

SCHEDULE A: Applications with Recommendation

21/0657

Item No: 07

Date of Committee: 10/09/2021

Appn Ref No:
21/0657

Applicant:
Mr George Kinnaird

Parish:
Carlisle

Agent:

Ward:
Belah & Kingmoor

Location: 11 Newfield Park, Carlisle, CA3 0AH

Proposal: Removal Of Hedge And Erection Of 1.8M High Boundary Fence To
Incorporate Additional Land Into Domestic Curtilage

Date of Receipt:
29/06/2021

Statutory Expiry Date
24/08/2021

26 Week Determination
13/09/2021

REPORT

Case Officer: Barbara Percival

1. Recommendation

- 1.1 It is recommended that this application is approved with conditions.

2. Main Issues

- 2.1 Impact of the proposal on the character of the area
- 2.2 Impact of the proposal on the living conditions of neighbouring residents
- 2.3 Impact of the proposal on the adjacent Public Footpath
- 2.4 Scale and design of the fence
- 2.5 Impact of the proposal on archaeology
- 2.6 Impact of the proposal on biodiversity
- 2.7 Other Matters

3. Application Details

The Site

- 3.1 Number 11 Newfield Park is a detached dwelling located on the eastern periphery of the Newfield Development. The property is surrounded by residential properties to the north, south and west whilst along its eastern boundary is California Lane along which Public Footpath 109003 runs.

The Proposal

- 3.2 The application seeks full planning permission for the incorporation of a strip of land immediately behind the rear boundary of 11 Newfield Park and the adjacent public footpath. The land would have a depth of 2 metres with an overall length of approximately 26 metres and is proposed to be enclosed by a 1.8 metre high wooden fence, similar in appearance to others within the immediate vicinity. The fence would be set back from the outer edges of the hard surfaced footpath.

4. Summary of Representations

- 4.1 This application has been advertised by the direct notification of two neighbouring properties and the posting of a site notice. In response, nine representation of objection have been received.
- 4.2 The representations identify the following issues:
1. existing path would make an excellent cycle way;
 2. narrowing of path may reduce the opportunity to make the path into a cycle way;
 3. records indicate that this lane was the main route into the city and dates back to the Romans;
 4. definitive plan may be inaccurate and may actually be a restricted byway for horses and carts;
 5. works should take place outside of bird nesting season;
 6. potential impact on biodiversity.
- 4.3 Councillor Davison has also raised concerns in summary these centre on:
1. given it is a key off road route that could and should be developed to better enable walkers and cyclists come from the north of the city and into town, as well as being an important leisure route. It will become an increasingly important route to preserve and keep distance between the houses off Newfield and the new estate that is planned for the fields to the east of it;
 2. the route is and should be classified as some sort of highway rather than footpath, given that it is the route of the Roman road. My expectation is that there will be a Roman Road there underneath somewhere to be uncovered. Certainly when a route was put across it to enable access to the planned housing development behind Newfield Park a resident saw some Roman slabs uncovered, which were promptly disposed of by whoever was doing that bit of road before the resident could get photos of them. So I feel this is an historical route which should not be further extended into. I am aware the precedent has been set by other planning decisions but I feel that this one, given the long stretch it appears to be on the plans would leave it open for more similar and a real loss of this community amenity and important route;
 3. Is my understanding right that if this were classified as some sort of public

- highway it would not be possible for people to build out onto it?
4. My concern with this planning application is that I would not want to see any garden extension into this area that would impact on the future development of this route into a decent car free walking and cycling route. I would want there to be sufficient confidence that the width remaining and available to be developed is wide enough to accommodate a cycle route, whilst also ensuring that the hedgerow to the east is not lost in the process, given that will be a key buffer between the route and the newly proposed houses. I understand a relevant width may be 10 feet / 3 metres, not the width it is currently designated as a footpath.
 5. Understand that this route is on the radar of those people looking at the walking and cycling infrastructure plan, and that there is a possibility that 106 monies have been agreed from the approved housing development in the fields to the east of the path to turn this route into a cycle route;
 6. Would very much like the planning officer and the members of the development control committee to be made aware of any plans that there are in place in terms of turning this into a cycle route so that knowledge can help inform any decision made about the route.

