

SCHEDULE B

SCHEDULE B

Item No: 04

Between 27/01/2018 and 02/03/2018

Appn Ref No:
16/1021**Applicant:**
Carlisle Shopping Centre
Ltd**Parish:**
Carlisle**Date of Receipt:**
06/12/2016**Agent:**
GVA Grimley Ltd**Ward:**
Castle**Location:**
Globe Lane & Grapes Lane, The Lanes Shopping
Centre, Carlisle, CA3 8NX**Grid Reference:**
340158 556032**Proposal:** Installation of Security Shutters To Enclose Both Ends Of Globe Lane &
Grapes Lane (Retrospective)**Amendment:**

REPORT**Case Officer:** Richard Maunsell**Decision on Appeals:****Appeal Against:** Appeal against refusal of planning perm.**Type of Appeal:** Written Representations**Report:** A copy of the Notice of the decision from the Planning Inspectorate is
printed following the report.**Appeal Decision:** Appeal Allowed with Conditions **Date:** 05/02/2018

Appeal Decision

Site visit made on 17 January 2018

by Caroline Jones BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 February 2018

Appeal Ref: APP/E0915/W/17/3187373

The Lanes Shopping Centre, Carlisle CA3 8NX

- 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 Carlisle Shopping Centre Ltd against the decision of Carlisle City Council.
 - The application Ref 16/1021, dated 22 November 2016, was refused by notice dated 11 August 2017.
 - The development proposed is installation of security shutters across either end of Globe Lane and Grapes Lane.
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Decision

1. The appeal is allowed and planning permission is granted for installation of security shutters across either end of Globe Lane and Grapes Lane at The Lanes Shopping Centre, Carlisle CA3 8NX in accordance with the terms of the application, Ref 16/1021, dated 22 November 2016 and the plans numbered 13059-59B, 13059-60B, 13059-61A, 13059-62A, 13059-63, subject to the following condition:
 - 1) Development insofar as it relates to shutters 1 and 3a and their associated infrastructure as shown on drawing nos. 13059-59B and 13059-60B together with the additional lighting and CCTV coverage for Shutter 3 highlighted in the Supporting Statement received 27th April 2017 shall commence within 3 months from the date of this decision and shall be implemented in full before Grapes Lane can be closed to the public between the hours of 1900 and 0700.

Preliminary Matters

2. I saw at my site visit that 4 shutters were already in place in locations shown as shutter 1, 2, 3 and 4 on the plan Ref 13059-59B. At the time of my visit, which was around midday on a weekday, the shutters were open and I was only able to see the housing. However, photographs of the shutters in their closed position have been provided in the appeal. During the application and following advice from the police, the plans were amended to show a revised position for shutter 1 and an additional shutter to be placed at the eastern end of Grapes Lane, shown as Shutter 3a which would be closed after KFC ceases trading at 2100. I have determined the appeal on the basis of these plans.
3. A number of representations have been received relating to the routes along Globe Lane and Grapes Lane being '**deemed**' rights of way or dedicated as a highway. Matters relating to the above are dealt with by separate legislation

and are not a matter for consideration in the context of an appeal made under section 78 of the Town and Country Planning Act 1990 (the 1990 Act).

4. Having regard to the definitive map, neither Grapes Lane nor Globe Lane are recorded as a public right of way. It has been brought to my attention that Cumbria County Council, as the relevant authority, has received an application under Section 53 of the Wildlife and Countryside Act 1981 claiming two public rights of way along Grapes Lane and Globe Lane. However, at the time of writing my decision their status has not altered and such an application would be unaffected by my determination of this appeal.
5. A small section of a public right of way at the western end of Globe Lane would be affected by the development. According to the Officer's Report, approximately 5m of this right of way would be extinguished (albeit only during the evening and night) as a result of the development. However, whilst the effect on a public right of way is a material consideration in the determination of applications for planning permission, the extinguishment of a public right of way is not a matter to be determined in an appeal made under section 78 of the 1990 Act. Such an order must be made by an order making authority under section 118 of the Highways Act 1980 or section 247 or 257 of the 1990 Act. The grant of planning permission does not entitle developers to obstruct or close a public right of way and it cannot be assumed that because planning permission has been granted that an order, for the extinguishment of the right of way, will invariably be made or confirmed. 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, unless or until the necessary order has come into effect.

