

## SCHEDULE A: Applications with Recommendation

21/0014

Item No: 03

Date of Committee:

**Appn Ref No:**  
21/0014

**Applicant:**  
Mr I Whittaker

**Parish:**  
Castle Carrock

**Agent:**  
CH Design

**Ward:**  
Brampton & Fellside

**Location:** Land to north of Tarn Lodge Farm, Heads Nook, Brampton

**Proposal:** Siting Of 4no. Holiday Lodges & 2no. Pods Together With Landscaping, Newt Ponds, A Sealed Foul Water Drainage System, Access Track & Parking (Revised Application)

**Date of Receipt:**  
11/01/2021

**Statutory Expiry Date**  
08/03/2021

**26 Week Determination**

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### REPORT

**Case Officer:** Suzanne Osborne

#### 1. Recommendation

1.1 It is recommended that this application is refused.

#### 2. Main Issues

- 2.1 The principle of development;
- 2.2 Whether the scale and design is acceptable and the impact of the proposal on the landscape character of the area;
- 2.3 Impact upon the living conditions of neighbouring properties;
- 2.4 Highway impacts;
- 2.5 Impact upon public footpaths;
- 2.6 Impact upon the setting of listed buildings;
- 2.7 Impact upon trees;
- 2.8 Impact upon biodiversity;
- 2.9 Impact upon drainage; and
- 2.10 Other matters.

#### 3. Application Details

##### The Site

- 3.1 This application relates to a parcel of land 2.70 hectares in area located approximately 134 metres to the north of Tarn Lodge Farm, approximately 232 metres to the north of Tarn Lodge and 0.79km west of Castle Carrock village. The land is focused around a tarn and associated boathouse which is within private ownership. The site is situated within a landscape hollow, is heavily wooded and includes an existing access track through farmland to the east which links with the road junction of the C1024 and the C1039. The topography of the existing access track is undulating with the land sloping up from the road junction then back down towards the entrance to the tarn.
- 3.2 The application site has no specific designation within the Carlisle District Local Plan 2015-2030. There is no public access to the tarn or the surrounding woodland however Public Right of Way No.110006 runs along the western periphery of the site, starting at Tarn Lodge Farm/Tarn Lodge to the south and ending at Hayton Moss Wood to the north-west (which is also within the ownership of the applicant). The nearest listed buildings are Tarn Lodge and a Tower Folly which is located on a hill to the north of Tarn Lodge. Both of these buildings are Grade II Listed, surrounded by woodland and are located approximately 196 and 120 metres respectively from the most southern boundary of the application site.

## **Background**

- 3.3 In 1994 full planning permission was granted for the erection of 6no.self catering lodges around the tarn (reference 94/0524). Although this application has never been implemented it is still a material planning consideration in the determination of the current application.
- 3.4 In 1995 under application 95/0039/AGD prior approval was given for the formation of a new access and track which linked the tarn to the wood at Hayton Moss to the north-west.
- 3.5 In October 2018 a planning application was submitted (reference 18/0931) for the siting of 16no.holiday lodges and the installation of a waste water treatment system around the tarn. During consideration of the application a number of issues were raised and the application was subsequently withdrawn in order to undertake further ecological survey work which could not be undertaken at the time of the application submission.
- 3.6 During the course of dealing with application 18/0931 a third party submitted evidence to Natural England that indicated that the woodland subject of this application could be ancient. Natural England's Ancient Woodland Specialist has since confirmed that there has not been sufficient evidence submitted to support the ancient woodland application therefore the site cannot be classified as ancient woodland.
- 3.7 On the 7th June 2019 Members of the Development Control Committee considered the confirmation of Tree Preservation Order 302 on the land subject of the current application in light of representations to the making of the Tree Preservation Order. Members resolved not to confirm Tree

Preservation Order 302 as it was considered that the placing of a woodland tree preservation order was not appropriate as the site is a well managed woodland with a management plan under the jurisdiction of the Forestry Commission.

- 3.8 In May 2020 an application was submitted (reference 20/0237) seeking full planning permission for the siting of 6no.holiday lodges and 2no.pods together with landscaping, waste water treatment system, access track and parking. Application 20/0237 was however withdrawn prior to determination.
- 3.9 Members should be aware that during the course of dealing with application 20/0237 it came to light that some of the trees on site have now been identified as notable/veteran trees on the Woodland Trust Ancient Tree Inventory.
- 3.10 Members should also be aware that during the course of dealing with application 20/0237 a third party request was made to Historic England that the land to the north of Tarn Lodge should be added to the Register of Parks and Gardens of Special Historic Interest in England. Historic England considered this request and completed an assessment of the site based on the material provided and on the 15th June 2020 decided not to add landscape park, including lake and pleasure grounds, north of Tarn Lodge, Castle Carrock to the register at this time. Paragraph 6.56 of this report goes into more detail as to why the site was not recommended for registration.

## **The Proposal**

- 3.11 The current application seeks Full Planning Permission for the siting of 4no.holiday lodges and 2no.pods together with landscaping, newt ponds, a sealed foul water drainage system, access track & parking.
- 3.12 The submitted plans illustrate that the proposed 4no. holiday lodges and 2no.pods are to be sited around the northern banks and slopes of the tarn. The holiday lodges will comprise of 2no.2 bed lodges and 2no.3 bed accessible lodges constructed from horizontal boarded timber (larch) walls, aluminium windows and doors under a planted roof system with natural finish fascia boards to match cladding to walls. Each lodge will have a timber decked area with glass balustrading and will sit on stilts. The 2 bed lodges will have a footprint of 145m<sup>2</sup> (including the decked areas) and will have living room/kitchen/diner, bathroom and 2no.bedrooms (1 en-suite). The three bed lodges will have a footprint of 170m<sup>2</sup> (including the decked areas) and will have a living room/kitchen/diner, bathroom and 3no.bedrooms (1 en-suite) . Both lodge types will have an eaves height of 3.3 metres and a ridge height of 5.35 metres.
- 3.13 The proposed pods will be 1.bed and will have a footprint of 22.24m<sup>2</sup> and a total height of 2.85m. They will be constructed from timber boards under a britmet tiled curved roof. The submitted plans illustrate that the pods will have a shower room as well as a kitchenette, bed and living area.
- 3.14 The existing vehicular access track to the site will be upgraded so that it is 3

metres wide, with a passing place. 11no.parking spaces, including 2no.DDA compliant parking spaces are to be provided on the southern side of the upgraded access track with screen planting adjacent. The access track will be constructed from gravel however the parts of the track which are within the root protection areas of trees (the last 150 metres) will be constructed from a geocell/cell web grid system which will be gravel filled. An internal access path within the site from the main access track to the holiday lodges is also to be provided and will be constructed from a geotextile membrane.

- 3.15 A number of documents accompany the submitted application namely a Planning Statement, Site Management Statement, copy of the Woodland Management Plan, Heritage, Design and Access Statement, Ecological Assessment, Reptile Survey, Arboricultural Impact Assessment, Arboricultural Method Statement, Drainage Strategy Statement, Speed Surveys, letters to Cumbria Highway Authority and a letter in response to the Woodland Trust Consultation.
- 3.16 The application is also accompanied by a Planting Plan, Visibility Plan, Proposed Surface Water Drainage Plan and Proposed Foul Water Drainage Plan.

#### **4. Summary of Representations**

- 4.1 This application has been advertised by the display of a site notice, press notice and by means of notification letters sent to 44 neighbouring properties/interested parties. In response to the consultation 43 objections have been received (9 of which are from occupiers of the same properties).
- 4.2 The representations received in respect of the application have been reproduced in full for Members however a summary of the objections raised, which cover a number of matters, are as follows:

##### **Principle**

1. No identified need for the development;
2. not on recognised walking/cycling routes;
3. no meaningful support to the rural economy;
4. development not sustainable and accessible to all - will increase car travel and is not on public transport routes, not accessed by a choice of transport; and does not meet challenge of climate change;
5. holiday accommodation already abundant in the area;
6. no local amenities and no safe walking route;
7. a 27 year lapsed application does not justify the application and there is no precedent principle in planning law;
8. no benefit to the locality only the landowner;
9. site not suitable for development by an absentee land owner;
- 10 introduction of 24+ people is like building a small village;
11. applicant does not live locally and is not a farmer wanting to diversify;

##### **General Comments**

12. does not secure good design or respect/enhance local character, landscape, natural, built or historic environment;
13. scale, character and materials not sympathetic;
14. not well related to existing group of buildings or are repurposed buildings;
15. parking areas will be visible and unsightly;
16. site is dangerous for children;
17. must be less sensitive sites;
18. development would put people off living in the area;
19. potential trespassing on adjacent farm land and associated health and safety impacts;
20. air pollution from log burners, litter pollution and dog faeces;
21. Councillors should undertake a site visit;
22. this is a third application for the site and should be rejected;
23. adverse impact upon adjacent land users;
24. does not comply with CDLP policies SP1, SP2, SP6, SP7, HE3, EC9, EC10, EC11, IP2, IP3, IP6 and GI3 GI6 or NPPF;
25. application does not comply with policies DEV5, DEV2, DEV3 of Eden Council's Local Plan
26. allegations applicant has tried to influence independent ecological review;

## **Biodiversity**

27. query regarding timing of surveys undertaken and surveys not being in accordance with best practice;
28. allegations that reptile survey was not undertaken by appropriate persons;
29. no bat survey undertaken for the site which leads the application open to judicial review;
30. allegations that applicant has affected baseline of surveys and Great Crest Newt population on site by brush cutting near the tarn, intensive game and water fowl rearing;
31. statements that the site could be ancient woodland due to Bluebells present;
32. botanical surveys or phase 2 NVC botanical surveys should be submitted as there are other species associated with Bluebells and Bog Bean on site;
33. if works have been done to de-risk a site the baseline should be high;
34. concern no invertebrate survey has been undertaken as Tarn Lodge is the former home of a famous entomologist GB Routledge whose insect collection is at Tullie House;
35. loss of Biodiversity assets, environmental features, wildlife and habitats that cannot be mitigated;
36. no benefits to mitigate the loss of habitats and species;
37. biodiversity assets, priority habitats, European and nationally protected and priority species not protected or enhanced;
38. potential pollution risk and impact upon habitats and species from development including construction;
39. NBN Biodiversity Atlas includes thousands of records on site;
40. applicant has not managed invasive knotweed on site;
41. development contravenes Green Infrastructure Plan;

42. statements that CWT are of the opinion that the site is likely to meet the criteria as a Local or County Wildlife site;
43. allegations that Black headed Gulls, Greylag Geese and Shelduck nest on site. Beach trees were home to rare Wood Warbler, several owls and ducks use the area;
44. impact upon birds using the wet areas;
45. concern that an application will come to drain the water to remove biting insects from the site;
46. query as to who will monitor mitigation measures proposed;
47. Great Crested Newts on site are protected by law;
48. evidence of otter tracks a mile away from the development in the snow;
49. query as to whether DEFRA is aware of the site;
50. World Owl Trust object to the development;
51. concern that net gain cannot be measured without appropriate surveys; and disagree that net gain can be dealt with post decision ODPM Circular 06/2005 paragraph 99;
52. query as to whether net gain can be provided and statements that ancient woodland, ancient trees and veteran trees cannot be included in net gain calculations;
53. query accuracy of statements made in the independent ecologist report and that no site visit was made,
54. concern that reptile numbers and GCN will have reduced from introduction of ducks in the tarn.

### **Trees**

55. site is full of ancient trees, Ancient Tree Inventory shows 55 verified trees on site;
56. site will be degraded from pruning or felling veteran trees;
57. development will enter root protection areas and a number of trees may require removal;
58. root protection areas are underestimated as measurements for veteran trees are not used;
59. Woodland Management Plan confers no protection to trees;
60. no overriding social or economic need or benefit to outweigh loss;
61. failure by applicant to acknowledge the presence and importance of veteran trees on the site;
62. geocell technology has recognised negative impacts;
63. query validity and independence of independent tree report commissioned by the Council and how veteran status and impact upon trees has been assessed;

### **Highway Impacts**

64. Highway Authority on previous withdrawn applications raised concerns regarding visibility and junction safety confirming that visibility splays could not be achieved and no information was provided indicating that undulating of the road and hedge growth would not affect visibility ;
65. visibility splays of 215m based on a 60mph speed limit are not achievable due to the geometric characteristics of the public highway and Cumbria Highways have requested speed surveys to back up reduction in visibility

- length;
66. concern regarding different responses from the highway authority;
  67. speed of road must dictate that visibility splays of 215m should be used not 120m;
  68. concerns over validity and analysis of data in initial speed survey undertaken in May with some of survey days (6/7) ignored to reduce 85<sup>th</sup> percentile speed;
  69. concerns over validity and analysis of subsequent manual speed survey undertaken by the applicant ;
  70. concerns over validity of further speed survey undertaken in February 2022 with regard to analysis of data, how the 85<sup>th</sup> percentile speeds have been calculated, location of where the pneumatic tubes were placed, weather conditions, a highway diversion was in place which could of affected driver behaviour and results, speed survey company present on site, parked at the access location with headlights on and fluorescent yellow strips, may have inadvertently manipulated driver behaviour and allegations that the land owner also spent a number of hours driving slowly round;
  71. queries as to why speed surveys are allowed to be repeated and access is unchanged from previous applications
  72. statements and assumptions made from the applicants highway consultant are incorrect;
  73. Cumbria Highways have taken on board concerns from third parties and have requested the raw speed survey data from the applicant however this data has not been shared with third parties which leads to queries of Judicial Review as third parties have been denied the opportunity to analyse the raw data;
  74. highway safety concern regarding location of access adjacent to a junction and the intensification of use of the proposed access;
  75. allegations that existing access gate is not used often and has no tracks;
  76. allegations that there has been a number of road traffic accidents at the junction;
  77. concerns that movements at the existing junction and number of accesses near the junction could cause driver confusion and associated highway safety concerns;
  78. concern that 215m visibility splay requirements from Ringgate Road cannot be met due to undulations in the road and no speed survey or topographical survey has been carried out to check vertical and horizontal splays;
  79. visibility plan is inaccurate and does not take into account blind corner, undulations and obstructions (hedges);
  80. applicant does not own field and hedges within the visibility spay;
  81. development does not meet requirements of Policies LD7 and LD8 of the CDLP.

