

## SCHEDULE A: Applications with Recommendation

20/0433

Item No: 04

Date of Committee: 09/10/2020

**Appn Ref No:**  
20/0433

**Applicant:**  
Mr Ian Murray

**Parish:**  
Carlisle

**Agent:**

**Ward:**  
Botcherby & Harraby North

**Location:** Land adjacent Geltsdale Avenue, Durranshill, Carlisle, CA1 2RL

**Proposal:** Variation Of Condition 2 (Approved Documents) Of Previously Approved Application 18/0388 (Proposed New Vehicle and Pedestrian Entrance) To Amend Alignment Of Boundary Walls (Part Retrospective)

**Date of Receipt:**  
03/07/2020

**Statutory Expiry Date**  
28/08/2020

**26 Week Determination**  
27/11/2020

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### REPORT

**Case Officer:** Richard Maunsell

#### 1. Recommendation

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

#### 2. Main Issues

- 2.1 Whether The Principle Of Development Is Acceptable
- 2.2 Whether The Scale, Design And Impact On The Character And Appearance Of The Street Scene Is Acceptable
- 2.3 Highway Safety
- 2.4 Other Matters

#### 3. Application Details

##### The Site

- 3.1 The application site comprises a 0.17 hectare parcel of land located between Geltsdale Avenue and Durranshill Road. The land comprises of a copse of trees and vegetation, some of the trees are subject to a Tree Preservation Order (TPO) 4.

- 3.2 Residential properties adjoin the site with those to the south-east on Alexandra Drive separated by Durranhill Road. A stone wall flanks this boundary with the footpath and County highway. Durranhill House to the north-east and Durranhill Lodge to the south-west are Grade II listed buildings.

## **The Proposal**

- 3.3 This application is for planning permission for the variation of the list of previously approved documents for the formation of a vehicular entrance on the south-east boundary leading onto Durranhill Road. The access involves the reconstruction of the boundary wall to provide visibility splays of 2.4 metres by 60 metres and would involve a pair of access gates recessed 6 metres within the site from the carriageway edge. Planning permission is sought for boundary walls that curve into the site from the highway in lieu of the staggered boundary walls approved as part of the extant planning permission.

## **4. Summary of Representations**

- 4.1 This application has being advertised by means of a site notice and direct notification to the occupiers of 22 of the neighbouring properties. In response, four letters of objection have been received and the main issues raised are summarised as follows:
1. the proposal for this new entrance has already been built and in place, it looks like the decision has already been made;
  2. already vehicles are now being parked half on the pavement which forces the public to walk on the road, and this will only get worse when they start to build inside the boundaries;
  3. the entrance is so close to the traffic calming measure that is in place is an accident waiting to happen;
  4. the scheme shows a reduction in visibility splay resulting from the new wall design. The original application was refused due to highway safety issues. The new Meadowbrook Estate will mean an increase in traffic on this road on which speeding and near misses are regular occurrences;
  5. an accident has already occurred on that part of the road on the 03/10/2019 all three emergency services were in attendance and this was reported in the Evening News & Star. To ignore the recommendations of the highways safety audit and approve this would make a mockery of the whole planning process;
  6. the original planning application 18/0388 was conclusively rejected by the planning committee, on safety grounds, this was appealed by the applicant, with that appeal being successful, in what was described as a marginal decision. The applicant then raised a new planning application amending the one approved marginally on appeal, and this was approved behind closed doors by the planning department;
  7. the applicant then proceeded to build the entrance for reasons best known to himself not to conform to the plans that had been passed, and is now applying for retrospective planning permission for the now

- constructed entrance;
8. the now constructed entrance is inherently unsafe, and meets none of the safety measures that were in place in all other iterations previously proposed to planning, the biggest omission being the complete lack of "splays" that were incorporated in all previous proposals. The now constructed entrance is completely invisible to traffic travelling on Durranhill Road in either direction, making the entrance totally unsafe in terms of highway safety;
  9. the junction is not visible from either the top or bottom of the hill and is already a complicated piece of highway;
  10. the appeal was given for "site maintenance and management" only and should stay that way as the more traffic that uses that entrance increases the risk of confusion and inherently more accidents occurring;
  11. the applicant has spread "road planings" on the site, road planings are hazardous and a known carcinogenic material. This material should not be used due to the threats it poses to health. As witnessed by the fact it killed one of the replacement protected trees within 3 days of coming into contact with it.
- 4.2 In addition, one letter of representation has also been received which raises the following issues:
1. it is unclear why notification of a planning proposal to amend alignment of boundary walls has been issued. This work has been undertaken and was done during lockdown so it is not a proposal. To say that the entrance is to allow maintenance is a nonsense you and it is very well known that it is to be an entrance to a house to be built.
- 4.3 Following the receipt of amended drawings which show the visibility splays and the reduction in the height of the boundary wall, two further representations have been received objecting to the application which reflect the issues already raised and summarised above.