Main Issue

6. The effect of the development on the vitality, viability and accessibility of Carlisle City Centre.

Reasons

7. The development comprises the installation of shutters at the eastern and western end of Globe Lane and Grapes Lane which has the effect of preventing access to the public between 1900 and 0700 (with the exception of Shutter 3a which would close at 2100). The appellant states that this is necessary to secure the protection of the shopping centre and its staff against threats to their safety and security in the evenings when it is closed.
8. The appellant argues that there has been a significant increase in anti-social behaviour and rough sleeping at the centre in the evenings. Despite the use of CCTV the centre offers a sheltered environment with limited opportunities for natural surveillance. An incident log has been provided which shows a general increase in the number of incidents from 2006 to 2017 with 137 incidents logged between January and September 2017. Incidents vary and include, amongst other things, anti-social behaviour and vandalism. The majority of the incidents took place outside normal trading hours of 1800 and 2200.
9. A number of letters of support have been received including from those who work within the centre and those who live in the attached flats at Hodgson's Court. The Residents Association for the flats have commented that there has been a noticeable difference in noise and disturbance for its residents following the installation of the shutters on Grapes Lane. Cumbria Constabulary is also

generally supportive of the closure of the shopping centre outside normal shopping hours that would reduce crime and antisocial behaviour in the area. They dealt with 135 calls in a 12 month period between 2015 and 2016 in and around the area.

10. Policy SP4 of the Carlisle District Local Plan (2016) (LP) aims to support the vitality and viability of Carlisle City Centre as the principal focus for comparison retail within the District. Amongst other things, it states that development proposals within the city centre should improve connectivity specifically with regards to increasing pedestrian and cycle permeability and accessibility. Policy SP9 of the LP states that in order to ensure all developments should contribute to enhanced health and wellbeing outcomes through, amongst other things, encouraging development proposals which maximise the opportunity for walking and cycling creating a high quality and inclusive environment. The Council is concerned that the installation of the shutters has reduced pedestrian activity and connectivity in the city centre which is detrimental to residents, business and tourists.
11. Pedestrian access is only restricted during the evening and night. There are no restrictions to access through The Lanes during the day. Furthermore, whilst I note concerns about the closure of the routes through the shopping centres splitting the city centre in half, there are alternative routes via Bank Street and Drovers Lane to the north and south of the shopping centre. I was able to walk these routes at my site visit and agree with the Planning Officer that any increase in journey time would not be considerable. Furthermore, I saw nothing to persuade me that these routes are unattractive or imperceptible. Whilst the alternative routes might be a slight inconvenience, the closure of Grapes Lane and Globe Lane would not restrict connectivity between Lowther Street and Scotch Street altogether.
12. Furthermore, the principle behind Policy SP4 is to support the vitality and viability of the city centre and Policy SP9 also requires development that creates a safe and accessible environment. Anti-social behaviour and crime and also the fear of crime can have a detrimental impact on the vitality and viability of town centres both from a visitor and investor perspective. I note that anti-social behaviour and crime is not confined to the shopping centre alone and recognise that measures such as CCTV can help to reduce incidents. I also recognise that the Police also have powers to control such disturbances. Nonetheless, the shopping centre has CCTV in place already this has not prevented incidents occurring. To my mind, such incidents are not insignificant in number and the Police are supportive of the proposals and their effect on reducing anti-social behaviour and crime. I consider that the shutters and the closure of The Lanes to the public outside of normal shopping hours would have the effect of reducing opportunities for anti-social behaviour and crime within the shopping centre and consequently the fear of crime for those working in the centre late at night or those who live nearby.
13. I note that the County Council as the relevant authority has not raised any objection to the development in relation to the extinguishment of the small section of the right of way on Globe Lane and having regard to the evidence before me I have no reason to come to a different view on this matter. That said, as referred to above, my findings in this regard do not affect any application for such an extinguishment which would be considered on its own merits, notwithstanding this decision.

