

SCHEDULE B

SCHEDULE B



**The Town and Country Planning Act 1990
The Town and Country Planning (Development Management Procedure)
(England) Order 2015**

Notice of Planning Permission

To: Newlaithes Infant School
Langrigg Road
Carlisle

In pursuance of the powers under the above Act and Order the Cumbria County Council as Local Planning Authority hereby **permit** the proposal described in your application and on the plans/drawings attached thereto received on 3 April 2019.

viz: Erection of a 2.4 m high green profile mesh security fence to replace existing 1.8 m high timber close boarded fence.

Newlaithes Infant School, Langrigg, Road, Carlisle, CA2 6DX

Subject to due compliance with the following conditions:

Time Limit for Implementation of Permission

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Approved Scheme

2. The development hereby permitted shall be carried out in accordance with the following:
 - a. The submitted Application Form – dated 25 March 2019;
 - b. Design and Access Statement – Additional Information – dated 1 May 2019;
 - c. Drawing No. JW0119aPL (Rev.A) – Existing Site Location Plan & proposed Location Plan;
 - d. Profile mesh typical fence detail specification sheet;

Reason: To ensure the development is carried out to an approved appropriate standard and to avoid confusion as to what comprises the approved scheme.

Retention of Trees and Hedgerow

3. No trees and/or hedgerow in the school grounds that are within 15m of the 2.4m high replacement fence shall be removed prior to, during or within 6 months of the erection of the replacement fence.

Reason: For the avoidance of doubt and to ensure compliance with Carlisle District Local Plan 2015-2030 policies GI6 and GI3.

INFORMATIVES

Public Right of Way: The public footpath (Public Right of Way No. 109285) which runs adjacent to the school's south-western boundary must not be altered or obstructed by the proposed fencing. This route should remain passable to all at all times during the undertaking of the fence replacement works. If access along the footpath is to be temporarily obstructed by the works to remove and replace the existing fence then a formal temporary closure to the public right of way will be required.

Hedgerow and Trees – Nesting Bird Potential: Should any pruning back of the hedgerow or trees be required for the undertaking of the works then they should ideally be undertaken outside of the bird nesting season which falls between 1 March and 31 July inclusive. If such works cannot be undertaken outside the bird nesting season, then the hedge and trees should first be checked for breeding birds by a qualified ecologist in accordance with Natural England's Guidance prior to any lowering or pruning taking place. If nesting bird presence is found, then an exclusion zone should be set up around all nests identified. No work shall be undertaken within the exclusion zone until nesting birds have been confirmed absent by a qualified ecologist. It is an offence under The Natural Environment and Rural Communities Act (NERC) 2006 to disturb or harm nesting birds.

Dated 23 May 2019

Signed: Angela Jones
Acting Executive Director - Economy and Infrastructure
on behalf of Cumbria County Council.

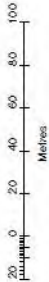
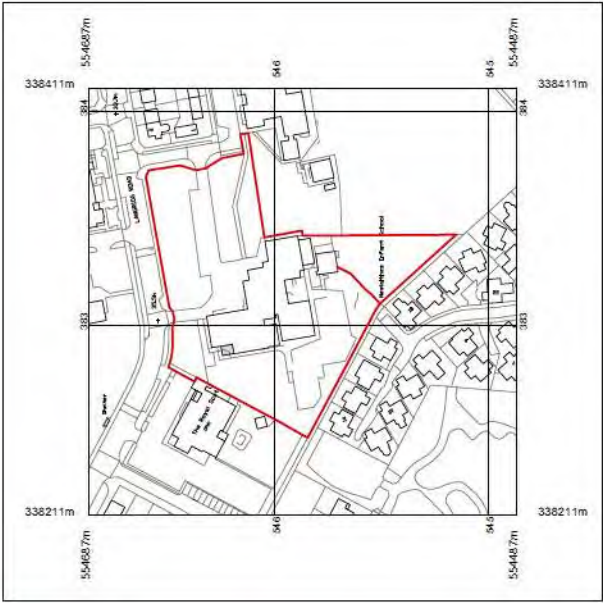
NOTES

- The local planning authority has worked with the agent in a positive and proactive manner to seek solutions to any problems that arose in dealing with this application and has implemented the requirements of the [National Planning Policy Framework](#).
- The policies and reasons for the approval of this application are set out within the planning officers' report which can be viewed at: Planning.cumbria.gov.uk/Planning/Display/1/19/9003
- The conditions attached to this permission may override details shown on the application form, accompanying statements and plans.

APPENDIX TO NOTIFICATION OF PLANNING DECISION

This Appendix does not form part of any consent, however, you should take careful notice of the advice given below as it may affect your proposal.

1. This grant of planning permission does not exempt you from regulation under Building Control and Environmental Protection regimes.
2. Any grant of planning permission does not entitle developers to obstruct a public right of way. Development, insofar as it affects a right of way, should not be started, and the right of way should be kept open for public use, until the necessary order under Section 247 or 257 of [The Town and Country Planning Act 1990](#), or other appropriate legislation, for the diversion or extinguishment of right of way has been made and confirmed.



PROPOSED SITE LOCATION PLAN
Scale 1:500

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Plan | B | Building Drawing Ltd.