## **Heritage**

82. maps, sales particulars and testimonials evidence that the tarn is within the curtilage and setting of Grade II Tarn Lodge and Tower Folly;
83. Council's Conservation Officer supports view that the tarn is within the

- curtilage of heritage assets;
- 84. no change to site since the estate was formed;
- 85. original Georgian design layout, original planting scheme remain intact;
- 86. site has group value with heritage assets and is visible from both assets;
- 87. query quality and accuracy of the Heritage Statement submitted;
- 88. Tower Folly was constructed to over look the pleasure grounds, tarn and surrounding hills and commands a bird eyes view of the site;
- 89. development will have negative impact upon listed building and setting harming significance and economic viability;
- 90. Tarn Lodge is the former home of a famous entomologist G.B. Routledge;
- 91. Georgian Group and Garden Trust objects to the development of the tarn due to loss of designed landscape, relationship between heritage assets and impact upon setting, character and value;

### **Impact on amenity of residents**

- 92. potential noise, light, ground and water pollution from development and associated impacts on amenity of occupiers of residential properties in the locality;
- 93. queries regarding potential management of the site and adherence to the Site Management Plan in place; and
- 94. impact upon dark skies

4.3 An objection to the application has also been made by County Cllr Roger Dobson. The objection is summarised as follows:

- 1. small developments of holiday accommodation can be welcome as sources of tourist spend for local rural economy and employment is located sensitively, which is not the case here;
- 2. walked round the tarn and have appreciated its beauty;
- 3. tarn is a hidden oasis of wildlife and veteran trees largely untouched except for the introduction of ducks and pheasant breeding;
- 4. allowing development to proceed would be an act of ecological vandalism denying future generations the opportunity to appreciate such rare biodiversity;
- 5. access appears intrinsically unsafe given speed of vehicles.
- 6. tarn is an exceptionally beautiful haven for wildlife including rare species, largely untouched for centuries;
- 7. vital tarn is protected for future generations;
- 8. ironically whilst the tarn is under threat Cumbria County Council has been commissioned by DEFRA to pilot local nature recovery projects;
- 9. do not oppose holiday/leisure developments and supported a similar development that did not involve any risk to important habitat;
- 10. there is local concern regarding road safety at the access point;
- 11. disturbed by controversy over the authenticity of speed surveys;
- 12. cannot understand the apparent reticence to divulge raw data which residents and I personally want to see; and
- 13. there should be no dispute over the facts and transparency is of vital importance.

4.4 The Council for Protection of Rural England/Friends of the Lake District have also objected to the application. The representations received have been reproduced in full for Members however a summary of the objections raised, which cover a number of matters, are as follows

1. do not consider that the development would reflect the management guidelines of Landscape Type 5c Rolling Lowland or the objectives of Policy GI1 of the CDLP to protect landscape from inappropriate development;
2. impact upon the setting of the North Pennines Area of Outstanding Natural Beauty;
3. potential for light pollution and associated landscape/biodiversity concerns; if application is approved lighting should be kept to a minimum;
4. there should be little weight to previous applications;
5. significant number of trees in the woodland are identified on the Woodland Trust's Ancient Tree Inventory as 'Notable' or 'Veteran' trees. Whilst the ATI is largely collated by local recorders they have to submit their suggestions for corroboration by trained staff at the Woodland Trust as confirmed in their response;
6. there are specific provisions for the protection of Veteran trees in the NPPF and it is not the case that provisions can be met by simply not chopping the trees down as harm can also be indirect (trampling, vegetation clearance etc);
7. It is not possible to ascertain whether the proposal meets the NPPF as the ecological assessment states that 'TEP has not made an assessment of whether the recorded Veterans are actually Veterans'. Support the comments made by the Woodland Trust;
8. the Ecological Assessment acknowledges the site is Deciduous Woodland Priority Habitat but does not acknowledge indirect impacts such as noise, lighting etc. Natural England makes clear how priority habitats and ancient/veteran trees should be considered; and
9. paragraphs 193-196 of the NPPF cannot be met given the heritage impacts identified by The Gardens Trust and The Georgian Group. Harm against heritage assets needs to be weighed against public benefits. Not clear that private individuals using camping pods would amount to public benefits outweighing the harm.

## 5. Summary of Consultation Responses

**Local Environment - Environmental Protection (former Comm Env Services- Env Quality):** - no response received;

**Castle Carrock Parish Council:** - originally responded stating that comparisons to a previous planning approval on the site should be disregarded; no traffic surveys or records of accident history have been supplied and the Highway Authority's previous concerns must remain valid. Access is a dangerous junction which the Highway Authority has recognised in previous withdrawn applications associated with the site; proposal represents a significant impact in a vulnerable environment; insufficient objective information about how the application interacts and supports ecology in the landscape; queries as to whether the spirit of paragraph 5 of

Policy GI3 of the CDLP has been followed; mitigation is insufficient; queries as to what weight will a site management plan have and how will it be enforced; queries regarding level of detail submitted in the Site Management Statement; intensity of use in this location will inevitably have an impact on the environment and negative impact on surface water quality and groundwater quality; no detail on how general flora and fauna in this location will be safeguarded during construction phase; no proven need for the development or that it will provide significant employment or economic benefits; and proposal cannot be deemed sustainable.

Further responses from the Parish Council have also been received which are summarised as follows:

- access position and alignment relative to existing road junction have not changed during the course of this application which the Highway Authority objected to;
- if permitted, road users will have to assess traffic in the vicinity of this junction in its entirety, not assess which road a vehicle may be travelling on and whether it is safe to discount it;
- given historic objections from the Highway Authority, two conflicting reports from highway specialists and the Highway Authorities latest letter an objective traffic assessment should be made;
- site can not be considered sustainable;
- ecology surveys have not been done in accordance with best practice;
- it is possible to protect the habitat of the site by refusing the application;
- actions of the developer introducing several hundred ducks and pheasant breeding on site seems a deliberate de-risking of the site;
- tree survey down plays Ancient Tree Inventory recordings of Woodland Trust experts;
- queries regarding level of information in reptile survey;
- a manual radar gun survey only produces a snapshot of driver behaviour;
- queries as to what industry standards ecology and traffic surveys have been carried out;
- concern about completeness of disclosed data and accuracy of the interpretation of the speed survey undertaken;
- concern that throughout the period of the speed survey a diversion was in place with the pneumatic tubes fixed to the road right by the diversion sign;
- concern that a van from the survey company was parked up with headlights on which was a distortion of driver behaviour;
- no topographical survey has been submitted;
- there is serious doubts about the reliability and usefulness of the speed survey;
- concerns about access, visibility and safety remain alive; and
- there is still inadequate information to satisfy Policies LD7 and LD8.

**Planning - Access Officer:** - no objections;

**Cumbria County Council - (Highways & Lead Local Flood Authority):**  
object to the application on the following basis:

In accordance with the Cumbria Design Guide and as the access is within a national speed limit zone, visibility splays of 215m x 2.4 are required to be demonstrated. Such splays cannot be achieved to the north due to the undulations of the road and the splay crossing a neighbouring hedge.

The Highway Authority does not accept the rationale behind the highway report submitted as part of the application confirming that a design speed of 40mph is being used (equating to visibility splays of 120 x 2.4m) for the splays without a speed survey undertaken to formally establish if a reduced splay is required.

A number of speed surveys have been undertaken on behalf of the applicant. The speed data in the form of a 'Radar Speed Survey Letter' has not adequately demonstrated that safe access to the site can be achieved. Consequently the Highway Authority advised that a further speed data/camera survey should be provided to support the application.

A further speed survey was undertaken on behalf of the applicant. The Highway Authority has not accepted the results of this speed survey confirming that they have found some anomalies in the speed survey data, in particular the way the data is used to inform the 85<sup>th</sup>ile speeds. It is the Highway Authorities view that this might have occurred due to the very odd/unique nature of traffic in the area. Traffic firstly is low and secondly it is shown that cars move more slowly but LGV (vans) move much faster. As HGV (busses) and LGV vehicles normally are omitted from the calculations that will give an anomalous view of the 85<sup>th</sup>ile speeds especially if all vehicles in all time 'blocks' regardless of frequency are included in the calculations.

Design Manual for Roads and Bridges (DMRB) makes it clear that this should normally not be the case therefore if the guidance was strictly followed (cars only, outside of peaks) the 85<sup>th</sup> percentile speeds would be 35.4mph northbound and 31.7mph southbound. If LGV's are taken into account then the 85<sup>th</sup>ile increases to 49.4mph northbound and 45mph southbound (if the wet weather correction is done then 51.9mph northbound and 47.5mph southbound).

The Highway Authority have confirmed that DMRB is a trunk road design tool and not primarily for minor roads like the one in question here. There has been considerable pressure from objectors, Parish Council etc to strictly follow the rule as stated in the Design criteria. If this school of logic is followed then the application splays are acceptable.

The Highway Authority has however stated that they can not come to this conclusion as the abnormal impact the LGV vehicles has on the road network in this location should have a real impact on the road design criteria. The Highway Authority therefore advocate that the higher 85<sup>th</sup>ile speed is used to include the LGV's. In such circumstances the Highway Authority maintain visibility splays of 215m x 2.4 are required and recommend refusal due to lack of visibility from the access of north bound vehicles.

**Cumbria County Council - (Highway Authority - Footpaths): Public**

Footpath 110006 runs to the west of the proposed development area and must not be altered or obstructed before or after the development has been completed. Advice received regarding processes relating to temporary closures of footpaths if required.

**Cumbria Constabulary - North Area Community Safety Unit (formerly Crime Prevention):** - no observations or comments;

**The Ramblers:** - no response received;

**Local Environment, Waste Services:** - as waste from the site is not domestic the applicant will need to find a private provider who is registered to collect business waste;

**Natural England - relating to protected species, biodiversity & landscape:** - no objection, standing advice received regarding consideration of protected species and other natural environment issues.

**Cumbria Wildlife Trust:** - object to application on the following basis:

- construction of the lodges and pods is likely to have a negative impact on the broad leaved woodland within the development site which is listed as a priority for conservation under Section 41 of the Natural Environment and Rural Communities (NERC) Act and in the Cumbria Local Biodiversity Action Plan;
- site contains a small mosaic of other habitats which whilst they have not been identified as priority habitat and do not have any statutory/non statutory designation are of high ecological value. Value is increased as site forms part of existing woodland network within the local area;
- development of site is likely to lead to increase disturbance to wildlife;
- development could be set elsewhere in grounds that are landscaped for nature which would reduce impacts on species and habitats;
- whilst Ecological Assessment provides some recommendations for enhancing the site this does not utilise the recommended Biodiversity Metric 2.0. No decision should be made until such a metric is used;
- if permission is approved would like to see as a minimum the mitigation measures and recommendations set out in Section 5 of the Ecological Assessment

CWT also provided further comments stating that subsequent to the finding of Great Crested Newts in the tarn by eDNA sampling the applicant has attempted to render the site unsuitable for Great Crested Newts by flailing the vegetation around the tarn and introducing large numbers of ducks and pheasants. In effect de-risking the site for GCN. It therefore appears that current conditions on site will not accurately reflect what should be the baseline for this application. It is generally accepted that if there is evidence that works have been undertaken to de-risk a site then in planning terms the baseline set should be high on the precautionary principle, such that actions that have an adverse effect on biodiversity are not rewarded.

**North Pennines AONB Partnership:** - application site falls outside the

designated boundary of the AONB but is within the area of the Fellfoot Forward Landscape Partnership Scheme which is managed by the AONB Partnership.

Still inevitable that the development will increase disturbance to wildlife; impacts upon biodiversity should be of the highest concern and any risk should be a primary consideration. Compensatory habitat is no substitute for existing functioning habitat in general development. Any construction or on going use of the site should not pose any risk to existing water quality. Full assessment should be made as to whether the proposal will fully meet the 10% net biodiversity gain. It seems inevitable that the site would have a species range and abundance not entirely captured in the ecology report and that development control is one of the mechanisms by which we will arrest the continued decline of nature.

The cultural heritage of the site should be fully considered in determining the application as should the introduction of new lighting. Anticipate that any decision will take into account the Carlisle Local Environment (Climate Change) Strategy as appropriate.

**United Utilities - (for water & wastewater comment) see UUES for electricity dist.network matters:** - no response received;

**Forestry Commission:** - no comment to make as no ancient woodland is affected. Advice received regarding replacement of any trees lost.