14. Therefore, on the basis of the evidence before me, I consider that the benefits to the vitality and viability of the shopping centre by reducing the opportunity for crime and disorder and its consequent effect of reducing the fear of crime would outweigh the slight inconvenience of having to take an alternative route around the centre during the evening and night. Given these alternative routes, the accessibility and permeability though the city centre is not materially harmed and there is no compelling evidence before me that that this has led to a decline in the night time economy within the city centre or that has had a detrimental impact on other businesses, the historic quarter, the maintenance of listed buildings or tourism in the area.
15. For the aforementioned reasons, I conclude that the development does not have a detrimental impact on the vitality, viability and accessibility of Carlisle City centre and thus I find no conflict with the aims of Policy SP4 and SP9, the objectives of which are outlined above.

Other Matters

16. The site lies within the City Centre Conservation Area (CCCA) and there are a number of listed buildings in the locality. The significance of the CCCA is derived from the architectural quality of its buildings and their historical significance and the listed buildings relate primarily to the age, form and historic fabric of the buildings. I note that the Council does not consider that the proposal would have an adverse effect on the setting of the listed buildings or the character and appearance of the CCCA given the modern appearance of the shopping centre and the design and recessed nature of the shutters. Given the above and the intervening distance with the listed buildings, I agree with the Council that the proposal would not materially harm the character or appearance of the CCCA or the setting of the nearby listed buildings. Hence, both the setting of the nearby listed buildings and the character and appearance of the CCCA would be preserved.
17. In reaching my decision I have had regard to the numerous representations received both in objection to and in support of the development. Those relating to rights of way I have dealt with above. The Council has not raised any objections to the design of the shutters or their impact on the character and appearance of the area in general and I have no reason to come to a different view. The fact that the shutters were installed without permission is not a reason in itself to dismiss the appeal. The development should be judged against material planning considerations. I have considered the argument that grant of planning permission would set a precedent for other similar developments. However, no directly similar/comparable sites to which this might apply were put forward. Each application and appeal must be determined on its own merits and a generalised concern of this nature does not justify withholding permission in this case.
18. I acknowledge that anti-social behaviour and crime are likely to occur outside the shopping centre as well as inside and that not all incidents occur once the shops are closed. However, the shutters have been installed to deal specifically with such incidences from occurring within The Lanes once the shops are closed and it is on this basis that I must consider the appeal. There is no compelling evidence to suggest that the closure of the shopping centre would result in the transfer of this behaviour elsewhere. Whilst it is suggested that there are devices that can prevent people from congregating, no details about such a

device has been provided. There is no reason for me to question the validity or the extent of the incidents recorded. I note that a consultation document to tackle antisocial behaviour has been produced, although I have not been provided with a copy. However, it cannot be assumed that this will ultimately resolve the issues that the owners of the shopping centre are currently facing. The appellant acknowledges that it is the particular characteristics of the shopping centre that lends itself to attract such behaviour, particularly given the lack of natural surveillance. It may be the case that the fast food outlet is a magnet for such incidents and that these incidents have increased despite the installation of the shutters, however, the appellant has proposed increased CCTV coverage, lighting and an additional shutter in this area.

19. I have had regard that the lanes within the city centre are historic and the original concept and design of the shopping centre acknowledged linkages from Lowther Street to Scotch Street. These linkages would still be retained through the day when the shops are open as part of the original design concept. Their closure during the evening and night is not sufficient reason to dismiss the appeal on this basis.
20. I note the suggestions of alternative closing hours and the opening up of vacant units for the homeless. However, I must determine the appeal on the basis of what is before me. It may be the case that there are other vacant units within the town centre and that anti-social behaviour and crime is not the only reason why the shopping centre has empty units. However, the appellant has submitted compelling evidence that crime and disorder is an issue for the shopping centre and this in turn is likely to have an impact on investor confidence and the ability to let out units in future.
21. I note that the appellant had incorrectly stated in the application form that a right of way would not be affected. However, it is clear from the information before me that the appellant is aware of the extinguishment of a 5m section as a result of the development. The Counter Terrorism Security Advisor states **that the deployment of shutters would contribute to the 'lock down' procedures** during a threat from outside the centre and I have no reason to take a different view.
22. I cannot take into consideration the frustrations expressed regarding the application for East Tower Lane. I must confine my consideration to the appeal scheme before me. In any case, each application and appeal must be determined on its own merits. Those concerns relating to the reputation of the developer, their future intentions for the shopping centre or the lease are not planning matters and have no bearing on the planning merits of the scheme.
23. Having regard to the public sector equality duty, I have borne in mind the need to eliminate discrimination; advance equality or opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it. However, I do not consider that any persons would suffer a disadvantage if planning permission is granted, as I saw nothing at my site visit that indicated the alternative routes would not be suitable for the elderly or those with a disability. Both routes have footpaths of normal width and both are lit.

