

## SCHEDULE A: Applications with Recommendation

22/0403

Item No: 01

Date of Committee: 24/02/2023

**Appn Ref No:**  
22/0403

**Applicant:**  
Mr M Johnstone

**Parish:**  
Rockcliffe

**Agent:**  
Mat Design

**Ward:**  
Longtown & the Border

**Location:** Deerview adjacent to Ghyll Bank Caravan Site, Low Harker, Harker, Carlisle, CA6 4DH

**Proposal:** Change Of Use Of Land To Residential For Single Family Gypsy & Traveller Group Comprising 1no. Static Caravan, 1no. Touring Caravan, 1no. Dayroom, 1no. Storage Shed, Formation Of Area Of Hard Standing & Erection Of Boundary Wall & Installation Of Septic Tank (Part Retrospective)

**Date of Receipt:**  
17/05/2022

**Statutory Expiry Date**  
12/07/2022

**26 Week Determination**

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### REPORT

**Case Officer:** Stephen Daniel

#### 1. Recommendation

1.1 It is recommended that:

1) Authority to Issue be given to the Corporate Director of Economic development to approve the application, subject to the imposition of relevant conditions as detailed in the report and the issue of nutrient neutrality being resolved.

2) In the event of the issue of nutrient neutrality not being resolved, delegated authority be given to the Corporate Director of Economic Development to refuse the application.

#### 2. Main Issues

- 2.1 Whether The Proposal Would Be Acceptable In Principle
- 2.2 Whether The Scale And Design Would Be Acceptable
- 2.3 Highway Matters
- 2.4 Drainage
- 2.5 Biodiversity
- 2.6 Nutrient Neutrality

### **3. Application Details**

#### **The Site**

- 3.1 The site, which measures approximately 0.05Ha, is surfaced in permeable gravel and is enclosed by a brick wall. An access has been provided from the front of the site onto the adjacent road. The operational development described in the application is retrospective (hard standing, boundary wall, septic tank and access).
- 3.2 The site is bounded to the east by Ghyll Bank Caravan Park (Gypsy & Traveller site) and to the south and west by open land. The land to the west and south is allocated for permanent residential traveller provision and for traveller transit provision.

#### **Background**

- 3.3 In March 2010, an application for the change of use to caravan site with associated works (new access, hard standing, brick wall, amenity block, landscaping and septic tank) for single gypsy family (partly retrospective) was refused (08/0754). There were two reasons for refusal which are set out below:

*1. There is no proven general need for additional Gypsy sites in the area and the applicant's circumstances appear to be such that it cannot be concluded that a move from his current site is essential on the grounds put forward. The site of the proposed development is located within an area of sporadic development unrelated to any existing settlement. In this location the proposal would be unduly conspicuous, consolidating the existing development to the detriment of the rural character of the area. The proposal would thus be contrary to Policy H14 of the Carlisle and District Local Plan 2001-2016 which seeks to ensure proposals for Gypsies and Travellers stem from an identified need and ensure that there would be no adverse impact on the local landscape.*

*2. In the absence of adequate information to the contrary regarding the applicant's proposed means of foul drainage to serve the proposed residential accommodation, together with lack of information with regard to the associated disposal of surface water, it is considered that the proposal will result in an increased risk of pollution to ground and surface waters contrary to Policies CP11 and CP12 of the Carlisle District Local Plan 2001-2016.*

#### **The Proposal**

- 3.4 This proposal is seeking part retrospective planning permission for the change of use of land to residential for a single family gypsy and traveller group comprising 1no. static caravan, 1no. touring caravan, 1no. dayroom, 1no. storage shed, formation of area of hard standing and erection of

boundary wall and installation of septic tank.

- 3.5 The submitted site plan shows a static caravan being sited near to the front of the site, with a store to the rear. Two car parking spaces would be located beyond the store, with a day room and touring caravan being shown to the rear of the site. The site plan also shows a bin store near to the roadside and a septic tank centrally located within the site. The day room would measure 6m by 2.15m and would have a pitched roof, which would measure 2.96m to the ridge. The store would measure 2.47m by 2.05m and it would have a monopitch roof, which would have a maximum height of 2.60m. Both buildings would be constructed of brick under tiled roofs.
- 3.6 The applicant and his family are seeking planning permission for settled site accommodation that would provide suitable accommodation (static & trailer caravans), which would be in the interests of the children and the family's well-being.

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

- 4.1 This application has been advertised by means of a site notice and notification letters sent to two neighbouring properties. No verbal or written representations have been made during the consultation period.

#### **5. Summary of Consultation Responses**

**Cumbria County Council - (Highways & Lead Local Flood Authority):** - no objections, subject to conditions (provision of visibility splays; details of construction access);

**Local Environment - Environmental Protection:** - no comments received;

**Rockcliffe Parish Council:** - this is a retrospective planning application for a development that has partly been built on land that is not designated for that purpose. There is already a provision for Travellers accommodation on the adjacent site and several sites around Carlisle and therefore we don't see a proven need to effectively spill out onto a Green Field Site in a very haphazard and irregular manner. Allowing this to happen would create a dangerous precedent. What is there to stop anyone building such a development in any field they like and then apply for retrospective planning permission? The proposal is very visible from the road with no attempt to provide screening. Crucially the same planning application was made back in 2008 (15/08/08 ref 08/0754) and was refused by the Planning Department then. We cannot see that anything has changed and we ask that the Planning Department are consistent in their approach and again refuse this application.