**Woodland Trust:** - object to the application on the basis of damage and deterioration to the population of veteran and notable trees on site. Consider impact of development on veteran trees does not comply with national policy. Concern that the submitted Arboricultural Impact Assessment (AIA) dismisses the importance of the veteran trees on site and the assumptions made regarding veteran status. Concern that siting development close to trees and increasing human activity on site will compromise long-term retention of trees, increase the health and safety risks, and, result in loss of local biodiversity.

As the qualities and importance of trees on site have not been fully recognised appropriate mitigation considerations have not been made.

**Historic England - North West Office:** - do not need to be notified or consulted on this application;

**The Garden Trust:** - object to application. Consider that Tarn Lake is firmly within the setting of both the Grade II Tower and Grade II Tarn Lodge and the whole forms a layout with strong group value, little altered since its conception in 1802. Consider that the inclusion of visible holiday lodges and pods with associated car parking around Tarn Lake will negatively impact the historic character of the designated landscape. Concern that if the application is approved the lakes link to Tarn Lodge and the Tower Folly would become lost and the setting of heritage assets would be compromised and their significance correspondingly reduced.

Consider that the previous lapsed planning permission is of no relevance and consider that since then the history, significance of heritage assets and landscape setting is far better understood. Pleased to note reduction in number of holiday lodges and would strongly oppose any future increase.

Helpful that detailed Arboricultural Assessment has been undertaken showing that the construction of the lodges and infrastructure will not impact upon root zones of any of the trees. Would like to see what form of lighting is proposed and advise that this is kept to an absolute minimum and be extremely discreet.

The following conditions should be imposed if application is approved: 1) no permanent barbecues or other domestic paraphernalia near the waters edge; 2) lodges/pods to be stained dark green or in a recessive colour; 3) discreet interpretation sign by the car park to educate visitors to the heritage of the site. Also suggest that local heritage varieties of fruit trees should be considered.

**Georgian Group - Amenity:** - object as there is concern that if the application is approved that the sites link to Tarn Lodge and the Tower Folly would become lost, and their significance therefore correspondingly be reduced. Strongly feel that the proposed development would cause the loss of this historically significant designed Georgian landscape and radically alter the setting, character and value of the associated Georgian listed heritage assets of Tarn Lodge the accompanying Tower Folly.

## **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 are the National Planning Policy Framework (NPPF), the Planning Practice Guidance (PPG) together with policies SP1, SP2, SP6, SP7, SP8, EC9, EC10, EC11, IP1, IP2, IP3, IP5, IP6, CC5, CM4, CM5, HE3, GI1, GI3, GI5 and GI6 of the Carlisle District Local Plan (CDLP) 2015-2030. Section 66 of the Planning (Listed Building) Act 1990 (LBA) , The Council's 'Trees and Development' and 'Designing Out Crime' Supplementary Planning Documents together with the County Council's Landscape Character Guidance and Toolkit (LCGT) are also material planning considerations.
- 6.3 The proposal raises the following planning issues:
  1. **The Principle Of Development**
- 6.4 The principle of the erection of 6no.holiday lodges on the land has already been assessed and established as acceptable under previously approved

application 94/0524.

- 6.5 In the intervening period since the previous approval the NPPF, PPG and CDLP have all been adopted. One of the main aims of the NPPF is to support a prosperous rural economy. Paragraph 84 of the NPPF states that planning decisions should enable:
- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
  - b) the development and diversification of agricultural and other land-based rural businesses;
  - c) sustainable rural tourism and leisure developments which respect the character of the countryside; and
  - d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.
- 6.6 Policy SP2 (Strategic Growth and Distribution) of the Carlisle District Local Plan 2015-2030 (CDLP) also seeks to promote sustainable development through concentrating development within existing settlements and ensuring that developments within the remote rural area are assessed against the need to be in the location specified. Paragraph 85 of the NPPF confirms that planning decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations not well served by public transport. In these circumstances it is important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact upon local roads and exploits any opportunities to make a location more sustainable. The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.
- 6.7 Policy EC9 (Arts, Culture, Tourism and Leisure Development) of the CDLP confirms that proposals will be supported where they contribute towards the development and/or protection of the arts, cultural, tourism and leisure offer of the District and support the economy of the area. Proposals must accord with the following three criteria: 1) the scale and design of the development is compatible with the character of the surrounding area, 2) adequate access by a choice of means of transport, including sustainable modes of travel, and appropriate car parking is provided; and, 3) where relevant, the value and significance of the attraction is not compromised.
- 6.8 Furthermore Policy EC11 (Rural Diversification) supports proposals to diversify and expand upon the range of sustainable economic activities in the rural area. Proposals must be compatible with their rural setting, in keeping with the scale and character of the surrounding landscape/buildings, include adequate access and parking arrangements and not lead to an increase in

traffic levels beyond the capacity of the surrounding local highway network.

- 6.9 The supporting text to Policy EC11 also reiterates that the NPPF supports sustainable rural tourism and leisure developments where they respect the character of the countryside. This type of development is important in areas where identified needs are not met by existing facilities in rural service centres.
- 6.10 Policy EC10 of the CDLP which specifically relates to caravan, camping and chalet sites supports such proposals where clear and reasoned justification has been provided as to why the development needs to be in the location specified; the proposal does not have an adverse impact upon the character of the landscape or upon heritage assets or their settings; the site is contained within existing landscape features and if necessary and appropriate is supplemented with additional landscaping; adequate access and parking arrangements are provided; and, potential implications of flood risk have been taken into account where necessary.
- 6.11 The application site is located with open countryside and extends to around 2.70 hectares and is focused around a tarn and associated boathouse which is within private ownership. The application seeks full planning permission for the erection of four holiday lodges and two pods on the land which will be served by an improved access track and area for car parking.
- 6.12 The supporting statement which accompanies the application recognises that the principle of six self catering holiday lodges has already been accepted at the site and at the time of determining application 94/0524 it was recognised that the lodges would take advantage of the tarn itself as well as providing a facility for tourists visiting the area generally. The statement goes on to confirm that the tarn is the focus for holiday accommodation and provides a natural setting which will draw visitors. The site is also located just outside but within walking distance of the North Pennines Area of Outstanding Natural Beauty and near National Cycle Route 72.
- 6.13 The previous planning approval for the site, although not implemented, is a material planning consideration in the determination of this application. The character of the application site i.e. its positioning within the open countryside is unchanged with no significant changes to the character/appearance of the surrounding area in the intervening period except for developments at Tarn Lodge Farm and Tarn Lodge (which are discussed further within this report). The proposed lodges/pods would still take advantage of the tarn which is an existing attraction and will no doubt draw visitors to this facility. The proposal is also located approximately 0.79km from the North Pennines Area of Outstanding Natural Beauty and Castle Carrock village which has a number of services including a public house, village hall and church. The site is also located within cycling distance of National Cycle Route 72 which leads from the west coast of Cumbria to South Shields. In such circumstances it is considered that the proposal is well related to an existing landscape attraction and the provision of additional holiday accommodation in this location would still help to support existing tourist attractions within the surrounding area. Accordingly the principle of tourism development in this location is still

deemed to be acceptable subject to satisfying detailed policy criteria which are discussed in the following sections of this report.

## **2. Whether The Scale And Design Is Acceptable And The Impact Of The Proposal On The Landscape Character Of The Area**

- 6.14 The NPPF attaches great importance to the design of the built environment recognising that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. The NPPF states that planning decisions should ensure developments function well and add to the overall quality of the area; are visually attractive; are sympathetic to local character and history whilst not preventing or discouraging appropriate innovation or change; establish or maintain a strong sense of place; optimise the potential of the site to accommodate and sustain the appropriate mix of development; and create places that are safe inclusive and accessible. Paragraph 134 of the NPPF states that development that is not well designed should be refused especially where it fails to reflect local design policies and government guidance on design taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to a) development which reflects local design policies and government guidance on design; and, b) outstanding, or innovative designs which promote high levels of sustainability or help raise the standard of design more generally in an area so long as they fit in with the overall form and layout of their surroundings.
- 6.15 As stated in paragraph 6.10 Policy EC10 of the CDLP is supportive of proposals for caravan, camping and chalet site development where the siting, scale or appearance of the proposal does not have an unacceptable adverse effect on the character of the local landscape, and the site is contained within existing landscape features and if necessary supplemented with additional landscaping. Policies EC9 and EC11 of the CDLP also seek to ensure that the scale and design of development is compatible with the character of the surrounding area and their existing rural setting.
- 6.16 Policy G11 (Landscapes) of the CDLP seeks to protect landscapes from excessive, harmful or inappropriate development. Proposals for development will be assessed against the criteria presented within the Cumbria Landscape Character Guidance and Toolkit (CLCGT).
- 6.17 The application site falls on the border between Landscape Sub Types 5c (Rowling Lowland) and 7c (Sandy Knolls and Ridges) of the CLCGT however it was evident from the Officer site visit that the site has more characteristics of sub type 5c. The key characteristics of landscape sub type 5c is open undulating and rolling topography, lowland agriculture landscape dominated by pasture, hedges and hedgerow trees are common on lower ground and sparse on higher ground and some scrub woodland. The vision for this landscape subtype is to enhance and restore through the improved management of key features and the integration of development. Guidelines for natural features in this landscape sub type is to improve the management, maintenance of existing mature woodlands and carry out supplementary

planting of woodlands, tree groups and copses. Guidelines for development is to consider opportunities to enhance and strengthen green infrastructure to provide a link between urban areas and the wider countryside; integrate new recreation development such as golf courses into countryside by careful siting, appropriate ground modelling and planting and exploit opportunities these developments provide to improve visual and wildlife diversity. For access and recreation the guidelines are to ensure public rights of way are well maintained and quiet recreational areas and facilities should be improved and development to be compatible with the pastoral character of the sub type.

- 6.18 The land surrounding the application site has an undulating and rolling topography with pockets of woodland cover scattered throughout the area. The tarn itself is located within an existing hollow within the landscape and is surrounded by dense woodland. Access to the tarn and woodland is via an existing undulating compacted grassed track which leads from the road junction of the C1024/C1039 sloping up through the farmland and then down towards an existing gated access.
- 6.19 The lodges/pods will be constructed from materials which will be in keeping with the site's rural woodland setting. Furthermore the proposed structures are of a modest size and are adequately spaced out within the site enabling the character/appearance of the tarn to be maintained. Given that the tarn is located within a hollow in the landscape and is surrounded by dense tree cover there will be very limited, if any, views of the proposed lodges/pods and tracks to them from outside of the site. Therefore any landscape impact would be very localised. Where there are views of the lodges/pods and access track, perhaps through gaps of the trees from the public footpath which wraps around the western boundary of the site, the development would be viewed against the backdrop of the dense tree cover.
- 6.20 Part of the improved access track would be able to be viewed from public viewpoints outside of the site however due to the topography of the land, which is rolling in nature, and the heights of existing hedgerows the majority of the access track will be relatively well screened. The access track will be constructed from gravel which is an appropriate material in keeping with the site's rural setting. Additional landscaping is also proposed to the south of the track which will also help to assimilate this part of the development into the landscape. The changes to the existing access track are therefore acceptable.
- 6.21 The majority of the proposed development is well contained within existing landscape features. The siting of the development takes advantage of the existing contours of the land and natural screening. The proposed materials and are also traditional, in keeping with the site's rural character and appearance. Furthermore the overall scale of the development, design and positioning of structures within the site is acceptable and would not detract from the site's rural setting. In such circumstances the proposed development would not cause a significant adverse impact upon the local landscape to warrant refusal of the application on this basis. In such a context it is considered that the visual amenity and character of the area would be sufficiently protected. The scale and design is therefore acceptable.

### **3. Impact Upon The Living Conditions Of Neighbouring Properties**

- 6.22 Policy SP6 (Securing Good Design) of the CDLP seeks to ensure that proposals do not have an adverse effect on the residential amenity of existing areas, or adjacent land uses, or result in unacceptable conditions for future users and occupiers of development. Furthermore Policy CM5 (Environmental and Amenity Protection) also seeks to protect the amenity of future/existing occupiers from unacceptable pollution such as noise and light.
- 6.23 Given the separation distances between the application site and the nearest residential properties (approximately 319 metres between the closest pod and the dwelling at Tarn Lodge and approximately 403 metres from the closest pod and Tarn Lodge Farm House) together with the differences in topography and existing intervening woodland screening, the proposals will not have an adverse impact upon the living conditions of any occupiers of neighbouring residential properties in terms of loss of light, overlooking or over dominance.
- 6.24 In terms of impacts upon the amenity of existing occupiers of neighbouring properties through noise and disturbance it is appreciated that the vehicular access to the site is over 380 metres from neighbouring properties. Given the separation distances and the variance in the typography of the landscape together with existing intervening woodland screening it is not considered that neighbouring properties would suffer any noise disturbance from patrons entering or leaving the site.
- 6.25 With regard to noise impacts from patrons once they are on site it is appreciated that the application is accompanied by a comprehensive Site Management Statement which confirms that the proposal is advanced on the basis that those wishing to visit the site will do so to enjoy the natural surroundings and peace and quiet of the area. The statement details that the site will be marketed as a quiet, tranquil location for nature lovers, bird watchers, cyclists, woodland and outdoor enthusiasts and families. Bookings will be made through a regulated agency with the website and agency highlighting that the site is aimed at those wishing to relax by slowing down and connecting with nature. Guests will be vetted in terms of their profiles with occupancy numbers agreed at booking stage. Operation of the site will be overseen by the owners who already run established businesses to the management standard of ISO 9001 and environmental standard ISO 14001.
- 6.26 The Management Statement (MS) confirms that the lodges and pods are not designed (in terms of their layout, size, furniture, installations and facilities) to be a venue for any type of event such as a party or themed celebration. A map detailing access area will be provided to all visitors informing them where they can and cannot go so local farmers and residents are not disturbed. Map will also detail local attractions, shops etc. Signage to the site will be low key with CCTV in place at the entrance to the site and parking area. Guests will be expected to sign a noise contract policy which will explain what is expected of guests and highlight that any sustained nuisance not remedied immediately will result in the loss of the deposit/contract termination. The lodges will also have design features (such as external dim down lighting on timers) to negate

any possible light pollution on or off the site. Guests will be expected as part of the contract to sign up to a light policy and pet policy to protect local livestock and prevent nuisance to other visitors/residents and wildlife. Only one pod and one lodge will be dog friendly.