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

**Cumbria County Council - (Highways & Lead Local Flood Authority):** - the following comments have been received:

### Local Highways Authority

The planning application under consideration is a retrospective application to amend the alignment of a boundary wall which was originally approved, via an appeal, as part of the planning application 18/0388. As a result of the original planning application the principal of an access at this location has been agreed with the Highways Authority.

Following on from the initial Highways Authority response to this application, the applicant has submitted a revised layout plan which illustrates the visibility splays and dimensions of the access arrangements as requested. The revised plans illustrate that visibility splays of 2.4m x 60m can be achieved with the revised access arrangements providing that the walls on either side

of the junctions are limited to 1.05m in height. It is noted following a site visit by the Highways Authority that the height of the boundary wall on the western side of the access is 1.45m in height which impedes the visibility splays. Therefore the applicant is to reduce the height of the wall to 1.05m so as not to impede visibility splays. The Highways Authority finds it acceptable that this can be secured through the use of the planning conditions stated at the end of this response.

The revised plans also illustrate that the access is to be 5.5m in width to accommodate two vehicles accessing the land side by side with gates that open inwards towards the site. Further to this the 6m spacing between the gates and carriageway edge is sufficient to prevent vehicles obstructing the highway when entering the site. This provision is acceptable to the Highways Authority. The applicant should also be aware that a Stage 3 Road Safety Audit will be required for the access. This was conditioned as part of the planning approval 18/0388 and is to be undertaken by the applicant within 6 months of the completion of the access.

Therefore to conclude the Highways Authority have no objections with regards to the approval of planning permission subject to the imposition of two conditions which require the reduction in the height of the boundary wall and that following the completion of the access a Stage 3 Road Safety Audit shall be submitted to the local planning authority and any recommendations shall be implemented within 6 months of the completion of the access.

#### Lead Local Flood Authority

The LLFA has no objections with regards to the approval of planning permission as the variation of condition 2 application currently under consideration does not seek to amend the drainage arrangements as agreed within the discharge of conditions application 20/0057.

**Cllr Mr R Betton - Botcherby & Harraby North:** - no response received;

**Cllr Mr J Bomford - Botcherby & Harraby North:** - no response received;

**Cllr J Paton - Botcherby & Harraby North:** - no response received.

## **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), the Planning Practice Guidance (PPG) and Policies SP6, IP2 and IP3 of the Carlisle District Local Plan (CDLP) 2015-2030. The proposal raises the following

planning issues.

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

- 6.3 The principle of development has been established through the planning permission that has been granted for the development of the site. The development has been commenced with the current application seeking revisions to the alignment of the boundary walls that flank the entrance. The impact on protected trees, heritage assets, residential amenity, disposal of surface water is appropriate, and the impact of the proposal on biodiversity is unaffected by this application. The remaining issues are discussed in the following paragraphs.

## **2. Whether The Scale, Design And Impact On The Character And Appearance Of The Street Scene Is Acceptable**

- 6.4 The NPPF promotes the use of good design with paragraph 127 outlining that:

*“Planning policies and decisions should ensure that developments:*

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”*

- 6.5 It is further appropriate to be mindful of the requirements in paragraph 130 of the NPPF which states:

*“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished*

*between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used)."*

- 6.6 Policies seek to ensure that development is appropriate in terms of quality to that of the surrounding area and that development proposals incorporate high standards of design including siting, scale, use of materials and landscaping which respect and, where possible, enhance the distinctive character of townscape and landscape. This theme is identified in Policy SP6 of the local plan which requires that development proposals should also harmonise with the surrounding buildings respecting their form in relation to height, scale and massing and make use of appropriate materials and detailing.
- 6.7 The entrance has been formed in the existing stone wall which flanks the south-eastern boundary. The wall itself is slightly elevated above the height of the adjacent footpath.
- 6.8 The proposal involves some physical alterations to the boundary structure in the form of a new opening and visibility splays; however, the splays have been constructed in stone using reclaimed material which matches the existing unaltered wall. The access and realigned boundary walls do not result in a discordant feature within the street scene and are not therefore detrimental to the character and appearance of the area.

### **3. Highway Safety**

- 6.9 The proposal has created an access onto Durranhill Road which is a classified road (C1010 Scotby Close to Montgomery Way). The gates are recessed 6 metres from the carriageway edge and the reconstructed boundary wall would incorporate visibility splays of 2.4 metres by 60 metres which is confirmed on the submitted drawings and is required to be provided and retained by means of a planning condition.
- 6.10 Part of the boundary wall to the south-west of the entrance has been built in excess of the stipulated 1.05 metres. Revised plans have been received and annotated such that the height of this wall will be reduced to 1.05 metres. Cumbria County Council as the Local Highways Authority (LHA) has accepted this drawing subject to the imposition of a condition requiring the works to be completed at this reduced height.
- 6.11 A number of objections have been received from residents in respect of the potential impact on highway safety as a result of this development, particularly in relation to the physical proximity to the brow of the hill to the north-east and the recently constructed traffic calming measure.
- 6.12 The principle of the access has previously been accepted by the LHA and also subsequently by the Planning Inspectorate through the grant of planning permission following the appeal lodged against the refusal of planning permission. The LHA raise no objection to this application subject to the imposition of conditions and accordingly it is not considered that this proposal raises any issues with regard to highway safety.

