

SCHEDULE B

**Applications
determined by other
authorities.**

SCHEDULE B

Item No: 07**Appn Ref No:**
19/9012**Applicant:**
Capita,**Parish:****Date of Receipt:**
14/10/2019**Agent:**
Cumbria County Council -
Economy & Planning**Ward:****Location:**

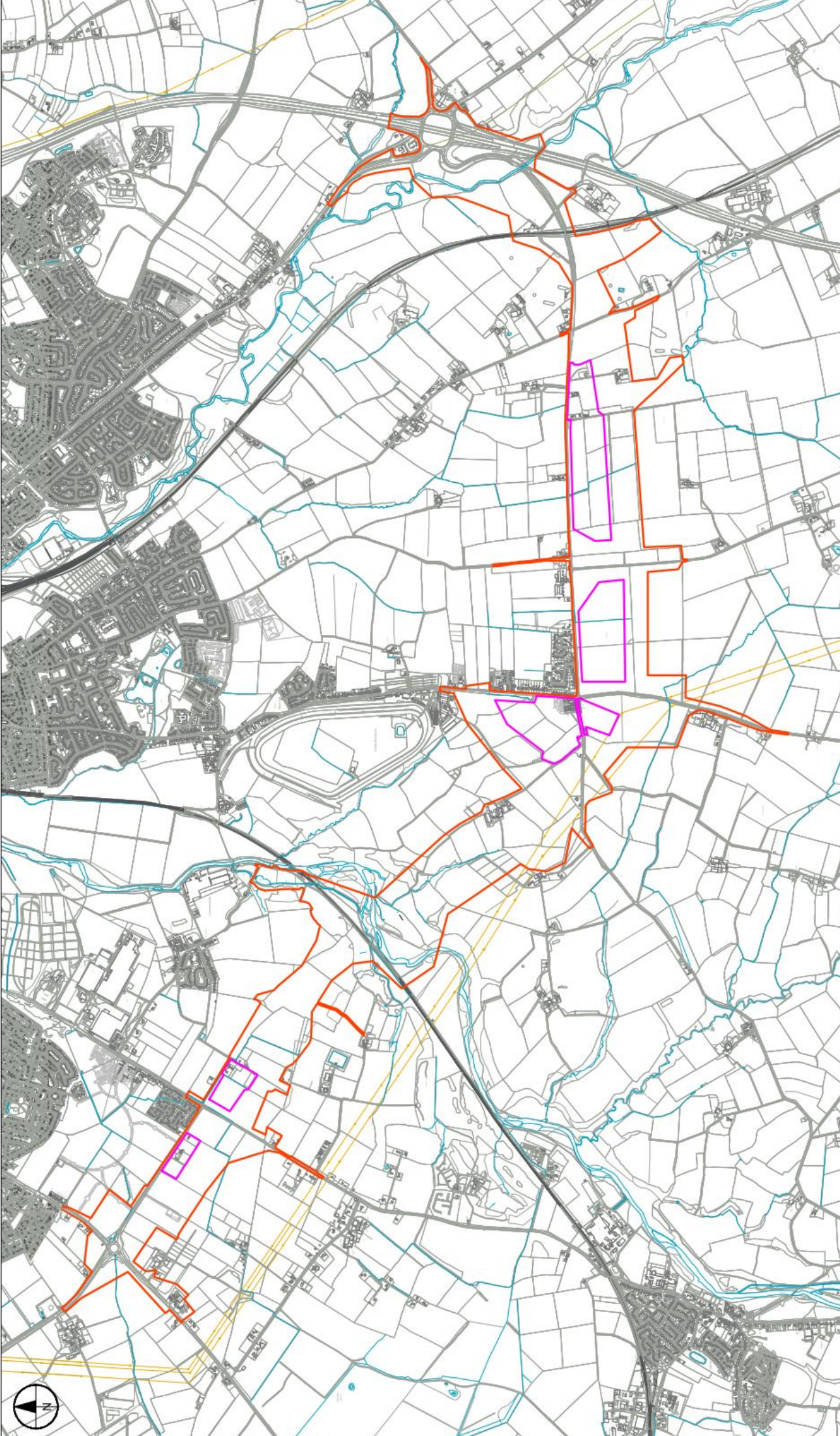
Land between Junction 42 of M6 & Newby West Roundabout (Junction of A595 & A689 CNDR) to South of Brisco, Durdar & Cummersdale Villages, Carlisle

Grid Reference:

337346 553615

Proposal: Creation Of Carlisle Southern Link Road Comprising Construction Of 8.1km Of New Two Way Single Carriageway Road (With 2.2km Of Climbing Lanes) Incorporating 3no. New Road Bridges; A Combined Cycleway/Footway On The Northern Side Of The Road With 4no. Shared-Use Overbridges; 7no. New Or Modified Road Junctions; 2no. Overbridges; 1no. Underpass; Related Links & Modifications To Existing Highway, Cycleway, Footpaths & Agricultural Access Tracks; Creation Of Drainage Infrastructure (Including Balancing Ponds), Landscaping & Lighting; Associated Engineering & Ancillary Operations (Including The Associated Demolition Of 2no. Dwellinghouses - Station House & Newbiggin View)**REPORT****Case Officer:** Christopher Hardman**City Council Observations on the Proposal:****Decision:** City Council Observation - Observations**Date:** 10/01/2020**Decision of:** Cumbria County Council**Decision Type:** Grant Permission**Date:** 20/02/2023

