has since superseded by PPS4 “Planning for Sustainable Economic Growth”]

10. The original Planning and Retail Assessment has not accurately forecast the impact of the proposed foodstore on existing convenience facilities and has not given full consideration to the likely impact upon existing centres to the west of the City.
11. The development would have an adverse impact upon the implementation of the Local Plan by prejudicing the development of the allocated District Centre at Morton.

- 3.4 Eric Martlew (the City's former MP) has commented on the application. In doing so he has highlighted that whilst he initially had reservations regarding the layout and design, especially with regard to the treatment of the Bridge Street/Bridge Lane corner, the amended plans, with buildings fronting onto Caldewgate, are much improved. Mr Martlew expressed reservations regarding the traffic related issues but is of the opinion that these can be ironed out to the satisfaction of the Highway Authority. Assuming that this is the case Mr Martlew commented that he can see no reason why the City Council should not approve the application.
- 3.5 County Councillor Ian Stockdale has twice written in favour of the proposal on behalf of his constituents of the Belle Vue Division of the County Council, many of whom have expressed their support for the development. Cllr Stockdale believes that the west of the City has been a denied reasonable access to a superstore for too long, with the other larger stores located to the north and east of the City. Cllr Stockdale feels that the development offers substantial benefits in terms of regenerating a run-down area, increased employment, proven community support and benefits, as well as the opportunity to redress the traffic problems in this area. Cllr Stockdale believes that the proposal complies with the Government national retail guidance outlined within PPS4 and that the application will not prejudice the delivery of a food store at Morton. He also believes that the site is well related to the City Centre and that it has good public transport links.
- 3.6 Councillor Trevor Allison has also provided a comprehensive and balanced letter of support for the application, both as a City Councillor for the Dalston Ward and as County Councillor for the Dalston and Cummersdale Division. Councillor Allison has commented that his correspondence is provided on behalf of the residents that he represents.
- 3.7 In summary, Councillor Allison supports the proposal and recognises the weight of public opinion in favour of the application, together with the economic and regenerative benefits the scheme could offer in enhancing the Western gateway into the City. Notwithstanding the above, Councillor Allison has expressed some reservations regarding the lack of connectivity via public transport to some areas including Dalston, Denton Holme, Currock and Botchergate.
- 3.8 Councillor Allison also comments that, in his view, this current application is inexorably linked to the Council's anticipated application for a superstore at Morton, Tesco's extant permission at Viaduct Estate Road (VER) and the University of Cumbria's aspirations to relocate to the VER site. Due to the interrelationship between these distinct proposals Councillor Allison believes that the determination of this application and the Council's own anticipated application for Morton, which has yet to be submitted, should be deferred until the University publish its revised business plan in February 2010.

Members should be aware that Cllr Allison's reference to the University's plans was provided before it was alleged in the local press that the University was in financial difficulty and that its relocation to Caldew Riverside had been postponed for the foreseeable future.

- 3.9 A letter of support has also been received from Burgh by Sands Parish Council, principally on the basis that the application site is on the bus route into the City from the west and the rural area beyond. The Parish Council has also commented that the location of the store would support Carlisle's student population, many of whom are resident in the immediate vicinity, and that any perceived problems as a consequence of traffic generation would be alleviated by the Western Bypass.

4. Planning History

- 4.1 The application site includes a number of premises that are used for commercial, industrial and retailing activities. Many of these premises have been there historically and, therefore, there is no specific planning history relating to these businesses. There are, however, a number of more recent applications to development parts of the application site.
- 4.2 In 1998 planning permission was granted for the demolition of existing car showroom at 2-6 Church Street to enable the erection of new vehicle showroom and "Express Fit" centre, together with internal alterations to existing workshops (Application 98/0614).
- 4.3 In 2001 planning permission was granted for the change of use of the former "Scotby Cycles" premises on Bridge Street to enable it to be used for commercial plant hire and storage (Application 01/0209).
- 4.4 In 2003 a revision to the layout of the vehicle showroom/workshop approved under application 98/0614 was granted (Application 03/0302).
- 4.5 In 2004 "Full" planning permission was granted for the erection of thirty apartments on land to the rear of the former Hewden Hire Depot, 24-28 Bridge Street (Application 04/0717).
- 4.6 In 2005 "Outline" planning permission was refused for the demolition of garage and showroom at 2-6 Church Street to enable the erection of seventy residential units (Application 04/0755).
- 4.7 In 2006 a revised scheme was approved for the erection of thirty apartments to the rear of the former Hewden Hire Depot, 24-28 Bridge Street. (Application 06/0003).
- 4.8 In 2006 planning permission was refused for the redevelopment of the land at 24-28 Bridge Lane, including the former hostel at 1 Bridge Street, and their replacement with a four and a half storey building to provide student accommodation (Application 06/0845). The proposal comprised 96 bedrooms and 7 studios apartments, with associated car parking. The applicant's successfully appealed against the decision, which was allowed by the Planning Inspectorate in June 2007.

5. Details of Proposal/Officer Appraisal

Introduction

- 5.1 This application seeks “Full” planning permission for the erection of a retail foodstore, petrol filling station, ancillary development and car parking on land at the junction of Bridge Street and Bridge Lane.
- 5.2 The application site is located 500 metres to the northwest of the City Centre and covers approximately 2.9 hectares. It occupies the road frontage from the junction of Bridge Street with Bridge Lane and extends 100 metres westwards to Byron Street, which is adjacent to the Joiners Arms Public House. The site extends 270 metres northwards along Willowholme Road and measures 140 metres at its widest point.
- 5.3 By definition the land is “brownfield” and it is occupied by a range of buildings that are used for commercial, industrial and retailing activities. Previously there were residential properties on part of the site [corner of Bridge Lane/Bridge Street and at Willowholme Gardens]. These were demolished following the floods in January 2005.
- 5.4 With the exception of the BT Depot, the land to the east of the site is predominantly in residential use and occupied by apartment buildings and student Halls of Residence that are typically four storeys in height. To the north of the BT depot is a residential caravan site, which is occupied by showmen's families associated with the travelling fair.
- 5.5 Immediately to the north of the site is Willowholme Recreation Field, beyond which is the remainder of Willowholme Industrial Estate. To the west of the site, on the opposite side of Byron Street, lies McVities Factory which occupies the full length of the western boundary of the application site. Immediately to the south, across Bridge Street, is an area with a mix of uses including some retail units, a hot food takeaway, the vacant site of the former “Esso” filling station and a car sales pitch.
- 5.6 On the Proposals Map that accompanies the Carlisle District Local Plan (CDLP) the site is divided into three areas, each with its own specific land use designation. The land previously occupied by housing, which is located on the eastern extent of the site, is allocated as a Primary Residential Area. The land to the west, which occupies the remainder of the road frontage, is identified as suitable for mixed commercial development, whereas the land towards the northern extent of the site (approximately a third of the site area) is allocated for employment use.
- 5.7 The application site lies within the defined urban boundary of Carlisle, but is an “out-of-centre” location, as defined within Planning Policy Statement (PPS) 4 “Planning for Sustainable Economic Growth”. This is because the site lies 300m beyond the defined Primary Retail Shopping Area, as identified on the Proposals Map that accompanies the CDLP.
- 5.8 The River Caldew, which is a Special Area of Conservation and Site of

Special Scientific Interest, is located approximately 100 metres to the east of the site. The boundary of the City Centre Conservation Area has recently been extended and is delineated by the western side of the West Coast railway line. To the north of Castle Way is Carlisle Castle, which comprises a series of Scheduled Ancient Monuments (above and below ground) and Listed Buildings ranging from Grade 1, Grade II* to Grade II.

- 5.9 Part of Bridge Street, between the junction with Bridge Lane and Melbourne Street, has been declared an Air Quality Management Area (AQMA). Members may also be aware that the Wigton Road AQMA, which extends from Bower Street to Ashley Street, is scheduled to be extended on the 14th June to include the remainder of Wigton Road, up to Caldcotes roundabout (McVities), and the stretch of Newtown Road that leads from the roundabout to the Jovial Sailor Public House.

The Proposal

- 5.10 The application proposes a Sainsburys superstore, which provides a gross external floor area of 8,886 square metres (sq. m.), with a net tradeable retail area of 5,514 sq. m. Of this, 3,741sq. m. (40,082 sq ft) would be food (convenience) goods floorspace, and 1,773sq. m. (19,082 sq ft) would be non-food (comparison) goods floorspace. In respect of the store's opening hours it is proposed that it would trade between 8am and 11pm Mondays to Saturday and between 11am and 5pm on Sunday or bank holidays.
- 5.11 The application is supported by a suite of drawings and a range of detailed specialist studies. These include a Supporting Planning and Retail Statement; a Design and Access Statement; a Regeneration Statement; an Employment Land Report; a Summary of Consultation Report; a Protected Species Investigation Report; a Drainage Strategy Statement; a Flood Risk Assessment and a Transport Assessment.
- 5.12 Since the development falls within Part 10(b) of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, the application requires to be, and is, accompanied by an Environmental Impact Assessment (EIA). The EIA comprises Volume 1, which provides a "Non-Technical" summary of the key issues, such as a planning policy review; the visual impact of the development, archaeology, drainage/flood risk, ecology and nature conservation, transport issues, air quality and noise; Volume 2 provides a more detailed assessment of the aforementioned issues and covers several chapters; and Volume 3 contains the Appendices.
- 5.13 The application is a "departure" from the CDLP as it proposes a substantial retail development, which, in terms of its location, is out-of-centre and not in accordance with an up-to-date development plan. If Members are minded to approve this application, The Town and Country Planning (Consultation) (England) Direction 2009 dictates that it will be necessary to refer it to Government Office North West (GONW). GONW would then determine on behalf of the Secretary of State whether or not the application should be "called in" by the SoS or whether it is appropriate that the decision is made by

the Council, as Local Planning Authority.

- 5.14 Whilst this is not a speculative development, but an application by Sainsburys Stores Ltd., Members should be aware that if permission is granted the occupation of this store would be open to any food retailer. Throughout the application process the applicants' agent, How Planning, has placed a great deal of emphasis on this being a development by Sainsburys, as have supporters of the application; however, the perception as to who the end user might be should not influence Members' views of this application.
- 5.15 It is proposed that the superstore would be sited towards the northern extent of the site and it would occupy approximately a third of the overall site area. The store itself is conventional in appearance. Its front elevation would be predominantly glazed, with the walling above proposed to be clad with horizontal timber boarding. The remaining elevations would be clad with a combination of timber boarding and white profile cladding. The building would have an overall height of 11 metres.
- 5.16 The service yard to serve the store would be located to the rear (north) of the building and would be accessed from Willowholme Road. A new access road to serve Alexander Sawmill would be formed along the northern boundary (also accessed from Willowholme Road). It would replace the Sawmill's existing access from Byron Street which will be lost as Byron Street is proposed to be terminated to the south of the sawmill with land previously forming part of that road being incorporated within the development site.
- 5.17 To the south of the store is its car park, which occupies approximately half of the site and extends towards but not fully up to the road frontage with Bridge Street. It provides 446 car parking spaces, including 22 disabled parking bays, 18 parent/child bays, 22 motorcycles bays and 24 cycle spaces.
- 5.18 The Bridge Street frontage would be occupied by a petrol filling station and a two storey building, the latter of which is positioned at the junction of Bridge Lane with Bridge Street. It would provide two retail units to the ground floor (119 sq. m. and 121 sq. m.), with office accommodation above (243 sq. m). The agents have suggested that this building could also be available for use by local community groups.
- 5.19 The filling station would have twelve fuel dispensers and a sales kiosk, which would be relatively conventional in appearance and be finished in a combination of red facing brick and dark grey render. A proposed metal canopy would extend over the forecourt, which measures 21.4 metres in length (parallel to Bridge Street) with an overall height of 5.65 metres. The elevation drawings suggest that three 0.85m high illuminated Sainsburys logos would be accommodated on top of the canopy, although this aspect of the scheme would require a separate application for advertisement consent. The external walling of the proposed two storey office/retail units would be finished in similar materials, but with a concrete tile roof.
- 5.20 The filling station kiosk and the two storey office/retail units would be connected by a 1.37m high brick wall, incorporating brick piers and railings,

which is intended to provide “definition” to the street scene. The boundary wall, which defines the boundary of the site, would also be supplemented by tree planting.

- 5.21 A new vehicular access to serve the store is to be formed onto Bridge Street at the south western frontage of the application site immediately east of the junction of Byron Street with Bridge Street. In order to accommodate the proposed vehicular access a series of significant alterations are proposed to the surrounding road network. These are:
- Creation of an additional eastbound lane along Church Street and Bridge Street from Caldcotes roundabout (McVities) up to the junction with Bridge Lane;
 - An additional westbound lane being formed along Bridge Street to cater for a right hand turn into the site;
 - An additional lane being provided on John Street to enable traffic to turn right across Bridge Street into the site;
 - The vehicular accesses to the site when travelling east or westwards along Bridge Street, or from John Street, would be controlled by signalised junctions;
 - The existing bus stop on Bridge Street would be re-located to a central point along the site frontage; and
 - The existing access points on Church Street, Bridge Lane, and Willowholme Road would be closed and a continual footway provided for pedestrians.

Assessment

- 5.22 The relevant planning policies against which the application is required to be assessed are Policies DP1, DP2, DP3, DP4, DP5, W1, W2, W5, RT2, EM2, CNL1 and CNL2 of the North West Regional Spatial Strategy to 2021; “extended” Policies ST4, ST5, E13, E14, T31 and E38 of the Cumbria and Lake District Joint Structure Plan 2001-2016 and Policies DP1, DP2, CP1, CP2, CP5, CP6, CP9, CP10, CP12, CP10, CP12, CP13, CP15, CP16, CP17, EC2, EC5, EC22, H2, LE2, LE4, LE5, LE6, LE7, LE9, LE19, LE27, LE29 and T1 of the Carlisle District Local Plan 2001-2016.
- 5.23 Planning Policy Statement (PPS) 4 “Planning For Sustainable Economic Growth”, which was issued in December 2009, also provides an overview of Government guidance in relation to the retail sector. Members should note that PPS4 supersedes PPS6 “Planning For Town Centres”, which previously would have been referred to when considering applications of this nature.
- 5.24 In addition to the above Members need to be mindful of the content of the Council’s supplementary planning guidance within the “Urban Design Guide and Public Realm Framework” and the draft “Planning Brief for Shaddongate/Caldewgate”.
- 5.25 The proposals raise the following planning issues:
1. Whether The Principle Of The Proposed Development Is Acceptable.

- 5.26 Section 54a of the Town and Country Planning Act 1990/Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations (including Government Policy as expressed through Planning Policy Guidance Notes or Planning Policy Statements) indicate otherwise.
- 5.27 In assessing whether the principle of this development is acceptable Members must consider the proposal in the context of the above and have particular regard to the policy advice contained in PPS4 "Planning for Sustainable Economic Growth", as the most recent Government guidance to Local Planning Authorities when dealing with major retail proposals, together with the companion document the "Practise Guide to PPS4" which is intended to assist in its interpretation.
- 5.28 PPS4 adopts a different approach from its predecessors and now provides a series of "development management" policies that can be applied directly by Local Planning Authorities when determining planning applications. The policies within PPS4 that are relevant to this application are Policies EC10, EC14, EC15, EC16 and EC17. The content of PPS4 will be entirely new to Members and, therefore, to assist them in the determination of this application the following paragraphs (5.29-5.38) provide a résumé of these policies.
- 5.29 Policy EC10 provides generic guidance for Local Authorities in determining applications which relate to proposals that create economic development. Paragraph 4 of PPS4 identifies that for the purpose of interpreting this PPS, "economic development" includes development within Class B of the Use Classes Order (business/industry), public and community uses, together with "main town centre uses", which comprises development for retail, leisure and recreation, offices, as well as art, culture and tourism.
- 5.30 Policy EC10.1 advises that Local planning Authorities should adopt a positive and constructive approach towards planning applications for economic development and proposals that secure sustainable economic growth should be treated favourably.
- 5.31 Policy EC10.2 states that all planning applications for economic development should be assessed against the following "impact" considerations:
- a) whether the proposal has been planned over the lifetime of the development to limit carbon dioxide emissions, and minimise vulnerability and provide resilience to, climate change;
 - b) the accessibility of the proposal by a choice of means of transport including walking, cycling, public transport and the car, the effect on local traffic levels and congestion (especially to the trunk road network) after public transport and traffic management measures have been secured;
 - c) whether the proposal secures a high quality and inclusive design which takes the opportunities available for improving the character and quality of

the area and the way it functions;

- d) the impact on economic and physical regeneration in the area including the impact on deprived areas and social inclusion objectives; and
- e) the impact on local employment.

5.32 Policy EC14 outlines the supporting evidence that is required to accompany planning applications that relate to a “main town centre use”, as is proposed by this application. Amongst other things Policy EC14 identifies that an application of this nature should be supported by a sequential assessment as well as an impact assessment. Policy EC14 states that the impact assessment should be considered against the criteria identified by Policy EC16, the content of which is explained in paragraph 5.35 of this report.

5.33 Policy EC15 provides specific guidance relating to the sequential assessment. Policy 15.1 advises that when considering such assessments Local Authorities should:

- a) ensure that sites are assessed for their availability, suitability and viability;
- b) ensure that all in-centre options have been thoroughly assessed before less central sites are considered;
- c) ensure that where it has been demonstrated that there are no town centre sites to accommodate a proposed development, preference is given to edge of centre locations which are well connected to the centre by means of easy pedestrian access;
- d) ensure that in considering sites in or on the edge of existing centres, developers and operators have demonstrated flexibility in terms of:
 - i. scale: reducing the floorspace of their development;
 - ii. format: more innovative site layouts and store configurations such as multi-storey developments with smaller footprints;
 - iii. car parking provision; reduced or reconfigured car parking areas; and
 - iv. the scope for disaggregating specific parts of a retail or leisure development, including those which are part of a group of retail or leisure units, onto separate, sequentially preferable, sites. However, local planning authorities should not seek arbitrary sub-division of proposals.

5.34 Policy EC15.2 states that in considering whether flexibility has been demonstrated under Policy EC15.1.d (above) Local Planning Authorities should take into account any genuine difficulties which the applicant can demonstrate are likely to occur in operating the proposed business model from a sequentially preferable site.

5.35 Policy EC16 refers specifically to the “Impact Assessment” for those “main town centre uses” that are not in a centre or in accordance with an up to date development plan. Policy EC16.1 identifies that such proposals should be assessed against the following impacts upon centres [for the purpose of determining this application Members should consider the impact upon the city centre and the allocated district centre at Morton]:

- a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal;
- b) the impact of the proposal on town centre vitality and viability, including local consumer choice and the range and quality of the comparison and convenience retail offer;
- c) the impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan;
- d) in the context of a retail or leisure proposal, the impact of the proposal on in-centre trade/turnover and on trade in the wider area, taking account of current and future consumer expenditure capacity in the catchment area up to five years from the time the application is made, and, where applicable, on the rural economy;
- e) if located in or on the edge of a town centre, whether the proposal is of an appropriate scale (in terms of gross floorspace) in relation to the size of the centre and its role in the hierarchy of centres; and
- f) any locally important impacts on centres under policy EC3.1.e.

5.36 Policy EC17 is most important in understanding and applying the aforementioned policies, as it provides specific advice when considering planning applications for “main town centre uses” that are not in a centre and not in accordance with an up to date development plan. Policy EC17.1 advises that applications of the above nature, such as the current proposal, should be refused planning permission where:

- a) the applicant has not demonstrated compliance with the requirements of the sequential approach (Policy EC15); or
- b) there is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of any one of impacts set out in Policies EC10.2 and 16.1 (the impact assessment), taking account of the likely cumulative effect of recent permissions, developments under construction and completed developments.

5.37 The above policies (Policies EC17.1.a and EC17.1.b) form part of the new “impact” test introduced by PPS4. Policy EC17.2 goes on to advise that where no significant adverse impacts have been identified under policies EC10.2 and 16.1, planning applications should be determined by taking account of:

- a) the positive and negative impacts of the proposal in terms of policies EC10.2 and 16.1 and any other material considerations; and
 - b) the likely cumulative effect of recent permissions, developments under construction and completed developments.
- 5.38 In applying the foregoing Policies [EC17.1.a and EC17.1.b], paragraph 7.15 of the supporting Practise Guide to PPS4 advises that *"In every case it will be necessary to reach a balanced decision, having regard to the provisions of the development plan, the sequential approach and impact considerations"*.
- 5.39 To assist in considering this application against the development management policies within PPS4 the Council commissioned an independent retail assessment, which was originally undertaken by DTZ. The consultant, who has prepared three reports relating to this submission, has previously been the author of the Carlisle Retail Study (2000), the subsequent update to that Study prior to the Local Plan Inquiry (2006) and, again, following the onset of the global recession (2009). The consultant has also acted as expert witness at both the Tesco Public Inquiry for the Viaduct Estate Road site and in relation to the evidence presented on retail matters at the Local Plan Inquiry.
- 5.40 The consultant's first report relevant to this application commented upon the original Planning and Retail Assessment submitted by How Planning. The second report assessed the additional supporting arguments put forward by How Planning in response to DTZ's initial report. DTZ's third report assessed a further retail assessment that was produced by retail consultants, Turley Associates, acting for Sainsburys.
- 5.41 The latest advice was provided by DTZ on the 6th January 2010, eight days after the Government published PPS4 [this was issued on the 29th December 2009]. The applicant and its planning and retail consultants expressed concern that the publication of DTZ's advice so soon after the national guidance changed, i.e. issue of PPS4, may have meant that DTZ had not fully considered the new approach introduced by the Government regarding that way that Local Authorities should assess significant retail applications of this nature. The applicant was also concerned that DTZ's historic involvement, as retail advisor to the City Council for some years, may have resulted in DTZ being bound by its own previous advice to the City Council, which was that there was only sufficient capacity in the area to support one additional foodstore.
- 5.42 Conscious of the applicants' perception, the Council commissioned a further retail consultancy [White Young Green (WYG)] to consider all of the supporting submissions made on the applicants' behalf and to review the application's compliance with PPS4. WYG's task consequently embraced an assessment of the various retail submissions by the applicants' planning and retail advisors [How Planning and Turley Associates], as well as the previous advice provided to the City Council by DTZ. WYG were also instructed to consider a Counsel's Opinion obtained by the applicants addressing, in his view, how the new guidance in PPS4 ought to be interpreted. A letter from Colliers CRE, who are commercial advisors instructed by the applicants, has

also been submitted and seeks to explain why the Morton allocation is unsuitable to Sainsburys but that approval of this application should not deter other operators from developing a superstore at Morton. WYG has also assessed this as part of their wider analysis and advice.

- 5.43 To assist Members to assess the development proposal against the operative policies, and the advice provided by WYG, the following sections of this report considers the proposal in line with the guidance contained within Policies EC17.1.a and EC17.1.b (see paragraph 5.37). Prior to considering the “sequential approach” and the “impact assessment” it is necessary for Members to understand Carlisle's current retail position.

WYG's Summary Of Carlisle's Retail Position

- 5.44 A copy of the WYG's report has been reproduced, in full, following this report in the Schedule. In its response to the City Council, WYG has sought to provide an up to date picture of Carlisle's need for an additional food/non food superstore. In very simple terms, such an assessment takes into account the available expenditure within a given catchment area, compared against the turnover of the existing stores within that same area (including those on the periphery) and committed/planned developments (i.e. extant permissions and allocations). Depending on whether the subtraction of the estimated turnover from available expenditure results in a positive or a negative figure an indication of whether there is adequate capacity to support a new store can be derived. Such an assessment can take into account a variety of different variables such as the current and forecast catchment area population, per capita expenditure, existing and committed retail floorspace (including planning permission for retail floorspace), retailers' sales densities, amongst other forecasting parameters.
- 5.45 In identifying the existing “need” WYG has adopted the broad approaches utilised by both the applicants' retail consultant, Turley Associates, and the Council's retail advisor, DTZ. WYG's assessment identifies that the primary catchment area of the proposed store generates around £252.18m of convenience goods expenditure in 2009. This benchmark figure is obtained by applying the population to the estimated expenditure per person. WYG forecast this will increase to £268.94m by 2013 and to £272.24m by 2014.
- 5.46 WYG calculate that the existing convenience floorspace has a turnover of approximately £209.30m in 2009, of which £189.37m is estimated to be derived from the catchment area. WYG's estimate of the turnover of existing convenience goods floorspace derived from the catchment is comparable to that identified by Turley Associates (£190.65m) and lower than that identified by DTZ (£194.18m). With regard to the expected turnover of existing floorspace there is relatively little difference between the assessments undertaken by WYG, DTZ and Turley Associates.
- 5.47 In identifying future capacity for additional floorspace within the catchment area it is necessary to take into account outstanding commitments and planned developments. WYG identify these to be:

- Aldi, London Road, Carlisle (913 sq. m. net convenience);
 - Sainsburys Local at Scotland Road, Carlisle (251 sq. m. net convenience);
 - Tesco, Viaduct Estate Road, Carlisle (1,932 sq. m. net convenience);
 - Tesco, Annan (1,925 sq. m. net convenience) – opened in December 2009;
 - Tesco, Hopes Auction Mart, Wigton (1,486 sq. m. net convenience);
 - The Morton Allocation (2,500 sq. m. net convenience);
 - Supermarket, Gretna (2,340 sq. m. net convenience).
- 5.48 WYG's analysis identifies that these commitments are expected to achieve a turnover of £129.19m, of which £103.22m is estimated to be derived from the catchment area. In comparison Turley Associates identify a significantly lower level of convenience goods turnover from commitments derived from the catchment area (£37.73m). This is because its assessment did not take into account extant permissions for a new Tesco store in Wigton and a new foodstore in Gretna, as these were granted consent after Turley Associates undertook its retail assessment. Its assessment also excludes a new Tesco store in Annan, which is now open, and the extant permission for the Tesco store at Viaduct Estate Road [VER] in Carlisle.
- 5.49 Members should be aware that Turley Associates chose not to take the permitted store at VER into account, as they share DTZ's view that the approved store at the Viaduct is unlikely to be implemented as it would be significantly smaller than the three existing larger food retail stores and, in terms of accessibility, is poorly located. Both DTZ and Turley Associates believe that such a store would be unable to compete effectively with the larger and better located stores elsewhere.
- 5.50 The convenience goods turnover of the four commitments identified in paragraph 5.48 equates to over £70 million. By not including these commitments WYG argue that Turley Associates have significantly overestimated the available capacity to support additional convenience goods floorspace in Carlisle.
- 5.51 WYG's assessment also makes reference to an approved but unimplemented store in Penrith. Although the store lies outside the defined catchment area identified by DTZ and Turley Associates, WYG state that it is likely to draw some trade from the proposed store. DTZ had previously advised that approximately £5m of the Penrith store's turnover would be derived from the catchment area of the store hereby proposed, and WYG concur that this is a reasonable supposition. Consequently, this would further reduce the available expenditure. In respect of the Penrith store Members should be mindful that there is some uncertainty whether the permission will come forward in its current form and whether it is likely to be brought forward in the near future (i.e. before 2014).
- 5.52 The proposed store within the application now before the Committee has a net floor area of 5,514 sq. m. of which 3,741 sq. m. is intended to be used for the sale of convenience goods. WYG calculate that the development will have a convenience goods turnover of £34.88m. Of this turnover, some £31.39m (or 90%) is expected to be derived from the defined catchment area.
- 5.53 On the basis of the information contained within the preceding paragraphs

(5.45-5.52) WYG conclude that there is insufficient capacity to support the proposed development together with all outstanding commitments. In WYG's opinion, by 2014 there will be a deficit in convenience goods capacity (over and above outstanding commitments) of £33.51m. This capacity is before allowing for the new Sainsburys store at Caldewgate, which is identified to have a convenience goods turnover from the catchment area in excess of £31m.

- 5.54 WYG state that even if the proposed store at VER or the new supermarket in Penrith do not come forward there will remain a deficit in capacity of more than £7m by 2014. Even if a higher expenditure growth rate of +1.2% per annum is applied (as advocated by Turley Associates) there will still be insufficient capacity to support the proposed development together with outstanding commitments. WYG conclude that by applying a higher expenditure growth rate there will be surplus capacity of less than £4m by 2014, which would still be insufficient to support the proposed development.

- 5.55 WYG's review of the applicants' retail assessments and the Council's previous retail advice concludes that:

"It is evident that our 'sensitivity testing' of the approach adopted by Turley Associates and reviewed by DTZ demonstrates that there is insufficient capacity to support the proposed new Sainsburys store at Caldewgate together with outstanding commitments (including the allocation at Morton). Even if more optimistic expenditure forecasts are applied and certain commitments are excluded from our assessment due to their uncertainty of being implemented (i.e. the Tesco store at Viaduct Estate Road and the new foodstore at Penrith), there will remain insufficient capacity to support the proposed Sainsburys store at Caldewgate".

The Sequential Approach

- 5.56 Policy EC15 of PPS4 advocates that new retail development should be located in accordance with sequential principles i.e. first preference being City Centre sites, followed by edge-of-centre locations. In terms of the latter, PPS4 defines edge-of-centre to be *"a location that is well connected to and within easy walking distance (i.e. up to 300m) of the Primary Shopping Area"*. Paragraph 6.1 of the supporting Practice Guide states that *"Only if town centre or edge of centre sites are not available will out of centre locations be likely to be appropriate in policy terms, provided that they are well served by alternative means of transport, and are acceptable in all other respects including impact"*.
- 5.57 The applicants' sequential assessment is contained within the original Planning and Retail Assessment. In total thirteen alternative sites were considered as part of this assessment, embracing a range of city centre, edge-of-centre and out-of-centre locations. In respect of each location the assessment has sought to demonstrate why the application site is sequentially preferable to these alternative locations, with particular regard to the following factors [the approach endorsed by Policy EC15 of PPS4]:

- Availability;
 - Suitability; and
 - Viability.
- 5.58 For the most part the findings of the sequential assessment are not disputed by Officers. There are, however, two notable issues that Members need to be mindful of when considering this application.
- 5.59 First, the sequential assessment has not taken into account the land at VER, which is owned by Tesco and subject to an extant permission for its redevelopment to provide a superstore with a gross floor area of 3,715 sq. m. The VER site has always been argued as edge-of-centre and, therefore, its location would, thus, be sequentially preferable to the application site.
- 5.60 Although the site did not form part of the sequential assessment, had it been included the applicant could probably have concluded that, since it is owned by Tesco Stores, it would not be made available to another retailer, as it would compete directly with Tesco's existing City Centre store. The Council's retail consultant, DTZ, also advised the Council, in its 2009 Retail Study Update, that in their professional opinion the site is unlikely to be developed by Tesco or another operator. In the 2009 update, DTZ state *"we do not think that Tesco will implement its existing permission, since the permitted store would be significantly smaller than the three existing superstores and not as well located in terms of accessibility by car. If the planned development at Morton is developed in addition, a relatively small and poorly located Tesco supermarket at Viaduct Estate Road would be unable to compete effectively with four larger and better located superstores elsewhere in the City"*. As such, whilst this site could be viewed as a sequentially preferable location, its omission from the sequential assessment should not, in the view of Officers, prejudice the determination of this application.
- 5.61 The applicants, including their planning, retail and commercial consultants, have also dismissed the allocated site at Morton. Members will be aware that land has been allocated in the CDLP for a District Centre at Morton with capacity for a 2,500 sq. m. [net] convenience goods store. Whilst the Morton site is physically detached from the City Centre it is afforded similar status, as it is an allocated site. The allocation at Morton, which originated as a neighbourhood facility allocation following the 1997 Local Plan Inquiry, was based upon the 2006 Retail Study Update. This set the scene for formulation of the Local Plan policies and was accepted (despite objections) by the Planning Inspector following a Public Inquiry as the basis for the allocation of a District Centre at Morton. It is widely recognised that there is a need for a major foodstore to serve the southwest quadrant of the City, both in terms of supporting the existing residential population and that proposed as part of the southwest residential extension to the City, but also to substantially reduce cross-city travel to the existing large food superstores that are located to the north and east of Carlisle.
- 5.62 Sainsburys have maintained from the outset that for its business model to succeed in Carlisle the store has to be able to compete on a "like for like" basis with the other large out-of-centre food stores. As a new entrant to the

market it is Sainsburys view that the store needs to be of the size proposed to offer the full range of products to achieve the necessary level of claw back trade from the other large food stores. In support of Sainsburys case, its commercial consultants, Collier CRE, state that the Caldewgate site is the only site that can satisfy this criterion, dismissing the location of the Morton allocation, which in Collier CRE's view, is *"on the periphery of the urban area with less than ideal transport links"*.

- 5.63 How Planning maintain that DTZ's opinion regarding the likelihood of the VER being delivered reaffirms its position that their client's store needs to be of the scale and location proposed in order to compete effectively with the larger food stores.
- 5.64 WYG advise that to establish whether the Morton allocation is a sequentially preferable site, the tests of availability, suitability and viability have to be applied. In terms of "availability", WYG state that as the District Centre will be marketed in the near future it will, therefore, be available for development "within a reasonable timeframe". There is no exclusivity agreement with any particular retailer and Sainsburys could, clearly, bid for the site. From this it can only be concluded that the site is available.
- 5.65 In terms of its suitability, an area of debate has been whether the Morton allocation is suitable for a large foodstore, as the Local Plan allocation is for a foodstore with a net floorspace of 2,500 sq. m. In WYG's view the policy is not overly restrictive in that it would mean that the site is not suitable to accommodate a large foodstore in the future. WYG go on state that *"In fact it would appear to be somewhat erroneous to suggest that because there was a policy in place restricting the size of development on a sequentially superior site then this should be dismissed because the applicant is seeking a larger store in an out of centre location"*.
- 5.66 WYG highlight that, in assessing suitability, the Practise Guide to PPS4 makes it clear that *"sites should be assessed on the basis of whether they are suitable to accommodate the need or demand which the proposal is intended to meet"*. Accordingly, a judgement must be made on whether the Morton site is capable of accommodating a store of the size proposed by the applicant, not whether the proposal conforms to the policy threshold.
- 5.67 Sainsburys commercial advisors make reference to the Caldewgate site being the only suitable location for a new entrant to the market and, in their view, since the Morton site has less than ideal transport links that would limit the number of customers etc. On the basis of its knowledge of Carlisle/ Cumbria, WYG dismiss this argument, stating that the Morton site will prove attractive to major foodstore operators and that, in its opinion, the arguments put forward by Collier CRE are not valid. Furthermore, the Practise Guide states that when assessing the suitability of site the applicant should not reject sites based on self-imposed requirements or preferences of single operators without demonstrating a serious attempt to overcome any identified constraint.
- 5.68 WYG acknowledge that a certain size of store is required to compete with the

other large food retailers in Carlisle; however, the Morton allocation cannot be ruled out on that basis. Additional support for this argument can be drawn from the fact that within the 2009 Retail Study Update DTZ advised that depending on certain retail developments, the Morton site may be suitable for a larger store with a gross footprint of up to 7,500 sq m. [aggregating some “comparison” floorspace with “convenience” floorspace reflecting the District Centre status].

- 5.69 In summary, notwithstanding the argument put forward by Sainsburys, the fact remains that, in accordance with the Local Plan, Morton is a sequentially preferable location to the Caldewgate site. In considering this fact Members need to be mindful that paragraph 5.5 of the Practice Guidance states *“It is evident that significant weight is attached to the outcome of the sequential site assessment and impact assessment. However, it is still for the decision maker to judge the extent to which the applicant has demonstrated compliance with the sequential approach, and what constitutes a ‘significant’ adverse impact, based on the circumstances of each case”*.
- 5.70 Whilst the location of the proposed development fails the sequential test (in that a sequentially preferable site exists at Morton) this does not automatically mean that the application should fail. Members need to consider whether a significant adverse impact will be caused by the development, alongside any other material considerations, such as the potential regeneration/socio-economic benefits that the proposal might bring. These are discussed in greater detail in the analysis which follows.

The Impact Assessment

- 5.71 In respect of the “impact test” identified by Policy EC17.1.b of PPS4, Members need to consider whether or not the proposed development would be *“likely to lead to significant adverse impacts in terms of any one of impacts set out in Policies EC10.2 and 16.1”*. In considering this aspect, Members may wish to refer back to paragraphs 5.31 and 5.35 which highlight the relevant impact.
- 5.72 The following is a summary of Officers and WYG’s views as to whether the proposal complies with the impacts identified in Policy EC10.2:
- a) The applicants’ have always advocated that the store and the means of accessing it have been designed on the basis of sustainable principles. Officers do not challenge this and are satisfied that there would be no significant impact in respect of increased carbon emissions or upon climate change.
 - b) Officers are satisfied that the store is accessible by a choice means of transport and that the anticipated level of traffic generation is unlikely to result in an adverse effect on traffic levels or congestion.
 - c) The design and layout of the proposal and its impact upon the character and quality of the area is discussed later in the report (paragraphs 5.103 - 5.122). In summary, the issues surrounding this matter are finely

balanced; however, for the purpose of interpreting PPS4 it is Officers view that the design/layout would not result in a significant adverse impact.

- d) Throughout the this application process there has been a great deal of emphasis placed on the benefits in terms of the economic and physical regeneration in the area, including potential social benefits for some of the more deprived areas in Carlisle, one of which is Castle Ward. Officers do not dispute that the scheme would result in significant socio-economic benefits; however, Members need to be mindful whether the approval of this application would prejudice other developments being brought forward within the City that might achieve equal or greater benefits. In considering this issue, Members particularly need to focus on whether the scheme would prejudice the delivery of the District Centre at Morton, which has the potential to provide comparable [and possibly greater] benefits in terms of its immediate proximity to extensive and growing residential areas of the south-west quadrant.
- e) In respect of the impact upon local employment, the proposed store would result in substantial new employment on the site; however, there is some possibility that at least some of this would be transferred from existing foodstores, as a result of trade diversion.