- 6.27 The MS also confirmed that a designated site manager will also be employed to meet and greet residents. As part of the introduction, and before receipt of keys, they will be asked to read and sign the relevant policies (including noise, light, pet, ecology and operational policies). The site manager will be contactable 24/7 which neighbours/guests can use to raise any concerns/issues. The site manager is to ensure a litter and hazard check is undertaken weekly and all fencing is kept in good repair. The car park will also be checked weekly. The management plan confirms that no swimming, fishing, boating, canoes/inflatable's by guests will be allowed, fires/barbecues are prohibited, no wood will be allowed to be taken from site and no guest vehicles are allowed on site except wheelchairs.
- 6.28 In relation to the above it is considered that suitable detailed mitigation measures are in place to protect the living conditions of existing and future occupiers of neighbouring properties with regard to noise and disturbance. If Members are minded to approve the application it is recommended that a condition is imposed ensuring adherence to the management plan and a restriction on the number of pods/lodges to protect the living conditions of neighbouring residents.

#### **4. Highway Impacts**

- 6.29 Paragraph 110 of the NPPF confirms that when assessing specific applications for development it should be ensured that:
- a) appropriate opportunities to promote sustainable transport modes can be or have been- taken up, given the type of development and its location
  - b) safe and suitable access to the site can be achieved for all users;
  - c) design of streets, parking areas and other transport elements and the content of associated standards reflects current national guidance; and
  - d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 6.30 Paragraph 111 of the NPPF goes onto confirm that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 112 of the NPPF states that applications for development should a) give priority to pedestrian and cycle movements; b) address needs of people with disabilities; c) create safe, secure and attractive places; d) allow for efficient delivery of goods and access by emergency vehicles; and e) be designed to enable the charging of low emission vehicles.
- 6.31 Policies IP1, IP2 and IP3 of the CDLP require all development proposals to be assessed against their impact on the transport network and to ensure

adequate levels of parking provision. Such policies generally require that proposals do not increase traffic levels beyond that of the capacity of the surrounding highway network. Development that will cause severe issues that cannot be mitigated against will be resisted. Furthermore, Policies EC9, EC10 and EC11 seek to ensure that adequate access and parking arrangements are provided for such a proposal with development not leading to an increase in traffic levels beyond the capacity of the surrounding local highway network.

- 6.32 Vehicular access to the tarn is via an existing undulating compacted grassed track which leads from the road junction of the C1024/ C1039 sloping up through the farmland and then down towards an existing gated access to the north of the tarn. The application proposes to upgrade the existing access track so that it is 3 metres wide, with a passing place. The access track will be constructed from gravel however the parts of the track which are within the root protection areas of trees (the last 150 metres) will be constructed from a geocell/cell web grid system which will be gravel filled. 11no.parking spaces, including 2no.DDA compliant parking spaces are to be provided on the southern side of the upgraded access track with screen planting adjacent. The submitted plans illustrate that two turning heads will also be provided.
- 6.33 The application is accompanied by a visibility plan showing the positioning of 215m splays and letter from White Young Green/Tetra Tech confirming that the existing visibility at the junction exceeds the requires splays, the proposed development is small and would result in a minor increase in traffic, most of which would be outside of the peak hours. The letter concludes that the proposed access would not result in a severe impact or unacceptable road safety consequences . Various speed surveys have also been undertaken for the site on behalf of the applicant including a radar speed survey following abnormal speeds on days 2-7 of an initial speed survey that was undertaken for the site, and, a subsequent further survey in February using Automatic Traffic Counters (pneumatic tubing).
- 6.34 Objections have been raised from third parties, the parish council and the county councillor during the application process on the impact upon highway safety as a result of increased traffic using the existing access which is near a junction as well as objections/concerns regarding the validity, reliability and analysis of the speed surveys undertaken for the site as summarised in section 4.2 of this report. Conversely, Members should also be aware that the Council was informed by the applicant's agent that following the laying on the tubes a vehicle was recorded circa 18 consecutive occasions driving up and down the 3 way junction past the cables to the Tarn Lodge junction and back again, with similar unusual activity involving another vehicle.
- 6.35 The relevant Highway Authority has been consulted on the proposal and has confirmed that in accordance with the Cumbria Development Design Guide and as the access is within a national speed limit zone, visibility splays of 215m x 2.4 are required to be demonstrated. Such splays cannot be achieved due to the undulations in the road to the north and the splays crossing third party land which consists of hedgerows. The applicant therefore has no control over the growth and maintenance of the hedgerows that will/could impede visibility upon exiting the application site. The Highway Authority does

not accept the rationale behind the highway report submitted as part of the application which states a design speed of 40mph is being used (equating to visibility splays of 120 x 2.4m) for the splays without a speed survey undertaken to formally establish if a reduced splay is required.

- 6.36 As stated above, a number of speed surveys have been undertaken on behalf of the applicant. The Highway Authority has confirmed that the speed data in the form of a 'Radar Speed Survey Letter' has not adequately demonstrated that safe access to the site can be achieved. Consequently a further speed survey was undertaken on behalf of the applicant in February. The Highway Authority has not accepted the results of this speed survey confirming that they have found some anomalies in the speed survey data, in particular the way the data is used to inform the 85%ile speeds. It is the Highway Authority's view that this might have occurred due to the very odd/unique nature of traffic in the area. Traffic firstly is low and secondly it is shown that cars move more slowly but LGV (vans) move much faster. As HGV (busses) and LGV vehicles normally are omitted from the calculations that will give a anomalous view of the 85%ile speeds especially if all vehicles in all time 'blocks' regardless of frequency is included in the calculations. Design Manual for Roads and Bridges (DMRB) makes it clear that this should normally not be the case therefore if the guidance was strictly followed (cars only, outside of peaks) the 85th percentile speeds would be 35.4mph northbound and 31.7mph southbound. If LGV's are taken into account then the 85%ile increases to 49.4mph northbound and 45mph southbound (if the wet weather correction is done then 51.9mph northbound and 47.5mph southbound).
- 6.37 The Highway Authority have confirmed that DMRB is a trunk road design tool and not primarily for minor roads like the one in question here. There has been considerable pressure from objectors, Parish Council etc to strictly follow the rule as states in the Design criteria. If this school of logic is followed then the application splays are acceptable. The Highway Authority have however stated that they have not come to this conclusion as the abnormal impact the LGV vehicles has on the road network in this location should have a real impact on the road design criteria. The Highway Authority therefore advocate that the higher 85%ile speed is used to include the LGV's. In such circumstances the Highway Authority maintain visibility splays of 215m x 2.4 are required and recommend refusal due to lack of visibility from the access of north bound vehicles.
- 6.38 As the required visibility splays of 215m x 2.4 from the relevant Highway Authority cannot be achieved, the proposed development which would result in an intensification of the site access (which is currently used for agricultural purposes) would have an adverse impact upon highway safety. The development is therefore contrary to the requirements of paragraph 110 of the NPPF together with policies IP2, EC9 (criterion 2), EC10 (criterion 4) and EC11 (criterion 3) of the Carlisle District Local Plan 2015-2030.

## **5. Impact Upon Public Footpaths**

- 6.39 Public Footpath 110006 runs from Tarn Lodge Farm to the south and along the western side of the application site. As the majority of the development is

sited around the tarn and to the north and east the proposal is unlikely to have any adverse impacts upon the use of the Public Footpath. The Footpath Officer for the County Council has been consulted on the development and has confirmed that the footpath must not be altered or obstructed before or after the development has been completed. Advice has also been given regarding temporary footpath obstructions.

## **6. Impact Upon The Setting Of Listed Buildings**

- 6.40 Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 highlights the statutory duties of Local Planning Authorities whilst exercising of their powers in respect of listed buildings. The aforementioned section states that *"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses"*.
- 6.41 Accordingly, considerable importance and weight should be given to the desirability of preserving listed buildings and their settings when assessing this application. If the harm is found to be less than substantial, then any assessment should not ignore the overarching statutory duty imposed by section 66(1).
- 6.42 Paragraph 199 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 6.43 Paragraph 200 goes onto state that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification. Substantial harm to or loss of a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional; b) assets of highest significance (.e.g. scheduled monuments, Grade I and II\* listed buildings/registered parks and gardens and World Heritage Sites, should be wholly exceptional.
- 6.44 Paragraph 201 of the NPPF outlines that where a development will lead to substantial harm (or total loss of significance) of a designated heritage asset local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve public benefits that outweigh that harm or loss, or all of the following apply:
- a) the nature of the heritage asset prevents all reasonable uses of the site; and
  - b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
  - c) conservation by grant-funding or some form of not for profit, charitable or

- public ownership is demonstrably not possible; and
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.
- 6.45 Paragraph 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 6.46 Policy HE3 (Listed Buildings) of the Local Plan also indicates that listed buildings and their settings will be preserved and enhanced. Any harm to the significance of a listed building will only be justified where the public benefits of the proposal clearly outweighs the harm. The policy states that any works to listed buildings or new development within the curtilage and/or its setting must have regard to: 1) the significance of the heritage asset, including its intrinsic architectural and historic interest and its contribution to the local distinctiveness and character of the District, 2) the setting of the asset and its contribution to the local scene; 3) the extent to which the proposed works would result in public benefits; 4) the present or future economic viability or function of the heritage asset; and 5) the preservation of the physical features of the building in particular scale, proportions, character and detailing (both internally and externally) and of any windows and doorways.
- 6.47 Historic England (HE) has produced a document entitled 'The Setting of Heritage Assets - Historic Environment Good Practice Advice in Planning: 3 (Second Edition)' (TSHA). The document sets out guidance, against the background of the NPPF and the related guidance given in the PPG, on managing change within the settings of heritage assets, including archaeological remains and historic buildings, sites, areas, and landscapes.
- 6.48 The TSHA document details the definition of the setting of a heritage asset as that contained within Annex 2: Glossary of the NPPF as: *"the surroundings in which heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive and negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral"*. The document acknowledging that conserving or enhancing heritage assets by taking their settings into account need not prevent change and recommends a staged approach to proportionate decision taking.
- 6.49 In respect of the impact of proposals on the setting and views of heritage assets, the TSHA states that: *"all heritage assets have significance, some of which have particular significance and are designated. The contribution made by their setting to their significance also varies. Although many settings may be enhanced by development, not all settings have the same capacity to accommodate change without harm to the significance of the heritage asset or the ability to appreciate it. This capacity may vary between designated assets of the same grade or of the same type or according to the nature of the change. It can also depend on the location of the asset: an elevated or overlooked location; a riverbank, coastal or island location; or a location within an extensive tract of flat land may increase the sensitivity of the setting (ie the*

*capacity of the setting to accommodate change without harm to the heritage assets significance) or of views of the asset. This requires the implications of development affecting the setting of heritage assets to be considered on a case-by-case basis".*

a) the significance of the heritage asset and the contribution made by its setting

6.50 The nearest listed buildings to the application site are the Tower Folly (Grade II) located on the hill to the north of Tarn Lodge (approximately 128 metres from the southern most boundary of the application site) and Tarn Lodge (Grade II) itself located approximately 206 metres from the southern most boundary. By way of background there are over 374,000 listed buildings within England which are categorised as Grade I, Grade II\* and Grade II. Grade I are of exceptional interest, sometimes considered to be internationally important, only 2.5% of Listed Buildings are Grade I. Grade II\* Buildings are particularly important buildings of more than special interest, 5.5% of listed buildings are Grade II\*. The final tier of Listed Buildings are Grade II buildings which are nationally important and of special interest.