#### **6. Officer's Report**

##### **Assessment**

- 6.1 Section 70(2) of the Town and Country Planning Act 1990/ Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an

application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.

- 6.2 The relevant planning policies against which the application is required to be assessed is the National Planning Policy Framework (NPPF), Planning Policy for Traveller Sites (PPTS) (which must be read in conjunction with the NPPF), National Planning Practice Guidance and the Cumbria Gypsy and Traveller Needs Assessment (GTAA) Final Report January 2022 together with Policies SP2, SP6, HO11, IP3, IP6, CC5, CM5, G11 and G13 of the Carlisle District Local Plan 2015-2030.
- 6.3 The proposal raises the following planning issues:
1. Whether The Proposal Would Be Acceptable In Principle
- 6.4 Specific advice on Traveller sites is contained in PPTS which seeks, amongst other things, to create sustainable communities where Gypsies have fair access to suitable accommodation from which Travellers can access education, health, welfare and employment infrastructure. It advises that local plans must identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against locally set targets. Locally set targets are contained within Policy HO11 of the local plan which draws upon the most up to date evidence on need in the form of the GTAA.
- 6.5 Policy HO11 of the local plan requires that where there is an identified need the city council will consider the provision of Gypsy and Traveller sites and that they will be acceptable providing that they meet a number of detailed criteria. Importantly Policy HO11 must be read in conjunction with Policy SP2 which sets out a settlement hierarchy as a means of securing sustainable development. This approach accords entirely with the NPPF and should therefore continue to be afforded full weight in the decision making process. Policy SP2 identifies that *"outside of the locations specified (i.e. in open countryside) development will be assessed against the need to be in the location specified"*.
- 6.6 The recently published GTAA covers all authorities in Cumbria and paragraph 1.2 describes its purpose:
- "The GTAA provides a credible evidence base which can be used toward the preparation and implementation of Local Plan policies and provision of new Gypsy and Traveller pitches and Travelling Showpeople plots for the 15 year period up to 2035, as required by the PPTS, and 2040 to meet Local Plan Periods. The outcomes of this study supersede the need figures of any previous Gypsy, Traveller and Travelling Showpeople accommodation needs assessment completed in the study area."*
- 6.7 In summary, page 64 of the report concludes the need for 33 pitches in Carlisle up to 2040 (with a possible further 6 pitches depending on whether they satisfy the planning definition). The report sets out a number of

approaches, bearing in mind that the total need is up to 2040 but that there is also some immediate need within the next 5 years. The approaches suggested in the report include additional touring caravans on existing sites; sites occupied by larger extended family groups; or, vacant pitches on larger commercial sites. Paragraph 9.48 recommends that need is met through new pitch allocations and intensification or expansion of existing sites. It also recommends that consideration could also be given to granting planning permission for unauthorised sites.

- 6.8 In order to deal with the identified need, the report recommends a Pitch Delivery Assessment is undertaken to determine what proportion of the identified need can be met through intensification, reconfiguration of changes to planning conditions on existing sites. This work is currently underway.
- 6.9 This application is supported by a Planning Statement which confirms that the applicant and his family are gypsies and travellers, as defined in Annex 1 of the 2015 PPTS. Namely, they are persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependents' educational or health needs or old age have ceased to travel temporarily.
- 6.10 The site is located immediately adjacent to an existing Gypsy and Traveller site at Ghyll Bank and a field that has been allocated for nine permanent residential Gypsy and Traveller pitches and up to fifteen transit pitches.
- 6.11 Given the need for additional pitches for Gypsies and Travellers in Carlisle District and given the location of this site adjacent to an existing Traveller site and an area that is allocated for additional permanent Gypsy and Traveller sites, the proposal would be acceptable in principle.

## 2. Whether The Scale And Design Would Be Acceptable

- 6.12 The proposal is seeking planning permission for a single family Gypsy & Traveller pitch on a site that is 0.05 Ha in area. The site is currently surfaced in permeable gravel and is enclosed by a brick wall. An access has been provided from the front of the site onto the adjacent road.
- 6.13 The submitted site plan shows a static caravan being sited near to the front of the site, with a store to the rear. Two car parking spaces would be located beyond the store, with a day room and touring caravan being shown to the rear of the site. The site plan also shows a bin store near to the roadside and a septic tank centrally located within the site. The day room would measure 6m by 2.15m and would have a pitched roof, which would measure 2.96m to the ridge. The store would measure 2.47m by 2.05m and it would have a monopitch roof, which would have a maximum height of 2.60m. Both buildings would be constructed of brick under tiled roofs. The applicant would be happy to assist in providing planting and landscaping to the site which would help to further integrate this site into local landscape.
- 6.14 In light of the above, the scale and design of the proposals are considered to

be acceptable.

