

SCHEDULE A: Applications with Recommendation

14/0472

Item No: 03

Date of Committee: 03/10/2014

Appn Ref No:
14/0472

Applicant:
Citadel Estates Ltd

Parish:
Wetheral

Agent:
Holt Planning Consultancy
Ltd

Ward:
Wetheral

Location: Skelton House, Wetheral, Carlisle, CA4 8JG

Proposal: Variation Of Condition 2 (Approved Documents) Of Previously Approved
Permission 10/1066 (Revised Application)

Date of Receipt:
09/06/2014

Statutory Expiry Date
08/09/2014

26 Week Determination

REPORT

Case Officer: Richard Maunsell

1. Recommendation

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

2. Main Issues

- 2.1 Principle Of Development
2.2 The Scale, Layout And Design Of The Development And The Impact On The Wetheral Conservation Area And The Adjacent Listed Building
2.3 The Impact Of The Proposal On The Living Conditions Of Neighbouring Residents

3. Application Details

The Site

- 3.1 This application seeks consent for the variation of a planning condition on land previously occupied by Skelton House and its associated buildings,

which are located at the northern extent of Pleasant View in Wetheral, to enable the erection of 15 apartments. The application site is situated within the Wetheral Conservation Area and a Grade II Listed Property, known as Acorn Bank, is located immediately to the east of the site. The surroundings to the site are wholly residential with the exception of the agricultural land that lies beyond the northern boundary.

Background

- 3.2 The site was vacant following the demolition of Skelton House, a former farmhouse, with an attached two storey barn, detached stables and two polytunnels, which were associated with its former use as a commercial nursery; however, building work has since commenced.
- 3.3 Planning permission and conservation area consent were granted in 2012 and 2011 respectively for the demolition of the buildings together with the redevelopment of the site to provide a 3 storey building comprising of 15 apartments together with associated car parking.
- 3.4 The site has been subject to 3 further applications for Minor Material Amendments to vary condition 2 of the planning consent granted in 2012 and allow the substitution of the site layout and fenestration details. These applications have been refused by Members of this Committee with the principle reasons being:

“The proposal, by virtue of its scale, massing and position within the site, does not respond to the local context and form of surrounding building in relation to height, scale and massing. The siting of the proposed building would differ from the approved scheme and would be inappropriate to its prominent location in the Wetheral Conservation Area. The proposal is therefore contrary to criteria 1 of Policy CP5 (Design), criterion 2, 3 and 4 of Policy H1 (Location of New Housing Development) and criterion 1 and 2 of Policy LE19 (Conservation Areas) of the Carlisle District Local Plan 2001-2016.

The proposed building would be located adjacent to neighbouring residential properties. In this instance, by virtue of the number of proposed windows serving habitable rooms on the east and west elevations of the building, the development would result in overlooking and a significant loss of privacy to the occupiers of the neighbouring properties. The proposed windows would also conflict with the Council's required minimum distances. The proposal is therefore contrary to criteria 5 of Policy CP5 (Design) of the Carlisle District Local Plan 2001-2016 and the objectives of the Supplementary Planning Document “Achieving Well Designed Housing”.

To the east of the application site is Acorn Bank which is a 2 storey Grade II listed building. Due to the proximity of the proposed building, together with its scale and mass, the development would fail to preserve the character or setting of the adjacent listed building. The proposal would be unsympathetic in scale and character and would adversely affect the appearance and setting of Acorn Bank, contrary to the Policy LE12 (Proposals Affecting

Listed Buildings) of the Carlisle District Local Plan 2001-2016.”

- 3.5 Earlier this year, the applicant lodged an appeal against the first 2 refused applications. The Inspector found that the relevant planning issues to be considered were the impact on the conservation area and adjacent listed building and the impact on the living conditions of the occupiers of the neighbouring properties. The Inspector concluded that with regard to the impact on the conservation area and the listed building, the proposed development (relating to both appeals), would neither preserve the character and appearance of the conservation area nor preserve the setting of the listed building. A copy of the appeal decision is reproduced following this report.

The Proposal

- 3.6 When planning permission was granted in 2012 for the redevelopment of the site, the consent was subject to a number of planning conditions. Of relevance to this application is condition 2 which detailed the list of approved drawings. The current application seeks consent to vary this condition and effectively substitute these drawings with the current proposal and thereby introduce a series of changes to the scheme. In response to the reasons for refusal given by the Council to the previous applications for the variation of condition 2, the applicant has produced a summary of the changes as follows:

“Broadly, [the application] maintains the material reductions to the massing and scale of the building but returns to 10/1066 by:

- returning to incorporating hipped roofs on secondary elements;
- returning to an active front door;
- returning to an external bin-store;
- reiterating increased landscaping especially alongside Caerluel.”

- 3.7 The application drawings were later revised with the changes described by the agent as:

- asymmetry has been reintroduced to the south elevation by moving the stone quoins to the central block so that the corners are no longer positioned symmetrically about the centre of the building. The roof nearest Acorn Bank is therefore longer and the roof nearest Caerleul is shorter (as per the approved scheme);
- the materials to the south elevation have been altered so that they match exactly the materials on the extant approved design;
- the height of the chimneys has been slightly increased;
- the ground floor doors to Units 2 and 3 that are accessible from the front street have been removed and replaced by windows to match the extant scheme (including the gate stoops to these entrances);
- the circular window in the central bay has been removed;
- the front door opening has been altered to look more exactly like the front door of the extant approved scheme.

- 3.8 Since then, additional roof lights have been inserted. Further revisions proposal alterations to the fenestration, window openings, the omission of the central entrance door and accentuated gables to the frontage.

4. Summary of Representations

- 4.1 This application has been advertised by means of a site notice, a press notice and direct notification to the occupiers of 133 of the neighbouring properties. In response, 64 letters of objection have been received and the main issues raised are summarised as follows:

The Principle Of Development

1. this is a new proposal and should not be considered as a variation to the planning permission as the foundations laid exceed the size of the approved building by a third;
2. the current proposal represents an increase in gross footprint of 21% and a floor area of 25% larger which can't be considered as amendment as previously confirmed by the Council;

Scale And Massing/ The Impact On The Character Of The Area

3. the proposal still fails to respond to the local context and the form of the surrounding building in height, scale, massing and position on the site;
4. the enlargement of the site means that it is not in keeping with the scale and character of the village or the impact on the conservation area;
5. the height of the building is substantially higher than the approved scheme;
6. the eaves and ridge height on the south elevation are substantially higher and bear no relationship to Acorn Bank;
7. the revised application remains the same height and mass as the refused application and has significantly more height and mass compared to the approved scheme;
8. the building is oversized, domineering and unsympathetic to the surrounding area;
9. the installation of roof lights implies an additional floor and more flats;
10. the bay window on Acorn Bank is exaggerated leading the Council to assume that the proposed forward position of the building is better than it actually is;
11. the changes to the building are designed to optimise the value of the property;
12. the building is too close to the site boundaries;
13. there is no provision within the building for emergency escape in the event of a fire;
14. the scale and massing will adversely affect the setting of the adjacent listed building;
15. much of the planting has been lost at the expense of the increased size of the building;

Highway/ Parking Issues

16. the access to the rear is of an insufficient size for emergency vehicles.
17. visitors to the properties will be forced to park on Scotby Road which will cause traffic problems, particularly for the local bus which passes the site;
18. the proposed building is much larger and would occupy land used for car parking provision;
19. there is no Pedestrian Traffic Plan to show how pedestrians would access shops and services in the village;

Residential Amenity

20. the building is too close to Acorn Bank with an increase number of windows on both the east and west elevations which allows for overlooking and loss of amenity to the adjacent neighbours;
21. the windows are less than the Council's required 21 metres to habitable rooms;
22. the provision of obscure glass is irrelevant as this could be changed at a later date and is an admission that the windows can't be properly accommodated within the building;
23. the stone barn which was to be retained adjacent to the western boundary afforded privacy to the occupiers of the neighbouring property. This building has been removed and is not proposed to be replaced;
24. the separation distances between the proposed windows and neighbouring properties are unacceptable;
25. the occupiers of the neighbouring properties will suffer an even greater loss of natural daylight;
26. the formation of a door on the west elevation will impact on the living conditions of the occupiers of the neighbouring property;

Other Issues

28. given the increase size of the building, there is no indication where the additional surface water will go;
29. Despite being told by United Utilities in 2013 of the foul and surface water drainage issues in the area, the City Council are progressing regardless of this advice
30. there is continued disregard to the main concerns of the size and positioning of the building as foundations have been laid;
31. the proposal has not addressed the reasons for refusal and is unacceptable and should itself be refused;
32. the foundations that have been dug appear to match those for the scheme refused under previous applications;
33. there are no details as to the screening for the bin store building;
34. the proposal is still contrary to Policy H10 of the Local Plan;
35. there are still no valid planning reasons for increasing the size, volume or footprint of the approved scheme.

