## **SCHEDULE A: Applications with Recommendation**

22/0087

Item No: 03		Date of Committee: 24/06/2022	
<b>Appn Ref No:</b> 22/0087		<b>Applicant:</b> Mr Iain Morrison	<b>Parish:</b> Westlinton
		<b>Agent:</b> Harraby Green Associates	Ward: Longtown & the Border
Location: Firbank Farm Buildings, Firbank, Westlinton, CA6 6AQ			
Proposal:	Amendment To Scheme Approved Under Application 20/0471 (Erection Of Replacement Agricultural Building Together With Construction Of New Access Track) (Retrospective Permission); And The Siting Of A Silo		
<b>Date of Receipt:</b> 09/02/2022		Statutory Expiry Date 06/04/2022	26 Week Determination 27/06/2022

## REPORT

Case Officer: Alanzon Chan

#### 1. Recommendation

1.1 It is recommended that this application is approved with conditions.

#### 2. Main Issues

- 2.1 Whether The Principle Of The Development Is Acceptable
- 2.2 Whether The Scale And Design Are Acceptable, And Impact Upon The Landscape Character Of The Area
- 2.3 Impact Of The Proposal On The Living Conditions Of Neighbouring Residents
- 2.4 Impact Upon The Setting Of A Grade II Listed Building
- 2.5 Impact Of The Proposal On Biodiversity
- 2.6 Other Matters

## 3. Application Details

#### The Site

3.1 The application site, Firbank farm, is located approximately 150 metres to the

north of the C1022 road, 1.3 kilometres to the west of Westlinton, 175 metres to the northeast of a residential property know as East Lodge, and 120 metres to the south of the River Lyne.

- 3.2 Approximately 30m to the southeast boundary of the application site is a property, known as Firbank, which was originally a farmhouse associated to Firbank Farm and was listed grade II on 16 January 1984. Firbank (the former farmhouse) and Firbank Farm were owned by the same owner up until 2000 when the farm owner sold Firbank as a separate domestic dwelling.
- 3.3 Firbank Farm has remained a working farm to this date, albeit under new ownership.

## Background

3.4 In 2020, planning permission (20/0471) was granted for the removal of an agricultural building and the erection of a replacement agricultural building together with the construction of a new access track. Under planning permission (21/0692), conditions 3 (Surface Water Discharge); 4 (Surface Water Drainage Scheme) & 6 (Construction Traffic Management Plan) of previously approved application 20/0471 have been successfully discharged.

#### The Proposal

3.5 The application seeks planning permission for amendments to the replacement agricultural building approved under application 20/0471 and the relocation of a silo. Since the amendments to the replacement agricultural building had already taken place, the application is made in part-retrospect.

#### 4. Summary of Representations

- 4.1 This application has been advertised by the display of a site notice, press notice and by means of a notification letter sent to one neighbouring property. During the consultation period, an objection has been received.
- 4.2 The objections are summarised as follow:

 the unauthorised opening to the South of the building causes significant planning harm as a result of heavy farm vehicle traffic flow, which leads to intolerable disturbance to the residential amenity.
 the agricultural noise includes loud, bellowing cattle of increasing size, including bull beef animals, at all times of the day and night, a straw blower, numerous tractors, lorries, vans, a tractor generator, and a JCB digger equipped with a high frequency reverse warning horn, all being used for hours on end, very close to Firbank, repeatedly passing to and fro in front of their courtyard garden gates.

3. the proximity of the farm vehicle traffic moving to the agricultural building's unlawful south opening results in significant odour and

exposure to fumes from the diesel tractors. These fumes fill the courtyard and the adjacent domestic buildings.

4. high intensity lights mounted on such vehicles shining into the courtyard garden and through the windows to the rear of the adjacent dwelling.

5. it can be seen from drawing number 2251-A -10 submitted with application 22/0087 that there is no concrete panel in the centre section of the southern elevation. This exacerbates the disturbance.

6. the area of Yorkshire boarding planks above this open base section have been cut, as if in preparation for its opening up at some future point, possibly immediately following any decision to approve the submitted application.

7. the as built dimensions of the replacement shed are 13m x 27.5m as opposed to 12 x 25m as authorised. This gives a floor area of 357.5m2 as opposed to 300m2. The shed that was demolished and replaced had a footprint of approximately 180m2. The increased size of the replacement agricultural shed in such close proximity to the boundary with Firbank, housing numerous cattle where none were previously kept at all, has a demonstrable adverse impact on the residential amenity of the occupiers due to much increased levels of heavy agricultural vehicle movements, noise, dust, vibration and noxious fumes and odours.