### 3. Highway Matters

- 6.15 The Highways Authority initially raised some concerns about the proposed access to the site and whether suitable visibility splays could be provided. The applicant commissioned a speed survey and has submitted a visibility plan which shows suitable visibility being provided.
- 6.16 Following the submission of the additional information, the Highways Authority has confirmed that it has no objections to the proposal subject to the imposition of conditions (provision of visibility splays; construction and drainage details of the access).

### 4. Drainage

- 6.17 In order to protect against pollution, 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.
- 6.18 Site sewerage is provided by way of a 2,800 litre Balmoral Septic Tank, which was installed on site by A1 drains on in July 2008. A percolation test was carried out at the time of installation. The Balmoral Septic Tank Specification is CE Approved to BSEN 12566-1 and designed in accordance with British Standard Code BS6297.
- 6.19 The site has been surfaced with permeable gravel, which has been in place since at least April 2009. There have been no site surface water collection points, nor any spillage of surface water from the site over that time. Given the nature of the proposed development, there would be no increase in surface water run off from the site.
- 6.20 Given the size of the development, under the Building Act and current Building Regs the static caravan and touring caravan are not classed as 'buildings', whilst the day room, given its size and method of construction, would be exempt from the Building Regulations. A site licence would be required from Environmental Health and the Environment Agency would check the drainage is acceptable.

### 5. Biodiversity

- 6.21 The authority should consider securing measures to enhance the biodiversity of a site from the applicant, if it is minded to grant permission for an application in accordance with paragraph 180 of the NPPF. This is reflected in Section 40 of the Natural Environment and Rural Communities Act (2006) which states that every public authority must have regard to the purpose of conserving biodiversity. Local planning authorities must also have regard to the requirements of the EC Habitats Directive (92/43/EEC) when determining a planning application as prescribed by regulation 3 (4) of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), and Article 16 of the Habitats Directive before planning permission is

granted.

- 6.22 Planning Authorities in exercising their planning and other functions must have regard to the requirements of the EC Habitats Directive (92/43/EEC) when determining a planning application as prescribed by regulation 3 (4) of the Conservation (Natural Habitats, cc.) Regulations 1994 (as amended). Such due regard means that Planning Authorities must determine whether the proposed development meets the requirements of Article 16 of the Habitats Directive before planning permission is granted. Article 16 of the Directive indicates that if there is reasonable likelihood of a European protected species being present then derogation may be sought when there is no satisfactory alternative and that the proposal will not harm the favourable conservation of the protected species and their habitat.
- 6.23 The site is currently surfaced in gravel and has low amenity value. The provision of some landscaping along the site boundary (which can be secured by condition) would provide some biodiversity enhancement to the site.

## 6. Nutrient Neutrality

- 6.24 Alongside other local planning authorities, Carlisle City Council has received a letter dated 16th March 2022 from Natural England about nutrient pollution in the protected habitats of the River Eden Special Area of Conservation (SAC). The letter advised that new development within the catchment of these habitats comprising overnight accommodation (which includes new dwellings) can cause adverse impacts to nutrient pollution.
- 6.25 Local authorities have been advised that planning applications and plans in affected areas should be carefully considered and mitigation should be used to ensure there are no adverse effects to meet the requirements of the Conservation of Species and Habitats Regulations 2017. Whilst the council assesses the implications of these matters, it cannot lawfully conclude that development within the catchment of the River Eden SAC will not have an adverse effect. Therefore, until these matters are resolved, the council will not be able to grant planning permission for developments comprising overnight accommodation (including new dwellings) within the affected catchments. Whilst it is acknowledged that septic tank was installed on this site in 2008, this has not been used and the current proposal would increase the nutrient loading from the site. This application cannot, therefore, be approved until this issue is resolved.

## Conclusion

- 6.26 In overall terms, whilst it is noted that the adjacent site and land within the locality have been developed to provide pitches for accommodation by Gypsies and Travellers, there is still a further need identified in the most recent and up-date GTAA for more pitches up until 2040. As such, the principle of development would be acceptable. The scale and design of the proposal would be acceptable and the proposal would not have an adverse impact on highway safety or on biodiversity. The proposed drainage has been

installed but given that it has not been used the proposal cannot be approved until the nutrient neutrality issue has been resolved.

- 6.27 It is recommended that authority to issue approval of the application is granted with conditions subject to the issue of nutrient neutrality being resolved.

## 7. Planning History

- 4.1 In March 2010, an application for the change of use to caravan site with associated works (new access, hard standing, brick wall, amenity block, landscaping and septic tank) for single gypsy family (partly retrospective) was refused (08/0754).

## 8. Recommendation: Grant Permission

1. The development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:
1. the Planning Application Form, received 16th May 2022;
  2. the Site Location Plan (Dwg 1), received 16th May 2022;
  3. Existing & Proposed Site Plans - Day Room, Store, Wall & Septic Tank Details (Dwg 2), received 17th May 2022;
  4. Proposed Site Plan (Dwg 3), received 3rd May 2022;
  5. Proposed Site Plan with Visibility Splay (Dwg 4 Rev A), received 16th January 2023;
  6. Design & Access Statement, received 17th May 2022;
  7. Details of Septic Tank (Dwg 15-010-002 Rev 03), received 17th May 2022;
  8. Septic Tank Installation Letter, received 17th May 2022;
  9. Traffic Survey, received 7th December 2022;
  10. the Notice of Decision;
  11. any such variation as may subsequently be approved in writing by the local planning authority.