- 4.2 Following the receipt of amended plans which reintroduce an asymmetrical frontage, alterations to the fenestration and doors to the front elevation, 12 letters of objection were received and the main issues are as follows:

1. none of the real issues or the Inspector's comments regarding the previous reasons for refusal have been taken on board;
2. this is not an improved design but another blatant attempt to build in already illegally laid foundations;
3. the building is out of character and is still too large and will be the largest building in Wetheral;
4. the foundations have already been built without planning permission and are the foundations of declined applications;
5. the changes do nothing to advance the progress of the development and is nothing other than cosmetic tweaking.

4.3 Following the receipt of amended plans which show the proposed insertion of additional roof lights, 22 letters of objection were received and the main issues are as follows:

1. there are lots of skylights which speaks for itself – fourth floor?;
2. none of the real issues or the Inspector's comments regarding the previous reasons for refusal have been taken on board;
3. this is not an improved design but another blatant attempt to build in already illegally laid foundations;
4. a roof design of this nature is completely out of context with the conservation area;
5. the building is out of character and is still too large and will be the largest building in Wetheral;
6. the building will dominate the adjacent residential properties;
7. the building is nearer and nearer to Acorn Bank than the approved application;
9. the foundations have already been built without planning permission and are the foundations of declined applications;
10. the proposal will result in car parking problems since there are only 24 allocated spaces for 15 apartments;
11. the footprint is much larger than the approved scheme and cannot be described as a minor material variation;
12. two previous applications have been refused by the Development Control Committee and appealed by the developer and turned down by a Government Inspector;

4.4 Further amended drawings were received showing alterations to the footprint, fenestration and window openings and 28 letters of objection have been received which re-iterated previous objections and raise the following issues:

1. there is no reduction and the building is too big;
2. the proposal is contrary to Policies CP5, H1, LE12 and LE19 and does not overcome the concerns of the Planning Inspector;
3. the applicant should not be allowed planning permission on foundations which have been laid illegally;
4. the building will be nearer the road;
5. the proposal will result in parking problem due to the lack of spaces;
6. the building will impact on the listed building and the conservation area;
7. there are now 45 skylights which gives the impression of a 4th floor.

5. Summary of Consultation Responses

Cumbria County Council - (Econ. Dir. Highways & Transportation): - the changes from a highway point of view is almost identical to the previous variation application. The comments made by this Authority for the previous application should therefore still apply;

Clerk to Wetheral PC, Downgate Community Centre: - whilst the Parish Council appreciate that extra parking spaces, and provision of re-cycling refuse stores provided, there are still concerns regarding the impact of the scale of this development in this rural conservation area. Traffic and parking remains an ongoing problem in this area, which will obviously increase with a further development at this point. Therefore the Parish Council wishes to reiterate their previous comments made :-

It is felt that whilst the site should be developed, the size, height and design of the proposed building are out of keeping with the area (conservation area). In particular there are concerns regarding parking along the already busy Wetheral to Scotby road, which is also a bus stop at this point.

The Parish Council wish to object to the proposal on the following grounds:-

- H10 Replacement dwellings in the rural area (criteria 2 & 5)
- LE19 Conservation areas (criteria 1, 2 and possibly 6 & 7);

Cumbria Constabulary - North Area Community Safety Unit: - no comment;

English Heritage - North West Region: - the application should be determined in accordance with national and local policy guidance;

Northern Gas Networks: - no objection.

6. Officer's Report

Assessment

- 6.1 In following the Inspector's decision, the relevant planning policies against which the application is required to be assessed are the National Planning Policy Framework (NPPF) and Policies CP5, H1, LE12 and LE19 of the Carlisle District Local Plan 2001-2016. The proposal raises the following planning issues.

1. Principle Of Development

- 6.2 The application site lies within the settlement boundary of Wetheral and as such the principle of residential development is acceptable, subject to compliance with the criteria identified in Policy H1 and other relevant policies contained within the adopted Local Plan. In addition, planning permission has previously been granted for the redevelopment of the site.
- 6.3 The issues regarding the amendments and the scale and nature of the proposal are discussed later in this report but it is clear that the principle of

development has been established.

2. The Scale, Layout And Design Of The Development And The Impact On The Wetheral Conservation Area And The Adjacent Listed Building

- 6.4 The building occupies a significant footprint with the floor area progressively reducing over the floors above, resulting in a staggered rear elevation.
- 6.5 The building will be set back from the pavement and the front elevation will be characterised by 3 gables. The building retains many of the approved architectural features including traditional features such as chimney stacks, stone copings to the gables, stone archways and window surrounds. The front elevation has been designed to retain an asymmetrical frontage and staggered roof lines and also includes extensive use of natural stone mixed with render. Natural slate is to be used on the roof and all new windows and doors would be manufactured from timber.
- 6.6 The front of the site, where it abuts the pavement, is to be demarcated by a natural stone wall, supplemented with planting. Vehicular access is via the existing access point to the west of the site and will lead to the side and rear parking area, which comprises 24 spaces.
- 6.7 The Parish Council and several residents have objected to the scheme on the basis that the scale of the building is inappropriate to the site and that it will harm the setting of the Wetheral Conservation Area. The Conservation Area Advisory Committee (CAAC) has also commented that the scale and massing of the building is not appropriate to the site. In particular, CAAC has consistently advised that this is likely to be as a result of the building being too large for the plot and are particularly critical of the design detailing which, in their opinion, *“appears to be steering progressively away from vernacular influences into a rather mean and unattractive 21st century paired down pastiche.”*
- 6.8 CAAC has reinforced their historical objection made to previous applications by expressing concerns about the current proposal, namely that:
- the original scheme is still a more attractive proposal and due to the difference in drawing styles this made it more difficult to evaluate the changes;
 - whilst it was recognised that this was of a similar scale to the original approved scheme concern was raised about the number of roof lights and the potential impact but questioned how visible these would be given the height of the building. It did give cause for concern as to the reasoning for so many roof lights;
 - whilst the drawing style evokes an attractive character it would require considerable effort and application to build-out to this style;
 - the approved version relies upon small windows with larger panels of masonry between and the masonry elements are more rugged and appropriate to the scale proposed;
 - the approved version is at or beyond the acceptable limits of a vernacular

style for this mass of building so the thinning down of this aesthetic in subsequent proposals is beyond a step too far;

- the flanking gable roofs are particularly subordinate to the main central gable in the approved version with advantageous visual effect – the current proposal is very nearly a horizontal eaves line.

- 6.9 The submitted drawings show a comparison between the approved scheme and the current proposal. Members are reminded that the principle of a building of similar height has already been approved under the previous application and based on Officers' assessment of the proposal, the scheme is not wholly contradictory to the approved scheme to relent on previous evaluations.
- 6.10 The perceived height of the building when viewed from the front elevation is broken up by the projecting gables and the attention to the architectural detail. The scheme has been further revised to take account of the Inspector's decision and introduce greater depth and variation to the frontage on the form of the 3 gables with the faced being set further back.
- 6.11 As the rear elevation projects outwards towards the rear of the site it is reduced in both height and width thereby decreasing its physical mass. In addition, the ridge of this element of the building is reduced from that of the previously approved scheme. The roadside frontage retains its natural stone boundary wall and landscaped backdrop. Although some parking is now proposed to the side of the building, additional landscaping is proposed between this and the junction with the County highway, thereby reducing its visual impact.
- 6.12 The approved scheme included some flat roofs within the building. These also feature in the proposed scheme; however, the flat roof areas would be to the rear of the building and would not be unduly prominent in the context of the building. Given the formation of pitched roofs, they would be appropriately screened from the wider public vantage points.
- 6.13 Notwithstanding the significant objections raised, it is the Officer's view that the scale, layout and design of the building are acceptable in relation to the site and do not detract from the character and appearance of the conservation area.
- 6.14 The scheme now includes the provision of 2 entrance doors on the front elevation in response to previous concerns that the development does not include an active frontage. Objectors have commented that this is not a true active frontage as the doors are secondary to the flats and serve a dining area. Whilst the entrances are not the sole point of entry to the units, both visually and practical viewpoint, they serve as entrances to the flats.
- 6.15 The proposal also safeguards the setting of the adjacent Listed Building, Acorn Bank. The objectors have raised concerns that the building would dominate and obliterate any views of Acorn Bank when approaching from the west due to its proximity to the frontage. The front elevation of the building would be broadly in line with the forward most projection of Acorn Bank but

due to the curvature in the road and the position of the building there is no defined building line in the street scene. The position of the building will not have a significant visual impact on the setting of the adjacent property over and above that of the approved scheme. Following the decision of the previous application, the mass of the frontage has been reduced and the projecting bays have been omitted.

