

# CARLISLE CITY COUNCIL

**Report to:-** Development Control Committee

**Date of Meeting:-** 20th April 2012

**Agenda Item No:-**

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**Public**

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**Title:-** RULE 6 STATEMENT REGARDING APPEAL BY MR M  
CORKER, NEWLANDS FARM, CARLETON, CARLISLE

**Report of:-** Director of Economic Development

**Report reference:-** ED 19/12

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## **Summary:-**

Following the oral presentation made at their Meeting on the 9<sup>th</sup> March 2012, this report seeks formal approval by Members of the contents of the Rule 6 Statement submitted on behalf of the City Council regarding the forthcoming Public Inquiry commencing on the 29<sup>th</sup> May 2012.

## **Recommendation:-**

That Members confirm approval of the Rule 6 statement as representing their position at the forthcoming inquiry, save for amendments to reflect the NPPF.

**Contact Officer:** Angus Hutchinson

**Ext:** 7173

**J Meek**

Director of Economic Development

10<sup>th</sup> April 2012

**Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: None**

## 1. BACKGROUND INFORMATION

- 1.1 Members will recollect that in 2008, under applications reference numbers 08/0707 and 08/0779, planning permission was refused for the erection of three wind turbines (115 metres in height to the tip) and associated infrastructure, and the erection of a 60 metre high meteorological monitoring mast.
- 1.2 When assessing the subsequent appeals, the Inspector considered the main issue with regard to the proposed turbines to be whether any harm caused to the character and appearance of the landscape (including cumulative effects); the living conditions of nearby occupiers through visual impact, noise and disturbance, and shadow flicker; and any other matters raised, is outweighed by any benefits. The inspector dismissed the appeal in respect of the turbines on the basis that the proposal would have a significant detrimental effect on the living conditions of the occupiers of Cringles Farm and, to a lesser extent, Beech Cottage, through an oppressive and dominant visual impact.
- 1.3 In 2011, under application reference number 11/0596 planning permission was sought for a single 3 blade turbine with a minimum height of 95 metres and maximum height of 100 metres high with ancillary infrastructure. A separate application for two turbines (reference number 11/0597) was also submitted. The single turbine is anticipated to have a capacity of 2.5 mw. The proposed turbine is shown with a hub height of 65 metres and a blade diameter of up to 80 metres.
- 1.4 Applications 11/0596 and 11/0597 were reported at the Development Control Committee during its Meeting on the 11<sup>th</sup> November 2011. The favourable officer recommendation reflected the views of Eden Environment Ltd. The latter had been asked whether, in their view, the present application would overcome the concerns expressed by the Inspector, and in respect of the properties to which he referred, at the last appeal. Both applications were refused planning permission, and in the case of 11/0596, for the following reason:

*“The application site occupies an elevated and prominent position close to the urban edge of Carlisle and in very close proximity to the village of Cumwhinton with particular regard to the properties known as Cringles Farm, Beech Cottage, and the potential development of land adjoining Beech Cottage for the provision of affordable housing/housing for the elderly the subject of current application reference number 11/0730. The proposed turbine due to its size and position will form an oppressive and dominant presence to the detriment of the living conditions of the occupiers of Cringles Farm and either Beech Cottage or dwellings proposed under application reference number 11/0730. The proposal is therefore considered to be contrary to Policy R44 of the Cumbria and Lake District Joint Structure Plan 2001-2016; and Policies CP6, CP8 and the underlying objectives of Policy H6 of the Carlisle District Local Plan 2001-2016.”*