8. the use of Yorkshire boarding on the south and east elevations does not prevent escape of dust, straw, noise and odours. In particular, when straw is being spread for bedding Firbank is showered with dust and fragments of straw. Barley dust and straw are known allergens and injurious to the health of the neighbouring residents.

9. the increased dimensions of the agricultural building in excess of those authorised by the original consent 20/0471 have resulted in the apex of the replacement agricultural shed being higher, which has an adverse effect on Firbank.

10. objects to the new position of the silo as it will be visible from Firbank over the roof line. If the silo were to be sited in line with the central bay of the replacement shed, it would not be readily visible over the roof line, this mitigation would reduce any harm to Firbank.

11. unauthorised change of use of the former sheep pen area from an area for the occasional mustering of sheep on an otherwise unused area of grass to use for parking and storage of substantial quantities of rusting agricultural machinery, equipment and materials. The basis of their objection is that this change of use will cause very significant harm to the setting of Firbank. Frequent movements on this area also generate substantial amounts of noise, fumes and vibration directly next to Firbank. The process of removing the sheep pens without authorisation resulted in vibrations known to have caused damage to Firbank, including loosening of lime mortar. Any work which causes vibrations is likely to cause further damage to Firbank.

12. the new access track along a route not authorised by consent 20/0471 is also associated with an access radius of curvature that admits very large, heavy vehicles onto the site. This puts at risk of damage the domestic site's drainage lines and soakaways issuing into the field area traversed by the unauthorised track and makes access to them for maintenance and to exercise rights of extension more costly and difficult.

The track also emerges into an area directly opposite a domestic orchard gate which has been blocked for almost a year as a result of poor management of equipment storage at the farm site. Construction on parcel no 0003 (Ordnance Survey 1:2500 c1974) is also in breach of covenant and contributes to an overall detrimental change to the character of the setting as a result of the increasingly wide area of green space being covered with stone chips and large areas of concrete.

#### 5. Summary of Consultation Responses

Westlinton Parish Council: No comments received Local Environment - Environmental Protection: No objection

#### 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 SP6, EC12, CM5, CC5, IP6, HE3, IP3, GI1 and GI3 of the Carlisle District Local Plan (CDLP) 2015-2030. Section 66 of the Planning (Listed Building) Act 1990 (LBA) is also a material planning consideration.

The proposal raises the following planning issues:

## 1. Whether The Principle Of The Development Is Acceptable

- 6.3 At the heart of the NPPF is a presumption in favour of sustainable development. In order to promote a prosperous rural economy, paragraph 84 of the NPPF states that planning decisions should enable the development and diversification of agricultural and other land-based rural businesses.
- 6.4 Meanwhile, Policy EC12 (Agricultural Buildings) of the CDLP confirms that proposals for new agricultural buildings and structures will be permitted provided that:

1) the building is sited where practical to integrate with existing agricultural buildings and/or take advantage of the contours of the land and any natural screening;

2) the scale and form of the proposed structure relates to an existing group of buildings unless otherwise justified;

3) the design and materials used reflect the overall character of the area; and

4) the proposal would not have an unacceptable impact on any adjacent land uses.

- 6.5 It is noted that the principle of the development to demolish an existing agricultural building on the site and erect a replacement agricultural building had already been established and was considered acceptable under application 20/0471. Whether the amendments to the replacement agricultural building are acceptable will be assessed under the subsequent sections of this report.
- 6.6 As for the principle of relocating a silo away from a courtyard building of Firbank (the former farmhouse) and to the north of the replacement agricultural building, it is noted that the current silo was erected without the benefit of a planning permission. Nevertheless, given the silo will be for agricultural purposes and that the proposed relocation of the silo will facilitate the operation of the existing farming business, the principle of the siting of a silo within Firbank Farm is considered acceptable, subject to the criteria of the aforementioned policies are met.