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



Approved of Issue
S4 - Issued for Planning
 Classification
Public
 Scale as A1 1:10 000
 Drawn CMSC
 Checked MGS
 Approved RG
 Project No. CS0523003
 Date 2019-09-26
 Drawing Identifier
 Drawing Title: CS0523003-02-003
 Drawing No. CS0523003-02-003

Client
Cumbria County Council
 Project
Carlisle Southern Link Road
 Drawing
Site Plan - Red Line Boundary

CAPITA
 Property and Infrastructure
 10 Woodside Business Park, Carlisle, Cumbria, CA5 4SJ
 www.capita-property.co.uk
 Capita Property and Infrastructure Ltd.

REV	RED LINE BOUNDARY
1	[Orange line]
2	[Purple line]
3	[Yellow line]

Development Control
County Offices • Busher Walk • Kendal • LA9 4RQ
T: 07881 007 831 • E: developmentcontrol@cumbria.gov.uk

Mr Robbie Brown
CSLR Programme Control Officer
Cumbria County Council
The Parkhouse Building
Kingmoor Business Park
Carlisle
CA6 4SJ

Date: 20 February 2023
Reference: 1/19/9012-C16

Dear Mr Brown

NOTIFICATION OF OUTCOME OF AN APPLICATION FOR APPROVAL OF DETAILS REQUIRED BY PLANNING CONDITION

The Town and Country Planning Act 1990

Planning Permission Reference No. 1/19/9012

Location: Corridor of land between Junction 42 of the M6 and the Newby West Roundabout south of Carlisle.

Development: Creation of Carlisle Southern Link Road (CSLR).

Condition No. 16 – Soil Baseline Survey and Record of Agricultural Land Condition

I write to advise you that the details you submitted in connection with condition 16 of planning permission reference No. 1/19/9012 has been reviewed and found to be acceptable. I can therefore confirm that the pre-commencement of development element of this condition is hereby discharged.

You are reminded that the Agricultural Land Reinstatement Scheme approved under Condition 20 requires the findings of the Soil Baseline survey to inform land restoration works.