## **2. CURRENT POSITION/ RULE 6 STATEMENT**

- 2.1** In January 2012 an appeal was submitted concerning the refusal of permission of application reference number 11/0596 with the Public Inquiry to commence on the 29<sup>th</sup> May 2012. Following the submission of the appeal, Mark Steele Consultants (MSC) was appointed by the City Council to act on its behalf with regard to the visual/residential amenity issue raised by the reason for refusal at the forthcoming Inquiry.
- 2.2** In accord with the set pre-inquiry timetable the Council has set out the case that it proposed to make in its 'Rule 6' Statement. This was submitted to the Planning Inspectorate on the 24<sup>th</sup> February 2012 – see attached copy. In the light of advice received from MSC, Members are already aware that reference is made in the Statement to the impact on more properties in paragraphs 1.4 and 2.1 to 2.4 (inclusive) than referred to in the stated reason for refusal. This reflects the views of MSC. This report seeks members' formal approval of this Statement as representing the views it wishes to advance at the inquiry.
- 2.3** At paragraph 2.3 of the Statement reference was made to further investigations being made in respect of specified properties. Following those investigations, the impacts on those properties are not raised by MSC. MSC provide a fresh consideration and assessment of the visual/residential amenity impact issue rather than simply taking the views of the previous Inspector and the properties to which he referred as the baseline. MSC also in particular consider the impact on the curtilage of properties and not just on the interior of properties. Further, MSC consider the potential impact on residential visual amenity in respect of the proposed Riverside Housing Association Scheme rather than simply the visibility of the turbine development.
- 2.4** MSC advise that substantial effects on residential visual amenity can be predicted for the following properties:
- Coopers Meadow – Main House;
  - Coopers Meadow – Flat;
  - Cringles Farm – Holiday Cottage;
  - Cringles Farm – Main House,
  - Affordable dwelling scheme (12 of 14 properties);
  - Beech Cottage (if affordable dwelling scheme does not proceed);
  - Woodlands (if affordable dwelling scheme does not proceed);
  - Bengairn;
  - Rhudil House;
  - Banks Villa;
  - The Banks
  - Chapel Cottage;
  - Greenways;
  - Oaklands; and
  - House Plot (adjacent to Oaklands).

**2.5** Furthermore potential substantial effects on residential visual amenity may be predicted for the following properties:

- Knotview;
- Millfield House;
- Ashtree Cottage;
- Westway; and
- Vermont.

**2.6** Members' attention is also drawn to the recently published National Planning Policy Framework (NPPF). Although this replaces a number of previously published government policy documents, and consequential amendments are necessary to delete references to the replaced policy documents and include references to the NPPF, it is not considered that the Council's case is materially altered.

### **3. CONCLUSION**

**3.1** On the basis of the foregoing this report seeks formal approval by Members of the contents of the Rule 6 Statement submitted on behalf of the City Council regarding the forthcoming Public Inquiry commencing on the 29<sup>th</sup> May 2012, as advised by MSC, with appropriate amendments to reflect the NPPF.

**3.2** It would also be helpful for Members to confirm, for the avoidance of doubt, whether they consider that the reason for refusal already encompasses the "Cringles Farm" complex (namely the farmhouse, holiday accommodation, Coopers Meadow house, and Cooper's Meadow flat), as well as Beech Cottage and the affordable dwellings subject of application reference number 11/0730.

### **4. RECOMMENDATION**

**4.1** Members give formal approval to the contents of the Rule 6 Statement submitted on behalf of the City Council regarding the forthcoming Public Inquiry commencing on the 29<sup>th</sup> May 2012 as representing their position at the inquiry, with appropriate amendments to reflect the NPPF.

### **5. IMPLICATIONS**

- Staffing/Resources – Officers and staff have been working with the barrister and two consultants acting on behalf of the City Council.
- Financial – Costs associated with an Inquiry following refusal of permission.
- Legal – Legal advice will continue to be sought during preparation of the consultants' Proofs of Evidence.
- Corporate – The work outlined in this report will help to deliver the Corporate Plan objective that relates to achieving improvements in the quality of the local environment
- Risk Management – Not applicable
- Equality and Disability – Not applicable
- Environmental – Assessed when application determined.
- Crime and Disorder – Not applicable
- Impact on Customers – The proposal is of significance to those affected.

