

## SCHEDULE A: Applications with Recommendation

22/0372

Item No: 06

Date of Committee:

**Appn Ref No:**  
22/0372

**Applicant:**  
Mr Lee Robinson

**Parish:**  
Beaumont

**Agent:**  
Harraby Green Associates

**Ward:**  
Dalston & Burgh

**Location:** Former Beaumont Waste Disposal Site, L/Adj. Field 6065, Monkhill, CA5 6DH

**Proposal:** Change Of Use Of Land For The Keeping Of Horses, Erection Of Stables, Paddock & Levelled Yard Via Field Access Track (Retrospective)

**Date of Receipt:**  
11/05/2022

**Statutory Expiry Date**  
06/07/2022

**26 Week Determination**

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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 The Development Is Acceptable
- 2.2 Whether The Scale, Design And Impact On The Character Of The Area Is Acceptable
- 2.3 The Impact On The Hadrian's Wall World Heritage Site Buffer Zone
- 2.4 Impact On The Listed Building
- 2.5 Impact On The Occupiers Of Neighbouring Properties
- 2.6 The Impact Of The Proposal On Highway Issues
- 2.7 Surface Water Drainage
- 2.8 Contamination
- 2.9 Impact On Trees
- 2.10 Biodiversity
- 2.11 Other Matters

#### 3. Application Details

## **The Site**

- 3.1 The site comprises of a rectangular parcel of land, approximately 0.15 hectares in area, located 320 metres north-east from the centre of Monkhill. The site is accessed along a gravelled track, approximately 315 metres in length from a junction at the U1113 Monkhill to Beaumont Road.
- 3.2 There is a band of trees to the north and south of the application site which is otherwise flanked by agricultural land. The site is within the Hadrian's Wall World Heritage Site Buffer Zone and the Drovers Rest Inn, a Grade II listed building, is approximately 210 metres to the south-east.

## **The Proposal**

- 3.3 The application seeks retrospective planning permission for the change of use of land for the keeping of horses together with the erection of stables and a paddock area.
- 3.4 The building comprises two stables with a central covered area and is constructed from timber boarding under a metal sheeted roof. The building measures approximately 13.2 metres in length by 6.2 metres in width with a ridge height of 4.3 metres.
- 3.5 The site is bounded by an open boarded timber fence and solid timber and galvanised steel framed gates.

## **4. Summary of Representations**

- 4.1 The application has been advertised by mean of a site notice and direct notification to the occupiers of nine properties. In response, 21 representations have been received objecting to the application which raise the following issues:

### Application Details/ Principle Of Development

1. there is no mention in this application of the static caravan, generators and use of the site for habitation which is clearly evident at the site;
2. the site is clearly being used as a dwelling with a new road having been built to it;
3. the wooden cabin on the site was brought in on a transporter and not towed;
4. a water/ waste supply has been applied for indicating the cabin is to be used a permanent residence;
5. the application indicates that in recent years there has been planning permission granted for the field in which the development is taking place. However, this is false. The discussed planning permission was for the adjacent field;
6. given that this application is retrospective, it is highly likely that a further retrospective application will be made once the residents have built a permanent dwelling;

### Traffic

7. increased vehicle movements along the track including commercial scrap metal and other vehicles frequently travelling to and from it day and night turning up full and leaving empty;

### Waste

8. waste is regularly burnt late into the night which has required attendance of the Fire Service on a number of occasions. The fires result in thick black smoke from toxic waste has been burned;

### Character Of The Area

9. the site is illuminated at night resulting in light pollution;
10. it is a heritage site so should be assessed;
11. the development is unsightly and disturbing to residents and wildlife;
12. the yard has been enclosed by 1.8m high timber fence panels which can clearly be seen from the Burgh and Beaumont roads and the listed building (Dover's Rest) and detracts from the open aspect view towards Beaumont Village. Only the paddock needs to be enclosed with an open post and rail fence;
13. walkers follow the old railway line can easily see and hear the site and it's not just a couple of horses and the proposal is contrary to Policy EC13 of the local plan relating to the development of stables;

### Trees

14. a considerable number of trees were cut down to enable the construction of the stable block and compound for which retrospective planning permission has been applied and more trees have been cut down since the said construction. A tree survey should be submitted;
15. the trees on the site served to reduce the risk of flooding to adjacent land due to high levels of service water through the heavy rain fall months. The applicant will now be responsible for adjacent land flooding;

### Contamination

16. the site was a former waste disposal site, a contamination survey needs to have been carried out before any development can be allowed;
17. there are no details of waste/ effluent disposal. Burning of any material including horse bedding needs to be strictly prohibited;
18. the adjacent landowner's fence has been destroyed due the applicant clearing the site, thus has created soil movement. The application form insinuates that the land is not known to be contaminated, despite being referred to as Beaumont Waste Disposal. This clearly implies that would be most sensible to have conducted land surveys and tests, especially in the case of animals to be kept on the site;
19. no evidence of a gas test to support any works on site, no digging, building/ concreting, removal of trees & hedges, should have taken place without a completion of a soil gas test;

### Ecology

20. the site is within the River Eden Nutrient Neutrality Restriction Zone, therefore no development should be allowed that would add to nutrients

entering the River Eden from this site via Monkhill beck and directly into the River Eden such as burning of plastics etc. off scrap metal, siting of large residential caravan and other waste from running the business or residential occupancy from the land;

21. the land needs to recover from past uses, as it had been doing, the planting of many trees and the forming of a pond used to be a haven for wildlife such as deer, newts, bats and venturing otters from the River Eden;

#### Other Matters

22. properties have been purchased in the area at a time when there were no plans to build. A small development has now taken place on green belt land which contravenes planning laws;
23. the proposed paddock is of insufficient size for the proposal to allow space for grazing, exercise and field management;
24. its unclear why the yard/ hardstanding area need to be so large;
25. the council should apply rigorous due diligence to ensure that the exact terms of this 'retrospective' application are abided by and must include clarity that a further application for a dwelling or alternative use will not be considered. The most appropriate course of action should be to reject this 'retrospective' application at source to eliminate guaranteed future problems;
26. approval will lead to scrap being dumped and a dump of the area;
27. the site has been visited by utility companies but there is no mention of this in the planning application;
28. a site visit should be made by the planning office;
29. the applicant has gravelled the lonning that leads to the site, without permission of the landowners who are seemingly unaware of this;
30. the site is known to the police;
31. the applicant uses local roads to carry persons in trotting carts pulled by small ponies which has a negative effect on the character of the neighbourhood.