- 6.16 The building continues to propose the use of appropriate materials thus ensuring that the design is not compromised through the use of inappropriate external finishes and the proposed development introduces appropriate architectural features such as water tables. The scheme is of an appropriate architectural merit in its own right and the scale and use of appropriate materials is acceptable.

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

- 6.17 The position of neighbouring properties and location of windows within those dwellings is such that the living conditions of surrounding residents are unlikely to be adversely affected by the proposal. Those properties on the opposite side of the road to the site, No.1 and No.20 Jennet Croft, are located 23m and 32m away from the building respectively. Acorn Bank to the west of the site has no openings in the side elevation of the dwelling, albeit the roof to the single storey rear projection of Acorn Bank is glazed.
- 6.18 The scheme includes the provision of obscurely glazed windows and oriel windows to prevent any direct overlooking of neighbouring properties and the latter style of windows form part of the approved development.
- 6.19 The neighbouring property, Caerluel, has the potential to be most affected; however, the position of windows in the apartment building is such that there would be no direct overlooking. Although they are less than 21 metres, there is an oblique relationship and the windows in Caerluel are not primary windows and therefore fall to be considered under the 12 metre requirement which is achievable.
- 6.20 One window in the development would be less than the Council's minimum distance and relates to a window serving a living room that would face the blank gable of Acorn Bank; however, this is a secondary window with the primary window being on the front elevation.
- 6.21 Any concern about obscure glazing being removed in the future can be addressed through the imposition of a condition which requires their retention in perpetuity unless granted through the submission and approval of an application to the Council.
- 6.22 The approved scheme included a condition to increase the height of the boundary wall between the application site and Caerluel. No variation to this condition is sought as part of this application which is particularly relevant given the omission of the detached barn and the condition requires the developer to undertake the improvements to the boundary.

- 6.23 Objectors have raised concerns about the insertion of additional roof lights and have questioned the applicant's motives. Whilst the roof lights affect the character and appearance of the development, the submitted floor plans show only the provision of ground, first and second floors. Any speculation of a future fourth floor is just that and cannot form part of the material planning assessment for this application.
- 6.24 It is important to note that the Inspector found that the development would not be detrimental to the living conditions of the occupiers of the neighbouring properties. No additional windows to either side elevation are proposed other than the roof lights. The currently proposed drawings do not materially change the scheme which was considered as part of the appeal to such a degree as to warrant refusal. On balance, there would be no significant adverse effect on the living conditions of neighbouring residents.

4. The Impact On Human Rights

- 6.25 The human rights of the occupiers of the neighbouring properties have been properly considered and taken into account as part of the determination of the application. Several provisions of the Human Rights Act 1998 can have implications in relation to the consideration of planning proposals, the most notable being:

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

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

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

- 6.26 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.
- 6.27 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.

5. Other Matters

- 6.28 The approved scheme allowed for the provision of 24 spaces. The number of apartments and the number of bedrooms has not increased and it is therefore unreasonable to support any additional increase in parking spaces.
- 6.29 The approved scheme included the provision of 3 affordable properties to be

made available by discounted sale and this was secured through a S106 agreement. This agreement is unaffected by this application.

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

Conclusion

- 6.31 In overall terms, the principle of the proposed redevelopment of the site to provide 15 flats has previously been accepted. The proposed apartment building could be accommodated on the site without detriment to the living conditions of the neighbouring properties or the character/setting of the Wetheral Conservation Area and adjacent listed building. The parking/access arrangements and the anticipated level of traffic generated by the proposal would be the same as those of the extant permission and would not be materially affected by this proposal. In all aspects the proposals are considered to be compliant with the objectives of the relevant Local Plan policies.
- 6.32 There are a significant number of objections to the proposal from residents and the Save Wetheral Village action group. Many of the issues relate to the scale, design and visual impact on the character of the Wetheral Conservation Area. It is a material consideration that the applicant has the fall back position of the planning consent granted in 2012 for the erection of a 3 storey building providing 15 flats and 24 parking spaces on the site.
- 6.33 With each of the previous revisions, the void between the approved scheme and the proposal has narrowed. It is accepted the proposed scheme is different; however, in comparison between the 2 schemes, the alterations, particularly in terms of the south (front) elevation, are marginal. The building reflects many of the features of the approved design and addresses the comments of the Planning Inspector. It is the opinion of Officers that the impact of the building on the character and appearance of the conservation area would not be significantly different from the approved scheme. On the basis of the approved scheme together with the amendments proposed, the proposal is acceptable and would not have a detrimental impact on the character of the conservation area.
- 6.34 Members are reminded that all other conditions of the approved scheme remain applicable. If Members are minded to grant consent, authority to issue approval is sought to vary the S106 agreement to substitute the current application reference for that of the extant permission.

7. Planning History

- 7.1 In 2011, conservation area consent was granted for the demolition of house, adjoining barn and outbuildings.
- 7.2 Planning permission was granted in 2012 for the demolition of the house, adjoining barn and outbuildings; redevelopment of site for the erection of single block comprising 15 two-bed apartments with dedicated access, off-street parking and private amenity spaces.
- 7.3 Planning permission was refused last year for the variation of condition 2 (approved documents) of previously approved permission 10/1066.
- 7.4 A Temporary Stop Notice was served on 14th January 2014 which required the cessation of any works on the land involved in the construction of the apartment blocks, access works, off street parking and private amenity areas subject to planning permission no. 10/1066 or any other works which do not have the benefit of planning permission.
- 7.5 Two planning applications were refused separately earlier this year for the variation of condition 2 (approved documents) of previously approved permission 10/1066.
- 7.6 An appeal to the Planning Inspectorate against the first 2 Council decisions to refuse the planning applications was dismissed this year.

8. Recommendation: Grant Subject to S106 Agreement

1. The approved documents for this Planning Permission comprise:
 1. the submitted planning application form received 2nd June 2014;
 2. the Block Plan & Site Location Plan (drawing number 00 Rev F) received 3rd June 2014;
 3. the Site Plan: Comparison with Approved (drawing number 205 Rev J) received 5th September 2014;
 4. the Ground Floor Plan (drawing number 202 Rev J) received 5th September 2014;
 5. the First Floor Plan (drawing number 203 Rev J) received 5th September 2014;
 6. the Second Floor Plan (drawing number 204 Rev J) received 5th September 2014;
 7. the South & East Elevations (drawing number 201 Rev J) received 5th September 2014;
 8. the West & North Elevations (drawing number 200 Rev J) received 5th September 2014;
 9. the South Elevation - to Highway: Proposed & Approved received 2nd June 2014;
 10. the East Elevation - to Acorn Bank: Proposed & Approved received 2nd June 2014;
 11. the North Elevation - to fields: Proposed & Approved received 2nd June

- 2014;
12. the West Elevation - to Carluel: Proposed & Approved received 2nd June 2014;
 13. the Planning Statement received 2nd June 2014;
 14. the Notice of Decision; and
 15. any such variation as may subsequently be approved in writing by the Local Planning Authority.