6.51 The listing details for the Tower Folly (listed in 1957) are as follows:

*Tower folly. Probably c1807, same date as house. Dressed red sandstone. Small 2-storey square tower with battlemented parapet on hill behind house. Included partly for G.V. with Tarn Lodge.*

6.52 The listing details for Tarn Lodge (listed in 1957) are as follows:

*House. Circa 1807, for John Bell. Painted rendered walls on chamfered plinth, pilaster quoins and stone dressings; hipped slate roof to house and wings, rendered chimney stacks. 2 storeys, 5 bays, with flanking 2-storey, single-bay wings. Semicircular Doric tetrastyle porch, has triglyph frieze and moulded cornice; glazed door with semicircular glazed fanlight, has flanking engaged Tuscan columns with block entablature and pedimented cornice. Sash windows with glazing bars have plain stone surrounds. Outbuildings excluded.*

6.53 Tarn Lodge, Tarn Lodge Farm, Tower Folly and the tarn (subject of this application) were originally part of a single estate that has subsequently been divided into separate property holdings namely Tarn Lodge, Tarn Lodge Farm which includes what was originally the coach house, stables and outbuildings to Tarn Lodge as well as the Tower Folly and then the application site itself - the tarn. Tower Folly itself is unchanged since the time of listing however the available planning history indicates that there has been a number of applications submitted and approved within the grounds of Tarn Lodge since the time of listing including an extension in 1990 to form a snooker room in the walled garden (references 90/0035 and 90/0098); change of use to a 5 bed guest house in 1991 (reference 91/0627); alterations to outbuildings in 1994 to form a non-residential eye clinic (references 94/0026 and 94/0027); demolition of an existing two storey rear extension and detached garage and erection of a replacement two storey extension, detached garage, change of

use of annexe from ophthalmic operating theatre to residential flat including alterations, erection of stables and change of use of former tennis court to an equestrian arena and construction of paths within grounds (references 18/0471, 18/0472, 19/0276, 19/0268 and 21/0823). The City Council is also currently dealing with a Listed Building Consent application for Tarn Lodge for re-rendering and associated repairs to external elevations of the main house (reference 22/0121). At the time of preparing this report application 22/0121 was undetermined. A number of applications have also been approved at Tarn Lodge Farm which is to the west of Tarn Lodge, since the listing of the described heritage assets including the farmhouse itself (reference 89/1283) as well as a number of agricultural buildings under references 96/0020/AGD, 15/0260 and 20/0373.

- 6.54 There is a debate between various parties as to whether the application site falls within the domestic curtilage of the aforementioned heritage assets. The Council's Heritage Officer is of the opinion that the site is within the domestic curtilage of Tarn Lodge and should be assessed as part of a designed landscape associated with the lodge. The HO believes that the site falls within the domestic curtilage of Tarn Lodge taking into account past ownership (i.e. it all being one estate at the time of listing) as well as the site being physically and functionally associated with Tarn Lodge (linked by a tree line pathway with sales particulars and past occupants confirming that the tarn/woodland was used as pleasure/leisure grounds). The submitted Heritage Statement (HS) accompanying the application also acknowledges that at the time of listing the available evidence indicates that Tarn Lodge estate was in single ownership and there was access from Tarn Lodge to the tarn and neighbouring fields which included a tree line lane and pathways. However, the HS states that the use of the tarn does not appear to have been functionally within what would be recognised as the domestic curtilage of Tarn Lodge because it was outside the confines of the planning unit comprising Tarn Lodge and its domestic garden. In addition, the HS states that the tarn and wood were functionally more associated with the agricultural/plantation and sporting activities of the estate opposed to the residential use of Tarn Lodge and the Folly Tower, thereby not meeting the basic practical interpretation of the 'curtilage' test outlined in *Sinclar-Lockhart's Trustees V Central Land Board (1950)* which states *"The ground which is used for the comfortable enjoyment of a house or other building may be regarded in law as being within the curtilage of that house or building and thereby as an integral part of the same although it has not been marked off or enclosed in any way. It is enough that it serves the purpose of the house or building in some necessary or useful way"*.
- 6.55 When assessing whether the application site falls within the setting of the Tarn Lodge and Tower Folly a distinction needs to be made between curtilage and setting. Historic England is clear in its guidance that setting is separate from the concepts of curtilage. A curtilage of a building is a legal term describing an area around a building, and for listed structures, the extent of curtilage is defined by consideration of ownership, both past and present, functional association and layout. The setting of a heritage asset will include, but generally be more extensive than, its curtilage. It is clear that historically and at the time of listing the application site was within the same ownership

as Tarn Lodge as it formed one estate and there was an inter relationship between the two via a tree lined lane/pathway leading to the tarn from Tarn Lodge. The tarn and immediate surrounding woodland forms a natural post glacial feature within the landscape and although there is a tree lined pathway linking Tarn Lodge to the tarn, the tarn and woodland itself have not been specially designed as part of the formal landscaping to Tarn Lodge as confirmed by Historic England (see paragraph 3.10 of this report) and was primarily used for leisure purposes rather than domestic purposes. The domestic curtilage of Tarn Lodge is therefore confined to the area immediately to the north of Tarn Lodge and not associated with any other ownership.

- 6.56 Members should also be aware that the Garden Trust in their response state that the proposed development affects a site listed by Historic England on their Register of Parks and Gardens. As confirmed in paragraph 3.10 of this report a request was made to Historic England that the land to the north of Tarn Lodge (i.e. the application site) should be added to the Register of Parks and Gardens of Special Historic Interest in England. Historic England considered this request and completed an assessment of the site based on the material provided and on the 15th June 2020 decided not to add landscape park, including lake and pleasure grounds, north of Tarn Lodge, Castle Carrock to the register at this time. The site was not recommended for registration for the following principle reasons: 1) degree of historic interest - site is a modest early-C19 landscape associated with a small country house with no influence in the development of taste through reputation or reference in literature; and, while Tarn Lodge was the residence of George Bell Routledge, an early-C20 entomologist well-regarded in his specialism, this is not sufficient in its own right to recommend registration of the landscape; 2) degree of design interest - the overall design of the landscape is unambitious and not especially well-developed, utilising the pre-existing, gently undulating topography with unaltered natural tarn as its primary feature; and, there is no known association with the work of a designer of national importance; 3) degree of group value - while the presence of the listed house and the tower folly enhances the landscape's interest, these are removed from the principle feature of the tarn and do not compensate for the overall lack of intrinsic design interest.
- 6.57 In terms of what constitutes a setting Historic England is clear that setting is not itself a heritage asset, nor a heritage designation, although land comprising a setting may itself be designated. Its importance lies in what contributes to the significance of the heritage asset or the ability to appreciate that significance. When looking at the setting of the two aforementioned listed buildings - Tarn Lodge and Tower Folly it is acknowledged that both listed buildings are situated within undulating landscape, resulting in Tarn Lodge being set at a lower level to the trees that surround the perimeter of the property to the north, thus restricting views of the tarn from Tarn Lodge and creating more of an enclosed setting due to the topography of the landscape and boundary treatment. As stated in paragraph 6.53 the immediate setting of Tarn Lodge has changed since the original listing due to the development works that have taken place within the grounds itself.

6.58 Tower Folly is set within the hill to the north of Tarn Lodge also surrounded by woodland trees. Given the positioning of Tower Folly on top of the hill the setting of this listed structure is wider as there would no doubt be views from the folly towards the tarn and the wider landscape.

b) the effect of the proposed development on the setting of the nearby Grade II Listed Buildings

6.59 When assessing the impact of the proposed development on the setting of the nearby Grade II Listed Buildings The Georgian Group is of the opinion that the application sites link to Tarn Lodge and the Tower Folly would become lost as a result of the proposal and their significance correspondingly reduced, with the development causing the loss of a historically significant designed Georgian landscape radially altering the setting, character and value of the associated Georgian listed heritage assets of Tarn Lodge and the accompanying Tower Folly. This opinion is on the basis that the estate (including the tarn) was intact at the time of listing and there is a functional, linking and enduring relationship between the tarn and heritage assets. The Gardens Trust also object to the application confirming that there is panoramic views of Tarn Lake from the elevated viewing platform of the Tower, specifically placed to enjoy the view over the tarn, pleasure grounds, formal gardens, mature plantation and parkland with Tarn Lake also visible from Tarn Lodge. The Garden Trust are firmly of the opinion that the tarn is within the setting of the Grade II Listed Tower and Lodge and the whole forms a layout of group value little altered since its conception in 1802. The Garden trust are of the opinion that the development will negatively impact on the historic character of the designed landscape, and, the understanding of the history and significance of the heritage assets. The Garden Trust state that the landscape setting is far better understood since the previous planning permission in 1994 and that the lakes link to Tarn Lodge and Tower Folly would become lost as a result of the development and the setting of the heritage assets would be compromised and significance correspondingly reduced.

6.60 When assessing the impact of the development on the setting of the Listed Buildings the Council's Heritage Officer (HO) agrees with the submitted Heritage Statement accompanying the application that there will be no direct or physical impact whatsoever on the historic fabric of either Tarn Lodge or Tower Folly. The HO confirms that the development of the tarn for modest leisure use would be compatible with its original design-intention and that appropriately designed structures could be acceptable, if at a sufficiently low density and suitable design, to retain the sylvan character of the site. The HO considers that the revised proposals with timber lodges and pods under green roofs are a significant improvement on the withdrawn 2020 scheme and are no worse than the approved, though lapsed 1994 proposal. The HO confirms that whilst he would have preferred to have seen a lower density development the works are equivalent to that approved in 1994 and the development would not have an unacceptable impact on the appearance of the tarn environment - which the HO maintains is curtilage to the main house or to the setting of the house itself or Tarn Folly.

6.61 It is acknowledged there would be very limited views, if any, of the application site from Tarn Lodge itself due to the undulating topography of the landscape and due to the buffer of trees surrounding both the periphery of the tarn and Tarn Lodge. There would be more views of the site from the Tower Folly, given its elevated position, particularly the access and parking area however views of the development would be seen against the context of the dense woodland that surrounds the tarn, the proposed landscaping and the undulating nature of the landscape. Setting itself is not a heritage asset and the important thing for Members to consider when determining this application is whether the proposal impacts upon the significance of the Grade II Listed Buildings at Tarn Lodge and Tower Folly. As discussed in paragraphs 6.14-6.21 of this report the overall scale of the development is appropriate to the site with materials which correspond with the site's natural environment. In such circumstances, and given that there are no objections raised from the Council's Heritage Officer, it is not considered that the development would have an adverse impact upon the overall significance and settings of Tarn Lodge or Tower Folly.

## **6. Impact Upon Trees**

- 6.62 One of the main aims of the NPPF is to conserve and enhance the natural environment. Paragraph 174 of the NPPF states that planning decisions should contribute to and enhance the natural environment by a number of measures including recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem services, including the economic and other benefits of the best and most versatile agricultural land and of trees and woodland. Paragraph 180 of the NPPF states that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.
- 6.63 Policy GI6 (Tree and Hedgerows) of the CDLP states that proposals for new development should provide for the protection and integration of existing trees and hedges where they contribute positive to a locality and/or a specific natural or historic value. Proposals which result in the unacceptable or unjustified loss of existing trees or hedges or which do not allow for the successful integration of existing trees or hedges identified within a tree survey will be resisted. Policy GI3 states that development which would result in the loss of aged or veteran trees found outside ancient woodland will be refused, unless the need for, and the benefits of, the development in that location clearly outweigh the loss. Policy SP6 of the CDLP requires all developments to take into account important landscape features and ensure the enhancement and retention of existing trees and hedges.
- 6.64 Furthermore, the City Council's Supplementary Planning Document (SPD) 'Trees and Development' outlines that native large growing species are intrinsic elements in the landscape character of both rural and urban areas alike and acquire increasing environmental value as they mature. Large trees need space in which to grow to maturity without the need for repeated human intervention. Not only should the design of the development seek to retain

existing tree and hedgerow features, but sufficient space should be allocated within the schemes to ensure integration of existing features and space for new planting. It is important that these issues are considered at the very start of the planning process.

- 6.65 The application site surrounds a large tarn and is dominated by a plantation of broad-leaved woodland habitats and continuous bracken, with small areas of scattered broad leaved trees and swamp. The site is a managed woodland (subject to a Forestry Commission Management Plan) along with Hayton Moss woodland to the west.
- 6.66 The application is accompanied by an Arboricultural Method Statement (AMS) and a Arboricultural Impact Assessment (AIA) based on a tree survey of all trees throughout the site with individual details recorded for all significant trees within the proximity of the proposed development areas and group records of larger numbers of smaller trees. The AIA confirms that the site is not subject to a TPO and searches on Natural England map data do not indicate the presence of any Ancient Woodland, SSSI's etc. The AIA notes that a number of trees within the site boundaries have been categorised as 'veteran' or 'notable' on the Woodland Trust online Ancient Tree Inventory however the AIA is unsure how these categories have been assessed or assigned as the statement confirms that the 'veteran' trees are Common Beech which are in the mature age class and not estimated to be much greater than 200 years old. The AIA also confirms that the trees in the woodland have a generally good to fair vigour with limited amounts of aerial deadwood in volumes that would normally be encountered through shading within groups of mature Common Beech. Branch loss or damage in Common Beech will often result in the formation of decay cavities of varying sizes, this is not a feature which would confer veteran status as it occurs frequently in Beech of all age categories.
- 6.67 The AIA confirms that the proposed lodges/pods will be located in open ground outside of the root protection zones of trees. The AIA confirms that the root protection areas have been based on the formula of BS5837:2012 which is a minimum area required for the root zone of a given tree size and fine root structure may extend outside of this radius. In such circumstances the AIA confirms that if the proposed lodge/pod locations are constructed on screw piles or supporting posts/pillars (all installed by appropriate hand working methods) then the construction phase will not impact upon the long-term retention of retained trees. The AIA also states that the proposed pod locations can also be created via screw piles, hand dug supporting posts or via a cell web based raised base. The AIA therefore confirms that the nature of the proposed accommodation units and their construction/siting is not incompatible with the retention and protection of mature class surveyed trees if appropriate construction, working methods and site management are used.
- 6.68 The AIA also states that internal access routes to the lodge and pod locations follow existing well defined access tracks within the site which show signs of regular access via smaller vehicles/quad bike etc. The proposed lodges/pods will be accessed by pedestrians with service access for quad or small electric type utility vehicle. This would not represent a change in use from the existing

site and the proposed layout indicates the use of a ground grid along these routes. The use of the a grid would have the potential to reduce erosion of the routes and compaction over that experienced within the current site.