4.2 In addition, six anonymous representations have been received.

4.3 One representation of support has been received and which raises the following issues:

1. the site needed tidying up as the previous owner had left rubbish on it;
2. the applicant is right to water for his horses;
3. the representations are racist and discriminatory making reference to dealing scrap and prejudicing Gypsies;
4. the site has been visited by the parish council who had no concerns and supportive of the work being done to the site.

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

**Beaumont Parish Council:** - there is no objection made to the keeping of horses and erection of stables as that fits in with the keeping of the village.

Perimeter lighting should be kept to a minimum to minimise light pollution, as the site is visible from all surrounding areas.

The parish council objects to any servicing of or running of a commercial business from the site now or in the future.

An objection is made to the present siting of a residential caravan and objection to any future residential development on site;

**Local Environment - Environmental Protection:** - as this application relates to an area of infilled land which is believed to have been used as a waste disposal site there would be a requirement for the applicant to provide information regarding land contamination. A series of planning conditions are suggested relating to site characterisation, submission of a remediation scheme, implementation of an approved remediation scheme, and reporting unexpected contamination.

Development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 1 to 4 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination;

**Historic England - North West Office:** - 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 are the National Planning Policy Framework (NPPF), the National Planning Practice Guidance (NPPG) and Policies SP2, SP6, EC13, IP3, CC5, CM5, HE1, HE3, GI1, GI2, GI3 and GI6 of the Carlisle District Local Plan 2015-2030. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is also a material planning consideration. The proposal raises the following planning issues.

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

- 6.3 Policy EC13 states that the development of stables, horse riding schools and/or riding centres in the rural area will be permitted provided that: there will be no unacceptable impact upon the landscape and character of the area; the building or structure is sited where practical to integrate with existing buildings and/or take advantage of the contours of the land and any existing natural screening; the proposal will not have a detrimental effect upon surrounding land uses; the surrounding roads and bridleways are adequate and safe for

the increased use by horse riders, with the roads being suitable for all users; and the scale and intensity of use is proportionate to the equestrian needs and appropriate for the site and character of the area.

- 6.4 The proposal involves the use of the land for the keeping of horses together with the erection of a stable building, which are permitted in principle by Policy EC13. The issues raised by the policy criteria together with other relevant planning policies are discussed in the following paragraphs.

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

- 6.5 Paragraphs 126 to 136 of the NPPF which emphasises that the creation of high quality buildings and places is fundamental to what the planning system and development process should achieve. The Framework has a clear expectation for high quality design which is sympathetic to local character and distinctiveness as the starting point for the design process. Paragraph 130 outlines 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.”*

- 6.6 It is further appropriate to be mindful of the requirements in paragraph 134 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)."*

- 6.7 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.
- 6.8 The site is set within a context of a small wooded area and albeit some trees have been removed prior to the submission of the application, the majority remain to the north and south of the site. The scale of the building is small, with a footprint of nearly 82 square metres. It is well related to existing landscape features and as such, its impact on the character of the area is minimal.
- 6.9 The Solway Coast Area of Outstanding Natural Beauty (AONB) is located approximately 110 metres to the north of the application site. In addition to policies which seek to protect the character of the countryside, Policy GI2 of the local plan recognises the particular importance of AONBs and requires that development proposals protect their special characteristic and landscape quality through appropriate development and protection and incorporation of landscape features.
- 6.10 In this context, given the scale of development, distance from the AONB and intervening trees and hedgerows, the development, the scale, design and use of materials would be appropriate and would not appear obtrusive to the character or setting of the AONB and is compliant with policies in this regard.

### **3. The Impact On The Hadrian's Wall World Heritage Site Buffer Zone**

- 6.11 Policy HE1 of the local plan seeks to control development within the Hadrian's Wall World Heritage Site (WHS) and Buffer Zone to ensure that development which would have an unacceptable adverse impact on the character and/ or setting of the World Heritage Site will not be permitted. The NPPF also requires that an appropriate assessment harm and a balanced judgement is made in terms of the impact on the WHS and nearby scheduled monument that is Hadrian's Wall.
- 6.12 Historic England has submitted no advice in respect of the application. Whilst it is noted that this should not be interpreted as commenting on the merits of the application, Section 2 of this report has assessed the impact on the character of the area. As such, this development is acceptable in the context of this site and not result in harm to the setting of the scheduled monument or WHS and is acceptable in this regard.

### **4. Impact On The Listed Building**

- 6.13 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.
- 6.14 Accordingly, considerable importance and weight should be given to the desirability of preserving listed buildings and their settings when assessing this application. If the harm is found to be less than substantial, then any assessment should not ignore the overarching statutory duty imposed by section 66(1).
- 6.15 Paragraph 195 of the NPPF states that: local planning authorities should refuse consent for any development which would lead to substantial harm to or total loss of significance of designated heritage assets. However, in paragraph 196, the NPPF goes on to say that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 6.16 Policy HE3 of the local plan also indicates that new development which adversely affects a listed building or its setting will not be permitted. Any harm to the significance of a listed buildings will only be justified where the public benefits of the proposal clearly outweighs the significance.
- a) the significance of the heritage asset and the contribution made by its setting
- 6.17 The Drovers Rest Inn, is Grade II listed and approximately 210 metres to the south-east.
- b) the effect of the proposed development on the setting of the Grade II Listed Building
- 6.18 Historic England has produced a document entitled 'Historic Environment Good Practice Advice in Planning Note 3 - The Setting of Heritage Assets' (TSHA).
- 6.19 The TSHA document and the NPPF make it clear that the setting of a heritage asset is the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive and negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
- 6.20 Paragraph 195, the NPPF goes on to say that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 6.21 Section 66 (1) requires that development proposals consider not only the potential impact of any proposal on a listed building but also on its setting.