160 Dalkeith Road, Dalkeith, Edinburgh, EH22 3JH
Tel: 01258 562388 | Email: info@buildingdrawing.co.uk
Project: PROPOSED INFANT SCHOOL BOUNDARY FENCE
AT NEWLAITHES INFANT SCHOOL, LAIDLING ROAD,
DALKEITH, EH22 3JH

Drawing:
EXTENDING SITE LOCATION PLAN
Scale: 1:500
Date: 21/03/2019
Drawn by: JAB
Check by: JAB
Date: 21/03/2019



Appeal Decision

Site visit made on 18 February 2019

by Graeme Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 April 2019

Appeal Ref: APP/E0915/W/18/3201371

Pennine View, Sandy Lane, Broadwath, Heads Nook CA8 9BQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Dr J Deeble against the decision of Carlisle City Council.
 - The application Ref 17/0857, dated 4 October 2017, was refused by notice dated 29 November 2017.
 - The application sought planning permission for erection of replacement dwelling (revised application) without complying with a condition attached to planning permission Ref 13/0916, dated 14 January 2014.
 - The condition in dispute is No. 8 which states that:
The Local Planning Authority shall be informed in writing upon first[sic] occupation of the dwelling hereby approved. Within 3 months of the first occupation of the dwelling hereby approved, the existing property known as 'Farndale', shown on Black Plan as Existing Drawing no. 3001/2, shall be demolished and all associated materials removed from site.
 - The reason given for the condition is:
To prevent the retention of the existing dwelling that would be contrary to Policy H1 of the Carlisle District Local Plan 2001 - 2016.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of replacement dwelling (revised application) at Pennine View, Sandy Lane, Broadwath, Heads Nook CA8 9BQ in accordance with the application Ref: 17/0857 made on 4 October 2017 without complying with condition No. 8 set out in planning permission 13/0916 dated 14 January 2014 by Carlisle City Council, but otherwise subject to the following conditions set out in the attached Schedule.

Background and Main Issue

2. Planning permission was granted in 2012¹ for the erection of a replacement dwelling. The replacement dwelling proposed in that scheme would have been sited partly on the footprint of the existing bungalow known as 'Farndale'. A subsequent proposal, granted planning permission in 2014² (the 2014 scheme), also sought permission to construct a replacement dwelling but avoided 'overlap' with the existing bungalow at Farndale.
3. The 2014 scheme was subject to a number of conditions, including the condition now the subject of this appeal. The appellant previously applied for

¹ LPA Ref No: 12/0948

² LPA Ref No: 13/0916

the removal of condition 8 of the 2014 scheme³, a proposal for which an appeal was subsequently dismissed⁴. The effect of a planning permission without condition 8, in the circumstances considered in the previous appeal, would have been that the proposal would have resulting in the creation of an additional, rather than a replacement, dwelling in close proximity to the existing dwelling.

4. However, in the current instance the appellant has requested that condition 8 of the 2014 scheme be removed and replaced with an alternative condition, an amendment to the wording of which was agreed between the parties during the course of the application, and is as follows:

Variation of condition 8 of previously approved permission 13/0916 to read as follows: The bungalow known as 'Farndale', identified on the Block Plan as 'Existing Dwelling' shall cease its independent residential use and shall be occupied solely as ancillary accommodation to the property known as 'Pennine View'. Pennine View and Farndale shall comprise a single planning unit.

5. Thus, the appellant now seeks to retain 'Farndale' as an annexe to the new main house known as 'Pennine View'. The effect of a planning permission with a condition incorporating the revised wording suggested by the appellant would be the retention of the bungalow known as 'Farndale' as ancillary accommodation to the property known as 'Pennine View'.
6. The main issues are therefore:
 - Whether or not the proposal can reasonably be considered to be ancillary accommodation for Pennine View; and
 - If it is not ancillary accommodation, whether or not the proposal as an independent dwelling would be appropriate having particular regard to (i) housing in the countryside and (ii) the living conditions of occupants of Farndale, with particular reference to privacy.

Reasons

Whether or not ancillary accommodation

7. The Council state that Farndale has a scale and appearance that is consistent with a 2-bedroom bungalow. I agree; that is what it was previously occupied as. I saw that Farndale benefitted from having two bedrooms, a living room, kitchen / dining room, bathroom and entrance hall. Although at the time of my visit to the site there was no oven / hob / cooker in place, there was evidently space for one to be accommodated within the kitchen area. The Council's conclusion in this respect is therefore a logical and accurate one having considered its internal arrangement at the time of my visit to the site. There is thus agreement between the main parties that Farndale is capable of, and has the facilities required for, independent day-to-day living.
8. However, although that may be so, a separate, independent dwelling is not what the appellant initially applied for. Rather, the proposal, expressed in the appellant's wording for a revised condition 8, quite clearly seeks to retain Farndale, not as a separate dwelling, but as a residential annex to provide ancillary accommodation to the recently built Pennine View.