5. Summary of Consultation Responses

Cumbria County Council - (Highway Authority - Footpaths): - Public Footpath 109003 follows an alignment to the east side of the development area and must not be altered or obstructed before or after the development has been completed, if the Footpath is to be temporarily obstructed, then a formal temporary closure will be required;

The Ramblers: - FP109003 is an ancient FP going back to Roman Times, an artefact, a milestone from this site resides in Tullie House, Carlisle; 2. local 19 century titles may show this to be untaxed it could actually be a "Restricted Byway" for horses and carts; 3. walking is good for physical, mental and spiritual wellbeing as has been proved since the coronavirus pandemic; 4. This FP connects with other local paths and eventually with LDP's (Long Distance Footpaths) The Miller's Way, Hadrians' Wall Path, Cumbria Way and The Cumbria Coastal Way now the England Coast Path; 5. The Ramblers don't approve of encroachment, creepage and annexation of PROW's (Public Rights of Way); 6. Taking over parts of the countryside is unsustainable; 7. Grant Shapps, Secretary of State for Transport. has said that "Walking is good for you and a £338m package is available to increase the number of people adopting active travel as a healthier and more environmentally-friendly way to get around and make walking and cycling safer; and 8. other residents in this area have already annexed some of this land so may have set an illegal precedent.

The Ramblers oppose and object to this Planning Application on the grounds of encroachment, the impact on a nature corridor, large hedgerow removal used by birds for nesting and other wildlife for food and shelter. This 1.8m fencing would become the main landscape feature character instead of the countryside it would dominate and impact on;

Cumbria County Council - Historic Environment: - the line of California Lane

is thought to be a Roman road although, when a section was cut across it 70 metres to the south of the application site during the construction of a new access road, no evidence for a Roman road was revealed. If any remains of a Roman road survive here, the evidence suggests that they would not be in a good state of preservation and so the erection of a short section of fence is unlikely to have a significant impact upon it, therefore, raise no objections to the application.

6. Officer's Report

Assessment

- 6.1 Section 70(2) 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 indicate otherwise.
- 6.2 The relevant planning policies against which the application is required to be assessed is the National Planning Policy Framework (NPPF), the Planning Practice Guidance (PPG) and Policies SP6, CM4, CM5, GI3 and GI5 of the Carlisle District Local Plan 2015-2030.
- 6.3 The proposals raise the following planning issues:

1. Impact Of The Proposal On The Character Of The Area

- 6.4 Planning policies within the local plan seek to respect local landscape characteristics and ensure that development proposals respond to the local context and established street patterns and by making use of appropriate materials and detailing. As highlighted earlier in the report, the application seeks planning permission for the incorporation of a section of land into the domestic curtilage of 11 Newfield Park. The land is located immediately to the rear boundary of the property adjacent to Public Footpath Number 109003 which follows the route of California Lane.
- 6.5 When assessing this application against the relevant planning policies, sections of California Lane have become overgrown with vegetation, fly tipping and littering has/is occurring and sections of the public footpath appears to be in need of repair. Other properties which also border California Lane along the western edge of the public footpath have incorporated sections of land into their domestic curtilages including the property next door but one, number 39 Newfield Park which was granted planning permission by Members of the Development Control Committee at its meeting in January 2014 (application reference 13/0908).
- 6.6 The proposal would be similar in scale and design to its close neighbour and others within the immediate vicinity. The land has been enclosed by a wooden fence similar in appearance with other boundary fences along the western side of California Lane. In overall terms, the development is relatively small scale and would not have a significant detrimental impact on the character of the area.

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

- 6.7 Given the scale, boundary treatment, orientation and use of the land in respect of adjoining properties, the proposal is unlikely to have a detrimental impact on the living conditions of neighbouring residents through intensification of use or overlooking.