Considerable importance and weight needs to be given to the desirability of preserving the adjoining listed buildings and settings when assessing this application. If the harm is found to be less than substantial, then any assessment should not ignore the overarching statutory duty imposed by section 66(1).

- 6.22 The proposal involves the development of the land for equestrian use, including the erection of stable building. The development is not located adjacent to the heritage asset and given the distance, topography and intervening landscape features, in this context it is considered that the proposal (in terms of its location, scale, materials and overall design) would not be detrimental to the immediate context or outlook of the aforementioned listed building.

## **5. Impact On The Occupiers Of Neighbouring Properties**

- 6.23 There are residential properties within the village; however, given the orientation of the application site, the distances involved between the proposed development and residential properties and the topography of the land, the living conditions of the occupiers of neighbouring properties would not suffer from a loss of privacy. The use of the building for stables and storage for personal use would not give rise to unacceptable levels of noise or disturbance; however, it would be appropriate to impose a condition prohibiting any commercial use and restricting it limiting the use to that of a personal nature.

## **6. The Impact Of The Proposal On Highway Issues**

- 6.24 The development would utilise an existing agricultural access which is taken from the junction with the U1113 Monkhill to Beaumont Road. Any additional increase in level of use for equestrian purposes is unlikely to be significant. There is adequate access, parking and turning facilities to and within the site. As such the proposal does not raise any highway issues; however, together with the reasons in the aforementioned paragraph, it would be appropriate limit the stables to that solely used for the applicant.

## **7. Surface Water Drainage**

- 6.25 In accordance with the NPPF and the NPPG, the surface water should be drained in the most sustainable way. The NPPG clearly outlines the hierarchy when considering a surface water drainage strategy with the following drainage options in the following order of priority:
1. into the ground (infiltration);
  2. to a surface water body;
  3. to a surface water sewer, highway drain, or another drainage system;
  4. to a combined sewer.
- 6.26 In order to protect against pollution, Policy CC5 of the local plan seeks to ensure that development proposals have adequate provision for the disposal of surface water. No foul drainage is proposed and the application documents, submitted as part of the application, outlines that the surface

water would be disposed of to a soakaway. On this basis, the means of surface water drainage is acceptable. There is sufficient land on which to construct a soakaway that is away from a highway or neighbouring property and as such, it isn't necessary to impose a condition requiring the submission of further details; however, an instructive condition requiring the provision of a soakaway to a recognised standard would be appropriate.

## **8. Contamination**

- 6.27 The representations refer to the previous use of the site being used for landfill and the possible contamination and risk from developing the land. Available planning records show that planning permission was granted for a parcel of land landfill in 1985 for the "Controlled tipping of non-hazardous industrial/builders waste" (application 85/0932) and in 1991 for the "Renewal of permission for land infill with non-hazardous industrial/builders waste and the deletion of condition no. 11 on permission 85/0932" (application 91/0091). This land is approximately 135 metres north of the application site.
- 6.28 The land subject of this application is identified as being potentially contaminated on the council's constraints map. It's not known what material may or may not be under the ground and the extent to which this has been disturbed which in turn may have opened up and exposed pathways allowing the contamination to spread. Environmental Health Officers have suggested a series of conditions to deal with the issue of potential contamination, including site characterisation, submission of remediation scheme, implementation of approved remediation scheme and reporting of unexpected contamination.
- 6.29 The first two conditions, numbered 4 and 5 in the schedule, make reference to the fact that 'no development shall commence until'. As the application seeks retrospective permission, it is considered that these should be reworded that the information should be submitted within three months from the date of any permission. Three months is an appropriate timescale to allow for the preparation and submission of the reports. The fourth suggested condition requires that in the event that further contamination is found, a further survey should be submitted; however as no further works are sought as part of this application and therefore the condition isn't considered necessary; however, it is included as an advisory note. –

## **9. Impact On Trees**

- 6.30 Planning policies requires that proposals for new development should provide for the protection and integration of existing trees and hedges where they contribute positively to a locality, and/ or are of specific natural or historic value. The trees were felled prior to or immediately at the time when the council was notified of the development, as such, any damage through the loss of trees had already occurred. Whilst not condoning this approach, there is little in the way of further protection that is required should planning permission be forthcoming as the works are complete. The council's Planning/ Landscapes Compliance and Enforcement Officer has visited the site on several occasions and has made no reference to any of the trees, either singularly or as a group, being put forward for a Tree Preservation

Order.

## **10. Biodiversity**

- 6.31 Planning Authorities in exercising their planning and other functions must have regard to the requirements of the EC Habitats Directive (92/43/EEC) when determining a planning application as prescribed by regulation 3 (4) of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended). Such due regard means that Planning Authorities must determine whether the proposed development meets the requirements of Article 16 of the Habitats Directive before planning permission is granted. Article 16 of the Directive indicates that if there is reasonable likelihood of a European protected species being present then derogation may be sought when there is no satisfactory alternative and that the proposal will not harm the favourable conservation of the protected species and their habitat.
- 6.32 The council's GIS Layer has identified that the site has the potential for protected species to be present on or in the vicinity of the site. The application seeks retrospective planning permission; however, an Informative has also been included within the decision notice ensuring that if a protected species is found during any future work, all work must cease immediately and the local planning authority informed.
- 6.33 Alongside other local planning authorities, Carlisle City Council has received a letter dated 16th March 2022 from Natural England in respect of nutrient pollution in the protected habitats of the River Eden Special Area of Conservation (SAC). The letter advised that new development within the catchment of these habitats comprising overnight accommodation can cause adverse impacts to nutrient pollution. Until such time as appropriate mitigation measures are in place in respect of each individual development proposal, the council isn't able to issue planning permission.
- 6.34 The letter advised that new development within the catchment of these habitats comprising overnight accommodation can cause adverse impacts to nutrient pollution. Such development includes, but is not limited to:
- new homes;
  - student accommodation;
  - care homes;
  - tourism attractions;
  - tourist accommodation;
  - permitted development (which gives rise to new overnight accommodation) under the Town and Country Planning (General Permitted Development) (England) Order 2015.
- 6.35 Whilst the council assesses the implications of these matters, it cannot lawfully conclude that development within the catchment of the River Eden SAC will not have an adverse effect and therefore planning permission can't be granted until such effects and appropriate mitigation measures are known. The proposed development does not fall within any of the categories listed as and such, is not caught up in the issue of nutrient neutrality and the council is able to determine the application.