# 2. Whether The Scale And Design Are Acceptable, And Impact Upon The Landscape Character Of The Area

- 6.7 The NPPF attaches great importance to the design of the built environment recognising that good design is a key aspect of sustainable development. 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; and optimise the potential of the site to accommodate and sustain the appropriate mix of development. Paragraph 134 of the NPPF states that permission should be refused for development of poor design.
- 6.8 Policy EC12 of the CDLP which specifically relates to agricultural buildings seeks to ensure that buildings relating to agricultural development are sited where practical to integrate with existing farm buildings and/or take advantage of the contours of the land and any existing natural screening. The scale and form of the proposed building or structure should relate to an existing group of buildings, unless otherwise justified, with the design and materials reflective of the overall character of the area.
- 6.9 The objectives of Policy EC12 are also reflected in the relevant design policy of the CDLP (Policy SP6) which seeks to ensure that proposals respond to the local context in terms of height, scale and massing and by using appropriate materials and detailing. Local landscape character should be respected and development should be fully integrated into its surroundings. Policy GI1 of the CDLP also aims to protect landscapes from excessive, harmful and inappropriate development.
- 6.10 The siting of the replacement agricultural building has already been established under planning permission 20/0471; given that the replacement agricultural building is sited immediately adjacent to the existing farm buildings within Firbank Farm, it is considered that it is well related to the existing built form of the farm steading.

- 6.11 Under permission 20/0471, the approved replacement agricultural building would have had a width of 12m and a depth of 25m. Conversely, the replacement agricultural building as built measures 13m in width and 27.5m in depth. The maximum height of the replacement agricultural building would be 6.4m which is same as the one approved under 20/0471. Whilst it is noted that the replacement agricultural building as built is 1m wider and 2.5m deeper than the previously approved, it is considered that the replacement agricultural building. Although there are openings on all elevations of the replacement agricultural building, its scale, design and materials used for the replacement agricultural building remain appropriate and sympathetic to the overall character of the area. As such, it is not considered that the amendments to the replacement agricultural building have an adverse impact upon the landscape character of the area.
- 6.12 In terms of the silo, an objection was received regarding that the silo can be seen from over the roofline. It is noted that the silo has a maximum width of 2.4m and height of 5.77m. The height of the silo is lower than the ridge of the adjacent replacement agricultural building. Furthermore, the silo will be seen in the context of the surrounding agricultural buildings. CDLP Policy EC12 states that the siting of agricultural building/structure could have a considerable impact on the surrounding landscape and, where possible, should be integrated with the existing agricultural buildings, surrounding landscape and farmstead as a whole. Given that the silo is proposed to be relocated to the north of the replacement agricultural building, it will be well related to the surrounding buildings and will be sufficiently screened by the existing agricultural buildings on site. Where public views are afforded, the development will be seen in the context of existing agricultural buildings. In light of the above, it is considered that the overall scale of the silo is acceptable, and the proposed relocation of the silo will not have an unacceptable impact upon the landscape character of the area.

## 3. Impact On The Living Conditions Of Neighbouring Properties

- 6.13 An objection to the application was received regarding the increased size of the replacement agricultural building and being in such close proximity to the boundary of Firbank (the former farmhouse), along with the use of Yorkshire boarding on the south and east elevations, and having openings on all elevations of the replacement agricultural building, leading to an unacceptable impact upon the residential amenity of the area, primarily due to increased levels of heavy agricultural vehicle movements, noise, dust, vibration and odour.
- 6.14 It is noted that Firbank (the former farmhouse) is located approximately 30m from the replacement agricultural building. Whilst it is appreciated that the footprint of the replacement agricultural building built (13mx27.5m) is larger than that approved under planning permission 20/0471 (12mx25m), it is not considered that the increased footprint of 57.5m<sup>2</sup> of the replacement agricultural building would result in a significant enough intensification of farm activities on the land in so that to warrant refusal of the application on the

grounds of increased noise/disturbance/odour to the living conditions of the occupiers of the neighbouring property.