**Reason:** To define the permission.

2. The site shall not be occupied by any persons other than Gypsies and Travellers as defined in Annex 1 of the Planning Policy for Traveller Sites published in August 2015 (or any subsequent version).

**Reason:** To ensure that the site is occupied by Gypsies and Travellers in accordance with Policy HO11 of the Carlisle District Local Plan 2015-2030.

3. No more than two caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968, of which no more than one shall be a static caravan, shall be stationed on the site at any time.

**Reason:** To ensure that the accommodation is proportionate to the occupiers of the site and to ensure that the character and appearance of the area is not adversely affected in accordance with Policies SP6 and HO11 of the Carlisle District Local Plan 2015-2030.

4. No commercial activities shall take place on the land, including the storage of materials.

**Reason:** To ensure that the character and appearance of the area is not adversely affected in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

5. No more than one commercial vehicle shall be kept on the land for use by the occupiers of the caravans hereby permitted and this shall not exceed 3.5 tonnes in weight.

**Reason:** To ensure that the character and appearance of the area is not adversely affected in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

6. A landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved prior to the occupation of the site or in accordance with the programme agreed by the Local Planning Authority. Any trees or other plants which die or are removed within the first five years following the implementation of the landscaping scheme shall be replaced during the next planting season.

**Reason:** To ensure that a satisfactory landscaping scheme is prepared and to ensure compliance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

7. Prior to its installation on site, details of any external lighting shall be submitted for approval in writing by the Local Planning Authority. The external lighting shall then be installed in strict accordance with these details.

**Reason:** To ensure that any external lighting is appropriate to the site, in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

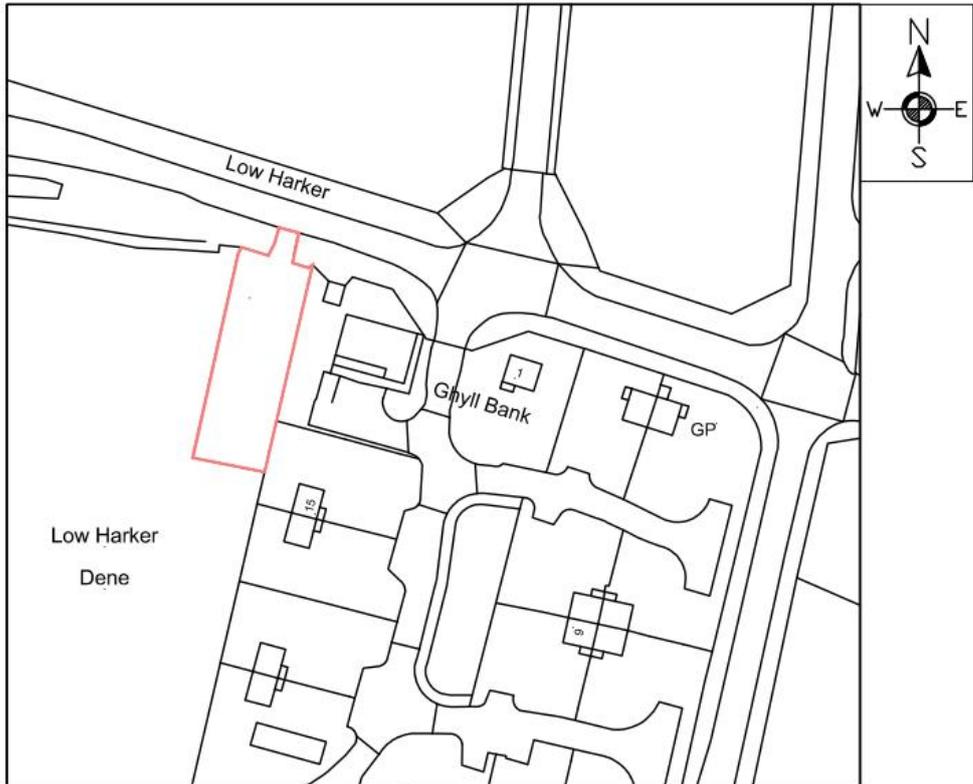
8. The development shall not commence until visibility splays, providing clear visibility as show on the visibility splay plan ( drawing no 4-A- Dec 2022 ) have been created. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grown within the visibility splay which obstruct the visibility splays. The visibility splays shall be constructed before general development of the site commences so that construction traffic is safeguarded.