## 11. Other Matters

### Siting Of A Caravan

6.36 It is alleged in the objections that have been received that the applicant lives in the caravan that is on site. During the various site visits undertaken by Officers, it was evident that the caravan had been placed on the land but there was no evidence of occupancy. There is no means of water supply or drainage from the caravan with the only connection being electrical from the diesel generator.

6.37 In terms of planning permission, this is required as a result of “development” which is described in section 55(1) of the Town and Country Planning Act 1990 as:

Section 29 (1) of the Caravan Sites and Control of Development Act 1960 which defines a caravan as:

*“Any structure designed or adapted for human habitation which is capable of being moved from one place to another (whether being towed, or by being transported on a motor vehicle or trailer) and any motor vehicle so designed or adapted but does not include*

- (A) Any railway rolling stock which is for the time being on rails forming part of a system, or*
- (B) Any tent”*

6.38 Section 13 (1) of the Caravan Sites Act 1968 deals with twin-unit caravans which provides that:

*“A structure designed or adapted for human habitation which:*

- (A) Is composed of not more than two sections separately constructed and designed to be assembled on a site by means of bolts, clamps and other devices; and*
- (B) Is, when assembled, physically capable of being moved by road from one place to another (whether being towed, or by being transported on a motor vehicle or trailer), shall not be treated as not being (or have been) a caravan within the means of Part 1 of the Caravan Sites Control of Development Act 1960 by reason only that it cannot lawfully be moved on a highway when assembled”.*

6.39 A further amendment to the definition of a caravan in 2006 placed dimensional restrictions which include:

- (a) Length (exclusive of any drawbar) 20m (65.6FT)
- (b) Width: 6.8m (22.3ft)
- (c) Overall height (measured internally from the floor at the lowest level to the ceiling at the highest level) 3.05m (10ft).

- 6.40 The caravan appears to have the accommodation required by the 1968 Act, it is within the prescribed size limits and it is capable of being moved by road and therefore, complies with the definition of a caravan. No operational development has occurred in conjunction with the caravan and provided that the caravan isn't occupied, no change of use has occurred. There is currently no evidence of it being habited but Officers would continue to respond to any complaints or allegations should they be submitted.

#### Generator

- 6.41 The applicant has sited a diesel generator to provide electricity for lighting on the site. Many of the objectors received make reference to the noise generated by this equipment and that this adversely affects the amenity of residents of the locality.
- 6.42 The generator is not described within the application and as such, permission is not sought for its siting within the land. Whilst the observations of the objectors are noted, planning permission is only needed if the work being carried out meets the statutory definition of 'development' which is set out in section 55 of the Town and Country Planning Act 1990. 'Development' includes:
- building operations (e.g. structural alterations, construction, rebuilding, most demolition);
  - material changes of use of land and buildings;
  - engineering operations (e.g. groundworks);
  - mining operations;
  - other operations normally undertaken by a person carrying on a business as a builder;
  - subdivision of a building (including any part of it) used as a dwellinghouse for use as 2 or more separate dwelling houses.
- 6.43 The generator remains sited on the land by virtue of its own weight and no specific works have been undertaken to facilitate this i.e. the formation of a concrete hardstanding. The generator is connected by means of a cable to allow the distribution of electricity and as such, this does not constitute 'other operations' or fall within any other definition outlined in the preceding paragraph. As such, it does not amount to development and does not require planning permission. Environmental Health Officers are aware of this issue and should this be investigated and found to be a statutory noise nuisance, this may be enforced separately outwith the planning process

#### Fence/ Gates

- 6.44 The applicant has erected a boundary fence and gates together with fencing within the site. As Members will be aware, in planning terms, certain development does not require planning permission as they benefit from permitted development rights. Permitted development rights are set out in The Town and Country Planning (General Permitted Development) (England) (Order) 2015 (as amended) (GPDO) and are a national grant of planning permission which allow certain building works and changes of use to be carried out without having to make a planning application but are

subject to certain criteria.

- 6.45 Specifically in relation to fences and boundary structures, Schedule 2, Part 2, Class A of the GPDO (as amended), planning permission will be required for any fence, wall, gate or other enclosure maintained, improved or altered if:
- it is over 1 metre in height and adjacent to a highway used by vehicular traffic;
  - it is over 2 metres in height elsewhere;
  - it would exceed its former height or the any of the heights listed above (whichever is the greater);
  - it would involve development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding, a listed building.
- 6.46 The submitted drawings include reference to fence within the site which is annotated "Timber fencing 1.8, high". During the course of a site visit, Officers measured the height, which was found to be in excess of this, albeit would still be permitted development as it is less than 2 metres.
- 6.47 In terms of the boundary fence and the double gates, these are in excess of 2 metres with the gates measuring approximately 2.4 metres in height. Having discussed this with the agent, Officers have been informed that it is not intended to regularise the issue of the boundary fences through this application and is subject to further discussion with the applicant.

#### Burning Of Waste Material

- 6.48 The representations received make reference to regular fires occurring on the site resulting in 'toxic black smoke' as a result of waste having been burned. No evidence of this was apparent during the course of any site visit by Officers. As a result of the fires, Cumbria Fire and Rescue Service have been called to attend on several occasions. They have advised that having attended the site, the fires are well-controlled with only clean waste product being burned. It is further stated that they have no concerns about cable burning or illegal burns.
- 6.49 Environmental Health Officers are aware of the alleged burning of waste material which is being investigated separately.