Yours sincerely

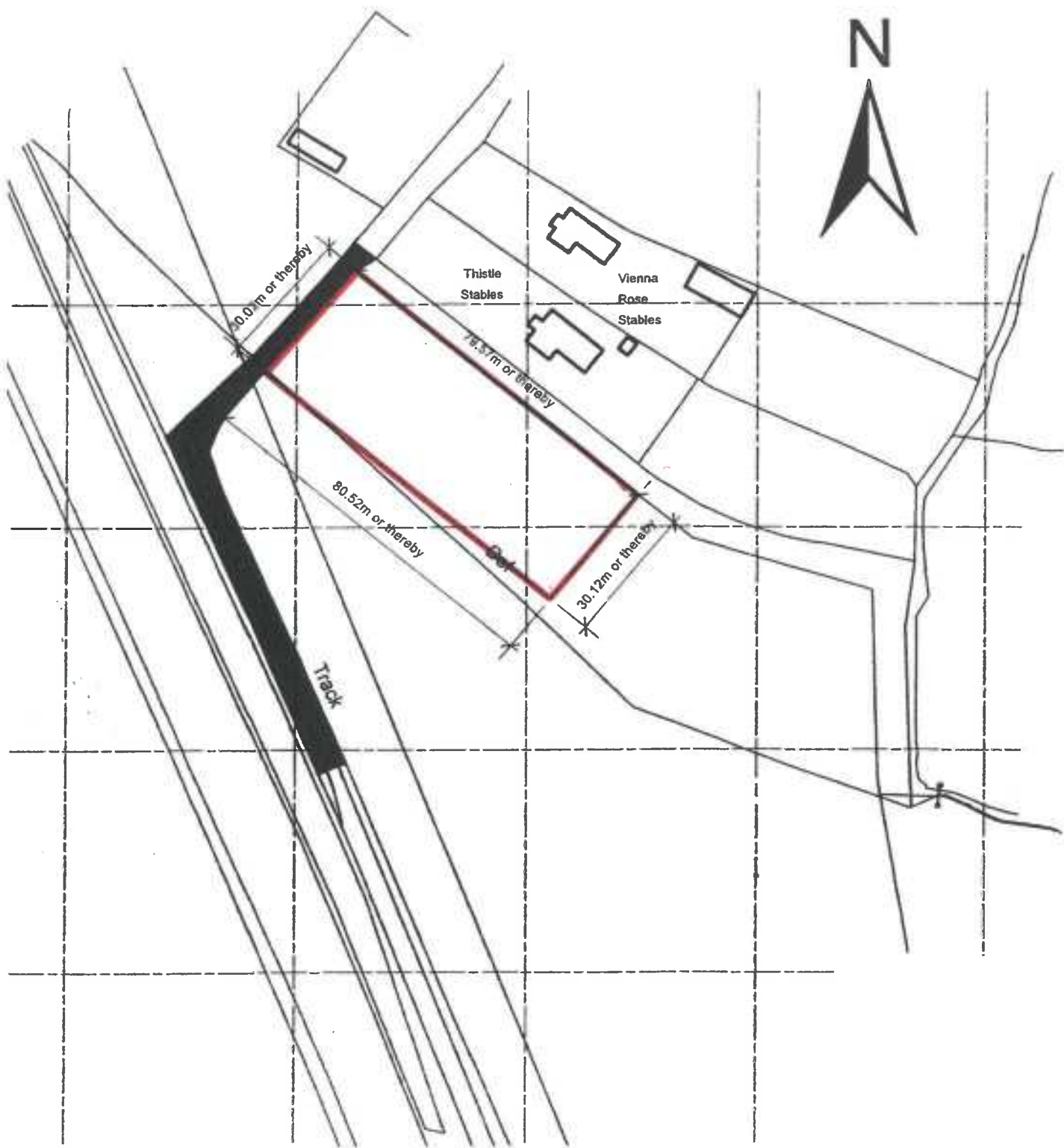
Paul Haggin

Paul Haggin,
Manager Development Control and Sustainable Development

Item No: 08**Appn Ref No:**
21/0893**Applicant:**
Mr J.D Lowe**Parish:**
Multiple Parishes**Date of Receipt:**
20/09/2021**Agent:**
Mr Philip Brown**Ward:**
Wetheral & Corby**Location:**
Mannory, Broomfallen Road, Scotby, Carlisle, CA4
8DE**Grid Reference:**
343843 553757

Proposal: Change Of Use Of Land From Agricultural Use To 1no. Gypsy Pitch
Comprising The Siting Of 4no. Mobile Homes, 1no. Utility Block, 2no.
Toilet Blocks & 2no. Touring Caravans Together With The Formation Of
An Area Of Hard Standing & Installation Of A Treatment Plant (Part
Retrospective)

REPORT**Case Officer:** Christopher Hardman**Appeal Against:** Appeal against refusal of planning permission**Type of Appeal:** Informal Hearing**Report:** A copy of the Notice of the decision of the Determining Authority is printed
following the report**Appeal Decision:** Appeal Dismissed**Date:** 06/03/2023



PROPOSED RESIDENTIAL CARAVAN SITE

MANNORY - BROOMFALLEN ROAD - SCOTBY - CARLISLE

LOCATION PLAN

DRG. NO. 3298/1

SCALE : 1-1250

Appeal Decision

Hearing held on 26 January 2023

Site visit made on 26 January 2023

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 March 2023

Appeal Ref: APP/E0915/W/22/3306293

Mannory, Broomfallen Road, Scotby, Carlisle, Cumbria CA4 8DE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr James Lowe against the decision of Carlisle City Council.
 - The application Ref 21/0893, dated 10 September 2021, was refused by notice dated 8 April 2022.
 - The development proposed is described as “change of use of land from agricultural use to 1 No. gypsy pitch comprising the siting of 4 no. mobile homes, 2 no. touring caravans, 1 no. utility block and, 2 no. toilet blocks, together with laying of hardstanding and installation of treatment plant (part retrospective)”.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. It was discussed at the hearing, and I saw at the site visit, that development at the site is substantially complete and consent has therefore been sought retrospectively. Furthermore, I note that while the development that has taken place is of the same overall quantity as that detailed in the banner heading above, the arrangement of development on the appeal site differs from that detailed on the submitted plans. I have determined the appeal accordingly.
3. The appeal site lies within the catchment area of the River Eden Special Area of Conservation (SAC) which has been identified as being in ‘unfavourable’ condition due to high nutrient levels. Under the Conservation of Habitats and Species Regulations 2017 (the Regulations), any proposals that may affect a designated habitat site should be considered with the aim of maintaining or restoring, at favourable conservation status, its natural habitats and species. I have therefore considered the effect of the appeal scheme on the River Eden SAC as a main issue in this appeal. While not referred to in the Decision Notice, both the appellant and Council have referred to this matter in their appeal statements and it was discussed at the Hearing. I am therefore satisfied that no party is disadvantaged by this approach.
4. The appellant’s statement of case details that the appeal site currently accommodates an extended family, comprising four households of two adults; two adults and three children aged eight, six and eighteen months; two adults and one child aged fourteen months; and, two adults and three children aged seven, four and fifteen months, hereafter referred to as the ‘extended family’.

Main Issues

5. The main issues in this case are:

- a) the effect of the proposal on highway safety, with particular regard to recreational users of the public right of way;
- b) The effect of the proposed development on the character and appearance of the area, with particular regards to landscape character and trees.
- c) Whether the appeal scheme likely has significant effects, whether by itself or in combination with other plans and proposals, on the River Eden SAC, and
- d) Whether there are material considerations which exist that outweigh the conflicts with the development plan and any other identified harm resulting from the appeal proposal.