³ LPA Ref No: 16/0196 – also seeking the removal of condition 13

⁴ APP/E0915/W/16/3160411

9. Although the evidence that I have been provided with of the details of how this would exist in day-to-day terms is limited, that evidence does demonstrate the intention for mutual support between the appellant and her son in the respective buildings. Whilst I have noted these personal circumstances, consideration of how ancillary accommodation would function relative to the main dwelling inevitably involves an element of the occupier's personal circumstances. In this respect, the appellant clarifies, albeit briefly, the nature of this functional relationship, being one of mutual support between the appellant and her son and his family, within the appeal submissions.
10. However, other factors also inform an assessment of the ability, or likelihood, of a building such as the retained bungalow, being occupied as ancillary accommodation. Thus, the retained Farndale would be significantly smaller in all quantifiable aspects than Pennine View. As a consequence, the living accommodation provided within it, whilst sufficiently capable of being used as independent accommodation, would be of a different nature to, and more basic in terms of the range of accommodation and smaller in scale, than that provided within Pennine View.
11. Additionally, condition 13 of the previous permission⁵ required the closing up of the existing driveway access serving Farndale. The Council have suggested a condition to this effect in relation to the current appeal, should the appeal succeed, the effect of which would be that the two buildings would share the same vehicle and pedestrian access, parking provision and turning space. Thus, the blocking up of the existing point of access serving Farndale, and the use of the access and gravelled turning / parking area in front of Pennine View, would re-enforce the impression of Farndale being ancillary to Pennine View. From that single point of access, access to both buildings would be both clear, convenient and logical.
12. The Council are concerned that both of these factors could be overcome through implementation of permitted development rights or without the need for planning permission. However, appropriately worded conditions could provide the control necessary to ensure that such factors, and the occupation of Farndale itself, ensure and reinforce the ancillary nature of the appellant's proposals. Thus, there would be no separate outdoor areas associated specifically with one or other of the buildings, rather a continuous open area laid to lawn around and between the two.
13. Pennine View benefits from a reasonably-sized detached outbuilding to one side, and slightly in front of, that dwelling. Its position and siting relative to the main building is similar to that of Farndale relative to Pennine View. The Council cite the retention of Farndale as eroding the rural and spacious character of the countryside in which the appeal site lies. However, the retention of Farndale would not compromise or erode the expansive, open and gently undulating landscaping that surrounds the existing residential curtilage, nor would it materially alter the character or nature of the somewhat sporadic pattern of development that I saw to be present along Sandy Lane.
14. I accept that there would be a reduction in openness around Pennine View within the residential plot compared to a scenario whereby Farndale was no longer present. However, I do not consider that its retention would be harmful to the character or appearance of the surrounding open countryside, which is

⁵ LPA Ref No: 13/0916

pleasantly undulating and expansive. Furthermore, although Farndale would be larger than the existing detached outbuilding, I am satisfied that further steps could be taken, secured by condition such as suggested by the appellant, to ensure that it shares a palette of materials with the main dwelling and the other detached outbuilding. Such measures would add to other outwardly visible factors such as the nature and appearance of the space around the buildings, the single point of access and the close physical relationship between Farndale and Pennine View to re-enforce the appellant's intended ancillary use and occupation of Farndale.

15. I have noted the Council's concern, given the lengthy planning history associated with the site, that it is, and has been, the appellant's long-standing intention to secure an additional separate dwelling at the appeal site. To do so would, they argue, be in conflict with local and national planning policy as the appeal site is an inappropriate location for new housing development.
16. I agree, as does the appellant in evidence, that Farndale is capable of occupation as an independent, self-contained dwelling. However, for the reasons I have set out above, I am satisfied that the bungalow known as 'Farndale' is also clearly capable of occupation providing living accommodation ancillary to the occupation of Pennine View. I have not been directed towards any Carlisle District Local Plan (CDLP) policies that preclude the principle of a residential annex and it seems that there is agreement between both main parties on this matter. CDLP policies HO6 and SP2 seek to resist unjustified encroachment into the open countryside and only permit housing in such locations where special circumstances exist. A condition to restrict occupancy of Farndale to an ancillary role relative to occupancy of Pennine View would secure such a relationship, avoid the creation of an additional dwelling (via retention) in an open countryside location and ensure that it is occupied as an ancillary residential annex.
17. Given the available evidence regarding mutual dependence and support between the appellant and her son, in terms of the sharing of meals and other domestic functions, the provision and retention of a single point of access into the site and logical links to entrances to Pennine View and Farndale annex, and the limitations imposed by the proximity of the buildings to each other, I consider such an approach to be reasonable and justified. In reaching this conclusion, I am mindful of CDLP policy HO10 and the supporting text thereto, and paragraph 5.84 suggests that appropriate locations for housing to meet specific needs need not always being in locations benefiting from local services and facilities to be sustainable in the broadest sense.
18. I have noted that both parties considered that the fallback position⁶ should be given significant weight as there is a realistic prospect of it being implemented. I have no evidence to the contrary and, whilst not decisive, this matter adds weight to my conclusions regarding the ancillary nature of Farndale.

Appropriateness

19. As I have concluded that the existing bungalow known as 'Farndale' can, with a suitably worded condition restricting occupancy to ancillary to that of Pennine View, and other conditions as described above, and set out separately below,

⁶ Class E of Schedule 2 Part 1 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

be occupied as accommodation ancillary to Pennine View, I have not considered further the matter of the building as a separate and independently occupied dwelling. That is not what the appellant initially applied for and, as such, I do find the provisions of CDLP policies SP2, HO2 or HO6 to be of relevance to the proposal as applied for, and subsequently now before me.

20. Extensive reference is made to the conclusions of the Inspector in relation to the previous appeal⁷ at this site. However, the application that led to that appeal disputed condition numbers 8 and 13 and sought their removal, the effect of which would have been the retention of Farndale as a separate, independently occupied dwelling. For the reasons I have set out above, I have considered this appeal on the basis of what was applied for, namely occupation of Farndale as a residential annex to Pennine View and ancillary thereto. Although the Council have sought to draw heavily on the conclusions of the Inspector in that instance, on the evidence I do not consider that proposal to be directly comparable and so the weight that I give those conclusions in my assessment of the current proposal are correspondingly limited.
21. The Council's second reason for refusal concerned itself with the effect of the retention of Farndale as a separated, independently occupied dwelling, on the living conditions of occupiers of both Pennine View and Farndale. This concern stemmed principally from the relationship of the first floor balcony at the rear corner of Pennine View with the outdoor space and habitable room windows at the rear of Farndale, and the effect on privacy for occupiers of both properties.
22. However, as ancillary accommodation to the occupancy of the main dwelling, there is no imperative to consider the effect of the proposal upon privacy vis-à-vis Pennine View and Farndale. Nor is there any suggestion that the retention of Farndale as accommodation ancillary to Pennine View would be harmful to the living conditions of other properties beyond the appeal site. Thus, as ancillary accommodation to Pennine View, I have not considered matters of privacy, or the provisions of CDLP policy SP6 or the Council's Supplementary Planning Document⁸ any further.