3. Impact Of The Proposal On The Adjacent Public Footpath Number 109003

- 6.8 Public Footpath 109003 follows California Lane which runs northwards from the eastern end of Public Footpath 109020 for approximately 560 metres before joining California Road. The Newfield Housing Development is located immediately to the west of the footpath.
- 6.9 The application permission for the incorporation of part of a strip of land immediately behind the rear boundary of 11 Newfield Park and the adjacent public footpath 109003. As previously highlighted, the land would have a depth of 2 metres with an overall length of approximately 26 metres enclosed by a wooden fence which would be set back from the outer edges of the hard surfaced footpath.
- 6.10 Cumbria County Council, as Highways Authority, has been consulted and the Countryside Access Officer has raised no objections to the incorporation of the land into domestic curtilage subject to the imposition of an informative ensuring that there is no alteration / obstruction of the public footpath before or after the development has been completed.
- 6.11 It should also be noted that during the determination of the application for number 39 Newfield Park (application reference 13/0908) the Countryside Access Officer advised that the Definitive Map Statement details that Public Footpath Number 109003 has a prescribed width of between 2 and 3 metres, therefore, it does not span the entire width of California Lane. Although the Statement details the relevant width of the footpath, it does not indicate at which points where the width of the footpath should be 2 metres or where it should be 3 metres. Accordingly, at that time the Countryside Access Officer was of the opinion that provided that any works do not reduce the available footpath width to less than 2 metres, when measured from the centre line of the footpath as indicated on the Definitive Map, then these works are not unlawful.
- 6.12 In respect of this current application and based on the definitive footpath map provided by the Countryside Officer, the line of proposed fence would be located approximately between 3 metres and 5 metres from the route of public footpath number 109003, therefore, there would be no encroachment on the alignment of the public footpath.

4. Scale And Design Of The Development

- 6.13 The development is visible from the adjacent public footpath which runs along California Lane; however, the scale, design and materials of the boundary fencing are similar in appearance to other boundary fences within the immediate vicinity. Furthermore, the boundary fence follows a similar line as other boundaries within the immediate vicinity. In such a context, the proposed fence would not form a discordant feature within the immediate vicinity.

5. Impact Of The Application On Archaeology

- 6.14 Concerns have been raised by residents as to the impact of the application on archaeology as a Roman Road lies to the east of Public Footpath 109003. Cumbria County Council's Historic Environment Officer has been consulted and details that the line of California Lane is thought to be a Roman road although, when a section was cut across it 70 metres to the south of the application site during the construction of a new access road, no evidence for a Roman road was revealed. If any remains of a Roman road survive here, the evidence suggests that they would not be in a good state of preservation and so the erection of a short section of fence is unlikely to have a significant impact upon it, therefore, has raises no objections to the application.

6. Impact Of The Application On Biodiversity

- 6.15 The Councils GIS Layer has identified that the site has the potential for several key species to be present within the vicinity. The proposed development seeks permission to incorporate a strip of land into the domestic curtilage of 11 Newfield Park. Given the scale of the development it is unlikely that the development would harm a protected species or their habitat. Nevertheless, an informative is recommended drawing the applicant's attention to their requirement to comply with conservation legislation such as the Wildlife and Countryside Act 1981 etc.

7. Other Matters

- 6.16 Objectors and the ward Councillor have raised concerns about plans for future cycle routes and the potential for a route to use California Lane. When considering planning applications members have to be aware of material considerations when making those decisions and the weight to give to such matters. S106 monies have been set aside for improvements to cycle routes from both the Story and Gleeson housing developments current under construction to the north of this site. At the time of considering this application, there are no fixed plans and no proposed drawings of route improvements between the aforementioned housing developments and the city centre. Without definitive proposals in place, it is not possible to consider how this proposed fencing would impact on those proposals. It is however worth noting that as referenced earlier in the report there have already been extended gardens on the western side of California Lane which would have to be taken into account when any improvements for cycle route provision are made should they be in the vicinity of this site.

Conclusion

- 6.17 In overall terms whilst the application site is visible from the adjacent Public Footpath within the context of the wider area, the principle of the change of use of the land is acceptable. Furthermore, the rear boundary follows that of other properties within the immediate vicinity and the fence is of a similar scale and design. The application would not adversely affect the living conditions of the occupiers of the neighbouring properties nor would it impact on biodiversity. In all aspects the application is compliant with the objectives of the NPPF, PPG and relevant local plan policies and the application is recommended for approval.

7. Planning History

- 7.1 There is no relevant planning history.

8. 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 development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:

1. the submitted planning application form received 29th June 2021;
2. the site location plan received 29th June 2021 (Drawing No. 1);
3. the block plan received 29th June 2021 (Drawing No. 2);
4. the fence details received 29th June 2021 (Drawing No. 3);
5. the Notice of Decision;
6. any such variation as may subsequently be approved in writing by the local planning authority.

Reason: To define the permission.