- 6.15 In terms of issues regarding noise nuisance, this matter has been raised with the ongoing works relating to application 20/0471. The Council's Environmental Health department have carried out two separate noise assessments on site in July 2021 and November 2021. Both assessments were carried out over a 4-day period to give as accurate as possible indication of the expected level of noise caused by farming activities at the replacement agricultural building and Firbank Farm as a whole. The assessment results concluded that the noise levels recorded on site were considered to be normal for the regular use of farmland, and the noise generated by the Farm does not amount to a statutory nuisance. Consequently, it is not considered that the current use of the farm has led to such a degree of noise that would warrant the refusal of the application or require the imposition of any restrictions on the existing use of the land as a farm.
- 6.16 With regard to the concerns over dust, straw and odours due to the use of Yorkshire boarding on the south and east elevations, and the openings on all elevations of the replacement agricultural building, it is noted that the original agricultural building also had openings on several elevations including the south elevation. It is also noted that Yorkshire boarding is a standard material used amongst agricultural buildings. The Council's Environmental Health department have undertaken their assessments and have confirmed that the level of farming activities on site is not considered to be excessive to an extent which would amount to statutory nuisance. There are no existing planning restrictions on use of the farm yard for machinery or livestock from other buildings on the farm.
- 6.17 It is crucial to note that Firbank Farm has existed for a significant number of years. Firbank Farm has been a well-established farm steading even before the former farmhouse, Firbank, was sold as a separate domestic dwelling in 2000. Despite the replacement agricultural building having a larger footprint than the previously approved (under 20/0471), it is not considered that the current footprint of the replacement agricultural building will lead to an intensification of use so great as to warrant the refusal of this application. The replacement agricultural building has brought the farm steading up to modern standards with the proposed design in accordance with good animal husbandry. Moreover, the Council's Environmental Health department have undertaken thorough assessments of the site, and have raised no concerns about the level of usage nor any resulting noise, debris or odours that would amount to a statutory nuisance that would require further action. It is therefore not considered that the proposal has resulted in demonstrable adverse impact upon the residential amenity of the area. Consequently, it is not considered that it will be reasonable to impose restrictions to restrict farming activities at an active working farm when the current level of farming activities is considered acceptable.
- 6.18 The scale and design of the agricultural building and silo in question are appropriate to the site. Given the positioning of the development in relation to

the primary windows of Firbank and intervening buildings, it is not considered that the amendments to the replacement agricultural building or the siting of the silo would have an adverse impact upon the living conditions of the neighbouring property in terms of loss of light, overlooking or over dominance.

#### 4. Impact Upon The Setting Of A Grade II Listed Building

6.19 Firbank (the former farmhouse) was listed grade II on 16 January 1984, with the following description:

'Farmhouse. Early C19. Flemish bond brickwork with cream headers, graduated slate roofs, gutter modillions, brick chimney stacks. 2 storeys, 3 bays, and flanking single storey wings with hipped roofs. C20 6-panel door and glazed fanlight, has pilaster strip surround and moulded cornice. Sash windows with glazing bars have flat brick arches and stone sills.'

6.20 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".

- 6.21 Meanwhile, CDLP Policy HE3 highlights that development within the locality of a listed building should preserve or enhance its character and setting and be sympathetic in scale, character and materials. Any harm to the significance of a listed building will only be justified where the public benefits of the proposal clearly outweighs the significance.
- 6.22 It has been established under planning permission 20/0471 that the replacement agricultural building would not have a detrimental impact upon the setting of the listed building. Although the replacement agricultural building built has a larger footprint than the one approved under 20/0471, the scale and design of the replacement agricultural building remains acceptable. Likewise, it is also considered that the scale and design of the silo are acceptable. Whilst it is acknowledged that the proposal will slightly alter the appearance of the steading, but the overall visual impact would be limited and very localised. In general, the characteristic features of the steading are retained, and it is not envisaged that the amendments to the replacement agricultural building approved under application 20/0471 and the siting of the silo would have a detrimental impact upon the setting of the grade II listed building. The Council's Heritage Officer was consulted and has raised no objections to the application.

## 5. Impact Of The Proposal On Biodiversity

6.23 Given the scale and nature of the proposal, it is unlikely that the development would harm any protected species or their habitat. However, it is recommended that an Informative is to be included within the Decision Notice ensuring that if a protected species is found, all work must cease immediately and the Local Planning Authority informed.

#### 6. Other Matters

- 6.24 The objectors have expressed that should this application be approved, it will present a clear inconsistency between the approval of this retrospective application versus the original planning permission 20/0471. In response to this, Members are advised that each application must be assessed on its own merits. In this instance, the amendments of the replacement agricultural building and the siting of the silo are assessed, the recommedation has been made based on the assessment.
- 6.25 The objector has raised that there has been an unauthorised change of use of the former sheep pen area to an area for parking and storage of substantial quantities of rusting agricultural machinery, equipment and materials. It is noted that permission is not required in this instance as there has been no change of use that would consitutite as a 'development'. Nevertheless, the works in relation to the demolition of the sheep pen area is not within the scope of this application and hence, it has not be included as part of the assessment of this application.
- 6.26. Another concerns was raised that the applicant have not adhered to the construction traffic management plan submitted under application 21/0692. When these concerns were notified the Council's enforcement officer visited the site and pursued those issues with the applicants to ensure conditions were complied with.
- 6.27 The objector has also raised issues regarding the breachs of covenants, these are however civil matters which cannot be dealt with through planning legislation.