Conditions

23. Planning Practice Guidance makes it clear that decision notices for the grant of planning permission under Section 73(a) of the Act should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. Whilst I have no information before me about the status of the other conditions imposed on the original planning permission and whether or not they have been formally discharged, the Council have suggested a fresh suite of conditions in their Statement of Case. I have noted those conditions and am satisfied that the appellant has had the opportunity to consider those conditions.
24. I have considered the suggested conditions accordingly, having regard to the provisions of the Framework and Planning Practice Guidance. Where necessary I have amended conditions in the interests of precision. As per the subject of this appeal, I have adopted attached a condition restricting occupancy of the bungalow known as 'Farndale' to that of ancillary to the residential use of 'Pennine View'.

⁷ APP/E0915/W/16/3160411

⁸ 'Achieving Well Designed Housing' – Supplementary Planning Document, April 2011

25. I have omitted the Council's suggested time limit condition (No.1)⁹ as the development has already commenced but have replicated the plans condition attached to the original permission¹⁰ (and as confirmed by both parties during the course of this appeal) in order to provide certainty.

Conclusion

26. For the reasons I have set out, and having considered all other matters raised, I conclude that the appeal should be allowed.

Graeme Robbie

INSPECTOR

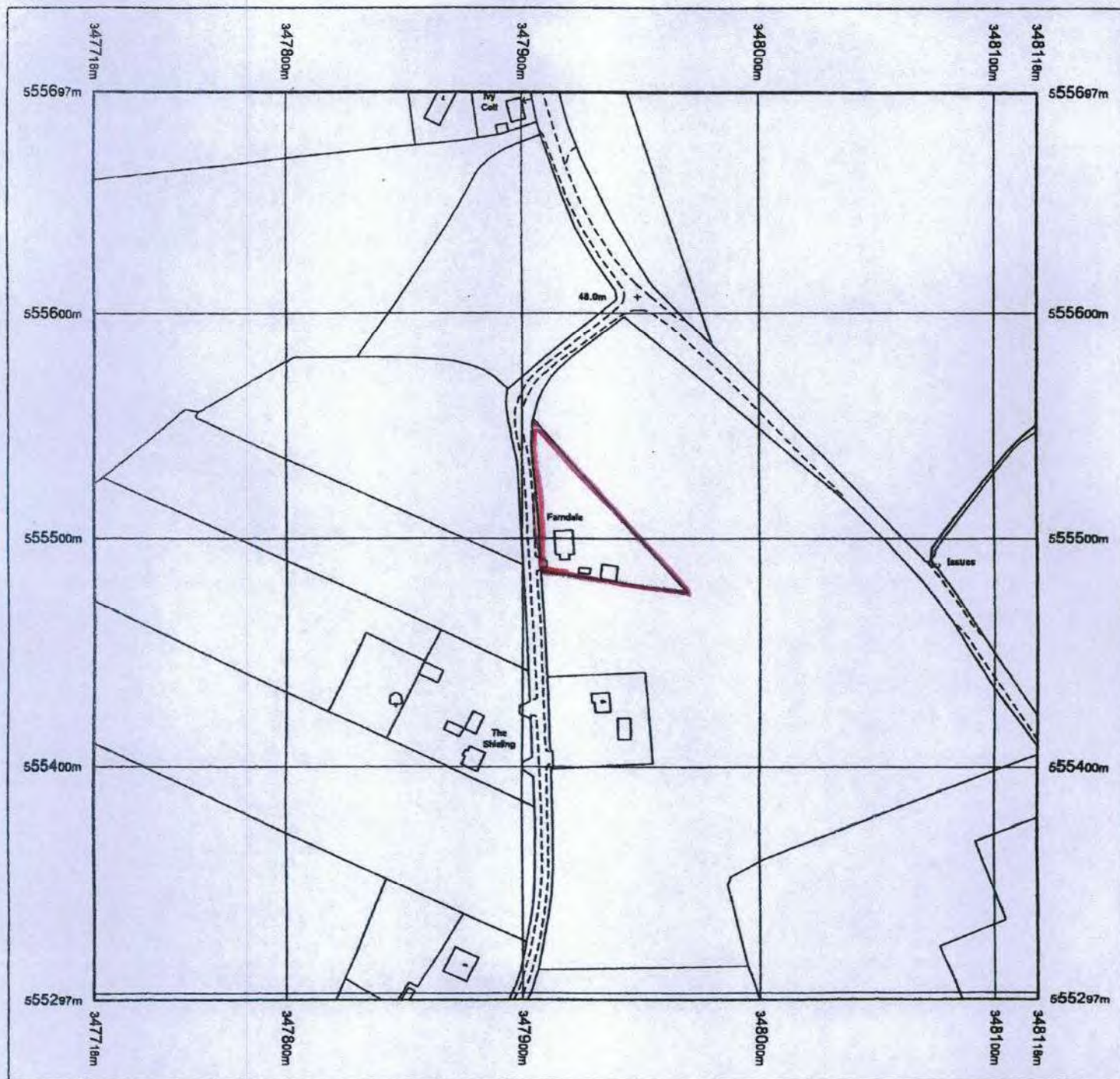
⁹ Set out at paragraph 5.1, LPA Statement of Case