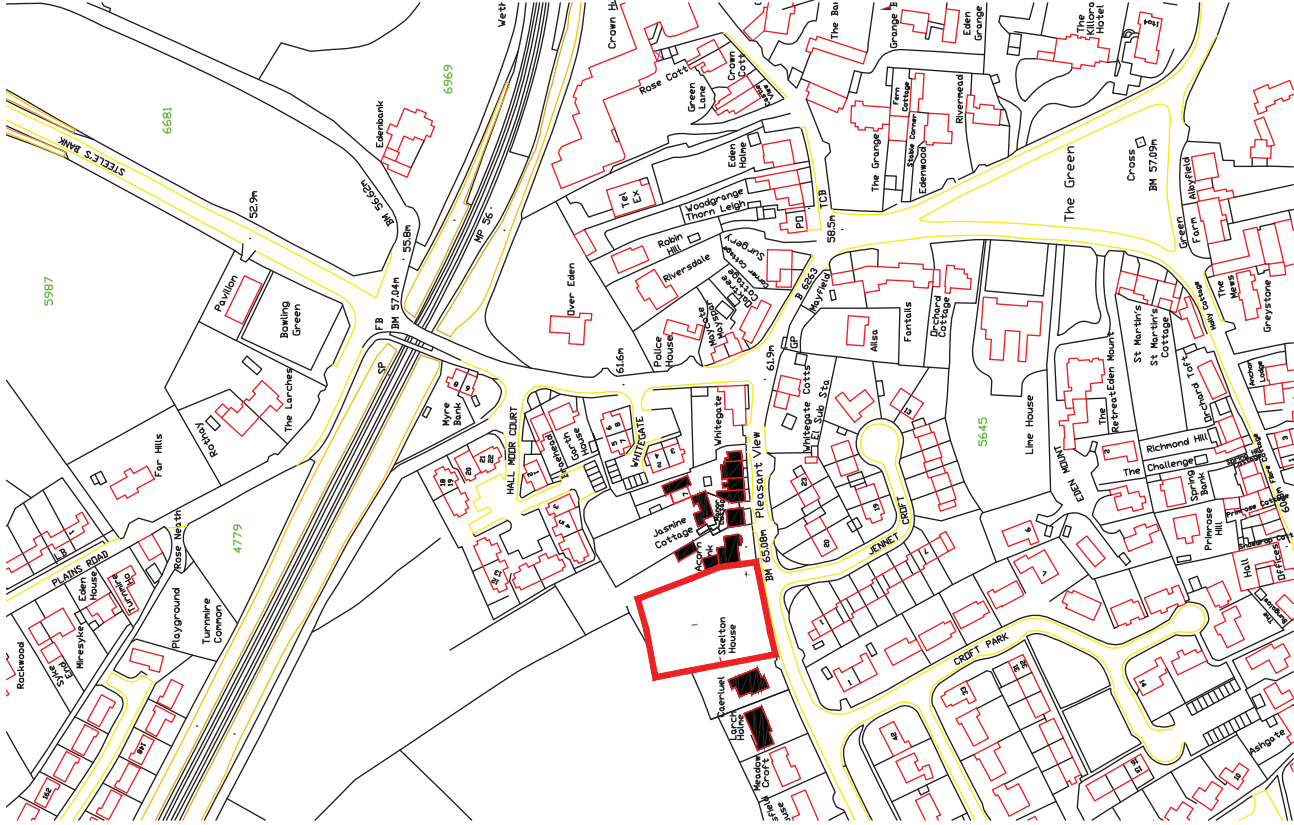
Reason: To define the permission.

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

Reason: For the avoidance of doubt.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking and re-enacting that Order), the obscurely glazed windows shown on Drawing West & North Elevations (Drawing no. 03/2010/200RevJ) and Drawing South & East Elevations (Drawing no. 03/2010/201J) shall be installed 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 Policy H2 of the Carlisle District Local Plan 2001-2016.



existing sandstone walls vary in height but are generally to be increased in height to 2m high (and to infill/repair areas where there is no wall or it is in poor repair).



BLOCK PLAN & SITE LOCATION PLAN

SANDY JOHNSTON
ARCHITECT
RIBA

BLOCK PLAN & SITE LOCATION PLAN
FLATS AT SKELTON HOUSE, WETHERAL for
CITADEL ESTATES

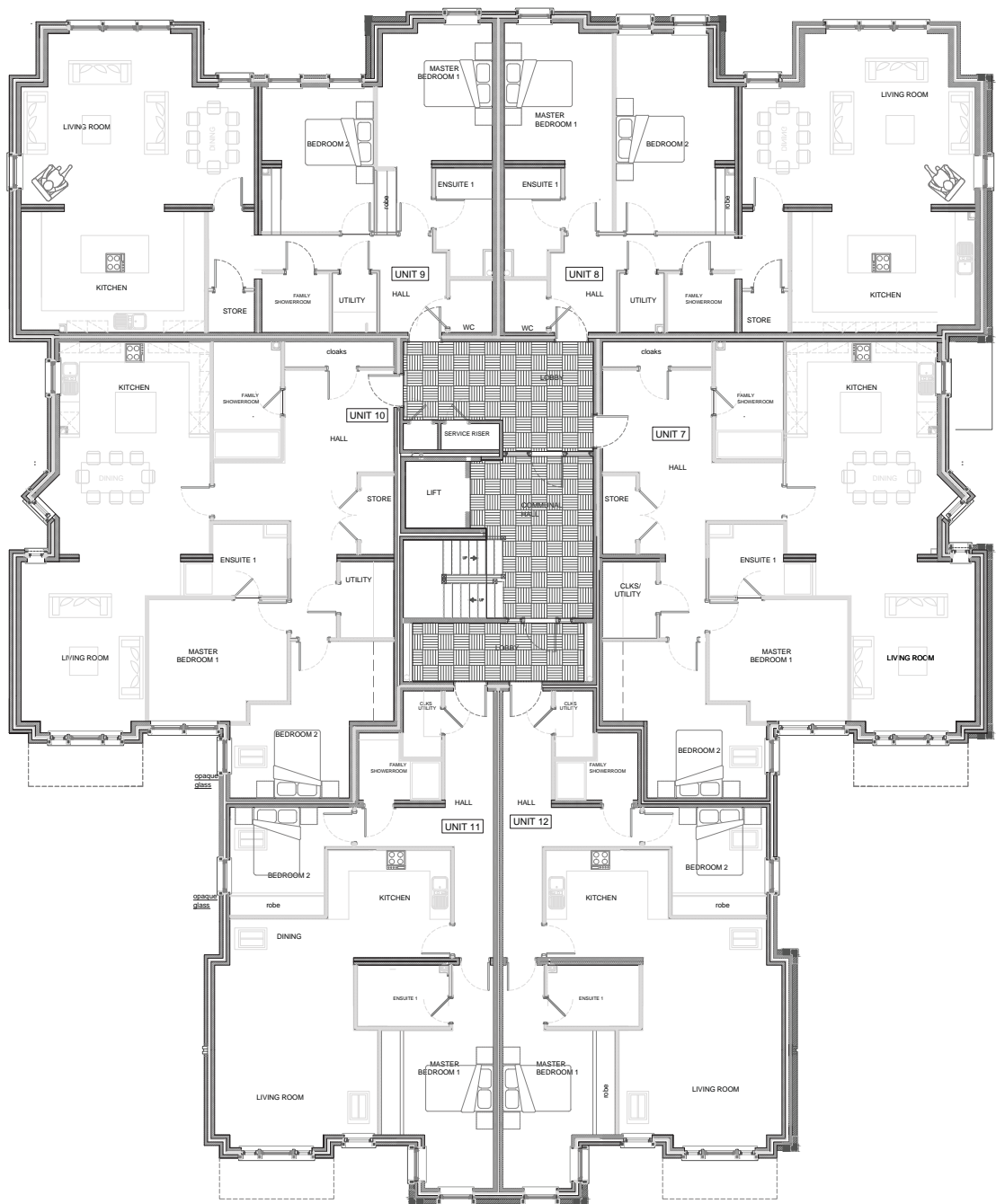
09-03-14 03/2010/00rev F 1:500/ 1:2500

Revision F: 29-05-2014 Design alterations.