## Conclusion

6.28 The amendments to the replacement agricultural building and the siting of the silo are acceptable. Although the footprint of the replacement agricultural building is larger than that previously approved under 20/0471, and has more openings, the scale and design of the replacement agricultural building remain well related to the surrounding agricultural buildings. The landscape character of the area will not be adversely affected by the amendments to the replacement agricultural building nor the siting of the silo. In addition, it is not considered that the proposal would result in a significant enough intensification of farm activities on the land in so that to warrant refusal of the application on the grounds of increased noise/disturbance/odour to the living conditions of the occupiers of the neighbouring property. This is reaffirmed by the findings of the Council's Environmental Health department's assessments, which confirm that the level of farming activities on site does not amount to a statutory nuisance that would require further action.

6.29 Overall, the application is considered to be in full accordance with both local and national planning policies. Therefore, it is recommended that this application is approved with conditions.

## 7. Planning History

7.1 The following planning history relates to the assessment of this planning application:

#### Planning histories relate to Firbank Farm:

In 2001, a discharge of condition application was granted for the Discharge Of Conditions 3 (Surface Water Discharge); 4 (Surface Water Drainage Scheme) & 6 (Construction Traffic Management Plan) Of Previously Approved Application 20/0471. (Reference no. 21/0692), and

In 2020, full planning permission was approved for removal of agricultural building and erection of replacement together with construction of new access track. (Reference no. 20/0471)

# Planning histories relate to the dwelling and outbuildings at Firbank (the former farmhouse), adajcent to the applicant site:

In 2021, full planning permission was granted for the erection of single storey side extension to provide garden room; glazed lobby link through to outbuilding; conversion of outbuildings to domestic use: alterations to outbuilding 1 to create utility, boot room & storage room; alterations to outbuilding 2 to create kitchen, w.c., lounge/dining room and gym on ground floor with function room, office and shower/w.c. above; alterations to outbuilding 3 to create 2no. en-suite bedrooms, boot room, consulting room with dispensary, sauna/shower room and gym; erection of detached garage; erection of new gateway and boundary treatments; creation of new access (Reference no. 21/0120);

In 2021, a listed building consent was granted for the erection of single storey side extension to provide garden room; glazed lobby link through to outbuilding; conversion of outbuildings to domestic use: alterations to outbuilding 1 to create utility, boot room & storage room; alterations to outbuilding 2 to create kitchen, w.c., lounge/dining room and gym on ground floor with function room, office and shower/w.c. above; alterations to outbuilding 3 to create 2no. en-suite bedrooms, boot room, consulting room with dispensary, sauna/shower room and gym; erection of detached garage; erection of new gateway and boundary treatments; creation of new access (LBC) (Reference no. 21/0121);

In 2019 a discharge of condition application was granted for the discharge of condition 3 (construction details) of previously approved permission 18/0258 (Reference 19/0314);

In 2018 full planning permission was granted for the alterations to existing boundary walls and gates (Reference no.18/0257);

In 2018 listed building consent was granted for the alterations to existing boundary walls and gates together with blocking up of openings within outbuilding (LBC) (Reference no.18/0258);

In 2004 listed building consent was granted for the erection of a wall with arched doorway and creation of arched opening through outbuildings to paddock (LBC) (Reference no.04/0859);

In 2004 full planning permission was granted for the erection of partition wall, creation of archway opening through existing outbuildings and landscaping of farmyard (Reference no.04/0860); and

In 2000 listed building consent was granted for internal alterations to dwelling comprising of the replacement of 3no. fireplaces and removal of 2no. partition walls to kitchen and bathroom; alteration to attached byre to form additional living accommodation and alterations to barns to form utility room and garage (LBC) (Reference no.00/0804).