6.13 Members will note in the Consultation Notes (Section 5 of this report) that the LHA has requested a condition should be imposed on any planning permission requiring the applicant to submit a Stage 3 Road Safety Audit. Ordinarily, a Stage 3 report should be undertaken when the Highway Improvement Scheme is substantially complete and preferably before the works are open to road users. The scheme would be examined during daylight and during the hours of darkness, so hazards particular to night operation can also be identified and representatives from the police, local authority and maintaining agent would be invited to accompany the Audit Team to offer their views for the Stage 3 Audit. Works within the highway require agreement under section 278 (S278) of the Highways Act 1980. A S278 agreement is a section of the Highways Act 1980 that allows developers to enter into a legal agreement with the council to make alterations or improvements to a public highway, as part of a planning application. It is an offence to carry out any works within the public highway without permission of the Highway Authority. It is considered that if a Stage 3 Audit is required, this should be submitted as part of the S278 process rather than the planning application. The imposition of such a condition as part of the planning permission would not meet the relevant tests for a condition, in particular it would not be necessary. Any further ongoing highway improvements (which may or may not be identified by a Stage 3 Audit) should be considered under highway legislation rather than after the completion of the development approved by the planning permission. Members should be mindful that such a condition was not imposed by the Planning Inspectorate.

6.14 In terms of imposing a planning condition, Paragraph: 003 Reference ID: 21a-003-20190723 Revision date: 23 07 2019 of the NPPG states:

*“What approach should be taken to using conditions?”*

*What should a local planning authority do to ensure that the tests in national policy have been met?*

*Paragraph 55 of the National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:*

*necessary;  
relevant to planning;  
relevant to the development to be permitted;  
enforceable;  
precise; and  
reasonable in all other respects.*

*These are referred to in this guidance as the 6 tests, and each of them need to be satisfied for each condition which an authority intends to apply.”*

6.15 In the case of this application, the imposition of such a condition is not necessary as it is a requirement under S278 of the highway legislation; is not relevant to planning for the same reason; and is therefore not considered reasonable in all of the respects.

- 6.16 In addition to the highway concerns reported by the objectors, Members will note that reference is made to a collision that occurred opposite the entrance in 2019 that was attended by the emergency services and which was reported in the local media. Several days later following the incident, it was further reported on ITV Border's website, that a 40-year-old Carlisle man was arrested on suspicion of dangerous driving and harassment. This incident therefore cannot be deemed an 'ordinary' road traffic collision.

#### **4. Other Matters**

- 6.17 This application has been submitted under section 73A of the Town and Country Planning Act 1990 to vary a condition associated with a planning permission.
- 6.18 Paragraph: 015 Reference ID: 17a-015-20140306 Revision date: 06 03 2014 of the Planning Policy Guidance states:

*"Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended.*

*A decision notice describing the new permission should be issued, setting out all of the conditions related to it. To assist with clarity decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. Further information about conditions can be found in the guidance for use of planning conditions.*

*As a section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission. If the original permission was subject to a planning obligation then this may need to be the subject of a deed of variation."*

- 6.19 Conditions related to the measures for the protection of trees during development, surface water drainage arrangements and provision for the manoeuvring of vehicles within the site, have previously been discharged but the relevant documents are referenced in condition 1 of the recommended conditions in this report.
- 6.20 The relevant remaining conditions relating to the previous permission, with the exception of the conditions which has been discharged, are included within the decision notice as this application effectively grants a new planning permission for the development.

#### **Conclusion**

- 6.21 In overall terms, the principle of the development has previously been approved following the grant of planning permission by the Planning Inspectorate. Cumbria County Council as the Local Highway Authority has raised no objection to this application subject to the imposition of conditions.



A condition is included within the decision notice that addresses the issue of the height of the wall and requires this to be lowered. The matter of the Stage 3 Road Safety Audit is assessed in paragraphs 6.13 to 6.15 of this report and Members should be mindful that such a condition was not imposed by the Planning Inspectorate.

- 6.22 The fundamental difference with this application planning application over and above the previously granted consent, relates to the realignment of the boundary walls that flank the entrance. The repositioning of these walls which curve into the site are of an appropriate scale and design. The development is appropriate to the site and does not result in an adverse impact on the character or appearance of the area.
- 6.23 The approved permission took account of the impact on the living conditions of the occupiers of the neighbouring properties, protected trees and surface water run-off and this scheme does not alter this. In all aspects, the proposal is considered to be compliant with the objectives of the relevant local plan policies and the NPPF.