200'10"

334'43"

33443



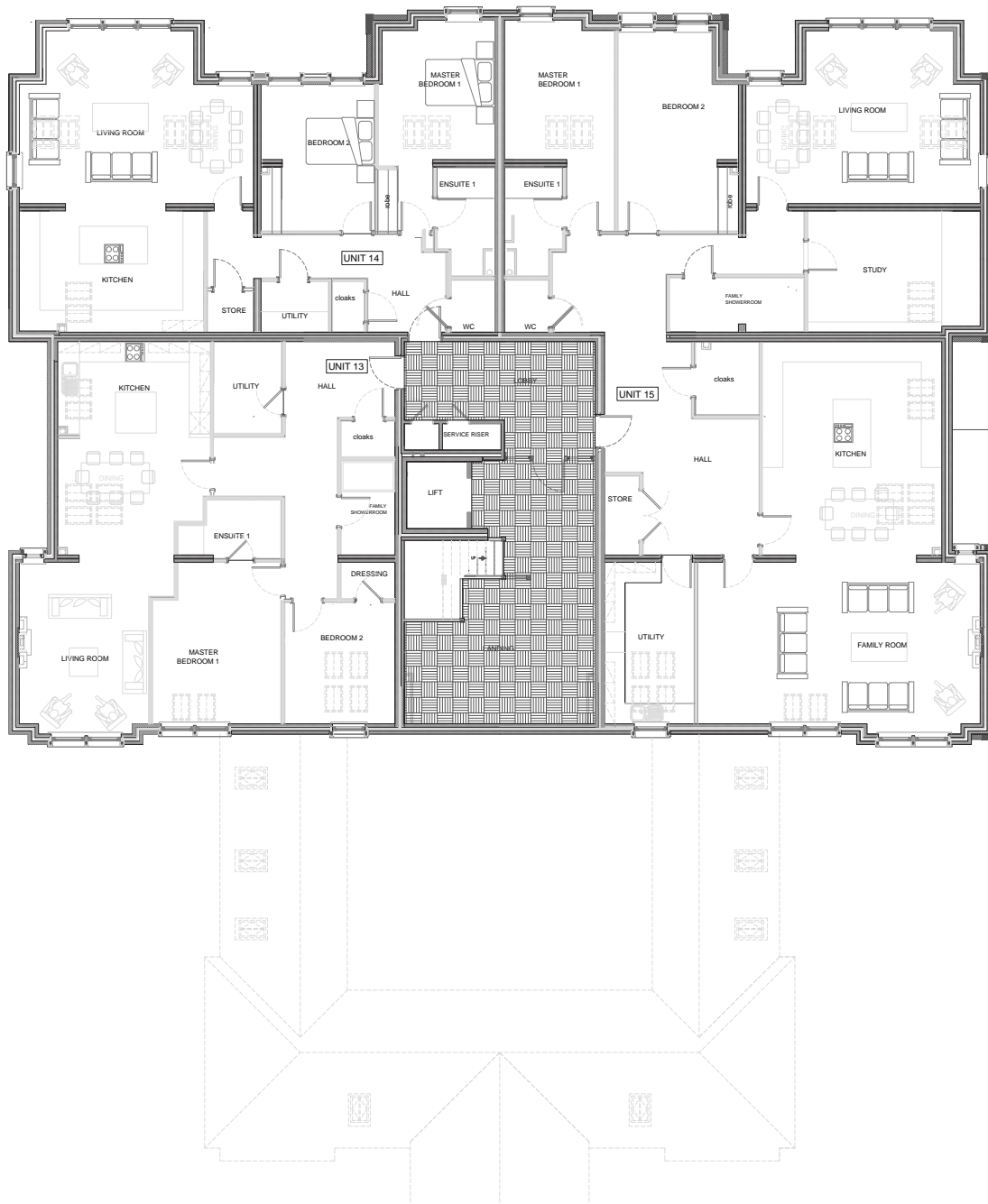
FIRST FLOOR PLAN 1:100

SANDY JOHNSTON
ARCHITECT
RIBA

FIRST FLOOR PLAN

FLATS AT SKELTON HOUSE, WETHERAL for
CITADEL ESTATES

09/03/2014 03/2010/203J 1:100
Revision J 27-08-14 design alterations



SECOND FLOOR PLAN 1:100





EASTERN ELEVATION
(RH SIDE)



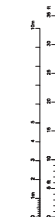
STREET ELEVATION
(SOUTH)

SANDY JOHNSTON
ARCHITECT
RIBA

SOUTH & EAST ELEVATIONS

FLATS AT SKELTON HOUSE WETHERAL for
CITADEL ESTATES

30/07/2014 03/2010/2011
RevJ 26-08-2014 Alterations to design 1:100



SANDY JOHNSTON
ARCHITECT
RIBA

SITE PLAN: COMPARISON WITH APPROVED	9/03/2014	1:200
FLATS AT SKELTON HOUSE, WETHERAL for CITADEL ESTATES	03/2010/ 205J	DESIGN ALTERATIONS
	Rev. 1: 27/08/14:	



EXISTING WALL 2M HIGH:
existing sandstone walls vary in height but are generally to be increased in height to 2m high (and to infill/repair areas where there is no wall or it is in poor repair)

CAERLUEL'
3-STOREY
BAY

EXISTING WALL 2M HIGH

ACORN BANK
B&B

FOOTPRINT OF EXTANT
APPROVAL 1066 BIN/CYCLE
STORE:
replace bin store with planting

EXISTING WALL 2M HIGH:
existing sandstone walls vary in height but are generally to be increased in height to 2m high (and to infill/repair areas where there is no wall or it is in poor repair)

BIN
STORE

HEDGING

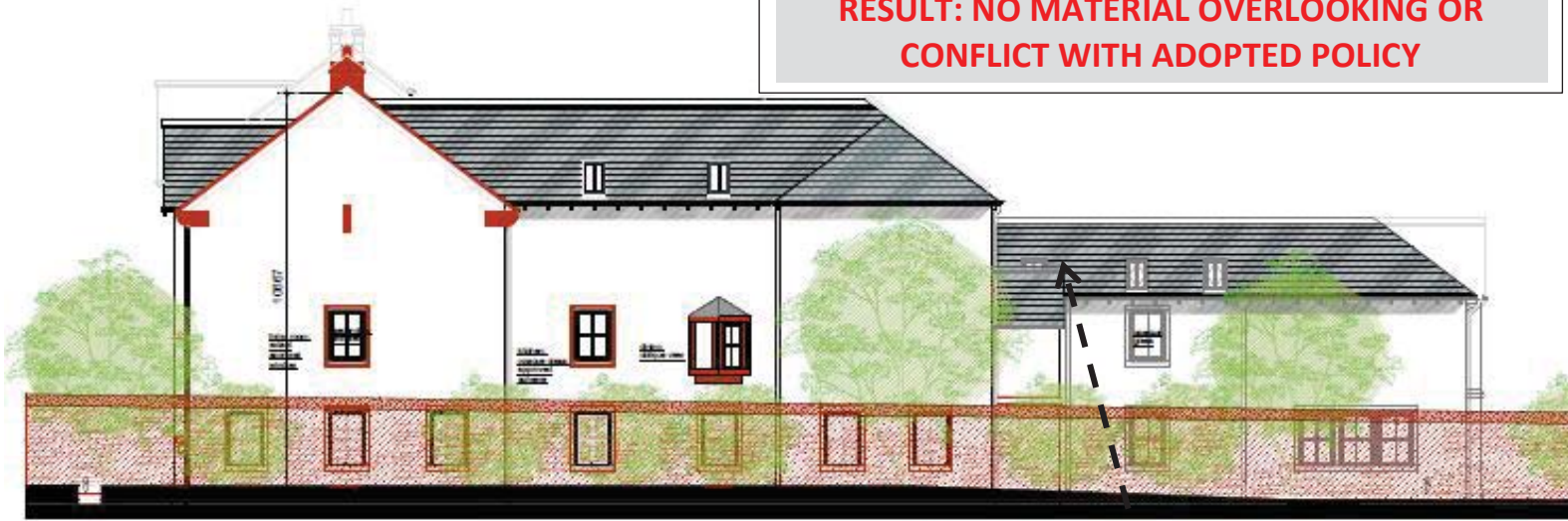
NEW BOUNDARY

EAST ELEVATION to 'Acorn Bank'

All Facing Windows either:

1. at GF facing high party boundary wall; or,
2. at FF either secondary/non-habitable, or obscured.