5.73 In applying the impact tests in Policy EC16.1, WYG conclude:

- a) With regard to the impact of the proposal upon planned investment, DTZ previously concluded that the proposed superstore would seriously put at risk the planned new District Centre at Morton. WYG believe that DTZ's conclusion is "heavily influenced" by the capacity assessment (paragraph 5.55), as opposed to the dynamics of the retail market and the evidence available. In WYG's view as there is no developer or investor contractually committed to the Morton site, *"there is no evidence before the Council from potential retailers or investors that they would be significantly concerned about the proposed development"*.

WYG go onto state that *"Based on our experience elsewhere, we would be surprised if no interest was expressed for the site at Morton if the Sainsburys store was approved"*. WYG accept that the approval of this application may influence how the District Centre at Morton is developed in the future. On the basis of WYG's advice Officers accept that, while concerned to secure the Local Plan objective of development of the District Centre at Morton, there is no clear evidence of the current application having a significant adverse impact upon the delivery of the District Centre at Morton such as to support refusal.

- b) In terms of the impact upon the vitality and viability of Carlisle City Centre, WYG advise that Carlisle is a major comparison goods destination which serves the sub-region and beyond. Consequently any loss of convenience goods trade from the city centre, which may occur as a consequence of this application, would not impact upon the overall vitality and viability of the centre as a whole. The store would also add to the choice and range of goods available to the south west quadrant of the city.

- c) There are no sites outside town centres allocated for new retail development in the Development Plan, so this criterion does not apply.
- d) With regard to impact upon turnover/trade, it established that there is insufficient capacity to support the size of store proposed. This will result in significant trade diversion from the existing stores i.e. Asda, Morrisons and Tesco; however, these stores are predominantly located out-of-centre and are, therefore, afforded no protection in policy terms. WYG acknowledge that some trade will be drawn for the existing convenience stores within the City Centre, but, in its view, the impact caused by the development is unlikely to result in any of these stores closing. WYG state that *“there is no clear evidence to suggest that the impact on trade/turnover of established centres would be classed as ‘significant adverse’”*.
- e) The proposed development would be out-of-centre, so this criterion does not apply.
- f) This criterion also does not apply, as the development plan does not define any such centres in relation to locally important impacts.

5.74 In summary, in respect of the potential impacts identified by Policy EC10 or EC16, WYG conclude that the development will not result in any impact that would, in their view, be classed as a “significant adverse impact”. If such an impact was alleged to exist Members would be justified in refusing the application on the basis that it fails the “impact assessment”; however, in WYG’s view, there is not clear evidence of this.

Other Material Planning Considerations

- 5.75 As with any planning application, Members will appreciate that whether an application succeeds or fails does not hinge on a single policy test. It is necessary for Members to assess development proposals in the context of the wider planning framework, as well as in light of any material considerations, which can, in some instances, warrant approval of an application that may otherwise be viewed as being contrary to specific Development Plan policies.
- 5.76 Members will be aware of the potential benefits that this development offers in comprehensively redeveloping a significant, run-down and part derelict part of Caldewgate. The proposal represents a significant investment that would create employment, whilst also assisting in the physical and economic regeneration of the area.
- 5.77 How Planning has indicated that the development will provide an additional 450-500 jobs with flexible working hours to suit modern living. The scheme also involves a financial investment by Sainsburys of approximately £40 million. In the agent’s view, the proposal will bring back into use an underused and unattractive brownfield site that is situated on the “gateway” into the City from the West. Members will no doubt appreciate that this is a key issue

raised by many of the residents of Carlisle who have written in support of the application.

- 5.78 Members also need to take into account that the applicant has confirmed that a financial contribution of £1 million would be made available to address issues raised by consultees, such as the Highway Authority, and to provide physical improvements within the immediate vicinity. How Planning has provided a table outlining how this money would be spent. The agent's "Heads of Terms" table for inclusion within a proposed S106 Agreement is reproduced following this report in the Schedule.
- 5.79 In summary, £260,000 would be spent on highway improvements, including junction modifications and traffic calming. This includes improvements to the Caldcotes (McVities) roundabout and traffic calming within Rigg Street (and potentially Broadguards), the latter of which is required to deter motorists from using these streets as a "rat run".
- 5.80 £370,000 has been earmarked towards a specific section of the Caldew Cycleway link which would connect into existing cycle provision on Castle Way. The link forms part of the Connect 2 Scheme, which the Council is working to delivery in partnership with other bodies. The cycle link involves the provision of a ramp from the northern side of Castle Way, leading down onto the old railway track and then under Castle Way itself where it would connect with a recently completed section of cycleway, which is located to the rear of the tile distributors on Viaduct Estate.
- 5.81 The completion of this section would mean that a continuous off road cycle link would be secured between Dalston [4 miles south of the City] and the north side of Castle Way. In particular residents in Currock, Upperby and Denton Holme would have easy access to the proposed store as well as the parks and places of employment located to the north of Castle Way. The provision of this section would ensure that "Element 3" of the Connect 2 Scheme was complete and, therefore, Sustrans would release additional funds to enable the design and implementation of further sections of the Connect 2 Scheme. In that sense it is a catalyst to significant further investment in cycling facilities within the urban area.
- 5.82 The remaining £370,000 would be provided towards public realm improvements along Caldewgate, principally to offset concerns that have been expressed by the Council's Urban Designer and Conservation Officer [the specific issues regarding the design of the scheme are discussed in Section 2 of this report (paragraphs 5.103-5.122)].
- 5.83 Sainsburys also confirm that it is committed to "in house" employment and training initiatives, which also include assisting people from disadvantaged groups to obtain or return to work. The applicants' supporting Regeneration Statement outlines, amongst many things, that Sainsburys work in partnership with "Groundwork", supporting ex-offenders and providing work placements, and the "MENCAP WorkRight scheme", which supports individuals with a learning disability into work. These schemes do not involve any form of commuted payment; however, there is an internal cost to the operator. The

provision of such initiatives can be secured by the applicant entering in to a legal agreement, which Sainsburys has confirmed it is prepared to do. Similarly, it has been confirmed that small shop units and office space to the road frontage could be put to some community use.

- 5.84 In taking into account the aforementioned material considerations Members need to be mindful that Paragraph 7.21 of the Practise Guide to PPS4 specifically states that *“the significance of the proposed investment, including its contribution to the public realm, infrastructure, employment etc. should be balanced against any adverse effects on planned investment in nearby centres”*.

Summary

- 5.85 In determining this application Members are required to take into account whether the location of the development complies with the sequential approach and whether or not there is clear evidence that the proposal is likely to lead to a *“significant adverse impact”* in terms of any one of the impact policies set out in Policy EC10.2 and EC16.1 (paragraphs 5.31 and 5.35).
- 5.86 WYG conclude that on the basis of its “sensitivity testing” there is insufficient capacity to support the convenience goods element of the proposed scheme even if some of the existing commitments, such as the Tesco store at VER, are not implemented. Under the Government’s new approach to retail planning, however, lack of capacity is not a reason for refusal in its own right; nonetheless, it remains an important consideration, as it influences the conclusions reached on the sequential approach and impact assessment.
- 5.87 With regards to the sequential approach, WYG advise that the site at Morton is available, suitable and viable to accommodate the need/demand that Sainsburys proposal is intended to meet. Consequently, the Morton site is sequentially preferable to the Caldewgate site and, therefore, the location of the proposed store at Caldewgate fails the sequential test.
- 5.88 In respect of “impact”, the proposal would not have a significant adverse impact on any of the tests outlined in Policy EC10.2 of PPS4. Consideration then falls upon the six tests contained within Policy EC16.1 of the Policy Statement. In considering this matter, WYG conclude that there will be significant cumulative impacts upon certain stores throughout the City; however, for the most part these are out-of-centre and are not afforded any protection in policy terms. There will be some impact upon in-centre stores but WYG do not believe that this will result in any store closures or that it would undermine the vitality and viability of Carlisle as a sub-regional shopping destination. This is because the City Centre is underpinned by a strong comparison retail base. As a consequence WYG state that any conclusion regarding the impact of the development must focus on whether or not the Sainsburys’ store will prejudice the delivery of a new food store at Morton.
- 5.89 It is established that there is insufficient capacity to support the Sainsburys’ store when taking into account the estimated turnover of existing/committed

stores. From this factor alone, one may assume that the approval of this application would automatically deter another retailer/investor from developing the District Centre allocation at Morton. WYG, however, believe that the potential impact on future investment is more complex than simply assessing whether or not there is sufficient capacity. It is an important factor [one which Members may give significant weight to]; however, WYG do not believe that lack of capacity itself can be used to conclude that there will be a “significant adverse impact” upon investment in established centres.

- 5.90 WYG advise that it is difficult to come to a definitive view regarding the potential impact that this development will have upon future investment at Morton. This is because the site at Morton has yet to be marketed and no investor/developer is contractually committed. As such, it is unclear whether or not any future developer/investor at Morton would be concerned regarding the proposed Sainsburys' development.
- 5.91 WYG highlight that convenience goods retailers are often prepared to trade in close proximity to one another in order to capture a market share. Various retailers also target different markets with some operators focusing on low value and cost, with others being less price sensitive and promoting what they perceive to be a higher quality product. Taking into account the above WYG state that it cannot rule out *“that if the proposed Sainsburys' store was granted permission other convenience goods operators would still be interested in Morton in the future”*.
- 5.92 WYG go on to conclude that *“There is no evidence currently before us that definitively concludes that the Sainsburys' development would completely rule out the prospect of any retailer being interested in the Morton site once it is placed on the market. We accept it will have an impact but whether this impact is prejudicial or significantly adverse is in our view more finely balanced”*.
- 5.94 Paragraph 5.5 of the Practice Guide is quite clear that *“It is evident that significant weight is attached to the outcome of the sequential site assessment and impact assessment. However, it is still for the decision maker to judge the extent to which the applicant has demonstrated compliance with the sequential approach, and what constitutes a ‘significant’ adverse impact, based on the circumstances of each case”*.
- 5.95 Policy EC17.1.b of PPS4 also states that in forming an opinion there has to be clear evidence to support a conclusion. WYG's concluding paragraph states *“The weight attached to impact on Morton would be less given the fact that the conclusions reached on this matter are more finely balanced and we are conscious of the need for the local authority to have clear evidence that this development would have a significant prejudicial affect”*.
- 5.96 The evidence from WYG is clear, the lack of capacity within the catchment area is cause for concern; however, there is no overwhelming evidence before Members to demonstrate that this alone will result in a “significant adverse impact” upon the delivery of the planned District Centre at Morton.

- 5.97 Members are reminded of the need to weigh any potential adverse impacts upon the delivery of a District Centre at Morton against the significant socio-economic and regeneration benefits that the proposal offers. Whilst the issues are finely balanced and not clear cut it is Officers' opinion that there is insufficient justification to warrant refusing this application on the premise that it fails the impact test.
- 5.98 Members still need to give significant weight to the failure of the sequential test; however, in the absence of any demonstrable harm upon the delivery of a District Centre at Morton, Officers question what would be the justification in refusing the application solely on the basis that it fails the sequential test.
- 5.99 Paragraph 6.2 of the Practise Guide to PPS4 identifies that the sequential approach is intended to achieve two important policy objectives. Firstly, that sequentially preferable sites are more likely to be the most readily accessible locations by alternative means of transport and will, therefore, be centrally placed to the catchment of established centres, thereby reducing the need to travel. The second objective is to seek to accommodate main town centre uses in locations where customers are able to make linked trips in order to provide for consumer choice and competition. Whilst the application site may be out-of-centre, its location is not directly at odds with the objectives of the sequential approach and, therefore, it is Officers' view that the application should not be refused simply because it fails the sequential test, particularly when weighed against the potential redevelopment benefits.
- 5.100 In summary, whilst there are genuine concerns that the approval of this application could impact upon the delivery of the District Centre at Morton, there is no firm evidence to support this. Consequently, it is the Officers' conclusive view that in the absence of any demonstrable harm, together with the significant regeneration benefits that this scheme offers, Members would not be justified in refusing this application.
- 5.101 If Members are minded to approve this application, the Town and Country Planning (Consultation) (England) Direction 2009 dictates that it will be necessary to refer it to the Secretary of State as a "Departure". This is because the development is out-of-centre and relates to a new retail development with a floor area of greater than 5,000 sq m. GONW would then determine on behalf of the Secretary of State (SoS) whether or not the application should be "called in" by the SoS or whether it is appropriate that the decision is made by the Council, as Local Planning Authority.
- 5.102 In light of the above, if Members are minded to approve the application, it would also be necessary for the applicant to enter into a S106 agreement to secured financial contributions towards the highway improvements, the provision of the Caldew cycleway link and the proposed public realm works. The s106 agreement would also seek to secure the delivery of the non-financial aspects that Sainsburys promote such as its employment and training initiatives. It would also be appropriate to impose planning conditions that restrict the net floor space of the convenience and comparison sales area to ensure that the proposal does not have a greater impact, upon the City Centre or the allocated site at Morton, than has been accounted as part of

this assessment. Accordingly, if Members concur that, on balance, approval is appropriate it is requested that “authority to issue” Planning Permission is given subject to clearance of the referred application by the SoS and attainment of the matters to be covered by the S106 Agreement.

2. Design And Impact Upon The Historic Environment.

- 5.103 As Members will appreciate the junction of Bridge Street and Shaddongate is an important node on the principal western approach into the City and, consequently, the application site, due to its proximity to this junction, plays a pivotal role in influencing visitors' perceptions of this area. This concept is reflected in the overarching “vision” for Carlisle, which is outlined in the Council’s Supplementary Planning Document [SPD] entitled the “Urban Design Guide and Public Realm Framework” (UDG&PRF). The document provides comprehensive guidance on future development in the City and, in particular, the future of Carlisle’s public realm.
- 5.104 The SPD examines the “Western Approaches”, as one of eight specific “character areas” within the City. It provides an aspirational statement that sets out a projected vision for the area, together with detailed guidance based on eight urban design principles.
- 5.105 The UDG&PRF identifies that Bridge Street provides a poor quality street environment which is dominated by either fast moving traffic or congestion. The guidance advises that its built form lacks any true definition as a consequence of the numerous vacant plots, car parks and forecourts, all of which create a weak western approach with minimal townscape value. The SPD states that this is accentuated further still by the area’s poor public realm and relatively inactive street frontages.
- 5.106 In order to combat these issues the SPD advocates that western approach ought to be rejuvenated. To compensate for the current lack of continuity and enclosure (i.e. a built up frontage) it states that “*gateway and perimeter sites to Bridge Street and Shaddongate should present a distinct built form to the roadway edge with bold detailing*”. The Guide suggests that new buildings on Bridge Street could be as high as five storeys and that there is scope for an “*iconic/landmark building*” at the junction of Shaddongate/Bridge Street to mark the western gateway. In terms of the public realm, it advises there is scope to improve it through reducing the dominance of the car, landscaping, appropriate lighting and improved street furniture.
- 5.107 To supplement the UDG&PRF the Council has produced further supplementary guidance, the “Planning Brief for Shaddongate/ Caldewgate”, which is currently in draft form. Whilst there are outstanding issues to be resolved that relate to flood risk, the design related aspects of the scheme can be given reasonable weight. The study area within the planning brief covers the same area as the “Western Approaches Character Area” outlined in the UDG&PRF. The brief reflects and builds upon the guidance within the UDG&PRF.
- 5.108 It proposes that “*development in the area should provide a strong positive*

image as one of the key gateways into the City Centre. Importance is placed upon building a distinct image and a high quality 'sense of place' which is distinct from other parts of the City, but complements the context and reinforces character".

- 5.109 The Brief reinforces the UDG&PRF in that new development ought to contribute to a clearly defined frontage and that buildings should generally front onto street and public areas. A notable aspect of the document is that it identifies Nos. 30-42 Bridge Street, which are the Victorian buildings centrally located along the application site, as a "*positive frontage*". It also states that public realm is not enough to redefine and improve the western gateway area.
- 5.110 Members will be aware that the Council's Urban Designer has expressed strong views that the proposed development disregards the content of the adopted UDG&PRF and the emerging Shaddongate/Caldewgate Brief. The Urban Designer's objection, which provides more detailed references to the aforementioned design guidance, has been reiterated, in full, in the "Summary of Consultations Responses" section of this report.
- 5.111 In summary, the Urban Designer objects to the removal of the existing frontage buildings and the open street frontage that the proposed layout would provide. In the Urban Designer's view, the proposed demolition of the existing buildings and the implementation of this proposal would have a significant detrimental impact upon the built environment and townscape of the Shaddongate/Caldewgate area. Furthermore, it is stated that the design of the proposal is contrary to the objectives of the adopted and emerging urban design guidance.
- 5.112 The Conservation Officer's concerns echo those of the Urban Designer. It is the Conservation Officer's view that the absence of an "*edge of pavement*" development will harm views into and out of the City Centre Conservation Area. The application site is visible from West Walls and the Millennium Bridge, both of which are situated in the Conservation Area. The Conservation Officer has advised that considerable care was taken to produce the draft Planning Brief for Caldewgate, as it is seen as a significant entrance into the City Centre; one that needs to be improved in appearance and where the frontage buildings are important in retaining or creating an appealing and attractive approach.
- 5.113 The Conservation Officer has also expressed concerns regarding the appearance of the store itself, describing it as a "*large industrial shed*", which does not contribute to the character of the area. Concern has been raised that views of the store could potentially be glimpsed from West Walls, the Millennium Bridge and, to a lesser extent, the Castle Walk, which follows the base of the Castle walls along its western flank.
- 5.114 The western section of the Castle wall walk was previously open to the public. The Conservation Officer advises that English Heritage has intimated that the Castle wall walk may be reopened as part of its plan to revive the Castle as a visitor attraction. If this were the case, it is the Conservation Officer's view that the store would have an enormous impact on views out of the Conservation Area from this vantage point, as it would be seen over the traditional slate

roofs of the brick and stone buildings, which lie between the Castle and the supermarket site.

- 5.115 The Conservation Officer has also expressed concern that the proposal may adversely impact on Hadrian's Wall World Heritage Site (WHS) and its Visual Buffer Zone. The WHS does not include the part of the wall that runs through the urban area, nor the site of the Roman Fort in Carlisle, which formerly occupied the land between the Castle entrance and Castle Way. The Conservation Officer advises that Hadrian's Wall Heritage Ltd are proposing to examine the boundary of the WHS and there is a possibility that some, or all, of the excluded sections may be included within it. Irrespective of this, it is the Conservation Officer's view that the importance of the Wall and Fort in Carlisle are significant enough for the Council to consider what impact any development might have on the universal values of the WHS.
- 5.116 In addition, to the above the Conservation Officer feels that the experience of those walking the wall or visiting museums, such as Tullie House, is of considerable importance both culturally and economically. Part of that experience includes walking through Caldewgate and Willowholme. Although there is a significant amount of poor industrial development, the Council should take care that any new development does not simply add to this. The Conservation Officer has made reference to the "Roman Gateway Project", which is aimed at trying to improve the "visitor experience" and if Members were minded to approve this application the Conservation Officer recommends that a financial contribution is obtained to fund improvements to this part of the Hadrian's Wall Path.
- 5.117 On the basis of the above, both the Urban Designer and the Conservation Officer are of the opinion that the application ought to be refused. Whilst the agent, How Planning, does not share these concerns, following these issues being raised the applicant stated that Sainsburys would be prepared to contribute £1million pounds towards off site public realm works in the Shaddongate/ Caldewgate area, including highway improvements and the provision of the Caldew cycle link.
- 5.118 How Planning have intimated that the public realm works could include the creation of new areas of tree planting and landscaping, historic pavement detailing including kerbs, shared surfaces, good quality urban artwork, communal space and lighting columns.
- 5.119 Although the draft Planning Brief for Shaddongate/Caldewgate states that public realm alone is not enough to redefine and improve the western gateway area Members will appreciate that £1 million is a significant financial contribution which, the applicant believes, would go some way to offsetting the concerns that have been expressed regarding the design. Both the Conservation Officer and the Urban Designer have been made aware of this financial contribution; however, neither consultee has embraced the offer as a potential compromise.
- 5.120 It is clear from the adopted and emerging design guidance that there is a strong desire to rejuvenate the Caldewgate area. How Planning do not

believe that its delivery should rest on a single issue relating to the street frontage. It is their opinion that the Conservation Officer and Urban Designer's views are based on a narrow interpretation of the urban design guidance rather than a review of the whole document. In the agent's opinion, whilst a degree of enclosure is suggested, it is not the sole requirement and the application should be considered in the context of the wider benefits that the scheme could deliver. Given the low baseline, in terms of existing environmental quality and commercial attractiveness, How Planning argues that the proposal does not result in any significant demonstrable harm. Whilst public opinion alone should not influence Members opinion on this matter, it has been a common theme outlined in the letters of support that have been received.

- 5.121 Aside from the above, How Planning also believe that Members should consider their application in light of "commercial reality". Irrespective of individual views of the design, How Planning maintains that it is unlikely that another private sector developer will come forward to redevelop the site on the scale that this application proposes. This is partly due to the difficult economic climate, but also because of the complexities surrounding the multiple land ownership. How Planning believe that the store will act as a catalyst for further economic development in the area which would help achieve the underlying objectives of the design guides, i.e. the regeneration of Caldewgate.
- 5.122 In considering the design of the scheme, it is Planning Officers view that there are, clearly, compelling arguments for and against the proposal. These particular issues are finely balanced; however, Officers consider that any potential harm, in design terms, is outweighed by the significant regeneration benefits that this scheme offers. If, however, Members support the views of the Urban Designer and Conservation Officer, it is transparent that the Committee would need to refuse the application on the basis that it is contrary to the advice contained within the UDG&PRF and the emerging Planning Brief for Shaddongate/Caldewgate. In doing so, reference should also be made to those policies within the Carlisle District Local Plan that relate to design and the impact upon Conservations Areas, Scheduled Monuments and the Hadrian's Wall WHS.

3. Highway Issues.

- 5.123 As previously identified the proposal involves significant alterations to the highway network. These include the provision of additional traffic lanes on Bridge Street (along the east and west bound carriageways) and John Street, together with the creation of a signalised junction to enable access to the site from these roads.
- 5.124 Due to the strategic planning implications this application raises, guidance on highway matters is provided by the County Council's Spatial Planning Team. The report that its Officers presented to the County Council Development Control and Regulation (DC&R) Committee in October 2009 highlighted a number of shortcomings in the applicants' Transport Assessment and Travel Plan, as well as the proposed alterations to the highway network.

Notwithstanding these issues, the DC&R Committee resolved not to object to the application subject to these matters being resolved.

- 5.125 Since the DC&R Committee provided its consultation response there have been extensive discussions between the applicants' transport consultants, Savell Bird and Axon, and the Highway Officers.
- 5.126 Following the publication of the County Council's original response, Highway Officers expressed concern that the layout of the proposal could prejudice the provision of a roundabout at the junctions of Bridge Street with Bridge Lane and Shaddongate. Members may be aware the roundabout currently forms part of the County Council's aspirations for an upgrade to the road network as part of the "Inner Orbital Relief Route", which is intended to reduce traffic in the City Centre and assist with the delivery of the Urban Design Guide and Public Realm Framework objectives. However, the works are not in any approved Programme nor have they been assigned any funding.
- 5.127 To overcome this issue the applicants have revised the layout of the scheme to demonstrate that adequate land has been retained to provide the roundabout at a later date should the County Council wish to do so. The revisions also seek to address the original highway concerns raised.
- 5.128 The applicants' transport consultants have supplied two alternative access scenarios (Drawing Nos. N71289/010A and N71289/011, which are reproduced following this report in the Schedule). The first scenario reflects the changes to the highway network that are actually proposed by this application (previously described in paragraph 5.21 of this report). The second scenario demonstrates how the access arrangements could be modified if the County Council sought to implement the roundabout.
- 5.129 The fundamental difference proposed by the second scenario is that customers approaching by car from the north, east and south would use the roundabout to access the site, via Bridge Lane, whereas customers from the west would access the site from Bridge Street, the entrance to which would be restricted solely to eastbound traffic. The signalised junctions on Bridge Street that are proposed as part of the current access arrangements would be removed and whilst vehicles could exit the site via Bridge Street or Bridge Lane, ultimately, they would have to utilise the potential Shaddongate/Bridge Street roundabout to depart in their chosen direction.
- 5.130 The County Council has recommended that two conditions are imposed in relation to the aforementioned issue. The first condition would require the applicant to implement the development in accordance the first access scenario i.e. with the provision of the signalised junction and additional traffic lanes. The second condition would require the alternative access scenario to be implemented, but only if the County Council decided to construct the roundabout.
- 5.131 The County Council's Highway Officers have confirmed that its previous reservations have been addressed. As such, the County Council has raised no objection to the amended proposals, subject to the imposition of several

planning conditions and the completion of a S106 Agreement to secure a financial contribution of £259,125. The contribution would cover four specific areas:

- i. £48,000 would go towards traffic calming measures on Rigg Street and Broadguards;
- ii. £165,000 is required to enable highway improvements to the A595 Church Street / Morton Street / A595 Wigton Road / B5307 Caldcotes roundabout;
- iii. £40,000 would be reserved enable the provision of an alternative access onto Bridge Lane should the County Council decide to implement its aspirations for a new roundabout, as part of the Inner Orbital Relief Route, at a future date; and
- iv. £6,125 would be used to cover staff time relating to ongoing monitoring and review of the Travel Plan.

5.132 The Highway Authority highlighted that the sole outstanding issue to be addressed is the level of commuted payment towards the provision of a specific section of the Caldew Cycleway link, as identified in paragraph 5.81 of this report. The Highway Authority identified that the estimated cost of the work is £330,000; however, the City Council's Highway's Service Manager, who is involved in the delivery of the Connect 2 Cycle Scheme, advises that the figure is more likely to be £370,000.

5.133 Since the Highway Authority provided its consultation response the applicant has confirmed that it is prepared provide £370,000 towards these works, which, if Members were minded to approve this application, could be secured through the completion of a S106 agreement.

5.134 In summary, the County Council's Highway Officers have raised no objections to the proposed development, subject to compliance with the aforementioned issues. A S106 agreement would also be needed to secure any financial contributions that may be required. On the basis of this, Members are advised that, in the Officer's view, it is unlikely that there would be any justification to refuse the application on highway grounds.

4. Impact upon Air Quality In The Immediate Vicinity.

5.135 Members will be aware that part of Bridge Street and Wigton Road have been declared an Air Quality Management Areas. In order to determine the potential impact of the development upon air quality in the immediate area the Council's Environmental Protection Services (EPS) Officers has assessed the anticipated traffic generation figures provided by the applicant. Based upon the information provided, the EPS Officer has concluded that the proposed development is unlikely to cause a significant adverse impact on local air quality.

5. Noise.

5.136 The EPS Officer has identified that there is potential for the living conditions of the nearby residential properties to be affected by the noise generated by

additional traffic, deliveries to the service yard and from fixed plant at the store/filling station. Following discussions with the applicants' noise consultant the EPS Officer is satisfied that the living conditions of the surrounding residential properties could be safeguarded through the imposition of several planning conditions.

6. The Impact of the Proposal on the Living Conditions of Neighbouring Residents.

5.137 The principal concern that this application raises in respect of its impact upon neighbouring residential properties relates to the potential noise disturbance, although in the EPS Officer's view this can be addressed through the imposition of appropriate conditions, as highlighted above.

5.138 The location of the store is such that the living conditions of nearby residents will not be affected through loss of light, loss of privacy or over-dominance. The majority of nearby residents would overlook the car parking area of the store. Whilst this may not result in the most aesthetically pleasing outlook it would be a significant improvement over what exists at present. Members will be aware that several supporters of the application have made this point, including some of those residents who live in these properties.

5.139 Although the car park and store would be illuminated, an appropriate lighting scheme could be provided to ensure that the living conditions of nearby residents are not adversely affected. In considering this issue Members should be mindful that there will be a degree of light spillage from existing street lighting and other commercial properties in the area.

5.140 The proposed hours of operation are not unreasonable (8am to 11pm) and, subject to the imposition of a condition restricting the opening hours to these times, the living conditions of the immediate residents are unlikely to be adversely affected. In order to ensure that the immediate residents are not disturbed at unsociable times a condition could be imposed to mitigate the potential impact generated by delivery vehicles.

7. Contamination.

5.141 The supporting Environmental Impact Assessment acknowledges that as a consequence of the previous commercial/industrial uses that have taken place it is likely that some areas may be contaminated. In order to address this issue the Environment Agency has recommended that a condition is imposed [if planning permission is granted] that would require further investigation into the nature and extent of potential contaminants within the site, together with a proposed scheme for remediation should any contaminants be identified.

8. Archaeology.

5.142 The County Council's Historic Environment Officer has identified that the site lies in an area of high archaeological potential. Caldewgate was a medieval suburb of Carlisle and documentary records suggest that the medieval Holy Trinity Church was located nearby. Furthermore a recent archaeological

investigation on the opposite side of Bridge Street revealed important remains dating back to the Roman and medieval periods.

- 5.143 It is therefore likely that significant archaeological remains survive below ground and that these would be damaged or destroyed by the proposed development. To address this issue the Historic Environment Officer has advised that an archaeological evaluation and, where necessary, a scheme of archaeological recording of the site should be undertaken in advance of development, both of which could be secured through the imposition of two planning conditions.

9. Loss of Employment Land.

- 5.144 Part of the site is allocated as a Primary Employment Area and the loss of such land (1.5 hectares) to other uses is a material consideration. Members may be aware of instances where applications have been refused on this basis. However, in this instance the loss of employment land would be compensated for through alternative job creation and the regeneration of the site.

10. Flooding.

- 5.145 The Environment Agency has stated that the site is within Flood Zone 3 and that the area flooded to a significant depth (2.3m above ground levels) in January 2005. As finished floor levels are proposed to be set at 13m AOD, had the store been constructed in advance of the January 2005 flood event the building would have flooded to a depth of 1.85 metres. Notwithstanding this, the Environment Agency advise that a supermarket is defined by PPS25, "Development and Flood Risk", as a "less vulnerable" land use type.
- 5.146 The Environment Agency has been involved in the discussion and provision of information to the applicants' engineers, Hadfield Cawkwell Davidson. The Agency has advised that, notwithstanding a number of minor issues, the Flood Risk Assessment (FRA) has been produced in accordance with the current guidance and addresses the main areas of concern.
- 5.147 The FRA places focus on the risk receptors to flooding i.e. customers, rather than the proposed building, which should be addressed through the production of a Flood Action Plan. In setting Finished Floor Levels at 13m AOD, the Environment Agency advises that the applicant should be fully aware of the potential flood risk and frequency. The applicant should be satisfied that the impact of any flooding will not adversely affect their proposals.
- 5.148 In respect of flood risk the Environment Agency has advised that the proposed development will only be acceptable if the measures detailed in the FRA are implemented. This could be secured through the imposition of a planning condition.

11. Designing Out Crime.

5.149 Cumbria Constabulary's Architectural Liaison Officer's (ALO) initial consultation response highlighted that the Design and Access Statement that accompanied the application did not demonstrate how the scheme complied with Policy CP17 (Designing Out Crime) of the Local Plan.

5.150 The ALO recognised that as an established retailer Sainsburys would have taken many of his concerns into account, albeit not provided the necessary information. To address these provisional concerns the ALO liaised directly with the architect and has since confirmed that measures to "design out crime" have been taken into account.

12. Impact Upon The River Eden And Tributaries Special Area Of Conservation (SAC) And Site Of Special Scientific Interest (SSSI).

5.151 Natural England has highlighted that the application site is approximately 35m away from the Little Caldew and less than 1km away from the River Caldew, which are part of the River Eden and Tributaries SAC and SSSI.

5.152 Natural England accepts that the overall risk to the River Caldew is not sufficient to require submission of the site investigation report into the presence of possible contaminants prior to determining the application; however, it advises that if the Council was inclined to approve this application it would be necessary to undertake an "Assessment of Likely Significant Effect". This assessment would identify those conservation features of interest; the potential hazards these features would be exposed to during the construction phase and the means of mitigating any potential adverse impact.

13. Environmental Impact Assessment

5.153 As part of the description of this proposal Members were made aware that the application was accompanied by an Environmental Impact Assessment (EIA). The key issues raised by the EIA included a planning policy review; the visual impact of the development, archaeology, drainage/flood risk, ecology and nature conservation, transport issues, air quality and noise. All of the issues raised are discussed within the main body of this report; however, for the reasons previously identified no issues were identified by consultees or representatives that indicate any adverse impact.

5.154 In recommending that this application is approved, Officers have taken into account all relevant environmental information (including the supporting Environmental Statement) within the meaning of Regulation 3(2) of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.

Conclusion

5.155 In respect of the "principle" of the proposed development the issues are finely balanced. Whilst there are concerns that approval of this application could impact upon the delivery of the District Centre at Morton [principally as a consequence of lack of retail capacity], it is Officers' view that there is no clear evidence of a "significant adverse impact" that would justify refusing the

application on this basis.

- 5.156 The location of the application fails the sequential test outlined in PPS4, in that the allocated site at Morton is sequentially preferable; however, PPS4 clearly advises that the weight attached to that is a matter for the decision maker. In considering the significance of failing the sequential test, it is Officers' view that Members need to fully consider the Governments reasoning behind the sequential approach, which is to ensure that developments are accessible by all forms of transport and that they enable customers to make linked trips that would help reinforce the vitality and viability of [in this case] the City Centre. It is Officers' view that the location of the store is such that it would not prejudice that objective.
- 5.157 In the absence of any clear demonstrable harm to the delivery of the District Centre at Morton, Officers question, in light of the above, what actual harm will result from non-compliance with the sequential test. Any potential adverse effects also need to be balanced against the positive effects of the proposal, in terms of investment; employment generation; and the physical and economic regeneration of the area.
- 5.158 In applying the "planning balance" Officers conclude that Members would be justified in allowing this application, but only if they are satisfied that the merits of this proposal outweigh any potential adverse impact upon the delivery of the District Centre at Morton.
- 5.159 Whilst concerns have been raised regarding the design of the scheme [in particular the absence of an edge of pavement frontage] and the impact it will upon views into and out of the City Centre Conservation Area, Members may concur that any actual harm is compensated, in part by the public realm works proposed, but, primarily, through the comprehensive regeneration package that this scheme will deliver.
- 5.160 If Members were minded to support the Officers' recommendation it would be necessary to impose a comprehensive schedule of conditions to regulate various aspects of the development. The wording of these conditions has not complied in advance of this report being written as the prospective recommendation was dependent upon the advice received from WYG. It is anticipated that the proposed conditions will relate to the size of the net convenience/comparison floor areas; opening hours/delivery arrangements; the external materials to be used (including hard surface details); the siting of plant/machinery; landscaping; archaeological issues; the external lighting scheme; flood mitigation measures; disposal of foul and surface water; contamination and a variety of highway issues.
- 5.161 Members are also reminded that if they are minded to approve this application it is necessary to undertake an "Assessment of Likely Significant Effect" given the potential impact upon the River Eden and Tributaries SAC and SSSI. This assessment needs to be agreed by Natural England; however, Officers do not envisage that the outcome of the assessment will preclude planning permission being granted. Clearly, however, if it were found to give rise to such concerns the application would be brought back before Members.

5.162 In conclusion, it is recommended that, although not an "allocated" site, for the reasons identified in this report there is insufficient justification not to approve this development as an "exception" from the provisions of the Development Plan. If Members accept this recommendation, and are minded to grant planning approval it is requested that "authority to issue" the approval is bestowed subject to:

- a) no adverse comments being received from Natural England following the completion of an "Assessment of Likely Significant Effect";
- b) the imposition of any conditions that Officers consider necessary and relevant to the application;
- c) clearance by GONW following the referral of the application as a "Departure"; and
- d) the completion of a S106 agreement to secure the financial contributions referred to in this report, together with the implementation of the training schemes/initiatives outlined in the supporting Regeneration Statement.

Informative Notes to Committee:

1. Section 106 Agreement with Authority to Issue

In view of the nature of the proposal and the planning issues associated with it, it is recommended that the applicant(s) be invited to enter into a legal agreement under the provisions of Section 106 of the Town and Country Planning Act 1990 and that subject to a satisfactory agreement being concluded, Officers be authorised to issue planning approval.

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;

6.3 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.

7. Recommendation - Grant Permission

NOTE

All dimensions are to be checked on site, do not scale.