## **7. Planning History**

- 7.1 In 2007, permission was granted for works to protected trees T1 and T3 and to fell T2.
- 7.2 An application for planning permission for the erection of a dwelling was submitted in 2015 but was withdrawn by the applicant.
- 7.3 A revised application for planning permission was submitted in 2016 for the erection of a dwelling which remains current.
- 7.4 In 2016, an application was submitted to removal of TPO trees 6, 7, 8, 12, 13, 14, 15, 16, 17 and 18 plus additional non TPO trees to accommodate the development of a dwelling but was withdrawn by the applicant.
- 7.5 An application to remove T12 and T24 Beech trees subject to TPO No. 4 was approved in 2017.
- 7.6 Later in 2017, an application was approved for the removal of trees T18 (Sycamore) & T45 (Horse Chestnut) subject to TPO No.4.
- 7.7 An application for planning permission was refused in 2019 for the a new vehicle and pedestrian entrance. Planning permission was subsequently granted later the same year by the Planning Inspectorate following an appeal.
- 7.8 In 2020, an application to discharge conditions 3 (tree & root protection barriers); 4 ('no dig' construction method statement); 5 (surface water drainage scheme) & 10 (provision within the site for the parking, turning and loading and unloading of vehicles and for vehicles to enter and leave the site in a forward direction) of the previously approved permission 18/0388 was

approved under application 20/0057.

## **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 3rd July 2020;
  2. the Planning Application Form received 2nd May 2018 approved as part of application 18/0388;
  3. the Site Location Plan received 2 May 2018 (Drawing no. IM/DURRANHILL/SLP2 Rev A) approved as part of application 18/0388;
  4. the Site Block Plan received 2 May 2018 (Drawing no. IM/NEW/ENT/SBP Rev A) approved as part of application 18/0388;
  5. the Existing and Proposed Wall Arrangement Layout received 9th September 2020 (Drawing no. IM/DH/ENTRANCE WALLS Rev B);
  6. the Visibility Splays received 9th September 2020 (Drawing no. IM/NEW ENT/VS1 Rev B);
  7. notwithstanding the boundary wall layout, the Vehicle Paths received 3rd March 2020 (Drawing no. IM2/ DURANHILL/ VP1 Rev A) approved as part of application 20/0057;
  8. notwithstanding the boundary wall layout, the New Vehicle Entrance (for general maintenance) received 3rd March 2020 (Drawing no. IM/ DH/ NEW ENTRANCE 1 Rev F) approved as part of application 20/0057;
  9. the Percolation Test received 3rd March 2020 approved as part of application 20/0057;
  10. the Soakaway Design received 3rd March 2020 approved as part of application 20/0057;
  11. the Arboriculture Method Statement received 30th January 2020 approved as part of application 20/0057;
  12. the Notice of Decision;
  13. any such variation as may subsequently be approved in writing by the local planning authority.

**Reason:** To define the permission.

2. The access hereby approved shall not be brought into use until visibility splays providing clear visibility of 60 metres measured 2.4 metres down the centre of the access road and the nearside channel line of the major road in both directions have been provided at the junction of the access road with the county highway. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (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 grow 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 in accordance with Policies SP6, IP2 and IP3 of the Carlisle District Local Plan 2015-2030.

3. The vehicular crossing over the verge, including the lowering of kerbs, shall be carried out to the specification of the Local Highways Authority.

**Reason:** In the interests of highway safety and in accordance with Policies SP6, IP2 and IP3 of the Carlisle District Local Plan 2015-2030.

4. The access drive shall be surfaced in bituminous or cement bound materials, or otherwise bound and shall be constructed and completed before the development is brought into use. This surfacing shall extend for a distance of at least 6 metres inside the site, as measured from the carriageway edge. There shall be no vehicular access or egress from the site other than via the approved access.

**Reason:** In the interests of highway safety and in accordance with Policies SP6, IP2 and IP3 of the Carlisle District Local Plan 2015-2030.

5. Access gates, if provided, shall be hung to open inwards only away from the highway, be recessed no less than 6m as measured from the carriageway edge of the adjacent highway and shall incorporate 45 degree splays to each side.

**Reason:** In the interests of highway safety and in accordance with Policies SP6, IP2 and IP3 of the Carlisle District Local Plan 2015-2030.

6. Solid edge carriageway markings through the build-out on both sides which is extended past the proposed access shall be installed prior to the access being brought into use. Details of the proposed markings shall be agreed in writing with Local Planning Authority prior to installation.

**Reason:** In the interests of highway safety and in accordance with Policies SP6, IP2 and IP3 of the Carlisle District Local Plan 2015-2030.