**Impact assessments**

Does the change have an impact on the following:

Equality Impact Screening	Impact Yes/No?	Is the impact positive or negative?
Does the policy/service impact on the following?		
Age	No	
Disability	No	
Race	No	
Gender/ Transgender	No	
Sexual Orientation	No	
Religion or belief	No	
Human Rights	No	
Health inequalities	No	
Rurality	No	

**If you consider there is either no impact or no negative impact, please give reasons:**

The proposal subject of the Inquiry has the potential to affect the immediate environment and residents in the vicinity as opposed to a particular sector of society.

**If an equality Impact is necessary, please contact the P&P team.**

**TOWN AND COUNTRY PLANNING ACT 1990**

**TOWN AND COUNTRY PLANNING APPEALS (DETERMINATION BY INSPECTORS)  
(INQUIRIES PROCEDURE)(ENGLAND) RULES 2000**

**NEWLANDS FARM**

**CARLETON**

**CARLISLE**

**CUMBRIA**

**STATEMENT OF CASE BY CARLISLE CITY COUNCIL**

**LPA Application Ref: 11/0596**

**PINS ref: APP/E0915/A/12/2168121/NWL**

**Date: 24 February 2012**

## **1 INTRODUCTION**

1.1 This statement outlines the case that the local planning authority (LPA) will make at the Public Inquiry that will consider the appeal against the LPA's refusal of planning permission.

1.2 The appeal relates to a planning application for the erection of 1 wind turbine and associated infrastructure including hard standings, on-site tracks, construction compound, permanent meteorological mast, underground cabling, culverting, control building and an upgraded site access from the B6263.

1.3 The location of the proposed turbine itself is on elevated ground approximately 150 metres to the east of the M6 motorway, 1 Km north of Junction 42. The application site (which includes the access track) lies to the east of the M6, to the north of the B6263, which runs from Junction 42 to Cumwhinton, and, to the south of Garlands Road leading from Cumwhinton to Carlisle.

1.4 The turbine would be 710 metres east of the Carleton Clinic (Carlisle), approximately 420 metres to the south-west of the Cringles Farm complex (which includes Cringles Farm house, a flat and holiday accommodation) and Coopers Meadow, 630 metres from Beech Cottage and 750 / 800 metres from 5 dwellings on the B6263 (within the settlement boundary (as defined on the Inset Map of the Local Plan) of Cumwhinton); as well as being about 600 metres from Newlands Farm and about 550 metres from New Farmhouse.

1.5 The development which is the subject of this appeal would comprise:

- One, three – bladed wind turbine, with a hub height of up to 60 metres and a

maximum height to blade tip of up to 100 metres. The rotor diameter would be up to 80 metres. The turbine would be installed on concrete foundations typically 18 metres by 18 metres in plan and some three metres in depth. In addition, a hard standing to act as a crane pad would be constructed

adjacent to the turbine foundation. Typically 45 metres by 25 metres in area the hard standings would function as a base for cranes and would be left in place after the turbine was erected should major components need to be replaced.

- A 74 metre high meteorological mast.
- A control building (72 square metres in area and 5 metres in height) and a substation.
- Five-metre wide access tracks to link the turbines to the proposed upgraded access on to the B6263. The tracks are to be constructed from graded stone on top of a geo-textile membrane.
- Underground cables generally laid alongside the access tracks and a control building would feed the electricity generated into the local grid.
- A temporary construction compound. It is understood that the construction period would be approximately 8 months.

1.6 The planning application for the wind turbine which is the subject of this appeal was submitted on 18th July 2011. The application (under reference 11/0596) was refused planning permission on 11<sup>th</sup> November 2011 for the following reason:



*The application site occupies an elevated and prominent position close to the urban edge of Carlisle and in very close proximity to the village of Cumwhinton with particular regard to the properties known as Cringles Farm, Beech Cottage, and the potential development of land adjoining Beech Cottage for the provision of affordable housing / housing for the elderly the subject of current application 11/0730. The proposed turbine due to its size and position will form an oppressive and dominant presence to the detriment of the living conditions of the occupiers of Cringles Farm and either Beech Cottage or dwellings proposed under application reference number 11/0730. The proposal is therefore considered to be contrary to Policy R44 of the Cumbria and Lake District Joint Structure Plan 2001-2016, and Policy CP6; CP8 and the underlying objectives of Policy H6 of the Carlisle District Local Plan 2001-2016.*

## **2 CASE ON BEHALF OF THE LPA**

2.1 The Council's reason for refusal refers in particular to the visual effects / harm to living conditions and amenity on and in respect of the properties known as Cringles Farm, Beech Cottage, and the potential development of land adjoining Beech Cottage for the provision of affordable housing / housing for the elderly the subject of current application 11/0730.