EXISTING AREAS
APPROX SITE AREA 7.52 Acres / 3.04 Hectares

DATE: 28/05/2009
DRAWN: JH/CB
CHECKED: JH/CB
INITIAL ISSUE

PLANNING

Sainsbury's

NEW STORE
BRIDGE STREET
CARLISLE

EXISTING SITE LAYOUT

SCALE: 1:1250@A3
DATE: DEC 08
SDF

Hadfield Cawkwell Davidson

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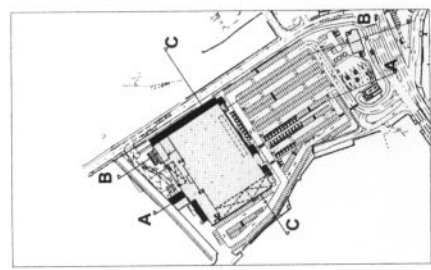
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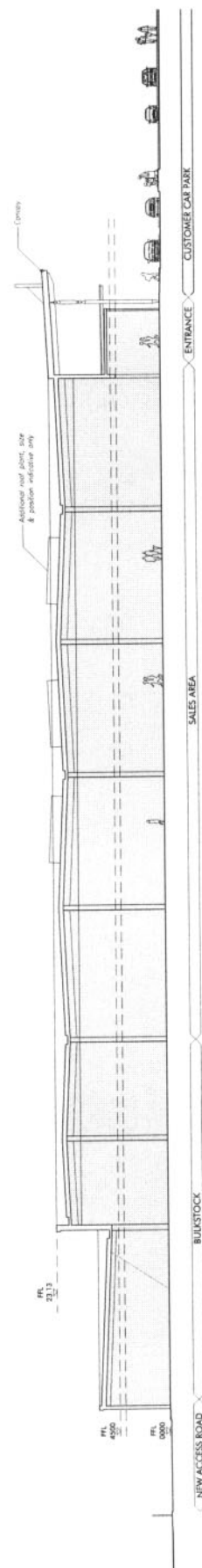
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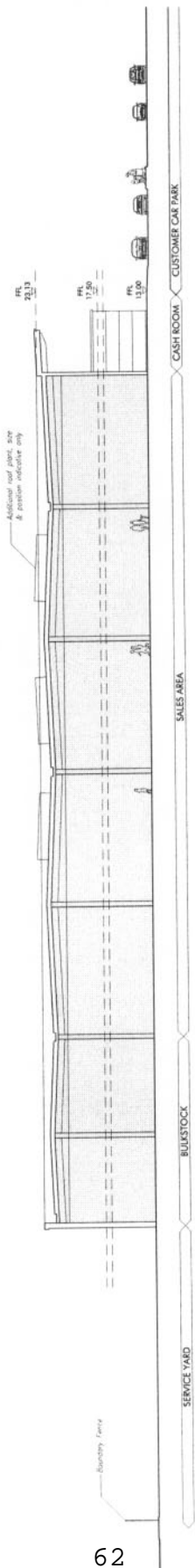
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PROPOSED LEVELS SUBJECT TO DETAIL DESIGN DEVELOPMENT
DRAINAGE STRATEGY SUBJECT TO DETAIL DESIGN DEVELOPMENT



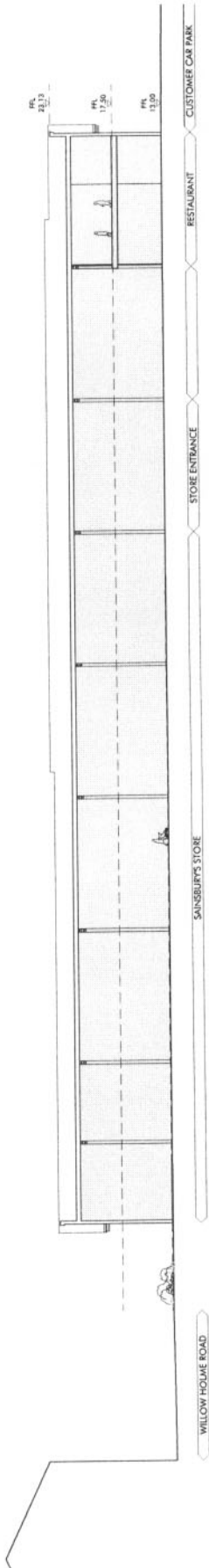
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SECTION A-A



SECTION B-B



SECTION C-C

PLANNING

Sainsbury's
NEW STORE
BRIDGE STREET
CARLISLE

PROPOSED
SITE SECTIONS

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SDP			

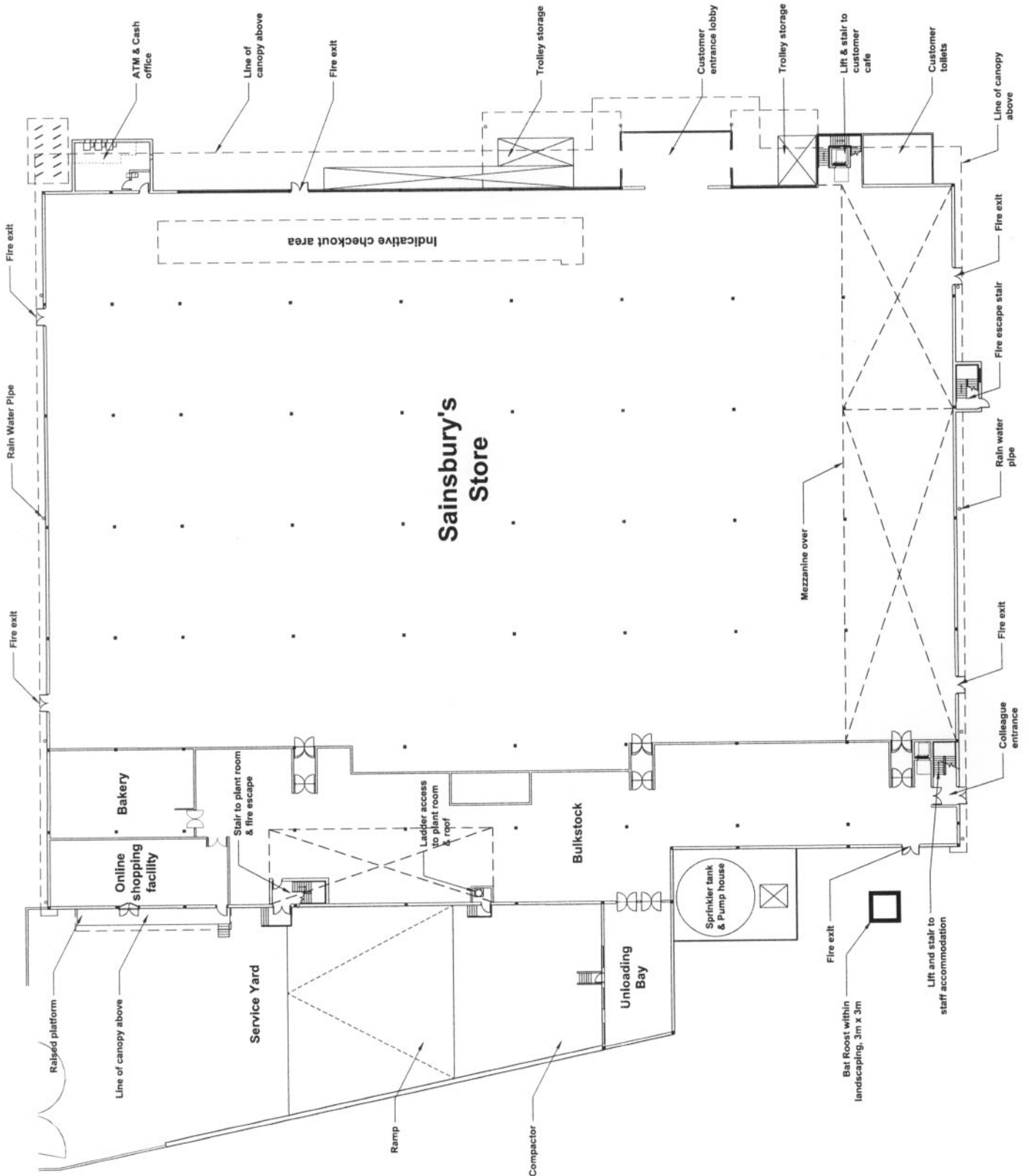
Hadfield Cawkwell Davidson
17 Beaumont Rd, Sheffield, S10 3LJ, 0114 266 1111 | 0114 266 1111
Architect | Engineering | Landscape | Planning | Surveying | Design
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DRAINAGE STRATEGY SUBJECT TO DETAIL DESIGN DEVELOPMENT

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Sainsbury's Store



DATE: 14/01/2010 DRAWN BY: JH/20/2009

PLANNING

DATE: 14/01/2010

Sainsbury's

NEW STORE
BRIDGE STREET
CARLISLE

NEW STORE
BRIDGE STREET, CARLISLE
GROUND FLOOR PLAN

DATE: 14/01/2010 DRAWN BY: JH/20/2009

Hadfield Cowdell Davidson

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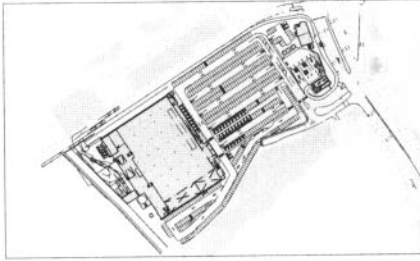
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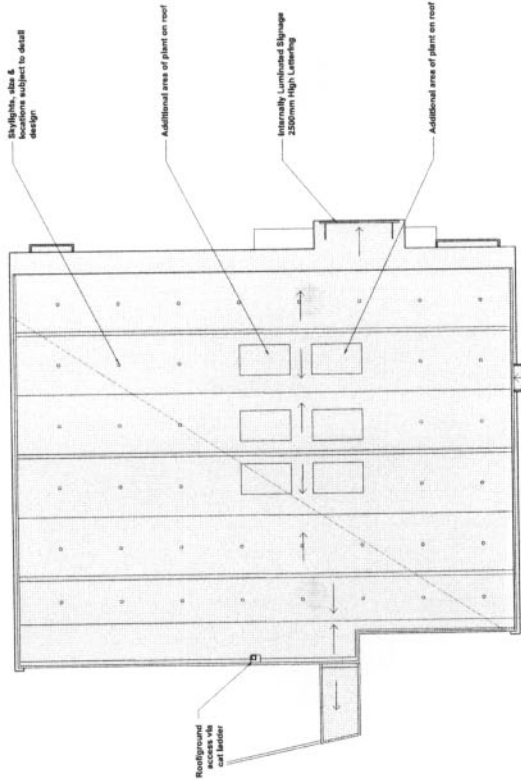
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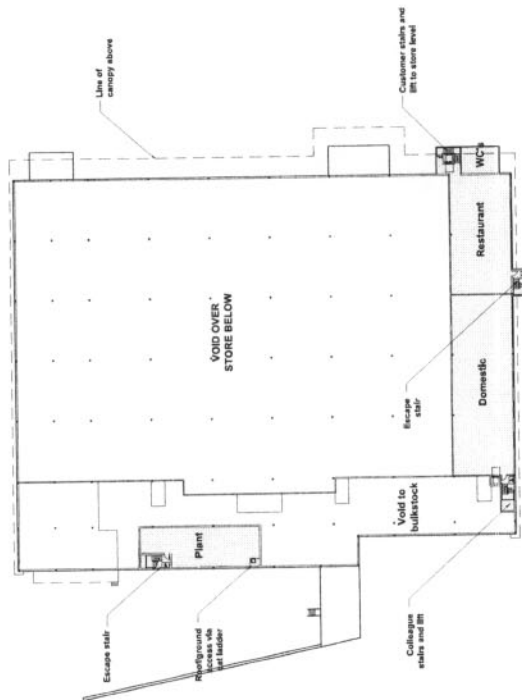
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Key plan 1:2500



ROOF PLAN



FIRST FLOOR PLAN (MEZZANINE)

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PLANNING

Sainsbury's

NEW STORE
BRIDGE STREET
CARLISLE

NEW STORE
BRIDGE STREET, CARLISLE
MEZZANINE & ROOF PLANS

Scale: 1:500 @ A1
Date: NOV 2018
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17 Rivington Rd, Salford, M6 6PU
Architect: [Name]
Structural Engineer: [Name]
Mechanical Engineer: [Name]
Electrical Engineer: [Name]
Civil Engineer: [Name]
Landscape Architect: [Name]
Planning Consultant: [Name]
BIM Manager: [Name]
Project Manager: [Name]
Site Agent: [Name]
Quantity Surveyor: [Name]
Health & Safety Officer: [Name]
Environmental Officer: [Name]
Fire Engineer: [Name]
Acoustic Engineer: [Name]
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Transport Engineer: [Name]
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PLANNING

Sainsbury's

**NEW STORE
BRIDGE STREET
CARLISLE**

PROPOSED
PETROL FILLING STATION
ELEVATIONS

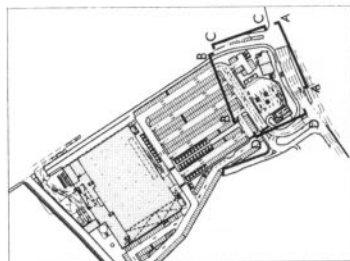
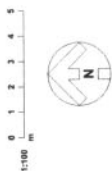
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 DEVELOPMENT
 DRAINAGE STRATEGY & LOCATIONS OF RAIN WATER
 PIPES SUBJECT TO DESIGN DEVELOPMENT



Key plan 1:2500

version 8	in 1/8	in 1/8	in 1/8	in 1/8
version 9	in 1/8	in 1/8	in 1/8	in 1/8

PLANNING

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Sainsbury's

**NEW STORE
BRIDGE STREET
CARLISLE**

**PROPOSED
RETAIL & OFFICE BUILDING
ELEVATIONS**

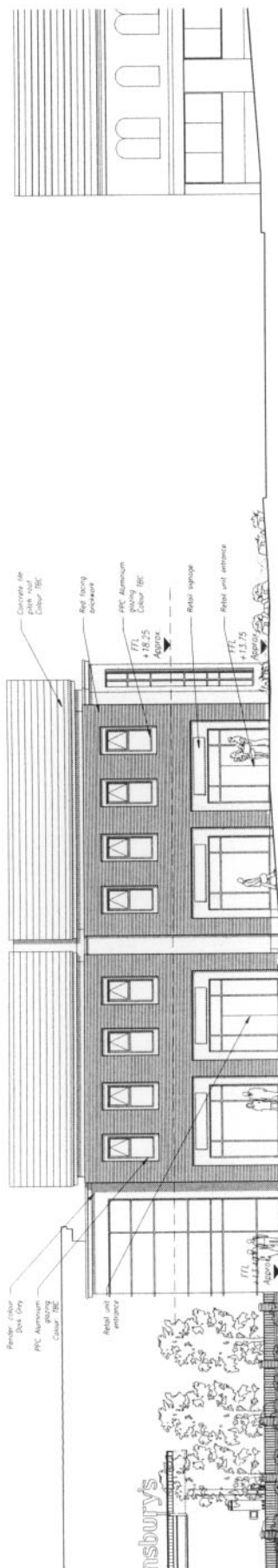
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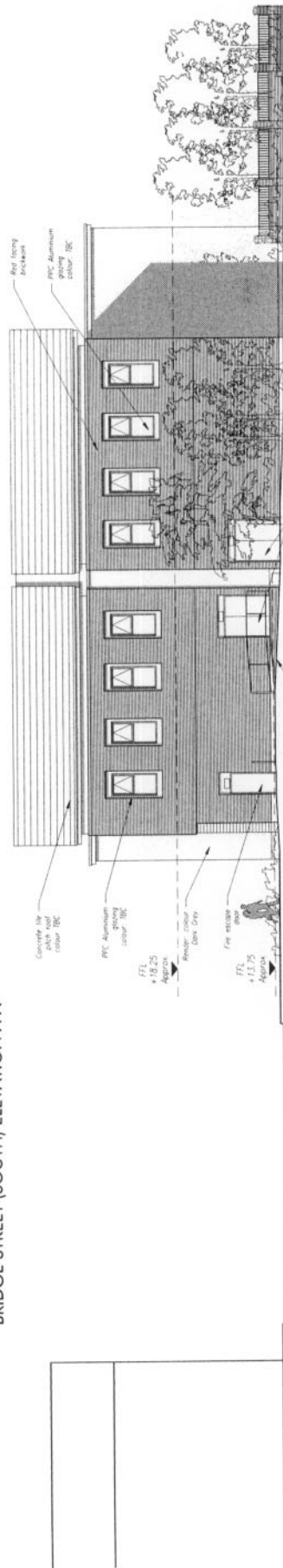
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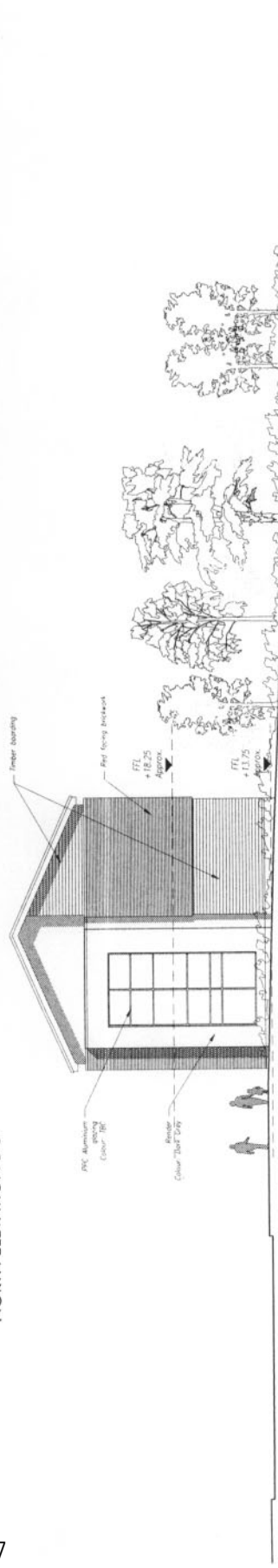
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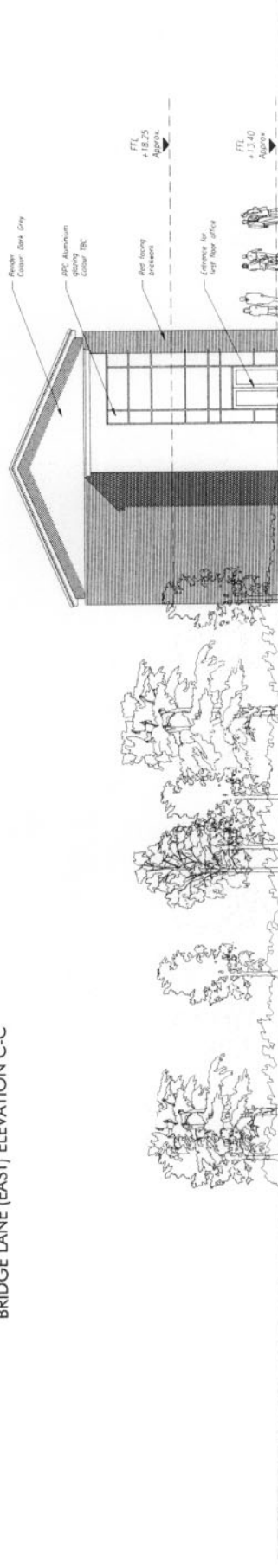
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NORTH ELEVATION B-B



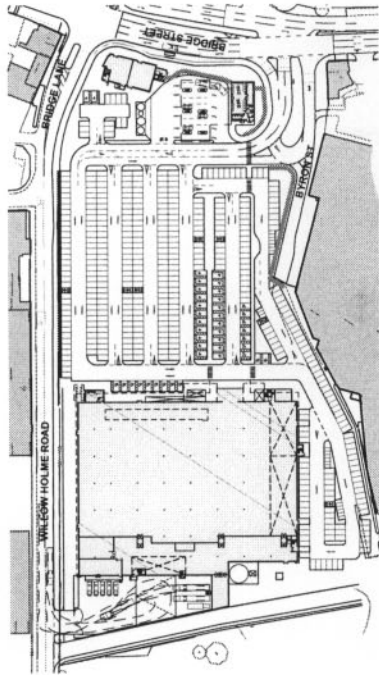
BRIDGE LANE (EAST) ELEVATION C-C



WEST ELEVATION D-D

NOTES

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LOCATION PLAN

TYPE A

TYPE B

Version A
Date 11/01/2010
Wall repositioned to suit new Highways Consultant layout. Key plan updated.
Initial Issue

PLANNING

DATE

Sainsbury's

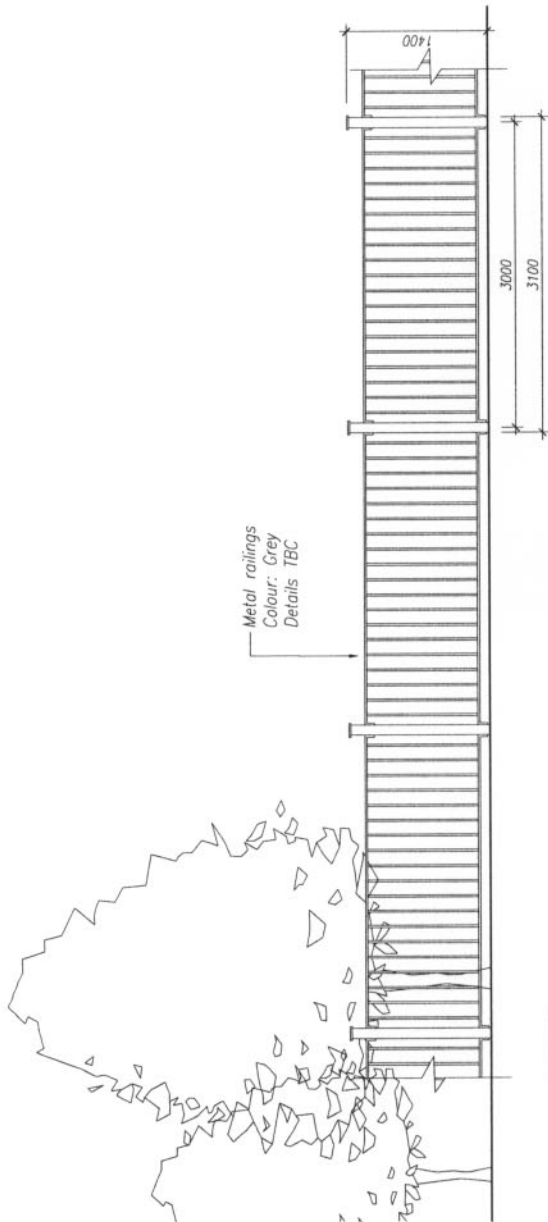
NEW STORE
BRIDGE STREET
CARLISLE

RAILING / WALL DETAILS
TYPICAL ELEVATIONS

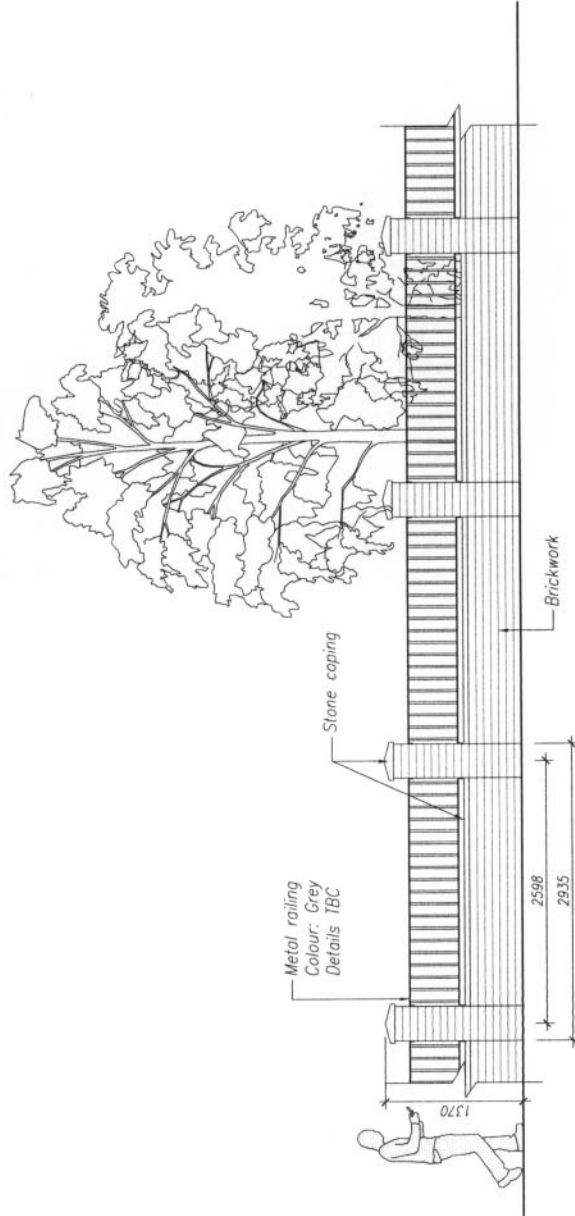
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October 2009

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TYPE A



TYPE B

	Proposed heavy duty medium application boundary
	Proposed heavy duty light application boundary
	Proposed heavy duty extra heavy application boundary
	Proposed heavy duty steel casting application boundary
	Proposed heavy duty roller application boundary
	Proposed heavy duty truck application boundary

NOTE
Free planting within Highway subject to utility services and Highway Authority approval.

09/05/12

[illegible]

FOR PLANNING

arthur amos associates
landscape architecture

urban design environmental urban design
landscape environmental urban design

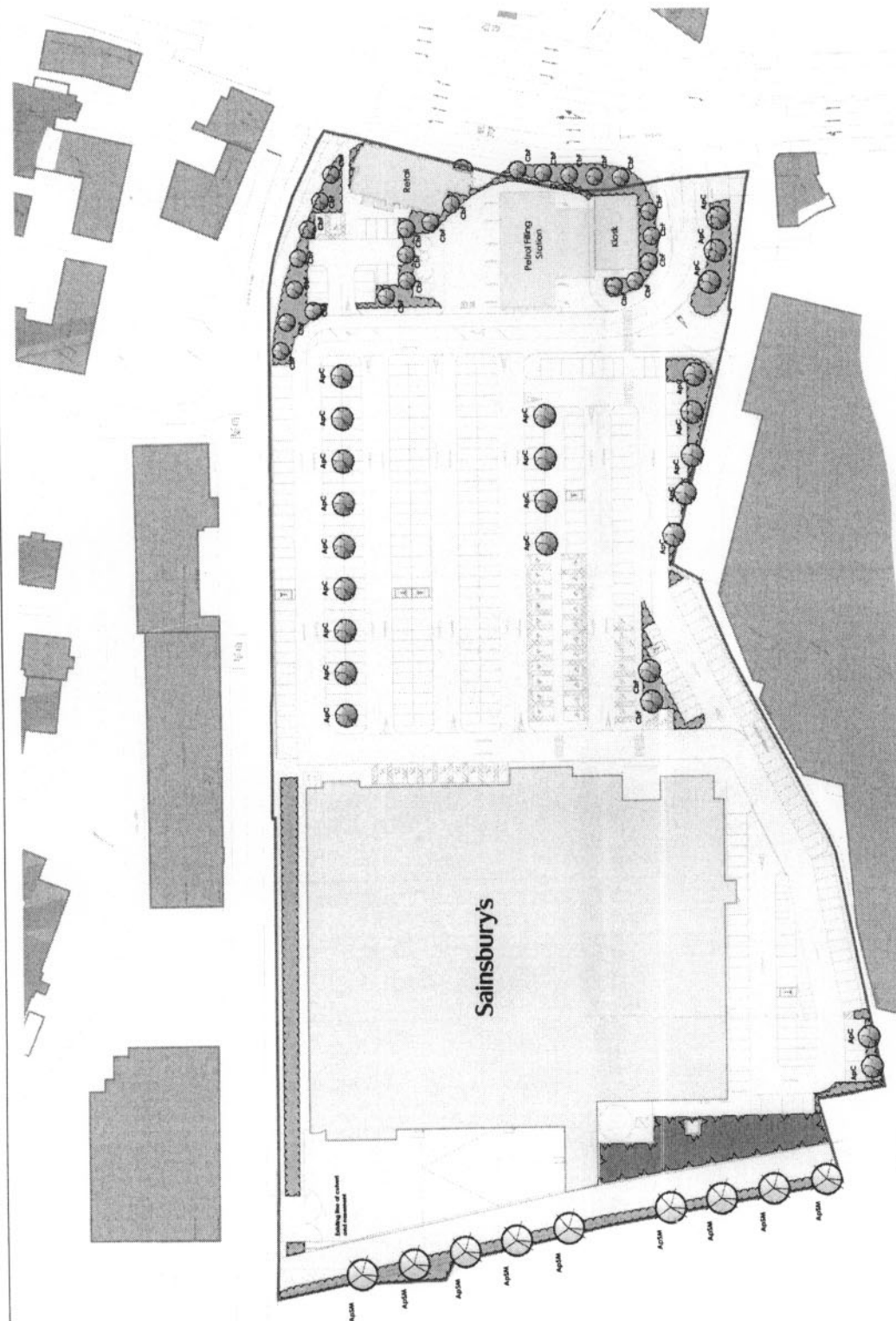
1000 17th St., Suite 1000, San Francisco, CA 94103
Tel: 415.774.1000 Fax: 415.774.1001 www.arthuramos.com

Sainsbury's

Scarsbury's Supermarket - Confide

Indicative Landscape Proposals

Ordering No.	677-01	Product	1	Unit	1-500 (8 A.)
Order No.	126	Shipped On	4-25	Date	1-12-09

[illegible]

100

Name		Form	Age Transformed	Height	Root Condition
1	Vaccinium spicata	truncated	1+1	40-60 cm	None
2	Juniperus communis	truncated	1+1	40-60 cm	None
3	Corylus avellana	horizontal	1+2	40-60 cm	None
4	Crataegus monogyna	truncated	1+1	40-60 cm	None

*Number of trees in each stratum is 10 (or 1 if the condition is single woody stems greater than 3.5 J. plants).

All plants to be fitted with corresponding permanent points.

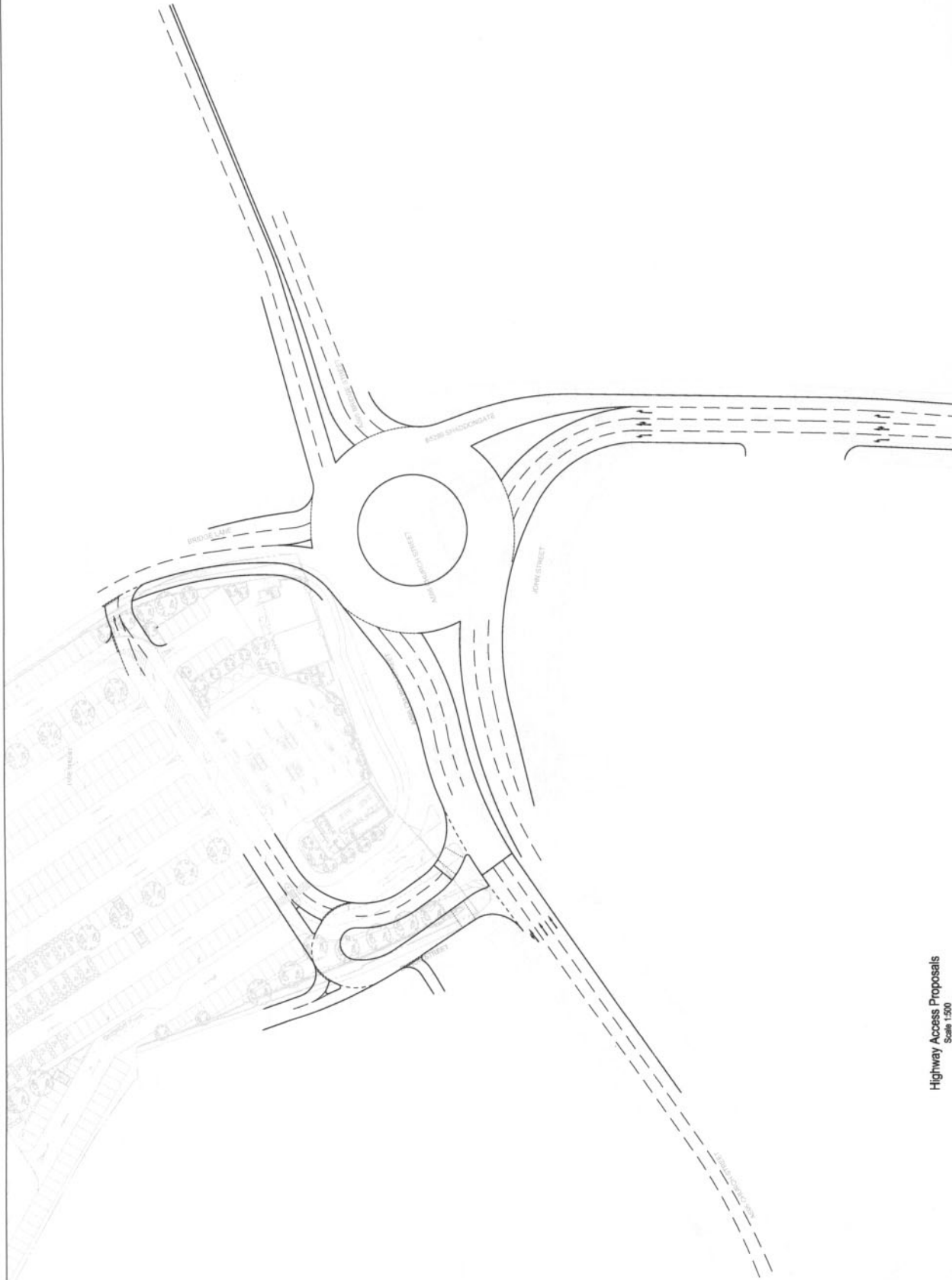
Name		Overall Root Condition	Size Of Root Condition	Height
1	Phoradendron villosum	40-60 cm	10-15 cm	10-15 m

Specimen planting

Relative Planting Mix

Site No.	Name	Form	Age	Condition of eye	Overall Height	Overall Condition	Habit
1	Viburnum celtica	deciduous	1-1	transplanted	40-60 cm	best	branchy, 3 leaves
2	Prunella vulgaris	deciduous	1-1	transplanted	40-60 cm	best	branchy, 3 leaves
3	Cornus canadensis	deciduous	1-2	transplanted	40-60 cm	best	branchy, 3 leaves
4	Comptonia tomentosa	transplant	1-1		40-60 cm	best	branchy, 3 leaves

Fig. 2. Average plantings in a grid of one centimetre square units of 3.5/7 plants (scale) to be fitted with corresponding inchmark points.



Highway Access Proposals
Scale 1:500

PROJECT				CLIENT			
Sainbury's, Carlisle				Sainbury's			
Drawing Title				Savell Bird & Axon			
Proposed Access and Highway Improvements				A White Young Green Company Crestle House, 14 Lloyd Street, Manchester M2 5ND T: 0161 435 2400 F: 0161 435 2400 E: sb@sbax-man.co.uk			
Drawn	JD	Checked	CH	Scale	1:500 at A1 (1:1000 @ A3)	Project Number	N71289/011
Notes				1.			

Sainsbury's, Caldewgate, Carlisle,

Heads of Terms – S.106 and Highways Contributions

Item	Contribution	Comments
Caldew Cycleway	£370,000	Agreement in principle to contribute the full cost of delivering this scheme for improved cycleway and pedestrian links between the development and the city centre.
Caldcotes Roundabout	£165,000	Contribution for works to roundabout including signalisation and crossing facilities.
Traffic Calming – Broadguards and Rigg Street	£48,000	<ul style="list-style-type: none"> ➤ Consultation £1,500 ➤ TRO £1,000 ➤ Signing & Lining £9,000 (assume 8x signs @ £1,000 each and £1,000 lining) ➤ Construction £30,000 (assume 10x speed cushions at £3,000 each; 400 metres on carriageway, 40 metre spacing) ➤ Design £6,500
Travel Plan Monitoring	£6,125	Contribution to cover ongoing monitoring and review of travel plan.
Alternative Access Contribution	£40,000	Contribution towards implementation of alternative access off Bridge Lane (linked to possible future roundabout).
Public Realm Works	£370,000	<p>A range of initiatives arising from the draft and adopted SPD's on design and public realm. This includes the following:</p> <ul style="list-style-type: none"> ➤ Street greening and landscaping to include a range of options to be agreed such as floral displays, ornamental planting and soft landscape, trees in boulevards and avenues. ➤ Human scale feature lighting ➤ Public art to emphasis the sense of approach ➤ Surface detailing including treatment of pavements through use of nature and man-made materials. ➤ Think tank – Street Gallery Steering Group ➤ Urban signage ➤ Street furniture such as seating, bollards, cycle parking, litter bins etc.
Employment and Training Initiatives	Sainsbury's internal resources	This is an initiative aimed at the construction and occupation phases of the development. This will include establishing local labour initiatives, links with major contractors, establishing training initiatives etc as set out in the Regeneration Statement.
Total	£1m	

WYG Planning & Design

part of the **WYG** group



Proposed Sainsbury's Store, Land at Junction of Bridge Street and Bridge Lane, Caldewgate, Carlisle

May 2010

WYG PLANNING AND DESIGN

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Verified by:	Keith Nutter	Signed:	
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Issue	Date	Status
1	27-05-2010	Final Report
2		
3		
4		



Contents Page

1.0 INTRODUCTION.....	1
2.0 THE NEED FOR NEW SUPERMARKET DEVELOPMENT	4
3.0 THE APPLICATION OF THE SEQUENTIAL APPROACH	12
4.0 RETAIL IMPACT ASSESSMENT	17
5.0 SUMMARY AND CONCLUSIONS.....	21

Appendix Contents

Appendix 1 – Retail Assessment



1.0 INTRODUCTION

- 1.01 WYG Planning & Design were instructed by Carlisle City Council to provide expert independent advice to assist in the determination of the proposed Sainsbury's foodstore at the Junction of Bridge Lane/Bridge Street, Carlisle. The advice is intended to focus on a review of the potential impact upon planned and existing facilities, and what level of capacity (if any) might remain to support future development of this nature in Carlisle. The advice would also have significant regard to recently published PPS4 as well as adopted planning policy.
- 1.02 The Council had previously received advice from DTZ on retail planning matters. We have reviewed this advice and where necessary referred to it in order to help narrow the issues that have previously been discussed with the applicant.
- 1.03 In seeking to assess the proposed Sainsbury's development against the requirements of PPS4 it is important to note that the most recent government guidance was published after much of the evidence in support of the retail case had been prepared by the applicant. Therefore, the initial Supporting Planning and Retail Assessment submitted by HOW (dated June 2009), and subsequent updates from both HOW and Turley Associates focused heavily on the issue of whether or not there was a demonstrable need. Much of the additional evidence was provided in response to the assessments undertaken by DTZ on behalf of the Council.
- 1.04 The conclusions reached by DTZ based on the Planning and Retail Assessment submitted by HOW suggested that there was no quantitative need for the proposed development over and above the existing commitment at Morton district centre. Therefore, if Sainsbury's was permitted then DTZ believed that this would prevent the new foodstore (part of the planned district centre) being delivered. As a result, DTZ concluded that the scheme would fail both the sequential and impact tests as set out in PPS6.
- 1.05 It is evident that the conclusions reached by DTZ were heavily influenced by the 'need' for the development and the implications that the identified lack of need would have for the delivery of Morton. In fact, the conclusions reached by DTZ in November 2009 go as far as stating that:

"Only if the Council decides to abandon its policy to secure a new district centre at Morton anchored by a superstore, could the Sainsbury's proposal be potentially considered more favourable in retail planning terms."