¹⁰ LPA Ref No: 13/0916

Schedule of Conditions

- 1) The development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:
 1. the Planning Application Form received 4th October 2017;
 2. the Planning Statement received 4th October 2017;
 3. the Planning Statement Appendix received 4th October 2017;
 4. the Notice of Decision;
 5. And the following plans : Drawing no. 3001/1; Drawing no. 3001/2; Drawing no. 3001/2C; Drawing no. 3001/4; Drawing no. 3001/5; Drawing no. 3001/6; the Supportive Statement received 20th November 2013; the Stage One Desk Top Study Assessment of Likelihood Of Contamination Of Proposed Development received 20th November 2013; the Hedge Survey Schedule received 20th November 2013.
- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order) there shall be no enlargement or external alterations to the dwelling unit to be erected in accordance with this permission, within the meaning of Schedule 2 Part (1) of these Orders, without the written approval of the Local Planning Authority.
- 3) The bungalow known as 'Farndale' shall cease its independent residential use and shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 'Pennine View' and shall not be sold separately or occupied as a separate dwelling.
- 4) Within 3 months from the date of this permission, the existing accesses to the highway shown on the Block Plan As Existing Drawing no. 3001/2 serving the property formerly known as Farndale, shall be permanently closed and the highway crossings and boundaries shall be reinstated in accordance with details have been submitted to and approved in writing by the local planning authority.
- 5) Visibility splays providing clear visibility of 2 metres by 45 metres measured down the centre of the access road and the nearside channel line of the major road shall be provided at the junction of the access road with the county highway in both directions. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grown within the visibility splay which obstruct the visibility splays. The visibility splays shall be constructed before general development of the site commences so that construction traffic is safeguarded.

****end of Schedule****



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PROPOSED REPLACEMENT DWELLING - FARNDALE - SANDY LANE - HEADS NOOK

LOCATION PLAN

DRG. NO. 3001/1

SCALE : 1-2500



Appeal Decision

Site visit made on 18 March 2019

by E Symmons BSc (Hons), MSc

an Inspector appointed by the Secretary of State

Decision date: 03 May 2019

Appeal Ref: APP/E0915/W/18/3219607

Ireby Gate, Lambley Bank, Scotby, Carlisle, Cumbria CA4 8BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms A. Dobinson against the decision of Carlisle City Council.
 - The application ref 18/0144, dated 27 February 2018, was refused by notice dated 3 August 2018.
 - The development proposed is for the erection of a detached dwelling.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Ms A. Dobinson against Carlisle City Council. This application is the subject of a separate Decision.

Procedural matters

3. Since submission of this appeal the National Planning Policy Framework¹ (The Framework) has been revised. As the changes are minor, and do not relate to the issues within this appeal, I have had regard to the revised Framework in my decision and I am satisfied this has not prejudiced either party.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the conservation area (CA).

Reasons

5. The appeal site is within the garden of Ireby Gate which is a two-storey house which sits adjacent to, and set back from, Lambley Bank. The site is in an elevated position and the front boundary has a mature beech hedge with associated large deciduous trees. The garden has been fenced off from the host property and a small paddock area formed with an access point at one side. Within this area there is a tree and further towards the rear, a large brick-built outbuilding. The site is within the Carlisle-Settle Conservation Area which when designated was characterised by large Victorian properties in ample gardens. The area now has a more mixed housing type with several recent large contemporary styled houses including those directly opposite the appeal site. Despite this, the south eastern side of Lambley Bank, in the vicinity of the

¹ February 2019.

appeal site, has retained a more open character with detached properties in large plots.

6. As Lambley Bank sits within a CA, any development must be considered within the context of S72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that I pay particular attention to the desirability of preserving or enhancing the character or appearance of the CA. The appeal site currently contributes to the openness of this side of the road as Ireby Gate itself sits relatively further back on its plot. The most obvious features from the road are the hedge and trees. It therefore makes a positive contribution to the character and appearance of the CA.
7. With respect to the character of the CA, the appellant draws my attention to other consented developments, many of which have yet to be implemented and some which have been superseded. In particular the design of the house on plot 2, within approved application reference 14/0736, is cited. The appellant contends that the design of this was almost identical to the proposal although this consent was never implemented. Although the designs do bear some similarities, the application appears to date from 2014 and since this date the Council has adopted a new local plan. As I have no knowledge of the policy framework at the time this application was determined, and because new policies have been adopted since then, I cannot draw parallels between these applications. Similarly, examples of recently constructed properties have been cited as having a greater visual impact than this proposal would. These cases are not before me and I have no further detail or knowledge of the circumstances relating to their consents. I have therefore considered this appeal, and its effect upon the CA, on its own merits.
8. The proposed property would sit towards the front of the plot with its two-storey end gable wall facing Lambley Bank. Although the hedge and trees would screen the development to some extent, due to the topography the property would sit higher than, and be visible from, the road. Harm in the CA however, is not predicated upon visibility from the public domain which in any case may change. The proposal, due to its scale and orientation in this prominent elevated position, would appear incongruous in relation to both Ireby House and the adjacent large period property, both of which are considerably set back from the road. The proposal would therefore reduce the current open and verdant appearance of this part of the CA.
9. As I saw during my site visit, some of the older properties on Lambley Bank present their gable elevations on to the road. These properties however, tend to be level with the road, rather than in an elevated position. They are also of a more traditional design having interesting features and variation in built levels on the roadside elevation. This makes them more characteristic of the CA in comparison with a stand-alone, relatively blank gable wall which would be forward of the adjacent property building lines.
10. I have considered the Council's comments that the development would be cramped, particularly due to the extant permission reference 18/0194. This permission is for a dwelling which would sit towards the rear of the site behind the building line of the outbuilding. There is no certainty that this permission would be implemented, however if it was, the combined effect of both developments would lead to a more intensive use of the site. Regardless of whether it was implemented, I consider that the appeal proposal on its own

terms would result a cramped appearance, stemming from both the prominence of its position towards the front of the plot, and the reduced openness of the site as seen from the road. Moreover, the proposal would intensify the density of development in a part of the village characterised by a more sporadic layout of buildings, which would be detrimental to its character.