Specific reference will be made to the visual effects / harm to living amenity on properties referred to in paragraph 1.4 above (and land adjacent to Beech Cottage as aforesaid). The Council will adduce evidence that the proposed development would be of an unacceptable scale this close to dwellings and be visually intrusive resulting in a significant adverse effect on amenity.

2.2 There are other properties in the vicinity upon which the turbine will have significant adverse visual effects / harm to amenity which together are considered further to justify the refusal of permission, namely:

- Properties along the B6263 within the village; and
- Properties along Cumwhinton road / Garlands Road.

2.3 The Council are currently investigating the visual effects / harm to amenity in respect of

- Properties on Holme Meadow; and
- Properties on Broomfallen Road.

The Appellant will be advised as soon as possible if the Council intend to rely upon the effects upon those properties.

2.4 The Council will argue that the harm referred to in paragraphs 2.1 and 2.2 (and possibly 2.3) above is not outweighed, whether on its own, or in conjunction with other adverse harms identified in the Appellant's Environmental Appraisal (not in themselves warranting refusal) , by the benefits of the proposal and that the appeal should therefore be dismissed.

### **3 PLANNING POLICY AND OTHER MATERIAL CONSIDERATIONS**

3.1 Reference will be made to the following national policy documents:

- PPS1 Delivering Sustainable Development
- PPS1 Climate Change Supplement
- PPS7 Sustainable development in rural areas
- PPS22 Renewable Energy
- PPS22 Companion Guide

3.2 Reference will be made to relevant circulars, Ministerial announcements and other policy statements as appropriate.

3.3 Reference will be made to the following development plan\* documents:

- North West of England Plan Regional Spatial Strategy to 2021 (RSS) (2008);
- Cumbria and Lake District Joint Structure Plan (JSP) (2006);

- Carlisle Local Plan (CLP) (2008).

\*It may be, however, that the RSS will have been revoked by the time of the inquiry.

3.4 Reference will be made to Development Plan policies dealing with the following topics:

- Renewable Energy (RSS: EM15 EM17); (JSP: R44); (CLP: CP8);
- Countryside and Locational Matters (RSS: RDF2 EM1); (JSP: E37); (CLP: CP1);
- Support for Tourism (RSS: W7); (JSP: EM16); (CLP EC11 EC 16);
- Support for Affordable Housing (RSS: RDF2); (JSP: H19) (CLP:H6);
- Protecting residential amenity (criteria within Renewable Energy policy and CLP CP6.

