

AGENDA

Development Control Committee

Friday, 08 April 2022 AT 10:00

In the Cathedral Room, Civic Centre, Carlisle, CA3 8QG

APOLOGIES FOR ABSENCE

To receive apologies for absence and notification of substitutions.

DECLARATIONS OF INTEREST

Members are invited to declare any disclosable pecuniary interests, other registrable interests and any interests, relating to any items on the agenda at this stage.

PUBLIC AND PRESS

To agree that the items of business within Part A of the agenda should be dealt with in public and that the items of business within Part B of the agenda should be dealt with in private.

MINUTES OF PREVIOUS MEETINGS

5 - 20

To note that Council, at its meeting of 1 March 2022, received and adopted the minutes of the meetings held on; 1 December (site visits), 3 December 2021; and 12 January (site visits) and 14 January 2022. The Chair will sign the minutes.

[Copy minutes in Minute Book 48(5)].

To approve the minutes of the meetings held on 25 February and 6 April (site visits) 2022.

PART A

To be considered when the Public and Press are present

A.1 CONTROL OF DEVELOPMENT AND ADVERTISING

To consider applications for:

- (a) planning permission for proposed developments
- (b) approval of detailed plans
- (c) consents for display of advertisements.

Explanatory Notes

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| 1. | <u>Application - 19/0244 - Land at field 3486, Monkhill Road, Moorhouse, Carlisle</u> | 27 -
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| 4. | <u>Application - 21/1137 - Rose Cottage, Laversdale Lane End, Irthington, Carlisle, CA6 4PS</u> | 159 -
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6.	<u>Application - 21/1143 - Land adjacent to Meadow Cottage, Tarraby, Carlisle, CA3 0JS</u>	189 - 220
7.	<u>Application - 21/1161 - Scotby Acres, Broomfallen Road, Scotby, Carlisle, CA4 8DE</u>	221 - 238
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9.	<u>Application - 21/1117 - Scotby Oaks, Broomfallen Road, Scotby, Carlisle, CA4 8DE</u>	267 - 306
	<u>SCHEDULE B - DECISIONS TAKEN BY OTHER AUTHORITIES</u>	307 - 338

PART B

To be considered when the Public and Press are excluded from the meeting

B.1 TPO 317 LAND AT DEER PARK, KINGSTOWN ROAD, CARLISLE

**** This report is not for publication by virtue of Paragraph 5 of Schedule 12A to the Local Government Act 1972 as it contains information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. ****

The Corporate Director of Economic Development to submit a report considering the confirmation of Tree Preservation Order 317 Land at Deer Park, Kingstown Road, Carlisle.
(Copy report ED. 08/22)

Members of the Development Control Committee

Conservative – Mrs Bowman, Christian, Collier, Mrs Finlayson, Meller, Morton, Shepherd, Lishman (sub), McKerrell (sub), Mrs Mitchell (sub)

Labour – Alcroft, Brown, Mrs Glendinning, Southward, Birks (sub), Patrick (sub), Dr Tickner (sub)

Independent - Tinnion

Enquiries, requests for reports and background papers etc to:
committeeservices@carlisle.gov.uk

To register a Right to Speak at the meeting please contact
DCRTS@carlisle.gov.uk

Development Control Committee

Date: Friday, 25 February 2022

Time: 10:00

Venue: Cathedral Room

Present: Councillor Ruth Alcroft, Councillor Mrs Marilyn Bowman, Councillor Lisa Brown, Councillor Nigel Christian, Councillor Mrs Christine Finlayson, Councillor Mrs Anne Glendinning, Councillor Keith Meller, Councillor David Morton, Councillor Paul Nedved, Councillor David Shepherd, Councillor Christopher Southward

Also Present: Councillor Higgs (in his capacity as Ward Member), attended the meeting having registered a Right to Speak in respect of application 21/0655 – Land to the West of Steeles Bank, Wetheral, Carlisle.

Councillor Glover (in his capacity as Ward Member), attended the meeting having registered a Right to Speak in respect of application 20/0015 – Land off St Ninians Road and Cammock Crescent, Carlisle

Officers: Corporate Director Economic Development
Head of Development Management
Head of Legal and Democratic Services
Principal Planning Officer
Planning Officer x 3

Mr Allan, Cumbria County Council

DC.014/22 APOLOGIES FOR ABSENCE

An apology for absence was submitted on behalf of Councillor Tinnion.

DC.015/22 DECLARATIONS OF INTEREST

In accordance with the Council's Code of Conduct the following declarations of interest were submitted:

Councillor David Morton declared an interest in respect of application 21/0655 – Land to the West of Steeles Bank, Wetheral, Carlisle. The interest related to objectors being known to him.

Councillor Keith Meller declared an interest in respect of application 21/0655 – Land to the West of Steeles Bank, Wetheral, Carlisle. The interest related to objectors being known to him.

Councillor Marilyn Bowman declared an interest in respect of application 21/0655 – Land to the West of Steeles Bank, Wetheral, Carlisle. The interest related to objectors being known to her.

Councilor Nigel Christian declared an interest in respect of the following applications:

- 21/0655 – Land to the West of Steeles Bank, Wetheral, Carlisle. The interest related to a relative owning property near the access to the site;

- 21/0677 – Units 10 and 10b, Townfoot Industrial Estate, Brampton, CA8 1SW. The interest related to objectors being known to him.

Councillor Christopher Southward declared an interest in respect of application 21/1154 – Former KSS Factory Site, Constable Street, Carlisle, CA2 6AQ. The interest related to objectors being known to him.

Councillor Nedved, having not been present at the Committee's meeting of 14 January advised that he would not take part in the discussion nor determination of application 21/0847 – Land at Shortdale Cottage, Tarraby Lane, Tarraby, Carlisle, CA3 0JT.

DC.016/22 PUBLIC AND PRESS

RESOLVED - That the agenda be agreed as circulated.

DC.017/22 MINUTES OF PREVIOUS MEETINGS

RESOLVED - That the minutes of the meetings held on 14 January and 23 February 2022 (site visits) be approved.

DC.018/22 PUBLIC REPRESENTATIONS IN RESPECT OF PLANNING APPLICATIONS

The Head of Legal and Democratic Services set out the process for those members of the public who had registered a Right to Speak at the Committee.

DC.019/22 CONTROL OF DEVELOPMENT AND ADVERTISING

That the applications referred to in the Schedule of Applications under A be approved/refused/deferred, subject to the conditions as set out in the Schedule of Decisions attached to these Minutes.

1. Application 21/0655 - Land to the West of Steeles Bank, Wetheral, Carlisle

Proposal: Residential Development (Outline)

Councillors Mrs Bowman and Christian, having declared an interest in the item of business took no part in the discussion nor determination of the item of business.

The Planning Officer submitted the report on the application which had been subject of a site visit by the Committee on 23 February 2022.

Slides were displayed on screen showing: location plan; indicative site plan; landscape masterplan; site drainage layout plan; typical outfall to river plan; and, photographs of the site, an explanation of which was provided for the benefit of Members.

The Planning Officer recommended:

1) That the application be approved with conditions, subject to the completion of a Section 106 Agreement to secure:

- a) the provision of 30% of the units as affordable;
- b) a financial contribution of £5,500 towards traffic calming measures;
- c) a financial contribution of £233,600 to be paid to Cumbria County Council towards the provision of primary school places;

- d) a financial contribution of £142,500 to be paid to Cumbria County Council towards primary school transport;
- e) a financial contribution of £151,134 to be paid to Cumbria County Council towards the provision of secondary school places;
- f) a financial contribution of £10,020 to be paid to Cumbria County Council towards secondary school transport;
- g) the maintenance of the open space within the site by the developer; and,
- h) financial contributions of £26,200 towards the upgrading and maintenance of off-site open space, £20,000 towards the maintenance of off-site play facilities, and £6,500 towards the maintenance of off-site sports pitches.

2) That should the legal agreement not be completed within a reasonable time, delegated authority be given to the Corporate Director of Economic Development to refuse the application.

Mr Thompson (Objector for himself, Mr Goddard and Ms Ridley) objected to the application in the following terms: the principle of development at the site was not opposed, but there were concerns regarding the proposal submitted; the application site was situated with a larger allocation site for housing in the Local Plan; the anticipated yield of the entire allocation site was 60 dwellings, a portion of the allocated site was currently under development – Prior's Garth with 9 dwellings; a small section of land had been added to the allocation site, but it did not appear to meet criteria 5 of Local Plan Policy HO 2 – Windfall Development; the indicative layout demonstrated that the proposed scheme was a contextual fit with its surroundings; the indicative layout created a series of cul-de-sacs which gave no sense of place or space; the Spatial Strategy stipulated that urbanisation should be avoided in the countryside; the proposed scheme was contrary to Local Plan policies SP 2 – Strategic Growth and Distribution and SP 6 – Securing Good Design; the Officer's report acknowledged a deficit in open spaces and play provision within the scheme, reduced density would provide for better quality open space and be in greater accord with policy GI 4 – Open Space; the existing drainage infrastructure in Wetheral was Victorian era, due to the system already managing discharge levels beyond its originally intended capacity there were existing issues relating to foul and surface water flooding, examples of which were shown by slides on screen, therefore it was essential that mitigation measures were included in the proposal to prevent any exacerbation of the existing issue.

Mr McGrath (Objector for himself and Mr Melrose-Woodman) objected to the application in the following terms: the proposed car parking provision was insufficient and would lead to congestion and parking on the highway; the inclusion of the parcel of windfall land in the application site would remove the existing overspill car park at the Village Hall which would affect the users of the facility and have a negative impact on highway safety; the proposed 70 dwellings may mean 140 cars using the proposed single access to the site which joined a busy main road; the proposed emergency vehicle access was not feasible as the lane it would encompass was not wide enough for 2 vehicles to pass; Policy SP 6 required necessary services and infrastructure be incorporated into a development without harm to retained features including green and blue matters, the proposed surface water drainage outfall did not meet that criteria; the inclusion of concrete foundation and steps at the proposed surface water outflow point was contrary to policy HE 7 – Conservation Areas; the surface water drainage would add run off directly into the River Eden which when in flood state would have a water level above that of the drainage outlet that may damage the structure and generate backflow into neighbouring properties; the surface water drainage proposals would cause a deterioration of water quality in the River Eden and was therefore not in accord with policies SP8 – Green and Blue Infrastructure and GI 3 – Biodiversity & Geodiversity.

Mr McGrath suggested that the Committee consider the following revisions to the scheme: reduce the number of dwellings to 30 – 40; review and increase car parking in conjunction with

the Village Hall; reduce then number of dwelling sited in proximity to the Village Hall and the main road; reconsider the drainage proposals in the context of policies SP 6, HE 7, SP 4, SP 8 and GI 3; incorporate a foul water holding tank with discharge timed for system low flow rates; further detail be provided on the articles of the Section 106 agreement and how they would benefit the village.

Councillor Higgs (Ward Member) objected to the application in the following terms: the number of dwellings proposed was 20% higher than the indicative yield set out in the Local Plan; the proposed 70 dwellings were not of an appropriate scale and nature, commensurate with their setting nor would they enable the existing community to thrive; approval of the scheme would put pressure on school, healthcare and drainage provision and as such the scheme was contrary to Local Plan policy SP 2; the proposed surface water drainage outflow was not appropriate as it would be situated in a Special Area of Conservation and was therefore contrary to policy GI 1 -Landscapes; the proposals to develop the parcel of windfall land were not in line with Policy HO 2 as the scale and design of the proposed development were not reflective of the existing settlement; policy HO 2 also required proposal to be “compatible with adjacent land users” and “enhance or maintain the vitality of the community – the proposal to develop the existing Village Hall car park was contrary to those requirements; policy HO 2 also required applicants to work closely with those affected to “evolve designs that take account of the views of the community”.