Reasons

Highway safety

6. The appeal site is accessed off Broomfallen Road via a bridleway. The bridleway is a single unlit tarmacked lane all the way to the site and also serves a number of other properties, including other Gypsy pitches. The lane is often of a limited width and includes a number of tight turns and a sharp S-bend. I saw at the site visit that there are no formal passing places and that children play in on the road.
7. Criterion 8 of Policy HO11 of the Carlisle District Local Plan (Local Plan) is referred to by the Council and states that the site should have, or be able to provide, adequate access and turning space for large vehicles and caravans.
8. Furthermore, paragraph 109 of National Planning Policy Framework (the Framework) sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
9. I note that the Local Highway Authority have not objected to the appeal scheme although they did object to earlier schemes accessed off the bridleway. Moreover, as noted by the appellant I have not been provided with details of any traffic accidents on the lane.
10. The character and construction of the bridleway has evolved over recent years, with the widening of some parts of the lane, the laying of the tarmac surface and the introduction of speed bumps in addition to an increase in the number of properties accessed via the bridleway. Not all of the works have been carried out on a formal basis and not always with the approval of the Local Highway Authority and Council.
11. Local residents have expressed concern as to the potential conflict between vehicular traffic and users of the bridleway and on the basis of the evidence before me and that presented at the hearing, it is clear that the recreational quality and experience of users of the bridleway has declined in recent years as a result of amount of amount of vehicular traffic using the bridleway to access new developments.

12. My attention has been drawn to the many previous planning applications and appeals¹ for new development accessed off the bridleway and that a previous inspector described, with regard Oak Meadows the level of traffic as being “just about acceptable” and with regards further appeal decisions as the “very upper limit” of what is acceptable. Subsequent development has incrementally increased the level of traffic on the bridleway.
13. The appellant submits that based on TRICS data there are 80 vehicular movements per day including 10 at peak hours, not taking into account traffic from the appeal site. It is estimated that this adds a further 20 vehicular movements and raises peak hour movements to 14. These vehicle movements would include various vehicle types, including commercial vehicles.
14. The level of traffic travelling along the bridleway as a result of the appeal scheme is not in itself significant. However, on the basis of the evidence before me I am satisfied that the level of traffic on the lane has now reached a tipping point such that the environment enjoyed by users of the bridleway has significantly fallen in quality and the potential conflict between vehicles and other users of the bridleway has notably increased. In the context of the constraints of the bridleway referred to previously, the cumulative impacts of the traffic are severe.
15. Thus, I find the appeal scheme would be detrimental to highway safety contrary to criterion 8 of Policy HO11 of the Local Plan and would also fail to provide access which is safe and well-integrated with its surroundings contrary to criterion 5 of Policy SP6 of the Local Plan and the relevant provisions of the Framework.

Character and appearance

16. The appeal site appears as a roughly rectangular area of land located at the southern extent of Scotby village, near to the M6 motorway and adjacent to other authorised and unauthorised Gypsy pitches.
17. I saw at the site visit that the appeal site is bounded by fencing and a tree line adjacent to the properties identified by the appellant as Thistle Stables and Vienna Rose Stables, existing lawful gypsy caravan sites. The tree line is a feature of the local landscape. To the northwest of the appeal site is a further lawful Gypsy site identified as Oak Meadow.
18. Additionally, there are unauthorised sites and what appears to be an unoccupied site nearby. These sites are characterised by the prominent boundary treatment, the absence of soft landscaping and the aggregate or hardstanding laid across the surface of the land in addition to the static and touring caravans and other residential paraphernalia.
19. The Council’s statement details that, prior to the change of use that is the subject of this appeal, the appeal site consisted of part of an open agricultural field bound by an existing tree line and hedges.
20. Policy HO11 of the Local Plan requires that gypsy and traveller sites are well planned to be contained within existing landscape features or can be appropriately landscaped to minimise any impact on the surrounding area.

¹ 3127905, 3127903, 3130384 and 3127907

21. The appeal site is situated some way from the main built-up development of the settlement of Scotby. An existing tree belt appears as a feature when viewed from the bridleway at a short distance and in longer distance views from the M6 motorway, particularly when travelling north when the road turns to the left, presenting the appeal site to the view of drivers.
22. The appellant suggests that soft landscaping could positively enhance the environment and that the use of indigenous species could help assimilate the change of use into its surroundings.
23. Save for the absence of the screening effect of the now much reduced tree belt, I saw at the site visit that the appeal site did not appear substantially different from the authorised sites nearby, particularly when viewed from the lane. The appeal scheme, including fencing, caravans, buildings and hard standing, has however substantially changed the appeal site from an agricultural field to the gypsy pitch subject of the appeal scheme, resulting in the degradation of the character and appearance of the area and thus harm to the character and appearance of the area.
24. The introduction of soft landscaping within and to the boundaries of the site would substantially improve the otherwise hard and uncompromising appearance of the appeal scheme. While no such details are before me, I am satisfied that such details could be controlled by an appropriately worded condition and that soft landscaping would adequately mitigate the harm to the character and appearance of the area identified previously.
25. To conclude on this main issue, subject to an appropriately worded condition requiring the introduction of soft landscaping to the site, I find the appeal scheme would not harm the character and appearance of the area and thus is not contrary to criteria 2, 8 and 9 of Policy SP6, criteria 5 of Policy HO11 and Policy GI6 of the Local Plan.