1.06 Following the publication of PPS4, DTZ then provided further advice to the Council based on additional retail evidence provided by Turley Associates and the new guidance on retail development issued by central government. Although the new guidance removes the requirement for applicants to satisfy a test of 'need' it is evident that need still informs the conclusions reached on the sequential approach and impact. DTZ highlight this in the second paragraph of their advice to the Council in January 2010.

1.07 From WYG's reading of PPS4 and the accompanying Good Practice Guide it is evident that the 'need' for a development will clearly influence conclusions reached on the sequential approach and impact. Whilst the impact point is explicit at paragraph EC16.1 (d) the relationship between need and the sequential approach is less clear cut.

1.08 However, under the Policy Objectives section, paragraph 1.6 confirms that:

"...'need' remains an important consideration when developing of robust town centres strategies, and to the understanding and application of the sequential approach." (our emphasis)

1.09 Furthermore, paragraph 6.24 of the Practice Guide states that:

"For example, some proposals will serve a purely localised need (e.g. 'local' foodstores) whereas others are likely to serve a materially wider catchment area. In these instances, it will be relevant to consider whether the proposal is of an appropriate scale to the location proposed, or whether some of the need could be better met within an existing 'higher order' centre." (our emphasis)

1.10 It would also seem somewhat crass that LPA's when preparing their strategy for retail development in their LDF would have to carefully assess the need for future development only for applicants to come along at any stage in that process and simply have no regard to need at all when applying the sequential approach and assessing impact.

1.11 For these reasons, we believe it is an important starting position to review the need position in relation to current and future convenience goods floorspace within Carlisle. As significant common ground has already been reached between HOW, Turley Associates and DTZ we have adopted this and sought to update any capacity modelling exercise based on any changes that may have occurred which have not been factored into previous assessments.



1.12 Our overview of the need assessment is set out below.



2.0 THE NEED FOR NEW SUPERMARKET DEVELOPMENT

- 2.01 Our assessment has focused on the broad approach adopted by Turley Associates on behalf of Sainsbury's Stores Limited (Retail Assessment Review, December 2009) and commented on by DTZ on behalf of Carlisle City Council (letter dated 6th January 2010).
- 2.02 In reviewing the approach adopted by Turley Associates and DTZ it is evident that there is significant common ground with regard to the broad approach adopted. However, there remain a number of differences with regard to a number of assumptions made in assessing capacity for additional convenience goods floorspace in Carlisle. Accordingly, our assessment, which is contained at **Appendix 1** to this letter, updates the relevant retail tables provided by Turley Associates and subsequently reviewed by DTZ.
- 2.03 As reflected in the earlier advice to Carlisle City Council from DTZ, this updated assessment has focused on capacity to support additional convenience goods floorspace in Carlisle. This reflects the fact that the majority of the net sales area of the store will be devoted to the sale of convenience goods and it is anticipated that within the next 5 years there will be increased growth in comparison goods expenditure to support significant additional floorspace within Carlisle.

Catchment Area

- 2.04 Turley Associates identified a catchment area for the proposed development based on the ten survey zones that were previously identified by HOW Planning in completing a household survey. This catchment area extends to cover a broad area and includes the settlements of Carlisle, Wigton, Aspatria, Annan and Gretna. Notably, following earlier comments by DTZ, the catchment area identified by Turley Associates is larger than that previously identified by HOW Planning, which was based on zones 1 to 8 only.
- 2.05 WYG accepts that the catchment area adopted by Turley Associates is reasonable and it has been assumed that 90% of the proposed development's turnover will be derived from this catchment.



Study Period

- 2.06 For the purposes of this assessment a base year of 2009 has been adopted in order to be consistent with the approach previously adopted by both Turley Associates and DTZ.
- 2.07 Capacity has been assessed through to 2013, again to reflect the approach adopted by Turley Associates and DTZ. In addition, retail capacity is also considered in 2014 in order to reflect guidance in PPS4 (Policy EC16), which states that account should be made of current and future consumer expenditure capacity in the catchment area up to five years from the time the application is made (i.e. 2014).

Population

- 2.08 For the purposes of this assessment, the same population within the catchment area (as identified by Turley Associates) has been assumed for 2009 and 2013. For 2014, the population has been based on an interpolated growth rate in the catchment area for the period 2009 to 2013.
- 2.09 On this basis, the catchment area is identified to have a resident population of 155,738 people in 2009. This is forecast to increase to 162,782 people by 2013 and to 163,948 people by 2014 (**Table 1, Appendix 1**).

Expenditure

- 2.10 Expenditure per capita within the catchment area has again been derived from the assessment undertaken by Turley Associates, which has been derived from MapInfo Report data (at 2006 prices).
- 2.11 In forecasting growth in convenience goods expenditure within the catchment area, Turley Associates question the forecasts produced by MapInfo in March 2009 as being pessimistic and instead favour utilising trend based projections. In this respect, Turley Associates refer to the latest expenditure data produced by Pitney Bowes (formerly MapInfo) in September 2009 and have applied the short-term trend growth rate of +1.2% per annum. These trends are based on the period 1998 to 2008.
- 2.12 Turley Associates highlight that this approach reflects the Carlisle Retail Capacity Forecasts Update 2009 (CRCFU), albeit the CRCFU was based on forecasts produced in September 2008. However, as



acknowledged by DTZ, the purpose of the CRCFU was to consider retail capacity over a long period (i.e. to 2026). Therefore, WYG questions whether such a growth rate is appropriate in considering capacity over a much shorter period, particularly given the ongoing downturn in the UK economy, which is having an impact on the retail sector.

- 2.13 WYG considers that the latest forecasts identified by Pitney Bowes provide an appropriate approach to adopt in considering capacity in the short-term. Indeed, these forecasts take into account the impact of the ongoing downturn in the UK economy. In this respect, for the period 2008 to 2014, Pitney Bowes identify an average annual growth rate of +0.5% per annum.
- 2.14 Given the time period of this assessment (2009 to 2014), for the purposes our analysis, a forecast growth rate of +0.5% per annum has been assumed together with the actual growth rate recorded between 2006 and 2008, as identified by Pitney Bowes. Notably, the forecast growth rate (+0.5%) is lower than that utilised by Turley Associates (+1.2 per annum), which WYG considers to be overly optimistic, particularly in the short-term.
- 2.15 By applying the population to the estimated expenditure per person, our assessment identifies that the defined Study Area generates some £252.18m of convenience goods expenditure in 2009. This is forecast to increase to £268.94m by 2013 and to £272.24m by 2014 (**Table 1, Appendix 1**).

Special Forms of Trading

- 2.16 The above estimate of available expenditure makes an allowance for special forms of trading (e.g. online shopping, etc.). In line with the latest guidance provided by Pitney Bowes a deduction of 2% has been applied to the 2006 expenditure per capita figure. This reflects the approach adopted by Turley Associates and accepted by DTZ in their earlier assessment of the retail evidence.
- 2.17 However, for the purposes of this assessment no allowance has been made for further growth in special forms of trading over the period to 2014. This differs to the approach adopted by Turley Associates (as advocated by DTZ) of allowing for the proportion of spend by special forms of trading to increase to 4% over the period 2008 to 2012 and to 5.2% for 2013.
- 2.18 As acknowledged by Turley Associates there is a high degree of uncertainty as to whether special forms of trading will significantly increase in the future. Indeed, in considering the potential growth in



special forms of trading (or non-store retailing), recent research undertaken by Experian (Retail Planner Briefing Note 7.1, August 2009) stated that:

'Since the non-store retailing figures include supermarkets that source internet goods sales from store space, the share of non-store retailing is over-stated from the point of view of those interested in physical retail outlets, particularly for convenience goods.'

- 2.19 Although our assessment has assumed that special forms of trading will remain constant at 2%, we comment on the implication on the expenditure capacity should special forms of trading increase over the study period as suggested by DTZ and assumed by Turley Associates in their assessments.

Turnover of Existing Floorspace

- 2.20 Turley Associates has estimated the expected (or benchmark) turnover of existing convenience goods floorspace throughout the defined catchment area on a zone-by-zone basis. On this basis, Turley Associates identify that existing convenience floorspace in the catchment area has a benchmark turnover of £211.96m in 2009, of which £190.65m is expected to be derived from the catchment area.
- 2.21 DTZ assessed the approach adopted by Turley Associates and identify a revised assessment of existing convenience goods floorspace achieving a benchmark turnover of £214.05m in 2009, of which £194.18m is estimated to be derived from the catchment area. Accordingly, the assessment undertaken by DTZ identifies a higher benchmark turnover than Turley Associates. The main differences between the two parties relate to the sales densities applied for Aldi and Lidl.
- 2.22 WYG has undertaken our own assessment of the turnover of expected turnover of existing floorspace based on the broad approach adopted by Turley Associates and DTZ (**Table 2, Appendix 1**). In providing this update the following approach was adopted:
- » The same net convenience floorspace for existing provision within the catchment as utilised by both Turley Associates and DTZ has been applied;
 - » Average sales density for named operators based on WYG's assessment of information contained in Mintel Retail Rankings (2009) and Verdict Grocery Retailers (2009). The same sources were also utilised by Turley Associates and DTZ;
 - » For unnamed operators the same sales density has been applied as that identified by both Turley Associates and DTZ; and



- The proportion of turnover derived from the catchment area based on approach adopted by DTZ¹.

- 2.23 Our assessment identifies that existing convenience floorspace has a benchmark turnover of £209.30m in 2009, of which £189.37m is estimated to be derived from the catchment area. It is notable that our estimate of the turnover of existing convenience goods floorspace derived from the catchment is comparable to that identified by Turley Associates (£190.65m) and lower than that identified by DTZ (£194.18m).
- 2.24 Significantly, it is notable that in identifying the expected turnover of existing floorspace there is relatively little difference between the assessments undertaken by WYG, DTZ and Turley Associates.

Outstanding Commitments

- 2.25 In identifying future capacity for additional floorspace within the catchment area it is important to take into account outstanding commitments and planned developments.
- 2.26 Within the defined catchment area, WYG understands that there are a number of commitments for additional convenience goods floorspace. These comprise:
- The proposed Aldi store, London Road, Carlisle (913 sq m net convenience);
 - Sainsbury's, Scotland Road, Carlisle (251 sq m net convenience);
 - Tesco, Viaduct Estate Road, Carlisle (1,932 sq m net convenience);
 - Tesco, Annan (1,925 sq m net convenience) – which opened in December 2009;
 - Tesco, Hopes Auction Mart, Wigton (1,486 sq m net convenience);
 - New Foodstore at Morton (Allocation) (2,500 sq m net convenience); and
 - Supermarket, Gretna (2,340 sq m net convenience).
- 2.27 Our analysis (**Table 3, Appendix 1**) identifies that these commitments achieve an expected turnover of £129.19m, of which £103.22m is estimated to be derived from the catchment area.

¹ Even if the assumptions identified by Turley Associates are applied the turnover of existing convenience floorspace derived from the catchment area reduces to only £187.89m – a reduction of only £1.48m



- 2.28 Also, the assessment of the turnover of the new foodstore at Morton is based on the allocation as set out in the UDP (2,500 sq m net of convenience floorspace). However, it is understood that an application is soon to be submitted by Montagu Evans for a much larger store than the current allocation on this site. Consequently, if permitted, a larger store would have a higher convenience goods turnover to that identified above.
- 2.29 Furthermore, there is also an application for a new Lidl store in Wigton (1,063 sq m net), which also falls within the defined catchment area. As this proposal is not (as yet) a commitment it has been excluded from our assessment. However, if permitted, this development would further increase the turnover of outstanding commitments within the defined catchment area.
- 2.30 Our assessment of commitments (£103.22m) compares to Turley Associates identifying a convenience goods turnover of commitments derived from the catchment area of only £37.73m.
- 2.31 In reaching this figure it is significant to note that Turley Associates have not taken into account the extant permission for a new Tesco store in Wigton, a new foodstore in Gretna, which have both been permitted since the submission of the retail evidence, a new Tesco store in Annan, which is now open and the extant permission for a new Tesco store at Viaduct Estate Road in Carlisle. Collectively, if implemented, these developments are identified to achieve a convenience goods turnover derived from the catchment area in excess of £70m. By not including these commitments it is evident that Turley Associates have significantly overestimated the available capacity to support additional convenience goods floorspace in Carlisle.
- 2.32 In addition, although located outside the defined catchment, it is important to reflect upon outstanding commitments located just beyond the catchment area, which are likely to draw some trade from within it. In this respect, and as acknowledged by DTZ, there is an outstanding commitment for a new foodstore in nearby Penrith, whose catchment is likely to overlap with the identified catchment area for the proposed Sainsbury's store in Carlisle.
- 2.33 In this respect, DTZ consider that approximately £5m of this store's turnover would be derived from the defined catchment. Whilst WYG consider that this is a reasonable assumption to adopt, there is some uncertainty whether this permission will come forward in its current form and it is unknown whether it will be developed before 2014. Despite this, in order to provide a cautious approach an allowance for some expenditure generated in the catchment area will be directed to this store in the future.



- 2.34 Clearly, if implemented, the scale and location of these developments will have an impact on shopping patterns within the catchment and on future convenience goods capacity to support further retail floorspace in Carlisle.

Turnover of the Proposed Development (Convenience Goods)

- 2.35 The proposed Sainsbury's store is identified to comprise a net floorspace of 5,514 sq m, of which 3,741 sq m (or 68%) is intended to be for the sale of convenience goods. Based on applying an average convenience goods sales density for Sainsbury's, as identified by Verdict (2009), the proposed development is identified to have a convenience goods turnover of £34.88m. Of this turnover, some £31.39m (or 90%) is expected to be derived from the defined catchment area (**Table 4, Appendix 1**).

Surplus Capacity

- 2.36 From the analysis above, our assessment (which is based on the broad approach adopted by both Turley Associates and DTZ) identifies that there is insufficient capacity to support the proposed development together with all outstanding commitments (Table 2.1).

Table 2.1: Convenience Goods Capacity Analysis

	2006	2014
Available Convenience Goods Expenditure in Catchment (£m)	268.94	272.24
Less sales in Local Shops (at 3%) (£m)	8.07	8.17
Net available convenience goods expenditure in Catchment (£m)	260.88	264.07
Less sales in existing stores drawn from the Catchment (£m)	189.37	189.37
Potential Expenditure Capacity (£m)	71.51	74.71
Less clawback by permitted supermarket in Penrith (£m)	5.00	5.00
Less committed stores' draw from the PCA (£m)	103.22	103.22
Residual Convenience Goods Capacity (£m)	-36.71	-33.51

Notes: At 2006 prices

- 2.37 Table 1 demonstrates that there will be a deficit in convenience goods capacity (over and above outstanding commitments) of £33.51m in 2014. This capacity is before allowing for the new Sainsbury's store at Caldewgate, which is identified to have a convenience goods turnover from the catchment area in excess of £31m.



- 2.38 Furthermore, even if the new Tesco store at Viaduct Estate Road or the new supermarket in Penrith do not come forward there will remain a deficit in capacity of more than £7m by 2014. Even if a higher growth rate of +1.2% per annum is applied (as suggested by Turley Associates) there will still be insufficient capacity to support the proposed development together with outstanding commitments. Indeed, our assessment identifies that by applying a higher expenditure growth rate there will be surplus capacity of less than £4m by 2014, which would be insufficient to support the proposed development (£31m). Moreover, this surplus capacity would reduce if an allowance is made for the future growth in special forms of trading as assumed by both Turley Associates and DTZ.

Summary

- 2.39 It is evident that our 'sensitivity testing' of the approach adopted by Turley Associates and reviewed by DTZ demonstrates that there is insufficient capacity to support the proposed new Sainsbury's store at Caldewgate together with outstanding commitments (including the allocation at Morton).
- 2.40 Even if more optimistic expenditure forecasts are applied and certain commitments are excluded from our assessment due to their uncertainty of being implemented (i.e. the Tesco store at Viaduct Estate Road and the new foodstore at Penrith), there will remain insufficient capacity to support the proposed Sainsbury's store at Caldewgate.
- 2.41 The approach adopted by Turley Associates, which is considered by WYG as optimistic, identifies residual capacity of only £0.55m by 2013 after taking into account commitments and the new Sainsbury's store in Carlisle. This limited capacity is identified despite WYG's view that Turley Associates have applied overly optimistic growth rates and have not taken into account a number of outstanding commitments (including a new Tesco store in Annan that has opened since the completion of the retail evidence), which collectively achieve a convenience goods turnover in excess of £70m. Clearly, if these commitments were rightly included, the level of capacity identified by Turley Associates would significantly reduce.



3.6 THE APPLICATION OF THE SEQUENTIAL APPROACH

- 3.01 As highlighted above, in applying the sequential approach the Practice Guidance makes it quite clear that need remains an important consideration to the understanding and application of the sequential approach. In their Supporting Planning and Retail Assessment, HOW highlight that consideration must be given to the need for a large foodstore which can carry the complete range so as to compete with other large foodstores elsewhere in Carlisle.
- 3.02 From our review of the material submitted to date it would appear that it is common ground between all parties that the site is out of centre. Therefore, in applying the sequential approach, HOW assessed 13 sites which included a number of in-centre, edge-of-centre and out-of-centre sites. The in-centre site at Morton which is an allocation in the development plan is dismissed by HOW on the basis that it does not represent a sustainable location and that there were questions over the sites availability. This conclusion was dismissed by DTZ on the basis that the allocation at Morton was sequentially superior.
- 3.03 Following the publication of PPS4, DTZ suggested that the new guidance (at Policy EC17) introduces two 'gateway' tests. In essence, DTZ concluded that both of these tests had to be passed before other considerations could be weighed in the balance when reaching a decision on the application. We are aware that this interpretation came in for much criticism by the appellant and their advisors.
- 3.04 To be fair to DTZ, the guidance in EC17 is poorly constructed and somewhat ambiguous. From reading EC17 afresh it could be interpreted as representing some form of 'gateway' test or policy. However, such a rigid approach would appear to 'fly in the face' of the need to consider both the positives and negatives of any development when reaching a truly balanced decision on any planning application.
- 3.05 We have reviewed the opinion of Mr Tucker (submitted by the applicant) on this matter and would agree with his conclusions that it would be unlawful to pursue the determination of the application on the basis that because (in DTZ's view) it fails the sequential approach then all other matters are irrelevant and the application should be refused.
- 3.06 However, we do not agree with Mr Tucker's position that Mr Baldock's assessment is 'strongly contaminated' by the application of a quantitative need test that is no longer part of national policy. Whilst we accept that the applicant does not need to satisfy the test of 'need' previously set out in



PPS6, as highlighted in paragraph 1.06 of our advice, need remains an important consideration when applying the sequential test and assessing the likely impact.

- 3.07 In fact, paragraph 1.6 of the Practice Guidance confirms that whilst the Government has made a number of revisions to its town centre policy (including the removal of the needs test) the issue of 'need' should not be abandoned when assessing sequential alternatives or impact. Therefore, we think that DTZ were right to consider need in applying the sequential approach and assessing impact.
- 3.08 Therefore, as highlighted by our revised need assessment, there is clearly limited capacity within the defined catchment (adopted by both HOW and Turley Associates) to support additional convenience goods floorspace over and above the current allocation at Morton. Therefore, in seeking to assess whether or not the allocation represents a sequential preferable site the key tests of availability, suitability and viability have to be carefully considered.
- 3.09 In their September 2009 Supporting Planning and Retail Assessment, HOW raise a number of questions over the availability and viability of a new foodstore at Morton. However, we acknowledge that since the assessment was prepared by HOW certain matters have been clarified with regard to the proposed foodstore at Morton. We have reflected on these below.
- 3.10 In terms of availability, we are aware that the site for the new District Centre will be marketed in the near future and will clearly be available for development within 'a reasonable period of time'. We have also been made aware that there is no exclusivity agreement with Tesco to develop the foodstore and therefore the site will be offered to the open market which would not preclude Sainsbury's from bidding for the site. Therefore, based on the evidence before us at this stage we can only conclude that the site is available.
- 3.11 There has been significant debate in the various correspondences about whether or not the site is suitable for a large foodstore because the allocation in Local Plan restricts the development of a foodstore to 2,500 sqm. Whilst the policy does apply a threshold for the size of the foodstore neither the policy nor the supporting text actually clarifies whether the figure is 'net' or 'gross' and whether or not it is limited to convenience or comparison goods or a mixture of the two. Although the floorspace threshold is ambiguous it would not be unreasonable to assume that the threshold quoted is a 'net' figure as this is the figure that would normally be controlled as it directly relates to the sales area and the turnover of any development. In addition, as there is no explicit reference to how this floorspace



should be split between convenience and comparison goods then it would not be unreasonable to assume that all or the majority of the net sales area could be devoted to convenience goods.

- 3.12 We are aware that the Inspector's report into the Revised Redeposit Local Plan does discuss the limit on floorspace for Morton and at paragraph 4.86 of the report the Inspector is quite clearly referring to the 2,500 sqm threshold as a 'net' figure which was informed by Annex A of PPS6. If this is the case then the correct interpretation of the definition set out in Annex A would suggest that the 2,500 sq m refers to the whole trading area (including both the sale of food and non-food). Unfortunately, the Inspector's Report is again not clear on the potential split between convenience and comparison goods and therefore, there remains some uncertainty over the correct interpretation of the local plan allocation.
- 3.13 However, although the allocation in the Local Plan could be more explicit, we do not believe that it is overly restrictive in that it would mean that the site is not suitable to accommodate a large foodstore in the future. In fact it would appear to be somewhat erroneous to suggest that because there was a policy in place restricting the size of development on a sequentially superior site then this should be dismissed because the applicant is seeking a larger store in an out of centre location.
- 3.14 We are aware from correspondence that there are options currently being considered for a larger foodstore at Morton. Although we have based our assessment on the allocation in the Local Plan we cannot ignore the prospect of the landowner securing a larger store at Morton. This is something that is already being considered. In seeking to assess the suitability of a site, the Practice Guidance makes it quite clear that sites should be assessed on the basis of whether they are suitable to accommodate the need or demand which the proposal is intended to meet. As the proposal is for an 8,702 sqm gross to meet the need/demand identified by the applicant our assessment must focus on whether or not the site at Morton is suitable to accommodate the proposal (or something similar) rather than be dictated to by a threshold which in turn was influenced by analysis at that point in time. Furthermore, it is also for the applicant to demonstrate flexibility in terms of the format of the development and the size of the store.
- 3.15 In dealing with the suitability of the Morton site, the applicant has provided further evidence from Colliers CRE (dated 4th May 2010). This letter highlights the existing provision within Carlisle and seeks to explain, from their point of view, why the existing Tesco commitment at the Viaduct site will not be implemented. The letter also outlines why the Morton site would not be suitable for the Sainsbury's proposal. The text confirms that Sainsbury's did review the Morton site but concluded that



the scale of store required by Sainsbury's would be 'out of scale' with a suburban district centre as envisaged at Morton. In addition, the letter confirms that Morton is on the periphery of the urban area and has less than ideal transport links. This, in their view, limits the number of customers that would be attracted to the store and the range of goods that could therefore be stocked. Therefore, the letter confirms that:

"As a result, Sainsbury's rightly concluded that the current allocation at Morton is unsuitable for their business, as it could not result in a store which would be of sufficient size to allow them to enter the Carlisle market and to compete effectively with the existing operators. Furthermore it provides inadequate accessibility for the wider Carlisle catchment. As things stand, we could not advise Sainsbury's or any other major foodstore operators to take a large foodstore in Morton."

- 3.16 Although we accept that currently Morton is on the periphery of the existing urban area (a consequence of being part of the planned urban expansion) the distances involved to existing residential areas in the south and west is not so significant that residents would struggle to access the store. The site's prominent location just off the Wigton Road also means that access is not as constrained as suggested by Colliers CRE. In fact from our own site visits and knowledge of Carlisle/Cumbria area we believe that the site will prove attractive to major foodstore operators. In summary, we do not believe that the arguments presented by Colliers CRE as to why the site at Morton is unsuitable for Sainsbury's are valid. We believe that the site will prove very attractive to potential supermarket operators when it is marketed and cannot accept the major foodstore operators would not be interested in this site.
- 3.17 The Practice Guidance makes it quite clear that when assessing the suitability of sites the applicant should not reject sites based on self-imposed requirements or preferences of a single operator, or without demonstrating a serious attempt to overcome any identified constraints. Although we acknowledge that a store of a certain size is required to enable it to compete effectively with existing large stores in Carlisle, the site at Morton cannot be ruled out on this basis. In fact in their most recent Carlisle Capacity Study (2009) DTZ suggest that a store of up to 7,500 sqm gross could be accommodated within Morton without impacting on the local hierarchy or the City Centre. This in our view is not a unreasonable position to promote given that there are numerous examples throughout the North West of district centres being underpinned by large foodstores, some well in excess of 7,500 sqm gross.



3.18 With this in mind, we believe that the site at Morton is suitable and viable to accommodate the need/demand which the proposal is intended to meet. Therefore, it is evident that as the allocation at Morton is sequentially superior (i.e. in-centre) the proposed Sainsbury's store (which is out of centre) would fail the sequential approach.

3.19 Although this is the same conclusion reached by DTZ we do not agree that as the development fails the sequential approach it should be automatically refused. In fact the Practice Guidance makes it quite clear at paragraph 5.5 that:

"It is evident that significant weight is attached to the outcome of the sequential site assessment and impact assessment. However, it is still for the decision maker to judge the extent to which the applicant has demonstrated compliance with the sequential approach, and what constitutes a 'significant' adverse impact, based on the circumstances of each case."

3.20 On this basis, we would argue that whilst significant weight should be given to the fact that the application, in our view, fails the sequential approach this does not mean that other material considerations should not be considered in reaching a balanced planning decision.

3.21 This conclusion would appear to be supported by Mr Tucker's opinion, whereby he concludes that if the Morton site is considered to be suitable, viable and available then this is not **"fatal to the proposed development, but rather is a weighty material consideration which weighs against the proposal."** (Paragraph 4.5)



4.0 RETAIL IMPACT ASSESSMENT

- 4.01 Policy EC17 states that planning applications for main town centre uses which are not in accordance with an up to date development plan should be refused planning permission where **“there is clear evidence that the proposal is likely to lead to significant adverse impacts in terms of any of the one impacts set out in policies EC10.2 and 16.1 (the impact assessment), taking account of the likely cumulative effect of recent permissions, developments under construction and completed developments.”**
- 4.02 As outlined in our assessment of the need for new convenience goods floorspace in Carlisle, there have been a significant number of commitments/planning approvals that have occurred since the Local Plan was adopted and since the application documents were first prepared. We have factored these commitments into our need assessment and have also undertaken a cumulative impact assessment as required by PPS4.
- 4.03 In following the guidance set out in PPS4 we have assessed the likely impact of the proposed development against the five criterion set out in Policy EC10.2 and the six criterion set out in Policy EC16.1. Our conclusions on these matters are as follows:
- Policy EC10.2
- 4.04 Paragraph EC10.2 of PPS4 states that all planning applications for economic development should be assessed against 5 criteria. These impacts could be positive, negative or neutral.
- 4.05 As WYG have been asked to advise on retail planning policy matters, it is difficult for us to reach a robust conclusion as to whether the proposal has been planned over the lifetime of the development to limit carbon dioxide. The same also applies to the quality of the design on which we assume the Council will be forming its own conclusions.
- 4.06 However, with regard to reducing the need to travel, it is important to highlight that the proposed development will provide much improved main food shopping facilities in the south west quadrant of the city and will therefore, help reduce unnecessary journeys to foodstores elsewhere which should be seen as a positive benefit.



- 4.07 In addition, there are also a number of other significant economic and physical regeneration benefits which should be regarded as having a positive impact and should be considered in applying the overall planning balance.

Policy EC16.1

The impact of the proposed on existing, committed and planned public and private sector investment

- 4.08 In dealing with the impact on planned investment the Practice Guidance provides a checklist against which the impact should be measured. This includes:
- What stage have they reached e.g. are they contractually committed?
 - The policy 'weight' attached to them?
 - Whether there is sufficient 'need' for both?
 - Whether they are competing for the same market opportunity?
 - Whether there is evidence that retailers/investors/developers are concerned; and
 - Whether the cumulative impact of both schemes would be a concern?
- 4.09 In assessing the impact on planned investment DTZ concluded that the proposed Sainsbury's store would seriously put at risk the planned new district centre at Morton. In fact, DTZ go as far as to suggest that a store at Morton would be severely prejudiced and would not be delivered before 2026. Although DTZ's stance appears to be quite affirmative with regard to the impact on future investment, WYG believe that the conclusion reached by DTZ is heavily influenced by the capacity assessment rather than the dynamics of the retail market and the evidence available.
- 4.10 As the site at Morton has yet to be marketed it is evident that there is no developer or investor contractually committed to the site. Therefore, there is no evidence before the Council from potential retailers or investors that they would be significantly concerned about the proposed development. As there is no clear evidence, it would be difficult to conclude at this stage that the development at Morton would not go ahead if Sainsbury's was approved.
- 4.11 However, we accept that there is strong policy support for the new district centre, there is insufficient need for both and depending upon the chosen retailer for Morton they could be competing for the same market opportunity. Therefore, the conclusion reached should in our view be more finely



balanced than DTZ suggest. Based on our experience elsewhere, we would be surprised if no interest was expressed for the site at Morton if the Sainsbury's store was approved. We accept that if planning permission was granted for the Sainsbury's store then this may influence how the site at Morton was to be developed in the future.

The Impact on Vitality and Viability Including Local Consumer Choice/Range and Quality of Offer

- 4.12 In judging the impact of the proposed development on vitality and viability it is important to balance both the health of existing centres against the potential trade draw. DTZ concluded that the proposed development would have a 'small adverse impact' on the vitality and viability of Carlisle City Centre but would enhance consumer choice and the range of goods offered. Whilst we are unsure as to what is meant by 'small adverse impact', WYG believe that there would be no adverse impact upon the vitality and viability of Carlisle City Centre. Carlisle is a major comparison goods destination serving the sub-region and beyond. Its role and function is underpinned by its comparison goods offer and therefore, any loss of convenience goods trade would not impact on the overall vitality and viability of the centre as a whole.
- 4.13 We would agree however with DTZ that the Sainsbury's store would add to the choice and range of goods on offer particularly in the south-west quadrant.

Effect on Attractions/Uses Outside Town Centres

- 4.14 We agree with DTZ that this is not applicable.

Impact on Turnover/Trade

- 4.15 As highlighted previously, the limited capacity within the catchment area would result in significant trade being drawn from existing stores within and beyond the catchment. However, it is only those stores which contribute to the vitality and viability of existing centres (by virtue of being in or on the edge of centres) that are afforded protection in retail planning policy terms. Therefore, although there will be significant impacts falling on the existing Asda, Morrison's and Tesco stores, as these stores are all out of centre any loss of trade should be dismissed as commercial competition. Therefore, DTZ's reference to 'massive impacts on trade in the wider area in the city' are irrelevant.



- 4.16 Although, trade will be drawn from existing convenience goods stores within Carlisle City Centre it is unlikely that any impact caused by the development would mean that these facilities would close. Therefore, we believe that there is no clear evidence to suggest that the impact on trade/turnover of established centres would be classed as 'significant adverse'.

Retrospective Assessment

- 4.17 We would agree with DTZ that as the scheme is out of centre this criterion does not apply.

Locally Important Issues

- 4.18 As there are no locally important issues within the development plan against which to test impact, we would again agree with DTZ that this criterion does not apply.



9.0 SUMMARY AND CONCLUSIONS

- 5.01 It is evident that there has been a significant amount of evidence and correspondence provided in relation this proposed development. Much debate has also taken place between HOW, Turley Associates and DTZ in the process. As a result of this, common ground has been reached on a number of matters which we have adopted for the purposes of our assessment. However, there are still a number of fundamental areas of disagreement between the applicant and DTZ (the Council's retail advisors).
- 5.02 These areas of disagreement have focused on how the need for new convenience goods floorspace should influence conclusions reached on: the sequential approach and impact; the interpretation of PPS4; whether the sequential approach and impacts test represent are a 'gateway test' that must be satisfied; and the interpretation of the impact of the proposed development and whether or not this is 'significant adverse'.
- 5.03 As highlighted above, although the need test has been explicitly removed in PPS4 when dealing with planning applications, the Practice Guidance which accompanies PPS4 makes is clear that need is still an important consideration when assessing the sequential approach and impact. Although WYG accept that the Practice Guidance does not constitute a statement of Government policy, it is there to help the interpretation of town centre policies set out in the PPS. Therefore, where certain elements of PPS4 may lack clarity we believe that in trying to sensibly interpret what is meant by certain policies in PPS4 it is important to reflect upon the Practice Guidance.
- 5.04 We note that in Mr Tucker's opinion (prepared on behalf of the applicant) he also relies on the practice guidance to clarify certain matters in relation to the sequential approach. Therefore, we can only conclude that the applicant and their advisors would also place significant weight on the advice set out in the guidance and that the document is helpful in informing any future decision made on the proposed development.
- 5.05 As the practice guidance places significant emphasis on the requirement to understand the 'need' before robust conclusions can be reached on the sequential approach and impact, WYG do not agree that as the 'need test' has been removed then capacity/need should simply be put to one side or ignored. Such a position is erroneous in our view and misinterprets both PPS4 and the practice guidance.



- 5.06 As need is an important starting position, we have reviewed all of the information submitted to date and have presented our own view on the need for new convenience goods development in Carlisle and the catchment drawn. From our sensitivity testing it is evident that there is no capacity for additional convenience goods development over and above existing commitments. Even if the existing Tesco commitment at the Viaduct site is excluded there is still insufficient capacity.
- 5.07 Having understood the need position, it is now important to reflect upon the application of the sequential approach. In seeking to focus the issues on the key areas of dispute, it would appear that the only sequential alternative that should be considered is the allocation at Morton for a new district centre including a foodstore. Having considered the evidence presented with regard to the site's availability, suitability (from Sainsbury's perspective) and viability we would conclude that the site at Morton is available, suitable and viable to accommodate the need/demand which the proposal is intended to meet. Therefore, it is evident that as the allocation at Morton is sequentially superior (i.e. in-centre) to the proposed Sainsbury's store (which is out-of-centre) the development would therefore fail the sequential approach.
- 5.08 In terms of impact, WYG are satisfied that the proposed development would not have a significant adverse impact on any of the tests set out in EC10.2. With regard to the six criteria set out in EC16.1, we are aware that DTZ concluded that there would be a significant adverse impact in respect of future investment at Morton and on in-centre trade/turnover. In dealing with the impact on in-centre trade/turnover first, we are aware from our own analysis that the cumulative impacts on certain stores throughout the City will be significant. However, as the current provision of large foodstores in Carlisle is focused in out-of-centre locations we believe that the impact on in-centre trade/turnover will be less significant. Whilst there will be trade drawn from in-centre stores we do not believe that this would lead to any store closures nor would it undermine the future vitality and viability of Carlisle as a sub-regional shopping destination underpinned by a strong comparison goods offer.
- 5.09 Therefore, in our view, any conclusion reached on impact must focus on whether or not the development would prejudice future investment (i.e. the delivery of a new foodstore) at Morton.
- 5.10 DTZ's conclusion on this matter was that the proposed Sainsbury's store would seriously prejudice the delivery of the store and, therefore, put at risk the planned new district centre at Morton. This conclusion was reached based on the lack of 'capacity' available within the Carlisle catchment. However, WYG believe that potential impact on future investment is more complex than just assessing whether or not there is sufficient capacity. Obviously, the position on need/capacity should be



factored into any assessment. However, a lack of capacity itself will not necessarily lead one to conclude that there will always be a significant adverse impact on investment in established centres.

5.11 At this stage, WYG believe that it is difficult to come to a definitive view on the matter given that the site at Morton has yet to be marketed and no investor/developer is contractually committed. Therefore, it is not clear whether or not any future developer/investor at Morton would have significant concerns in relation to the proposed Sainsbury's development if they were promoting a scheme at Morton. We accept that even if a developer has not been appointed to bring a site forward, the landowner could object if they had serious concerns about the impact of a proposed development elsewhere. However, we are aware that in this case the landowner is the local authority and they may have chosen to remain silent because they recognise that they are also the determining authority.