Councillor Higgs requested that the Committee consider deferring the application to allow for the following improvements to be made: reducing the number of dwellings to comply with policy SP 2; improving the drainage arrangements to comply with policy GI 1; and, for the applicant to work with the community to evolve designs that take account of their views.

Ms Lightfoot (Agent) responded in the following terms: as the application was for Outline permission with all matters reserved on an allocated site, thus it sought approval of the principle of developing the site, therefore reference to the number of dwellings was premature as the figures provided were indicative only; the impact of the scheme would be controlled via the imposition of conditions on any future Reserved Matters application; full ground investigations had been conducted at the site which indicated percolation was not a suitable means for managing surface water drainage; applicants were required to demonstrate a method of effective drainage at a site, the submitted proposals sought to meet that requirement, however, the final system may differ, but would be controlled by condition to meet the Lead Local Flood Authority's (LLFA) stipulations; neither Natural England nor the LLFA had objected to the proposal, subject to the imposition of relevant conditions; the Highway Authority had not objected to the application; emergency vehicle access would only be via The Glebe, in the event of no other access being available; the Village Hall overflow car park was provided on a temporary basis and was within the applicant's control; the Local Education Authority had specified its requirements in terms of financial contributions as part of the Section 106 agreement which was standard practice; the proposed scheme supported the delivery of the Council's strategic housing policies.

The Committee then gave consideration to the application.

In response to Members' questions, Officers confirmed:

- The drainage proposals submitted as part of the scheme were indicative only and sought drainage of the site was feasible, the final scheme may differ from those proposals. Any future Reserved Matters application incorporating drainage proposals would need to comply with the stipulations of the SUDS Manual and would be enforced by condition;
- Any discharge into the River Eden would be required to undergo a two stage treatment process to reduce level of pollution to acceptable levels and a separate discharge permit from the Environment Agency would be required;

- The application site was the last allocated for housing in Wetheral, in addition to the allocated area there was a small parcel of windfall land which was within the applicant's ownership, the inclusion of the windfall land did not prejudice the delivery of the allocated site;
- the provision of overflow car parking at the Village Hall was outwith the planning process and this would require separate discussions between the applicant and Parish Council.

A number of Members expressed concerns regarding the indicative numbers of dwellings submitted as part of the scheme and asked whether it was feasible to impose condition to limit the number to 50.

The Corporate Director advised that it would be difficult to impose a limit without a technical reason to require it. However, given Members' concerns consideration may be given to the issuing of an Informative, in the event of Outline Permission being granted.

A Member moved the Officer's recommendation along with the issuing of an Informative to request that the developer consider limiting the number of dwellings at the site to 50. The proposal was seconded, and following voting it was:

RESOLVED: 1) That the application be approved with conditions, subject to the completion of a Section 106 Agreement to secure:

- a) the provision of 30% of the units as affordable;
- b) a financial contribution of £5,500 towards traffic calming measures;
- c) a financial contribution of £233,600 to be paid to Cumbria County Council towards the provision of primary school places;
- d) a financial contribution of £142,500 to be paid to Cumbria County Council towards primary school transport;
- e) a financial contribution of £151,134 to be paid to Cumbria County Council towards the provision of secondary school places;
- f) a financial contribution of £10,020 to be paid to Cumbria County Council towards secondary school transport;
- g) the maintenance of the open space within the site by the developer; and,
- h) financial contributions of £26,200 towards the upgrading and maintenance of off-site open space, £20,000 towards the maintenance of off-site play facilities, and £6,500 towards the maintenance of off-site sports pitches.

2) That should the legal agreement not be completed within a reasonable time, delegated authority be given to the Corporate Director of Economic Development to refuse the application.

3) That an Informative be issued with the permission to request that the developer consider limiting the number of dwellings at the site to 50.

Councillors Mrs Bowman and Christian resumed their seats.

2. Application - 21/0677 - Units 10 and 10b, Townfoot Industrial Estate, Brampton, CA8 1SW

Proposal: Creation of vehicular access to Unit 10 to provide separate accesses and parking areas to both units with the erections of a 1.2m high fence between; Change of Use of grassed areas to easter part of site to form storage compound with installation of 1no. 5m high floodlight column & 4no. 3m high floodlight columns and a 2mhigh fencing surrounding; implementation of tree planting on ground/bank between site and Townfoot Park.

The Principal Planning Officer submitted the report on the application. Slides were displayed on screen showing: location plan; proposed site plan; site sections plan; and, photographs of the site, an explanation of which was provided for the benefit of Members.

The Principal Planning Officer recommended that the application be approved subject to the conditions detailed in the report.

A Member asked why the proposed 5m floodlighting column was required and how it would fit into the context of the wider site development?

The Principal Planning Officer responded that the 5m column had been designed so as not to create light spillage and that it would only be used during the operating hours of the units.

The Member welcomed the lights use being tied to the hours of business operation but felt that in the winter months that its use may be over several hours per day, he indicated a preference for the height of the column to be reduced to 3m in line with the others proposed at the site.

The Principal Planning Officer noted that condition 3 of the permission required the applicant to submit details of lighting to the Local Planning Authority for approval.

A Member moved the Officer's recommendation which was seconded and following voting it was:

RESOLVED: 1) That the application be approved, subject to the implementation of relevant conditions as indicated on the Schedule of Decision attached to these minutes.

3. Application 21/1154 - Former KSS Factory Site, Constable Street, Carlisle, CA2 6AQ

Proposal; Variation of Condition 2 (Approved Documents) and removal of Condition 13 (Emergency Vehicle Access) of previously approved application 18/0215 (Erection of 43no. dwellings) to amend the site layout to allow units 12 – 31 inclusive to use the adopted highway east of the site (Retrospective Application).

The Planning Officer submitted the report on the application. Slides were displayed on screen showing: location plan; site layout plan; proposed site access and visibility splays plan; and, photographs of the site, an explanation of which was provided for the benefit of Members.

The Planning Officer recommended that the application be approved subject to the conditions detailed in the report.

Mr Ivison (Objector) objected to the application in the following terms: the current application was a further iteration of application 19/0935 which the Committee determined to refuse; the assertion that traffic from the development would spread out and use Dale, Freer and Blunt Streets to access Denton Street were not correct; Blunt Street provided the most direct access therefore was used exclusively by motorists; the traffic survey had been undertaken over a 30 minute period in the middle of the day which was not reflective of the overall traffic situation; the impact of the scheme had a detrimental impact for existing residents; it was likely that a number of incidents relating to vehicle damage had not been reported due to the impact on insurance premiums; the initial permission for the access had been temporary, the installation of bollards had occurred without planning permission with no enforcement action taken.

Mr Greig (Agent) responded in the following terms: a Supporting Statement had been submitted with the application which looked objectively at whether the proposal was justified; the approval

of the 2018 application was based on the Council concluding the proposal would not have an adverse impact; the 2018 application (approved under Delegated Powers) had sought temporary permission to manage construction traffic and to avoid the creation of a rat run; whilst the objectors' concerns were appreciated the current proposal was identical to that accepted by the issuing of permission of the 2018 application, had any adverse impact been identified in relation to that application it would have been refused; there had been no suggestion in the 2018 report that the proposal was inappropriate, as such the Committee may not reach a different conclusion in its assessment of the application as to do so would be considered unreasonable behaviour.

The Chair invited the Planning Officer to respond to the points raised in the verbal representations to the Committee.

The Planning Officer advised that the 2018 application had sought temporary permission and been assessed and determined on that basis: permanent use had not been considered. The report on the 2018 application noted that the temporary arrangement would not lead to a loss of on-street parking, and the Highway Authority had confirmed that as the required visibility splays were achievable it do not object to the proposal. The Planning Officer emphasised that there was a distinction to be made in assessing a proposal that was temporary in nature to an application for a permanent feature.

A Member expressed significant concerns in relation to the proposal. Residents had understood the initial permission to be temporary and had endured its impacts on the understanding the situation would not be permanent. The installed bollards were meant to afford pedestrian only access, yet motorcycles were able to pass through. Whilst it was theoretically feasible motorists would use streets other than Blunt Street to access Denton Street that did not happen in practice therefore residential amenity was detrimentally impacted. The Committee had considered the application previously and determined to refuse the proposal, there had been no alteration to the proposal which alleviated the concerns identified. The repeated submission of the application without alteration was not acceptable due to the scheme's ongoing impact on residential amenity.

Another Member felt it was vital that Members had a full understanding of the proposal. Accordingly, she moved that determination of the application be deferred in order for the Committee to undertake a site visit to fully assess the impact of the proposal which was seconded, and following voting it was:

RESOLVED: That determination of the application be deferred in order for the Committee to undertake a site visit to fully assess the impact of the proposal.

4. Application 21/0847 - Land adjacent to Shortdale Cottage, Tarraby Lane, Tarraby, Carlisle CA3 0JT,

Proposal: Erection of 2no. dwellings (Reserved Matters Application pursuant to Outline Approval 18/0796).

The Head of Development Management submitted the report on the application which had been subject of a site visit by the Committee on 23 February 2022. Slides were displayed on screen showing: location plan as existing; block plan as existing; site plan as proposed; floor and elevations plans as proposed; street elevations as proposed plan; and, photographs of the site, an explanation of which was provided for the benefit of Members.

The Head of Development Management recommended that the application be approved subject to the conditions detailed in the report with an amendment to Condition 2 to replace the elevations for plots 1 and 2 with the new proposals and remove item 6: Street elevations drawing.

Mr Nicholson (Stanwix Rural Parish Council) addressed the Committee in the following terms: the Parish Council acknowledged the reduced ridge heights, but had hoped for a greater reduction given the condition imposed on the Outline Consent regarding floor levels; the original permission for 5 dwellings at the site included a permission requiring the provision of passing places on the highway prior to the commencement of construction, given the safety considerations of the current application it was essential that the same condition was applied.

Mr Greig (Agent) responded in the following terms: the applicant had responded to Members' concerns expressed at the Committee's earlier consideration of the application through amending the ridge heights, the pitch roof design was retained as it offered a traditional roof form; it was not permissible to retrospectively apply conditions to previously granted planning permissions.

The Committee then gave consideration to the application.

A Member, in relation to the Outline Consent, asked whether the developer was required to provide passing places on the highway prior to the commencement of construction, as the use of the surrounding highway network by large vehicles was likely to have an impact on safety?

The Committee adjourned from 11:45am to allow Officers to review the conditions imposed on the Outline Consent. The meeting reconvened at 11:55am.

The Head of Development Management advised that the Outline Consent stipulated the provision of passing places was required prior to occupation rather than a pre-commencement condition. Given Members' concerns he suggested that an Informative be issued with the permission, requesting the developer consider the implementation at an earlier stage. The request in the Informative was not enforceable but served to encourage the applicant to consider the matter.

A Member moved the Officer's recommendation along with the inclusion of an Informative requesting that the developer consider the implementation of the proposed passing places prior to construction. The proposal was seconded and following voting it was:

RESOLVED: 1) That the application be approved, subject to the implementation of relevant conditions as indicated on the Schedule of Decision attached to these minutes.