Water neutrality

26. Under the *Conservation of Habitats and Species Regulations 2017* (the Regulations), any proposals that may affect a designated habitat site should be considered with the aim of maintaining or restoring, at favourable conservation status, its natural habitats and species. Before deciding to give permission for a plan or project that is likely to have a significant effect on a habitat site, the decision-maker must make an appropriate assessment of the implications for that site in view of its conservation objectives. The plan or project can then only be permitted after having ascertained there would be no adverse effect on the habitat site's integrity.
27. The appeal site lies within the catchment area of the River Eden Special Area of Conservation (SAC), described as an outstanding floristically rich river. The fish fauna of the River Eden includes Atlantic salmon and the River Eden system is important for otters. It is considered that poor water quality due to nutrient enrichment from elevated phosphorus levels is one of the primary reasons for habitats sites, such as the River Eden SAC being in an unfavourable condition. As a result, unless new development for overnight accommodation within this zone would demonstrably achieve a level of water neutrality it cannot be concluded with the required degree of certainty that it would not have an adverse effect on the integrity of these wetland sites. I have no basis to question this position.

28. The mobile homes and waste treatment plant are already in place on the appeal site, but do not benefit from planning permission. At the hearing the appellant noted the need, based on an online calculation, to mitigate the effects of this scheme to achieve the required level of water neutrality and no mitigation is proposed as part of the appeal scheme.
29. Accordingly, having made an appropriate assessment I conclude the development would have a likely significant effect on the integrity of the designated River Eden SAC for which no adequate mitigation is offered. It would therefore be in conflict with policy GI3 of the Local Plan, which seeks to safeguard such sites, the Regulations and the guidance in the Framework.

Other considerations

Need for and supply of gypsy sites

30. The Planning Policy for traveller Sites (PPTS) requires that the level of local provision and need should be considered when dealing with proposals for gypsy sites. The Council is required to demonstrate a 5 year supply of permanent traveller pitches. The Cumbria Gypsy and Traveller Accommodation Assessment (GTAA), dated January 2022 sets out a need for 33 permanent residential pitches in the District between 2021 and 2040 of which, 17 pitches are required in the first five years. In addition, the GTAA estimates that there will be a need for accommodation for 3 households whose gypsy status is unknown and, 3 pitches for traveller households who have ceased to travel permanently.
31. It was confirmed by the Council that since the publication of the GTAA, no further planning permissions have been granted for additional traveller pitches. The need for new sites therefore remains and the appeal site would contribute to that need. Furthermore, it is not in dispute that the extended family satisfy the relevant definition of Gypsies and Travellers and based on the evidence before me I find no substantive reason to conclude otherwise.
32. The need for accommodation is therefore a material consideration that weighs in favour of the appeal, and I afford it significant weight.

Alternative sites

33. It is not a matter in dispute between the parties that there are no alternative sites available to the extended family. At the hearing, the appellant briefly outlined their unsuccessful efforts to identify alternative accommodation including at private and Council owned sites. Based on the evidence before me I find no substantive reason to conclude other than that there are no alternative sites.
34. The absence of alternative sites is a material consideration that weighs in favour of the appeal, and I afford it significant weight.

Personal circumstances and accommodation need

35. It is not in dispute between the parties that the extended family living on the appeal site are Gypsies and have a personal need for a settled base, in particular to meet the best interests of the seven children present on site with regards to the education of the school age children as this takes place at nearby schools.

36. In addition, one of the site occupants, a child, has a health issue that requires regular physiotherapy and is under the care of a Hospital Consultant. Clearly, having a settled base would be beneficial in terms of this child being able to receive regular specialist health care and for the rest of the extended family to access routine healthcare.
37. Case law establishes that the best interests of the children are a primary consideration. There are 7 children on the site ranging in age from 14 months to 8 years old, as detailed in the appellant's statement of case. A settled base is clearly in the best interests of the children, rather than the alternative of doubling up on other pitches and having to keep moving around. A settled base would allow for the children to continue attending local schools and for the younger children to be able to do the same when they are old enough. It would also allow all residents to access health care provision on a consistent basis. I give the personal circumstances of the extended family and their accommodation needs significant weight and I also ascribe the best interests of the children substantial weight.