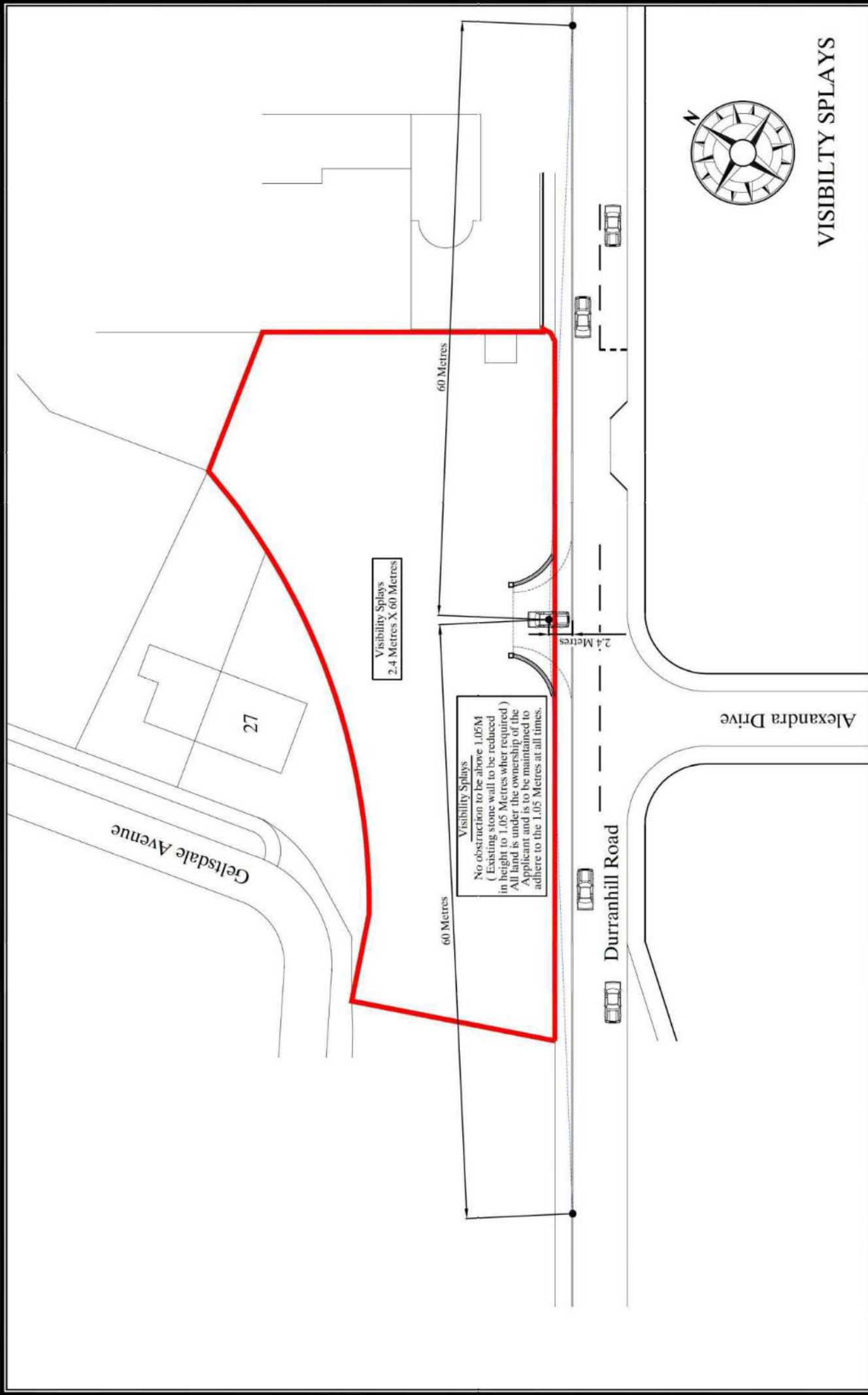
7. All new external stonework relating to the reconstructed boundary wall shall be carried out in natural stone which shall, in type, and in the manner in which it is laid, match that of the existing wall.

**Reason:** For the avoidance of doubt, and to ensure that materials to be used are acceptable visually and harmonise with existing development, in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

8. Prior to the access being brought into use and within 3 months from the date of this permission, any existing highway wall boundary shall be reduced to a height not exceeding 1.05m above the carriageway level of the adjacent highway in accordance with the details shown on the Visibility Splays Drawing no. IM/NEW ENT/VS1 Rev B received 9 September 2020 and shall not be raised to a height exceeding 1.05m thereafter.