Conditions

24. As the development has already commenced it is not necessary for the standard time limit to be imposed. Similarly, as the development has been carried out (notwithstanding minor variations proposed) I have not imposed a condition requiring that the development is carried out in accordance with the plans. I have, however, referred to the relevant plans in the formal decision.
25. The minor changes proposed to shutter 1 and 3a can be secured by condition and are necessary in order to reduce the opportunities for crime and anti-social behaviour that the development as existing has the potential to increase. I have imposed that suggested by the Council albeit with slight variation in wording having regard to the tests in paragraph 206 of the National Planning Policy Framework and guidance within Planning Practice Guidance (PPG). The PPG states that conditions requiring development to be carried out in its entirety will fail the test of necessity by requiring more than is needed to deal with the problem they are designed to solve. Such a condition is also likely to be difficult to enforce due to the range of external factors that can influence a decision whether or not to carry out and complete a development. The amended wording will ensure that Grapes Lane will not be closed to the public until shutter 1 is relocated and shutter 3a is installed together with the increased CCTV and lighting.

Conclusion

26. For the reasons given above and taking all matters raised into account, I conclude that the appeal should be allowed.

Caroline Jones

INSPECTOR

SCHEDULE B: Applications Determined by Other Authorities

Item No: 05

Between 27/01/2018 and 02/03/2018

Appn Ref No:

17/9012

Applicant:

Health Care and
Community Services

Parish:

Carlisle

Date of Receipt:

23/08/2017

Agent:

Cumbria County Council -
Development Management

Ward:

Morton

Location:

Former Morton Park Primary School, Burnrigg,
Carlisle, CA2 6QH

Grid Reference:

338217 554486

Proposal: Variation Of Condition 3 (Approved Documents) Of Previously Approved
Permission 17/9003/CTY

Amendment:

REPORT

Case Officer: Stephen Daniel

City Council Observations on the Proposal:

Decision: City Council Observation - Raise No Objection **Date:** 18/10/2017

Decision of: Cumbria County Council

Decision Type: Grant Permission

Date: 29/01/2018

A copy of the Notice of the decision of the Determining Authority is printed following the report.

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

Notice of Planning Permission

To: Cumbria County Council
Parkhouse Building
Kingmoor Business Park
Carlisle
CA6 4SJ

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 18 August 2017.

viz: Section 73 application for variation of design (Condition 3) of the approved scheme of Planning Permission Ref.1/17/9003 for a new Care Home

Carlisle Care Home, Burnrigg, Carlisle, CA2 6QH

Subject to due compliance with the following conditions:

NOTIFICATION OF COMMENCEMENT OF USE

1. The County Planning Authority shall be notified of the commencement date of occupation of the new build, within 7 days of such commencement.

REASON: To enable the County Planning Authority to monitor the development to ensure compliance with this permission.

APPROVED SCHEME

2. The development hereby permitted shall be carried out, except where modified by the conditions to this permission, in accordance with the following:
 - a. The submitted Application Form – dated 10 August 2017;
 - b. The Design and Access Statement – Ref - dated August 2017;
 - c. Plans numbered and named:
 - i) Location Plan 6421-S1 L(00) 01, Revision 5, dated 9/1/2017;
 - ii) Existing Site Plan (03), Ref P6421S1 L(00) 05 Rev. 3 - dated 9 January 2017;
 - iii) Proposed Site Plan 0003420-GDA-V1-ZZ-DR-A-05_20-0003_CO2, received on 22 December 2017;
 - iv) Proposed Landscaping Plan 0003420-GDA-V1-ZZ-DR-A-05_20-0002-C05, received on 22 December 2017;
 - v) Proposed Ground floor Plans GDA-V1-GF-DR-A-05_20-0001_C02, received 22 December 2017;
 - vi) Proposed Elevations GDA-V1-ZZ-DR-A-05_20-0005-P10, received on 22 December 2017;
 - vii) Proposed first floor plans GDA-V1-01-DR-A-05_20_C02, received on 22 December 2017;
 - viii) Proposed roof plan GDA-V1-R1-DR-A-20_00-0001_C02, received on 22 December 2017;
 - ix) Proposed site sections, GDA-V1-ZZ-DR-A-05_20-0012_P05, received 22 December 2017;
 - x) Proposed overall elevations, GDA-V1-ZZ-DR-A-05_20-0004_C03, received on 22 December 2017.