#### 8. Recommendation: Grant Permission

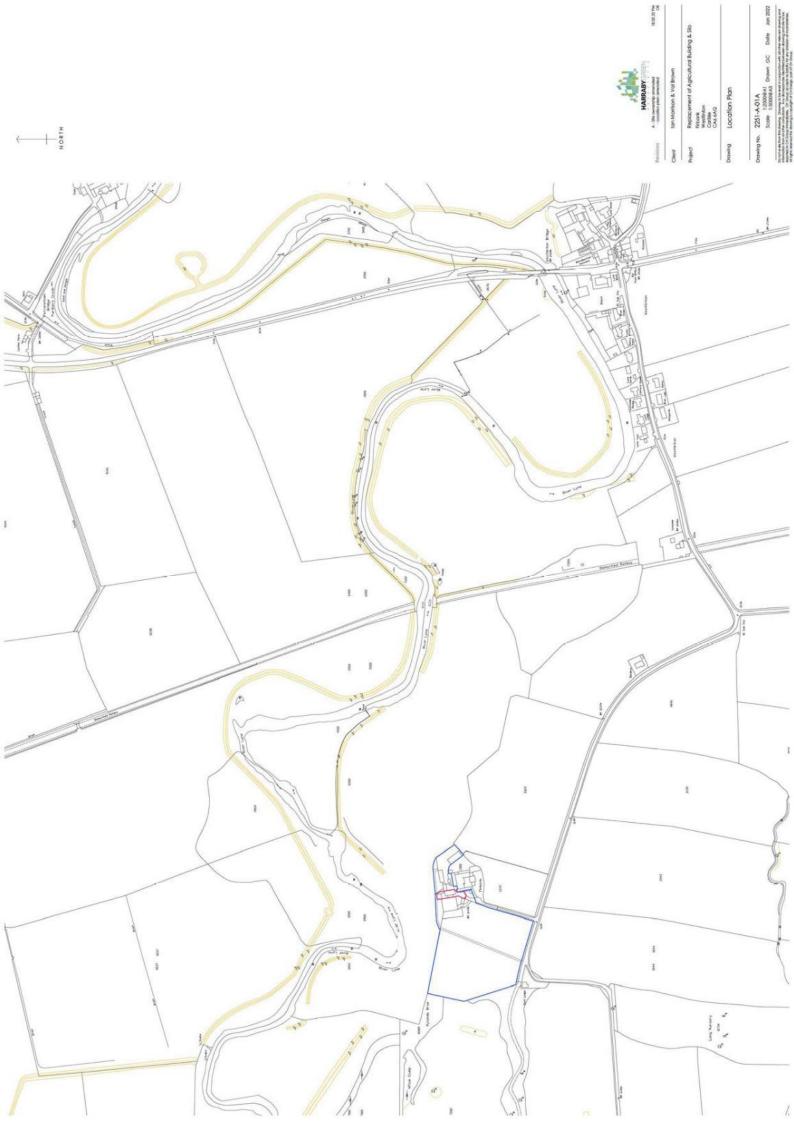
- 1. The development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:
  - 1. the submitted planning application form, received 8 Feb 2022;
  - 2. the location plan (dwg no. 2251-A-01A), received 18 Feb 2022;
  - 3. the proposed block plan (dwg no. 2251-A-04A), received 18 Feb 2022;
  - 4. the proposed site plan (dwg no. 2251-A-05), received 8 Feb 2022;
  - 5. the silo plan (dwg no. 2251-A-11), received 8 Feb 2022;
  - 6. the revised floor and elevations plan for the agricultural building (dwg no. 2251-B-10 Rev A), received 9 Jun 2022;
  - 7. the heritage, design and access statement, received 8 Feb 2022;
  - 8. the Notice of Decision;
  - 9. any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason**: To define the permission.