RESULT: NO MATERIAL OVERLOOKING OR CONFLICT WITH ADOPTED POLICY



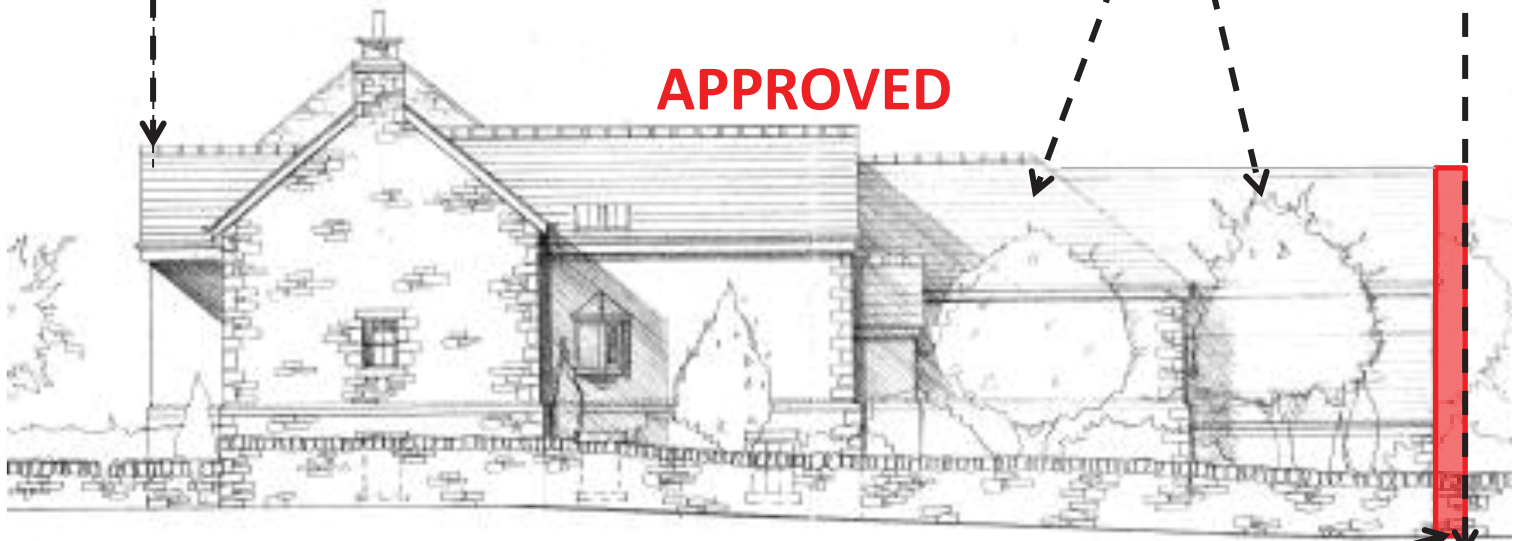
EASTERN ELEVATION

PROPOSED

Matching Front Building Lines

Reduced Roof Profile Massing

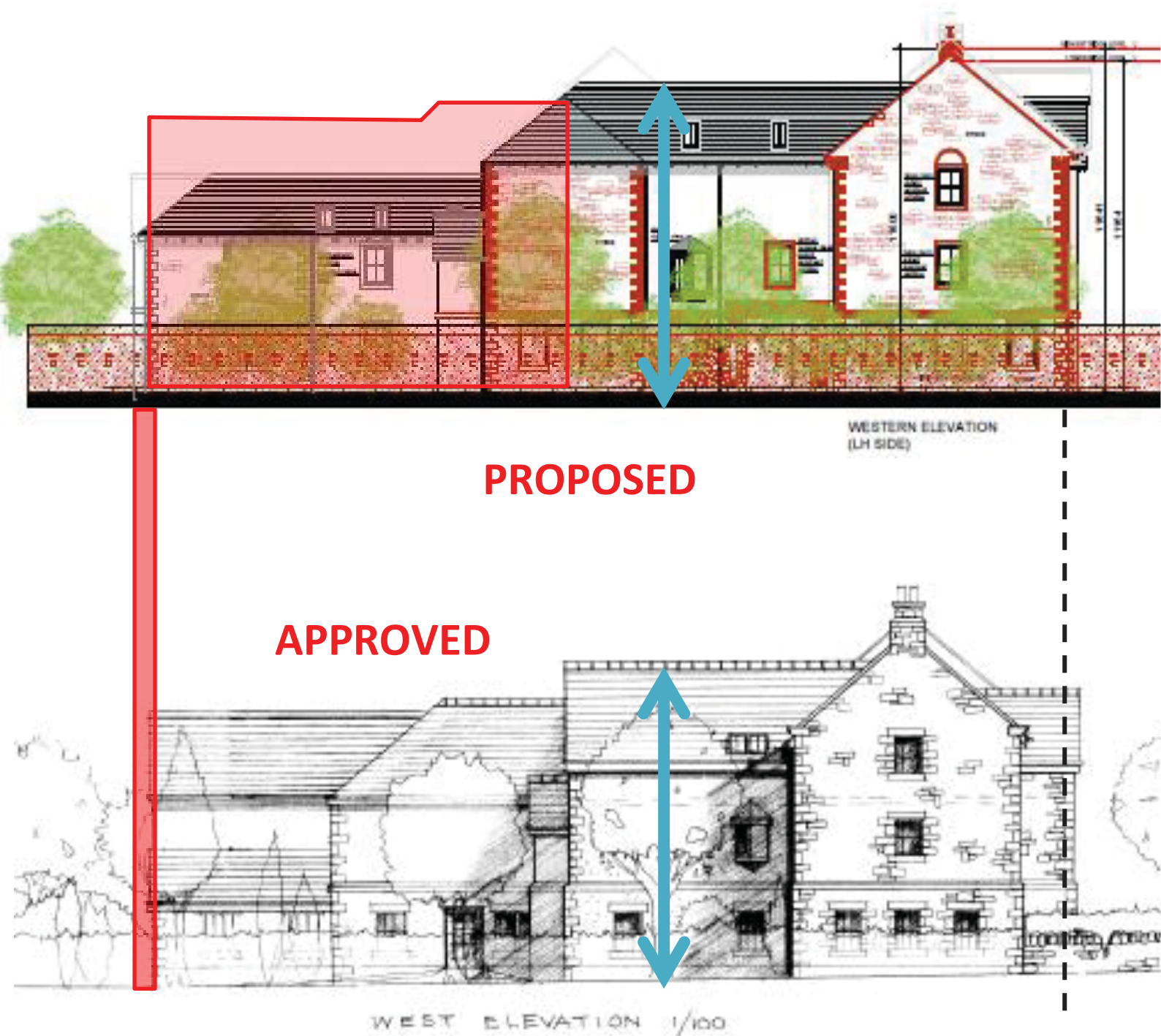
APPROVED



Immaterial Projection beyond rear-most extent of 10/1066 – otherwise set well into the site away from side boundaries to Carluel and Acorn Bank

RESULT: NO MATERIAL EFFECT ON NEIGHBOURS OR VISUAL AMENITY

WEST ELEVATION: to 'Carluel'