#### Scrap Metal Dealing

- 6.50 The applicant was a licenced scrap metal dealer. It is not unreasonable during the course of a day for him to visit the site to check on the welfare of his horses. If this is during a working day, it is inevitable that he will travel to the site with his works vehicle, possibly carrying scrap metal. Again, during the course of site visits, some of which were unannounced, Officers found there was no evidence of scrap having been dealt, sorted or stored on the land. If this were the case, a further application for planning permission for the change of use of the land would be required.

#### Lighting

- 6.51 The objectors refer to the light levels emanating from the site. Should Members be minded to approve the development, notwithstanding any lighting already installed, it would be appropriate to impose a condition requiring the submission of a lighting scheme to ensure that the character and appearance of the area is not prejudiced during the hours of darkness.

#### Retrospective Application

- 6.52 The way in which the site has been developed without planning permission and the retrospective nature of the application, aren't reasonable grounds, in planning terms, to refuse the application.

### **Conclusion**

- 6.53 In overall terms, the principle of the development for personal equestrian use is acceptable. The scale and design of the building is appropriate and doesn't affect the character or appearance of the locality or the AONB.
- 6.54 The setting and appearance of the heritage asset is not affected by the development and the site is of sufficient distance from neighbouring properties such that the use for which planning permission has been applied for i.e. the erection of stables and use of land for personal equestrian use, would not adversely affect the amenity of occupiers of residential properties.
- 6.55 In addition, no highway or biodiversity issues are raised. Officers will continue to monitor and investigate other alleged activities should the need arise but this is separate to the determination of this application. Subject to the imposition of appropriate planning conditions, the proposal is compliant with the objectives of the relevant local plan policies.

### **7. Planning History**

- 7.1 There is no planning history associated with this site.

### **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 11th May 2022;
  2. the Location Plan received 5th May 2022 (Drawing no. 2257-01);
  3. the Block Plan As Proposed received 5th May 2022 (Drawing no. 2257-04);
  4. notwithstanding the details of any boundary treatment, the Site Plan As Proposed received 5th May 2022 (Drawing no. 2257-05);
  5. the Floor Plan and Elevation As Proposed received 5th May 2022 (Drawing no. 2257-10);
  6. the Notice of Decision;
  7. any such variation as may subsequently be approved in writing by the local planning authority.

**Reason:** To define the permission.

2. Notwithstanding any lighting already installed, within 3 months from the date of the permission hereby approved, details of all external lighting shall be submitted to and approved in writing by the local planning authority. The development shall then be undertaken in strict accordance with the approved details and shall not be altered unless otherwise agreed in writing by the local planning authority.

**Reason:** To ensure that the development is appropriate to the locality in accordance with Policies SP6 and HE1 of the Carlisle District Local Plan 2015-2030.

3. The building hereby approved shall be used only for private use for the stabling of horses with ancillary storage facilities and shall at no time be used for any commercial purposes.

**Reason:** To preclude the possibility of the use of the premises for purposes inappropriate in the locality in accordance with Policies SP6 and EC13 of the Carlisle District Local Plan 2015-2030.

4. Within 3 months from the date of this permission, an investigation and risk assessment, (in addition to any assessment provided with the planning application), shall be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the written approval of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced and approved in writing by the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (i) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- (i) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's Land Contamination: Risk Management (LCRM) based on '*Model Procedures for the Management of Land Contamination, CLR 11*'.

**Reason:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with



those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

5. Within 3 months from the date of this permission, a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) has been prepared and submitted to and agreed in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

**Reason:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

6. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

**Reason:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

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Client: Ian Richardson

Project: Pooled tables, outdoor oval pool.

Analysis:  
Cable  
CALCULATIONS

Designing:  
Laurie Ryan

Drawing No: 2257-01

Scale: 1:2000 M.A.S.

Drawn: CE

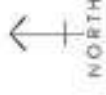
Date: Jan 2022

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# Monkhill Stables

KEY:   
— Island of development site   
— Island of other site ownership



## Particulars

Client: Lee Robinson

Project: Proposed stables, paddock and yard.

Monkhill  
Certificate  
C.A.S. (C2B)

Drawing: Block Plan

A1 Building

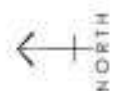
Drawing No. 2257-02

Scale: 1:1250 at A3

Drawn: J.C.

Date: April 2023

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Residence	
Client	Lee Robinson
Project	Planned stables, paddock and yard.
	Monrell Cottles C+S 2018
Drawing	Site Plan
	As Built
Drawing No.	2257-00
Scale	1:1250 or A3
Drawn	CR
Date	Jan 2023

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# Monkhill Stables

KEY:  
 Island of development site  
 Island of other site ownership

NORTH



## Parameters

Client: Lee Robinson

Project: Proposed stables, paddock and yard.

Monkhill  
 Certificate  
 CAS (C2B)