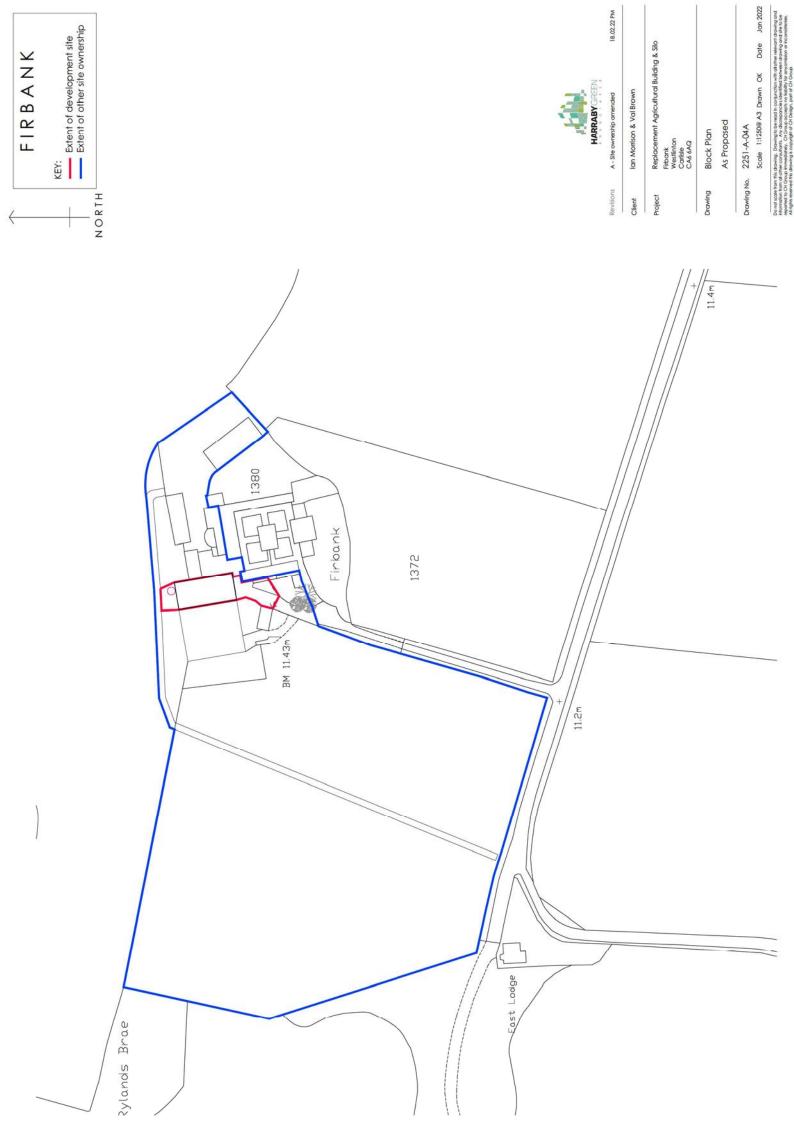
2. No work associated with the construction of the development hereby approved shall be carried out before 07.30 hours on weekdays and

Saturdays nor after 1800 hours on weekdays and 1300 hours on Saturdays (nor at any times on Sundays or statutory holidays).

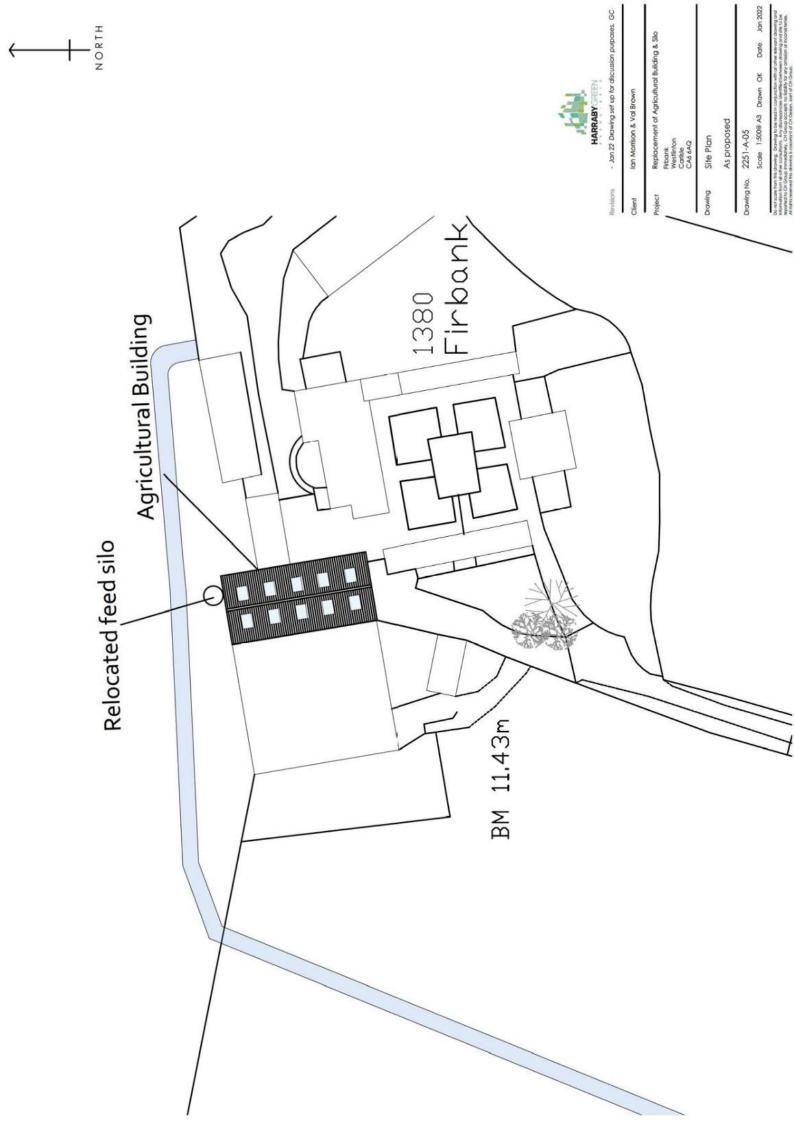
**Reason**: To prevent disturbance to nearby occupants in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.