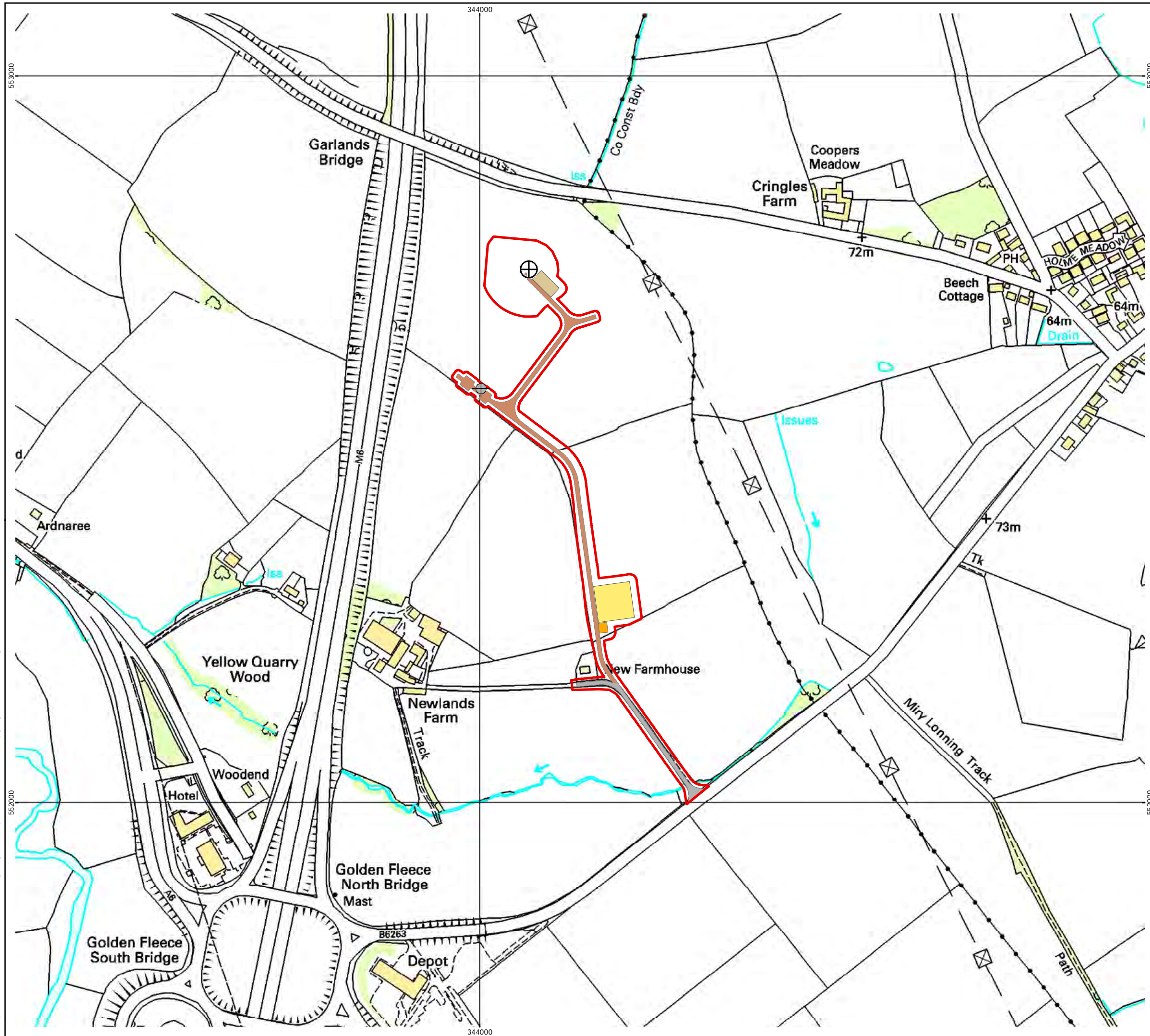
3.5 Reference will be made, as appropriate, to studies and policy statements that are relevant to this case including:

- White Paper – Our Energy Future - creating a Low Carbon Economy 2003
- Cumbria Wind Energy Supplementary Planning Document (SPD) (2007)
- Emerging LDF policy documents

3.6 Reference will be also made to:

- The planning application, associated documents and correspondence
- Representations received at application stage
- Relevant appeal decisions

3.7 The right is reserved to refer to other relevant policy documents, government guidance and other publications as appropriate.