- d. The details or schemes approved in accordance with the conditions attached to this permission.

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

CONSTRUCTION PHASE

3. No site construction work, delivery or removal of materials shall take place on the site outside the hours of:
07:30 to 18:00 Monday to Fridays (except Public Holidays)
08:00 to 13:00 Saturday
No site construction work, delivery or removal of materials shall take place on Sundays; Bank Holidays and other Public Holidays.

REASON: To ensure the construction is carried out in accordance with the approved scheme and to minimise impacts upon the amenities of nearby residents, in accordance with Policy CM 5 of the Carlisle District Local Plan 2015-2030.

4. The construction phase of the development shall be carried out in accordance with the Construction Management Plan dated 26 September 2017.

REASON: In order to minimise impacts on residential and environmental amenity, in accordance with Carlisle Local Plan policy CM5

5. The approved Construction Environmental Management Plan dated 22 June 2017 shall be implemented in full from the commencement and throughout the duration of the construction phase of the development.

REASON: To ensure that traffic is managed in accordance with the approved scheme in the interests of highway safety and residential amenity.

6. 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 as soon as possible to the County Planning Authority and in any event within 24 hours the contamination is identified. Development on that part of the site where contamination has been identified shall be halted until a risk assessment has been submitted to and approved in writing by the County Planning Authority. Where unacceptable risks are found, remediation and verification schemes to include the following shall be submitted:
- an appraisal of remediation options;
 - identification of the preferred options;
 - the proposed remediation objectives and remediation criteria;
 - a description and programme of works to be undertaken, and
 - The provision of a verification plan for submission on the completion of the development.

The approved remediation scheme shall thereafter be implemented in full.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with Carlisle Local Plan Policy CM 5.

SITE LEVELS

7. No development shall commence until details of all building(s)/structure(s) including finished site and ground floor level in relation to existing site levels and adjoining land and buildings have been submitted to and approved in writing by the County Planning Authority. The details shall include the proposed grading and mounding of land areas, cross sections through the site and relationship with the adjoining landform and buildings. The development shall thereafter be carried out in accordance with the approved details.

REASON: To ensure the development is constructed in accordance with the approved scheme.

ACCESS AND HIGHWAYS

8. No development shall commence on site until details of the design, layout, construction, and drainage (to include longitudinal/cross sections), and visibility splays and kerb radii at the site access and egress) of the following elements of the development have been submitted to and approved in writing by the County Planning Authority:
 - i. The proposed site access and egress, to include visibility splays and kerb radii; positioning of access/egress gates, and details of the proposed crossings of the highway verge/footway;
 - ii. The proposed internal accesses, footways and parking and servicing areas;
 - iii. The proposed road widening and new footpath provision along Burnrigg as shown on the Proposed Site Plan – Carlisle; Drawing No. P6421- S1L(00) 03 Rev8, dated 9 January 2017, and
 - iv. Hardening of verges for a minimum length of 30m opposite the proposed new site egress (Note: the site egress is shown on the Proposed Site Plan – Carlisle; Drawing No. P6421-S1 L(00) 03 Rev8, dated 9 January 2017).

The approved details shall thereafter be implemented in full and prior to the occupation of the building.

REASON: To ensure a minimum standard of construction in the interests of road safety and to safeguard the amenity of local residents, in accordance with Carlisle Local Plan Policies IP 2 and IP 3.

9. There shall be no vehicular access to or egress from the site other than those shown on Proposed Site Plan – Carlisle; Drawing No. P6421-S1 L(00) 03 Rev8, dated 9 January 2017.