2) That an Informative be issued with the permission requesting that the developer consider the implementation the proposed passing places prior to construction.

5. Application 20/0015 - Land off St Ninians Road and Cammock Crescent, Carlisle

Proposal: Residential Development (Outline)

The Planning Officer submitted the report on the application which had been subject of a site visit by the Committee on 23 February 2022. Slides were displayed on screen showing: location plan, layout plan and photographs of the site, an explanation of which was provided for the benefit of Members.

The Planning Officer recommended that:

- 1) The application be approved with conditions subject to a legal agreement requiring:
 - a) an education contribution of £428,213 for secondary schools;
 - b) a highway contribution of £5,500 to investigate and potentially install an amendment for the speed limit of St. Ninians Road;
 - c) a financial contribution of £290,145 towards open space provision;
 - d) provision of on-site affordable housing.
- 2) That should the legal agreement not be completed within a reasonable time, delegated authority be given to the Corporate Director of Economic Development to refuse the application.

Councillor Glover (Ward Member) addressed the Committee in the following terms: an outline of the history of the site was given, noting that due to its former use as a landfill there were issues relating to contamination, and due to the location of the site highway access issues; residents had expressed concerns regarding the proposed density of the development on the basis that it was too great and its associated impact of increased traffic; site security was a concern with damage to fencing of adjacent properties having already taken place, inspection covers related to chambers at the site being missing and barriers along the St Ninians Road access being blown down in recent storm weather; residents concurred with the Highway Authority's view that vehicular access should only be provided via St Ninians Road with emergency vehicle access via Cammock Crescent and Brisco Meadows, and objected to the proposal of vehicular egress to Cammock Crescent and Brisco Meadows; following the building of Newman School and associated alterations the highway network residents were concerned that St Ninians Road to Cammock Crescent / Brisco Meadows would become a rat run which would be detrimental to highway safety.

Councillor Glover requested that, should Members be minded to approve the application the following be considered to address resident's concerns: make the site secure on safety grounds, bearing in mind historic contamination and danger; note the Highway Authority's response and restrict access to and from the site at St Ninian's Road only; access to and from Cammock Crescent and Brisco Meadows to be for pedestrian and cycle and if necessary, Emergency Vehicle Access only with secure and robust barrier.

Mr Telford (Agent) responded in the following terms: an outline of the previous permission and ownerships of the site was provided, noting that an additional parcel of land – seven acres adjacent to Romily Way was not incorporated into the application site; during assessment of previous proposals the Highway Authority had required vehicular access points at both Cammock Crescent and Brisco Meadows, given objector's stated concerns, Mr Telford stated that the Highway Authority would be written to confirm its current access requirements; a future Reserved Matters application would set out final proposals in relation emergency vehicle access which would need to comply with Highway Authority stipulations; the first planning consent issued in 1989 included a condition requiring remediation works be carried out in respect of contamination, a significant amount of work had been undertaken to address that, however, there a number of hot spots remained at the site which would be dealt with in accordance with the Remediation Strategy; the proposed 132 dwellings was an indicative figure, objectors concerns in relation to that matter were noted and it was likely the number of dwellings proposed in the future Reserved Matters application would differ; as part of the investigations into appropriate method(s) for surface water drainage a number of chambers had been created some of which were left exposed; safety of the site was a concern and the measures used to prevent access to the site were outlined, but it was noted that fences had been cut or broken to create entry points, in the event of Consent being granted hoarding fencing would be erected to secure the site.

The Committee then gave consideration to the application.

In response to questions from Members, Officers confirmed:

- Vehicular access points would be determined at the Reserved Matters application stage and it was noted that the Agent had indicated only St Ninians Road being used was agreeable;
- Details of emergency vehicle access would be addressed at the Reserved Matters application stage;
- The process undertaken by the Highway Authority in assessing the impact of an application on the surrounding highway network was set out;
- A suite of technical documents pertaining to the remediation of contamination at the site had been submitted with the application which Statutory Consultees such as the Environment Agency and Environmental Health would assess to ensure compliance with relevant legislation;
- The additional parcel of land purchased by the applicant would form a separate site, the Reserved Matters application would set out the boundary treatment between the two sites;
- The Agent had indicated that were permission to be granted site security measures would be installed.

A Member moved the Officer's recommendation which was seconded and following voting it was:

RESOLVED: 1) That the application be approved with conditions subject to a legal agreement requiring:

- a) an education contribution of £428,213 for secondary schools;
- b) a highway contribution of £5,500 to investigate and potentially install an amendment for the speed limit of St. Ninians Road;
- c) a financial contribution of £290,145 towards open space provision;
- d) provision of on-site affordable housing.

2) That should the legal agreement not be completed within a reasonable time, delegated authority be given to the Corporate Director of Economic Development to refuse the application.

6. Application 21/1170 - Land to the rear of Little Drawdykes, 4 Whiteclosegate, Carlisle, CA3 0JD

Proposal: Erection of 2no. dwellings (Outline)

The Planning Officer submitted the report on the application. Slides were displayed on screen showing: location plan; proposed indicative outline site plan and photographs of the site, an explanation of which was provided for the benefit of Members.

The Planning Officer recommended that the applications be approved subject to the conditions detailed in the report.

Mr Nicholson (Stanwix Rural Parish Council) addressed the Committee in the following terms: the site was the largest landscaped garden in the locality, as such it was important that the environmental integrity of the site was maintained to protect the living conditions of existing residents; proposed condition 6 set out measures to protect trees and hedges at the site, but not the wildlife which inhabited them.

In the event of permission being granted, the Committee was requested to consider imposing the following conditions: prior to commencement a wildlife survey be undertaken with a particular emphasis on bats which were known to use the site; prior to commencement a schedule of proposed tree works be submitted with a requirement to retain the maximum

possible number of trees; preventing works being undertaken to trees / hedgerows in the bird nesting season; restricting access to be via Millcroft to ensure highway safety.

Mr Greig (Agent) responded in the following terms: the Parish Council had not raised issues relating to the principle of developing the site; proposed condition 7 required the retention of the majority of existing boundaries at various aspects of the site; the request for a wildlife survey was unusual given the site's urban location; proposed condition 7 negated the need for a wildlife survey.

The Chair invited the Planning Officer to respond to point raised in the verbal representations to the Committee.

Members' attention was drawn to proposed condition 6 which set out measures for the protection of wildlife and habitat during construction. The Planning Officer considered a wildlife survey to be unnecessary and noted that the Wildlife and Countryside Act 1981 prohibited works to trees and hedges during the bird nesting season; should Members require it an Informative may be issued with any permission granted requiring the developer to protect wildlife at the site in line with stipulations of the Act.

The Committee then gave consideration to the application.

In response to Members' questions, Officers confirmed:

- A speed survey had been carried out which demonstrated the appropriate visibility splays were achievable and required the imposition of a 15mph speed limit and the reservation of adequate land within the site for construction vehicles.

A Member moved the Officer's recommendation, along with the issuing of an requiring the developer to protect wildlife at the site in line with stipulations of the Wildlife and Countryside Act 1981. The proposal was seconded and following voting it was:

RESOLVED: 1) That the application be approved, subject to the implementation of relevant conditions as indicated on the Schedule of Decision attached to these minutes.

2) That an Informative be issued requiring the developer to protect wildlife at the site in line with stipulations of the Wildlife and Countryside Act 1981.

7. Application 21/1021 - Linden Mear (L/A Ashmere), Talkin, Brampton CA8 1LE

Proposal: Erection of 1no. two storey dwelling; associated access and landscaping.

The Principal Planning Officer submitted the report on the application. Slides were displayed on screen showing: location plan; block plan; elevations plan; and, photographs of the site, an explanation of which was provided for the benefit of Members.

The Principal Planning Officer advised that a further response on the application had been submitted by the Parish Council, he summarised the points therein for the benefit of Members.

The Principal Planning Officer recommended that the application be approved subject to the conditions detailed in the report.

In response to a question from a Member, the Principal Planning Officer confirmed that the drystone wall formerly erected at the site had been removed, but that it would be reinstalled.

RESOLVED: That the application be approved, subject to the implementation of relevant conditions as indicated on the Schedule of Decision attached to these minutes.

DC.020/22 STANDING ORDERS

RESOLVED - That Council Procedural Rule 9, in relation to the duration of meetings be suspended in order that the meeting could continue over the 3 hour time limit.

8. Application 21/0762 - The Park, Rickerby, Carlisle, CA3 9AA

Proposal: Change of Use of Barns from residential use in association with The Park to provide 2no. dwellings

The Planning Officer submitted the report on the application which had been subject of a site visit by the Committee on 23 February 2022. Slides were displayed on screen showing: location plan; floor and elevations plans; and photographs of the site, an explanation of which was provided for the benefit of Members.

The Planning Officer recommended that the applications be approved subject to the conditions detailed in the report.

Mr Carigiet (Objector) objected to the application in the following terms: the access road to the site was unadopted highway that the applicant did not financially contribute to the upkeep of, were the application to be approved financial provision for remedial works should be stipulated; the parking proposals were not viable and would affect the setting of Listed Buildings; an independent planning consultant was of the view that the proposed scheme would damage the character of the existing barn; the Council's Heritage Officer had identified a number of deficiencies with the scheme and stated a single dwelling would be more appropriate; development in Conservation Areas was meant to retain or improve the character of an area, the proposed scheme did not satisfy that requirement; no flooding or drainage details had been submitted, given the existing issues in the settlement a management plan would be required.

Mrs Leitch (Objector) objected to the application in the following terms: since the granting of an earlier planning permission residents had endured disturbance, development had taken place that was not in accord with the permission which required enforcement action to address; the application site was in a Conservation Area and had very fragile infrastructure which was not sufficient to meet the needs of existing residents; the Council's Heritage Officer had recommended the proposal be refused; paragraph 6.68 of the report stated that the application was contrary to the objectives of relevant Local Plan policies and the National Planning Policy Framework (NPPF); the infrastructure in the settlement was maintained by the community without contribution from the applicant; the development would add 6 vehicles; the area surrounding the historic trough was a well utilised community space; the settlement required a proper plan for its development based on a holistic overview.

Mr Nicholson (Stanwix Rural Parish Council) objected to the application in the following terms: the submitted contamination report had not mentioned the possibility of asbestos in the existing roof, the Officer's report only made mention of the issue in response to the concerns set out by the Parish Council; consideration needed to be given to the imposition of a condition to address the matter or, condition 15 be amended to include specific reference to asbestos and were it to be found requiring its removal by a specialist contractor; the submitted bat survey reveal that areas that may possibly house bats had not been surveyed due to being inaccessible, the bat emergence survey had been carried out over one ninety minute period; condition 5 did not afford sufficient safeguards to any bats present during the site preparation and construction phases, on that basis works should be restricted in spring and autumn months until such time as it was confirmed that there were no bats present in the building; the historic trough in the settlement was located close to the site access measure were required to safeguard it from impacts on increased vehicular movements.

Ms Lightfoot (Agent) responded in the following terms: the scheme proposed minimal alteration to the front, public facing aspects of the building; the Parish Council had not initially objected to the proposal but had done so following the submission of objections by residents; parking was able to be provided entirely within the site, the Highway Authority did not object to the proposal; the Officer's report set out issues in relation to the historic environment, including impact on Listed Buildings; issues regarding the maintenance of unadopted road were out with the planning process; the scheme would improve the environmental performance of building and secure its future; any works in respect of bats and asbestos would be undertaken by appropriate contractors.

The Committee then gave consideration to the application.