PROPOSED

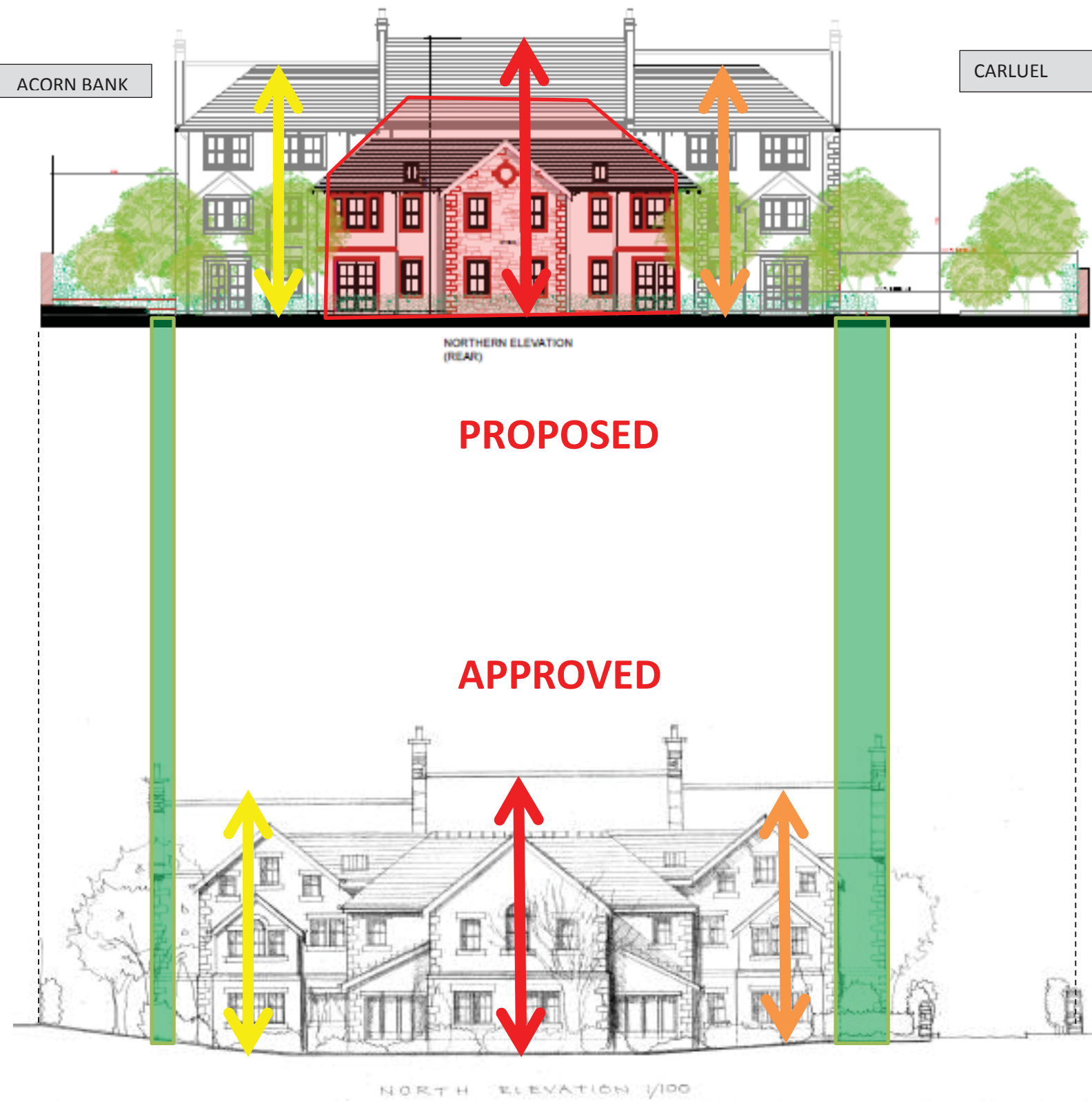
APPROVED

All Facing Windows either:

- 1. at GF facing high party boundary wall/gable; or,**
- 2. at FF either secondary/non-habitable, or obscured.**

**RESULT: NO MATERIAL OVERLOOKING OR
CONFLICT WITH ADOPTED POLICY**

NORTH ELEVATION – to fields



SOUTH ELEVATION -to highway



STREET ELEVATION
(SOUTH)

PROPOSED

APPROVED



SOUTH ELEVATION 1/100

Appeal Decisions

Hearing held on 1 July 2014

Site visit made on 1 July 2014

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6 August 2014

Appeal A: APP/E0915/A/14/2214847

Former I/a Skelton House, Wetheral, Carlisle, Cumbria CA4 8JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Citadel Estates Ltd against the decision of Carlisle City Council.
 - The application Ref 13/0521, dated 1 July 2013, was refused by notice dated 24 December 2013.
 - The application sought planning permission for demolition of house, adjoining barn and outbuildings; redevelopment of site for the erection of single block comprising 15No. two-bed apartments with dedicated access, off-street parking and private amenity spaces without complying with a condition attached to planning permission Ref 10/1066, dated 24 May 2012.
 - The condition in dispute is No 2 which states the approved documents of the planning consent.
 - The reason given for the condition is: to define the permission.
-

Appeal B: APP/E0915/A/14/2216562

L/a former Skelton House, Wetheral, Carlisle, Cumbria CA4 8JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Citadel Estates Ltd against the decision of Carlisle City Council.
 - The application Ref 14/0033, dated 17 January 2014, was refused by notice dated 7 March 2014.
 - The application sought planning permission for demolition of house, adjoining barn and outbuildings; redevelopment of site for the erection of single block comprising 15No. two-bed apartments with dedicated access, off-street parking and private amenity spaces without complying with a condition attached to planning permission Ref 10/1066, dated 24 May 2012.
 - The condition in dispute is No 2 which states the approved documents of the planning consent.
 - The reason given for the condition is: to define the permission.
-

Decision

1. Appeal A is dismissed and Appeal B is dismissed.

Application for costs

2. At the Hearing an application for costs was made by Mr Dean Thomas Montgomery against Carlisle City Council. This application is the subject of a separate Decision.

Procedural matters

3. I have taken into account the Government's Planning Practice Guidance (PPG), issued on 6 March 2014, in reaching my decision but in light of the facts of the case this has not altered my conclusions.
4. The applications subject to these appeals are made under Section 73 of the Planning Act for minor material amendments¹. They seek revised designs to the development approved under planning permission 10/1066 but with the same number of units and not a substantially different footprint area. This type of application is possible as a condition was imposed on the original permission specifying the approved plans. The appeals seek removal of the condition and replacement with a condition specifying the plans that reflect the amended designs.
5. Planning permission 10/1066 remains extant and is a material consideration of considerable weight in determining these appeals.
6. For ease of reference I refer to the different cases as Appeals A and B in this decision letter as set out in the headers. I have dealt with each appeal on its individual merits but to avoid duplication I have considered the proposals together in this document. Although there are two appeals, I have used singular terms in places for ease of reading.
7. I saw on my site visit that development had commenced on the site principally relating to the laying of the foundations which appeared to reflect the footprint of the two appeal proposals.

Main Issues

8. The main issues in both appeals are:
 - (i) whether the proposed development, as amended, would preserve or enhance the character or appearance of the Wetheral Conservation Area (CA) and preserve the setting of the Grade II listed building (LB) known as Acorn Bank;
 - (ii) the effect of the proposed development, as amended, on the living conditions of the occupiers of Acorn Bank and Caerluel in respect of privacy.

Reasons

Character and appearance of CA and setting of LB

9. The appeal site lies within the CA and adjacent to the LB on land previously occupied by Skelton House which has now been demolished along with all other associated buildings. Therefore, special attention has to be paid to the

¹ See Greater flexibility for planning permission: Guidance, October 2010 (Department of Communities and Local Government)

desirability of preserving or enhancing the character or appearance of the CA and preserving the setting of the listed building.

10. I note that the decision notice for Appeal B included a third reason for refusal, which was not on that for Appeal A, referring specifically to the impact of the development on the setting of the LB. Notwithstanding the lack of such a reason in relation to Appeal A, the Council said at the hearing that this did not reflect any greater impact of Appeal B. In any case, regardless of whether such a reason was given or not, there is a statutory duty to have regard to the effects on the special interest of the LB, and this is how I have approached both appeals.
11. The key design changes to the scheme approved under application 10/1066, other than positioning and design of fenestration, which, in relation to living conditions, I have dealt with separately under 'living conditions' below, would be as follows. For both appeals, the main front elevation and bays would be closer to the road, although the bays relating to Appeal B would be single storey as opposed to the full three storey height for Appeal A. The former would have shallow depth, full height, gable features, the central one being slightly deeper than the two either side.
12. Both appeal schemes would be narrower at the front, but with the front block extending further back than for the approved scheme, and the overall length of the buildings would be increased. The front elevation in both case would also be symmetrical either side of the central gable feature, which would not be the case with the approved scheme which, amongst other things would have a lower roof height on the side nearest Acorn Bank. The walls of the entire western section of the front elevation for Appeal B would be stone clad. The rear section of the building in both cases would have a reduced ridge height.
13. Appeal A would introduce glazed balconies. Both schemes would have the main entrance on the western side of the building with a false door in the front elevation. Appeal A would have a fourth storey within the roof space, created with a significant flat roof element hidden behind outward facing pitched roofs, although this additional level would be evidenced by velux windows. Both schemes would include alterations to the car parking and landscaping layout.
14. The CA, in the vicinity of the site, comprises a range of designs and sizes of properties. Whilst there are some examples of three storey buildings, these are in the minority. In the case of one such property in Pleasant View, a short distance to the east of the site, and a three storey element to Caerluel with the third storey being partially within the roof space, these are narrow and do not dominate the street scene. Acorn Bank is a two storey detached building of fairly modest height with a slightly higher semi-circular front bay to the east side of its front elevation. This is an attractive LB which, despite being set back from properties to its east, retains a strong presence. This is by virtue of its clear visibility when approaching from the west, particularly as the road starts to bend round more towards the east in front of the appeal site, and also given the modest height of the immediately neighbouring property to the east.
15. The proposed development, in the case of both appeals, would result in the main front elevation projecting noticeably beyond the line of the main front elevation of Acorn Bank, where the approved scheme showed it aligned with it. That scheme would have three storey bays projecting forward to the approximate alignment of the main elevation of the appeal schemes, but they