REASON: To avoid vehicles entering or leaving the site by an unsatisfactory access or route, in the interests of highway safety.

10. Access gates shall be hung to open inwards only away from the highway, be recessed no less than 4.5m as measured from the carriageway edge of the adjacent highway and shall incorporate 45 degree splays to each side.

REASON: In the interests of highway safety.

11. The measures identified in the Framework Travel Plan shall be implemented within 9 months of the building being brought into use. Within 12 months of the building being brought into use the Framework Travel Plan shall have been developed into a Full Travel Plan and submitted to the County Planning Authority for approval. This submission shall include the baseline travel survey; evidence that measures specified in the Framework Travel Plan to achieve modal shift away

from the use of private cars have been carried out, and set targets to be used as benchmarks for the forthcoming Annual Review Reports.

REASON: To aid in the delivery of sustainable transport objectives in accordance with Carlisle Local Plan Policy IP 2.

12. Following the approval of the Full Travel Plan, Annual Review Reports reviewing its effectiveness, including any amendments or measures to achieve targets, shall be prepared by the applicant/occupier and submitted each Easter to the County Planning Authority for approval. Any measures identified by the County Planning Authority as being required shall be implemented before the commencement of/during the following year as may be required by the County Planning Authority, and be continued for the operational life of the care home hereby approved.

REASON: To aid in the delivery of sustainable transport objectives in accordance with Carlisle Local Plan Policy IP 2.

13. No development shall commence until a detailed scheme for surface and foul water drainage (inclusive) has been submitted to and approved in writing by the County Planning Authority. The submitted scheme must demonstrate the following:
- i. That it has taken into account an assessment of the existing site conditions;
 - ii. That it has considered the hierarchy of drainage options set out in the National Planning Practice Guidance (NPPG; March 2014);
 - iii. That it is in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards;
 - iv. That in the event of surface water run-off from the development draining to the public surface water sewer, the pass forward flow rate to the public surface water sewer would be restricted to a maximum of 6.5l/s;
 - v. Method of connection to any watercourse;
 - vi. Separation of foul and surface water drainage, and
 - vii. Details of the maintenance and future management regime after completion, for the lifetime of the development, to include:
 - a. Arrangements for adoption by an appropriate public body or statutory undertaker, and
 - b. Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime.

The drainage scheme shall be installed in accordance with the approved details prior to the occupation of the building and shall thereafter be maintained and managed in accordance with the approved details.

REASON: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution, in accordance with Carlisle Local Plan Policies CC 4 and CC 5.

14. No development shall take place on the site above foundation level until details of the lighting scheme for the development [including siting and design (colour, style, size); details of all lamps and lux levels (including light spread diagrams showing lux levels at the site boundary and calculation of the impacts of these on nearby residential properties), and hours of illumination] has been submitted to and approved in writing by the County Planning Authority. The lighting shall thereafter be provided in accordance with the approved details.

REASON: To ensure that external lighting does not cause light pollution to nearby residents or negatively impact upon nature conservation interests, in accordance with Carlisle Local Plan Policies SP 6 and GI 3.

LANDSCAPING, DESIGN & EXTERNAL DETAILS

15. The landscaping scheme shown on the Proposed Landscaping Plan – Carlisle; Drawing No. P6421-S1 L(00) 02 Rev5, dated 9 January 2017 shall be implemented within the first available planting season following completion of the construction phase of the development.

REASON: To secure the satisfactory establishment and maintenance of a landscaping scheme in the interests of local and residential amenity.

16. No development shall take place on the site above foundation level until details of additional landscaping to be provided on the boundary between the proposed parking areas and the neighbouring residential properties has been submitted to and approved in writing by the County Planning Authority. The details shall include proposed tree and shrub species mix, planting size, location, protection and maintenance of proposed planting. When approved, the landscaping shall be undertaken in accordance with the approved details and within the first available planting season following completion of the construction phase of the development.

REASON: To secure the satisfactory establishment and maintenance of a landscaping scheme in the interests of local and residential amenity.

17. The landscaping scheme and the additional landscaping shall be maintained for a minimum period of five years from the date of planting. Any trees or shrubs which die or become seriously damaged or diseased within five years of planting shall be replaced with plants of the same species or such species as may otherwise be agreed with the County Planning Authority.