In response to Members' questions, Officers confirmed:

- The building was within the ownership of the applicant which would be adjacent to the single storey building;
- Conditions were imposed to manage parking provision;
- The Heritage Asset (the trough) was in the applicant's ownership and it was clear that they had no intention of removing it, therefore imposing a condition to protect it was not necessary;
- Issues relating to the condition of the unadopted highway was a civil matter for the parties concerned, as such it was not appropriate to impose conditions;
- Issues regarding the removal of asbestos were address by legislation that was out with the planning process;
- The majority of openings in the building would be at the rear away from public views, slides were shown on screen to illustrate the point for Members.

A Member moved the Officer's recommendation which was seconded and following voting it was:

RESOLVED: That the application be approved, subject to the implementation of relevant conditions as indicated on the Schedule of Decision attached to these minutes.

9. Application 20/0575 - 214 Newtown Road, Carlisle, CA2 7NJ

Proposal: Change of Use of land to garden and erection of detached gym and sauna building

The Planning Officer submitted the report on the application. Slides were displayed on screen showing: location plan, and photographs of the site, an explanation of which was provided for the benefit of Members.

The Planning Officer recommended that the applications be approved subject to the conditions detailed in the report.

The Committee then gave consideration to the application.

A Member commented that the proposed gym seemed very large and asked whether its size may be restricted by condition.

In response the Planning Officer summarised the planning history at the site and noted that conditions were in place to restrict the size of the development.

A Member asked whether it was proposed that the foul drainage would discharge into the existing sewer network?

The Planning Officer confirmed that scheme proposed foul drainage discharging into the

existing sewer network, were Members to determine it necessary, the relevant condition may be altered to require such an arrangement.

The Member indicated his wish for the foul drainage condition to be amended to require discharge into the existing sewer network.

A Member asked whether the proposed facilities were intended for residential use or commercially, for example Air BnB lettings.

The Planning Officer advised that she had undertaken a site visit and noted that the property was in residential use, she was not aware of any plans to operate the facility commercially.

A Member moved the Officer's recommendation along with the imposition of an additional condition requiring foul drainage to be discharged into the existing sewer system. The proposal was seconded and following voting it was:

RESOLVED: That the application be approved, subject to the implementation of relevant conditions as indicated on the Schedule of Decision attached to these minutes.

10. Application 21/1083 - Noble Garth, Hayton, Brampton, CA8 9HR

Proposal: Removal of Condition 7 (Residential / Non Commercial Restriction) of previously approved permission 90/0011 (Conversion of Redundant Barns to 2no. dwellings) to allow short term letting for Noble Garth.

The Planning Officer submitted the report on the application. Slides were displayed on screen showing: location plan, and photographs of the site, an explanation of which was provided for the benefit of Members.

The Planning Officer recommended that the applications be approved subject to the conditions detailed in the report.

The Committee then gave consideration to the application.

In response to Members' questions, Officers confirmed:

- The removal of the condition, if approved would afford the property owner standard residential rights which included short term letting of the property;
- The methods available to the Local Planning Authority to carry out enforcement of the 90 day usage restriction.

A Member moved the Officer's recommendation which was seconded and following voting it was:

RESOLVED: That the application be approved, subject to the implementation of relevant conditions as indicated on the Schedule of Decision attached to these minutes.

11. Application 21/0480 - Camelot Caravan Park, Longtown, Carlisle, CA6 5SZ

Proposal: Change of Use of land to extend existing caravan park to accommodate 15no. units.

The Principal Planning Officer submitted the report on the application. Slides were displayed on screen showing: location plan, and photographs of the site, an explanation of which was provided for the benefit of Members.

The application was presented to Committee following a request from Cumbria County Council as Highway Authority to impose a condition requiring the applicant to fund a footpath link to the nearest bus stop which was approximately 440m away at Sandysike. The cost of providing a 1.8m wide footway to Cumbria County Council standard was in the region of £77,000.00 plus VAT. The County Council had indicated that the cost may be significantly higher as drainage would also need to be installed.

Given that the proposal was only for 15 additional caravans the imposition of such a condition would fail to meet the planning tests set out in Paragraph 55 of the National Planning Policy Framework, particularly the requirement that planning conditions be reasonable due to the level of cost. Therefore, the requested condition had not been included in the recommendation to the Committee.

The Principal Planning Officer recommended that the application be approved subject to the conditions detailed in the report.

Considering the request from Cumbria County Council, as Highway Authority's, for the applicant to fund the installation of a footpath, Members were disappointed that the authority had not considered the matter earlier and felt that the request was not reasonable on the grounds of cost.

In response to questions from Members, Officers confirmed:

- As there were no domestic properties nor layby at the location of the existing bus stop, the Highway Authority had sought to identify another location, however none had been deemed suitable;
- Currently the pedestrian access to the bus stop was via roadside grass verge, hence the need for footpath provision, but as indicated the request from the Highway Authority was deemed cost prohibitive and unreasonable;
- The provision of signage advising motorists of the presence of pedestrians would be a matter for the Highway Authority to consider.

A Member requested that Officers write to the Highway Authority to invite it to consider the provision of signage advising motorists of the presence of pedestrians.

A Member moved the Officer's recommendation and requested that the Corporate Director of Economic Development write to the Highway Authority to request that it consider the provision of signage advising motorists of the presence of pedestrians. The proposal was seconded and following voting it was:

RESOLVED: 1) That the application be refused, subject to the implementation of relevant conditions as indicated on the Schedule of Decision attached to these minutes.

2) That the Corporate Director of Economic Development write to the Highway Authority to request that it consider the provision of signage advising motorists of the presence of

DC.21/22 Schedule B - Decisions Taken By Other Authorities

RESOLVED - That the content of the report be noted.

DC.22/22 PLANNING ENFORCEMENT UPDATE

The Planning/Landscapes Compliance and Enforcement Officer submitted report ED. – Quarterly Report on Planning Enforcement which set out details of a number of enforcement

case being dealt with by the Council and analysis of quarterly and annual figures. She provided a verbal update on progress regarding several of the cases therein.

The Committee gave consideration to a number of enforcement cases set out in the report.

A Member moved the Officer's recommendation which was seconded, along with a request that Officers consider how the information contained in the report may be shared with all Members of the Council. The proposal was seconded and following voting it was:

RESOLVED – 1) That the content of the report be noted.

2) That Officers consider how the information contained in the report may be shared with all Members of the Council.

The Meeting ended at: 15:06

Development Control Committee Main Schedule

Schedule of Applications for Planning Permission

8th April 2022

The Schedule of Applications

This schedule is set out in five parts:

SCHEDULE A – Applications to be determined by the City Council. This schedule contains full reports on each application proposal and concludes with a recommendation to the Development Control Committee to assist in the formal determination of the proposal or, in certain cases, to assist Members to formulate the City Council's observations on particular kinds of planning submissions. Officer recommendations are made, and the Committee's decisions must be based upon, the provisions of the Development Plan in accordance with S38(6) of the Planning and Compulsory Purchase Act 2004

<http://www.legislation.gov.uk/ukpga/2004/5/contents> unless material considerations indicate otherwise.

In order to reach a recommendation the reports have been prepared having taken into account the following background papers:-

- relevant planning policy advice contained in Government Circulars, National Planning Policy Framework, <https://www.gov.uk/government/publications/national-planning-policy-framework--2>,
- Planning Practice Guidance <http://planningguidance.planningportal.gov.uk/> and other Statements of Ministerial Policy;
- Carlisle District Local Plan 2015-2030 <http://www.carlisle.gov.uk/planning-policy/Local-Plan/Carlisle-District-Local-Plan-2015-2030>
- Conservation Principles, Policies and Guidance - <https://historicengland.org.uk/advice/constructive-conservation/conservation-principles/>
- Enabling Development and the Conservation of Significant Places <https://historicengland.org.uk/images-books/publications/enabling-development-and-the-conservation-of-significant-places/>
- Flood risk assessments: climate change allowances <https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances>

- Consultee responses and representations to each application;
<http://publicaccess.carlisle.gov.uk/online-applications/>
- Cumbria Landscape Character Guidance and Toolkit
<http://www.cumbria.gov.uk/planning-environment/countryside/countryside-landscape/land/landcharacter.asp>
- Natural Environment and Rural Communities Act (2006)
<http://www.legislation.gov.uk/ukpga/2006/16/contents>
- Wildlife and Countryside Act 1981 <http://www.legislation.gov.uk/ukpga/1981/69>
- Community Infrastructure Levy Regulations 2010
<http://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents>
- EC Habitats Directive (92/43/EEC)
http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index_en.htm
- Equality Act 2010
http://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga_20100015_en.pdf
- Manual For Streets 2007
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/341513/pdfmanforstreets.pdf

Condition 2 of each application details the relevant application documents; except the following where the associated documents are located at –

- 21/0014 - <https://publicaccess.carlisle.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal= CARLI DCAPR 79003>
- 21/0768 - <https://publicaccess.carlisle.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>
- 21/0893 - <https://publicaccess.carlisle.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal= CARLI DCAPR 80956>
- 21/1117 - <https://publicaccess.carlisle.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal= CARLI DCAPR 81470>
- 21/1137 - <https://publicaccess.carlisle.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal= CARLI DCAPR 81506>
- 21/1161 - <https://publicaccess.carlisle.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal= CARLI DCAPR 81548>

SCHEDULE B – Applications determined by other authorities. This schedule provides details of the decisions taken by other authorities in respect of those applications determined by that Authority and upon which this Council has previously made observations.

The officer recommendations made in respect of applications included in the Schedule are intended to focus debate and discussions on the planning issues engendered and to guide Members to a decision based on the relevant planning considerations. The recommendations should not therefore be interpreted as an intention to restrict the Committee's discretion to attach greater weight to any planning issue when formulating their decision or observations on a proposal.

If you are in doubt about any of the information or background material referred to in the Schedule you should contact the Development Management Team of the Planning Services section of the Economic Development Directorate.

This Schedule of Applications contains reports produced by the Department up to the 24/03/2022 and related supporting information or representations received up to the Schedule's printing and compilation prior to despatch to the Members of the Development Control Committee on the 08/04/2022.

Any relevant correspondence or further information received subsequent to the printing of this document will be incorporated in a Supplementary Schedule which will be distributed to Members of the Committee 5 working days prior to the day of the meeting.

Applications Entered on Development Control Committee Schedule

Item No.	Application Number/ Schedule	Location	Case Officer
01.	19/0244 A	Land at field 3486, Monkhill Road, Moorhouse, Carlisle	BP
02.	21/1154 A	Former KSS Factory Site, Constable Street, Carlisle, CA2 6AQ	RJM
03.	21/0014 A	Land to north of Tarn Lodge Farm, Heads Nook, Brampton	SO
04.	21/1137 A	Rose Cottage, Laversdale Lane End, Irthington, Carlisle, CA6 4PS	SD
05.	21/0768 A	24 Hendersons Croft, Crosby on Eden, Carlisle, CA6 4QU	RJM
06.	21/1143 A	Land adjacent to Meadow Cottage, Tarraby, Carlisle, CA3 0JS	SD
07.	21/1161 A	Scotby Acres, Broomfallen Road, Scotby, Carlisle, CA4 8DE	RJM
08.	21/0893 A	Mannory, Broomfallen Road, Scotby, Carlisle, CA4 8DE	CH
09.	21/1117 A	Scotby Oaks, Broomfallen Road, Scotby, Carlisle, CA4 8DE	CH
10.	21/0700 B	5 Chestnut Grove, Linstock, Carlisle, CA6 4RS	SD
11.	21/0756 B	30 Lismore Street, Carlisle, CA1 2AH	SO
12.	21/0759 B	30 Lismore Street, Carlisle, CA1 2AH	SO
13.	21/0806 B	30 Lismore Street, Carlisle, CA1 2AH	SO
14.	21/0952 B	Fairview, 3 Harrison Gardens, Monkhill, Burgh By Sands, Carlisle, CA5 6DF	LB

SCHEDULE A

Applications to be
determined by the
City Council.