5.12 WYG accept that convenience goods retailers are often prepared to trade in close proximity to each other in an attempt to capture market share. Also it is evident that certain convenience goods retailers target different sectors of the community with some operators focusing on value and low prices with other less price sensitive retailers focusing more on the quality of the produce. Therefore, we cannot rule out at this stage that if the proposed Sainsbury's store was granted permission other convenience goods operators would still be interested in Morton in the future. Therefore, WYG believe that the conclusion on this matter is not as clear cut as that presented by DTZ. There is no evidence currently before us that definitively concludes that the Sainsbury's development would completely rule out the prospect of any retailer being interested in the Morton site once it is placed on the market. We accept it will have an impact but whether this impact is prejudicial or significantly adverse is in our view more finely balanced.

Summary

5.13 When assessed against the requirements of PPS4, WYG conclude that the proposed development fails the sequential approach. The issue with regard to impact is more finely balanced. The Practice Guidance makes it quite clear at paragraph 5.5 that:

"It is evident that significant weight is attached to the outcome of the sequential site assessment and impact assessment. However, it is still for the decision maker to judge the extent to which the applicant has demonstrated compliance with the sequential approach, and what constitutes a 'significant' adverse impact, based on the circumstances of each case."



- 5.14 WYG are conscious that in forming a view on impact, PPS4 states that there has to be clear evidence to support such a conclusion. Whilst the evidence with regard to future market interest has yet to be explored, it is notable that there is significant policy weight attached to the new district centre; there is insufficient need for both schemes and the developments could be competing for the same market. On this basis, there is a danger that the development could have a significant adverse impact on future planned investment in Morton District Centre.
- 5.15 However, in arriving at a balanced planning decision, we are aware that there are a number of positive impacts that would occur as a result of the proposed development. For reasons outlined above, we do not agree that as the development fails the sequential approach and could have a significant adverse impact on Morton district centre, it should be automatically refused.
- 5.16 Clearly, in applying the appropriate planning balance significant weight must be given to the fact that the development fails the sequential approach. This conclusion would appear to be supported by Mr Tucker's opinion, whereby he concludes that if the Morton site is considered to be suitable, viable and available then this is not **"fatal to the proposed development, but rather is a weighty material consideration which weighs against the proposal."** (Paragraph 4.5).
- 5.17 Therefore, in reaching a decision on the proposed development, we believe that the Council should place significant weight on the fact that the proposed development fails the sequential approach. The weight attached to impact on Morton would be less given the fact that the conclusions reached on this matter are more finely balanced and we are conscious of the need for the local authority to have clear evidence that this development would have a significant prejudicial affect. The weight that WYG suggest should be attached to the retail planning case will then have to be carefully balanced against the weight which the Council would place on the regeneration benefits that would be secured by the proposed development.

SCHEDULE A: Applications with Recommendation

10/0265

Item No: 02

Date of Committee: 11/06/2010

Appn Ref No:
10/0265

Applicant:
Mr Watson

Parish:
Brampton

Date of Receipt:
26/03/2010

Agent:
Green Design Group

Ward:
Brampton

Location:
Brampton Playhouse, Moat Side, Brampton, CA8
1UH

Grid Reference:
353224 561164

Proposal: Demolition Of Redundant Brampton Playhouse. Erection Of 5 No.
Dwellings With On Site Parking (Revised Application)

Amendment:

REPORT

Case Officer: Stephen Daniel

Reason for Determination by Committee:

An objection has been received from Brampton Parish Council.

1. Constraints and Planning Policies

Airport Safeguarding Area

Gas Pipeline Safeguarding Area

The proposal relates to land or premises situated within or adjacent to the Gas Pipeline Safeguarding Area.

Conservation Area

The proposal relates to land or premises situated within the Brampton Conservation Area.

Local Plan Pol H1 - Location of New Housing Develop.

Local Plan Pol H2 - Primary Residential Area

Local Plan Pol H5 - Affordable Housing

Local Plan Pol LE16 - Historic Structures and Local Listings

Local Plan Pol LE17-Dev.Involving Dem.Unlisted Bldgs CA

Local Plan Pol LE19 - Conservation Areas

Local Plan Pol CP2 - Biodiversity

Local Plan Pol CP5 - Design

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

Local Plan Pol T1- Parking Guidelines for Development

Local Plan Pol LE10 - Archaeological Field Evaluation

2. Summary of Consultation Responses

Cumbria County Council - (Highway Authority): no objections, subject to conditions;

Brampton Parish Council: objects for the following reasons:

- not in keeping with the Conservation Area;
- inappropriate house design;
- overdevelopment of the site;
- lack of residents parking;
- concerns at proposed access/ exit to the public highway and road safety;

Development Services Planning & Housing Services - Conservation Section: no objections;

Cumbria Constabulary - Crime Prevention: the application complies with Policy CP17 of the Local Plan 'Designing Out Crime'. Any security lighting must be designed for the intended purpose and not cause nuisance, annoyance or unnecessary pollution;

Community Services - Drainage Engineer: comments awaited;

United Utilities: there is no objection to the proposal. This site must be drained on a separate system, with only foul drainage connected into the foul sewer. Surface water should discharge to the soakaway and may require the consent of the Environment Agency;

Carlisle Airport: no objections;

Northern Gas Networks: no objections;

Cumbria County Council - (Archaeological Services): any ground works associated with the development should be subject to a programme of

archaeological recording (a watching brief) and an archaeological building recording programme (Level 2) should be undertaken in advance of the development - these should be enforced by suitably worded conditions;

Urban Designer (Carlisle Renaissance): the revised drawings are a suitable solution for the site. The footprint of the two storey Unit 5 maintains a defined street frontage, while the revised materials schedule provides a rational compromise between newer materials and traditional stone elevations, allowing the building to sit comfortably within its historic context.

Some clarification is needed on the tabled drawings however as these indicate that the northern elevation is in stone, but this is not reflected in the indicated widths of the ground floor northern gable to the parking area (undercroft) for Unit 5. Also, the stone boundary walls to the western and eastern edges of the site appear to bisect the public footpath, which is presumably not intended.

There is no clear detail of how the lintel over the undercroft to Unit 5 is to be formed. This should be achieved via a visible beam and not by a concealed beam implausibly faced in stone. This will be a prominent feature in the development so requires clarification.

Given the sensitivity of the site's location rainwater goods should be in cast iron or aluminium (not plastic). On stone elevations these should be supported by rise and fall brackets and not via the introduction of a timber fascia. Any utility meters should be of the semi-concealed, 'in ground' variety and not affixed to any elevations visible from the public highway.

Subject to clarification of these issues, Urban Designer has no objection to a recommendation to approve this proposal;

Local Environment - Environmental Protection: the applicant needs to provide sufficient information to determine the existence or otherwise of contamination and the nature and risks it may pose. The minimum requirement should be a report of a desk study and site walk-over. Where this indicates the need for further investigation, this should also be carried out and the information supplied;

Housing Strategy: there is an urgent need for affordable housing in Brampton; therefore the Housing Strategy team requires affordable housing provision to be made by the developer and requests a 30% discount on 10% of the units to be developed. 10% of the units on site equates to 0.5 units. Given the realisation that the Council can not reasonably request a full affordable unit from the developer, Housing Strategy request a commuted sum in this case. This valuable contribution would be used to deliver affordable housing on another development in the Carlisle Rural East area. While the sum would be agreed at a later date, and after discussions with the developer, it would equate to 30% of the market value of 0.5 of a unit.

3. Summary of Representations

Representations Received

Initial:	Consulted:	Reply Type:
10 Wellmeadow	07/04/10	
Murraycroft, Craw Hall,	07/04/10	
11 Wellmeadow	07/04/10	
12 Wellmeadow	07/04/10	
13 Wellmeadow	07/04/10	
14 Wellmeadow	07/04/10	
15 Wellmeadow	07/04/10	
Craig Lynn, Moatside	07/04/10	
Ghyll Bank, Moatside	07/04/10	
Bordersyde House	07/04/10	Objection
Bordersyde Cottage, Moatside	07/04/10	
The Nook, Moatside	07/04/10	
Moat View, Moatside	07/04/10	

3.1 This application has been advertised by means of site and press notices as well as notification letters sent to thirteen neighbouring properties. One letter of objection has been received during the consultation period, which makes the following points:

- Although the window on Unit 5 facing Bordersyde appears to have been removed and replaced with a sandstone feature it is unclear as to whether this is glazed or not (if it is glazed then this would appear to be just another window). This appears to be the only modification to the plan;
- The parking issues do not appear to have been addressed as there are still only 5 spaces for properties that would support upwards of ten cars;
- Concerns regarding parking extend to the lay-by opposite that is already full with current resident parking in the evenings , this will lead to parking on the road causing further safety issues;
- Also the entrance into the property still appears to be in the same place which will be blind to any traffic approaching from an Easterly direction;
- Main concern however will be the reduction in natural light into Bordersyde caused by the height of the building directly opposite. As the sun rises left to right across the front of Bordersyde a two-storey building would block out the light for most of the day causing us distress. This is not what we expected when we bought this property;
- Other concern is regarding the light pollution caused by the security lighting on the property around the parking area as this will be visible from both our main bedroom and also our living room again causing us distress;
- In summary, whilst we are not in total disagreement to the plans our biggest concerns are regarding the property directly opposite our own. If this property was to be removed from the application it would reduce the amount of parking required and would also increase the amount of on site parking

available. It would also address the issue of being overlooked and also the reduction of natural light into Bordersyde.

4. Planning History

- 4.1 In January 2010, applications for planning permission and Conservation Area Consent for the demolition of the redundant Brampton Playhouse and the erection of 5 dwellings with on site parking were withdrawn prior to determination (09/1048 & 09/1049).

5. Details of Proposal/Officer Appraisal

Introduction

- 5.1 The proposal is seeking planning permission for the demolition of the redundant Brampton Playhouse at Moatside, Brampton and the erection of five dwellings with on-site parking. An application for Conservation Area Consent for the demolition of the building has also been submitted (10/0266) and follows this report in the Schedule.
- 5.2 The building, which lies within the Brampton Conservation Area and is identified as a building of historic interest, is a former church, which was built around 1850 and was later converted to a theatre. The building is constructed of a mixture of stone and brick and includes some lean-to and single-storey extensions.
- 5.3 A Structural Survey accompanies the application and this identifies that the building has had a number of structural problems and these, together with infestation of woodworm, wet rot, dry rot and penetrating damp, have caused serious damage to the fabric of the building, which is now approaching a dangerous condition. Indeed, the Brampton Players, who were the last group to occupy the building, were forced to vacate the premises recently due to safety issues raised in the Structural Survey.
- 5.4 The Structural Engineer's Report considers that the cost of repairs, together with the cost of converting the building to another use, would make it unviable. The only viable option appears to be to demolish the existing building and to replace it with a new development.
- 5.5 The existing building lies in close proximity to Moatside (the main road), being set back approximately 2.5m from the edge of the footpath, which is defined by a low stone wall. The main section of the building measures 10.5m in width, with the ridge height being approximately 10.5m. A single-storey extension is attached to the eastern side of the main building and this measures 5m in width. The building covers the majority of the site, although there is a garden area to the rear. There is a significant change in levels across the site, with the rear of the site being approximately 3m lower than Moatside. As a consequence, the rear elevation of the building is significantly higher than the front elevation.

- 5.6 Murray Park lies directly to the east and south of the application site and is separated from it by a stone wall. A pair of semi-detached properties adjoin the site to the west, with the driveway to one of these being located directly adjacent to the west elevation of the existing building.
- 5.7 Moatside runs to the front of the building and two dwellings, Haining Bank and Bordersyde, are located directly across the road from the application site. Haining Bank lies opposite the main building, whilst Bordersyde lies directly opposite the single-storey element. Both of these dwellings are located at a higher level than Moatside and both have windows at ground and first floor levels in the front elevations facing the application site.

The Proposal

- 5.8 The application is proposing to demolish the existing building and to erect five dwellings in its place. Three of these dwellings would be one bed units, whilst two would have two bedrooms. The majority of the front of the site, adjacent to Moatside, would contain the new access to the site and four car parking spaces, to serve four of the units. This area would measure approximately 11m in width and would run back approximately 11.5m into the site.
- 5.9 A detached two-storey dwelling would be located opposite to the car parking area, in the north-east corner of the site, in the area which is currently occupied by the single-storey extension. The ground floor of this property would contain an open fronted garage, one bedroom and a bathroom, with the upper floor containing an open plan kitchen/ dining area/ lounge and a bedroom. The front elevation of the dwelling, adjacent to Moatside, would measure 5m in width, 4.6m to the eaves and 7.2m to the ridge. It would be constructed of stone under a reclaimed slate roof. The elevation would not contain any windows but a sandstone trefoil opening would be added to the gable and stone quoins would be incorporated. The side elevations of this dwelling, which would be prominent in views from Moatside and Murray Park, would also be constructed of stone.
- 5.10 The rear (southern) section of the site, beyond the parking area, would contain the other four residential units, which would be contained within two attached buildings. When viewed from the car park, these buildings would appear one and two-storeys in height. However, due to the change in levels across the site, the accommodation is provided over two and three floors. One building would contain a one bed unit and a two bed unit over two floors, with the other building comprising two one bed units. The front elevations of both buildings would be constructed of stone.
- 5.11 The rear elevations of all of the buildings would be rendered and would contain large windows/ patio doors. All of the units would have some form of amenity space in the form of a small garden or a patio and four of the units would have balconies.

Assessment

- 5.12 The relevant planning policies against which the application is required to be assessed include Policies H1, H2, H5, LE10, LE16, LE17, LE19, CP2, CP5, CP12 and T1 of the Carlisle District Local Plan 2001-2016.
- 5.13 The proposal raises the following planning issues:
1. The Principle Of The Proposed Development
- 5.14 Brampton is identified as a Key Service Centre in the adopted Local Plan. The site lies within the defined settlement boundary and within a Primary Residential Area. The principle of residential development on this site is, therefore, acceptable.
2. Whether The Scale And Design Of The Proposals Are Acceptable
- 5.15 Both the Conservation Officer and the Urban Design Officer have accepted that it would not be viable to retain and convert the existing building and have accepted that it can be demolished.
- 5.16 The mass of the new proposals would be similar to the mass of the existing building and one of the buildings would be built towards the front of the site, close to Moatside, in order to retain a defined street frontage. The dwellings would contain steep, pitched roofs, with reclaimed slate roofs and stone to the most prominent elevations. Stone quoins and window surrounds would be incorporated into the proposals, with stone tabling being added to the gable verges. The stone wall around the site would be retained. Both the Conservation Officer and the Urban Design Officer have raised no objections to the proposals. In light of the above, the scale and design of the proposals are acceptable and they would not have an unacceptable impact on the character or appearance of the Conservation Area.
3. The Impact Of The Proposals On The Living Conditions Of The Occupiers Of Any Neighbouring Properties
- 5.17 Two residential properties (Bordersyde and Haining Bank) are located on the opposite side of the road to the application site and both of these properties have windows at ground and first floor levels. The two-storey dwelling that would be constructed in the north-east corner of the site would lie directly opposite Bordersyde. The front elevation of this dwelling would be 12m away from the front elevation of Bordersyde and it would not contain any windows. The occupiers of Bordersyde are concerned about loss of natural light to their property. Whilst it is acknowledged that there might be some loss of light to this property at certain times, this is not considered to be significant enough to warrant refusal of the application. Indeed, levels of natural light to the property should improve at certain times, given that the existing building is significantly larger, in terms of its overall mass, than the dwelling hereby proposed.
- 5.18 Haining Bank would lie opposite the two attached buildings, which would be set back 12.5m and 15.5m into the site. The front elevation of Haining Bank

would be over 25m away from the front elevation of these new dwellings, one of which would have a single-storey front elevation and the other a two-storey front elevation. Given the distances and the heights of the new buildings, the occupiers of Haining Bank should not be adversely affected by the proposals. Indeed, given that the new buildings would be set back significantly further into the site than the existing building and would have a lower ridge height, the occupiers of Haining Bank should benefit from increased levels of sunlight and less overshadowing.

- 5.19 Craig Lynn lies directly to the west of the application site and the existing building has a solid wall adjacent to this property, which runs along the length of its gable and along part of its rear garden. The parking area for four of the new dwellings would be located adjacent to Craig Lynn and part of its garden, with one of the new dwellings being located adjacent to the rear 12m of the property's garden. Given the proximity and mass of the existing building, the proposals should not have an adverse impact on the occupiers of Craig Lynn, due to loss of light or over shadowing. The new dwelling would only contain two bathroom windows in the west elevation, which faces the bottom section of Craig Lynn's garden, and these would both have obscure glazing. Whilst there could be limited overlooking of the rear of the garden from the balcony on Unit 2, this could be reduced by ensuring that the side elevation of the balcony facing Craig Lynn is not transparent and of sufficient height to prevent overlooking.
- 5.20 In light of the above, the proposals would not have an adverse impact on the living conditions of the occupiers of any neighbouring dwellings due to loss of light, loss of privacy or over-dominance.

4. Highway Matters

- 5.21 The Parish Council and a local resident consider that the proposed level of parking is inadequate and they are concerned about the new access onto the public highway. County Highways is, however, satisfied with the level of parking provision. In relation to the new access, a condition has been attached to the permission requiring the applicant to ensure that adequate visibility is achieved from the new access before any development commences on site. A condition has also been attached to the permission, which requires the applicant to identify suitable areas for the parking of construction traffic.

5. Affordable Housing

- 5.22 The application proposes the erection of five dwellings and, therefore, in accordance with Policy H5 of the adopted Local Plan, an element of affordable housing must be incorporated. On this site, the affordable housing provision equates to 0.5 of a unit (i.e. 10% of 5 units). Given that the Council cannot reasonably request a full affordable unit from the developer, the Housing Strategy Team has requested a commuted sum and this would need to be secured through a Section 106 Agreement. Whilst the sum would be agreed at a later date, and after discussions with the developers, it would equate to 30% of the market value of 0.5 of a unit of

housing on site. If Members were minded to approve the application, it would be necessary to grant authority to issue approval, to enable the Section 106 Agreement to be completed.

Conclusion

- 5.23 In overall terms, the proposals are acceptable in principle. The scale and design of the proposals would be acceptable and they would not have an adverse impact on the Brampton Conservation Area or on the living conditions of neighbouring residents. The access arrangements and level of parking proposed is sufficient. In all aspects, the proposals are compliant with the relevant policies contained within the adopted Local Plan.

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 The proposal has been considered against the above but in this instance it is not considered that there is any conflict. If it was to be alleged that there was conflict it is considered not to be significant enough to warrant the refusal of permission.

7. 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 submitted planning application form;
 2. the Design and Access Statement;
 3. Desk Top Study on Likelihood of Contamination;
 4. Report on Structural Inspection;
 5. Bat Survey;
 6. Drawing Number 09/1897/01
 7. Drawing Number 09/1897/03A
 8. Drawing Number 091897/05D
 9. Drawing Number 091897/06
 10. the Notice of Decision notice;
 11. any such variation as is approved in writing by the local planning authority.

Reason: For the avoidance of doubt.

3. Samples or full details of all materials to be used on the exterior shall be submitted to and approved in writing by the Local Planning Authority before any work is commenced.

Reason: To ensure the works harmonise as closely as possible with the existing building and to ensure compliance with Policies CP5 and LE19 of the Carlisle District Local Plan 2001-2016.

4. Prior to the commencement of development details of rainwater goods to be installed on the buildings hereby approved (including materials, profiles and methods of fixing to the building) shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in strict accordance with these approved details.

Reason: To ensure that the external appearance of the building is acceptable and to accord with Policies LE19 and CP5 of the Carlisle District Local Plan 2001-2016.

5. No development shall take place until full details of hard and soft landscape works, including a phased programme of works, have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved prior to the occupation of any part of the development or in accordance with the programme agreed by the Local Planning Authority. Any trees or other plants which die or are removed

within the first five years following the implementation of the landscaping scheme shall be replaced during the next planting season.

Reason: To ensure that a satisfactory landscaping scheme is prepared and to ensure compliance with Policy CP5 of the Carlisle District Local Plan 2001-2016.

6. No development shall commence until details of any walls, gates, fences and other means of permanent enclosure and/or boundary treatment to be erected have been submitted to and approved, in writing, by the Local Planning Authority.

Reason: To protect the privacy and amenity of the occupiers of the dwellings to be created, in accordance with Policies H2 and CP5 of the Carlisle District Local Plan 2001-2016.

7. No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been approved in writing by the Local Planning Authority. Such a scheme shall be constructed and completed in accordance with the approved plans.

Reason: To ensure a satisfactory means of surface water disposal in accordance with Policy CP12 of the Carlisle District Local Plan 2001-2016.

8. Details of the heights of the existing and proposed ground levels and the height of the proposed finished floor levels of the dwellings shall be submitted to and approved in writing by the Local Planning Authority before any site works commence.

Reason: In order that the approved development safeguards the living conditions of neighbouring residents in accordance with Policies CP5 and H2 of the Carlisle District Local Plan 2001-2016.

9. Prior to the commencement of development hereby approved, details of the screen structure to the west elevation of the first floor balcony on unit 2 shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be undertaken in accordance with the approved details and the structure shall be retained thereafter.

Reason: In order to ensure that the development does not result in any overlooking issues to the occupiers of the adjacent property in accordance with the objectives of Policies H2 and CP5 of the Carlisle District Local Plan 2001-2016.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking and re-enacting that Order), no additional windows shall be inserted on the properties without the prior consent of the Local Planning Authority.

Reason: In order to protect the privacy and amenities of residents in close proximity to the site and to ensure compliance with Policies CP5 and H2 of the Carlisle District Local Plan 2001-2016.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) there shall be no enlargement or external alterations to the dwelling units to be erected in accordance with this permission, within the meaning of Schedule 2 Part (1) of these Orders, without the written approval of the Local Planning Authority.

Reason: To ensure that the character and attractive appearance of the buildings is not harmed by inappropriate alterations and/or extensions and that any additions which may subsequently be proposed satisfy the objectives of Policies CP5, H2 and LE19 of the Carlisle District Local Plan 2001-2016.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking and re-enacting that Order), the two bathroom windows in the west elevation of units 1 & 2 shall be obscure glazed to factor 3 or above, and thereafter retained as such to the satisfaction of the Local Planning Authority.

Reason: In order to protect the privacy and amenities of residents in close proximity to the site in accordance with Policies H2 and CP5 of the Carlisle District Local Plan 2001-2016.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any other Order revoking and re-enacting that Order), no wall, fence or other means of enclosure shall be erected within any part of the site (other than those shown in any plans which form part of this application), without the approval of the Local Planning Authority.

Reason: To ensure that any form of enclosure is carried out in a co-ordinated manner in accord with Policies CP5 and LE19 of the Carlisle District Local Plan 2001-2016.

14. An archaeological watching brief shall be undertaken by a qualified archaeologist during the course of the ground works of the development hereby permitted. The archaeological watching brief shall be in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority prior to the commencement of development. Within two months of the completion of development hereby approved, three copies of the report shall be furnished to the Local Planning Authority.

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, in accordance with Policy LE10 of the Carlisle District Local Plan 2001-2016.

15. Prior to the demolition, the existing building affected by the proposed development shall be recorded in accordance with a Level 2 survey as described by English Heritage's document Understanding Historic Buildings A Guide to Good Recording Practice, 2006. Within 2 months of the commencement of construction works, 3 copies of the resultant level 2 survey report shall be furnished to the Local Planning Authority.

Reason: To ensure that a permanent record is made of the building of architectural and historic interest prior to its alteration as part of the proposed development, in accordance with Policy LE10 of the Carlisle District Local Plan 2001-2016.

16. The development shall not commence until visibility splays providing clear visibility of 2.4 by 43 metres measured down the centre of the access road and the nearside channel line of the major road have been provided at the junction of the access road with the county highway. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grow within the visibility splay which obstruct the visibility splays. The visibility splays shall be constructed before general development of the site commences so that construction traffic is safeguarded.

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

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

Reason: In the interests of road safety and to support Local Transport Plan Policies LD5, LD7 and LD8.

18. The dwellings shall not be occupied until the access and parking requirements have been constructed in accordance with the approved plan. Any such access and or parking provision 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 to support Local Transport Plan Policies LD5, LD7 and LD8 and Structure Plan Policy: T32.

19. Details of all measures to be taken by the applicant/developer to prevent surface water discharging onto or off the highway shall be submitted to the

Local Planning Authority for approval prior to development being commenced. Any approved works shall be implemented prior to the development being completed and shall be maintained operational thereafter.

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

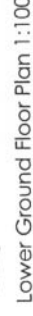
20. Before any development takes place, a plan shall be submitted for the prior approval of the local planning authority reserving adequate land for the parking of vehicles engaged in construction operations associated with the development hereby approved, and that land, including vehicular access thereto, shall be used for or be kept available for these purposes at all times until completion of the construction works.

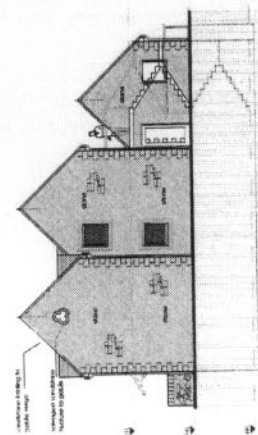
Reason: The carrying out of this development without the provision of these facilities during the construction work is likely to lead to inconvenience and danger to road users and to support Local Transport Policy LD8.

21. The development hereby approved shall be undertaken fully in accordance with the mitigation strategy detailed in Section 5.2.1 (Mitigation for Roost Sites) of the Bat Survey Report (BAT/10/748) produced by Andrew Gardner and received by the City Council on 17 May 2010.

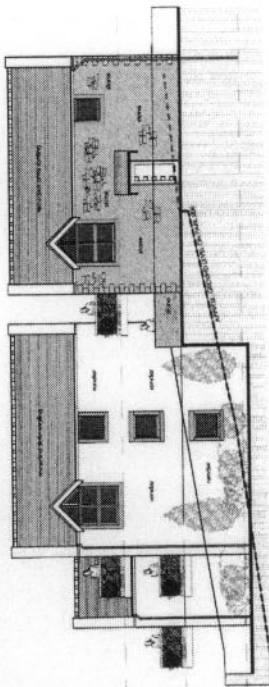
Reason: To ensure there is no impact on bats, a European Protected Species, in accordance with Policy CP2 of the Carlisle District Local Plan 2001-2016.



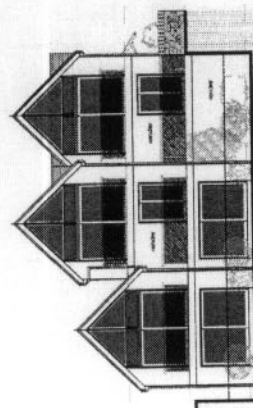




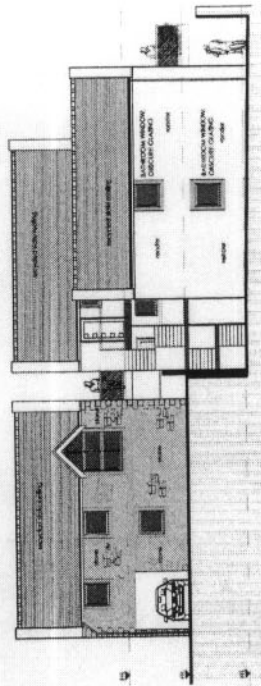
North Elevation 1:100



East Elevation 1:100



South Elevation 1:100



West Elevation 1:100

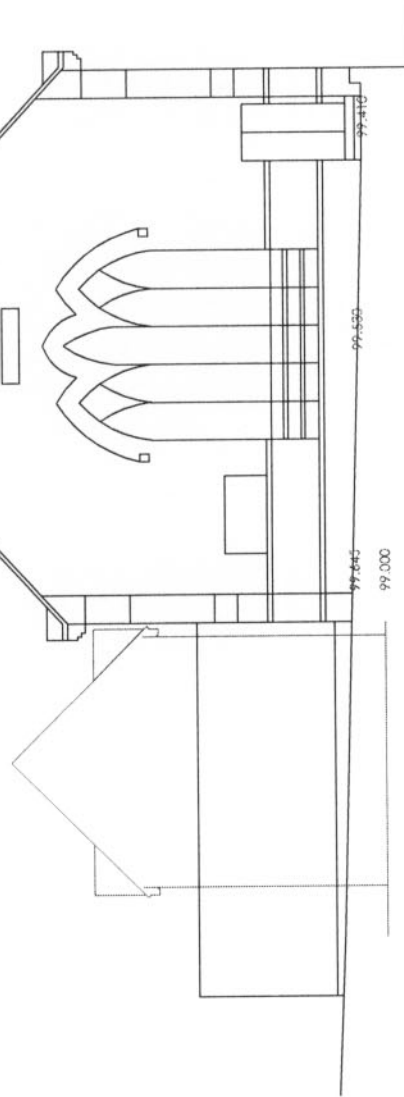
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GREEN DESIGN GROUP
5115 Glenview Ave.
Bryn Mawr, PA 19001
Tel: 610-351-1000
Fax: 610-351-1001
www.greendesigngroup.com

NO.	DATE	DESCRIPTION
1	10/1/05	Initial Design
2	10/1/05	Final Design
3	10/1/05	Final Design
4	10/1/05	Final Design
5	10/1/05	Final Design
6	10/1/05	Final Design
7	10/1/05	Final Design
8	10/1/05	Final Design
9	10/1/05	Final Design
10	10/1/05	Final Design

elevation of
existing playhouse

outline elevation of
proposed building
nearest road



Craig Lynn

North Elevation

Scale 1:100

GREEN DESIGN GROUP



REV	DATE	DESCRIPTION

SCHEDULE A: Applications with Recommendation

10/0266

Item No: 03

Date of Committee: 11/06/2010

Appn Ref No:
10/0266

Applicant:
Mr Watson

Parish:
Brampton

Date of Receipt:
23/03/2010 16:54:53

Agent:
Green Design Group

Ward:
Brampton

Location:
Brampton Playhouse, Moat Side, Brampton, CA8
1UH

Grid Reference:
353224 561164

Proposal: Demolition Of Redundant Brampton Playhouse. Erection Of 5 No.
Dwellings With On Site Parking (CAC) (Revised Application)

Amendment:

REPORT

Case Officer: Stephen Daniel

Reason for Determination by Committee:

An objection has been received from Brampton Parish Council.

1. Constraints and Planning Policies

Airport Safeguarding Area

Gas Pipeline Safeguarding Area

The proposal relates to land or premises situated within or adjacent to the Gas Pipeline Safeguarding Area.

Conservation Area

The proposal relates to land or premises situated within the Brampton Conservation Area.

Local Plan Pol LE17-Dev.Involving Dem.Unlisted Bldgs CA

Local Plan Pol LE19 - Conservation Areas

2. Summary of Consultation Responses

Cumbria County Council - (Highway Authority): no comments;

Brampton Parish Council: objects for the following reasons:

- not in keeping with the Conservation Area;
- inappropriate house design;
- overdevelopment of the site;
- lack of residents parking;
- concerns at proposed access/ exit to the public highway and road safety;

Development Services Planning & Housing Services - Conservation Section:
no objections;

Cumbria Constabulary - Crime Prevention: the application complies with Policy CP17 of the Local Plan 'Designing Out Crime'. Any security lighting must be designed for the intended purpose and not cause nuisance, annoyance or unnecessary pollution;

Community Services - Drainage Engineer: comments awaited;

United Utilities: no objections provided that only foul drainage is connected into the foul sewer and surface water discharges to a soakaway;

Northern Gas Networks: no objections;

Carlisle Airport: no objections;

Urban Designer (Carlisle Renaissance): no objections to the demolition of the building.

3. Summary of Representations

Representations Received

Initial:	Consulted:	Reply Type:
10 Wellmeadow	29/03/10	
11 Wellmeadow	29/03/10	
12 Wellmeadow	29/03/10	
13 Wellmeadow	29/03/10	
14 Wellmeadow	29/03/10	
15 Wellmeadow	29/03/10	
Craig Lynn, Moatside	29/03/10	
Ghyll Bank, Moatside	29/03/10	
Bordersyde House, Moatside	29/03/10	Objection
Bordersyde Cottage, Moatside	29/03/10	
The Nook, Moatside	29/03/10	

- 3.1 This application has been advertised by means of site and press notices as well as notification letters sent to thirteen neighbouring properties. One letter of objection has been received during the consultation period, but this does not raise any issues which relate specifically to this application.

4. Planning History

- 4.1 In January 2010, applications for planning permission and Conservation Area Consent for the demolition of the redundant Brampton Playhouse and the erection of 5 dwellings with on site parking were withdrawn prior to determination (09/1048 & 09/1049).

5. Details of Proposal/Officer Appraisal

Introduction

- 5.1 The proposal is seeking Conservation Area Consent to demolish the redundant Brampton Playhouse at Moatside, Brampton. The building, which lies within the Brampton Conservation Area and is identified as a building of historic interest, is a former church, that was built around 1850 and was later converted to a theatre. The building is constructed of a mixture of stone and brick and includes some lean-to and single-storey extensions.
- 5.2 A Structural Survey accompanies the application and this identifies that the building has had a number of structural problems and these, together with infestation of woodworm, wet rot, dry rot and penetrating damp, have caused serious damage to the fabric of the building, which is now approaching a dangerous condition. Indeed, the Brampton Players, who were the last group to occupy the building, were forced to vacate the premises recently due to safety issues, which were raised in the Structural Survey.
- 5.3 The Structural Engineer's Report considers that the cost of repairs, together with the cost of converting the building to another use, would make it unviable. The only viable option appears to be to demolish the existing building and to replace it with a new residential development.
- 5.4 The applicant proposes to demolish the building, with a view to redeveloping the site for residential purposes. The application, reference 10/0265, which precedes this report in the Schedule, seeks approval for the erection of five residential units on the site.

Assessment

- 5.5 The relevant planning policies against which the application is required to be assessed are Policies LE17 and LE19 of the Carlisle District Local Plan 2001-2016.
- 5.6 The proposal raises the following planning issues:
1. The Impact Of The Proposal On The Brampton Conservation Area
- 5.7 Both the Conservation Officer and the Urban Design Officer have accepted that it would not be viable to retain and convert the existing building and have accepted that it can be demolished. They both consider that the proposal to redevelop the site for residential development (10/0265) would be acceptable.
- 5.8 However, Members are advised that if they were minded not to approve the application to redevelop the site (10/0265), which precedes this application in the Schedule it would not be appropriate to approve this application. To do so may increase the likelihood of the site being cleared and left undeveloped which would detract from the Conservation Area. Therefore, in the absence of any approved scheme to redevelop the site, the approval of this application would be considered to be premature.

Conclusion

- 5.9 In overall terms, it is considered that the proposal does not adversely affect the Brampton Conservation Area. In all aspects the proposal is considered to be compliant with the objectives of the relevant Local Plan policies. If the application to redevelop the site, reference 10/0265, is approved it is recommended that this application also be approved. However, if that application is refused this application should be refused on the grounds of prematurity and having an adverse impact on the Conservation Area.

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 The proposal has been considered against the above but in this instance it is not considered that there is any conflict. If it was to be alleged that there was conflict it is considered not to be significant enough to warrant the refusal of permission.

7. Recommendation - Grant Permission

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

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

2. The approved documents for this planning permission comprise:

1. the submitted planning application form;
2. the Design and Access Statement;
3. Desk Top Study on Likelihood of Contamination;
4. Report on Structural Inspection;
5. Bat Survey;
6. Drawing Number 09/1897/01
7. Drawing Number 09/1897/03A
8. Drawing Number 091897/05D
9. Drawing Number 091897/06
10. the Notice of Decision notice;
11. any such variation as is approved in writing by the local planning authority.

Reason: For the avoidance of doubt.

3. The building shall not be demolished before a contract for the carrying out of works of redevelopment of the site has been made and planning permission

has been granted for the redevelopment for which the contract provides.

Reason: To safeguard against premature demolition in accord with Policy LE17 of the Carlisle District Local Plan 2001-2016.

SCHEDULE A: Applications with Recommendation

10/0245

Item No: 04

Date of Committee: 11/06/2010

Appn Ref No:
10/0245

Applicant:
c/o A&S Joinery Ltd

Parish:
Brampton

Date of Receipt:
12/03/2010 16:00:10

Agent:
Tsada Building Design
Services

Ward:
Brampton

Location:
14 Morpeth Close, Brampton, CA8 1DS

Grid Reference:
353204 561756

Proposal: Erection Of 3no. Bedroom Dwelling With Garage And Access Drive
Shared With Existing Dwelling

Amendment:

1. Revisions to porch roof and fenestration
-

REPORT

Case Officer: Barbara Percival

Reason for Determination by Committee:

This application is before Members of the Development Control Committee as the Parish Council and five neighbouring residents have raised objections.

1. Constraints and Planning Policies

Airport Safeguarding Area

RSS Pol RDF 2 - Rural Areas

RSS Pol L 4 - Regional Housing Provision

RSS Pol CNL 1 - Overall Spatial Policy for Cumbria

Local Plan Pol DP1 - Sustainable Development Location

Local Plan Pol CP5 - Design

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

Local Plan Pol H1 - Location of New Housing Develop.

Local Plan Pol H2 - Primary Residential Area

Local Plan Pol T1- Parking Guidelines for Development

2. Summary of Consultation Responses

Cumbria County Council - (Highway Authority): the section of road giving access to this site is a private road. It is maintained by the current frontage owners.

The Highway Authority therefore cannot comment on this section of private road. The views of the owners of this road is, however, of vital importance and they should be seen as the private street works authority for this section of road (i.e the highway authority).

This road is therefore private and the right of access is not (as per highway) automatic.