**Bolsterstone.**



Key

- ⊕ Proposed Turbine Location
- Planning Application Boundary
- ⊕ Meteorological Mast
- Track to be Upgraded
- New Access Track
- Construction Compound
- Crane Hardstanding
- Substation

1:5,000 Scale @ A3  
0 100 200 m



Produced: SC  
Reviewed: PM  
Approved: SD

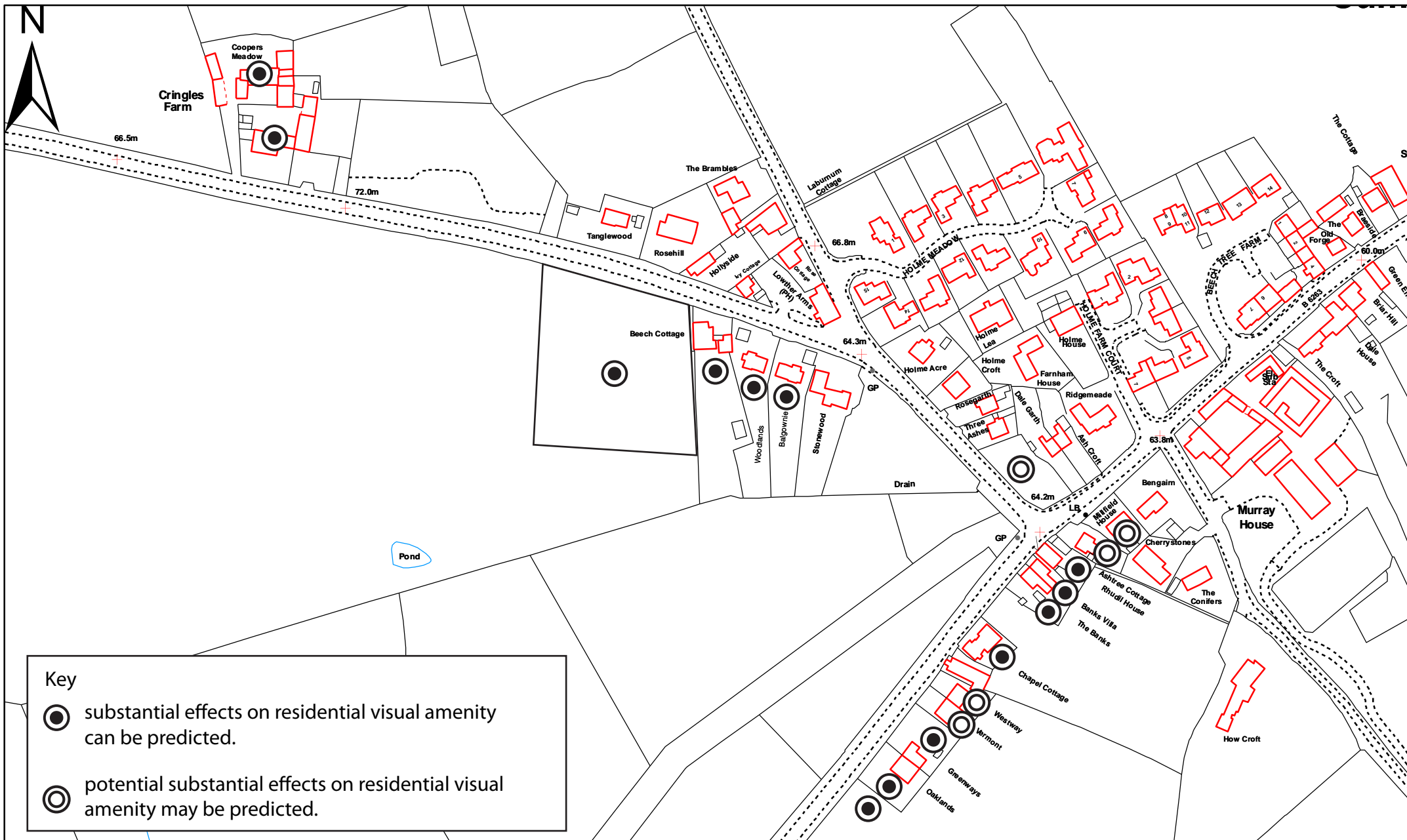
Ref: 403/PA/013  
Date: 15/06/2011

Revision: A

Site Layout  
Drawing 002

Newlands Single Turbine  
Planning Application





**Plan 2 - 11/0596 Newlands Farm, Carleton, Carlisle, CA4 0AE**

Scale: 1:2,500 Date: 11/04/2011

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