Drawn: Black Plan

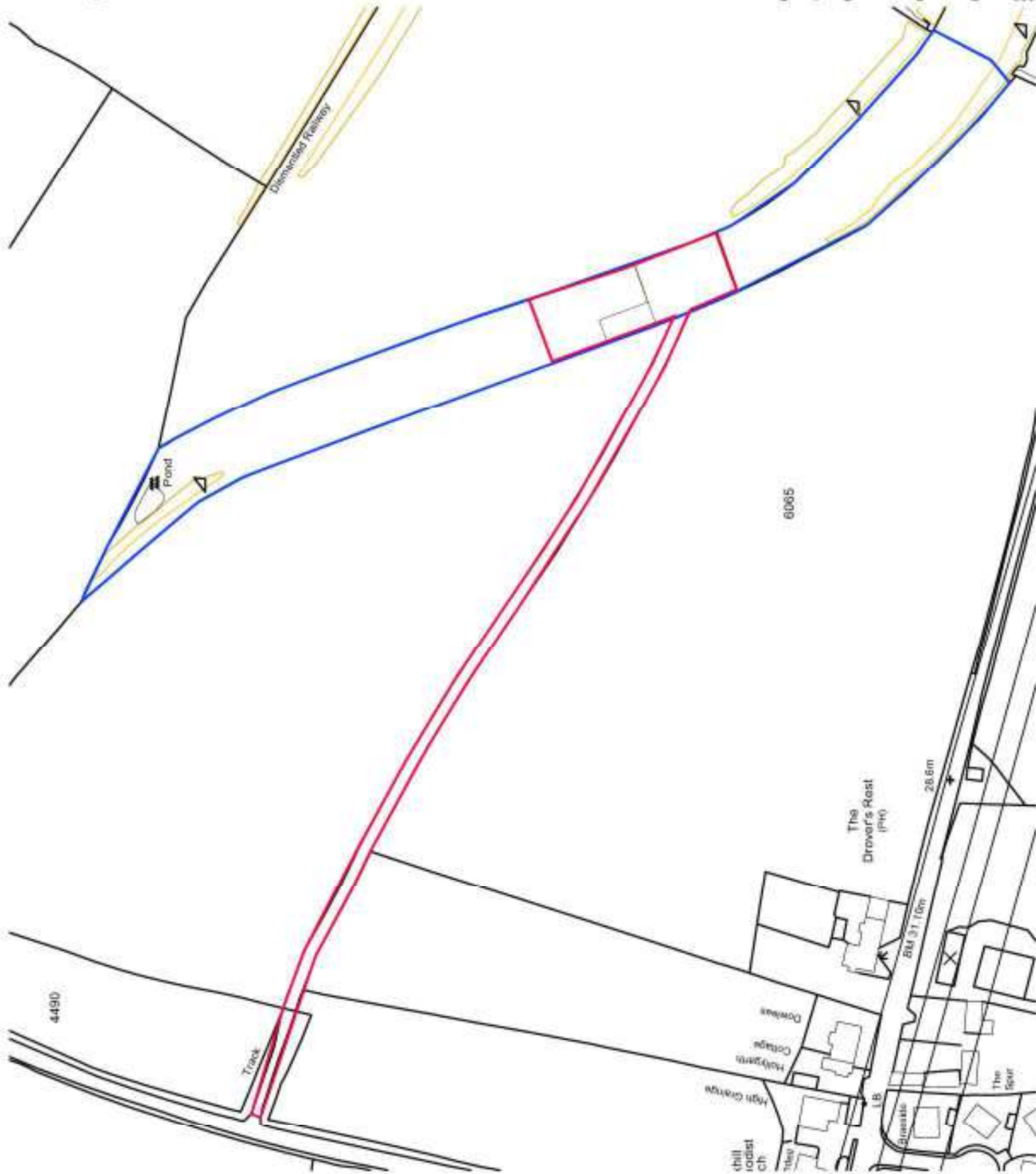
A1 Proposal

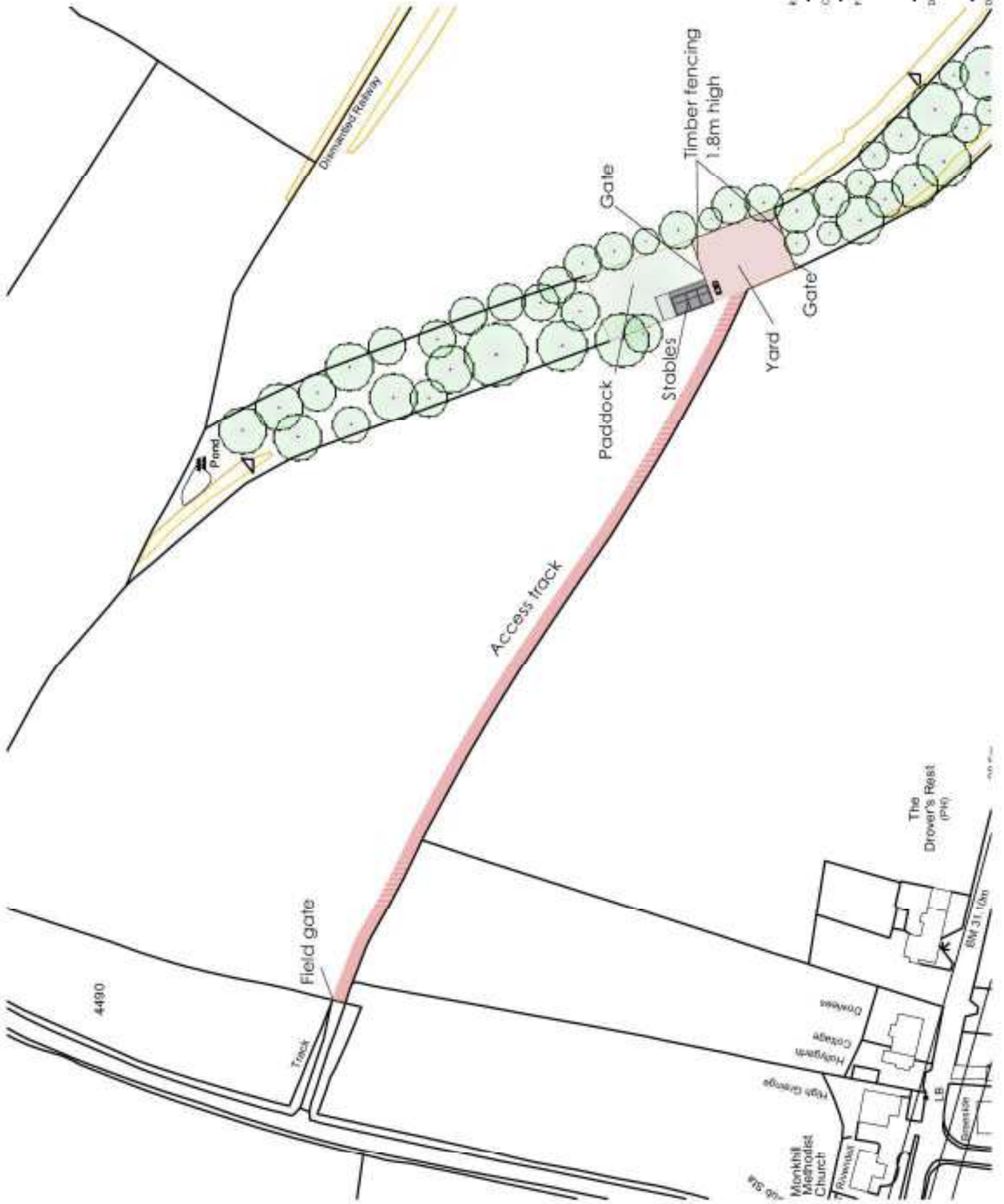
Drawing No: 2257-04

Scale: 1:1250 at A3 (Drawn: 01)