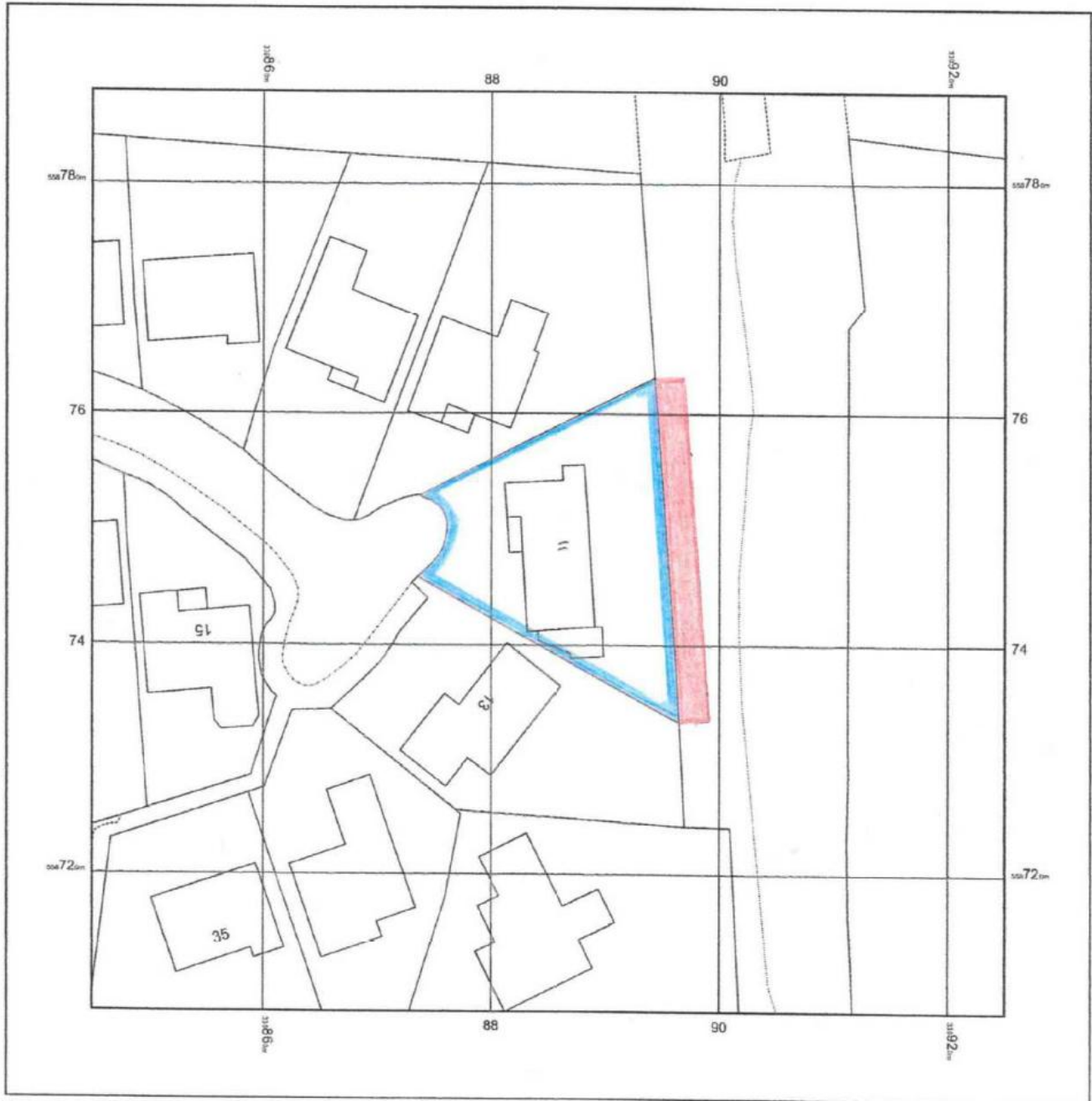
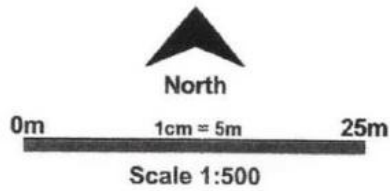
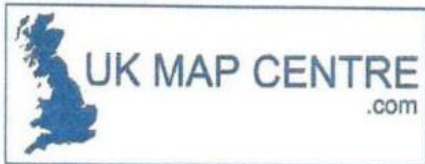