11. The appellant has suggested that the building could be placed 2-3m further back and the rainwater goods and uPVC window specification changed if this would be more acceptable. The Procedural Guide to Planning Appeals² states that the appeal process should not be used to evolve a scheme and appeals should consider that which was before the Council and consultees. Although variation of windows and rainwater goods could be dealt with by a suitable condition, repositioning of the property would not be a minor amendment to the proposal and would thus be outside the scope of this appeal.
12. Paragraph 193 of The Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset such as a CA, great weight should be given to the asset's conservation. That is still so, irrespective of whether the potential harm is 'less than substantial'. The appeal site makes a positive contribution to the character and appearance of the designated heritage asset and although the proposed design uses an appropriate rendered finish and tiled roof, the design, with a gable wall feature in a prominent elevated position towards the front of the plot would harm the character and appearance of the CA. Although the harm that I have found would be 'less than substantial', in accordance with paragraph 196 of the Framework, any public benefit must be balanced against such harm. The proposal would create an additional dwelling in Scotby however, in accordance with paragraph 196 of the Framework, this benefit would not outweigh the harm to the CA.

Conclusion

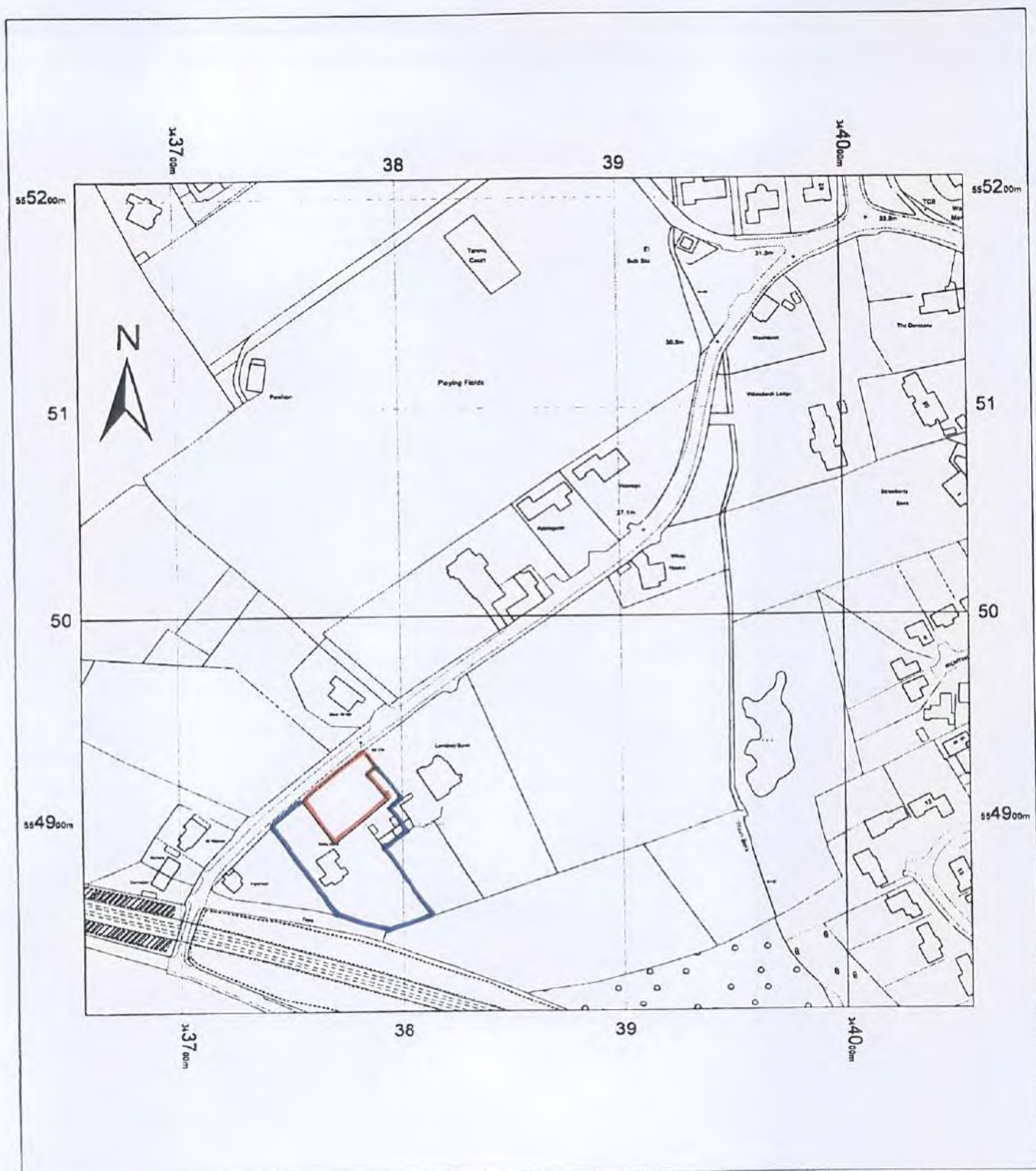
13. The principle of this development raises no concerns regarding highway safety; the effect upon neighbouring properties; ecology/biodiversity; drainage, or whether it would prevent the retention of trees and hedges. However, the setting, orientation, scale and design of the proposal would not preserve or enhance the character of the CA. It would be contrary to policy SP6, HO2, HO3 and HE7 of the Carlisle District Local Plan 2015-2030³ which in combination, and including other matters, seek that development is appropriate to the local character and historic environment regarding scale, siting and design.
14. For the reasons detailed above I dismiss the appeal.

E Symmons

INSPECTOR

² Planning Appeals - Procedural Guide, England, January 2019.

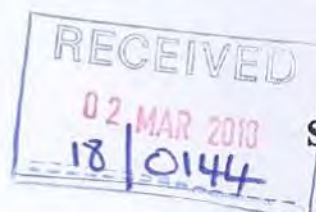
³ Adopted 8 November 2016.