Date: April 2023

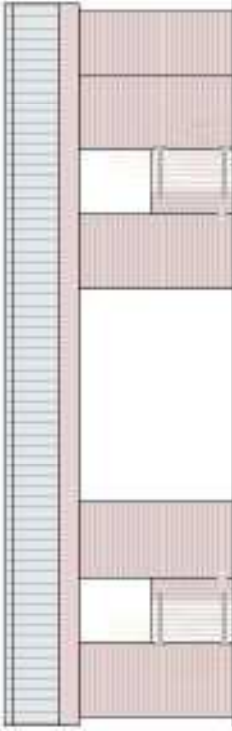
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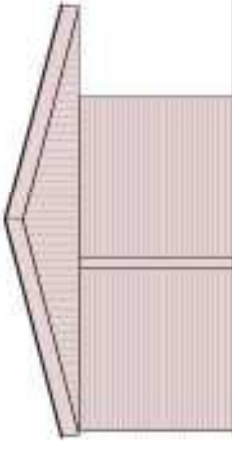


Residence	
Client	Jane Robinson
Project	Proposed stables, paddock and yard.
	Monkhill CotM C+S 2018
Drawing	Site Plan
	As Proposed
Drawing No.	2257-05
Scale	1:1250 @ A3
Drawn	CR
Date	Jan 2023

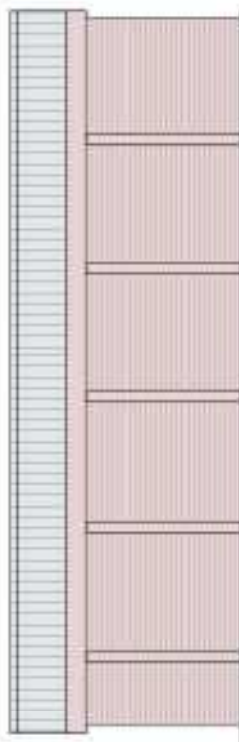
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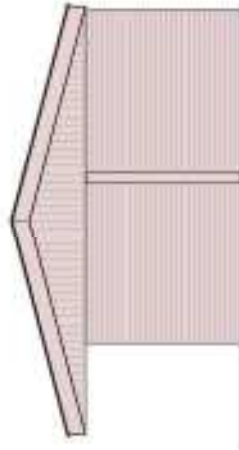
FRONT (NORTH-EAST) ELEVATION



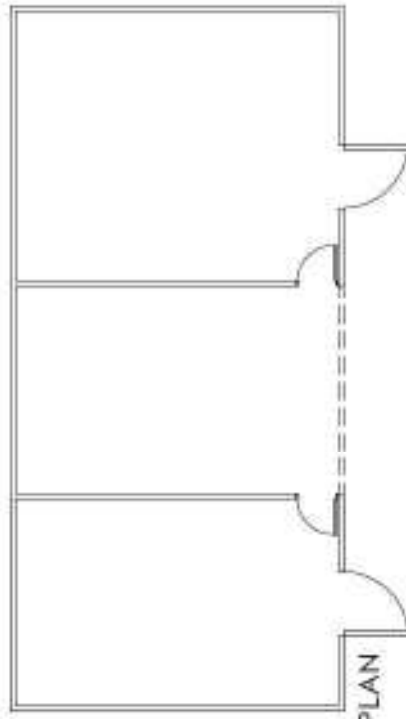
SIDE (EAST-SOUTH)-ELEVATION



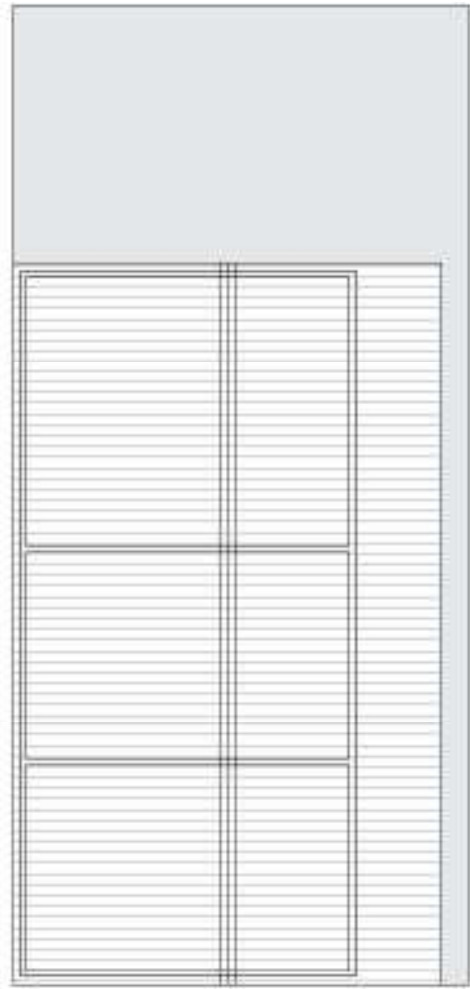
REAR (SOUTH-WEST) ELEVATION



SIDE (WEST-NORTH)-ELEVATION



FLOOR PLAN



ROOF PLAN



Revisión	Rev 2011 Planning Submission, UK
Client	
Project	
Address	
City	
Country	
Drawing	Floor Plan and Elevation
As proposed	
Drawing No.	2237-10
Scale	1:1000 AS
Drawn	OE
Date	Jun 2021