From a pure highway point of view (where it indeed becomes adopted highway) the Highway Authority has no objection to this application, but stress that the current owners of this road should consulted;

Local Environment (former Community Services) - Drainage Engineer: comments awaited;

United Utilities - (for water & wastewater comment) see UUES for electricity dist.network matters: no objection to the proposal provided that the following conditions are met:

- in accordance with PPS25 surface water should not be allowed to discharge to foul/combined sewer as stated in the planning application. This prevents foul flooding and pollution of the environment
- request a condition to be attached to the application requiring the developer to contact the Local Authority confirming how surface water will be managed
- this site must be 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 we may require the flow to be attenuated to a maximum discharge rate determined by United Utilities
- a separate metered supply to each unit will be required at the applicant's expense and all internal pipework must comply with current water supply (water fittings) regulations 1999
- should this planning application be approved, the applicant should contact our Service Enquiries on 0845 7462200 regarding connection to the water mains/public sewers;

Local Environment - Environmental Protection (former Comm Env Services-Env Quality): no observations;

Brampton Parish Council: overdevelopment of site. Has access been granted over the private driveway maintained by Ridge View residents? Concerns re. parking due to reduced number of available spaces;

Carlisle Airport: no objections.

3. Summary of Representations

Representations Received

Initial:	Consulted:	Reply Type:
1 Morpeth Close	24/03/10	
8 Morpeth Close	24/03/10	
9 Morpeth Close	24/03/10	
10 Morpeth Close	24/03/10	
11 Morpeth Close	24/03/10	Objection
12 Morpeth Close	24/03/10	
13 Morpeth Close	24/03/10	Comment Only
14 Morpeth Close	24/03/10	
5 Ridge View	24/03/10	Objection
6 Ridge View	24/03/10	
7 Ridge View	24/03/10	
1 Ridge View	20/04/10	
2 Ridge View	20/04/10	Objection
3 Ridge View	20/04/10	Objection
4 Ridge View	20/04/10	
2 Morpeth Close	24/03/10	
3 Morpeth Close	24/03/10	
4 Morpeth Close	24/03/10	
5 Morpeth Close	24/03/10	
6 Morpeth Close	24/03/10	
7 Morpeth Close	24/03/10	
Mr Benson, 3 Priory Gardens		Objection

3.1 This application has been advertised by the direct notification of seventeen neighbouring properties and the posting of a site notice. In response, five objections and 1 comment have been received.

3.2 The objections and comment identify the following issues:

1. access to the proposed development would be via Ridge View. When planning permission was originally granted for the Ridge View development, access was also granted to existing property across what is a private driveway, maintained by the residents of Ridge View, through a Management Committee. Only the residents of Ridge View contribute to the maintenance or insurance of the access. Legal documents pertaining to access across Ridge View do not mention any new development. Only numbers 13 and 14 Morpeth Close have previously agreed access

- across;
2. access to Ridge View is from Stanley Road, which already has traffic/parking problems without the increase of additional traffic caused by the development together with its associated construction traffic;
 3. any increase in traffic including construction traffic will affect the amenities of Ridge View and create a danger to children playing;
 4. parking is currently restricted for the existing 4 houses and 3 flats within Ridge View. This issue will be further restricted with the increase in traffic leaving the proposed development;
 5. loss of views across the Ridge with the development resulting in another property overlooking the writers rear garden which will affect the value of their property;
 6. a tree was removed prior to the submission of the planning application. Was permission required for the removal of the tree?
 7. the proposed dwelling appears to have a larger footprint than the existing properties in the immediate vicinity;
 8. increase in traffic could result in an accident as there is currently no vision between adjacent properties;
 9. request that Permitted Development Rights for first floor windows are removed from the west elevation to avoid any overlooking issues.

3.3 Reconsultation has been undertaken in respect of revised plans.

4. Planning History

- 4.1 In 2005, Full Planning Permission was granted for an extension to provide a porch, garage, bedroom, kitchen and utility room (application reference 05/0319).

5. Details of Proposal/Officer Appraisal

Introduction

- 5.1 The proposal is located in an area currently serving as a parking and hardstanding area for 14 Morpeth Close, a two storey end of terrace property which lies to the north west of the application site. Immediately to the west is 13 Morpeth Close, a recently extended end of terrace property whilst to the south east is the Ridge View development, a three storey and two storey block consisting of 3no. flats and 4no. two storey properties with its associated parking. The proposal's eastern boundary has open aspects.

Background

- 5.2 The application seeks Full Planning Permission for the erection of a detached house with an attached garage. The submitted drawings illustrate that the dwelling including the attached garage would have a maximum length of 12 metres with a maximum width of 10.8 metres and rises to a maximum ridge height of 7 metres.

- 5.3 The accommodation provided would comprise an attached double garage, entrance hall, w.c., utility, kitchen, living room and dining room with 3no. bedrooms, bathroom and study above. The drawings also indicate that the access to service both the proposed dwelling and 14 Morpeth Close would be as existing i.e. from the adopted highway, Stanley Road, across the privately maintained Ridge View development.
- 5.4 The scale and massing of the proposed dwelling would be similar to those of its immediate neighbours. The proposed materials are dark red facing brick with artstone quoins lintel and cills with a blue/black slate roof with white upvc windows and timber doors.

Assessment

- 5.5 The relevant planning policies against which the application is required to be assessed are Policies RDF2, L4 and CNL1 of the North West of England Regional Spatial Strategy to 2021, Policies DP1, CP3, H1, H9, CP5, CP12, H1, H2 and T1 of the Carlisle District Local Plan 2001-2016.
- 5.6 The proposals raise the following issues:
1. Whether The Principle of Development Is Acceptable
- 5.7 Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that applications for planning permission are determined in accordance with the provisions of the Development Plan unless material considerations (including Government Policy as expressed through Planning Policy Guidance Notes, Planning Policy Statements and material representations) indicate otherwise. Currently, the Development Plan comprises the North West of England Plan Regional Spatial Strategy to 2021, extended Policies of the Cumbria and Lake District Joint Structure Plan (adopted April 2006) and the Carlisle District Local Plan 2001-2016 (adopted in September 2008).
- 5.8 The key policies, against which this application should be assessed, are Policies RDF2, L4 and CNL1 of the Regional Spatial Strategy together with Policies DP1, CP3, CP5, H1 and T1 of the Carlisle District Local Plan 2001-2016. The main thrust common to these planning policies is that new development in the rural area will generally be focussed upon established settlements where there are appropriate services, facilities and amenities.
- 5.9 Policy DP1 of the Carlisle District Local Plan 2001-2016 sets out the broad development strategy for the area. It establishes a settlement hierarchy with Carlisle's Urban Area being the highest order of priority for most additional new development, followed by the Key Service Centres of Brampton and Longtown and, finally, 20 villages identified as Local Service Centres.
- 5.10 Policy H1 of the Carlisle District Local Plan 2001-2016 elaborates, in relation to development for housing, on the settlement hierarchy. It reiterates that the primary focus for new housing development will be the urban area of Carlisle, followed in order by the Key Service Centres of Brampton and Longtown (which have a broad range of amenities and services) and finally, selected

villages which perform a service role within the rural area.

- 5.11 The application site lies within Brampton which, as previously mentioned, has been identified as a Key Service Centre under Policy H1 of the adopted Local Plan. Policy H1 of the Local Plan states that, in principle, housing development will be acceptable providing that compliance with seven specific criteria is achievable on site. In this instance, the relevant criteria are met and, on this basis, the principle of residential development is considered acceptable.

2. Whether The Scale And Design Of The Dwelling Is Acceptable

- 5.12 The submitted block plan illustrates that the proposed dwelling would be of a similar scale and massing to those of its immediate neighbours, albeit it is a detached house that is proposed. The Design and Access Statement outlines that the design of the dwelling would be reflective of the finishes and fenestration of the recently constructed Ridge View development. Furthermore, the proposal would achieve adequate amenity space and provide two no. off-street parking.
- 5.13 In summary, the scale and massing of the proposed dwelling is comparable to the existing properties within the immediate area. Accordingly, the development would not form a discordant feature in the street scene.

3. The Impact Of The Proposal On The Living Conditions Of Neighbouring Residents

- 5.14 The proposed dwelling would be so orientated so as to achieve adequate separation distance between the primary windows of the existing residential properties and the proposed dwelling (21 metres). As such, taking into consideration the scale and position of the proposed dwelling in relation to these properties, it is unlikely that the living conditions of the occupiers of these properties will be compromised through loss of light, loss of privacy or overdominance.
- 5.15 No windows are to be inserted above first floor level into the western or southern gable elevations thereby preventing loss of privacy. In order to further safeguard the living conditions of the occupiers of 13 Morpeth Close and numbers 5 - 7 Ridge View a condition has been recommended removing Permitted Development rights to insert additional openings on those elevations. It is therefore considered that the proposal would not have a significant impact on the living conditions of the adjoining properties through overlooking, overdominance or unreasonable loss of daylight or sunlight.

4. Impact Of The Proposal On Highway Safety

- 5.16 Several of the objectors have raised objections in regard to impact of the development on the surrounding adopted highways citing in particular Stanley Road. Cumbria County Council as Highway Authority in its consultation response has highlighted that the road serving Ridge View is a private road; however, the Highway Authority has no objection to the application in respect

of the public adopted highways.

5. Other Matters

- 5.17 Objectors have also questioned whether the occupiers of the new dwelling has right of access across the Ridge View development whom they and the Highway Authority have identified as a private road. Their objections have been noted; however, these issues relate to Civil Law and not planning legislation.
- 5.18 Several of the objectors have also highlighted that a tree was removed prior to submission of the application. Available records indicate that the tree was not subject of either a Tree Preservation Order nor was it within a Conservation Area. Accordingly, permission to remove the tree was not required.

Conclusion

- 5.15 In overall terms, the principle of the proposed development is acceptable. The scale, siting and massing of the proposed dwelling is acceptable in relation to the site and the surrounding properties. The living conditions of neighbouring properties would not be compromised through unreasonable overlooking or overdominance. Adequate car parking, access and amenity space would be provided to serve the dwelling. In all aspects the proposal is compliant with the objectives of the Local Plan policies.

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 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.

7. Recommendation - Grant Permission

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

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

2. The approved documents for this planning permission comprise:

1. the submitted planning application form;
2. the Design and Access Statement;
3. the Contamination Desktop Study;
4. drawing number 3/2/2010/1B;
5. the Notice of Decision; and
6. any such variation as is approved in writing by the Local Planning Authority.

Reason: For the avoidance of doubt.

3. Samples or full details of all materials to be used on the exterior shall be submitted to and approved in writing by the local planning authority before any work is commenced.

Reason: To ensure the works harmonise as closely as possible with the existing building and to ensure compliance with Policy CP5 of the Carlisle District Local Plan 2001-2016.

4. Particulars of height and materials of all screen walls and boundary fences shall be submitted to and approved by the local planning authority prior to the commencement of the development hereby permitted.

Reason: To ensure that the appearance of the area is not prejudiced by lack of satisfactory screening which is not carried out in a co-ordinated manner and to ensure compliance with Policy CP5 of the Carlisle District Local Plan 2001-2016.

5. Details shall be submitted of the proposed hard surface finishes to all public and private external areas within the proposed scheme and these details shall be approved by the Local Planning Authority before any site works commence.

Reason: To ensure that materials to be used are acceptable and in compliance with the objectives of Policy CP5 of the Carlisle

District Local Plan 2001-2016.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking and re-enacting that Order), no additional windows shall be inserted above the ground floor on the west or southern elevations without the prior consent of the local planning authority.

Reason: In order to protect the privacy and amenities of residents in close proximity to the site and to ensure compliance with Policy CP5 and H11 of the Carlisle District Local Plan 2001-2016.



DITCH

MORPETH CLOSE

Ridge View

BLOCK PLAN 1.500

0018



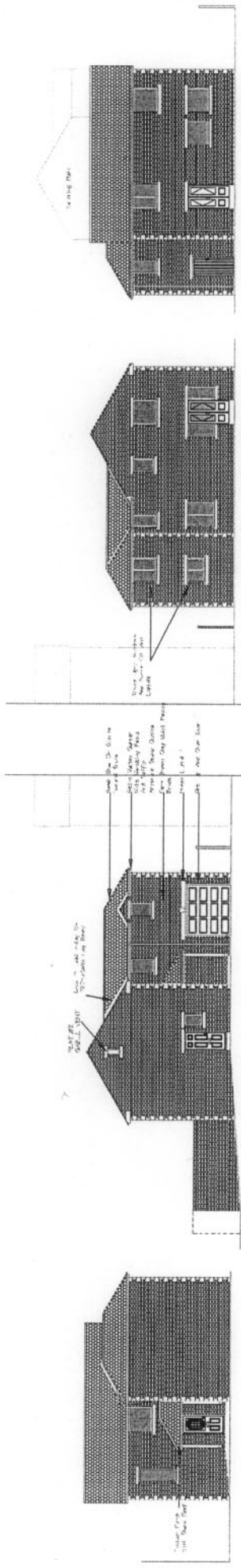
NO WITH CLOSE

~~PROPOSAL~~

[illegible]

Q. 5. (a) A particle moves along a straight line with a constant acceleration of 2 m/s^2 . It starts from rest. Find the distance travelled by the particle in the first 5 seconds.

LOCATION PLAN 1.1250

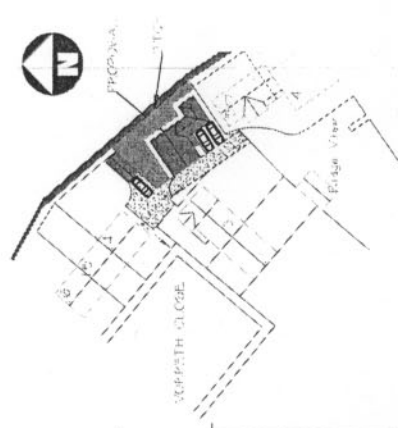


SOUTH ELEVATION 1:100

WEST

EAST

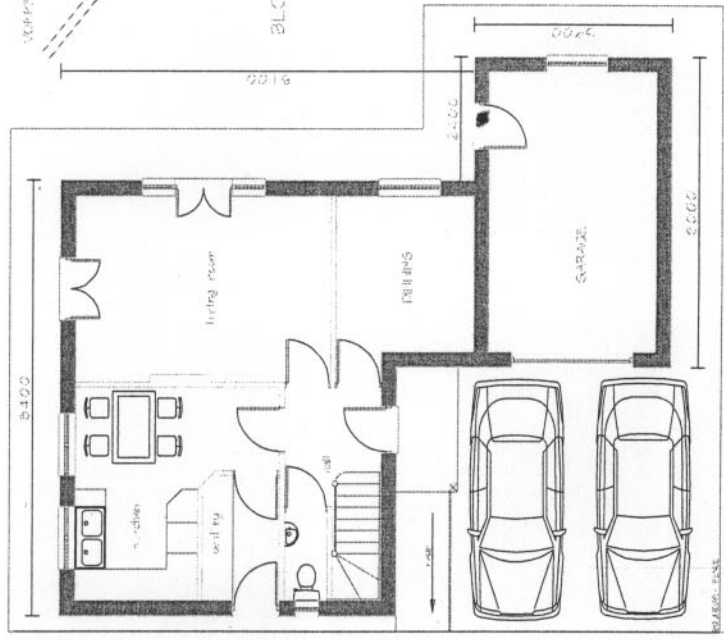
NORTH



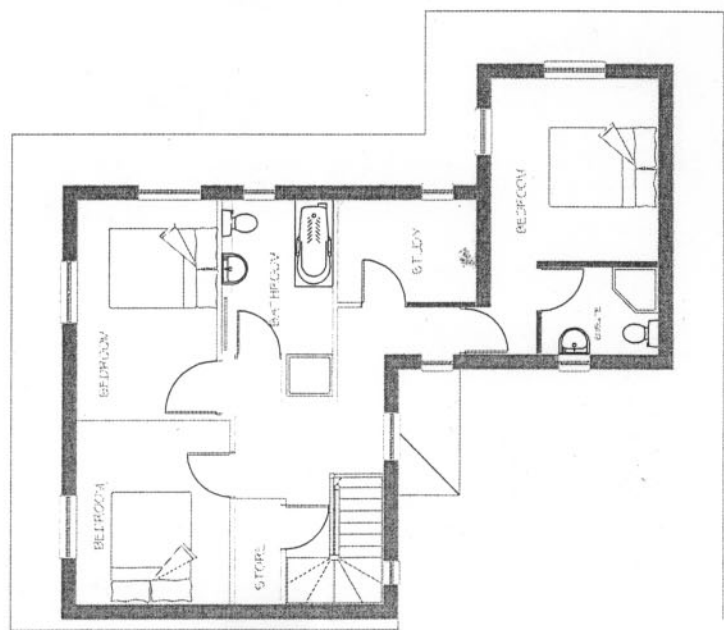
BLOCK PLAN 1:500



LOCATION PLAN 1:250



GROUND FLOOR PLAN 1:50



FIRST FLOOR PLAN 1:50

TSADA BUILDING DESIGN SERVICES

TSADA Cottage, Longmeadow, California, CA 95050
Telephone: (916) 791-1807

Job title
PROPOSED TAILORING ON LOTS ADJACENT TO
4 MODEL H FLOOR PLAN 1:50

All plans are the property of Tsada Building Design Services and must not be copied, used, or reproduced without the written consent of the Company. All other dimensions and features are subject to change and are not to be used for construction without the written consent of the Company.

Client
MR. & MRS. J. J. JONES
2701 A & B JONES LANE
CITY OF LONGMEADOW, CALIFORNIA
95050

Amendments
1. PROPOSED TAILORING ON LOTS ADJACENT TO
4 MODEL H FLOOR PLAN 1:50

Drawing by
K. PALMER
Date
12/2/2012

Drg No.
9-2220101-B
Scale
AS SHOWN

SCHEDULE A: Applications with Recommendation

10/0221

Item No: 05

Date of Committee: 11/06/2010

Appn Ref No:
10/0221

Applicant:
Mr Ollie Holt

Parish:
Carlisle

Date of Receipt:
23/03/2010

Agent:
Unwin Jones Partnership

Ward:
Stanwix Urban

Location:
Site Between 1 Eden Mount and 4 St Georges
Crescent, Stanwix, Carlisle

Grid Reference:
339944 556874

Proposal: Erection Of 1No. Dwelling; Formation Of Vehicular Access

Amendment:

1. Slight alteration to the height of the western extent of the proposed replacement timber fence to the St. Georges Crescent frontage to ensure that corresponds with the height of the boundary wall that separates No.4. St. Georges Crescent from the application site.

REPORT

Case Officer: Sam Greig

Reason for Determination by Committee:

This application is brought before the Development Control Committee for determination due to more than three letters of objection being received from separate households.

1. Constraints and Planning Policies

Ancient Monument

Gas Pipeline Safeguarding Area

The proposal relates to land or premises situated within or adjacent to the Gas Pipeline Safeguarding Area.

Affecting The Setting Of A Listed Building

Conservation Area

The proposal relates to land or premises situated within the Stanwix Conservation

Area.

RSS Pol DP 1 - Spatial Principles

RSS Pol RDF 1 - Spatial Priorities

RSS Pol CNL 1 - Overall Spatial Policy for Cumbria

Joint Str.Plan Pol ST5: New devt & key service centres

Local Plan Pol DP1 - Sustainable Development Location

Local Plan Pol CP3 - Trees and Hedges on Development Sites

Local Plan Pol CP5 - Design

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

Local Plan Pol H2 - Primary Residential Area

Local Plan Pol LE6 - Scheduled/Nat. Imp. Ancient Mon.

Local Plan Pol LE12 - Proposals Affecting Listed Buildings

Local Plan Pol LE17-Dev.Involving Dem.Unlisted Bldgs CA

Local Plan Pol LE19 - Conservation Areas

Local Plan Pol T1- Parking Guidelines for Development

2. Summary of Consultation Responses

Cumbria County Council - (Highway Authority): the layout details shown on the submitted plan are satisfactory from a highway perspective. As such, the Highway Authority has no objection to the proposed development.

It should however be noted that the application site will take access off a private road which leads to an un-adopted highway. The owner(s) of these private roads should therefore be consulted for their views on this application;

Local Environment (former Community Services) - Drainage Engineer: no comments received;

United Utilities: no objections provided that the following conditions are met:

- i. In accordance with Planning Policy Statement 25 "Development and Flood Risk", surface water should not be allowed to discharge to the foul/combined sewer as stated in the planning application. This prevents foul flooding and pollution of the environment;

- ii. If possible the site should be drained on a separate system, with foul drainage only connected into the foul sewer. Surface water should discharge to a soakaway/watercourse/surface water sewer and may require the consent of the Environment Agency. If surface water is allowed to discharge to the public sewerage system United Utilities may require the flow to be attenuated to a maximum discharge rate determined by United Utilities;
- iii. A separate metered supply to each unit will be required at the applicant's expense.

Cumbria County Council - (Archaeological Services): the site lies 200m south west of the Roman fort at Stanwix in an area considered to have been the location of a civilian settlement that lay immediately outside the fort. Considerable evidence for Romano-British and Roman activity has been revealed in the immediate vicinity and the archaeological evaluation that has been carried out has confirmed that important archaeological remains and finds survive on the site. These remains will be disturbed by the proposed development and, therefore, the site should be subject to a programme of archaeological recording. This recording should be carried out during the course of the development (a watching brief) and should be commissioned and undertaken at the expense of the developer. This programme of work can be secured through the imposition of two conditions;

Planning - Planning Policy & Conservation - Peter Messenger: the scheme as it now stands overcomes the objections raised by the Inspector on the earlier application for the development of this site. The proposal is now set well within the site to the extent that it is not a dominant structure nor does it compete with the adjacent properties. Its scale and character are on a par with the outbuildings found at the rear of Eden Mount and as a result the current design fits in well with the character of the Conservation Area. There are, therefore, no objections to the proposed scheme;

Planning - Local Plans (Trees): the proposed landscaping scheme is acceptable; however, a detailed tree protection plan, which shall include the specification and location of the barriers, must be submitted and agreed in writing. The protective barriers should also be erected around the London Plane tree that is adjacent to the application site. The agreed tree protection barriers must be erected on site prior to the commencement of any works and be maintained throughout the development;

Conservation Area Advisory Committee: the Committee felt that the design of this unit was appropriate for the site, however, it would be necessary to ensure that the materials are of the highest quality;

Northern Gas Networks: no objections;

Hadrians Wall Heritage Limited: no comments received;

English Heritage - North West Region: no objections, subject to the imposition of a planning condition that requires an archaeological watching brief to be undertaken during any excavations.

3. Summary of Representations

Representations Received

Initial:	Consulted:	Reply Type:
3 St Georges Crescent	30/03/10	Undelivered
4 Eden Mount	12/04/10	
6 Eden Mount	12/04/10	
5 St Georges Crescent	30/03/10	
7 St Georges Crescent	30/03/10	
4 St Georges Crescent	30/03/10	Objection
1 Eden Mount	30/03/10	Objection
3 Eden Mount	30/03/10	Objection
5 Eden Mount	30/03/10	Comment Only
9 Devonshire Terrace	30/03/10	
3 Cromwell Crescent	30/03/10	Support
2 Eden Mount	12/04/10	Objection
6 Cambeck Close		Objection
2 Eden Mount		Objection
Eden Hey		Objection
8 St Georges Crescent		Objection
10 St Georges Crescent		Objection
10 Etterby Scaur		Objection
6 St Georges Crescent		Objection
9 Eden Mount		Objection

3.1 This application has been advertised by means of site and press notices as well as notification letters sent to twelve neighbouring properties. In response twelve letters of objection have been received, which raise the following issues.

1. Previous applications for residential development have been refused by the City Council. An appeal against the refusal of the later of those two applications was also dismissed by the Planning Inspectorate, which reinforces the view that the site should not be redeveloped for residential purposes;
2. The current proposal is comparable to the previous scheme that was dismissed by the Planning Inspectorate;
3. The proposal is out of keeping with the Stanwix Conservation Area;
4. The approval of this scheme will set a precedent for further residential development within the grounds of Listed Buildings or within Conservation Areas;
5. The dwelling projects beyond the building line of St. Georges Crescent;
6. The dwelling has no rear garden, with its main recreational space to the front of the property, which is out of keeping with properties in the immediate vicinity;

7. Historically, railings were supposed to have been erected to the St. Georges Crescent frontage; however, this work has not been carried out;
 8. The development does not comply with Policy LE19 of the Carlisle District Local Plan, which relates to development within Conservation Areas;
 9. The development will harm an archaeologically sensitive site;
 10. The site has already been cleared and several trees have been removed. This work was undertaken without consultation with the local community or the City Council;
 11. The loss of the trees and the resurfacing of the garden with hardstanding will be detrimental to the ecology and biodiversity of the site;
 12. The dwelling will put increased pressure on the combined sewer which has previously blocked;
 13. The proposal will result in increased loss of light and privacy to neighbouring dwellings;
 14. Access and egress from the proposed parking area will be difficult and visibility will be restricted. This problem will be exacerbated when other vehicles are parked in the lane to the rear of Eden Mount;
 15. The site has no legal right of access, as it is accessed from a private lane.
- 3.2 In respect of Point 15 Members are reminded that that "rights of access" are a civil matter to be resolved between the developer and the relevant land owner and that such issues are not material "planning" considerations in the determination of applications.

4. Planning History

- 4.1 In March 1996 "Outline" planning permission was refused for the erection of a dwelling for the following reasons:
- i. *"The application seeks permission for residential development on a plot of some 275 square metres, located between the substantial properties No. 4 St George's Crescent and No. 1 Eden Mount. It is considered that the development of this plot would result in cramped development, unrelated to the surrounding buildings, in terms of scale, character and building line contrary to Proposal H2 of the Carlisle District Plan (Deposit Draft).*
 - ii. *Development of the proposed site would adversely effect the setting of the adjacent property, No. 1 Eden Mount, which is a listed building, contrary to Proposal E30 of the Carlisle District Plan (Deposit Draft)."*
- 4.2 In May 1998 "Full" planning permission was refused for the erection of a dwelling for the following reasons:

- i. *“The application relates to an area of 270 square metres, within the setting of the listed building, No. 1 Eden Mount and adjacent to the substantial property No. 4 St George's Crescent. It is proposed to erect a two storey dwelling across the width of the site. It is considered that this development would result in cramped development, with an adverse impact on the attractive street scene of St George's Crescent which is within the proposed Stanwix Conservation Area, contrary to Policy H2 of the Carlisle District Plan.*
 - i. *Development of the site in the manner proposed would have an adverse affect on the setting of the adjacent property, No. 1 Eden Mount, which is a listed building, contrary to Policy 35 of the Carlisle District Plan.”*
- 4.3 An appeal was lodged against the Council's Decision to refuse the above application; however, this was subsequently dismissed by the Planning Inspectorate. A copy of the Inspectors decision letter has been reproduced following this report in the schedule, together with a copy of the drawing that accompanied the application.

5. Details of Proposal/Officer Appraisal

Introduction

- 5.1 This application seeks “Full” planning permission for the erection of a detached dwelling on land to the rear of No.1 Eden Mount, Stanwix. The site, which [according to the Officer's calculations] covers an area measuring approximately 280 square metres, is the former kitchen garden of No.1 Eden Mount; a Grade II Listed Building. It is segregated from that property by a private lane that runs along the rear of Eden Mount, which comprises a terrace of Grade II listed properties.
- 5.2 Whilst formerly associated with Eden Mount the site's principal frontage abuts St. George's Crescent, which is a privately owned road that lies to the south of the site. The site's north, east and west boundaries are defined by high brick walls whereas its southern boundary, which fronts St. Georges Crescent, is defined by a low stone wall with wooden fencing above.
- 5.3 To the east of the site, beyond the rear lane, lies the Grade II Listed No.1 Eden Mount. To the west lies Nos. 4 and 6 St. Georges Crescent, a pair of substantial semi-detached dwellings. Whilst these two properties are not listed they are of architectural merit. To the north of the site lies the detached garden of No.2 Eden Mount, whereas to the south of the site, on the opposite side of St. Georges Crescent, is a modern detached bungalow, although it is predominantly screened from view by its high boundary fence.
- 5.4 The site is identified on the Inset Map that accompanies the Carlisle District Local Plan as being within a Primary Residential Area, the Stanwix Conservation Area and the buffer zone of Hadrian's Wall World Heritage Site.

Background

- 5.5 The City Council has previously refused "Outline" and "Full" planning applications for the erection of a dwelling on this site (1996 and 1998 respectively). In both cases the reason for refusals, which have been cited in full in the "Planning History" section of this report, highlighted concerns regarding the appearance of what was perceived to be a cramped development and the subsequent impact that it would have upon the streetscene, the character of the Stanwix Conservation Area and the setting of No.1 Eden Mount, which is Grade II Listed.
- 5.6 A subsequent appeal against the 1998 refusal was dismissed by the Planning Inspectorate, who shared the City Council's concerns regarding the overdevelopment of the site and the impact the development would have upon the Stanwix Conservation Area.

The Proposal

- 5.7 The current "Full" application seeks planning permission for the erection of a detached two storey dwelling. The accommodation to the ground floor comprises a living room, open plan kitchen/dining room, bathroom and a bedroom/study, with two bedrooms to the first floor, each with en-suite shower rooms.
- 5.8 The proposed dwelling has an 'L' shaped footprint, although the two storey section of the dwelling would not occupy the full extent of the ground floor area. That element is set back towards the rear of the site and would occupy approximately two thirds of the site's width. A single storey element would project forward of the main building, parallel with the eastern boundary of the site. In total, the footprint of the dwelling measures 87 square metres (sqm) metres and it sits within a site that measures 280 sqm, which equates to a 31/69% split between the developed and undeveloped areas of the site.
- 5.9 The details of the external materials to be used are outlined in the supporting Design and Access Statement. It identifies that clay facing bricks, which would match the colour and texture of the bricks used in the immediate vicinity, would be used in the external walling of the dwelling. The roof would be covered with natural slate, which would be laid in equal courses, and the roof lights to the front and rear elevations would be of a conservation type (i.e. they will fit flush with the roof slope as opposed to standing proud). The stonework to the copings, kneelers, heads and cills will be formed from natural stone. The window frames, door and gates to the driveway will all be constructed from timber, albeit the finish has yet to be clarified. The proposed rainwater goods are to be cast iron and the cheeks of dormer window to the front elevation is to be clad with lead, with its face finished in timber.
- 5.10 The whole of the dwelling would be set down approximately 1 m below the existing ground level thereby reducing the building's overall height when viewed in the context of the streetscene. A sunken terrace would be provided adjacent to the dwelling, which would be enclosed by a retaining wall finished in a combination of facing brick and stone.

- 5.11 A detailed landscaping scheme has been submitted with the application. It identifies proposed hard and soft landscaping works. The new driveway will be finished using conservation setts and any paths and steps, including the surfacing of the terraced area, will be laid with stone paving.
- 5.12 The existing 2.4m high boundary wall to the east elevation would be retained although the existing pedestrian door would be bricked up a new opening formed to provide vehicular access to the parking area, which is located to the rear of the dwelling. The existing timber fencing to the St. Georges Crescent frontage will be replaced with similar fencing, albeit at an increased height of 2.2m, which is 0.5m higher than the existing fence.
- 5.13 The application is also accompanied by a desk top study into the possible presence of contamination and an archaeological evaluation, which identifies the findings of the archaeological investigation that was undertaken in advance of the application being submitted. It is proposed that foul and surface water will discharge to the mains sewer.

Assessment

- 5.14 The relevant planning policies against which the application is required to be assessed are Policies DP1, RDF1 and CNL1 of the North West Regional Spatial Strategy to 2021; "extended" Policy ST5 of the Cumbria and Lake District Joint Structure Plan 2001-2016 and Policies DP1, CP3, CP5, CP12, LE6, LE12, LE17, LE19 and T1 of the Carlisle District Local Plan 2001-2016.
- 5.15 The proposals raise the following planning issues:
 - 1. Whether The Principle Of The Proposed Development Is Acceptable.
- 5.16 The application site, which lies within the urban area of Carlisle, is designated as a "Primary Residential Area" in the adopted Carlisle District Local Plan. As such, the principle of residential development is acceptable, subject to compliance with the criteria identified in Policy H2 and other relevant Local Plan policies. These are discussed in detail in the following analysis.
 - 2. Whether The Scale And Design Of The Building Is Acceptable In Relation To Its Setting.
- 5.17 In considering whether the scale and design of the dwelling is appropriate to the setting Members need to be mindful of the fact that the City Council has refused two previous applications for residential development and that an appeal against one of those schemes was dismissed by the Planning Inspectorate.
- 5.18 In respect of the appeal, the Planning Inspector identified in the opening paragraphs of the decision letter that he perceived the principal issue to be the impact that the development would have upon the character of the Stanwix Conservation Area.
- 5.19 For comparative purposes a copy of the drawing that accompanied the appeal

has been reproduced in the Schedule. It is important for Members to read the Inspectors decision letter in conjunction with those plans in order to form an opinion as to whether or not this current submission has addressed the issues highlighted by the Inspector.

- 5.20 The Inspector concluded that the dwelling proposed would have a significant adverse effect upon the character of the Stanwix Conservation Area. In reaching this conclusion the Inspector drew attention to the following factors:
- i) The dwelling would occupy the full width of the site and, at its nearest point, would be positioned 0.5m from the gable of No.4 St Georges Crescent;
 - ii) The scale of the dwelling, in particular its eaves height and its shallow pitched roof, would be at odds with the neighbouring 2-3 storey properties on St. Georges Crescent;
 - iii) The existing properties on St. Georges Crescent have rear gardens, which provide private amenity space, and the front gardens are generally open to the crescent. The area to the front of the proposed dwelling would be split between a parking area providing two spaces side by side and a front garden. The latter is likely to have been enclosed to provide a private front garden, which would have been unsympathetic to the character of the area;
 - iv) There are other large ancillary buildings in the locality; however, the proposed dwelling would be viewed as an individual building with its own road frontage;
 - v) Whilst the dwelling took on the appearance of a coach house/stable block type building, given the proximity and detailed elevations of the neighbouring semi-detached dwellings, the appearance of the property would be incongruous.; and
 - vi) The dwelling's blank east facing gable and rear façade, which would have been visible from the rear lane, was also considered to be an unsympathetic feature.
- 5.21 As a consequence of the above issues the Inspector concluded that the proposed dwelling, with regard to its setting, scale, density and physical characteristics, would be harmful to, and therefore not preserve, the character of this part of the Conservation Area.
- 5.22 Notwithstanding the above concerns, Members should note that the Inspector took the view that *"the site is not part of, and does not contribute to, the setting of the Listed Building"*. The Inspector was of the opinion that the position of the dwelling would not adversely affect and would, therefore, preserve the setting of No.1 Eden Mount, a Grade II Listed Building.
- 5.23 The Design and Access Statement supporting this current submission indicates that the proposals seek to overcome the previous concerns by relocating the access to the site from St. Georges Crescent to the back lane behind the Eden Mount. By doing so, the current appearance of the frontage to St. Georges Crescent would be largely maintained. The building would also be set 1m below the existing ground level and separated into two component parts, with the bulk of the accommodation being provided at ground floor. This

will significantly reduce the apparent scale and massing of the dwelling and ensure that it is comparable to the ancillary outbuildings and extensions to the rear of neighbouring dwellings at Eden Mount.

- 5.24 The Design and Access Statement further states that the choice of materials and, in particular, the form and massing of the two storey element, including the scale and nature of window openings, will ensure that the current proposal is much more sympathetic to this part of the Conservation Area than the previous application.
- 5.23 Many of the objectors have questioned what has changed since the previous scheme was dismissed by the Planning Inspectorate to now justify it being allowed. It is Officers' opinion that there are several notable differences proposed by this application, which are outlined in the above paragraphs.
- 5.25 Under this current proposal the St. Georges Crescent frontage would appear largely unchanged, albeit the timber fencing would be replaced at a marginally higher level of 2.2 metres. The physical mass of the building has been minimised to the extent that it would not be viewed as a separate dwelling, but as an ancillary curtilage building that serves the adjacent, more substantial, dwellings. This perception is reinforced by the road frontage being retained largely as it is and not being punctuated by the formation of a separate driveway, which would clearly result in the structure being read as an individual dwelling.
- 5.26 Members may note from elevation drawings and photographs that have been reproduced in the Schedule that the proportions of the proposed dwelling mirror those of the ancillary accommodation located within the rear curtilage of No.1 Eden Mount, which sits comfortably within the Conservation Area and the grounds of a Listed Building.
- 5.27 It is the Officers' view that the design of this scheme would enable the proposed dwelling to do the same, but only if the quality of the design is replicated in the selection of the external finishes. In respect of the latter a condition is recommended that requires all external materials to be agreed prior to development commencing on site. As a further precaution it is recommended that a condition is imposed that prevents future alterations to the building without the prior consent of the Planning Authority.
- 5.28 Whilst two previous residential schemes have been refused by the City Council on this site, one of which was upheld by the Planning Inspectorate, it is considered that this current proposal addresses the previous issues and that Members would be justified in allowing this current proposal. Members will note that this is also reflected in the views of the Conservation Officer and the Conservation Area Advisory Committee.

3. The Impact Of The Proposal On The Living Conditions Of Neighbouring Residents.

- 5.29 The scale and position of the proposed dwelling is such that the living conditions of neighbouring residents are unlikely to be adversely affected by

loss of light or overdominance.

- 5.30 In terms of overlooking, the position of opposing habitable windows within the proposed dwelling and the existing properties is such that any line of sight is oblique or, where windows do face more directly towards one another, the difference in levels mitigates any significant impact. As such, the development is unlikely to result in a significant loss of privacy for neighbouring residents or the future occupiers of the proposed dwelling.