PROPOSED DETACHED DWELLING - IREBY GATE - SCOTBY - CARLISLE

LOCATION PLAN

DRG. NO. 3193/1



SCALE : 1-2500



Appeal Decision

Site visit made on 7 May 2019

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 24 May 2019

Appeal Ref: APP/E0915/W/18/3217109

Orchard House, North End, Burgh by Sands CA5 6BD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Jeff Rust against the decision of Carlisle City Council.
 - The application Ref 18/0601, dated 29 June 2018, was refused by notice dated 12 October 2018.
 - The development proposed is a single dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for a single dwelling at Orchard House, North End, Burgh by Sands CA5 6BD in accordance with the terms of the application, Ref 18/0601, dated 29 June 2018, subject to the conditions set out in the attached Schedule of Conditions.

Procedural Matters

2. I have amended the development description from that set out on the initial planning application form by omitting superfluous wording from it.
3. A neighbour¹ has objected to the proposal citing a number of policies from the 'District Wide Local Plan'. The current development plan goes by the title of the 'Carlisle District Local Plan' (CDLP), as did previous iterations of the CDLP². The Council also confirmed that the policy numbers referred to do not appear in the current (or previous) versions of the CDLP. In response to a request to confirm which document was being referred to, a copy of the current Carlisle District Local Plan was submitted.
4. From the evidence available, I am satisfied that the 'District Wide Local Plan' policies referred to by the objector are not those of the CDLP against which the application was, and is to be, assessed. I have determined the appeal accordingly.

Application for costs

5. An application for costs was made by Mr Jeff Rust against Carlisle City Council. This application is the subject of a separate Decision.

Background and Main Issue

6. The main issue is the effect of the proposed development on highway and resident safety.

¹ Mr Hendy, on behalf of residents of The Pack – letter dated 2 February 2019

² As confirmed by the Council – e-mail dated 14 March 2019

Reasons

7. The proposed dwelling would be located on a site to the rear of a small terraced development known as The Pack and a barn-yard, both of which take their access from the road referred to by the Council as the 'C2042 county highway'. The Pack comprises of a terrace of five properties through which, by way of an archway, vehicular access is taken to a turning and parking courtyard and lock-up garages at the rear. The proposed dwelling would, in turn, be accessed from an existing gateway located broadly centrally within the parking area's rear boundary.
8. Under the archway, doorways provide access to two of the five properties within the short, terraced block. The single vehicle-width alleyway continues to the rear beyond the archway at a broadly similar width, enclosed on each side by a high fence and hedge, before it opens out to the parking courtyard.
9. It was clear to me from my visit, during which I was able to drive into the courtyard, turn, and exit, thereby passing through the archway twice, that the archway access is narrow. The sense of restricted width is compounded by the enclosed nature of the archway, the boundary treatments of the adjacent rear garden and the protruding steps serving the doors on either side of the access within the archway.
10. However, the presence of the doors on either side of the archway is not hidden. The presence of the doorways, which are seen on approach from the highway and would be a familiar presence to those exiting the parking area having already passed them, serve to engender caution to those, such as myself during my visit, who are not familiar with the restricted width of the access. Thus, together with the transition to a steeper gradient beyond the archway into the parking courtyard behind, and the junction with the C2042 to the front, I have very much doubt that speeds would be anything other than low when passing through the archway and past the doorways.
11. Those who are more familiar with the existing layout at the entrance to, and into, The Pack will be fully aware of the circumstances and would thus exercise caution and limit speed accordingly. I have little reason to believe that occupiers of the proposed dwelling would exercise anything other than caution befitting the layout of the surrounding area, or otherwise chose to access or exit the proposed dwelling in a reckless manner. Nor that they would be any less likely to do so than existing occupiers of properties within The Pack.
12. I accept that there would inevitably be additional vehicle movements through The Pack development as a consequence of the proposal. However, whilst I have noted the calculations provided by both parties in this regard, these are based on assumptions and extrapolation and I have not been presented with any compelling evidence that would lead me to conclude other than that a single, three bedroomed dwelling, would not be responsible for a harmful increase in traffic movements, notwithstanding the somewhat unusual access arrangements to the rear of The Pack.
13. Turning to broader issues of pedestrian and highway safety, the Council have not questioned the existing sightlines at the junction between The Pack and the C2042. I saw that vehicles were parked on one or other side of the junction at

the time of my visits to the site³ but the road is reasonably wide, whilst pavements are also present on either side of the junction, providing adequate space for pedestrians. The C2042 highway is a side street off the main road through the village and seemed to me at the time of my visit to be reasonably quiet. I accept that farm traffic is likely to use the road, but in the context of the surrounding area of the village, I do not consider that an additional dwelling, and the vehicle movements associated with it, would materially or harmfully affect highway or pedestrian safety. Nor would it result in the level of intensification feared by the Council.

14. Policy SP6 of the Carlisle District Local Plan (CDLP) seeks to secure good design. Proposals will, it states, be assessed against a range (1 – 12) of design principles. Of those, points 5 and 7 of CDLP policy SP6 are cited specifically by the Council. Additionally, CDLP policy SP9 deals with healthy and thriving communities, again setting out a range of measures (1 – 7) which seek to enhance health and well-being outcomes. Of these, criterion 2 is specifically referred to by the Council.
15. Together, these policies seek to ensure that all components of a proposal, including car parking and connections are accessible, safe and inclusive to all, that high quality design is secured and that there is no adverse effect on residential amenities of existing area, land users or occupiers. An additional dwelling, accessed via the archway through The Pack would, the Council contend, fail to accord with CDLP policies SP6 and SP9. For the reasons I have set out, I disagree. The access to The Pack is somewhat unusual, but the proposal would not result in a level of intensification of vehicle movements that would compromise highway or pedestrian safety and I have no evidence to suggest that it does not operate currently safely. There would, I conclude, be no conflict with CDLP policies SP6 or SP9.