**Reason:** In the interests of highway safety and to support Local Transport Plan Policies LD7 & LD8.

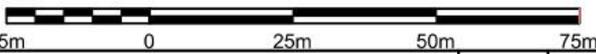
9. The whole of the access area bounded by the carriageway edge, entrance gates and the splays shall be constructed and drained to the specification of the Local Planning Authority in consultation with the Highway Authority

**Reason:** In the interests of road safety and to support Local Transport Plan Policies LD5, LD7 & LD8.

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1:1250



Project  
CHANGE OF USE OF LAND TO FORM 1 No GYPSY & TRAVELLER PITCH ON  
LANE TO THE WEST SIDE OF GHYLL BANK CARAVAN PARK, LOW HARKER,  
CARLISLE, CA6 4DG

Contract No.	Dwg.No.	Revision	Scale	1:1250	@ A4
	1		By	MCC	Date
			Chkd		MAY 2022

Client  
MR M JOHNSTONE

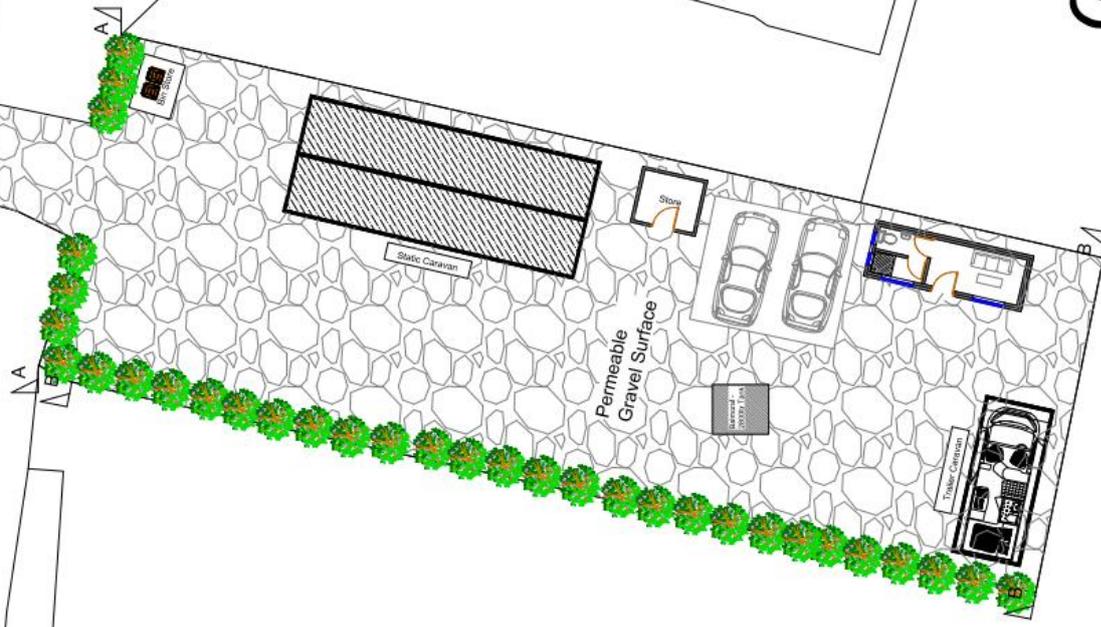
Drawing Title  
SITE LOCATION PLAN

**MAT Design Limited**  
**Town Planning & Building**  
**Control Consultants**  
17 BROOKSIDE AVE  
ECCLESTON  
ST. HELENS  
WA10 4RN  
Telephone:07850203448  
E-mail:miketa@blueyonder.co.uk

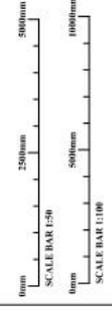
Low Harker

Ghyll Bank

Low Harker  
Dene



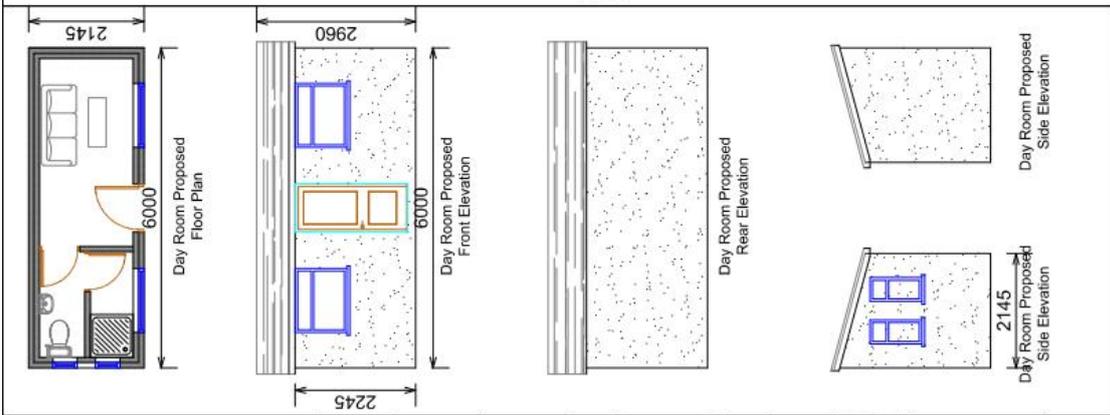
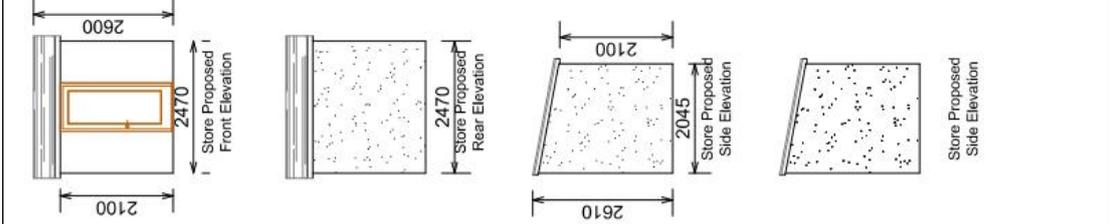
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Rev	Description	Date