- would be three, separated, and relatively narrow, features as opposed to a continuous mass along that particular alignment. The proposed bays whether single storey or three storey would project further still which, as I saw on site, would be just beyond the line of the front of the circular bay of Acorn Bank.
16. Therefore, although the building would be narrower than that approved, the front elevation would still present a wide frontage whose massing would be much more to the fore. Whilst the overall impact of Appeal B, with only the single storey front bays, would be less than Appeal A, both proposals would create a structure that would have an adverse visual impact compared with the approved scheme and dominate the adjoining LB and the street generally, making it an obtrusive and jarring feature. Despite the varying use of stone finish on the front elevation of both proposals, the symmetrical lines would further emphasise the singular massing of the building.
 17. The introduction of glazed balconies in Appeal A, whilst intended not to screen the features of the main building and to provide amenity space for the apartments, would nevertheless introduce alien features into the street scene that would further draw the eye disproportionately towards the development. This would be all the more so with the inevitable household paraphernalia that would be visible on the balconies. Furthermore, the attempt to portray a frontage onto the street with a false front door would portray a disingenuous appearance particularly as it would not be read as such without an associated entrance pathway and general evidence of activity. Whilst it was explained at the hearing that this was partly done to reduce the likelihood of vehicles being parked on the road in the vicinity of the adjacent bus stop, it has been agreed that clear way markings would be implemented to prevent such parking.
 18. With regard to paragraphs 132 and 134 of the Framework, harm to the significance of the LB and the character and appearance of the CA would be less than substantial, due to the fact that the LB itself remains unaltered and given the relatively small, but nevertheless significant amendments to the approved scheme. However, I do not consider there to be any public benefits sufficient to outweigh that harm.
 19. I have had regard to the appellant's submissions relating to inconsistent comments made by the Conservation Officer and the Conservation Area Advisory Committee. However, I have determined these appeals on their merits taking account of all the evidence and observations on my site visit.
 20. For the above reasons, I conclude on this issue that the proposed development, as amended, relating to both Appeals A and B, would neither preserve the character and appearance of the CA nor preserve the setting of the LB. As such it would be contrary to Policies CP5, H1, LE12 and LE19 of the Carlisle District Local Plan (the Local Plan). These policies together, in respect of this issue, require, amongst other things, development to respond to local context and the form and character of the existing settlement and surrounding buildings, to preserve or enhance the CA and to preserve the character and setting of listed buildings.
 21. The Council also refers to Policy H10 of the Local Plan in its decision notice. However, the Council confirmed at the hearing that this policy is not relevant to this appeal, which relates to amendments to a development already approved and is extant, and I agree with that position.

Living conditions

22. Caerluel has some windows on its side elevation, most of which appeared to be related to non-habitable rooms although I understand that one of them serves a bedroom. There is an existing wall along the side boundary and I understand that it would be intended to raise this further in order to provide adequate screening from any potential overlooking from ground floor rooms and the entrance door of the proposed development. I saw that this would be the case.
23. In terms of any overlooking from upper floor rooms with windows facing the side of Caerluel, the main differences with the approved scheme Ref 10/1066 would be as follows. Above the entrance door there would be a second floor study window for Appeal A or obscure glazed kitchen window for Appeal B, as opposed to roof veluxes to a bedroom, and a first floor bedroom window for appeal A and obscure glazed kitchen window for Appeal B, as opposed to an oblique view oriel window. Appeal B would also include a first floor oblique view oriel kitchen window alongside the obscure glazed window. Towards the rear of the building on the side elevation, there would be high level veluxes serving first floor rooms for both schemes and Appeal B would include two first floor conventional bedroom windows.
24. Whilst there would be additional upper floor windows compared to the approved scheme, those that would be obscure glazed or of oriel design would prevent undue overlooking to the side windows of Caerluel. As agreed at the hearing, further details of the obscured windows, to ensure this, could be secured by condition were the appeal allowed. In relation to the other proposed additional conventional windows, there would not be a significantly greater level of overlooking of the side bedroom window of Caerluel than would be the case from the previously approved side living room windows of the front flats. The angle of any viewing would also be slightly oblique. Together with the degree of distance there would be between the windows of the two properties, and the fact that they would be slightly further apart than for the approved scheme, I consider that there would not be undue additional loss of privacy to the residents of Caerluel in this respect.
25. In terms of any potential overlooking of the rear garden of Caerluel, the additional windows that would directly face that space would be set a significant distance from the boundary. Furthermore, the rear facing windows would only afford oblique angle viewing of the garden. Caerluel also has quite a wide rear garden such that in the context of the overall amount of outdoor space of that property, any additional overlooking would not amount to unacceptable loss of privacy to its residents.
26. The windows in the east side elevation would match those on the west side. Acorn Bank has no side windows and so the only potential additional overlooking of this property compared to the approved scheme would be of its rear garden. In terms of ground floor windows, the boundary wall and hedge would prevent overlooking and, were the appeal allowed, details of measures to augment this treatment could be secured by condition as agreed at the hearing. The first floor side oriel window would be angled towards the rear garden but as it would be set back from the rear building line of Acorn Bank's rear extension, the angle of view to the garden would be oblique.
27. The proposed first floor side bedroom windows towards the rear would have the potential to result in direct overlooking of part of Acorn Bank's garden, but

whilst closer to the boundary than those on the western side, the degree of separation would still mitigate this to a significant degree. Again, the rear facing windows would only afford oblique angle views of the garden. Furthermore, it is a large garden, such that the majority of it would not be directly overlooked. Therefore, any additional overlooking would not amount to an unacceptable loss of privacy to the residents of Acorn Bank.

28. For the above reasons, I conclude on this issue that the proposed development, as amended, relating to both Appeals A and B would not cause unacceptable harm to the living conditions of the occupiers of Acorn Bank and Caerluel in respect of privacy. As such, in respect of this issue, it would accord with Policy CP5 of the Local Plan and would not be at odds with the principles of the Council's Supplementary Planning Document: Achieving Well Designed Housing (the SPD) to which I have applied considerable weight due to its fairly recent adoption in 2011. This policy and SPD, in respect of this issue, requires, amongst other things, development not to have any adverse effect on the residential amenity of existing areas or adjacent land uses.
29. Some discussion was had at the hearing as to whether the second reason for refusal in each case related also to the privacy of prospective residents in respect of any overlooking from side windows in Caerluel. Although the reason does not refer to this, I am nevertheless satisfied that, in light of the above reasoning, the prospective occupiers of the proposed flats would not be overlooked from rooms of Caerluel to the extent that this would cause unacceptable levels of privacy.

Other matter

30. The appellant submits that the amendments would make the apartments more marketable and thereby improve deliverability to the benefit of housing supply. However, I have no substantive evidence before me as to why this would be the case or the extent to which the approved and appeal schemes differ in respect of marketability. I have therefore applied little weight to this factor in coming to my decision.

Conclusion

31. I have found that the proposed development, as amended, relating to both Appeals A and B would not cause unacceptable harm to the living conditions of the occupiers of Acorn Bank and Caerluel in respect of privacy. However, this does not outweigh the harm that would be caused in respect of the character and appearance of the CA and the setting of the LB.
32. Therefore, for the above reasons, and having regard to all other matters raised, I conclude that the appeals should be dismissed.

Andrew Dawe

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Sandy Johnston	Architect
Andrew Willison-Holt	Agent

FOR THE LOCAL PLANNING AUTHORITY:

Cllr Barry Ogilvie Earp	Councillor
Rachel Lightfoot	Planning Agent
Karen Greig	Appeals Officer
Michelle Sowerby	Appeals Officer

INTERESTED PERSONS:

Isabel Ferguson	Local Resident
Geoff Ferguson	Local Resident
David Notman	Local Resident (representing the Save Wetheral Village Group)
Maureen Lofthouse	Local Resident
Michael Norman	Local Resident
Alun Porter	Local Resident
Lis Price	Local Resident
Andrew Hall	Local Resident
Andrew Lomax	Local Resident

DOCUMENTS AND PLANS SUBMITTED AT THE HEARING:

- 1 Plan Ref 03/2010/100 Proposed Block Plan revision A (Appeal A).
- 2 Plan Ref 03/2010/205B Site Plan showing proposed bin store location (Appeal B).
- 3 Copy of internal memorandum from Urban Design and Conservation Officer dated 14 August 2013.
- 4 Annotated drawings produced by appellant to show comparisons between the appeal schemes and that approved under application Ref 10/1066.
- 5 Deed of Variation of Agreement under Section 106 and 106A of the Town and Country Planning Act 1990 (one submitted for each of the two appeals).