The Overall Planning Balance

38. Weighing in favour of the approval of the appeal is the general need for gypsy and traveller pitches in the district, the lack of suitable alternatives, the personal circumstances of the extended family who have a pressing need for a settled base so the families children can continue to regularly attend school, the long standing and ongoing failure of the Council policy to address the needs of the gypsy and traveller community and thus the unequal approach when compared to the settled community. However, I have identified harm with regards to highway safety and to the River Eden SAC contrary to the policies of the LP, the regulations and the Framework.
39. Furthermore, I found that with appropriate soft landscaping, controlled by condition, the appeal scheme would not result in harm to the character and appearance of the area. The absence of harm in this respect is of neutral weight.
40. I confirm that I have considered the possibility of granting a temporary planning permission. However, Planning Practice Guidance (the Guidance) indicates that circumstances where a temporary permission may be appropriate include where a trial run is necessary in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period. It has not been put to me that such circumstances apply in this instance.
41. Moreover, I am concerned that a time limited permission would not be appropriate due to the levels of harm that would arise even on a temporary basis. Taking all these factors into account, I also consider that a temporary permission is not justified.
42. I have also considered whether a personal permission (to restrict the occupation of the site to the extended family) would be appropriate. As set out in the Guidance, planning permission usually runs with the land and it is rarely appropriate to provide otherwise. There may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission.

43. I have had regard to the requirements of Article 8 of the First Protocol to the Convention, as incorporated by the Human Rights Act 1998, and am aware that the Article 8 rights of a child should be viewed in the context of Article 3(1) of the United Convention on the Rights of the Child. However, I am mindful that the extended family's individual rights for respect for private and family life (along with the best interests of the children) must be weighed against other factors including the wider public interest and legitimate interests of other individuals.
44. I have also considered the Public Sector Equality Duty (PSED) at section 139 of the Equality Act 2010 to which I am subject. Since the extended family are Gypsies, Section 149 of the Act is relevant. Because there is the potential for my decision to affect persons (the extended family) with a protected characteristic(s) I have had due regard to the three equality principles set out in Section 149 (1) of the Act.
45. To dismiss the appeal would disrupt the education of the school age children and the specific healthcare of one of the children. The negative impacts of dismissing the appeal arise since the extended family may be forced into a roadside existence and intermittent use of unauthorised sites. This would interfere with the best interests of the children and each member of the extended family's right for respect for private and family life and lends some additional weight in favour of the appeal.
46. However, I have found that the proposal would cause substantial harm to Highway Safety and the River Eden SAC and am satisfied that the well-established and legitimate aim of granting planning permission in accordance with the development plan and planning policies which seek to protect highway safety and the environment in the wider public interest, can only be adequately safeguarded by the refusal of permission in this instance. Whilst bearing in mind the need to eliminate discrimination and promote equality of opportunity, in my view the adverse impacts of dismissing the scheme on the extended family are necessary and proportionate.
47. Bringing matters together, the other considerations in this case and the benefits of the proposal, even taking into account the extended family's Article 8 rights and the PSED considerations, do not clearly outweigh the totality of the harm identified.

Conclusion

48. For the reasons given above I conclude that the appeal should be dismissed.

Mr M Brooker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

James Lowe
Philip Brown

FOR THE LOCAL PLANNING AUTHORITY:

Rachel Lightfoot

INTERESTED PARTIES:

Graham Hale

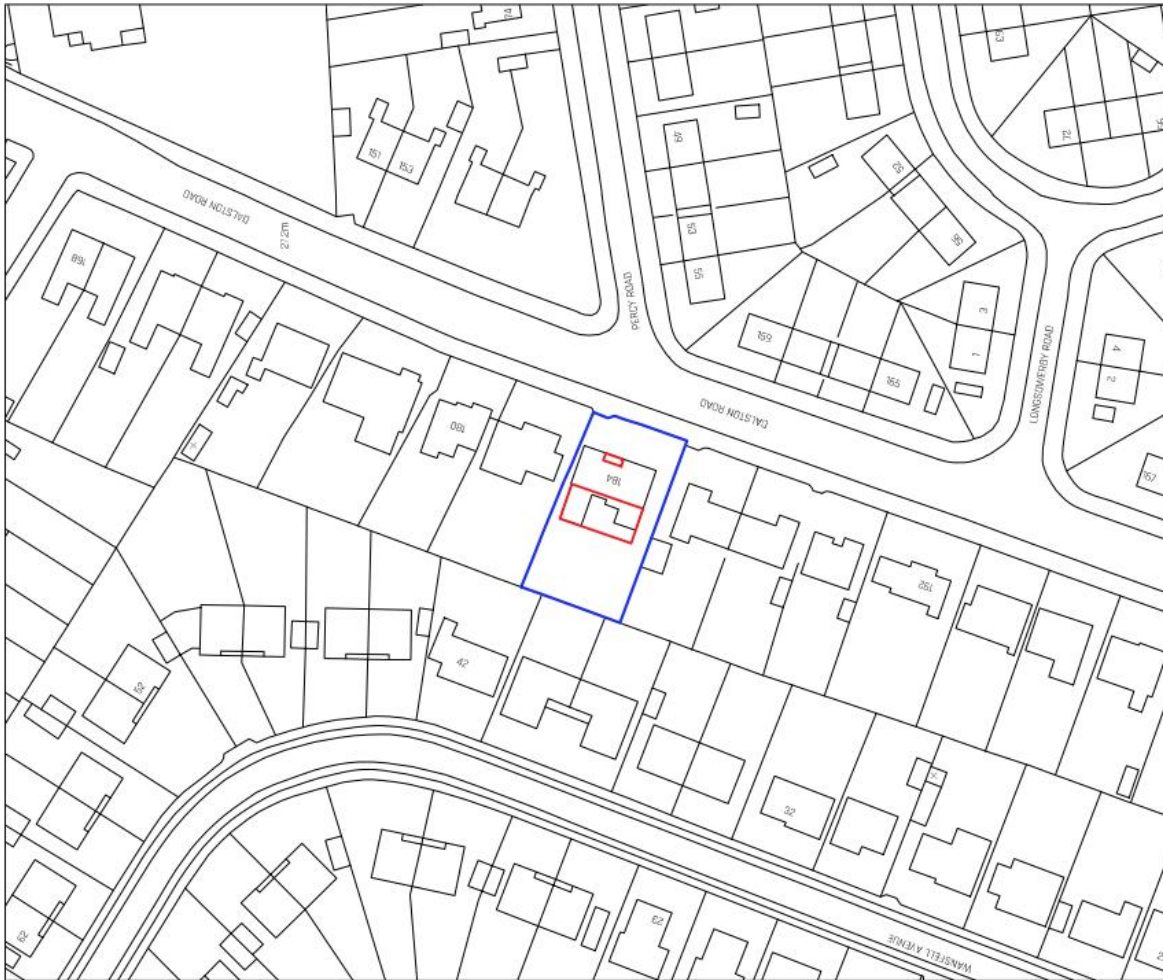
Item No: 09**Appn Ref No:**
22/0122**Applicant:**
Mr & Mrs Thompson**Parish:**
Carlisle**Date of Receipt:**
15/02/2022**Agent:**
Sam Greig Planning Ltd**Ward:**
Newtown & Morton North**Location:**
184 Dalston Road, Carlisle, CA2 6DY**Grid Reference:**
338946 554734

Proposal: Variation Of Condition 2 (Approved Documents) Of Previously Approved Permission 21/0872 (Removal Of Existing Conservatory & Erection Of Single Storey Rear Extension To Provide Kitchen/Lounge Together With Enclosure Of Porch To Front Elevation) To Amend Elevational Drawings Due To Installation Requirements With Proposed Flat Roof Construction

REPORT**Case Officer:** Laura Brice**Appeal Against:** Appeal against refusal of planning permission**Type of Appeal:** Householder Appeals**Report:** A copy of the Notice of the decision of the Determining Authority is printed following the report**Appeal Decision:** Appeal Allowed with Conditions **Date:** 14/02/2023



LOCATION PLAN
SCALE 1:2500



SITE PLAN
SCALE 1:500



184 DALSTON ROAD, CARLISLE
CA2 6DY

PROPOSED EXTENSION AND RE-MODEL
SITE PLAN AND LOCATION PLAN

AS NOTED	FOR PLANNING	DATE OF ISSUE	21-384-DWG003
AT	S LOWES	PREPARED BY	C AMERS
PLANNING	SEP 2021	DATE	SEP 2021
		SCALE	C

Appeal Decision

Site visit made on 20 December 2022

by **Sarah Manchester BSc MSc PhD MIEnvSc**

an Inspector appointed by the Secretary of State

Decision date: 14 February 2023

Appeal Ref: APP/E0915/D/22/3306870

184 Dalston Road, Carlisle, Cumbria, CA2 6DY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs Scott Thompson against the decision of Carlisle City Council.
 - The application Ref 22/0122, dated 15 February 2022, was refused by notice dated 4 July 2022.
 - The application sought planning permission for removal of existing conservatory and erection of single storey rear extension to provide kitchen/lounge together with enclosure of porch to front elevation (ref 21/0872) without complying with a condition attached to planning permission Ref 21/0872, dated 26/10/2021.
 - The condition in dispute is No 2 which states that: *The development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise: the submitted planning application form received 6th September 2021; the site location plan and block plan received 10th September 2021 (Drawing No. 21-384-DWG003); the proposed floor plans and elevations received 10th September 2021 (Drawing No. 21-384-DWG002); the Notice of Decision; any such variation as may subsequently be approved in writing by the Local Planning Authority.*
 - The reason given for the condition is: *to define the permission.*
-

Decision

1. The appeal is allowed and planning permission is granted for Removal Of Existing Conservatory & Erection Of Single Storey Rear Extension To Provide Kitchen/Lounge Together With Enclosure Of Porch To Front Elevation at 184 Dalston Road, Carlisle, Cumbria, CA2 6DY in accordance with the terms of the application, Ref 22/0122, dated 15 February 2022, without complying with condition No 2 previously imposed on planning permission Ref 21/0872, dated 26/10/2021, but subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Ref 21-384-DWG003 Rev C – site plan and location plan; Ref 21-384-DWG002 Rev L – proposed plan and elevations.