SCHEDULE A

SCHEDULE A: Applications with Recommendation

19/0244

Item No: 01

Date of Committee:

Appn Ref No:
19/0244

Applicant:
Citadel Estates Ltd

Parish:
Burgh-by-Sands

Agent:
Sam Greig Planning

Ward:
Dalston & Burgh

Location: Land at field 3486, Monkhill Road, Moorhouse, Carlisle

Proposal: Erection Of 14no. Dwellings

Date of Receipt:
22/03/2019 11:00:46

Statutory Expiry Date
21/06/2019 11:00:46

26 Week Determination
06/12/2021

REPORT

Case Officer: Barbara Percival

1. Recommendation

- 1.1 It is recommended that this application is approved subject to legal agreement. If the legal agreement is not completed within a reasonable time, then Authority to Issue is requested to Corporate Director of Economic Development to refuse the application. The Section 106 Agreement to consist of the following obligation:
- a) the provision of on-site intermediate 2no. two bedroom dwelling (Plots 6 and 7) for low cost homes ownership at 30% discounted rate of market value.

2. Main Issues

- 2.1 Principle of development
- 2.2 Impact of the proposal on the adjacent listed buildings and their settings
- 2.3 Scale and design of the dwellings
- 2.4 Affordable housing provision
- 2.5 Education provision
- 2.6 Impact of the proposal on archaeology
- 2.7 Impact of the proposal on the living conditions of neighbouring residents
- 2.8 Impact of the proposal on highway safety
- 2.9 Proposed methods for foul and surface water drainage
- 2.10 Impact of the proposal on trees and hedgerows

- 2.11 Impact of the proposal on biodiversity
- 2.12 Other matters

3. Application Details

The Site

- 3.1 The application site, equating to approximately 0.8 hectares, is located in the centre of Moorhouse to the south of the junction of Monkhill Road with the B5307 county highway. The application site is bounded to the south and west by residential properties with agricultural fields to the north and east together with a children's play area to the south east.

Background

- 3.2 The application site has a varied planning history as highlighted in section 7 of this report. The most relevant planning history determined against planning policies in the current local plan are summarised below.
- 3.3 In 2016, Members of the Development Control Committee granted outline planning permission for the erection of nine dwellings at its meeting on the 8th July 2016. The decision, following the expiration of the consultation period, was subsequently issued on the 13th July 2016.
- 3.4 In 2019, Members of the Development Control Committee granted planning permission for the erection of 9no. dwellings (reserved matters pursuant to outline application 16/0387) (application reference 19/0535).
- 3.5 In 2020, an application to discharge conditions 6 (foul & surface water); 7 (surface drainage scheme); 8 (surface water drainage system); 9 (surface water management plan); 10 (groundwater levels investigation report) and 11 (infiltration tests) of previously approved application 16/0387 was approved (application 20/0135).
- 3.6 In 2021, an application for the removal of hedgerows to facilitate the future development of the residential allocation was refused (application reference 21/0001/HDG).
- 3.7 Also in 2021, an application to discharge of conditions 5 (archaeological work); 13 (highway details); 14 (ramp details); 18 (access during construction); 20 (tree & hedgerow protection); 21 (method statement for root protection areas) & 27 (boundary treatments) of previously approved application 16/0387 was approved (application reference 21/0611).
- 3.8 The development for 9no. dwellings subject of outline and reserved matters applications (application references 16/0387 and 19/0535 respectively) were lawfully implemented on the 7th September 2021 by virtue of Section 56 (d) of the Town and Country Planning Act 1990 i.e. any operation in the course of laying out or constructing a road or part of a road.

The Proposal

- 3.9 As some Members may recall, this application was first presented to Members at the Development Control Committee on the 19th July 2019. The proposal before Members sought full planning permission for 17no. dwellings which consisted of a mix of dwelling types, sizes and tenures. Vehicular access to the proposed development would have been taken from Monkhill Road with the proposed dwellings arranged around internal access roads. A feature stone wall was to be constructed to frame the entrance to the site with the existing hedgerows enclosing the application site retained except for the section required to widen the proposed vehicular access of the site.
- 3.10 Members at that time gave consideration of the proposal with the discussions primarily centring on: the recommended imposition of pre-commencement conditions in respect of surface water drainage; scale and design; impact on biodiversity; identification of any archaeological findings; and clarification on the listing details for nearby listed buildings. Members resolved that determination of the application be deferred in order that the Officer's report be updated on a number of issues along with additional information in relation to the proposed drainage and design, and that a further report be submitted to a future meeting of the Committee. Following the deferral of the application by Members in July 2019, the application remained current with no additional or revised details submitted.
- 3.11 In October 2020; however, the scheme was subsequently revised by the applicant. The revised scheme reduced the number of dwellings from 17no. to 14no. which again included a mix of dwelling types, sizes and tenures. The layout sought permission for a shared vehicular access to serve Plots 2, 4, 5, 6, 7, 8, 9 and 10 taken from Monkhill Road. Plots 1, 2, 13 and 14 were proposed to be served by their own individual access again onto Monkhill Road. Plots 11 and 12 would be served by individual accesses onto the B5307 county highway. The existing roadside hedges along the eastern and southern boundaries were to be removed and replaced with 1.2 metre high dry stone walls with another dry stone wall framing either side of the main entrance into the development. The existing northern and southern hedgerows would be retained with native hedgerows delineating each of the plots. Trees of varying species and maturity were also proposed to be planted within the proposed development.
- 3.12 This application was due to be presented to Members of the Development Control Committee at its meeting in February 2021 but was withdrawn from discussion. The application report was withdrawn from discussion at the meeting to consider issues raised relating to various aspects of the report's content and be reported at a future meeting of the committee.
- 3.13 The scheme before Members is in respect of further revised details received in May and June 2021 together with a revised Drainage Strategy received March 2022. The revised proposals still seek full planning permission for the erection of fourteen dwellings consisting of a mix of dwelling types, sizes and tenures consisting of:

Plots 1, 2, 4, 5 and 10 - 'The Grasmoor (2)' detached bungalow with attached garage. The dimensions of the proposed dwelling would have a maximum length (including the attached garage) of 12.589 metres by a maximum width (including the sunroom) of 14.380 metres with a ridge height of 5.9 metres. The accommodation would comprise of a lounge, dining/kitchen, sunroom, hall, 1no. ensuite bedroom, 1no. bedroom and garage.

Plots 1 and 4 would be finished in a scraped texture render with Plots 2, 5 and 10 finished in facing brickwork with feature string course/zipper courses to corners and rear/gable window heads. The rendered properties would have red colour natural stone cills, heads and mullions as would the front windows of the brick finished properties. All plots would have timber/render detailing to the front gable elevations and have dark grey interlocking slate appearance roofs. Windows would be anthracite wood grain effect uPVC with leaded lights to upper window panels in the front elevation of the dwellings with a hardwood timber front door. The garage door would be a one piece up and over timber door.

Plots 3 and 13 - 'The Pillar (4)' detached bungalow with a detached single garage. The dimensions of the proposed dwelling would have a maximum length (including the sunroom) of 15.965 metres by a maximum width of 12.477 metres with a ridge height of 5.9 metres. The accommodation would comprise of a lounge, dining/kitchen, sunroom, bathroom, utility, hall, 1no. ensuite bedroom, 2no. bedrooms and garage.

The proposed dwellings would be finished in facing bricks with feature string course/zipper courses to corners and rear/gable window heads. The front windows would have red colour natural stone cills, heads and mullions. Both plots would have timber/render detailing to the front gable elevations and have dark grey interlocking slate appearance roofs. Windows would be anthracite wood grain effect uPVC with leaded lights to upper window panels in the front elevation of the dwellings with a hardwood timber front door. The garage door would be a one piece up and over timber door.

Plots 6 and 7 - 'The Grisdale' two storey semi-detached dwellings. The dimensions of the proposed semi-detached dwellings would have a maximum length of 8.6 metres by a maximum width (excluding the porches) of 9 metres with a ridge height of 7.8 metres. The accommodation of each of the dwellings would comprise of a lounge/dining, kitchen and w.c. with 2no. bedrooms and bathroom above.

The proposed dwellings would be finished in a facing brickwork, red natural stone cills, headers, timber porch with a dark grey interlocking slate appearance roof. Windows would be anthracite wood grain effect uPVC with a hardwood timber front door.

Plots 8, 9, 11. 12 and 14 - 'The Pillar (2)' detached bungalow with attached garage. The dimensions of the proposed dwelling would have a maximum length of 12.590 metres by a maximum width (including the sunroom) of

15.852 metres with a ridge height of 5.9 metres. The accommodation would comprise of a lounge, dining/kitchen, sunroom, utility, bathroom, hall, 1no. ensuite bedroom, 2no. bedrooms and garage.

Plots 8, 11 and 12 would be finished in a scraped texture render with Plots 9 and 14 finished in facing brickwork with feature string course/zipper courses to corners and rear/gable window heads. The rendered properties would have red colour natural stone cills, heads and mullions as would the front windows of the brick finished properties. All plots would have timber/render detailing to the front gable elevations and have dark grey interlocking slate appearance roofs. Windows would be anthracite wood grain effect uPVC with leaded lights to upper window panels in the front elevation of the dwellings with a hardwood timber front door. The garage door would be a one piece up and over timber door.

- 3.14 Vehicular access to the proposed development would be taken from Monkhill Road with the proposed dwellings arranged around internal access roads. All dwellings would be served by in-curtilage parking spaces and garages with the exception of Plots 6 and 7 which would have 2no. parking spaces adjacent to the dwellings.
- 3.15 A feature stone wall would be constructed to frame the entrance to the site with specimen trees (Cut leaf Common Alder) planted either side of the entrance. A further 14 trees of varying species and maturity would also be planted within the development site. The existing hedgerows enclosing the application site would be retained except for the proposed vehicular access/exit to the site. The submitted landscaping schedule also includes the planting of nature hedgerows to separate the proposed dwellings.