- 6.69 The AIA confirms that the water/electric supplies will be routed above ground at all times and will therefore not impact upon tree constraints. Provision of drainage routes will require installation of below ground structures. A drainage plan has been submitted which shows that the routes are outside of the plotted RTA radii. Subject to hand dig methods there should be no significant impact upon existing tree stock. The AIA confirms that several small soakaways will need to be formed, a number of which are within the outer edge of the plotted RPAs. If hand working methods are used there should be no significant impacts. The proposed storage tank for the holding of sewage waste from the lodges/pods has also been sited in an open area outside any root protection zones.
- 6.70 Part of the proposed access route to the site and turning head goes through the RPA of trees however the AIA states that as the route is formed through a recognised 'no dig' above ground cell web based construction, then no impact will be place upon the root zones of the trees along the northern boundary. The AIA notes that the existing agricultural access passes within the RPA and the fencing of the access route and use of cell web construction would reduce any levels of future compaction from that currently experienced.
- 6.71 The AIA notes that some lower branch tips will require pruning to avoid damage from vehicle movements but this would not include the removal of any significant branches and it would be required irrespective of the proposed development if an agricultural tractor was to traverse the field. The AIA confirms that the proposed newt pond proposed as an environmental improvement will also be located outside of identified tree constraints and will not impact on any mature tree stock. The AIA goes onto state that the upgrading of existing routes within the site with additional grid reinforcement matting would limit or remove any impacts from pedestrian compaction. The creation/upgrading of pedestrian routes by these methods would also reduce or prevent an increase in general compaction by reducing the likelihood of guests using ad hoc (unsurfaced) routes or desire lines.
- 6.72 Overall the AIA notes that the proposal does not require the removal of any trees on site and the development has responded to the identified tree constraints on the site. A number of detailed mitigation measures are proposed such as hand dig installation and geo-cell systems as well as tree protection fencing etc. The AIA also confirms that the site is subject to a Forestry Commission Management Plan which includes enhancement measure such as tree planting etc as well as pest control.
- 6.73 The Woodland Trust have objected to the application on the basis of damage and deterioration to the population of veteran and notable trees on site. They consider that the impact of development on veteran trees does not comply with national policy, the submitted Arboricultural Impact Assessment (AIA) dismisses the importance of the veteran trees on site and the assumptions made regarding veteran status. They are also concerned that siting

development close to trees and increasing human activity on site will compromise long-term retention of trees, increase health and safety risks, and, result in loss of local biodiversity. Objectors have also cited similar concerns.

- 6.74 Given the conflicting comments between the Woodland Trust and applicant's Arboriculturist with regard to the status of the trees within the application site the Council sought independent arboricultural advice. The independent advice confirms that tree girths listed on the Woodland Trusts Ancient Tree Inventory were found to be largely inaccurate and largely speculative as no access to the land by the Woodland Trust was made. Photographs taken didn't always correspond to the correct tree and some were on neighbouring land which the applicant has no control over. The independent report (IR) also confirms that the validation of the Ancient Tree Inventory is flawed as to validate the trees, access to the site would of been required and some of the trees have no views whatsoever without being in the middle of the wood. The IR notes that some trees are incorrectly classified as veteran when they are in fact mature, and, that there are many notable trees on the land but the site is not regarded as ancient woodland as much of the trees growing are less than 70 years old.
- 6.75 The independent arboriculturist visually surveyed all trees and confirmed that measurements taken largely concurred with the tree survey undertaken by the applicant, with the only differences related to additional 3 years in growth. The IR did however classify 5 trees near the development as veteran due to their size, age and condition. The IR considers that a comprehensive tree survey and protection measures have been submitted along with a Woodland Management Plan for 10 years that caters for the future management of the trees. The IR confirms that if the recommendations within the applicants AIA and AMS are followed there should be no adverse impacts on the surrounding trees. The IR does however point out that whilst on site a clump of Japanese Knotweed was found and a specialist company should be used to eradicate it with adequate control measures put in place.
- 6.76 Gov.uk advice states that the root protection area of trees classified as veteran should be at least 15 times the tree's diameter or 5 metres from the edge of the trees canopy if that area is larger than 15 times the tree's diameter. This results in some of the trees within the development site (T955, T961, T967, T988 and T990) having a larger root protection zone than shown on the submitted site location plan with the two western most lodges, the drainage runs, paths and sewage tank located within the root protection zones. It is clear that the sewage tank could be relocated to the north out with the root protection zones (the siting of which could be secured by condition). In terms of the impacts of the lodges, drainage runs and paths within the root protection zones the independent arboriculturist has confirmed that the drainage runs could be hand dug. The applicant's arboriculturist (AA) has provided an explanation confirming how the roots will be minimised from the pile foundations for the lodges namely - the lodges located in excess of 10m from centre stems and specification for initial ground protection for all areas of development including access routes preventing any compaction of soil and leaving route conditions unchanged. Whilst the precise support installation methods require finalising depending on soil conditions, any underlying rock

and calculated structural loadings, the AA has confirmed that helical screw piles and hand dug individual support posts are referenced as suitable construction methods in the AMS. Both methods are accompanied by a methodology for initial supervised hand digging once ground protection is in place allowing for the repositioning of any visible roots which may be present. If repositioning or controlled hand pruning of minor roots is not possible individual support locations can be adjusted on site to avoid any significant root structures. Given the 3 bed accessible lodge is 15.5m from T967 it is unlikely that any significant root structures would be present at the lodge location. Neither methods require the use of heavy plant or machinery and any use of concrete support posts are contained within an impermeable membrane. The AA confirms that foundation based individual supports will not result in any notable root disturbance and the raised nature of the lodges will allow the soil structure to be retained in its current state. This explanation is accepted by the independent arboriculturist who has also advised that an arboriculturist could be present on site to supervise the works.

- 6.77 Whilst objectors have raised concerns regarding the use of cellular confinement systems citing advice in Guidance Note 12 of the Arboricultural Association. It is clear that point 21 of this guidance states *"to minimise the potential for harm to veteran trees or ancient woodland it is recommended that the installation of cellular confinement systems should not be permitted within the buffer zone of ancient woodland or a veteran tree unless it can be determined that any direct impacts to soil and roots are likely to be tolerated by the affected tree. A cellular confinement system could be appropriate for ground protection where temporary access is required past a veteran tree if there are no other viable options available, or as a mitigation measure if a local planning authority has decided that there are wholly exceptional reasons for surfacing to be required in a buffer zone"*. The independent arboriculturist is aware of the aforementioned guidance and has confirmed that the cellular confinement systems within buffer zones has been used effectively in such locations without any long term tree loss and given that it only covers a small part of the site and only parts of the root protection areas the use of cellular confinement systems at the site is accepted.
- 6.78 Standing advice from Natural England and Forestry Commission on the Gov.uk website which is a material planning consideration for local planning authorities states that when making decisions about impacts upon veteran trees local planning authorities should refuse development that will reduce in the loss of deterioration of veteran trees unless there are wholly exceptional reasons or a suitable compensation strategy in place. Recommendations on the gov.uk website are made regarding buffer zones stating that *"you should not approved development proposals, including gardens, within a buffer zone"*. The buffer zone recommendations however do not appear to differentiate between ancient woodland and veteran trees. Notwithstanding this advice it is evident that no trees are to be removed as part of the development and it is clear from the advice by the independent arboriculturalist that the minimal development works taking place in the root protection zones of the veteran trees coupled with the mitigation measures that can be undertaken will not result in any long term harm or deterioration to the trees. In such circumstances subject to the sewage tank being re-sited

further north and the extensive mitigation measures proposed in the AIA and advised by the independent consultant and adherence to the site management statement (which stipulates amongst other things that fires/barbecues are prohibited, no wood will be allowed to be taken from the site etc) all of which can be secured by condition, it is not considered that the proposal would have an adverse impact upon existing trees within the site or result in the loss or deterioration of veteran trees. The development in this regard is therefore considered to be compliant with the relevant planning policies.

## **7. Impact Upon Biodiversity**

- 6.79 As stated in paragraph 6.62 planning decisions should contribute to and enhance the local environment by a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); b) recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem services, including the economic and other benefits of the best and most versatile agricultural land and of trees and woodland; c) maintaining the character of the undeveloped coast; d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; and e) preventing new and existing development from contributing to and being put at unacceptable risk from soil, air, water or noise pollution etc. Development should wherever possible, help to improve local environmental conditions such as air and water quality; and f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land where appropriate.
- 6.80 Paragraph 180 of the NPPF states that a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; b) development on land within or outside a Site of Special Scientific Interest and which is likely to have an adverse effect on it should not normally be permitted; c) development resulting in the loss of deterioration or irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused unless they are wholly exceptional reasons and a suitable compensation strategy exists; and d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.
- 6.81 Policy GI3 of the CDLP reiterates the requirements of the NPPF confirming that all proposals for development should protect and enhance priority habitats, European and nationally protected species as well as maintain and enhance any recognised geodiversity assets. When considering planning applications policy GI3 states that 1) permission for development will be refused if significant harm resulting from development cannot be avoided, adequately mitigated or, as a last resort, compensated for; 2) proposals

where the primary objective is to conserve or enhance biodiversity will be approved; 3) the incorporation and integration of wildlife corridors and other habitats in and around development sites will be required, wherever the opportunity arises; 4) species appropriate provision will be sought on development sites to encourage an increase in biodiversity; and, 5) development which would result in the loss of aged or veteran trees found outside ancient woodland will be refused, unless the need for, and the benefits of, the development in that location clearly outweigh the loss.

- 6.82 The application is accompanied by an Ecological Assessment (EA) including an initial Extended Phase 1 Habitat Survey (HS) undertaken in May 2019 and updated in December 2020 to assess if habitats had changed and to search for signs indicating the presence of protected species, a Reptile Survey (undertaken in September 2021) as well as a Site Management Statement.
- 6.83 The EA/HS states that a large open water tarn dominates the site with bogbean dominating in the west. The tarn is shallow and fringed by swamp habitat (predominantly soft rush amongst other species) along the southern and western edges. The marsh habitat encroaches into the pond to the south-east where scattered birch, goat willow, scots pine and sessile oak are present. The tarn is bordered on its east and northern side by an area of continuous bracken. In this area bluebell (a protected plant species) is abundant. Beyond the continuous bracken habitat the site is surrounded by a mature broad-leaved plantation. To the north of the tarn and woodland there is an area of improved grassland. Stands of giant knotweed and rhododendron (invasive species) are present in the south-east corner of the site.
- 6.84 The EA/HS assesses the impacts of the development upon protected sites, habitats and flora, protected and non-native invasive species, woodland/trees, amphibians, badgers, bats, birds, otter/water vole, red squirrel, hazel dormouse, reptiles, Great Crested Newts, as well as other protected/notable species. The EA/HS confirms that no impacts on any statutory or non-statutory designated sites are anticipated as a result of the proposal
- 6.85 In summary the EA/HS states notes that deciduous woodland habitats on site are Priority Habitats and that there are trees recorded as veterans on site. The EA/HS confirms that the proposal will not have a direct impact upon the tarn as the development will not involve any provision of formal angling facilities nor would the tarn be stocked with fish, boating will also not be permitted except for the management of the water body. Foul drainage sewage treatment arrangements which require approval from the EA have been designed to avoid risk to the tarn and surface water infiltration trenches have an absorptive function and will collect rain water from the roofs of the lodges and pods. No loss of standing water or swamp will occur.
- 6.86 The EA/HS goes onto state that no direct or indirect impact upon trees are anticipated as the proposal does not involve any tree felling/significant pruning, no works are proposed within any root protection areas, lodges and pods will be linked by a geotextile membrane pathway laid over existing ground to reduce adverse impacts upon woodland soils, a geotextile

membrane is also proposed where the vehicular access goes under the root protection areas, lodges will be raised on stilts there will be a negligible loss of soil where the stilts enter the ground however there will be decline of habitats as a result of shading. The EA/HS notes that the lodges and pods will be sited in an area of continuous bracken habitat, lined by a geotextile pathway, which will result in the loss of a small area of continuous bracken habitat however the EA/HS states that this is not considered to be of ecological significance given the abundance of the habitats on site. The EA/HS confirms that the geotextile pathway leading from the access road down towards the lodges will cross a broad leaved habitat which contains limited ground flora as a result of shading from trees therefore the loss from the creation of the pathway is negligible. Excavations for the drains will avoid root protection areas with the drainage system installed predominantly through the continuous bracken on site with the foul drainage tank installed in an area historically used as a pheasant pen. The loss of habitats to create the drainage runs, tank and access to is considered not to be significant. The EA/HS confirms that the pumps and cess tank will be fitted with high level and power loss alarms to ensure the site management is notified immediately of any outages so potential ecological impacts arising from any failures can be minimised. The EA/HS also states that the length of improved grassland lost to facilitate the upgraded access from the main road is not significant given the abundance of this habitat type in the wider area. It is noted that there would be the permanent loss of continuous bracken to create two small new mitigation ponds but this will lead to creation of habitat of improved nature conservation status. Measures are also proposed to ensure retained habitats are protected during construction of the lodges.