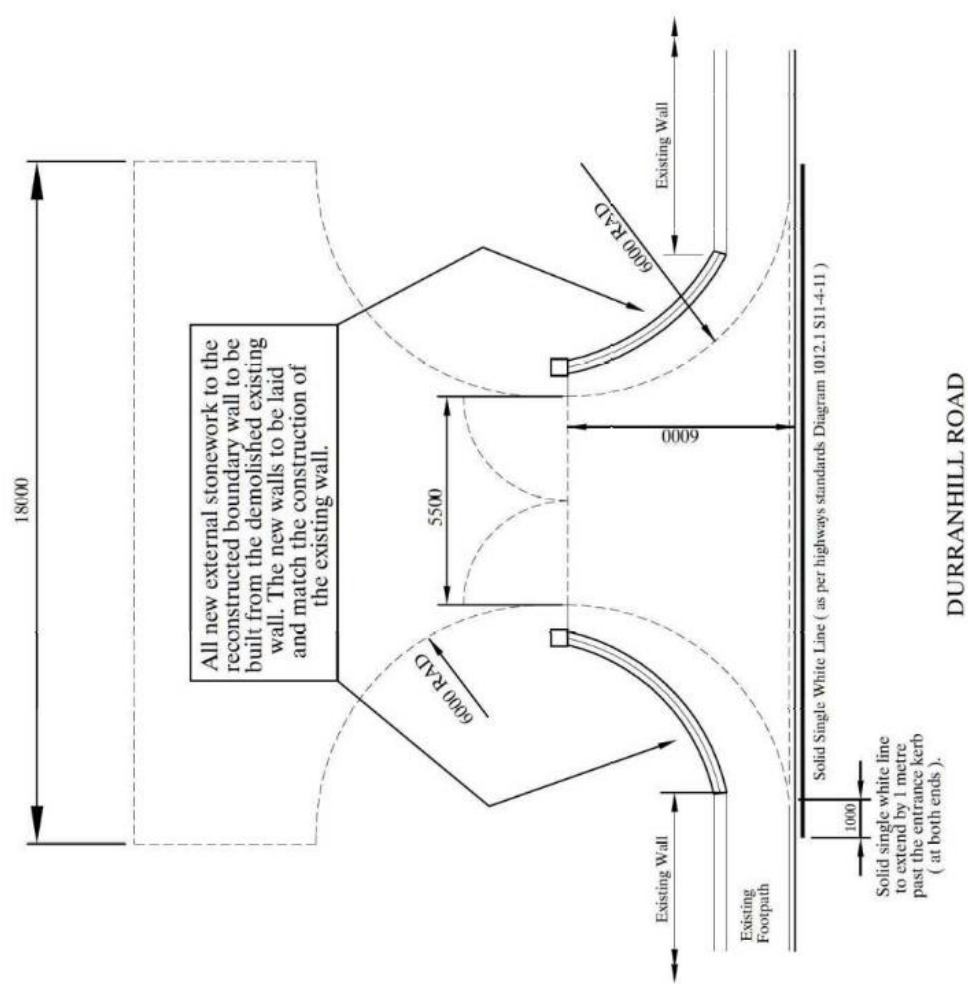
**Reason:** In the interests of highway safety and in accordance with Policies SP6, IP2 and IP3 of the Carlisle District Local Plan 2015-2030.

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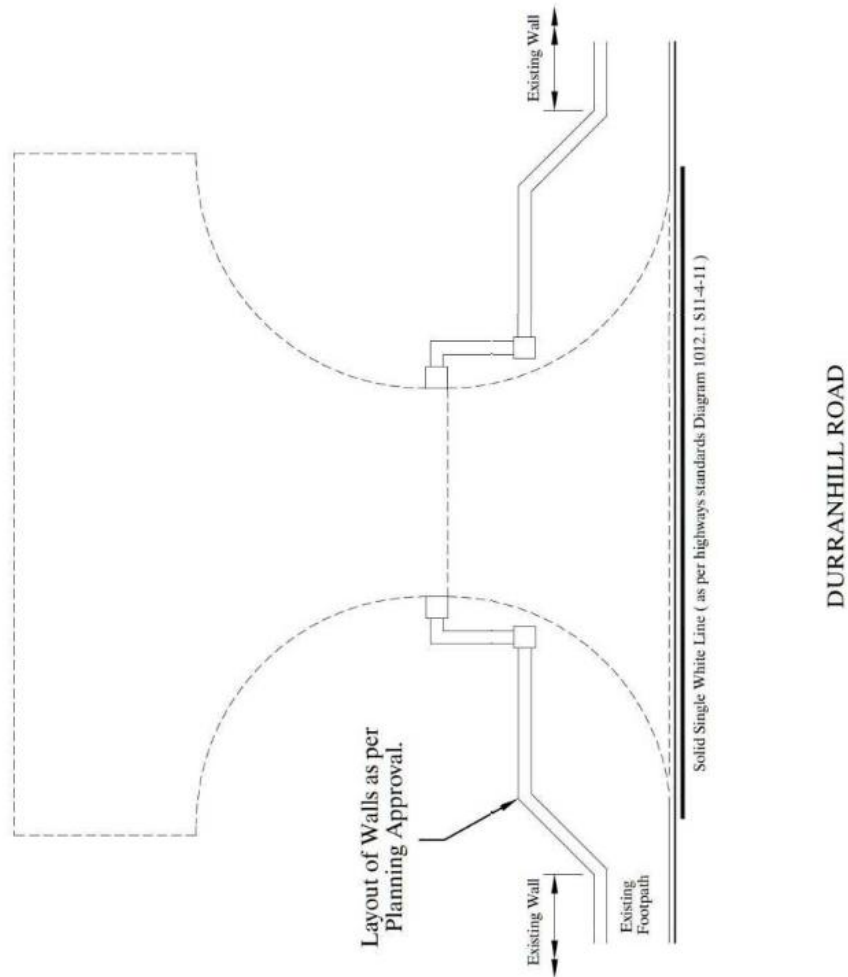