REASON: To secure the satisfactory establishment and maintenance of a landscaping scheme in the interests of local and residential amenity.

18. No development shall take place on site above foundation level until:
- i. samples of all external materials and finishes to be used on the building;
 - ii. samples of all materials and finishes to be used for the hard landscaped areas, including paving and pathways, and
 - iii. details (style, colour and finishes/materials) of all boundary treatments, including fences - metal and wooden, walls, gates and railings; have been submitted to and approved in writing by the County Planning Authority.

The development shall thereafter be carried out in accordance with the approved details.

REASON: To ensure the construction is carried out in accordance with the approved scheme, and in the interests of visual and residential amenity, in accordance with Carlisle Local Plan Policy SP 6.

NATURE CONSERVATION

19. The Weeping Willow tree (identified as T1 TPO on Figure 3.1 Tree Categories in the Tree Method Statement, undertaken by OpenSpace; dated January 2017) shall not be felled until a licensed bat ecologist has overseen a pre-felling climbing inspection of the tree to establish the presence or otherwise of bats. In the event bats are present the tree shall not be felled until such time as the bats have been relocated in accordance with a bat licence from Natural England.

REASON: To ensure compliance with the Conservation of Habitats and Species Regulations 2010 (as amended), and to accord with Carlisle Local Plan Policy GI 3.

20. No trees, bushes or hedges within the development site shall be removed, lowered or pruned during the bird nesting season between March and August inclusive. If such works cannot be undertaken outside this time period, a suitably qualified ecologist must be present to oversee all vegetation removal and, if appropriate, an exclusion zone set up around any vegetation to be protected. No works shall be undertaken within the exclusion zone until the birds and any dependent young have vacated the area.

REASON: To protect nesting birds during the bird nesting season in order to deliver no net loss of biodiversity through compliance with the NERC biodiversity duty as reflected in Carlisle Local Pan Policy GI 3.

21. No development shall commence on site until fencing, in accordance with BS5837: 2012 for the protection of trees to be retained on site, and the other precautionary measures as set out in Section 4 of and the Tree Protection Plan (dated 9 January 2017) contained in the Tree Method Statement, undertaken by OpenSpace; dated January 2017 have been provided. The protective measures shall be retained throughout the construction phase of the development and thereafter removed from site prior to the occupation of the building.

REASON: To protect and preserve existing trees within the site and to ensure no net loss of biodiversity through compliance with the NERC biodiversity duty as reflected in Carlisle Local Pan Policy GI 3.

22. All bird and bat boxes and wildflower and tree habitat creation shall be provided in accordance with the Proposed Landscaping Plan – Carlisle; Drawing No. P6421-S1 L(00) 02 Rev5, dated 9 January 2017 before the building is brought into use.

REASON: In order to ensure no net loss of biodiversity through compliance with the NERC biodiversity duty as reflected in Carlisle Local Pan Policy GI 3.

USE OF THE BUILDING

23. The building shall not be used for community purposes by the local community between 21:00 hours and 08:00 hours.

REASON: To safeguard residential amenity in accordance with Carlisle Local Pan Policy HO 12.

Dated 29 January 2018

Signed: Angela Jones
Assistant Director of Economy & Environment
on behalf of Cumbria County Council.

NOTES

- The local planning authority has worked with the applicant/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?applicationNumber=1/17/9012
 - The conditions attached to this permission may override details shown on the application form, accompanying statements and plans.
 - Submissions to discharge planning conditions require a fee and any approval given in relation to these shall be issued in writing.
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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. The County Council regularly shares information with other authorities. Failure to comply with other regulatory regimes may result in prosecution.
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.
3. The attention of the person to whom any permission has been granted is drawn to Sections 7 and 8A of the Chronically Sick and Disabled Persons Act 1970 and to the Code of Practice for Access of the Disabled to Buildings or any prescribed document replacing that code.
4. Any application made to the Local Planning Authority for any consent, agreement or approval required by a condition or limitation attached to a grant of planning permission will be treated as an application under [Article 27](#) of [The Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#) and must be made in writing. A fee is payable for each submission. A single submission may relate to more than one condition.