Preliminary Matters

2. The name of the appellants in the appeal form is different to that of the applicants in the planning application form. As the appellants have confirmed that the spelling of their surname in the application form is incorrect, the appeal is proceeding in the name of the appellants in the appeal form.

3. Planning permission (ref 21/0872) was granted in 2021 for demolition of the existing conservatory and the erection of a single storey rear extension and the enclosure of porch to front elevation. Condition No 2 of the permission specified the approved plans. The permission has been implemented, but the rear extension has not been constructed in accordance with the approved plans. Accordingly, the application subject of the appeal sought to remove condition No 2 and replace it with a condition specifying the plans that reflect the amended design of the development which has been implemented.
4. The amended scheme differs from the permission in a number of ways. The rear extension that has been constructed is roughly 3.3m in height rather than the 2.5m approved. There have also been alterations to the window details and the external materials would not match the existing property. The Council considers that the windows and materials would be acceptable and I agree.

Main Issue

5. The main issue is the effect of varying condition No 2 on the living conditions of the neighbouring residential occupiers of No 182, with particular regard to light and overbearing.

Reasons

6. No 184 is a 2 storey detached property in a residential area characterised by dwellings in a variety of styles and sizes including single and 2 storey detached, semi-detached and terrace properties. Properties are set back from the street in relatively generous plots.
7. The neighbouring dwelling to the north, No 182, is a detached 2 storey property with a rear conservatory and outdoor seating area. The rear extension to No 184 is visible from the conservatory. However, taking into account the separation and the extensive conservatory glazing, the extension will not unduly shade nor will it be overbearing to the neighbours' conservatory. The neighbours' outdoor seating area lies between their conservatory and the extension. While the extension will be more visible than the approved scheme, it does not result in an undue sense of enclosure nor is it oppressive to the seating area, taking into account the tall boundary fence and hedge and the relatively large size of the neighbours' rear garden.
8. No 182 has a ground floor living room window in the rear elevation overlooking the outdoor seating area. There is a smaller secondary window in the front elevation, but the rear window is the primary habitable room window serving the neighbours' living room. The window looks into the garden of No 182 and towards the single storey properties on Wansfell Avenue to the rear. From locations close to the window, oblique views are afforded of a part of the appeal scheme above the boundary. However, it is not conspicuous from deeper within the living room. I accept there would be a greater visual impact than the approved scheme but, taking into account the relationship of the extension to the habitable room window and the limited views of it, I find that the appeal scheme does not result in a poor outlook and it is not overbearing to the neighbouring habitable room window.
9. The appeal property lies roughly south of No 182, and the rear elevations of the neighbouring properties face roughly west. As such, it seems likely that the rear habitable room window of No 182 will be in shadow for a large part of the

day. The increased height of the appeal scheme would cast more shadow than the approved scheme. However, taking into account the relationship of the properties, the path and angle of the sun, and the relatively modest increase in the height of the extension, any additional shading to the habitable room window would be later in the day when the sun was lower in the sky.

10. Understandably, the neighbours want to receive as much sunlight as possible to their living areas. However, there is little evidence that the increase in the height of the extension would result in a significant additional loss of direct sunlight or unacceptably low levels of natural light in the living room. On the basis of the evidence before me, the limited additional loss of sunlight over and above the approved scheme would not be significantly detrimental to the living conditions of the current or future neighbouring residential occupiers.
11. Therefore, I conclude that the appeal scheme does not harm the living conditions of the neighbouring residential occupiers of No 182. On the basis that the development is not detrimental to the neighbouring occupiers, the proposed variation to condition No 2 would not conflict with the aims of Policies HO8 and SP6 of the Carlisle District Local Plan Adopted November 2016. These require, among other things, that there should be no loss of amenity to surrounding properties including by overbearing and there should be no adverse effect on residential amenity. Also, it would not conflict with the aims of the Achieving Well Designed Housing Supplementary Planning Document Adopted April 2011.

Other Matters

12. The extension has been increased in height to meet Building Regulations requirements in relation to roof insulation. Details of the various constituent parts of the roof have been provided to evidence the need for the increased height. While the Council considers that the requirements could have been met by a height increase of 20cm rather than the 80cm as built, there is little detailed substantive evidence to demonstrate a lower viable alternative.
13. The neighbours consider that as built the extension is overbearing and dominant and it obscures sunlight to their living room and outdoor seating area. I have addressed these matters above. While I note the neighbours' concerns in relation to the accuracy of the submitted plans, this is not a matter raised by the Council and, based on what I saw, I see no reason to disagree.

Conditions

14. As the development has commenced, a planning condition limiting the timescale for implementation of the permission is not necessary. I have however removed the disputed condition No 2 and imposed a new condition to specify the approved plans in the interests of certainty.

Conclusion

15. For the reasons set out above, I conclude that the appeal is allowed.

Sarah Manchester

INSPECTOR