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# Appeal Decision

Site visit made on 14 February 2022

**by G Robbie BA(Hons) BPI MRTPI**

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

**Decision date: 24<sup>th</sup> February 2022**

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**Appeal Ref: APP/E0915/D/21/3289523**

**Fairview, 3 Harrison Gardens, Monkhill, Burgh-By-Sands CA5 6DF**

- 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 Anthony Milburn (Morton Garden Buildings Ltd) against the decision of Carlisle City Council.
  - The application Ref 21/0952, dated 6 October 2021, was refused by notice dated 8 December 2021.
  - The development proposed is the erection of a summerhouse.
- 

## Decision

1. The appeal is dismissed.

## Main Issue

2. The main issue is the effect of the proposed summerhouse on the character and appearance of the surrounding area, with particular regard to the setting of Hadrian's Wall Vallum and the Hadrian's Wall World Heritage Site Buffer Zone.

## Reasons

3. The appeal property is a recently constructed detached bungalow within a small cul-de-sac development of similar properties. The property has open aspects to the north and east, looking out across a garden plot laid predominantly to lawn, and across the surrounding rolling countryside. The appeal property lies within the Hadrian's Wall World Heritage Site buffer zone (WHSBZ) and the line of the Hadrian's Wall Vallum (the Vallum) passes through the appeal site. The proposed summerhouse would be located within the line of the Vallum.
4. Historic England's consultation response states that the Vallum is assumed to be a crucial element of the Hadrian's Wall frontier, which formed an extra layer of defence from attack and as demarcation of a military zone of control associated with the wall itself. As such, I saw that the open approach to the site from the east and the open swathe across the northern garden frontages of the appeal property and its neighbours to the west maintain a noticeable sense of linear openness in keeping with the linearity of Hadrian's Wall and the Vallum. The gardens of these three properties are largely open and unencumbered by substantial buildings, fences or other structures.
5. The proposed summerhouse would be seen as a clearly detached building that would stand apart from the existing house. Its intrusion within this open swathe would be exacerbated in longer views on approach from the east where it would be seen as an incongruous skyline feature on rising land. There would be garden retained around the summerhouse, particularly to the east of it and the main house, but the more limited depth of the garden to the north would



- be such that it would occupy a substantial portion of the currently open swathe of garden.
6. The extent to which the Vallum is visible in fields to the east of the appeal site is a matter of dispute between the parties. However, the approach to Monkhill from the east affords open longer views across the rolling fields, where the sense of openness is maintained across the garden frontage of the appeal property and its neighbours within Harrison Gardens. The proposed summerhouse would be of a relatively modest scale, but in this location and when viewed from a main approach into Monkhill along the line of the Vallum, it would be an unduly prominent and intrusive feature within this largely open setting. As such it would erode an understanding of the openness associated with the WHSBZ and the Vallum.
  7. I accept that the proposed summerhouse would be seen, from some viewpoints, against the backdrop of the existing house. This would provide a degree of context and a background of built development to the proposed summerhouse. However, this contribution in respect of longer views from the east would be limited, really only providing that context upon much closer viewing adjacent to the appeal site.
  8. I have also noted the appellant's contention that it is not practical or possible to locate the proposed summerhouse in a less sensitive location elsewhere within the appeal property's garden plot. I can understand the appellant's desire to maintain access to the property's north-facing garage door and noted the presence of windows on the building's east facing elevation. However, I am not persuaded that these matters are insurmountable or that a smaller structure or an alternative, less harmful location for a summerhouse, could not be achieved.
  9. I accept too that it is not a matter of dispute that the proposal would not cause harm to below-ground archaeology. This was, the appellant notes, the principal area of concern in respect of the proposal which resulted in the construction of the appeal property. However, it is clear that that proposal was the result of extensive discussions between the developer, the Council and Historic England at that time and I cannot be certain that the other, resolved, matters alluded to in correspondence did not include considerations of the setting and openness of the Vallum. Thus, whilst the agreed absence of harm to physical remains is welcomed, this would not justify the harm to the setting of the WHS, the WHNSBZ or the character of the Vallum set out above.
  10. Local Plan (LP) policy HE1 recognises the contribution that the WHSBZ makes to the World Heritage Site's setting and its Outstanding Universal Value. The effect of proposals on key views into an out of the buffer zone are noted as being a particular focus for consideration. Development that would result in substantial harm will, it is stated, be refused, whilst that which results in less than substantial harm will be assessed against public benefits.
  11. I have no reason to disagree with the Council with respect to their assessment and conclusions in terms of the living conditions of neighbouring residents, its scale and appearance relative to the existing dwelling and its construction materials. These are however neutral matters which weigh neither in support of, nor against, the proposal and are, in any event, largely private benefits to the appellant.

12. Nor do I disagree with the appellant's suggestion that the summerhouse would be of modest size and would not be an unusual feature in the rear garden of a dwellinghouse. However, its location in a prominent position within the appeal site, and within the Hadrian's Wall Vallum and the buffer zone of the Hadrian's Wall World Heritage Site are factors which lead me to conclude that the proposal would be contrary to LP policy HE1 and with LP policy SP6. Amongst other things, the latter requires proposals to take into consideration the historic environment and the settings of both designated and undesignated heritage assets, as a means to secure good design.

### **Other Matters**

13. The Drover's Rest Inn, a short distance away from the appeal site on the opposite side of the road, is a grade II listed building. I do not disagree with the Council's assessment that the proposal would lie within the setting of the listed building. Nor do I have any reason to disagree with the Council's conclusion that the proposal would accord with the provisions of LP policy HE3 which seeks to ensure that development within the locality of a listed building should preserve its character and setting.
14. I am satisfied that in reaching this conclusion the Council have exercised their 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 [listed] building or its setting. I agree that the proposal would have a neutral effect on the setting of the listed building and, as such, would preserve its setting. This does not, however, alter my conclusions in respect of the main issue as set out above.

### **Conclusion**

15. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

*G Robbie*

INSPECTOR