- 6.87 In terms of impact upon species the EA/HS confirms that no evidence of badgers were found on site. Several trees were found to have suitability for roosting bats however as no trees are to be removed it is not considered there would be any adverse impact upon roosting, foraging or commuting habitats for bats. Habitats on site were found to support nesting and ground nesting birds however it is not anticipated that there would be any habitat loss for birds and new structures on site could provide nesting opportunities. No evidence was found for otters and water voles on site with development located sufficiently far from the tarn to negate impacts on bank habitats. The site was found to have potential for supporting red squirrels however as no trees are to be lost no direct impact is anticipated however indirect impacts are noted from potential disturbance during construction and operation of the lodges. The EA/HS confirms there will be no implications for invertebrates or pole cats as no habitats used by this species will be lost; the proposed drainage strategy and site management statement will ensure no adverse impact upon aquatic invertebrate fauna; and, there will be no impacts upon hazel dormouse as habitats on site are unsuitable for this species. The EA/HS confirms that habitats are suitable on site for hedgehogs and consideration must be given to these species during construction and the majority of habitat on site is unsuitable for brown hare but the improved grassland could support foraging and commuting however given the small area of habitat lost and the abundance of suitable habitat in the wider area the loss is not considered significant. The Reptile Survey undertaken also did not find any reptiles during survey work and confirms that no implications exist for reptiles.

- 6.88 In terms of amphibians the EA/HS confirms that Great Crested Newts (GCN) are known to be present and presumed to be breeding on site and presumed to also be present in off-site ponds where no access was permitted to survey. As it was not possible to generate a reliable population estimate due to access to off-site ponds being refused and health/safety difficulties associated with installing bottle traps and carrying out torch lit surveys in swampy margins of the tarn the EA/HS has assessed the impact on GCN based on a worst-case assumption of a large GCN population using the tarn/off site ponds. The EA/HS confirms that the habitats surrounding the tarn provide suitable terrestrial habitat structure for newts. The EA/HS confirms that although no works to the tarn and habitat loss are anticipated there is the potential for minor-construction phases impacts to GCN as such appropriate mitigation is required under a traditional EPS licence from Natural England. The EA/HS confirms that there is sufficient land available within the site to mitigate for the modification to terrestrial habitat and long term additional habitat provision will provide mitigation through the creation of two new ponds within the site. Proposed new woodland planting in clumps around the tarn will also provide additional terrestrial habitat quality.
- 6.89 The EA/HS states that bluebells are known to be present within some of the footprint of the lodges and whilst the siting of the lodges avoids the highest concentrations of bluebells a planning condition is suggested to ensure a repeat survey and a scheme of translocation prior to construction to ensure there is no net loss. The EA/HS also proposes a number of extensive mitigation measures to deal with the potential impacts of the proposal such as sensitive lighting strategies, site clearance outside of the nesting bird seasons, Invasive Species Control Plan, Construction Environmental Management Plan, Tree and Habitat Protection Plan, Habitat Management Plan, Great Crested Newt Licence, Precautionary Mammal and Reptile Reasonable Avoidance Measures Method Statement. A number of enhancement measures are also proposed such as eradication of invasive species on site, the installation of bat and bird boxes, Landscape Habitat Establishment Plan which can ensure a 10% biodiversity net gain of the site - such as additional woodland planting, hedgerows along the access track, green roofs on the lodges and open water.
- 6.90 It is clear from paragraphs 4.2-4.4 of this report that a number of objections have been received from third parties with regard to biodiversity impacts of the development including statements that surveys undertaken have not been in accordance with best practice; lack of bat, invertebrate and botanical surveys; allegations that the applicant has affected the baseline of surveys by brush cutting near the tarn in June 2019 and by intensive game and water fowl rearing; as well as allegations that the site could be ancient woodland. The representations received in respect of the application have been reproduced in full for Members.
- 6.91 In light of representations received the Council has sought independent advice from an ecologist to undertake a review of the ecological information submitted for the application including the correspondence from the Woodland Trust, Cumbria Wildlife Trust and Natural England. The ecologist

was also furnished with a copy of the independent tree advice received in respect of the application. In summary the independent review by the ecologist confirms that on the basis of the relatively low impact design of the proposed development and the relevant information provided with the application (including consultee comments and responses) it is advised that the mitigation and enhancement measures included in the Ecological Assessment submitted are generally appropriate and should be conditioned in any planning permission that maybe granted for the proposed development. The independent reviews suggested some additional mitigation measures including a repeat survey of the lodges footpaths, access, pathways and drainage runs prior to works commencing, a detailed translocation plan for bluebells taking into account appropriate timing for the translocation and appropriate methods of sensitive soil handling; invasive method statement to include dealing with Japanese Knotweed; excavation works undertaken to be covered overnight in order to prevent animals becoming trapped/injured, and, advice on further survey work for bats and a licence should any works to trees be undertaken; sensitive lighting strategy undertaken in accordance with more recent guidance; and, a greater number of bat and bird boxes should be installed on site (10 of each). The independent review also confirms that further survey work for reptiles will not be necessary based on the reptile presence/likely absence survey work undertaken however this survey data is only valid for two years so if development works are delayed beyond this date a further reptile survey should be undertaken. The review also recommends 10% Biodiversity Net gain in advance of a planning decision being made.

- 6.92 As part of the independent ecological review an independent Assessment of Likely Significant Effect (ALSE) was also undertaken. In summary the ALSE confirms that the development is unlikely to have a significant effect alone or in-combination with any other plans/projects on the interest features of North Pennines Moors Special Protection Area (SPA), North Pennines Moors Special Area of Conservation (SAC) or the River Eden (SAC) therefore an appropriate assessment is not required.
- 6.93 Members should be aware that the independent ecologist (IE) has raised no issue with regard to the timing of the survey work undertaken for the application confirming that Ecological Assessment surveys and extended Phase One surveys can be undertaken at any time of the year, providing that the timing constraints/limitations are adequately discussed and taken into account in the survey report which has been done. September is also an optimal time to undertake a reptile survey as during this month juvenile reptiles are likely to be detected in addition to adults. The IE also notes that the number of survey visits undertaken for the reptile survey were in accordance with the relevant guidelines with the density of the survey undertaken far exceeding the relevant guidelines. The IE has also confirmed that the company undertaking the reptile survey is a well-established and respected ecological consultancy in Cumbria and it is therefore most likely that the surveyors had the relevant experience and training for the work. With regard to objectors concerns regarding lack of bat surveys the IE has confirmed that although the site will be used by bats when foraging and commuting in the locality, and potentially for roosting in trees with suitable roost features on site, it is understood that potential bat roosting habitat will

not be affected by works (e.g. it is understood that no trees will be felled as part of the proposed development and that only minor tip removal will be undertaken on trees along the proposed access route), and therefore that the proposals are unlikely to impact roosting bats or their roosts. There is only one structure on site (shed) and that has negligible potential for roosting bats. It is also understood that works are not proposed to the shed. The bat mitigation proposed in the EA and in the independent Ecological Review includes further bat survey work should any works be necessary to trees with bat roost potential, sensitive siting of lodges, creation of new bat foraging habitat (two ponds), production and implementation of a sensitive lighting strategy to avoid impacts of lighting on bats, and the addition of many bat boxes across the site. This mitigation is considered adequate to address any indirect impacts there may be on foraging and commuting bats using the site, and to enhance bat foraging and roosting opportunities on site.

- 6.94 With regard to the objections raised regard the validity of the Great Crest Newt Survey the IE has confirmed that the limitations to the Great Crested Newt survey work undertaken at Tarn Lodge Farm, such as access restrictions due to lack of permission to survey off-site ponds and health and safety reasons, were highlighted and discussed fully in the information provided by the applicant. Justification for the use of eDNA surveying only was provided and this survey was able to establish the presence of GCN in the tarn. The ecologist then made 'a reasonable worst-case assumption that a 'large' population of GCN are using the tarn on site and ponds off-site to breed, and therefore that a European Protected Species Mitigation Licence would be required on that basis, including appropriate mitigation measures, before development works could proceed. Based on the images of the tarn taken in June 2019 and in June 2021 sent to the council by an objector, the IE has stated that the extent of marginal vegetation around the tarn does appear to have decreased in places between 2019 and 2021. The presence of waterfowl on the tarn may have contributed to this, particularly if their numbers have substantially increased. However, other factors may also have influenced the extent of marginal vegetation, such as differences in climate (e.g. rainfall and/or temperature) between the years. For example, having briefly examined historical weather data for Castle Carrock available online, in 2019 the combined monthly average rainfall between March and June (inclusive) was 404.9mm, whereas for the same period in 2021 the combined monthly average rainfall was considerably less (289.1mm). With regard to objectors allegations regarding the applicant derisking the site and the need for a high baseline the IE has stated that should this be the case and the habitat on site is now less suitable for GCN than it was in 2019, then the proposed mitigation should be based on a high baseline i.e. a 'large' population of GCN being present in the tarn. The proposed mitigation includes the creation of two new ponds on site that will be suitable as GCN breeding habitat.
- 6.95 In terms of objections regarding lack of phase 2 NVC botanical surveys the IE has clarified that EA states that 'impacts on bluebell are unlikely, and that 'there will be a negligible loss of ground habitats during lodge construction, where the stilts enter the ground'. Nevertheless, a translocation scheme for bluebell is still recommended in the EA to ensure no net loss in biodiversity. It

is understood that the tarn and swamp habitats will not be directly impacted by the proposed development, and mitigation measures are proposed in the EA to ensure the tarn and swamp habitats (amongst others) are protected during construction, such as a CEMP and a habitat protection plan, including the use of fencing and delineation of working areas to avoid impacting more sensitive areas of the site. A habitat management plan is also recommended in the EA, to ensure that habitats are appropriately managed in the long-term for biodiversity. It is understood that the surface water drainage strategy and foul drainage have been designed to prevent adverse effects on the tarn. The recommendations of the EA and the independent ecological review include conditioning a repeat botanical survey of the lodge footprints, access routes and drainage runs to inform the detailed bluebell translocation scheme that needs to be submitted to the council for approval before any works commence - this survey should be undertaken as an NVC survey and at an appropriate time of the year.

- 6.96 Furthermore with regard to objectors concerns regarding lack of invertebrate surveys the IE has confirmed that, the main habitats likely to be of greatest importance to invertebrates on site would be the tarn, mature trees and dead wood. It is stated in the EA that, 'TEP has not carried out any invertebrate surveys. The assessment can proceed on the basis that mature trees and the tarn would provide good invertebrate habitats and by avoiding adverse effects on these habitats, any indirect effects on invertebrates can be avoided. The report also states that, 'there are no implications for invertebrates as the affected habitats provide a limited important food source for this species group and there are more suitable foraging habitats in the wider area that invertebrates may use. In addition, no habitats that may be used by invertebrates will be lost and leaf litter will still continue to be generated by retained trees.' 'The proposed drainage strategy and site management statement will ensure aquatic invertebrate fauna are not adversely affected by the proposals.' Enhancement for invertebrates are included in the recommendations of the EA, such as the addition of bug boxes and creation of habitat piles across the site.
- 6.97 The advice from the IE regarding 10% net gain has been noted however the secondary legislation accompanying the Environment Act 2021 requiring mandatory 10% bio-diversity net gain requirements (which can be achieved on/off site) has not come into force yet as it is still being consulted on. In such circumstances there is no policy requirement for 10% net gain requirements on all sites at the moment however Policy 180 of the NPPF does state when determining application opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate. In such circumstances net gain requirements for biodiversity at the application site can be dealt with via the imposition of a suitably worded planning condition and does not need to be dealt with up front.
- 6.98 The relevant planning policies in respect of biodiversity are clear in that development resulting in significant harm to biodiversity should be refused if significant harm cannot be avoided, mitigated or compensated for. It is clear

from all the mitigation measures proposed (including that for veteran trees) and the independent ecological advice received in respect of the application that the development works will not result in significant harm to biodiversity. The proposal in this regard is therefore compliant with the relevant planning policies subject to relevant conditions being imposed within any decision regarding adherence to the mitigation measures proposed in the applicants EA/HS and the mitigation/enhancement measures as suggested by the independent ecologist including a condition requiring biodiversity net gain.

## **8. Drainage**

- 6.99 Policies IP6 and CC5 of the local plan seek to ensure that development proposals have adequate provision for the disposal of foul and surface water.
- 6.100 Foul drainage is to be disposed of via a cess tank located within an existing clearing in the north-eastern corner of the wood. The cess tank will store all foul flows from the development and will be emptied by a licensed waste carrier at no more than 7 day intervals. Surface water from roofs is to be drained by a 5m long infiltration trench constructed near each lodge and angled towards the pond to allow an even flow or rainwater run off into the tarn is to be disposed of via a combination of infiltration into the ground via soakaways and to a surface water body (the tarn). The principle of these drainage methods are acceptable.