# VISIBILITY SPLAYS

B	04/09/20	Visibility Splays with new Curved Stone Walls	<div><div>Proposed New Vehicle Entrance</div><div>to Land Adjacent to Geltsdale Avenue, Durranhill, Carlisle for Mr I. Murray</div></div>	Drawn By	G.Tyler
A	16/03/18	Original Issue		Scale	1:500
Rev.	Date	Description		Date	16th March 2018
			Drawing No	IM / NEW ENT / VS1	Rev B



Proposed Wall Arrangement Layout



Existing Wall Arrangement Layout

Proposed New Vehicle Entrance Walls to  
Land Adjacent to Geltsdale Avenue, Durranhill, Carlisle for Mr I. Murray

Drawn By I.M		Scale 1:200	
Date 26th June 2020		Drawing No IM / DH / ENTRANCE WALLS Rev B	
Rev.	Date	Description	
B	06/09/20	Amended	
A	27/06/20	Original Issue	

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## Appeal Decision

Site visit made on 3 October 2019

**by Mr M Brooker DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12 December 2019**

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**Appeal Ref: APP/E0915/W/19/3232559**

**Parkland between Geltsdale Avenue and Durranhill Road, Durranhill Road, Carlisle CA1 2RL**

- 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 Ian Murray against the decision of Carlisle City Council.
  - The application Ref 18/0388, dated 12 April 2018, was refused by notice dated 11 January 2019.
  - The development proposed is described as “new vehicle and pedestrian entrance”.
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### Decision

1. The appeal is allowed and planning permission is granted for a new vehicle and pedestrian entrance at Parkland between Geltsdale Avenue and Durranhill Road, Durranhill Road, Carlisle CA1 2RL in accordance with the terms of the application, Ref 18/0388, dated 12 April 2018, subject to the conditions set out in the attached Schedule.

### Application for costs

2. An application for costs was made by Mr Ian Murray against Carlisle City Council. This application is the subject of a separate Decision.

### Main Issues

3. The main issues are the effect of the proposed development on highway safety and the trees on the site.

### Reasons

#### *Highway Safety*

4. The appeal site consists of an area of established woodland in a predominantly residential area. Durranhill Road, to the south east of the appeal site, includes some traffic calming features and also a junction with Alexandra Drive, a modern residential estate, in close proximity with the proposed location of the new access.
5. I noted at my site visit, carried out in the afternoon on a typical week day, that Durranhill was subject of a moderate level of traffic in contrast with the quiet residential character of the wider area.
6. The submitted plans show that the proposed access can provide the necessary visibility splays, width and setback for the gate from the road. This is not disputed by the Council.

7. The Appellant states that the proposed access is to allow for the maintenance of the site, I note references to consent to fell a number of trees on the site and the need to clear rubbish. As such, the access would be likely to used only infrequently.
8. The submitted plans show that the proposed access can provide the necessary visibility splays, width and setback for the gate from the road. This is not disputed by the Council.
9. I note the proximity of the proposed access to traffic calming measures on Durranhill Road and the junction with Alexandra Drive. However, I noted at the site visit that, in proximity to the proposed location of the new access Duranhill is relatively straight with good visibility.
10. Therefore, to conclude on this main issue I find that the proposed new access would not adversely affect highway safety and as such is not contrary to Policy SP1 (Sustainable Development) of The Carlisle District Local Plan 2015-2030 (the LP) in so far as it seeks to protect highway safety and the relevant provisions of the National Planning Policy Framework.

### *Trees*

11. Trees on the site are protected by a Tree Preservation Order and the detailed TPO plan before me suggests that a number of protected trees are in close proximity to the proposed new access.
12. The Council Officer's report confirms that the access can be created without the loss of any trees and suggests conditions relating to tree protection measures and construction methods. The appellant states that recent tree work, for which I understand appropriate consent was granted by the Council, has created sufficient space to accommodate the turning of a vehicle on site thus enabling it to enter and exit the site in a forward gear.
13. However, concern has been raised that this could lead to the compaction of soil and the damaging of trees on site. I have been provided with no substantive details with regards the arrangements for the turning of vehicles on the site and how this relates to existing trees. Reference has been made to 'tree report for proposed house development' (September 2015). However, I have not been provided with a copy of this report which appears to relate to a different development and is now somewhat dated.
14. This is a finely balanced decision but based on the evidence before me and my observations on site I find that the proposed development would not harm the trees on the site subject to appropriate conditions relating to tree protection measures and construction methodology. Therefore, the proposed development is not contrary to Policy SP1 of the LP in so far as it relates to the protection of trees.