4. Access And Parking Provision.

- 5.31 Several local residents have expressed concern regarding the means of vehicular access, together with the allegation that there is no right of access over the privately owned roads, which land lock the site. Members will appreciate that the latter is a civil matter to be resolved between the prospective developer and the relevant landowners and that this issue should not influence their consideration of the scheme. More relevant to the matters that Members should have regard to is the fact that the Highway Authority has raised no objection to the scheme.
- 5.32 The Highway Authority's consultation response was, however, received before several local residents voiced concerns regarding the highway implications. In light of this, Officers subsequently made the Highway Authority aware of the issues raised and sought its opinion as to whether or not the concerns of local residents would influence its recommendation. In response the Highway Officer has confirmed that the lane is of sufficient width to enable vehicles to manoeuvre safely into the proposed driveway. When exiting the driveway visibility will be partially restricted by the boundary walls; however, the speed of vehicles using the rear lane will be slow and the potential danger generated would be minimal and be no different to that created by existing residents exiting their garage spaces. The Highway Authority has confirmed that there is no justification to refuse the application on highway grounds.
- 5.33 Local residents have highlighted that several of the occupiers of Eden Mount park in the rear lane and this may inhibit the ability of future occupants to access the proposed dwelling or manoeuvre into the driveway. It is the Officer's view that this issue should not prejudice the outcome of the application, as it relates back to whether the prospective developer has the legal right to access the site and whether the residents themselves are entitled to park within the rear lane without causing obstruction.

5. Whether The Proposed Landscaping Is Acceptable.

- 5.34 The Council's Landscape Architect has confirmed that the proposed landscaping scheme is acceptable; however, details of tree protection barriers are required to safeguard the trees during the construction phase.
- 5.35 The Landscape Architect has identified that the tree protection barriers need to protect those trees within the site, but also the London Plane tree located on the pavement adjoining the application site. The implementation of the landscaping scheme and the erection of appropriate protective barriers can

be ensured through the imposition of two planning conditions that are recommended.

6. Archaeology.

- 5.36 The County Council's Historic Environment Officer has identified that the site lies in an area of high archaeological potential and that the archaeological evaluation, which was carried out in advance of the application being submitted, has confirmed that important archaeological remains and that finds survive on the site. These remains will be disturbed by the proposed development and, therefore, the site must be subject to a programme of archaeological recording, which can be secured through the imposition of two planning conditions.

Conclusion

- 5.37 In overall terms, the principle of the proposed development is acceptable. The scale, siting and design of the proposed dwelling is acceptable in relation to the site and the surrounding properties. Similarly, for the reasons outlined in this report, there would be no adverse impact upon the setting of the Listed Building or the character of the Conservation Area. The living conditions of neighbouring properties would not be adversely affected and adequate car parking/amenity space would be provided to serve the dwelling. In all aspects the proposals are compliant with the objectives of the relevant Local Plan policies.

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 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.

7. Recommendation - Grant Permission

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

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

2. The approved documents for this planning consent shall comprise:

1. The Planning Application Form received 8th March 2010;
2. The Design and Access Statement received 8th March 2010;
3. The site location plan, block plan and the proposed elevations and floor plans (Drawing No. 2465/1 received 22nd March 2010);
4. The roadway elevation (Drawing No. 2465/2 received 21st May 2010);
5. The existing and proposed block plans (Drawing No. 2465/3 received 22nd March 2010)
6. The Tree Survey (Drawing No. L/01 received 8th March 2010);
7. The Schedule of Trees produced by Westwood Landscape (received 8th March 2010);
8. The Landscape Proposals (Drawing No. L/03 received 22nd March 2010);
9. The Desk Top Contamination Study received 22nd March 2010);
10. The Archaeological Evaluation produced by Greenlane Archaeology dated January 2010 (received 8th March 2010);
11. The Decision Notice.
12. Any such variation as is approved in writing by the Local Planning Authority.

Reason: To define the permission.

3. No development shall be commenced until samples or full details of materials to be used externally on the building have been submitted to and approved, in writing, by the Local Planning Authority. The development shall subsequently take place in complete accordance with the approved details.

Reason: To ensure the works harmonise as closely as possible with the existing buildings and to ensure compliance with Policy LE19 of the Carlisle District Local Plan 2001-2016.

4. No development shall commence until details of the proposed hard surface

finishes to all external areas within the proposed scheme have been submitted to and approved, in writing, by the Local Planning Authority. The development shall subsequently take place in complete accordance with the approved details.

Reason: To ensure that materials to be used are acceptable and in compliance with the objectives of Policy LE19 of the Carlisle District Local Plan 2001-2016.

5. No development shall commence until full details of the proposed timber fencing to the southern boundary of the site have been submitted to and approved, in writing, by the Local Planning Authority. The development shall subsequently take place in complete accordance with the approved details and shall be retained thereafter.

Reason: To ensure the works harmonise as closely as possible with the existing buildings and to ensure compliance with Policy LE19 of the Carlisle District Local Plan 2001-2016.

6. An archaeological watching brief shall be undertaken by a qualified archaeologist during the course of the ground works of the permitted development. The archaeological watching brief shall be in accordance with a written scheme of investigation which has been submitted by the applicant and approved, in writing, by the Local Planning Authority in advance of the permitted development. Within two month of the completion of the permitted development, 3 copies of the report shall be furnished to the Local Planning Authority.

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 investigation and recording of such remains in accordance with Policy LE6 of the Carlisle District Local Plan 2001-2016.

7. 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 two years of the date of commencement 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 in accordance with Policy LE6 of the Carlisle District Local Plan 2001-2016.

8. No development shall commence until the proposed means of foul and surface water disposal have been submitted to and approved, in writing, by the Local Planning Authority. The development shall subsequently take place in complete accordance with the approved details.

Reason: To ensure an acceptable means of foul and surface water disposal in accordance with Policy CP12 of the Carlisle District Local Plan 2001-2016.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) there shall be no enlargement or external alterations to the dwelling unit to be erected in accordance with this permission, within the meaning of Schedule 2 Part (1) of these Orders, without the written approval of the Local Planning Authority.

Reason: To safeguard the setting of the of the Stanwix Conservatiuon Area and the adjacent Listed Buildings in accordance with Policy LE12 and LE19 of the Carlisle District Local Plan 2001-2016.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking and re-enacting that Order), the ensuite shower room windows in the northern elevation of the dwelling shall be obscure glazed and thereafter retained as such.

Reason: In order to protect the living condition of residents in close proximity to the site in accordance with Policies H2 of the Carlisle District Local Plan 2001-2016.

11. The landscaping scheme shall be implemented in accordance with the landscaping plan received 22nd March 2010 (Drawing No. L/03) unless otherwise agreed, in writing, by the Local Planning Authority and these works shall be carried out as approved prior to the occupation of any part of the development or in accordance with the programme agreed by the Local Planning Authority. Any trees or other plants which die or are removed within the first five years following the implementation of the landscaping scheme shall be replaced during the next planting season.

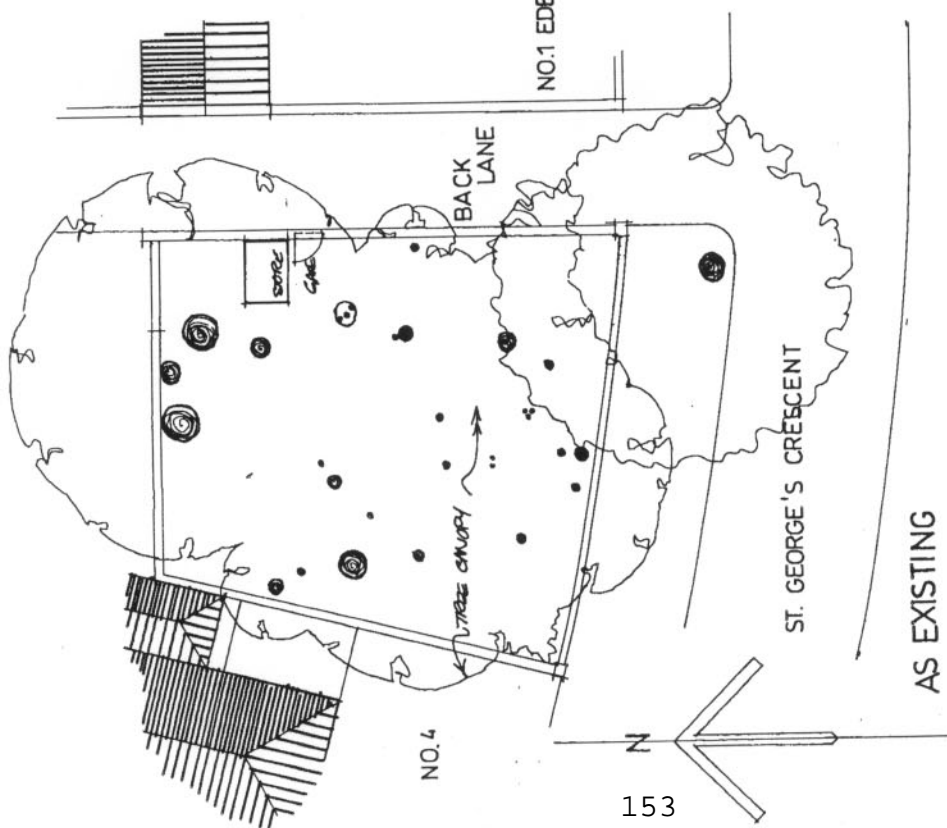
Reason: To ensure that an acceptable landscaping scheme is prepared and to ensure compliance with Policy CP5 of the Carlisle District Local Plan 2001-2016.

12. No development shall commence until details of the protective fencing to safeguard those trees to be retained, including the London Plane tree located within the pavement adjoining the application site, have been submitted to and approved, in writing, by the Local Planning Authority. If any trenches for services are required in the fenced off area, they shall be excavated or back filled by hand and any roots encountered with a diameter of 25mm or more shall be left unsevered. The fence shall thereafter be retained at all times during construction works on the site.

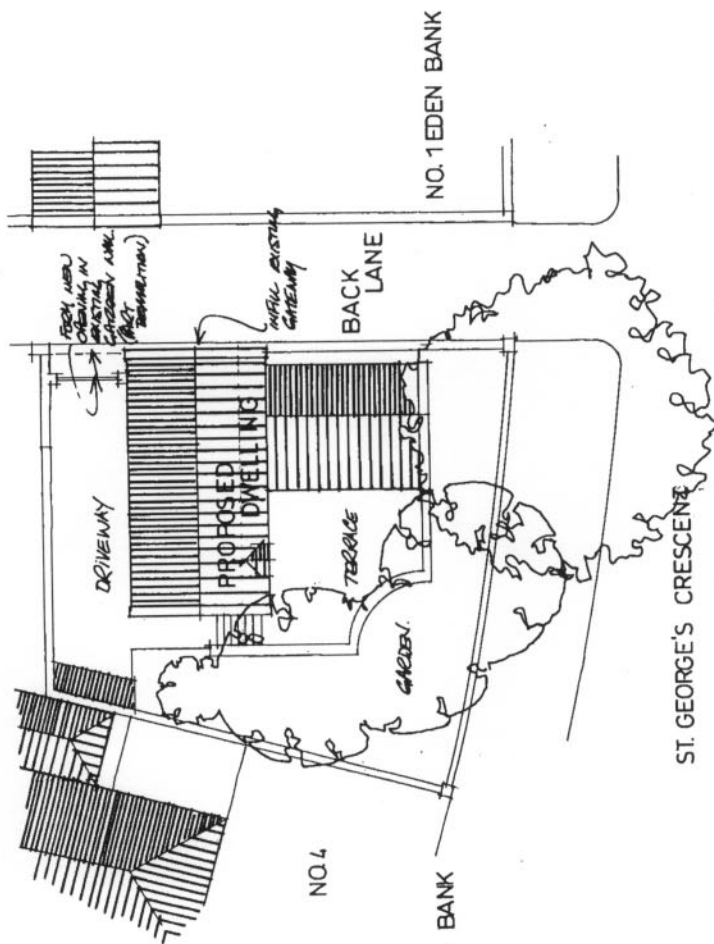
Reason: In order to ensure that adequate protection is afforded to all trees/hedges to be retained on site in support of Policy CP5 of the Carlisle District Local Plan 2001-2016.



LOCATION PLAN 1:1250



AS EXISTING



AS PROPOSED

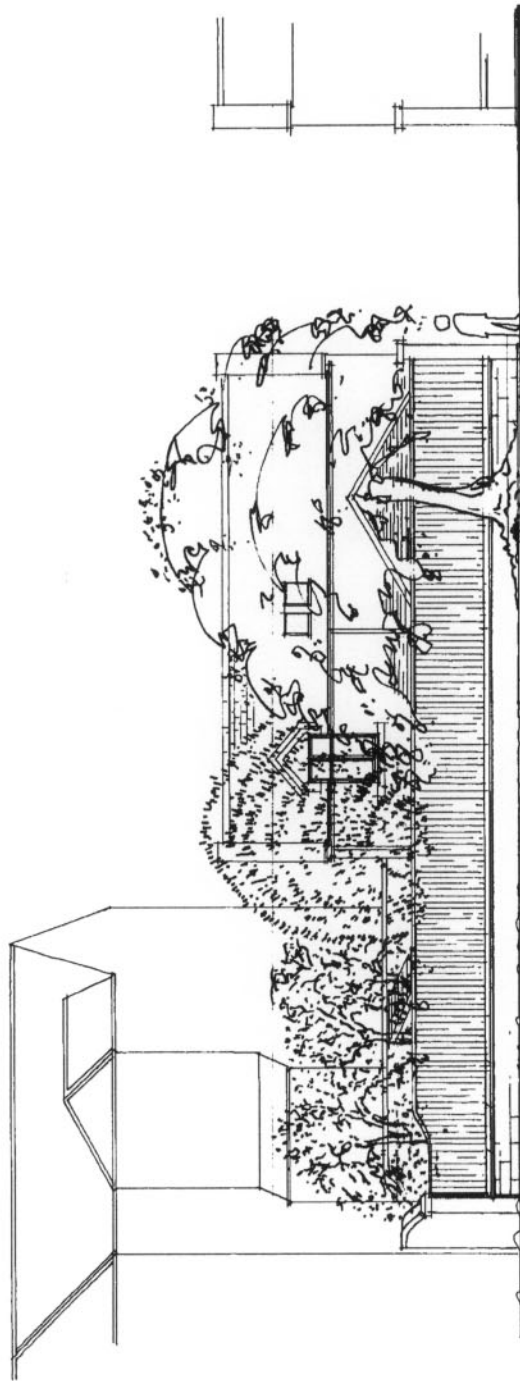
RECEIVED
22 MAR 2010
2010/0221

PROPOSED DWELLING
ST. GEORGE'S CRESCENT, CARLISLE

BLOCK PLANS:
EXISTING & PROPOSED



drawn: LC scale: 1:200
date: 03/10 drawing no: 2465/3
CHARTERED ARCHITECTS
BRIDGE LANE STUDIO · CALDEWEGATE · CARLISLE · CUMBRIA · CA2 5SS · TEL 01228 528266 · FAX 01228 524409



ELEVATION (SOUTH) TO ST. GEORGE'S CRESCENT

RECEIVED
21 MAY 2010
1010221

DESIGNERS: A.I. ROBT. JONES / STUBBS JONES & PARTNERS 20-05-1010

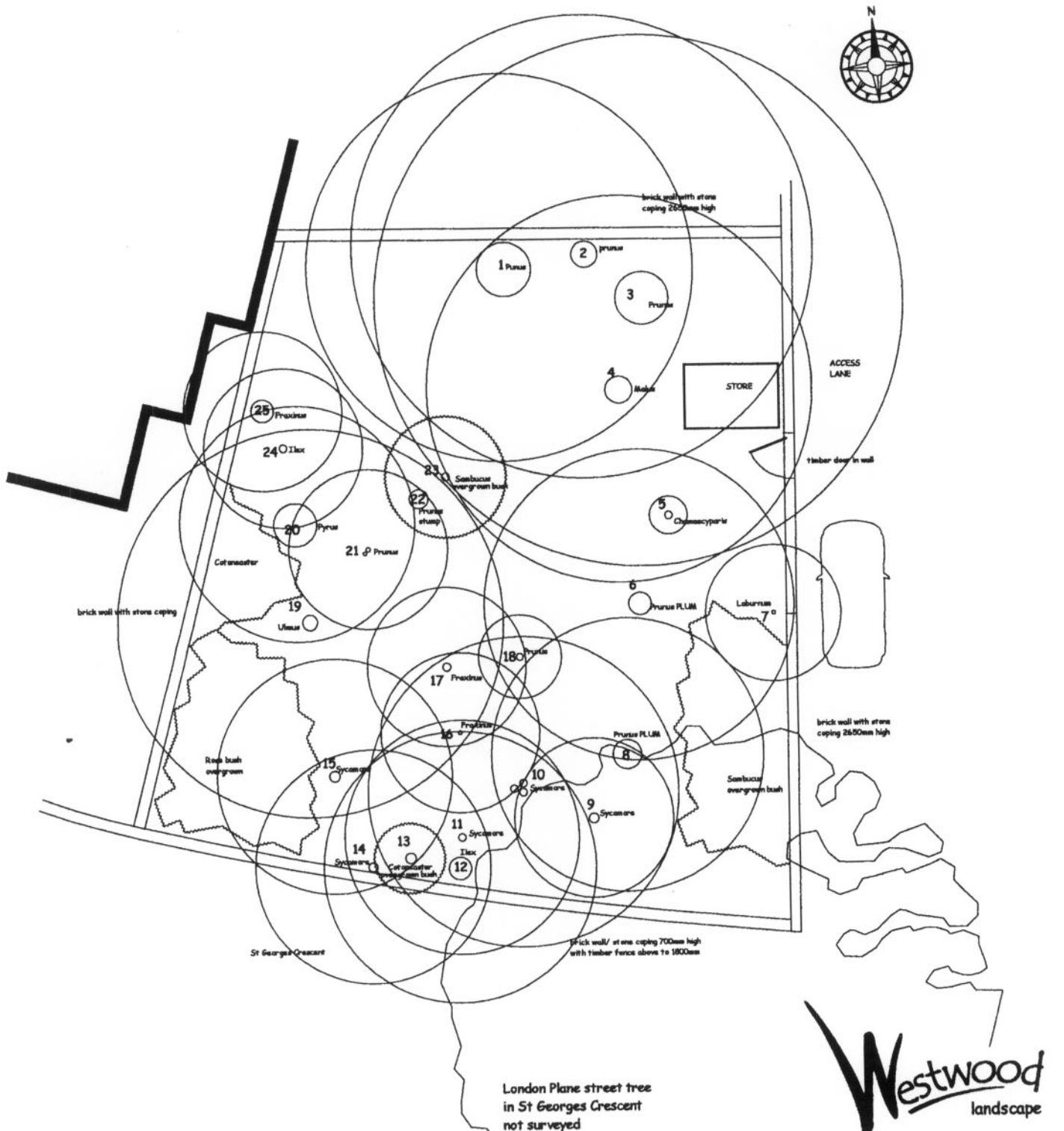
PROPOSED DWELLING
ST. GEORGE'S CRESCENT, CARLISLE



PLANS AS PROPOSED:
ROADWAY ELEVATION

drawn: LC	scale: 1:100	CHARTERED
date: 02.10	drawing no: 2465/2A	ARCHITECTS

BOITICE & ASSOCIATES - CARLISLE - TEL 01228 528266 - FAX 01228 524409



Drawing to be read in conjunction
with Tree Survey Schedule dated
24.7.09 recorded during site visits
on 21.7.09 and 22.7.09






- C. MARSH
10/02/11

Westwood
landscape

www.westwoodnurseries.co.uk

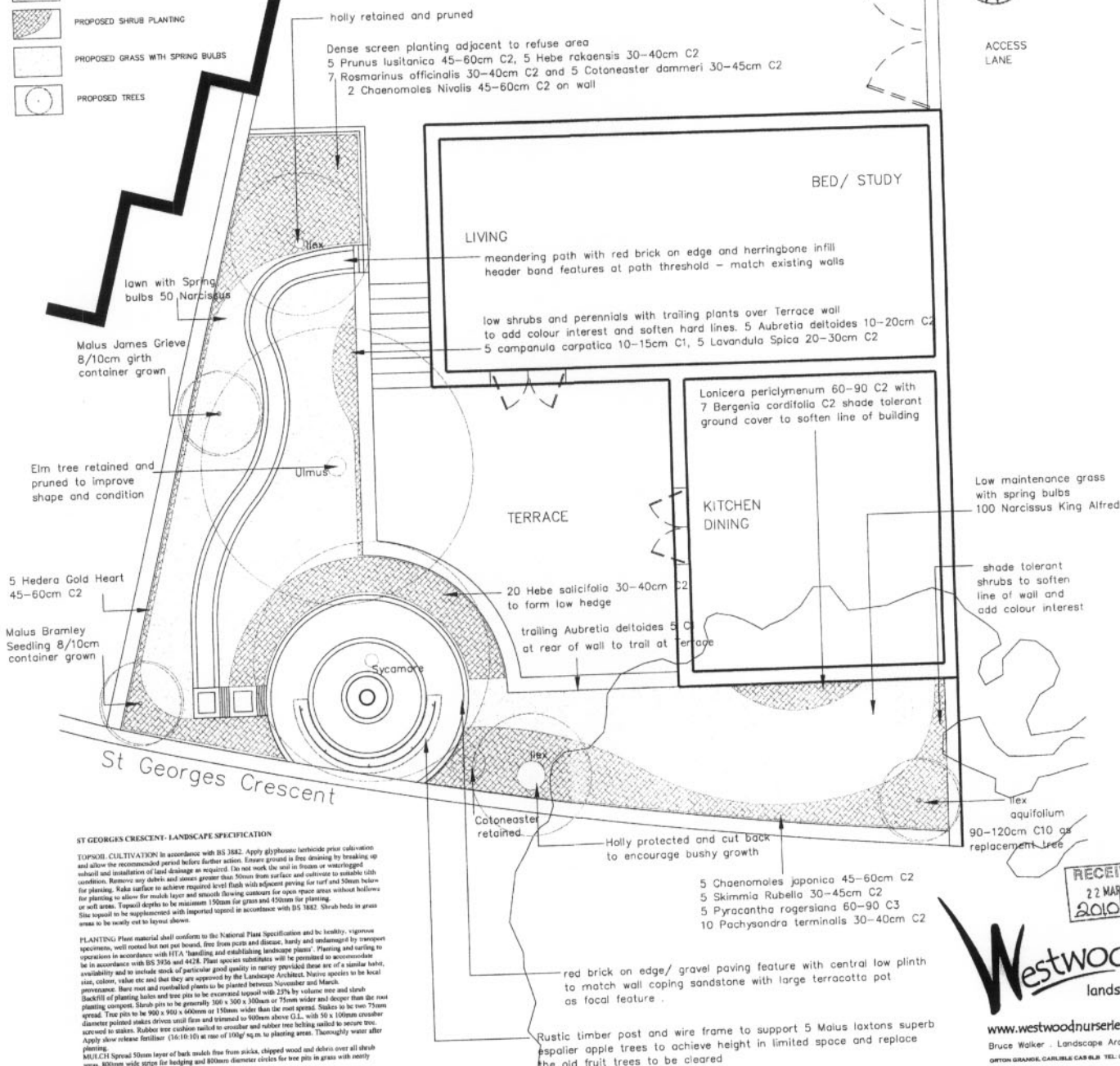
Bruce Walker - Landscape Architect
ORTON GRANGE, CARLISLE CA9 6LS TEL: 01286 715155

UNWIN.JONES.ARCHITECTS		
Project 4 ST. GEORGES CRESC, STANWIX		
Drawing title TREE SURVEY		
Date 24.7.09	Scale 1:100	Drawn BW
By WJW210	Check/Issued LJ01	

-  EXISTING SHRUBS RETAINED AND CUT BACK
-  EXISTING TREES RETAINED AND PRUNED
-  PROPOSED SHRUB PLANTING
-  PROPOSED GRASS WITH SPRING BULBS
-  PROPOSED TREES



ACCESS
LANE



ST GEORGES CRESCENT - LANDSCAPE SPECIFICATION

TOPSOIL CULTIVATION in accordance with BS 3882. Apply glyphosate herbicide prior cultivation and allow the recommended period before further action. Ensure ground is free draining by breaking up subsoil and installation of land drainage as required. Do not work the soil in frozen or waterlogged conditions. Remove any debris and stones greater than 50mm from surface and cultivate to suitable tilth for planting. Make surface to achieve required level flush with adjacent paving for turf and 50mm below for planting. Make surface to achieve required level flush with adjacent paving for turf and 50mm below for planting. Make surface to achieve required level flush with adjacent paving for turf and 50mm below for planting. Make surface to achieve required level flush with adjacent paving for turf and 50mm below for planting.

PLANTING Plant material shall conform to the National Plant Specification and be healthy, vigorous specimens, well rooted but not yet barked, free from pests and disease, hardy and undamaged by transport operations in accordance with HTA 'handling and establishing landscape plants'. Planting and watering to be in accordance with BS 3936 and 4428. Plant species substitutes will be permitted to accommodate availability and to include stock of particular good quality in nursery provided these are of a similar habit, size, colour, value etc and that they are approved by the Landscape Architect. Native species to be local provenance. Bare root and rootballed plants to be planted between November and March. Backfill of planting holes and tree pits to be excavated equalled with 25% by volume tree and shrub planting compost. Shrub pits to be generally 300 x 300 x 300mm or 75mm wider and deeper than the root spread. Tree pits to be 900 x 900 x 600mm or 150mm wider than the root spread. Sides to be two 75mm diameter pointed stakes driven until firm and trimmed to 100mm above G.L. with 50 x 100mm crossbar diameter pointed stakes driven until firm and trimmed to 100mm above G.L. with 50 x 100mm crossbar secured to stakes. Rubber tree cushion nailed to crossbar and rubber tree holding nailed to secure tree. Apply slow release fertiliser (16:10:10) at rate of 100g/m² in planting area. Thoroughly water after planting.

MULCH Spread 50mm layer of bark mulch free from sticks, chipped wood and debris over all shrub areas, 800mm wide strips for hedging and 800mm diameter circles for tree pits in grass with neatly trimmed edge.

TURFING Turf to be *Bolander hybrid* turf or similar approved turf laid with staggered joints close butted to uniform levels to finish 25mm above adjacent paving levels once well tamped down. Use sharp sand spread on surface to achieve fine tamping of levels. Thoroughly soak turf on completion and ensure regular watering is arranged until the turf has rooted. Seeding April-September permissible mix as Mobilise.

MAINTENANCE The following tasks are required within a 12 month period:

- Trees/shrub hedges Apply herbicide 6 times, selective hand weed 6 times, re-tie & check, assess and grade 12 times, prune once to remove dead branches and to shape, fertiliser once, water as required. Top up mulch. Replace dead or dying plants within Defective Liability Period.
- Grass Mow grass 10 times, remove arisings, trim edges as required. Apply fertiliser in spring and selective herbicide (Pauze or similar approved) in Summer. Water in drought conditions.

RECEIVED
22 MAR 2010
20100221

Westwood
landscape

www.westwoodnurseries.co.uk
Bruce Walker - Landscape Architect
ORTON GRANDE, CARLISLE CA9 6LB TEL: 01228 712129

Client UNWIN JONES ARCHITECTS			
Project 4 ST GEORGES CRESC STANWIX			
Drawing Title LANDSCAPE PROPOSALS			
Date 15.2.10	Y50	SW	
Plot Number WW210	1/03	Scale	

SCHEDULE A: Applications with Recommendation

10/0262

Item No: 06

Date of Committee: 11/06/2010

Appn Ref No:
10/0262

Applicant:
Mr Ollie Holt

Parish:
Carlisle

Date of Receipt:
22/03/2010

Agent:
Unwin Jones Partnership

Ward:
Stanwix Urban

Location:
Site Between 1 Eden Mount and 4 St Georges
Crescent, Stanwix, Carlisle

Grid Reference:
339944 556874

Proposal: Erection Of 1No. Dwelling; Formation Of Vehicular Access (Conservation Area Consent)

Amendment:

1. Slight alteration to the height of the western extent of the proposed replacement timber fence to the St. Georges Crescent frontage to ensure that corresponds with the height of the boundary wall that separates No.4. St. Georges Crescent from the application site.

REPORT

Case Officer: Sam Greig

Reason for Determination by Committee:

This application is brought before the Development Control Committee for determination due to more than three letters of objection being received from separate households.

1. Constraints and Planning Policies

Ancient Monument

Gas Pipeline Safeguarding Area

The proposal relates to land or premises situated within or adjacent to the Gas Pipeline Safeguarding Area.

Affecting The Setting Of A Listed Building

Conservation Area

The proposal relates to land or premises situated within the Stanwix Conservation Area.

Local Plan Pol CP5 - Design

Local Plan Pol LE6 - Scheduled/Nat. Imp. Ancient Mon.

Local Plan Pol LE12 - Proposals Affecting Listed Buildings

Local Plan Pol LE17-Dev.Involving Dem.Unlisted Bldgs CA

Local Plan Pol LE19 - Conservation Areas

2. Summary of Consultation Responses

Cumbria County Council - (Highway Authority): no comment;

Planning - Planning Policy & Conservation - Peter Messenger: the scheme as it now stands overcomes the objections raised by the Inspector on the earlier application for the development of this site. The proposal is now set well within the site to the extent that it is not a dominant structure nor does it compete with the adjacent properties. Its scale and character are on a par with the outbuildings found at the rear of Eden Mount and as a result the current design fits in well with the character of the Conservation Area. There are, therefore, no objections to the proposed scheme;

English Heritage - North West Region: no objections, subject to the imposition of a planning condition that requires an archaeological watching brief to be undertaken during any excavations;

Hadrians Wall Heritage Limited: no comments received;

Northern Gas Networks: no objections.

3. Summary of Representations

Representations Received

Initial:	Consulted:	Reply Type:
3 St Georges Crescent	29/03/10	Undelivered
5 St Georges Crescent	29/03/10	
7 St Georges Crescent	29/03/10	
4 St Georges Crescent	29/03/10	Objection
1 Eden Mount	29/03/10	Objection
3 Eden Mount	29/03/10	Objection
5 Eden Mount	29/03/10	
9 Devonshire Terrace	29/03/10	
3 Cromwell Crescent	29/03/10	

2 Eden Mount	12/04/10	Objection
4 Eden Mount	12/04/10	
6 Eden Mount	12/04/10	
2 Eden Mount		Objection
Eden Hey		Objection
8 St Georges Crescent		Objection
10 St Georges Crescent		Objection
10 Etterby Scaur		Objection
6 St Georges Crescent		Objection
9 Eden Mount		Objection

3.1 This application has been advertised by means of site and press notices as well as notification letters sent to twelve neighbouring properties. In response twelve letters of objection have been received; however, the objections raised relate to the associated "Full" planning application for the redevelopment of the site to form a dwelling, which precedes this report in the schedule (Application 10/0221).

3.2 Given that the objections do not specifically relate to this application for Conservation Area Consent the issues raised have not been reiterated within this report. A summary of the representations received can be viewed within the "Summary of Representations" section of the preceding report.

4. Planning History

4.1 In March 1996 "Outline" planning permission was refused for the erection of a dwelling for the following reasons:

- i. *"The application seeks permission for residential development on a plot of some 275 square metres, located between the substantial properties No. 4 St George's Crescent and No. 1 Eden Mount. It is considered that the development of this plot would result in cramped development, unrelated to the surrounding buildings, in terms of scale, character and building line contrary to Proposal H2 of the Carlisle District Plan (Deposit Draft).*
- ii. *Development of the proposed site would adversely effect the setting of the adjacent property, No. 1 Eden Mount, which is a listed building, contrary to Proposal E30 of the Carlisle District Plan (Deposit Draft)."*

4.2 In May 1998 "Full" planning permission was refused for the erection of a dwelling for the following reason:

- i. *"The application relates to an area of 270 square metres, within the setting of the listed building, No. 1 Eden Mount and adjacent to the substantial property No. 4 St George's Crescent. It is proposed to erect a two storey dwelling across the width of the site. It is considered that this development would result in cramped development, with an adverse impact on the attractive street scene of St George's Crescent which is within the proposed Stanwix Conservation Area, contrary to Policy H2 of the Carlisle District Plan.*
- i. *Development of the site in the manner proposed would have an adverse*

affect on the setting of the adjacent property, No. 1 Eden Mount, which is a listed building, contrary to Policy 35 of the Carlisle District Plan.”

- 4.3 An appeal was lodged against the Council's Decision to refuse the above application; however, this was subsequently dismissed by the Planning Inspectorate.

5. Details of Proposal/Officer Appraisal

Introduction

- 5.1 This application seeks “Conservation Area Consent” for the demolition of a 3 metre wide section of a boundary wall on land to the rear of No.1 Eden Mount, Stanwix. The land is situated within the Stanwix Conservation Area and a row of Grade II Listed terraced properties, known as Eden Mount, is located immediately to the east of the site. The site previously formed the kitchen garden of No.1 Eden Mount; however, it has since been separated in ownership.

The Proposal

- 5.2 The application proposes to remove a 3m section of the boundary wall along the eastern boundary of the site to create a vehicular access to serve a proposed dwelling. The application which relates to the dwelling precedes this report in the schedule (reference 10/0221). Conservation Area Consent is required for the removal of this section of wall as it exceeds two metres in height.

Assessment

- 5.3 The relevant planning policies against which the application is required to be assessed are Policies CP5, LE6, LE12, LE17 and LE19 of the Carlisle District Local Plan 2001-2016.
- 5.4 The proposal raises the following planning issues:
1. Whether The Removal Of Part Of The Wall Is Acceptable.
- 5.5 The removal of this section of the wall will not have an adverse impact upon the setting of the Stanwix Conservation Area provided that it is undertaken in conjunction with an acceptable scheme to redevelop the site. It is, however, recommended that a condition is imposed that prevents this work from being carried out prior to a contract being agreed for the redevelopment of the site that is in accordance with an “approved” scheme.
- 5.6 Members are advised that if they were minded not to approve the application to redevelop the site (10/0221), which precedes this report in the Schedule, it would not be appropriate to approve this application. To do so may increase the likelihood of the opening being formed, which, if carried out in isolation, could detract from the appearance of the Conservation Area. In the absence of an approved scheme to redevelop the site, the approval of this application

would be premature.

Conclusion

- 5.7 In conclusion, it is recommended that Members approve this application, but only if permission has been granted for the redevelopment of the site in accordance with application 10/0221. If that application is refused this application should also be refused on the grounds of prematurity and the potential adverse impact on the character and appearance of the Stanwix Conservation Area.

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 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.