4. Summary of Representations

- 4.1 This application was initially advertised by the direct notification of sixteen neighbouring properties and the posting of site and press notices. In response to the originally submitted scheme and the subsequent revisions, the occupiers of 29 neighbouring properties have raised objections.
- 4.2 The representations have been reproduced in full for Members, however, in summary the issues raised are:
 - 1. the original application sought outline planning permission for 9 dwellings this application is for 17;
 - 2. inappropriate increase in the size of the village which has limited service provision;
 - 3. unacceptable overdevelopment of the site;
 - 4. the submitted drainage statement refers to the 2016 outline planning application for 9 dwellings;
 - 5. potential to exacerbate existing surface water drainage issues within the vicinity due to high water table;
 - 6. reiterate statement in respect of surface water drainage included in Appendix One of the local plan;

7. questions the contents of the revised drainage report;
8. the rights of riparian owners should not be ignored;
9. potential to exacerbate existing foul drainage issues;
10. positive that there is 3no. affordable units within the scheme; however, most are large, detached dwellings on relatively small plots;
11. there is no public transport serving the village, therefore, development would increase reliance on private vehicles;
12. detrimental impact on highway safety;
13. construction vehicle parking;
14. detrimental impact on archaeological remains;
15. loss of privacy;
16. potential light pollution on adjacent dwellings from car headlights entering or leaving the site;
17. potential noise pollution during development phase;
18. trees within the site have already been felled;
19. the existing unmanaged hedge surrounding the site is dangerous to users of the adjacent pavement;
20. loss of a valuable green space within village;
21. loss of a view;
22. an earlier application determined under the previous local plan was rejected;
23. questions accuracy of details within the submitted Heritage Statement;
24. lack of school places within the locality;
25. potential increase in surface water from the development may structurally damage adjacent properties;
26. removal of hedges along Moorhouse Road and Monkhill Road would detrimentally changes the nature and character of the surrounding area;
27. removal of hedges would lead to loss of privacy for surrounding properties;
28. removal of hedgerow would have a detrimental impact on the setting of nearby heritage assets;
29. proposal contrary to Policy GI6 (Trees and Hedgerows) of the Carlisle District Local Plan 2015-2030;
30. questions if hedgerows are protected by the Hedgerow Regulations;
31. removal of hedgerow unnecessary to facilitate widening of footpath;
32. detrimental impact on biodiversity from loss of hedgerows;
33. contrary to previous approval which included conditions retaining hedgerows enclosing site;
34. no detailed surface water drainage details to serve the proposed development has been received;
35. increase in housing numbers contrary to previous approval;
36. detrimental impact on the living conditions of neighbouring residents;
37. question location of the affordable units;
38. questions adequacy of parking provision to serve the scheme;
39. electric vehicle charging points should be provided within the development;
40. succession of applications causing unnecessary stress to local residents;
41. disruption within village from building works.
42. question adequacy of existing watercourse to accommodate development;
43. question details of submitted drainage strategy.

4.3 The Ward Councillor, Councillor Allison, has also made representations which have also been reproduced in full for Members. In summary the issues raised are:

1. DC Committee deferred application for 17 units. The parish council accept 9no. dwellings but strongly objection to 14no,. units which is an increase of 56% increase above the outline permission;
2. increased density requires removal of hedgerows to provide access which is contrary to Policy GI6 of the local plan;
3. removal of hedgerow would have a detrimental impact on heritage assets. character of the village and biodiversity;
4. existing hedgerow and verge has been allowed to encroach on footpath;
5. detrimental impact on highway safety and increase in vehicular accesses;
6. potential to exacerbate surface water flooding
7. suggests alternative layout.

4.4 Representations from the Council for the Protection of Rural England (Friends of the Lake District) have also been received. The most recent has been reproduced below:

The CPRE Previously objected to 19/0244 and to 21/0001/HDG based on concerns relating to the removal of the hedgerows at this site. This included concerns about the impacts of this on landscape, biodiversity, and local character as well as the relationship between the proposed removal and the previously clear and long-standing position of the City Council of retaining these hedgerows.

As such, the CPRE very much welcome the fact that the hedgerows are now proposed to be retained and, if the application is approved, it is imperative that this is secured by condition.

Retaining the hedge, equates to an avoidance of harm/loss in relation to the hedge and so other measures will be needed across the site to ensure the development meets the requirement in the NPPF and the forthcoming Environment Bill for biodiversity net gain. These should also be conditioned in any approval.

It follows that a reduced number of houses, in line with the previous proposal may be necessary to enable appropriate net gain to be achieved as the building of the additional 5 houses is at the expense of space that was to be gardens and other green space. A reduced number would also better reflect what the local plan says about the site page 246 R 12:. a modest increase of 10 houses over the plan period is considered acceptable for the size and scale of the village and in turn, better respect village character.

The CPRE withdraw its objection on grounds relating to the loss of the hedgerow. However, remain aware of a number of outstanding issues of concern to the local community, sharing in particular those relating to biodiversity and the impact of this scale of development on the settlement character of Moorhouse.

5. Summary of Consultation Responses

As detailed in the report this application has been subject of several revisions and upon which the statutory consultees have responded accordingly. Members can view these consultations on the council's website; however, the most recent consultation responses to the current proposals from statutory consultees have been reproduced below:

Cumbria County Council - (Highways & Lead Local Flood Authority): -

Highway Authority Response - no further comments subject to the response dated 12 October 2021. The October response outlined that within the previous Highways Authority (HA) response to this application (29 July 2021) a number of concerns were raised with regards to the layout of the proposed development and an apparent narrowing of the carriageway of Monkhill Road. The applicant has confirmed that the current site plan proposed is drawing number 18/07/937 with the position and visibility splays unchanged from those which were approved as part of the reserved matters application 19/0535. The site plan illustrates a singular access point for the 14no. dwellings onto Monkhill Road with the internal access carriageway to remain in private ownership and maintained by a management company. It is noted that the pre-commencement conditions associated with the reserved matters application have been discharged through the planning application 20/0135 and 21/0611. As the layout and access into the development site have been previously agreed, the HA have no objections with regards to the layout proposed as part of the current application.

An issue also previously raised was with regards to the consideration for bin collection points for plots 3 to 7 and 11 to 14. The applicant has considered this point and confirmed that refuse vehicles can enter and leave the site in a forwards gear. This enables the refuse vehicles to be within 15 metres of all of the dwellings which is acceptable to the HA.

In light of the above, the HA have no objections with regards to the approval of planning permission subject to the imposition of conditions being applied to any approval granted when the LLFA objections have been resolved. The conditions would require the submission of further details in respect highway construction; visibility splays; provision of ramps; and the submission of a construction phase management plan.

Lead Local Flood Authority Response - in the LLFAs last response to the application, the LLFA requested more details regarding the drainage required for development of 14no. properties. The LLFA have now been supplied with a revised drainage scheme that seeks to discharge to the connected ordinary watercourse in Monkhill Road. The planned discharge rate of 2.5l/s is less than the greenfield runoff rate (QBar) for the development site of 4.5l/s. The lessening of discharge is welcomed and is seen as a betterment to the current discharge already flowing from the development site. Within the new drainage details there is also now treatment of the surface water before discharge to the adjacent watercourse providing a two-stage treatment of the water before entry to the watercourse. The applicant is utilising permeable

paving for the storage of surface water which provides adequate treatment of surface water from residential properties and roads.

There has been some doubt that the land being developed is not connected to the culvert across Monkhill Road. The LLFA has looked at details sent by the developer and has also carried out further inspections of the culverted watercourse and the LLFA can conclude that the site does have direct drainage connections feeding the culvert below Monkhill Road.

It is also noted that as a result of the development the existing system below Monkhill Road is to be upgraded to a 225mm diameter pipe which will remove the further restrictions found within the existing stone culvert not previously picked up. The renewal of the culvert will help to reduce the risk of flooding to the Monkhill Road area. The revised drainage now includes exceedance routes. The LLFA have scrutinised the exceedance routes and are content that the flow routes will not result in flooding to properties and that any exceedance is contained within channels towards the existing drainage infrastructure on Monkhill Road.

The LLFA can confirm that the LLFA has no objections with regards to the approval of planning permission;

Burgh-by-Sands Parish Council: - uphold its previous objections and comments.

Drainage

As previously stated, the drainage system is already overloaded and struggles to cope due to lack of maintenance especially in heavy rain. This will be worsened by this addition of 14 houses.

Although the current drainage report states that the area is not at risk of flooding it contradicts the documents that have been submitted previously from the Flood and Development Department and reports from residents who have highlighted that there are existing drainage and flooding issues that occur regularly at Moorhouse Village, especially with heavy rainfall.

Moorhouse already has a serious flooding problem which has never been addressed.

The Parish Council remain concerned that the proposed drainage plans and recent drainage strategy would not alleviate any of the existing flood and drainage problems: Approval of the development, would in fact contribute to more problems, especially in light of the climate change projections that the Drainage Strategy present: 'future climate changes presented factors...will lead to increased and new risks of flooding within the lifetime of the planned developments'

As stated previously, the Parish Council recognise that although Formal Drainage Plans have been submitted to the Planning Authority, they need to be closely monitored particularly during this process. There are photographs and video footage available showing existing problems over the last few years.

The Drainage Strategy and previous Drainage Plan will not mitigate the negative impact of a greater flood risk outside the development boundary as it will drain into Great Hill Beck. This at present regularly floods gardens and land to the north behind those properties adjacent to The Royal Oak Pub.

This beck is not a viable watercourse and we continue to suggest that United Utilities and Planning Officers meet for a site visit with the residents and owners of these properties to see if Great Hill beck can be made into a viable and maintained watercourse if this drainage strategy is to be accepted. As noted in our previous observation, 'the highway drains are not owned by them.' Prior to any discharge to this point the necessary third part agreements will need to be gained.

The Site

This site is in the Historic heart of the village and 14 dwellings will have a negative impact on a small site that does not preserve or enhance the adjoining conservation area. This proposed development should be in sympathy with the density and physical characteristics of the area. Any new development needs to reflect the character of the local area.

Although there are a mixture of 2,3 and a 4 bedroomed bungalow with some Affordable Housing, these Bungalows will appeal to a more mature buyer in a village with only two buses a day and no shops or Village Hall to provide social interaction.

Highway considerations

Two dwellings directly exiting onto the busy B5307 will have restricted vision to the right as well as 4 bungalows exiting onto the narrow Monkhill Rd plus 8 from the main entrance/exit to the site. There is potential for parking on the roadside and emerging vehicles will be a hazard to all traffic and pedestrians, particularly KS3 children gathering to be bussed to school and younger children and parents/carers accessing the Playground. Although this development will be within a 30mph limited area there have been recorded accidents from vehicles emerging onto the B5307 as the road is so narrow that it is almost impossible the turn out whilst keeping to the nearside of the road. This creates a hazard considering the amount of speeding traffic. Access to Bungalows 11 and 12 will create a further hazard for Pedestrians and school children.

Hedge bordering the B5307

The previously approved development retained and enhanced the hedge to the height of 1.8m. There are wildlife issues with this being removed as it is a recorded habitat for a variety of wildlife. This hedge contributes positively to this area and has Historic value. To replace this with a wall would be intrusive as the hedge with no entrances and exits would blend into the Green space of the adjoining Common Land.

Friends of the Lake District consultation stated that it is imperative that the hedgerow is to be retained and secured by condition. Retaining the hedge, equates to an avoidance of harm/loss in relation to the hedge and so other measures will be needed across the site to ensure the development meets the requirement in the NPPF and the forthcoming Environment Bill for biodiversity net gain. These should also be conditioned in any approval.

The hedge has not been maintained by the Developer and therefore has become overgrown, endangering pedestrians. With careful management, this could be saved as the removal of the hedge will also have an impact on drainage of the site and the width of the foot way doubled therefore making it safe for pedestrians and children alike.

Due to the lack of maintenance, by the developer, the hedge continues to be overgrown: Repeated requests have been ignored by the Parish Council and Highways.

Our Officer has confirmed that Cumbria County Council have attempted to address the situation at Moorhouse by serving enforcement letters to the landowner. As these have not been complied with the case has been referred to Legal Services who are able to serve a notice on the landowner to cut the hedge.

It has been decided that our legal team are going to serve a section 154 notice upon the owners for cutting back the hedge next week. (Highways.

04.03.2022)

Yet, the hedge still remains uncut.