### **Other Matters**

15. A number of objectors have referred to the planning history of the site and in particular proposals for the construction of a dwelling. However, this application relates to the creation of an access on to the site for maintenance only and any future applications for development on the site, utilising this or other access arrangements will be judged on its own merits.



16. The appeal site is close to Durranhill House and Durranhill Lodge, both Grade II listed buildings. In determining this appeal, I have a statutory duty, under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to have special regard to the desirability of preserving the buildings or their setting. That the proposed vehicular access would not adversely affect the significance of the buildings or their setting is not at dispute between the parties and based on the evidence before me I agree. I therefore find that the proposed development would not adversely affect the significance the DHA or their setting.

### **Conditions**

17. I have considered the conditions proposed by the Council in the light of guidance in Planning Practice Guidance (PPG). In addition to the standard conditions which limits the lifespan of the planning permission and requires the submission of reserved matters I have specified the approved plans for the avoidance of doubt and in the interests of proper planning.
18. To protect the existing trees on the site I have included conditions relating to tree protection barriers and construction methods.

### **Conclusion**

19. For the reasons given above I conclude that the appeal should be allowed.

*Mark Brooker*

INSPECTOR

### **Conditions Schedule**

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:  
Site Location Plan IM/DURRANHILL/SLP2 Rev A - dated 1 July 2019  
Site Block Plan IM/NEW/ENT/SBP Rev A – dated 16 March 2018  
New Vehicle Entrance IM2/DH/ENTRANCE1 Rev B – dated 5 March 2018  
Visibility Splays IM/NEWENT VS1 Rev A – dated 16 March 2018  
Vehicle Paths IM2/DURRANHILL/VP1 Rev A – dated 12 April 2018
- 3) No development shall commence until details of the specification and location of tree and root protection barriers have been submitted in writing to and approved by the local planning authority. The root protection barriers as agreed shall be erected prior to commencement of any works on site and no machinery or vehicles shall be parked within, or materials stored, dumped or spilled within that area. In the event of trenches or excavations exposing tree roots of 50mm/ 2 inches diameter or more, these should be carefully retained and protected by suitable measures including (where otherwise unavoidable) bridging trenches. No severance of tree roots 50mm/ 2 inches or more in diameter shall be undertaken without prior notification to, and the subsequent approval in

writing of the Local Planning Authority and where such approval is given, the roots shall be cut back to a smooth surface.

- 4) No development shall commence until a detailed Method Statement of the 'no dig' construction method for the access, driveway and hardstanding within the root protection area is submitted to and approved in writing by the Local Planning Authority. The development shall then be undertaken in accordance with the approved details.
- 5) Prior to the commencement of development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the local planning authority. Such details shall include measures to prevent surface water discharging onto the highway together with the route of any infrastructure connections the drainage strip to the surface water drainage scheme.

The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the Local Planning Authority, no surface water shall discharge to the public sewerage system either directly or indirectly.

The development shall be completed, maintained and managed in accordance with the approved details.

- 6) Access hereby approved shall not be brought into use until visibility splays providing clear visibility of 60 metres measured 2.4 metres down the centre of the access road and the nearside channel line of the major road in both directions have been provided at the junction of the access road with the county highway. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (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 grow 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.
- 7) The vehicular crossing over the verge, including the lowering of kerbs, shall be carried out to the specification of the Local Highway Authority.
- 8) The access drive shall be surfaced in bituminous or cement bound materials, or otherwise bound and shall be constructed and completed before the development is brought into use. This surfacing shall extend for a distance of at least 6 metres inside the site, as measured from the carriageway edge. There shall be no vehicular access or egress from the site other than via the approved access.
- 9) Access gates, if provided, shall be hung to open inwards only away from the highway, be recessed no less than 6m as measured from the carriageway edge of the adjacent highway and shall incorporate 45 degree splays to each side.

- 10) Details showing the provision within the site for the parking, turning and loading and unloading of vehicles and for vehicles to enter and leave the site in a forward direction shall be submitted to and approved in writing by the local Planning Authority. The development shall not be brought into use until any such details have been approved and the parking, loading, unloading and manoeuvring facilities constructed. The approved parking, loading, unloading and manoeuvring areas shall be kept available for those purposes at all times and shall not be used for any other purpose.
- 11) Solid edge carriageway markings through the build-out on both sides which is extended past the proposed access shall be installed prior to the access being brought into use. Details of the proposed markings shall be agreed in writing with Local Planning Authority prior to installation.
- 12) All new external stonework relating to the reconstructed boundary wall shall be carried out in natural stone which shall, in type, and in the manner in which it is laid, match that of the existing wall.