Other Matters

16. Local residents object to the proposal on a wider basis, including the effect of the proposal on the countryside setting, character and appearance of the surrounding area and the living conditions of occupiers of nearby properties in terms of privacy. These matters did not form part of the Council's reason for refusal and I am satisfied that these matters, either individually or cumulatively, would not be an over-riding issue or would not result in a level of harm which would justify dismissal of the appeal.
17. With particular regard to privacy the proposed dwelling would be bounded on three sides by open land, gardens and fields. To the fourth side, a barn-yard lies beyond the existing hedgerow boundary. The west facing elevation would be offset, and some distance away, from the closest properties within The Pack. Moreover, the intervening gap is populated by hedgerow, trees and a garage block.
18. As discussed above, the proposed dwelling would be accessed through archway and turning area associated with The Pack. This area already serves a number of other properties within The Pack and I am not persuaded that a proposal of the scale and nature before me would result in material harm to privacy of occupiers of nearby properties. The proposal would not interfere with or violate

³ Initial site visit carried out on 18 February 2019 but aborted as appellant wasn't present and unable to access site. Surrounding area viewed from public vantage points at this time. Second site visit carried out 7 May 2019

the rights conferred by Article 1 of the First Protocol or Article 8 of the Human Rights Act 1998.

Conditions

19. I have considered the Council's list of suggested conditions in light of advice in the Framework and Planning Practice Guidance (the Guidance). Where necessary and in the interests of precision and brevity I have amended the wording of conditions. Reference to condition numbers refers to those cited by the Council in their list of suggested conditions.
20. In addition to the time limit (1) and plans (2) conditions, which are necessary in order to provide certainty, I agree that given the archaeological potential of the site and the area around it, details of an archaeological watching brief (3) would be appropriately secured by way of condition. So too, conditions regarding adequate measures for foul and surface water drainage (4), tree protection (6), landscaping (5) and ground conditions (9), in the interests of minimising flooding, character and appearance and minimising risk to future users of the land through ground contamination, respectively.
21. I am satisfied that it would not be unreasonable to expect the construction phase of the proposal to be carried out at hours compatible with the residential environment in which the site is located. I have attached the condition (and hours) (8) suggested by the Council to this end. I have not attached the suggested infrastructure condition (7) as I do not consider it to be necessary to the development proposed. Thus, it would fail the tests of conditions set out at paragraph 55 of the Framework.
22. The appellant has suggested that a condition could be attached to ensure that construction traffic and the delivery of construction materials was taken through the appellant's grounds at Orchard House. I am satisfied however that a working hours condition would adequately protect the living conditions of neighbours during construction whilst the physical constraints presented by the archway will influence the logistics of deliveries. It may be the case that it would prove more convenient for the appellant to take access through Orchard House, but I am not persuaded of the need for a condition to secure such arrangements.

Conclusion

23. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be allowed.

Graeme Robbie

INSPECTOR

Schedule of Conditions

1. The development shall be begun not later than the expiration of 3 years beginning with the date of the grant of this permission.
2. The development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:

the Archaeological Evaluation received 29th June 2018; the Contaminated Land Desk Top Study received 29th June 2018; the Tree & Hedge Survey Schedule received 29th June 2018; the details of the foundations compiled by Bingham Yates Limited received 29th June 2018; the materials schedule received 25th September 2018; the location plan received 3rd July 2018 (Drawing No. 17035-00); the proposed plans & west elevation received 29th June 2018 (Drawing No. 17035-05); the north, east & south elevations received 29th June 2018 (Drawing No. 17035-06); the site survey received 29th June 2018 (Drawing No. 17035-07); the proposed site plans received 25th September 2018 (Drawing No. 17035-08C); and the proposed block plan received 25th September 2018 (Drawing No. 17035-09C).
3. Prior to the commencement of development, a written scheme of investigation for an archaeological watching brief must be submitted by the applicant and approved by the local planning authority. Once approved, the scheme shall be implemented in full with an archaeological watching brief being undertaken by a qualified archaeologist. Within two months of the completion of the development, two copies of the archaeological report shall be furnished to the local planning authority
4. Foul and surface water shall be drained on separate systems. In the event of surface water discharging to public sewer, the rate of discharge shall be restricted to the lowest possible rate which shall be agreed with the statutory undertaker prior to connection to the public sewer.
5. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwelling or the completion of the development, whichever is the sooner, and maintained thereafter to the satisfaction of the council; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
6. Before any development is commenced on the site, including site works of any description, a protective fence shall be erected around any retained trees and hedgerows in accordance with a scheme that has been submitted to and agreed, in writing, by the local planning authority. Within the areas fenced off the existing ground level shall be neither raised nor lowered, except in accordance with the approved scheme, and no materials, temporary buildings or surplus soil of any kind shall be placed or stored thereon. If any trenches for services are required in the fenced off area, they shall be excavated or back filled by hand and any roots encountered with a diameter of 25mm or more shall be left

unsevered. The fence shall thereafter be retained at all times during construction works on the site.

7. No work associated with the construction of the dwelling hereby approved shall be carried out before 0730 hours on weekdays and Saturdays nor after 1800 hours on weekdays and 1300 hours on Saturdays (nor at any times on Sundays or public holidays).
8. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the local planning authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority.

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revision	Rev.	Date	Description	Revised by
Project				

Proposed Dwelling on land behind
Orchard House, burgh By Sands

Drawing
LOCATION PLAN

Client
Mr & Mrs J Rust

LOCATION
ARCHITECTS
PLUS

Scale	Date	Drawn	Comp.No.	Number
1:1250@A409.17		DB	E01	17035-00

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