Street Lighting

Darkness is characteristic of rural areas and so we continue to ask that any lighting within the site be discreet.

References

Burgh by Sands Design Statement pg 11

- Style of new developments should be related to the Locality and setting
- Style and Materials should be in keeping with the existing traditional Buildings and character of the surrounding area.

Wall and Plot Boundaries pg 12

- Existing hedgerows and trees should be incorporated within new developments wherever possible
- New property boundaries in keeping with locally natural materials (indigenous hedging plants)

Carlisle District Plan;

Cumbria County Council - (Archaeological Services): can confirm that the submitted archaeological evaluation report is adequate. The results of the evaluation show that there is a low likelihood of significant archaeological assets being disturbed by the construction of the proposed development, therefore, do not request further archaeological work on the site. The condition previously recommended is no longer necessary;

Local Environment - Waste Services: - no objections;

Historic England: do not wish to offer any comments;

Cumbria County Council - (Education): - no change to previous response. This being that the County Council's Planning Obligation Policy Document (POPD), sets out that contributions towards the provision of education capacity would only normally be sought from development that will result in a net increase of 15 or more dwellings in settlements like Moorhouse which are not a key service centre. As set out below, whilst there are some circumstances where we may see a capacity contribution for schemes that are below the threshold where there is a bespoke issue, this is not considered to be one of those cases.

Based on the dwelling-led pupil yield calculation set out in the POPD, this development proposal is estimated to yield 3 school children (2no. primary age and 1no. secondary age). As previously set out, these numbers are considered to be negligible. Furthermore, it is noted that a large proportion of the dwellings proposed are bungalows and are therefore likely to attract a smaller number of family forming households than your average housing

development. It is considered that there is sufficient flexibility within the admissions system for any children that may be yielded by this development to be accommodated within local schools.

United Utilities: - In accordance with the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG), the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way. No objections subject to the imposition of conditions which would require the submission of further details in respect of the proposed surface water drainage scheme and that foul and surface water are drained on separate systems.

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), Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 and Policies SP2, SP6, SP7, HO1, HO4, IP3, IP4, IP6, CC5, CM4, CM5, HE2, HE3, GI1, GI3 and GI6 of the Carlisle District Local Plan 2015-2030 are relevant. The City Council's Supplementary Planning Documents 'Achieving Well Designed Housing', 'Affordable and Specialist Housing', 'Burgh-By-Sands Parish Design Guide' and 'Trees and Development Sites' are also material planning considerations. Historic England has also produced a document entitled 'The Setting of Heritage Assets - Historic Environment Good Practice Advice in Planning: 3 (Second Edition)'.
- 6.3 The proposal raises the following planning issues:

1. Principle Of Development

- 6.4 Paragraph 11 of the NPPF outlines that: *"at the heart of the NPPF is a presumption in favour of sustainable development"*. In respect of the delivery of a sufficient supply of homes paragraph 60 of the NPPF highlights that: *"to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, and the needs of groups of specific housing requirements are addressed and that land with permission is developed without unnecessary delay"*. Paragraph 69 of the NPPF expands by stating that: *"small and medium sized sites can make an important contribution to meet the housing requirement of an area and are often built-out relatively quickly ..."*. To maintain supply and delivery of new housing paragraph 74 of the NPPF details that local authorities should: *"identify and update annually a*

supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies ... "

- 6.5 The aims of the NPPF is reiterated in Policies SP2 (Strategic Growth and Distribution) and HO1 (Housing Strategy and Delivery) of the local plan. Policy SP2 of the local plan outlines that sufficient land will be identified to accommodate 9,606 net new homes between 2013 and 2030 including a minimum annualised average of: 478 net new homes between 2013 and 2020; and 626 net new homes between 2020 and 2030 (adjusted to have regard to delivery in the 2013-2020 period). Policy HO1 highlights that planning permission will be granted for housing proposals that will: *"deliver the allocation set out in this Policy and contribute towards achieving the Plan's housing target ... in bringing forward allocations, developers will need to demonstrate that their proposals contribute to the overall mix of dwelling types, sizes and tenures which help meet identified local housing need and the development of mixed and sustainable communities"*.
- 6.6 The principle of development of the site has been established as it is identified under Policy HO1 of the local plan as Allocated Site 'R12 - land east of Monkhill Road'. Sites identified under this policy seek to ensure delivery of allocated sites with an overall mix of dwelling types, sizes and tenures in order to contribute to achieving the Plan's housing target.
- 6.7 By way of background, outline planning permission and reserved matters approval for the erection of 9no. dwellings were granted by Members of the Development Control Committee in July 2016 and October 2019 respectively (application references 16/0387 and 19/0535). As highlighted earlier in the report, these permissions were lawfully implemented on the 7th September 2021 by virtue of Section 56 (d) of the Town and Country Planning Act 1990 i.e. any operation in the course of laying out or constructing a road or part of a road.
- 6.8 The revised proposal before Members seeks full planning permission for the erection of 14no. dwellings which exceeds the ten dwellings outlined within Policy HO1 and Appendix 1. However, as Members will be aware, the yield figure is indicative only with the aim of the site profile details outlined within Appendix 1 to provide identification together with some of the main issues associated with allocated sites. Furthermore, the external amenity space and parking provision reflects that of the existing properties which front onto Monkhill Road. To put this into context, the development site would have a density of 17.5 dwellings per hectare whilst the properties opposite, 1 to 6 Monkhill Road, have a density of 27.34 dwellings per hectare.
- 6.9 In overall terms, the application site is in the centre of Moorhouse flanked by existing residential properties to the south and west, is well-related to the form of the village and would not encroach into open countryside. The village has a limited level of services or facilities i.e. a public house and a children's play area; however the village is part of a cluster of villages including Thurstonfield, Monkhill, Great Orton, Burgh by Sands and Kirkbampton (the last village is in Allerdale District). The latter three of which have primary

schools, the development of this allocated site within Moorhouse could help sustain services in this village cluster, in line with paragraph 79 of the NPPF.

- 6.10 In light of the foregoing and given that the application site has an implemented permission for the erection of 9no. dwellings, the application supports the strategies contained within the NPPF and the local plan. Accordingly, the principle of housing on this site is deemed acceptable.

2. Impact Of The Proposal On The Adjacent Listed Buildings And Their Settings

- 6.11 Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 highlights the statutory duties of local planning authorities whilst exercising of their powers in respect of listed buildings. The section states that:

"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses".

- 6.12 Members, therefore, must give considerable importance and weight to the desirability of preserving the adjacent 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).
- 6.13 Protecting and enhancing the historic environment is also an important component of the National Planning Policy Frameworks drive to achieve sustainable development. Paragraph 189 highlights that: *"heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations"*.
- 6.14 Paragraph 195 of the NPPF requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. Local planning authorities should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.
- 6.15 In considering potential impacts on heritage assets, paragraph 200 of the NPPF seeks to ensure that: "any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification ...".

6.16 The aims of Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 and the NPPF are reiterated at a local level. Policies SP7 and HE3 of the local plan seeking to ensure that listed buildings and their settings are preserved and enhanced. Any harm to the significance of a listed building will only be justified where the public benefits of the proposal clearly outweigh the harm.

6.17 In light of the foregoing it is considered that Members need to have cognizance of: a) the significance of the listed buildings, Fairfield and Hall Farm, and their contribution made to that significance by their settings; and then assess b) the effect of the proposal on the listed buildings and their settings (inclusive of their significance and on the appreciation of that significance).

a) the significance of the listed buildings and the contribution made by their settings

6.18 The southern boundary of the application site, separated by the county highway, is located approximately 20 metres north of Fairfield and 33 metres north west of Hall Farm. By way of background, there are around 400,000 listed buildings within England which are categorised as Grade I, Grade II* and Grade II. Grade I are of exceptional interest, sometimes considered to be internationally important, only 2.5% of Listed Buildings are Grade I. Grade II* Buildings are particularly important buildings of more than special interest, 5.8% of listed buildings are Grade II*. The final tier of listed buildings are Grade II listed buildings which are of special interest warranting every effort to preserve them. Over 90% of all listed buildings are in this class and it is the most likely grade of listing for a homeowner.

6.19 When considering any listed buildings in the context of planning applications the local planning authority refer to the statutory list which is provided by Historic England and is maintained by them. Should there be any changes to the list entries in terms of revisions or removal/additions, then these are confirmed by Historic England. A large scale exercise was undertaken in the 1980s when a significant number of buildings were added to the list. Both of the listed buildings were listed by Historic England (formerly English Heritage) as Grade II Listed Buildings on 19th September 1984. The official listing details taken from Historic England's website for Fairfield and Hall Farm (List Entry Numbers 1040026 and 1087461 respectively) are as follows:

Fairfield - "House. Late C18. Painted rendered walls, graduated green slate roof, C19 end brick chimney stacks. 2 storeys, 3 bays, flanking single-storey 2-bay extension to left, single bay to right. 6-panel door in plain painted stone surround. Sash windows with glazing bars, 2-pane sash window over entrance, all in plain painted stone surrounds".

Hall Farm - "Farmhouse. Late C17 with C19 alterations. Whitewashed rendered clay walls, graduated Welsh slate roof with lower courses of sandstone slates, ridge brick chimney stacks. 2 storeys, 7 bays. 2 C20 doors in plain painted stone surrounds; 2- and 3- casement windows in C19

plain painted stone surrounds; 2 first floor Yorkshire sash windows on extreme right are probably in original painted surrounds".

- 6.20 Historic England acknowledges that: *"with over 400,000 entries on the National Heritage List for England many of which are over 20 years old, we realise that there may be a number of minor errors ..."*. Historic England in respect of describing the limitations of the list entry and how much weight should be attached to actual list descriptions highlights that: *"the answer will depend on the description in question, but in general the entry should not be relied upon for a detailed assigning of special interest. The description may be a useful starting point for understanding the claims to special interest, but it will not be the last word. Originally, list entries were brief and intended to help with identification. In recent decades, particularly since the start of post-war listing, greater efforts have been made to explain the history of a building and to outline its claims to special interest. Modern List entries (since around 2005) are thus fuller than earlier ones, and it is fair to say that the more recent the description, the more helpful it is likely to be"*.
- 6.21 Due to the descriptive nature of the list, Historic England's listing details describes the grade II listed building directly opposite the application site, Fairfield, as a late 18th Century dwelling. The accuracy of Historic England's listing description has previously been questioned by a third party however no revisions to the listing description have been provided by Historic England. For further details it would be the case that a statement of significance can be undertaken with Historic England to confirm the details and the historic relevance of different parts of the listed buildings. Historic England has been asked whether such a statement and update of the listing description is currently being considered however no confirmation of this has been received.
- 6.22 In the case of Fairfield, later research on clay dabbin buildings found in the publication 'The building of the clay dabbins of the Solway Plain' undertaken by Nina Jennings considers the property to be 17th century. Clay Dabbin buildings are of a diminishing resource in the Solway Plain and Nina Jennings is notable in her work on identifying the remaining buildings in the area.
- 6.23 Without the endorsement of Historic England in terms of the description of the listed building it would be difficult to confirm the significance of the claims that the listed building description is incorrect. It should however be noted that the work of Nina Jennings is a material consideration and has been referenced by conservation experts in the area who deal with clay dabbin buildings. Nina Jennings publication is also referenced within the submitted Heritage Impact Assessment.
- 6.24 Therefore, for members consideration it would be advisable to take account of the clay dabbin references as well as the descriptive listing when considering the impact on Fairfield and its setting. The overall appearance of Fairfield is that of a typical local Georgian dwelling with rendered walls and slate roof with small sliding sash windows. The dwelling is set back within its plot, partially screened from the roadside by tall hedging, beyond which are lawned gardens.