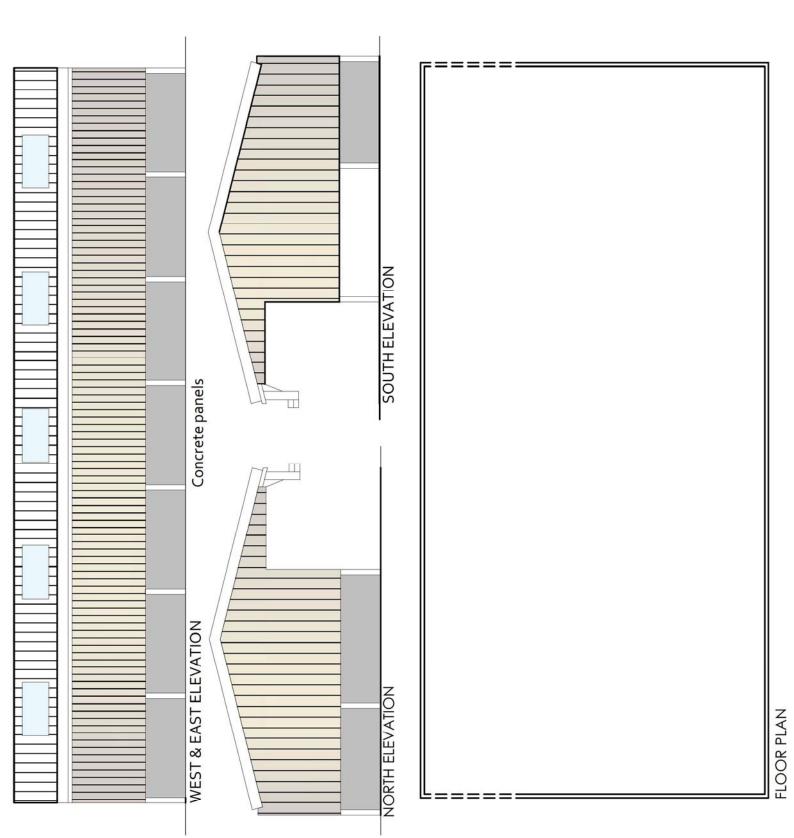


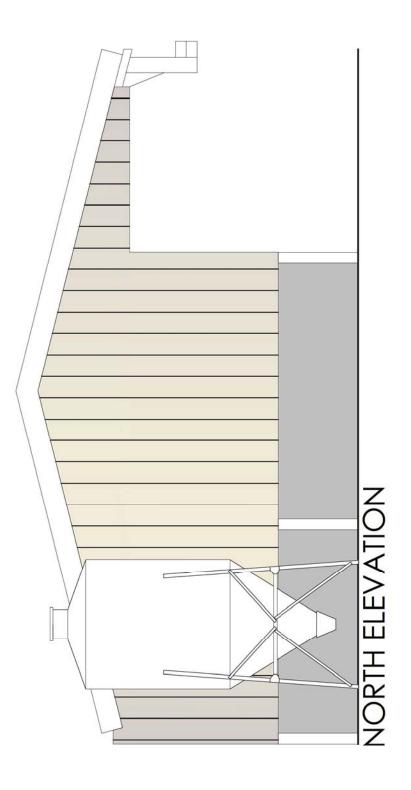
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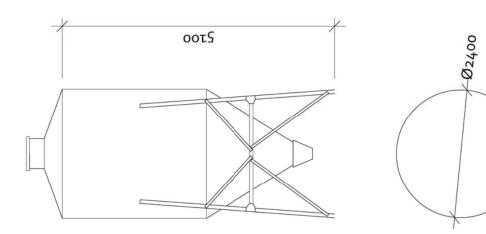
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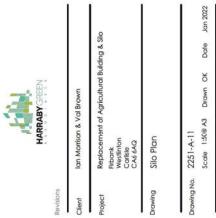
Client Project

Revisions









s drawing. Drawing to b ther consultants. Any di p immediately. CHGrou