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PLAN N°2

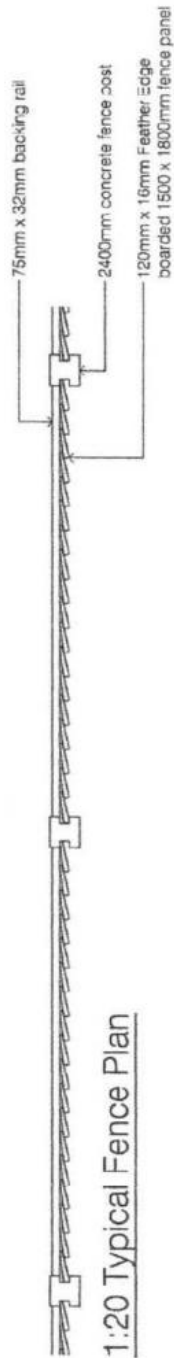


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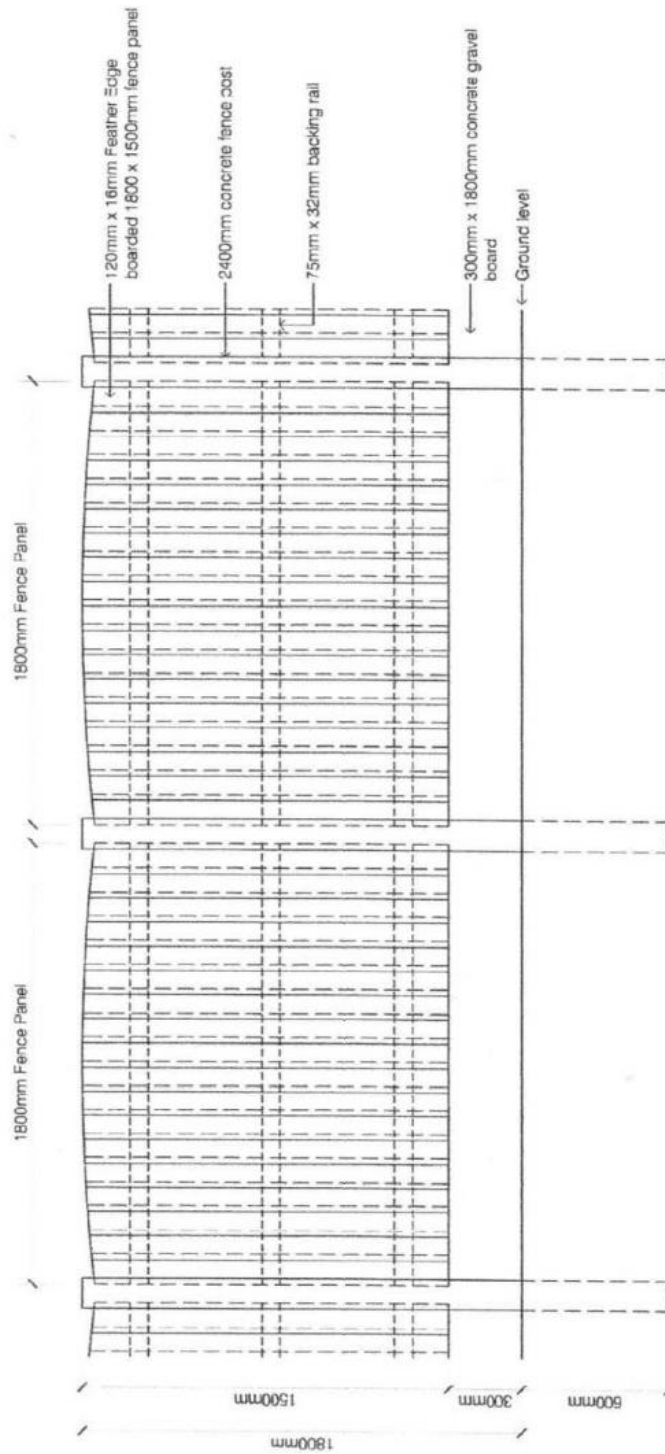
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Kinnaird CA3 0AH N° 2.

PLAN N° 3.



1:20 Typical Fence Plan



1:20 Typical Fence Elevation

Project: Installation of New Fence Panel
 Address: 11 NEWFIELD PARK, CARLISLE.
 Dwg No: PLAN N° 3.
 Scale: 1-20