Project: CHANGE OF USE OF LAND TO FORM 1 No GYPSY & TRAVELLER PITCH ON LANE TO THE WEST SIDE OF GHYLL BANK CARAVAN PARK, LOW HARKER, CARLISLE, CA6 4DG  
 Client: MR MARCUS JOHNSTONE  
 Contract No: [ ] Dwg. No: [ ] Revisions: [ ] Scale: 1:100 @: A1  
 By: M.C.C. Date: MAY 2022  
 Checked: [ ]  
 Drawing Title: PROPOSED SITE PLAN

**MAT DESIGN LIMITED**  
 Town Planning & Building Control  
 Consultants  
 17 BROOKSIDE AVE  
 CLIFTON  
 ST. HELENS  
 WA10 4BN  
 Telephone: 07876503448  
 E-mail: mat@matdesign.co.uk



Rev	Description	Date
1	CHANGING OF USE OF LAND TO FORM INGYPSY & TRAVELLER PITCH ON LANE TO THE WEST SIDE OF GHYLL BANK CARAVAN PARK, LOW HARKER, CARLISLE, CA6 4DG	

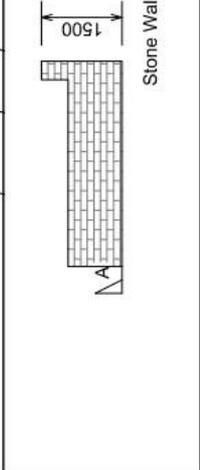
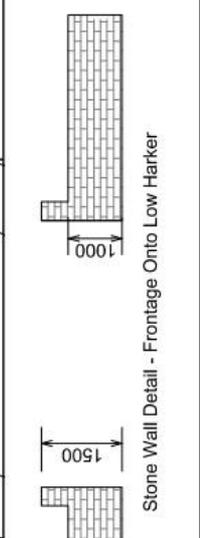
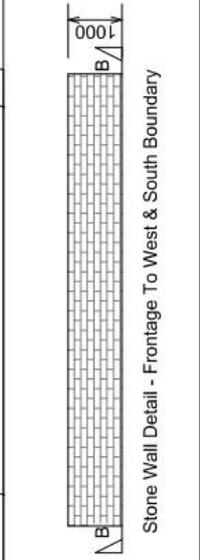
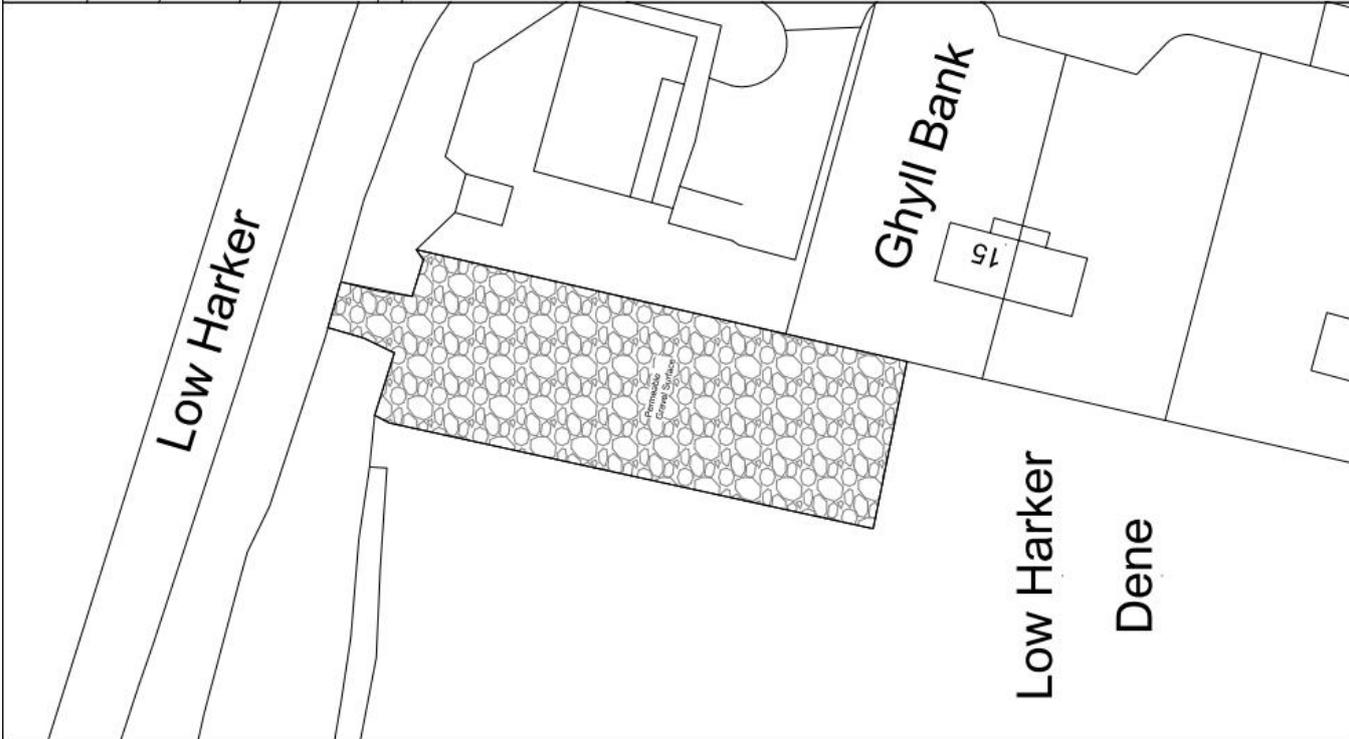
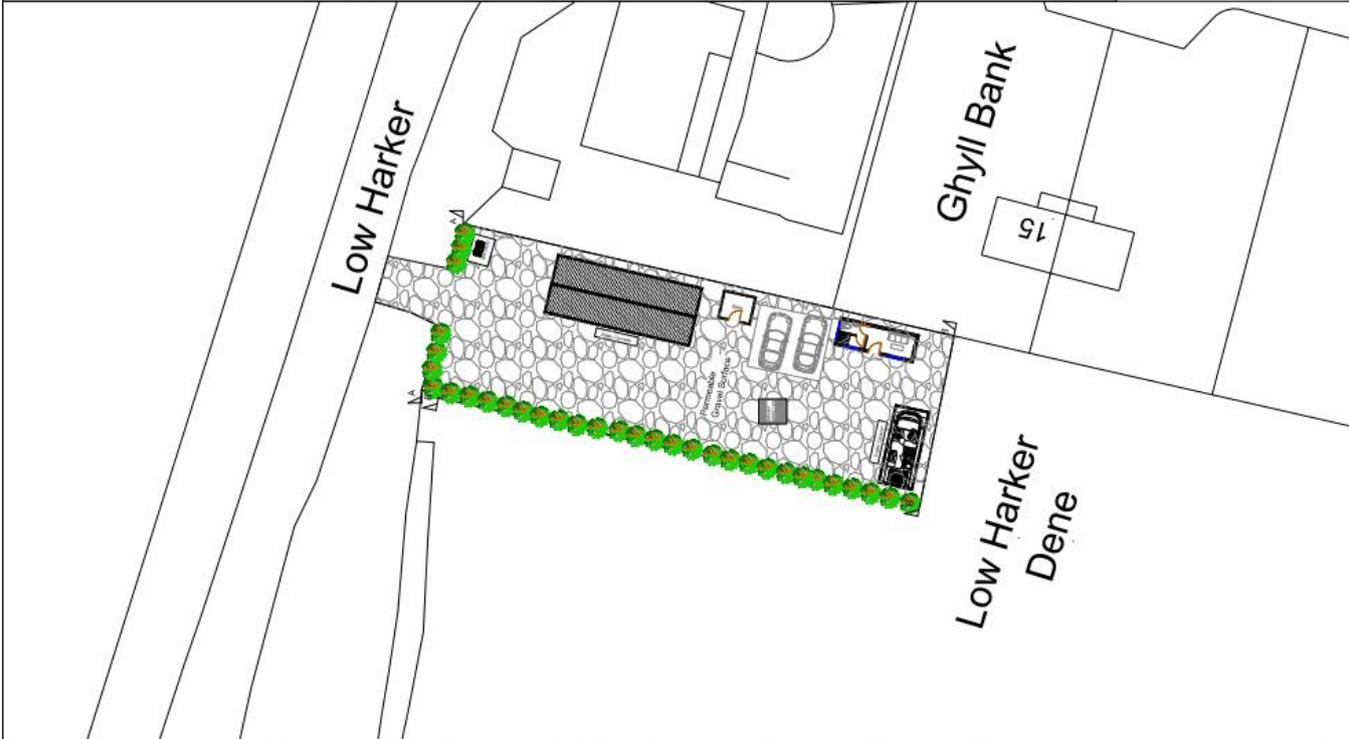
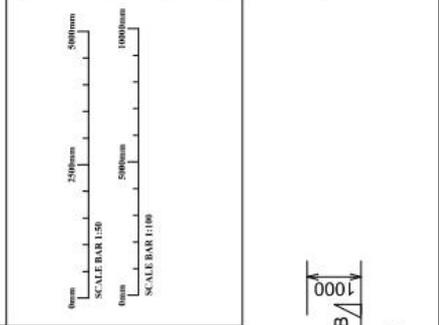
  

Client		MR MARCUS JOHNSTONE	
Contract No.	Proj. No.	Scale	1:50 & 1:200 @ A1
		By	MJC
		Check	
		Date	MAY 2022