## **9. Other Matters**

- 6.101 Although objections have been received regarding the impact of the proposal on the North Pennines AONB the application site is not located within the AONB and for the reasons outlined in sections 6.14-6.21 of this report the landscape impact of the proposal is deemed acceptable.
- 6.102 Article 8 and Article 1 Protocol 1 of the Humans Rights Act are relevant. The applicant's Human Rights are respected but based on the foregoing it is not considered that any personal considerations out-weigh the harm created by the development.

## **Conclusion**

- 6.103 The principle of the erection of 6no.holiday lodges on the land has already been assessed and established as acceptable under previously approved application 94/0524 which is a material consideration in determination of this application. It is up to Members what weight they give this material consideration however it is advised that this weight is limited given the intervening time period since the previous approval and the policy changes - namely the introduction of the Carlisle District Local Plan 2015-2030 and NPPF.
- 6.104 Notwithstanding the above the character of the application site i.e. its positioning within the open countryside and proximity to existing tourist attractions is unchanged since the previous approval with no significant changes to the character/appearance of the surrounding area in the

intervening period except for developments at Tarn Lodge Farm and Tarn Lodge. The application site is still considered to be well related to an existing landscape attraction (a natural tarn) located approximately 0.79km from the North Pennines Area of Outstanding Natural Beauty and Castle Carrock village which has a number of services including a public house, village hall and church. The site is also located within cycling distance of National Cycle Route 72 which leads from the west coast of Cumbria to South Shields. In such circumstances the provision of additional holiday accommodation in this location would still help to support existing tourist attractions within the surrounding area and the rural economy. Accordingly the principle of tourism development in this location is still deemed to be acceptable.

- 6.105 The majority of the proposed development is well contained within existing landscape features. The siting of the development takes advantage of the existing contours of the land and natural screening. The proposed materials and are also traditional, in keeping with the site's rural character and appearance. Furthermore the overall scale of the development, design and positioning of structures within the site is acceptable and would not detract from the site's rural setting. In such circumstances the proposed development would not cause a significant adverse impact upon the local landscape and the visual amenity and character of the area would be sufficiently protected. The scale and design of the development is therefore acceptable. Furthermore given the overall scale of the development, design and positioning in relation to the Grade II Listed Buildings at Tarn Lodge and Tower Folly together with existing and proposed landscaping it is not considered that the development would have an adverse impact upon the overall significance and settings of Tarn Lodge or Tower Folly.
- 6.106 As discussed within the report subject to suitably worded detailed planning conditions it is considered that the living conditions of neighbouring properties can be safeguarded as well as impacts upon biodiversity and trees. The proposal, subject to suitable planning conditions, would also not raise any issues with regard to foul and surface water drainage. Furthermore biodiversity enhancement of the site could also take place subject to relevant conditions.
- 6.107 It is however noted that as the access is within a national speed limit zone, visibility splays of 215m x 2.4m are required to be demonstrated in accordance with the Cumbria Development Design Guide and such splays cannot be achieved due to the undulations in the road to the north and the splays crossing third party land which consists of hedgerows. The applicant therefore has no control over the growth and maintenance of the hedgerows that will/could impede visibility upon exiting the application site. The Highway Authority does not accept the rationale behind the highway report submitted as part of the application confirming that a design speed of 40mph is being used (equating to visibility splays of 120m x 2.4m). Furthermore the Highway Authority has confirmed that the speed survey undertaken in February 2022 shows that LGV vehicles have an abnormal impact on the road network leading the Highway Authority to the conclusion that the 85%ile speed used should include LGV's in this particular instance thus maintaining that 215m x 2.4m visibility splays are required for the site access which cannot be

achieved.

- 6.108 Whilst the proposal will provide benefits to the rural economy via the creation of a new tourist facility on balance it is considered that the negative impacts the proposal will create on highway safety as a result of the 215m visibility splays being unable to be achieved will significantly and demonstrably outweigh any perceived benefits that the development will create. In such circumstances the application is considered to be contrary to the requirements of paragraph 110 of the NPPF together with policies IP2, EC9 (criterion 2), EC10 (criterion 4) and EC11 (criterion 3) of the Carlisle District Local Plan 2015-2030. It is therefore recommended that Members refuse the application.

## **7. Planning History**

- 7.1 In 1994 full planning permission was granted for the erection of 6no.self catering lodges (reference 94/0524);
- 7.2 In 2018 an application was submitted seeking full planning permission for the siting of 16no.holiday lodges and installation of a waste water treatment system. The application was however withdrawn prior to determination (reference 18/0931); and
- 7.3 In 2020 an application was submitted seeking full planning permission for the siting of 6no.holiday lodges and 2no.pods together with landscaping, waste water treatment system, access track and parking. The application was however withdrawn prior to determination (20/0237).

## **8. Recommendation: Refuse Permission**

1. **Reason:** As the access to the site is within a national speed limit zone (60mph) visibility splays of 215m x 2.4m are required to be demonstrated in accordance with the Cumbria Development Design Guide. Such splays cannot be achieved due to the undulations in the road to the north and the splays crossing third party land which consists of hedgerows. The results of the speed survey undertaken in February 2022 do not justify reduced visibility splays due to the abnormal impact LGV vehicles have on the road network in this location. In such circumstances the development will have an adverse impact upon highway safety. The development is therefore contrary to the requirements of paragraph 110 of the NPPF together with policies IP2, EC9 (criterion 2), EC10 (criterion 4) and EC11 (criterion 3) of the Carlisle District Local Plan 2015-2030.
-





**KEY**

[Symbol]	Existing Site Contours
[Symbol]	Proposed Site Contours
[Symbol]	Proposed Building Footprints
[Symbol]	Proposed Parking Area
[Symbol]	Proposed Site Access
[Symbol]	Proposed Site Erosion Control
[Symbol]	Proposed Site Drainage
[Symbol]	Proposed Site Grading
[Symbol]	Proposed Site Planting

**PARKING**

[Symbol]	Proposed Parking Area

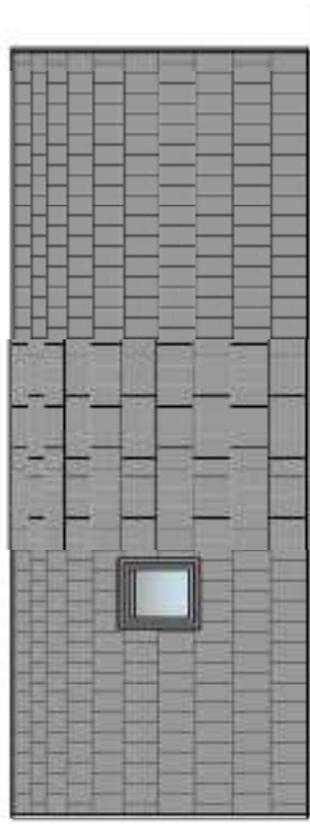
**Ecology Mitigation**

[Symbol]	Proposed Ecology Mitigation
[Symbol]	Proposed Ecology Mitigation

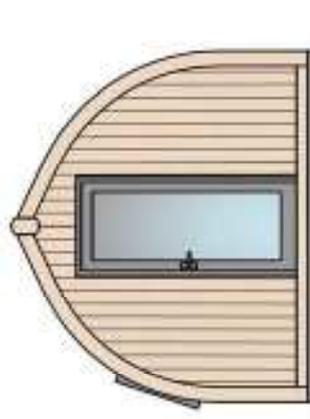




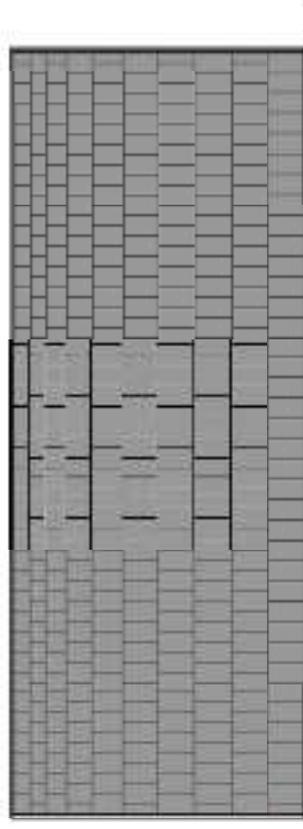
FLOOR PLAN  
TYPE B



SIDE ELEVATION



FRONT ELEVATION



SIDE ELEVATION



REAR ELEVATION

Project: LUNE VALLEY PODS

TB: TYPE B  
LAYOUT PLAN AND ELEVATIONS

Client:  
Lune Valley Pods

Drawn: SD

Checked: SD

Date: 05.08.17

Scale: 1:50

Project: AS

Issue: PLANNING

Drawing Number: Rev

465-002



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SCALE 1:50







Project Name	...
Client	...
Design Team	...
Scale	1:500
Date	...
Sheet No.	...
Total Sheets	...



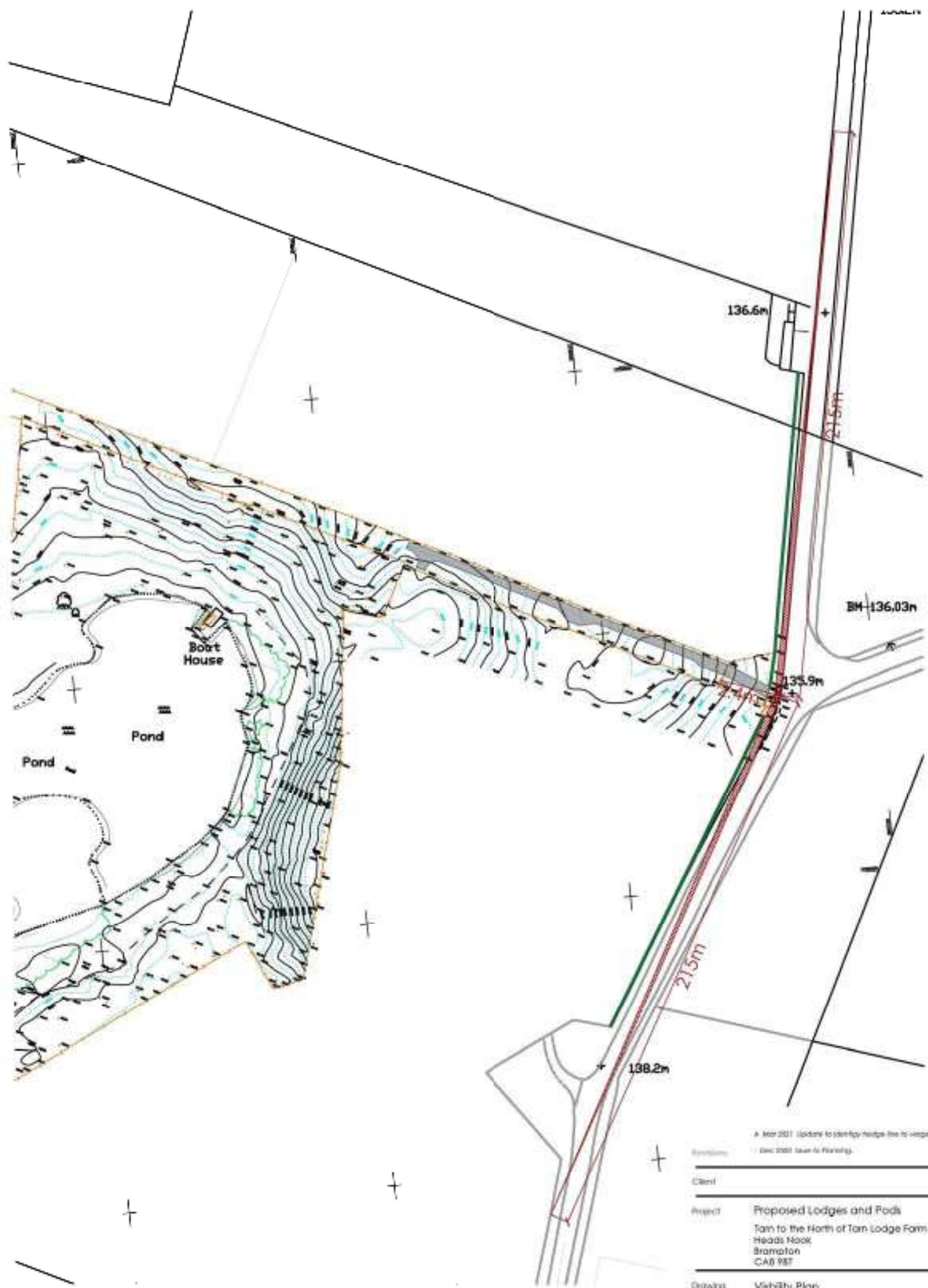
**Key:**

- Site Boundary
- Building Footprint
- Parking Area
- Water Feature

Item	Quantity	Unit	Notes
...	...	...	...

Item	Quantity	Unit	Notes
...	...	...	...

Item	Quantity	Unit	Notes
...	...	...	...



A Mar 2021 Update to identify hedge line to verge. GC  
 Dec 2020 Issue for Planning.

Revisions	
Client	
Project	Proposed Lodges and Pods Tam to the North of Tam Lodge Farm Heads Nook Brampton CA6 9BT
Drawing	Visibility Plan
Drawing No.	2065-12 Rev. A
Scale	1:1250 @ A3 (0m) GC
Date	Dec 2020

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