7. Recommendation - Grant Permission

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

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

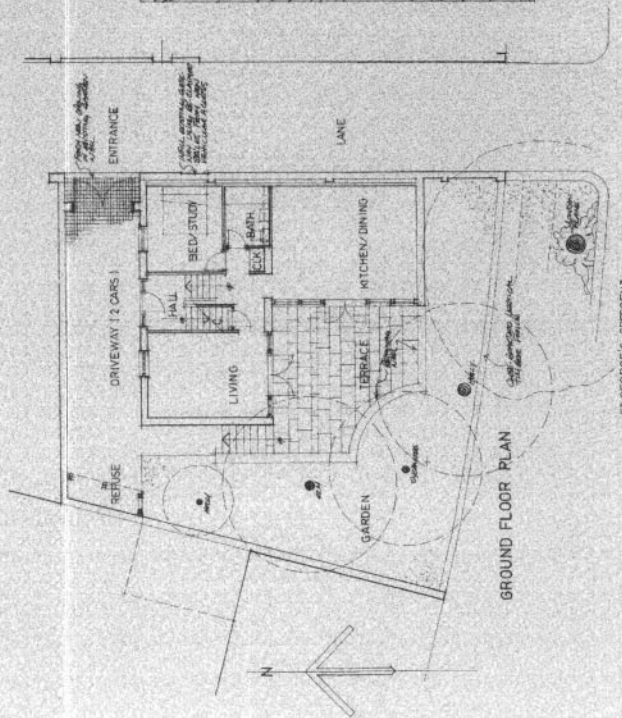
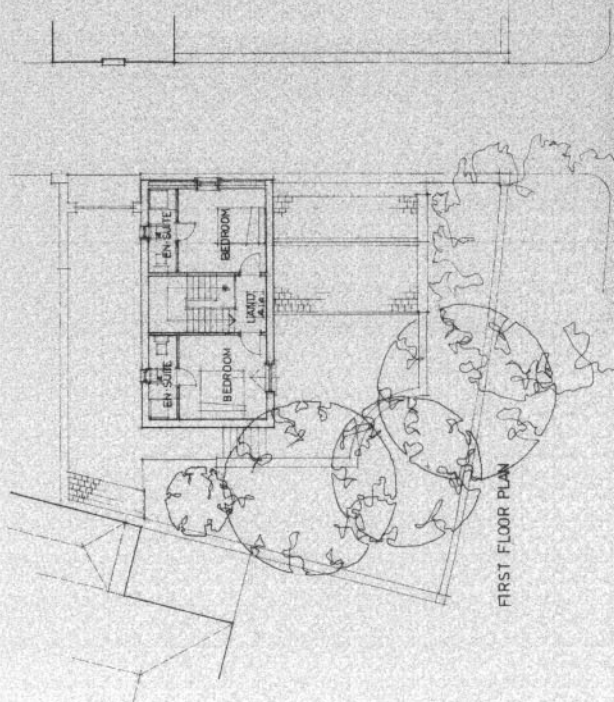
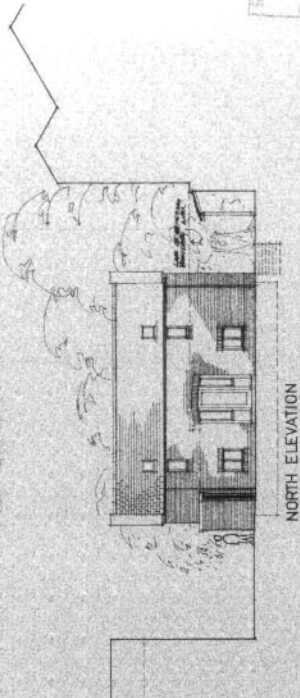
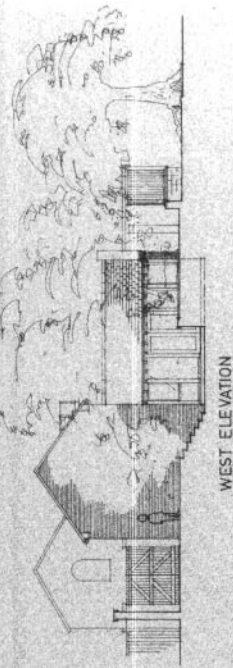
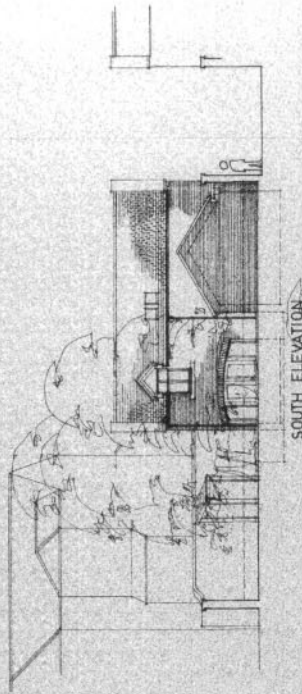
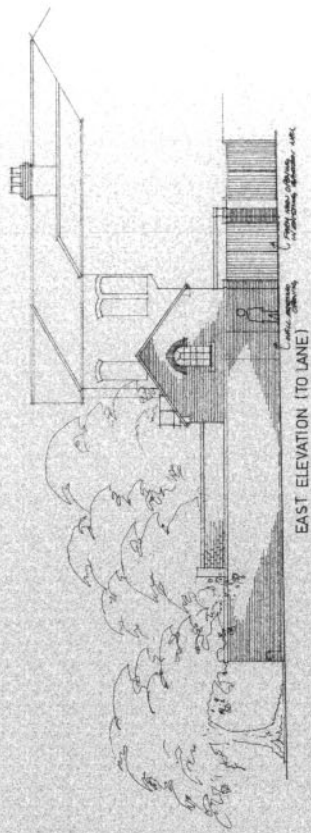
2. The approved documents for this planning consent shall comprise:

1. The Planning Application Form received 22nd March 2010;
2. The Design and Access Statement received 22nd March 2010;
3. The site location plan, block plan and the proposed elevations and floor plans (Drawing No. 2465/1 received 22nd March 2010);
4. The roadway elevation (Drawing No. 2465/2A received 21st May 2010);
5. The existing and proposed block plans (Drawing No. 2465/3 received 22nd March 2010)
6. The Tree Survey (Drawing No. L/01 received 22nd March 2010);
7. The Schedule of Trees produced by Westwood Landscape (received 22nd March 2010);
8. The Landscape Proposals (Drawing No. L/03 received 22nd March 2010);
9. The Desk Top Contamination Study received 22nd March 2010);
10. The Archaeological Evaluation produced by Greenlane Archaeology dated January 2010 (received 22nd March 2010);
11. The Decision Notice.
12. Any such variation as is approved in writing by the Local Planning Authority.

Reason: To define the permission.

3. The building shall not be demolished before a contract for the carrying out of works of redevelopment of the site has been made and planning permission has been granted for the redevelopment for which the contract provides.

Reason: To safeguard against premature demolition in accord with Policies LE17 and LE19 of the Carlisle District Local Plan 2001-2016.



PROPOSED DWELLING
ST GEORGE'S CRESCENT, CARLISLE

PLANS, AS PROPOSED;
PLANS, ELEVATIONS & LOCATION

Drawn: LC Scale: 1:100 1/28/90
Date: 09/09 Drawing no.: 2465/1
INTERIM LANE STUDY: CARLISLE COUNCIL - C/159 - THE RED LION - THE RED LION

JONES & JONES
JJP
ARCHITECTS

16/02/92

SCHEDULE A: Applications with Recommendation

10/0141

Item No: 07

Date of Committee: 11/06/2010

Appn Ref No:
10/0141

Applicant:
Leehand Properties Ltd

Parish:
Brampton

Date of Receipt:
15/02/2010

Agent:
Redisher Ltd

Ward:
Brampton

Location:
15 Capon Hill, Brampton, CA8 1QJ

Grid Reference:
353044 560225

Proposal: Erection Of 1no. Dwelling (Revised Application)

Amendment:

1. Plan No 5 has been replaced by Plan No 5A which (1) shows the gable window of bedroom No 3 being glazed in obscure glass with no openers and (2) amends an error in the windows elevations on the north and west gables so that they accord with the floor plans.

REPORT

Case Officer: Dave Cartmell

Reason for Determination by Committee:

The application is brought before the Committee for determination as nine letters of objection have been received and the recommendation is contrary to a previous decision of the Council. Consideration of this application was deferred at the Development Control Committee on 23 April 2010 for a site visit.

1. Constraints and Planning Policies

Airport Safeguarding Area

RSS Pol DP 1 - Spatial Principles

Local Plan Pol DP1 - Sustainable Development Location

Local Plan Pol H1 - Location of New Housing Develop.

Local Plan Pol H2 - Primary Residential Area

Local Plan Pol H9 - Backland Development

Local Plan Pol CP3 - Trees and Hedges on Development Sites

Local Plan Pol CP5 - Design

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

Local Plan Pol LE16 - Historic Structures and Local Listings

2. Summary of Consultation Responses

Cumbria County Council - (Highway Authority): confirm that the comments made on the previous application would still apply (i.e reducing the height of the hedge to give a clear visibility of the road).

In relation to a scenario whereby there would be three houses within the curtilage of No 15 (the house having been subdivided into two separate dwellings in 2001 without the benefit of planning permission), Highways have advised that they would have reservations about the lack of parking for 3 dwellings and that if this was on a highway, refusal would be recommended. Highways recommend contacting the waste management service to ascertain whether their vehicles would be able to turn around in the turning head if there are cars parked there. (If there the turning manoeuvre cannot be performed without reversing the length of the private road Highways advise that there is a highway safety issue).

This issue is further discussed in the report;

Community Services - Drainage Engineer: applicant indicates disposal of foul sewage to the mains (public) sewer, which is acceptable. The applicant does not indicate the method of disposal of surface water. However in the first instance the applicant should investigate the use of either a sustainable drainage system or soakaways for surface water disposal.

There is no knowledge of flooding issues at this site;

United Utilities (former Norweb & NWWA): reply awaited (response to the previous application was as follows:

No objection to the proposal if possible; the site should be drained on a separate system, with foul drainage only 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 sewer UU may require the flow to be attenuated to a maximum discharge rate determined by UU;

Brampton Parish Council: the proposed development will be unacceptably detrimental to the amenities of neighbouring residents by reason of loss of privacy, overlooking and general disturbance contrary to criteria 2 and 3 of Policy H2 and criteria 1 and 2 of Policy H9 of the Carlisle District Local Plan.

The proposed plan is over development of the site;

Carlisle Airport: no objections;

Local Plans (Tree Preservation), Development Services: the comments relating to the previously refused application 09/0578 remain valid and are repeated below.

To protect the retained trees root protection barriers must be erected prior to the commencement on site at a distance from the trunk as ascertained from the guidance set out in BS 5837.

The specification and location of the barriers must be agreed in writing with the local authority prior to commencement on site;

Waste Services: no objection - changes to the cul-de-sac head will not present any access difficulties.

3. Summary of Representations

Representations Received

Initial:	Consulted:	Reply Type:
10 Capon Hill	18/02/10	
Braeside	18/02/10	Objection
12 Capon Hill	18/02/10	Objection
The Old Brewery	18/02/10	Objection
The Old Brewery	26/02/10	Objection
11 Capon Hill	18/02/10	
12 Capon Hill	18/02/10	Objection
13 Capon Hill	18/02/10	
14 Capon Hill	18/02/10	Objection
16 Capon Hill	18/02/10	Objection
17 Capon Hill	18/02/10	
18 Capon Hill	18/02/10	
Horizon	18/02/10	
Applecross		Objection
8 Capon Hill		Objection

3.1 The proposal was given publicity by site notice and direct notification of neighbouring occupiers. In response a total of nine letters of objection have been received, including five from the occupants of four properties within the Capon Hill development.

3.2 The letters identify the following concerns/issues:

1. the same reasons for refusal of the previous application (09/0578) should still apply. The reasons were as follows:

"the proposed development, by reason of siting, scale and design fails to complement or enhance the character or quality of the existing residential

area, contrary to the objectives of criteria 3 of Policy H2 and criteria 1 of Policy H9.

the development would be detrimental to the living conditions of the occupiers of adjacent property through loss of privacy and overbearing presence contrary to the objection of criteria 2 of Policy H2 and criteria 1 of Policy H9".

2. Specific comments made in relation to these two issues have been made as follows:
 - i. the development would alter the balance of the built environment, appear irregular and spoil the symmetry and architectural integrity of the area which forms part of the history of the development of Brampton
 - ii. additional access would affect the turning circle
 - iii. the quiet cul-de-sac would change as increased traffic and parking would become a problem with attendant risks to children playing in the street. It would also impact adversely on access for emergency and other service vehicles
 - iv. another objector refers to 6 houses in the cul-de-sac having 12-14 vehicles and the likelihood of difficulties of gaining access to number 14 for the off-street parking of 8-9 vehicles during family occasions
 - v. the proposed property would overlook number 16 in a dominating way
 - vi. number 15 was subdivided into two properties about 10 years ago which, if the application was to be approved, would result in 3 houses in a space formerly occupied by one. This could result in 6 cars all requiring parking space.
3. this development amounts to overdevelopment and constitutes garden grabbing (the practice of cramming a relatively large house into a garden area) which is contrary to (a) government advice and (b) the Vision, Housing Strategy, and wider objectives of the Local Plan.
4. allowing the development would set a precedent for additional development which would further erode the character of the area.
5. as the cul-de-sac is a private road, any alterations need the approval of owners of properties fronting the street.
6. query whether the existing waste system and water supply will be able to cope with the extra dwelling.
7. one of the objectors suggests that the Planning Committee visit the site before taking a decision.

- 3.3 Brampton Rural housing Society also sent a letter of objection raising the following issues
- i. Brampton Rural Housing Society (formerly Brampton Public Utility Society Limited) was the original owner of Capon Hill and still own two of the properties at Capon Hill and the road forming the cul-de-sac is registered with this Society. BRHS are concerned about the extra traffic using the road and also for the residents of Capon Hill who would undoubtedly lose some of the privacy which they currently enjoy. It is understood that the prospective developer has not applied to this Society or the other residents of Capon Hill for an easement giving them right of access to the new property (or indeed to the extra property (number 15a) which BRHS believe they have formed by splitting number 15 into two properties).
 - ii. BRHS are currently experiencing problems with drainage at one of our properties at Capon Hill and that these problems seem to be affecting some of the other properties further up the drainage system and am concerned that adding another property to this drainage system would exacerbate these problems.
 - iii. BRHS feel if planning permission is granted for this property, then surely a precedent would be set and permission may be sought from other residents in the cul-de-sac who also have large gardens attached to their properties and what at the moment is a small, aesthetically pleasing and well maintained cul-de-sac would become an overcrowded and unbalanced housing estate.
- 3.4 One of the objectors suggests that "*there is a widely held belief that developers always get what they want even if it means repeated applications and as a last resort on appeal*" which he notes is "*a privilege that the objectors do not have*". He makes a plea for submission of realistic and previously thought out proposals submitted after consultations within the neighbouring community and the planning department. The same objector also raises the following issues additional to those listed above:
1. the Local Plan identifies (1) the importance of improving the local environment for existing residents of the District (2) that "*the plans should be read as a whole and all relevant policies should be taken into account*" (3) a high priority for the protection of the built environment and making the best use of existing land resources;
 2. the development is not based on local needs;
 3. the physical and psychological well being of gardening and the importance of gardens as wildlife habitats.

4. Planning History

- 4.1 A planning application for the erection of a dwelling within the garden

(09/275) was withdrawn in April of last year and a further application (09/578) was refused in the following July.

5. Details of Proposal/Officer Appraisal

Introduction

- 5.1 This is a revised application for full planning permission for the erection of a detached dwelling within the garden ground of No.15 Capon Hill, Brampton which lies at the head of a short residential cul-de-sac leading from Capon Tree Road. There have been two previous similar applications, the first of which (09/0275) was withdrawn by the applicant. The second application (09/578) was refused on the grounds of adverse impact on the character of the existing residential area and on the living conditions of the occupiers of adjacent residential property.
- 5.2 No.15 is a one and a half storey semi-detached property with a flat-roofed garage and has substantial side and rear gardens which are bounded by substantial hedges and trees (up to 12m in height) on the north, west and east sides. The boundary with No16 is low horizontally boarded hit and miss wooden fence with some shrubs. There are also many small trees and overgrown shrubs within the garden and the front garden boundary is a substantial hedge. The six houses in the cul-de-sac are all semi-detached, one and a half storey properties of identical design and materials and have the upper floor set in the roof space. Several have extended to the rear while others have installed dormers or constructed integral garages. No. 14 to the north of the application site has a conservatory on the west elevation. To the west is single storey dwelling with windows on the east elevation and a parking area to the south.
- 5.3 The curtilage of No. 15 extends to over 800 sq metres which it is proposed to divide almost equally between the existing and proposed house. The proposal involves the demolition of the existing flat roofed garage and green house.

Background

- 5.4 The proposed house is an L-shaped dormer bungalow containing a lounge, study, dining/kitchen and w.c. on the ground floor and three bedrooms, a bathroom and a shower on the upper floor. The house is sited to the north side of number 15 and is set back approximately 8 metres behind its front building line. The footprint is approximately 93 square metres; the ridge height is 6.5 metres with the eaves height being 3.8 metres. A flat roof dormer serving a bedroom and the bathroom is almost centralised on the front elevation. The only other upper floor windows, serving bedrooms, are on the north and west gable elevations. The wall materials are cement rendered walls on a facing brick plinth and painted concrete cills while the 40° pitch roofs are of natural blue slate, all to match adjacent properties.
- 5.5 The applicant has submitted a Tree Report in support of the application. The

report identifies a total of eight trees along the boundary with No. 14 and the adjoining property to the west and advises that none of them pose a threat to neighbouring houses. The report also advises:

1. the established hedges on the north and north east boundary give a very effective screen to the present house and neighbouring houses and could offer the same screening for any new development. However they are quite tall (10-12m) and could be impacting on neighbouring properties;
2. all of the boundary trees are healthy specimens and will not be affected by the development (although some will require surgery);
3. the only trees which will have to be removed to facilitate the development are small fruit trees, raspberry canes, gooseberry bushes and a mix of small shrubs and garden plants to the northwest and south east part of the plot.

5.6 It is proposed to remove the existing conifers and plant a new native screen hedge along the north and east boundaries.

5.7 The Design and Access Statement submitted with the application points out that while the boundary fences generally reflect the ownership indicated on the conveyance plan and the land registry plan, there are two discrepancies:

1. the fence line on the northern boundary is slightly beyond the legal boundary indicated on the plan;
2. on the eastern boundary the existing wall and fence on the line of the party wall between the existing garage and greenhouse is on average, 1 metre inside the legal boundary.

5.8 The applicant makes it clear that either the legal boundary, or the fence line within that legal boundary, have been used to define the extent of the site available for development to ensure that no dispute can arise in regard to the application.

5.9 The salient points of the Design and Access Statement are as follows:

1. the new design has reduced the footprint to match that of the existing dormer bungalow and is now a three bedroomed property;
2. the ridge and eaves height, and the 40 degree roof pitch match the design of existing houses in the cul-de-sac;
3. outlooks from ground floor windows are in general, screened from adjoining properties by landscaping and hedge planting to the boundaries
4. it is accepted that access in the cul-de-sac is limited so every effort will be made to mitigate any inconvenience to the existing residents during the construction phase of the development. To minimise disruption to the neighbouring properties and keep the construction period to a minimum

the following approach will be adopted:

- a. construction vehicles will be forbidden from parking within the cul-de-sac (which is important to maintain access for deliveries);
 - b. the existing garage and greenhouse will be demolished and the new driveways formed before work commences (this will provide enhanced turning space for vehicles alongside the current cul-de-sac);
 - c. the rear garden of No.15 (the ownership of which will be retained by the applicant until the new property is complete) will be made available for additional materials storage and mess facilities for construction staff with the new joint boundary fence only being erected on completion of the new house;
 - d. work will be restricted to the working week only with no work at weekends;
5. the property will be constructed to current building regulations standard of insulation and heating boilers will be condensing and will meet SEDBUC rating of 86% to meet current standards;
 6. all the major trees are to be retained and protected by chestnut pale fencing during development. The conifer hedge on the northern and eastern boundaries is overgrown and is to be removed and replaced by a new mature hedge of hawthorn, blackthorn, holly etc to match that on the western boundary to provide screening from the new dwelling to the adjacent properties.

5.10 The site lies within a Primary Residential Area of Brampton which is designated as a Key Service Centre in the Carlisle District Local Plan 2001-2016.

Assessment

5.11 Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission shall be determined in accordance with the provisions of the Development Plan unless material considerations (including Government Policy, as expressed through Planning Policy Guidance notes and Planning Policy Statements, and representations) indicate otherwise. The Development Plan comprises the Carlisle District Local Plan (2001-2016) (adopted 09/09/2008), extended policies of the Joint Cumbria and Lake District Structure Plan (2006) and the North West of England Plan Regional Spatial Strategy to 2021.

5.12 In consideration of this application Policies DP1, DP4, DP7, H1, H2, H9, LE16, CP3, CP5 and CP12 of the Carlisle District Local Plan and Policy DP1 of the North West of England Plan Regional Spatial Strategy to 2021 are relevant. The relevant aspects of these policies seek to ensure that residential development proposals:

1. are assessed against their ability to promote sustainable development;

2. will be favourably considered, provided they are in scale and consistent with other policies of the Local Plan and located in either the Urban Area, Key Service Centres or Local Service Centres;
 3. do not adversely affect the amenity of adjacent residential property;
 4. complement or enhance existing character of residential areas and their amenity;
 5. have satisfactory access and appropriate parking arrangements;
 6. provide for the protection and integration of existing hedges and trees and additional planting;
 7. respond to the local context and the form of surrounding buildings in relation to height, scale and massing and by making use of appropriate materials and detailing;
 8. make adequate provision for the disposal of surface water.
- 5.13 The Development Plan advocates that in proposals for residential development, priority should be given to the reuse of previously developed land.
- 5.14 The development plan objectives, and the material considerations raised by consultees and objectors, have now to be considered. As it is accepted that (1) the principle of residential development in this location in Brampton, which is a Key Service Centre, is acceptable (2) Highways are satisfied that access, parking and possible road safety issues have been addressed (3) Waste Services do not foresee any access issues and (4) the issue of disposal of surface water could be dealt with by condition, it is considered that the key determining factors in this application are as follows:
1. the degree of impact on the living conditions of adjacent residential occupiers;
 2. the degree to which the proposal complements or enhances the character and quality of the residential area.
- 5.15 With regard to the potential impact on the living conditions of adjacent residential occupiers:
- (a) because the proposed house is set back from No.15 there is potential overlooking of the rear garden of that property. The earlier proposals have been revised to remove all windows from the south elevation with the exception of a ground floor WC window which will have obscure glazing;
 - (b) while the front garden of No.14 is potentially overlooked by the ground floor study and kitchen windows and upper floor bathroom and bedroom windows, it should be noted that the front garden is currently overlooked

from the window of No.13 and by persons using the cul-de-sac. It is proposed to remove the existing tall conifer hedge and replace it with a new native species hedge. If the application was to be approved it is considered that a fence (with border planting within the site to soften the appearance of the building when viewed from the neighbouring property) would be necessary to minimise overlooking from ground floor windows. A condition could be attached requiring the bathroom window to be of opaque glazing;

- (c) the side garden and conservatory of No.14 is potentially overlooked from the following habitable rooms (1) ground floor lounge, study and wc windows/patio doors and (2) upper floor bedroom window. The applicant proposes obscure glazing in a non- opening bedroom window. As stated in (b) above the replacement hedge of native species will not provide screening until mature and fencing should be provided as an alternative. The view from the landing window would be partly restricted by the garage of No.14;
- (d) the parking area of the property to the west (Horizon) is potentially overlooked by ground floor windows in the kitchen/dining room and utility but the native boundary hedge is to be retained (and a condition could be attached to ensure its retention);
- (e) although the height of the gable facing the garden of No.15 has not been reduced, the width has been reduced by 1.5 metres making it a less dominant and oppressive feature when viewed from No. 15. Although the side window on the rear extension of No15 is only 4m from the gable of the proposed house, it is a secondary window;
- (f) the provision of two on-site parking spaces for both No15 and the proposed house, the removal of the hedge from the front of No.15, the deletion of the original proposal for a fence along the north west side of parking spaces, and method statement for construction phase should alleviate any potential problems over access and road safety;

5.16 It is therefore considered that, subject to the attachment of appropriate conditions (including removal of permitted development rights for extensions, curtilage buildings and additional windows) the revised proposal has satisfactorily addressed the issues relating to the living conditions of adjacent residential occupiers raised in connection with the earlier applications.

5.17 With regard to the impact on the character and quality of the residential area:

- 1. the footprint of the proposed house (approximately 93 square metres) is similar to other houses in the cul-de-sac. There are a wide range of plot sizes for the existing houses with plot sizes of the proposed house and the reduced curtilage of No.15 (both slightly over 400 square metres) being at the smaller end of the range;
- 2. the key feature of the character of the cul-de-sac, which is a visually contained unit, is the simplicity, uniformity and symmetry of the existing

semi-detached bungalows (most of which have had dormers, garages or extensions added in line with the existing character). The height and footprint of the proposed dwelling has now been reduced in scale from the original proposals and the design revised so that the building now substantially matches the other properties in the cul-de-sac. As the scale of the proposed building is similar to existing buildings, the ridge height is midway between that of Nos 14 and 15, and the building is set back from the building line, it does not intrude into the streetscape and does not therefore significantly affect the character of the area;

3. provided that protective measures for the trees and hedge on the western boundary are in place during the construction phase, it is considered that they can be retained and integrated with the proposed development. The proposal to remove the tall conifer hedge on the northern boundary with No.15 and its replacement by a hedge of native species is acceptable from a visual standpoint. However, as previously referred to, this would not provide privacy screening until mature and it is therefore considered that a substantial fence should form the boundary;

5.18 It is therefore considered that, subject to the attachment of appropriate conditions, the revised proposal has satisfactorily addressed the issues relating to the impact on the character and quality of the residential area raised as part of the earlier applications.

5.19 With regard to other issues raised by the objectors:

1. the issue of 'garden grabbing' was the subject of a recent research report which identified a particular problem in the southeast of the country and the Midlands. While the Carlisle District Local Plan does not specifically refer to 'garden grabbing', it is considered that the criteria set out in Policies H1, H2 and H9 allow appropriate control of development;
2. the Local Plan contains a wide range of objectives including the improvement /protection of the environment for existing residents, protection of the built environment and the provision of well designed houses in sustainable development locations (particularly avoiding greenfield sites). Clearly conflict can arise between these objectives and a balance has to be struck. While the Capon Hill development has a unique character, it has not been recognised as as meriting inclusion in the Brampton Conservation Area, the boundary of which has recently been revised and currently runs to the north of the cul-de-sac;
3. there is no requirement for the applicant to establish a local need for a housing development within a Key Service Centre;
4. with regard to the importance of gardens as habitats, it is proposed to retain the existing deciduous trees and to plant a hedge of native species in place of the Cypress hedge on the north and east boundary.
5. the applicant has agreed to a condition restricting the use of Nos 15 and 15A Capon Hill to use as a single dwellinghouse.

Conclusion

- 5.20 On balance, therefore, it is considered that the revised proposals address the issues raised by the earlier submissions, in relation to both the impact on the living conditions of adjacent residents and on the character of the area, and that the proposed development now accords with the provisions of the Development Plan. As there are no material considerations which indicate that it should be determined to the contrary, it should be determined in accordance with the Development Plan. It is recommended for approval subject to appropriate conditions.

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 The proposal has been considered against the above. The applicant's Human Rights are respected but based on the foregoing it is not considered that any personal considerations out-weigh the harm created by the development.

7. Recommendation - Grant Permission

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

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

2. The external walling and roofing materials to be used in the building works hereby permitted shall be identical to those in the existing building (No15). If any other material is proposed no development shall take place until such has been approved, in writing, by the Local Planning Authority.

Reason: To ensure the works harmonise as closely as possible with the existing building and to ensure compliance with Policies CP 5 (Criteria 3) and H9 (Criteria 1) of the Carlisle District Local Plan (2001 - 2016).

3. No development shall take place until details of the native species hedge to be planted along the north and east boundaries have been submitted to and approved by the local planning authority.

Reason: To ensure that a satisfactory landscaping scheme is prepared in accord with Policy CP5 of the Carlisle District Local Plan. (2001 - 2016).

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

Reason: To ensure that a satisfactory landscaping scheme is implemented and that it fulfils the objectives of Policy CP5 of the Carlisle District Local Plan. (2001 - 2016).

5. Particulars of height and materials of a fence to be erected along the north and east boundary to replace the cypress hedge shall be submitted to and approved by the local planning authority prior to the commencement of the development hereby permitted which fence shall be erected immediately following the removal of the hedge.

Reason: To ensure that the appearance of the area is not prejudiced by lack of satisfactory screening which is not carried out in a co-ordinated manner and to ensure compliance with Policies CP 5 (Criteria 5 and 7) and H9 (Criteria 2 and 3) of the Carlisle District Local Plan (2001 - 2016).

6. To protect the retained trees and hedge on the western boundary as identified in the Tree Report by Woodscapes Ltd dated 10/05/2010 and the Design and Access Statement submitted with the application, root protection barriers shall be erected, prior to the commencement of the development hereby approved, at a distance from the trunk as ascertained from the guidance set out in BS 5837 (Trees in relation to Construction-Recommendations)

Reason: To protect the trees in accordance with Policy CP5 (Criteria 6) of the Carlisle District Local Plan (2001 - 2016).

7. The specification and location of the root protection barriers shall be agreed in writing with the Local Planning Authority prior to commencement on site.

Reason: For avoidance of doubt and to protect the trees in accordance with Policy CP5 (Criteria 6) of the Carlisle District Local Plan (2001 - 2016).

8. The procedures to be adopted during the construction phase shall be those specified in the Design and Access Statement submitted with the planning application and dated February 2010.

Reason: To protect residential amenity in accordance with the objectives of Policies CP5 (Criteria 5) and H9 (Criteria 2) of the Carlisle District Local Plan (2001-2016).

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) there shall be no enlargement or external alterations to the dwelling to be erected in accordance with this permission, within the meaning of Schedule 2 Part (1) of these Orders, without the written approval of the local planning authority.

Reason: To ensure that the character and attractive appearance of the buildings is not harmed by inappropriate alterations and/or extensions and that any additions which may subsequently be proposed satisfy the objectives of Policies CP 5 (Criteria 1 and 5) and H9 (Criteria 1 and 2) of the Carlisle District Local Plan (2001 - 2016).

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking and re-enacting that Order), no additional windows shall be inserted above the ground floor on the south or west elevations without the prior consent of the local planning authority.

Reason: In order to protect the privacy and amenities of residents in close proximity to the site and to ensure compliance with Policies CP 5 (Criteria 5) and H9 (Criteria 2) of the Carlisle District Local Plan (2001 - 2016).

11. No development approved by this permission shall be commenced until a scheme for the disposal of surface water drainage has been approved in writing by the Local Planning Authority. Such a scheme shall be constructed and completed in accordance with the approved plans.

Reason: To ensure a satisfactory means of surface water disposal and in accord with Policy CP 12 of the Cumbria and Lake District

Joint Structure Plan and Policy E22 of the of the Carlisle District
Local Plan (2001 - 2016).

12. The approved documents for this planning approval shall comprise:
1. the submitted planning application form;
 2. Plan No 4a
 3. Plan No TRI-0402
 4. Plan No 5A
 5. the Design and Access Statement
 6. the Tree Report prepared by Woodscapes Ltd dated 10/05/2009
 7. the decision notice;
 8. any such variation as is approved in writing by the local planning authority.

Reason: For the avoidance of doubt.

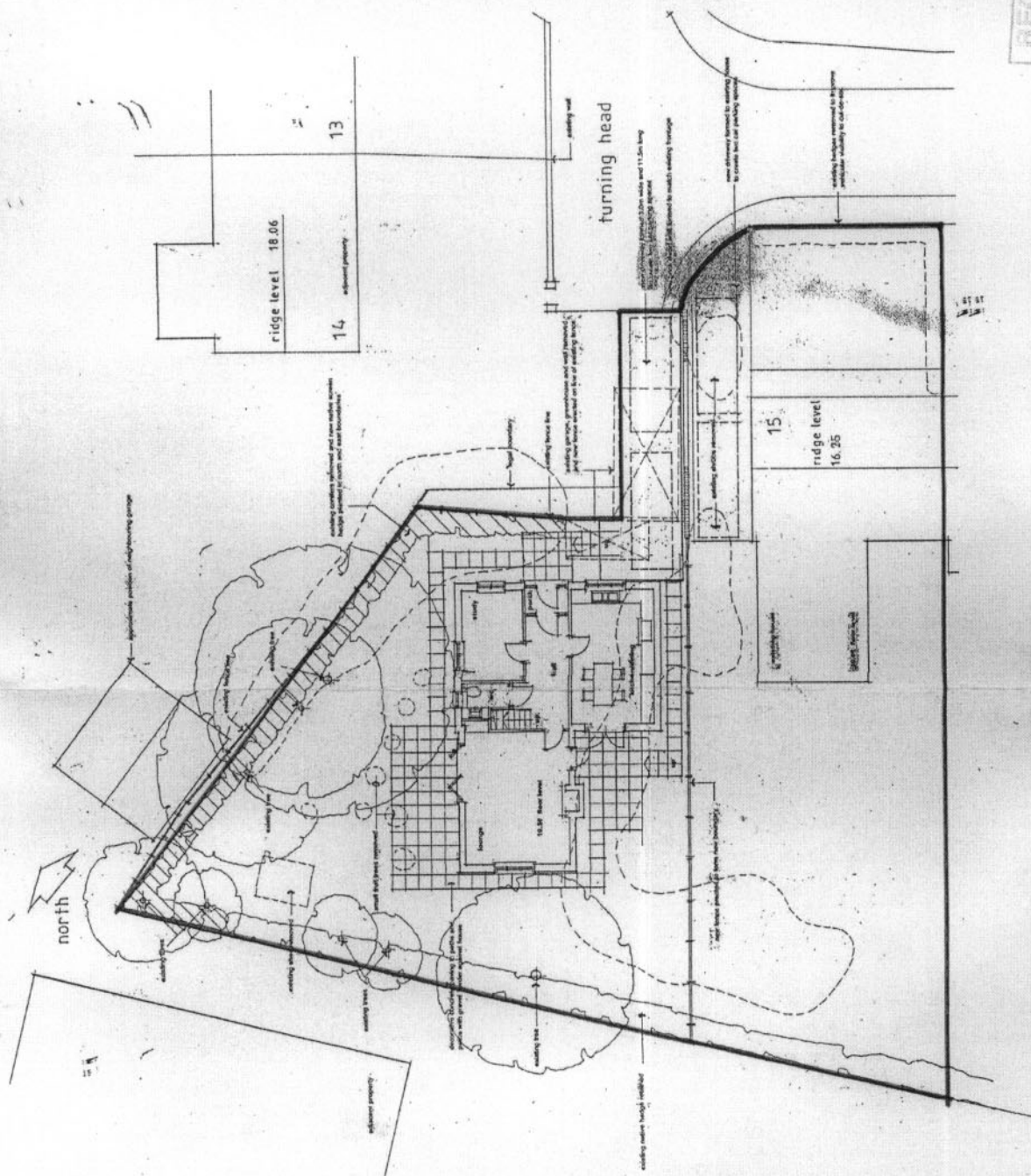
13. The use of Nos 15 and 15A Capon Hill shall be restricted to use as a single dwelling.

Reason: To avoid an in unacceptable intensification of use of the site to the detriment of the amenity of adjacent occupiers in accordance with the objectives of Policies CP 5 (Criteria 5) and H9 (Criteria 2) of the Carlisle District Local Plan (2001-2016).

14. Prior to the occupation of the house, the non-opening upper window on the north elevation shall be obscure glazed, factor 3 or above, and thereafter retained as such.

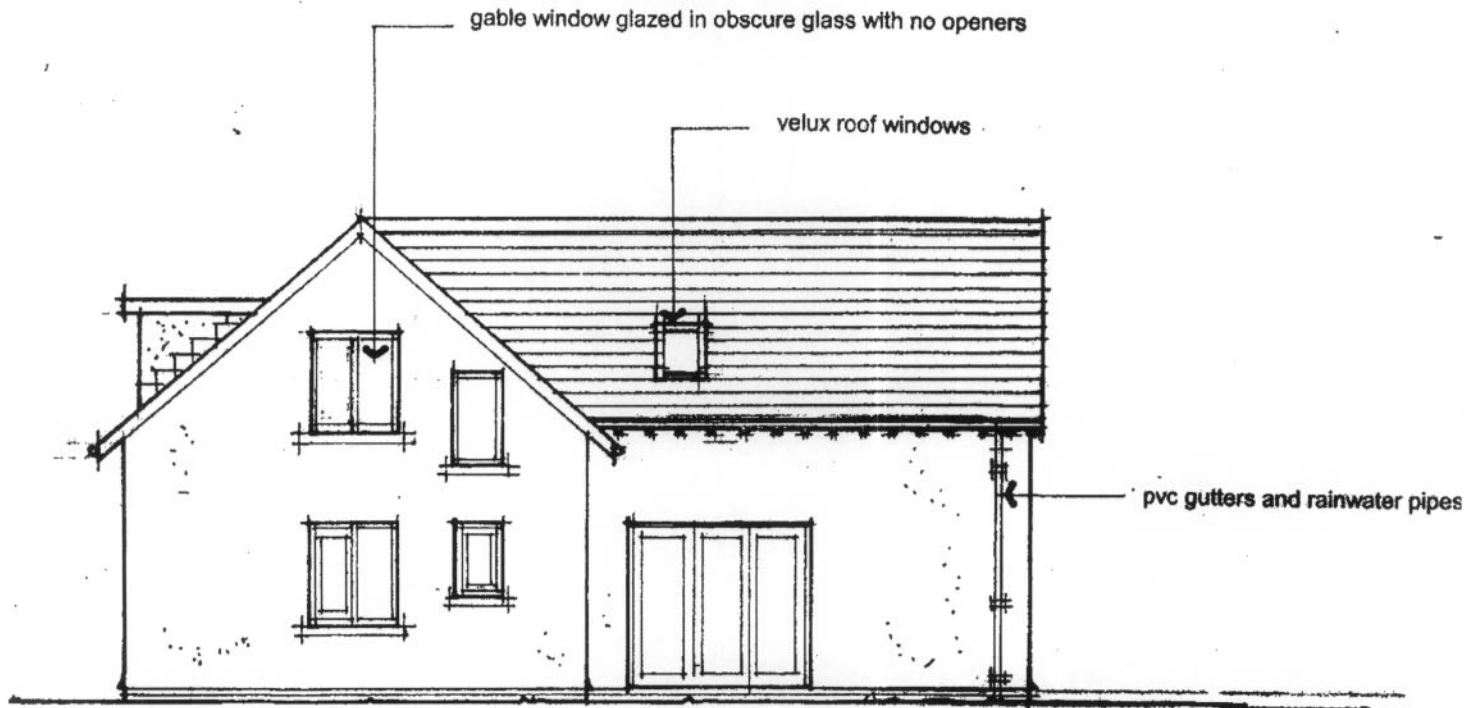
Reason: In order to protect the privacy and amenities of adjacent occupiers in accordance with the objectives of Policies H11 and CP5 (Criteria 5) of the Carlisle Local Plan (2001-2016)

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CLIENT:	LEEHAND PROPERTIES LTD		
SITE:	15 CAPON HILL, BRAMPTON, CUMBRIA		
PROJECT	PROPOSED HOUSE		
SHEET:	BLOCK PLAN		
SCALE:	1:200	DATE:	06.04.09
		DRAWN:	WRW
Redisher Ltd 6 Lower Redisher, Redisher Lane, Hawkshaw, Bury LANCs BL8 4HX t: 07932 070466 f: 01204 886694 e: info@redisher.co.uk			
181			
4a			

Revised Elevations



north elevation



west elevation



ABBREVIATIONS

- EH - EYES HEIGHT
- FFL - FINISHED FLOOR LEVEL
- FH - FIRE HYDRANT
- GU - GULLY
- RH - RIDGE/ROOF HEIGHT
- TC - TRICAD CONTROL
- WV - WATER VALVE



Client Details Mr W R Walsh

Redisher Ltd

Hawkshaw, Bury

Project Details 15, Capon Hill

Brampton

Cumbria. CA8 1QJ

Drawing Title Site Survey

Scale	Date	Drawn By	Rev.
1:100@A1	21/11/2008	MW	0
Drawing Number	Sheet 1 of 1		
TR1-0402			

NOTE
All dimensions to be checked on site.
The survey was carried out on 21/11/2008.
to the solid & should be checked for thickness.



The