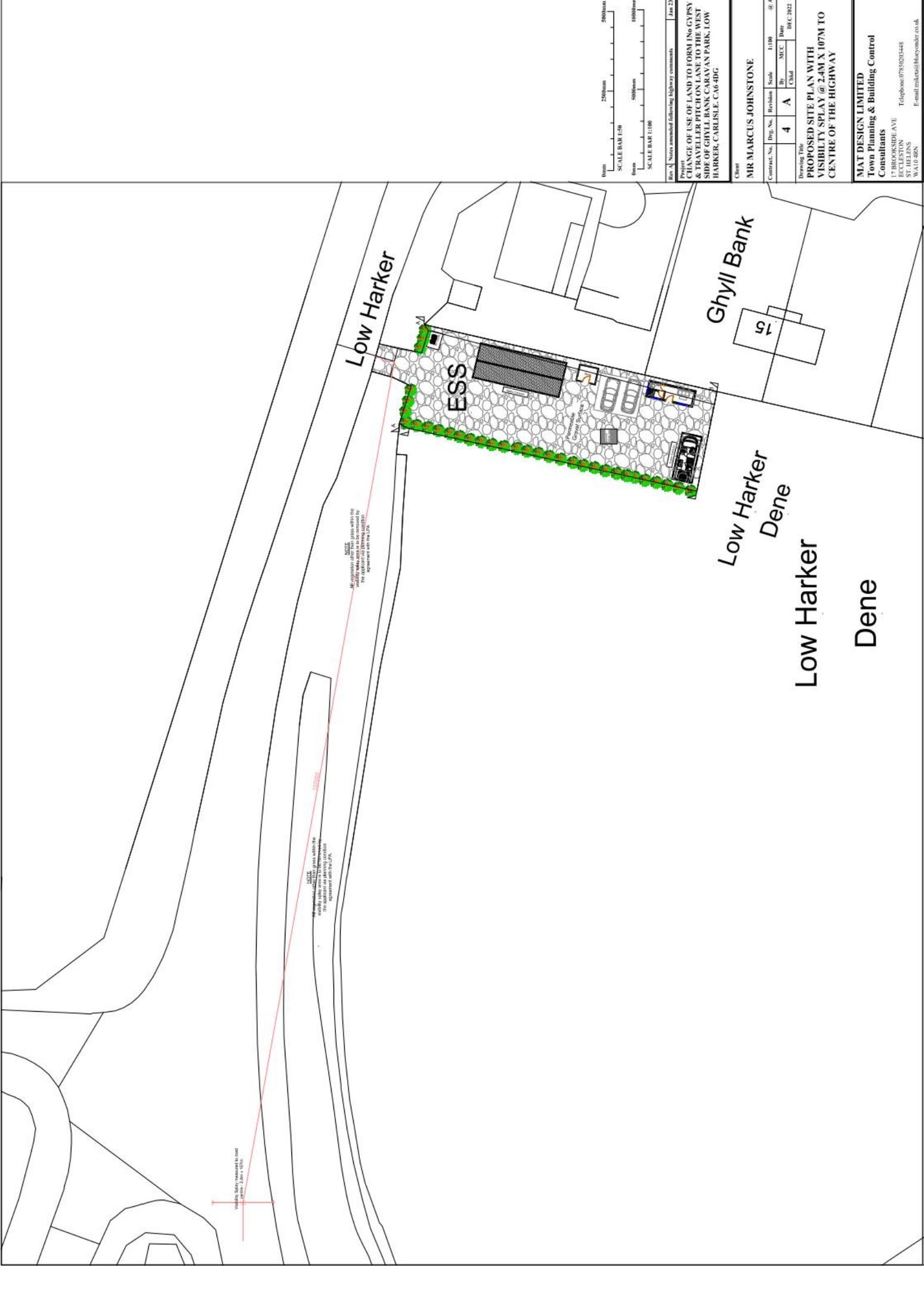
Drawing Title

**EXISTING AND PROPOSED SITE PLANS, DAY ROOM, STORE, WALL AND SEPTIC TANK DETAILS**



**MAT DESIGN LIMITED**  
Town Planning & Building Control  
Consultants

17 BROOKSIDE AVE  
ST HELENS  
WA10 4EN  
Telephone: 07576131448  
E-mail: mat@matdesign.co.uk



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NOTE  
 All vegetation within the green areas within the site boundary is to be retained unless otherwise agreed with the LPA.

NOTE  
 All vegetation within the green areas within the site boundary is to be retained unless otherwise agreed with the LPA.

Low Harker

ESS

Permeable Concrete Surface

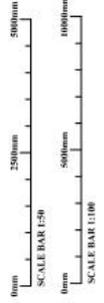
Permeable Concrete Surface

Ghyll Bank

Low Harker  
 Dene

Low Harker

Dene



Client  
 MR MARCUS JOHNSTONE

Drawn  
 Date: 11/10/22

Checked  
 Date: 11/10/22

Approved  
 Date: 11/10/22

Project  
 CHANGE OF USE OF LAND TO FORM INDEPENDENT GYPSY & TRAVELLER PITCH ON LANE TO THE WEST SIDE OF GHYLL BANK CARAVAN PARK, LOW HARKER, CARLISLE, CA6 4DG

Contract No.	Drawn No.	Revised No.	Scale	By	MUC	Date
	4	A				09/07/2022

Drawing Title  
 PROPOSED SITE PLAN WITH VISIBILITY SPLAY @ 2.4M X 107M TO CENTRE OF THE HIGHWAY

MAT DESIGN LIMITED  
 Town Planning & Building Control Consultants  
 17 BROOKSIDE AVE  
 CULLEN  
 ST. HELENS  
 WA10 4BN  
 Telephone: 07569501448  
 E-mail: mat@matdesign.co.uk