- 6.25 Hall Farm is a late 17th Century farmhouse with adjoining barn and 19th Century alterations. Its appearance is that of a Cumbria longhouse with rendered clay dabbin walls with sandstone verges/slate roof. The single or paired small window openings are either casement or sliding sash with stone surrounds. A 1.5 metre stone wall fronts the highway with an intervening concrete forecourt separating the boundary wall from the dwelling.
- 6.26 The listed buildings are visually important features within the street scene; however, they are discretely housed within their plots, Fairfield behind tall hedging and lawned gardens and Hall Farm, to the south west of the application site, behind a 1.5 metre high stone wall and concrete forecourt. In such a context, neither Fairfield nor Hall Farm, rely on the aspect of space afforded by the application site. The settings of the listed buildings have also evolved over the years by the introduction of modern street furniture, pedestrian footways and relatively recent development within the immediate vicinity. As such, views of both listed buildings are localised and are read in the context of the street scene when travelling through the village.
- b) the effect of the proposed development on the listed buildings and their settings
- 6.27 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 need to be given to the desirability of preserving the adjacent 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).
- 6.28 As highlighted earlier in the report, when considering potential impacts of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (paragraph 199 of NPPF). Paragraph 200 of the NPPF outlining that *"any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification ..."*. Paragraph 202 expanding by stating that: *"where a proposed development would lead to less than substantial harm to the significance of the heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use"*.
- 6.29 Historic England has produced a document entitled 'The Setting of Heritage Assets - Historic Environment Good Practice Advice in Planning: 3 (Second Edition)' (TSHA). The document sets out guidance, against the background of the NPPF and the related guidance given in the PPG, on managing change within the settings of heritage assets, including archaeological remains and historic buildings, sites, areas, and landscapes.

- 6.30 The TSHA document details the definition of the setting of a heritage asset as that contained within Annex 2: Glossary of the NPPF as: *"the surroundings in which 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"*.
- 6.31 The document acknowledging that conserving or enhancing heritage assets by taking their settings into account need not prevent change and recommends a staged approach to proportionate decision taking. The TSHA stating that: *"all heritage assets have significance, some of which have particular significance and are designated. The contribution made by their setting to their significance also varies. Although many settings may be enhanced by development, not all settings have the same capacity to accommodate change without harm to the significance of the heritage asset or the ability to appreciate it. This capacity may vary between designated assets of the same grade or of the same type or according to the nature of the change. It can also depend on the location of the asset: an elevated or overlooked location; a riverbank, coastal or island location; or a location within an extensive tract of flat land may increase the sensitivity of the setting (i.e. the capacity of the setting to accommodate change without harm to the heritage asset's significance) or of views of the asset. This requires the implications of development affecting the setting of heritage assets to be considered on a case-by-case basis"*.
- 6.32 As highlighted earlier in the report, the application site is identified under Policy HO1 of the local plan as Allocated Site 'R12: Land east of Monkhill Road, Moorhouse'. The Heritage Assessment for the site undertaken and contained in Appendix 1 of the local plan outlines: *"Grade II listed building (Fairfield) opposite southern boundary of the site. Any development on this site will be expected to minimise any adverse impact on the listed building and its setting. Prehistoric remains survive adjacent to the site. An archaeological desk-based assessment and field evaluation will be required at the planning stage"*.
- 6.33 As Members will be aware, the local plan has evolved through extensive research and consultations with the relevant statutory consultees including Historic England. The Inspector during the examination of the local plan was fully aware of all the allocated sites and their main constraints; however, did not see fit to remove the application site from the list of allocated sites. Historic England did not raise any objections or comment during the local plan process in respect of this allocated site.
- 6.34 When entering Moorhouse from the east, there is no vernacular with a mix of single and two storey dwellings many of which are of relatively modern appearance. In this part of Moorhouse, dwellings on the southern side of the B5307 are set back from the county highway, many partially screened by high hedges, within their own defined plots with former agricultural buildings forward of the building line fronting onto the pavement. The properties on the northern side of the county highway are predominantly closer to or front onto the pavement. Two grade II listed buildings, Fairfield and Hall Farm, are of

significant visual importance in this part of Moorhouse. Two relatively recently constructed dwellings, Peterdale and The Gables are located to the west and north west of Fairfield respectively. The western extent of Moorhouse; however, has a more traditional character and form with buildings either directly fronting the road or separated by low stone walls. The traditional character is further emphasised as this part of Moorhouse has a large cluster of listed buildings. There are also several detached dwellings of non-traditional construction within the immediate vicinity.

- 6.35 This assessment is further supported in the Burgh-By-Sands Design Statement which states: "*... the village as a whole lacks the visual cohesion of some of the other villages within the parish, largely on account of the presence of a busy public road, a good deal of modern infill development and the intermittent nature of the visual links provided by walls, hedgerows and associated tree groups*".
- 6.36 Historic England has been consulted on the revised proposals and advise that it does not wish to offer any comments on the application. The council's Urban Design/Conservation Officer has not commented on the revised details before Members. Nevertheless, Members should be mindful that the application site is an allocated site within the local plan and that the dwellings subject of this current proposal reflects some of the designs of the 9no. dwellings approved by Members in October 2019 (application reference 19/0535).
- 6.37 Objections have been raised by third parties to the proposal as they consider it would have an adverse impact on the character and settings the adjacent heritage assets by virtue of the scale, design, layout, and lack of details in respect of surface water drainage. A further issue raised was that the application site being formerly tied by ownership to Fairfield and was sold for agricultural use at some time in the 19th century. The third party is of the opinion that the field significantly enhances the setting of Fairfield and that Fairfield's visual attractive aspect will be eliminated by the proposed development. The parish council in its most recent representation of objection outlines that: "*the site is in the historic heart of the village and 14 dwellings will have a negative impact on a small site that does not preserve or enhance the adjoining conservation area*". Reference to the adjoining 'conservation area' it is assumed is a drafting error and should read: "does not preserve or enhance the adjoining heritage assets" as Moorhouse has no designated conservation area.
- 6.38 Moorhouse was identified in the Carlisle District Local Plan (adopted September 1997) as a potential future conservation area; however, subsequent local plans (2001-2016) and the current local plan do not make specific reference to Moorhouse. As Members are aware, the application must be assessed under current planning policy. Furthermore, Burgh-By-Sands Parish Design Statement (adopted November 2003) omitted the application site, Monkhill Road and properties located in the eastern extent of Moorhouse from the recommended conservation area. The Design Statement outlining that: "*the village possesses some good surviving examples of traditional buildings, of which 15 are listed as being of*

architectural or historic interest. These range from a restored late 17th century cruck cottage with thatched roof at the western end of the village to the nearby mid-18th century Moorhouse Hall with its painted stucco walls and raised painted quoins. It is considered that this grouping of buildings with their associated tree groups at the western end of the village, including some sensitive 20th century infill development at 'The Courtyard', possess a sufficient degree of visual unity to form the basis of a conservation area".

- 6.39 When assessing the proposal, the proposed application site is located within an area of Moorhouse which has no particular vernacular and has a mix of single and two storey dwellings many of which are of relatively modern appearance. In this part of Moorhouse, dwellings on the southern side of the B5307 are set back from the county highway, many partially screened by high hedges including Fairfield, within their own defined plots with former agricultural buildings forward of the building line fronting onto the pavement. The properties on the northern side of the county highway are predominantly closer to or front onto the pavement. Most of the dwellings would be of single storey construction with the semi-detached two storey dwellings located adjacent to the northern eastern boundaries of the application site. The design and materials of the single storey properties reflecting those of the single storey dwellings of the implemented permission for 9no. dwellings (application reference 19/0535). Furthermore, the proposed development, although located on the northern side of the county highway, would also retain most of the existing hedgerows which surround the site except for the section to provide access for the proposed development. Should Members approve the application, a condition is recommended which would seek to retain the hedgerows at a height of 1.6 metres when measured from the existing ground level and that they be enriched through the planting of a double rows of native hedgerow plants in gaps exceeding 250mm.
- 6.40 In overall terms, the retention of the hedgerow and that the development would largely consist of bungalows would mitigate for any perceived potential impact on the adjacent listed buildings and their settings. Accordingly, the proposal will have a less than substantial harm to the significance of the heritage assets and their settings.
- 6.41 In accordance with the objectives of NPPF, PPG, Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 and relevant local planning policies, this less than substantial harm should be weighed against the public benefits of the proposal including where appropriate, securing its optimum viable use.
- 6.42 In the context of the foregoing, the benefits of the proposal would: a) contribute to achieving the council's housing targets through the development of an allocated housing site; b) provide 2no. on-site affordable units where none exist currently; c) provide 12no. bungalows providing an opportunity to provide accommodation for those people looking to 'down size' while freeing up family accommodation for younger households; and d) provide an opportunity for Moorhouse and the surrounding villages which have more service provision the opportunity to grow and thrive.

- 6.43 Accordingly, the benefits of the proposal clearly outweigh any perceived harm to the listed buildings and their settings.

3. Scale And Design Of The Dwellings

- 6.44 Achieving well-designed places is a key aim of the NPPF. Paragraph 126 outlining that: *"the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities"*.
- 6.45 High quality design is also a key thrust of the local plan's strategic overarching strategy. Policy SP6 of the local plan seeking to ensure that proposals respond to the local context taking account of established street patterns, making use of appropriate materials and detailing, and reinforcing local architectural features to promote and respect local character and distinctiveness.
- 6.46 Specific to Moorhouse is the SPD 'Burgh-By-Sands Parish Design Statement' (adopted November 2003). The policies identified within Appendix 1 of the Design Statement relate to the 1997 local plan have been superseded by the Carlisle District Local Plan 2015-2030. Elements of the Design Statement, particularly those that relate to design principles do, however, still carry some weight. The parish council in its consultation response also references the SPD.
- 6.47 In respect of new buildings the Design Statement seeks to ensure that:
- there should be a consistent theme and /or style within new development which is related to the locality and setting
 - new development should generally be single or two storey in height
 - building styles and materials should be in keeping with the local vernacular and reflect and respect the nearby colours, textures, materials, shapes, styles and proportions of existing traditional buildings and the character of the surrounding area
 - where garden walls and outbuildings are present in new development, these should utilise the same materials as the main building
 - local distinctive features, such as date-stones, decorative brickwork and gate posts, might be used to enhance new buildings.
- 6.48 The Design Statement, in respect of walls and plot boundaries seek to ensure that:
- existing hedgerows and trees should be incorporated within new developments, wherever possible
 - new property boundaries should be in keeping with the locality, preferably using local natural materials (indigenous hedging plants, stone, brick etc) rather than timber fencing
- 6.49 The parish council, ward councillor and third parties also raise objections to

the proposal. The full contents of these representations have been made available to Members. In summary, the objections appear to centre on: increase in numbers and overdevelopment of site; detrimental impact on the character of the village; and increase in the number of dwellings within the village.

- 6.50 When assessing the character of this part of Moorhouse, it is evident that there is no particular vernacular and that there are a variety of properties of differing ages and styles within the immediate vicinity. The Burgh-By-Sands Parish Design Statement reiterating this assessment by stating: "*... the village as a whole lacks the visual cohesion of some of the other villages within the parish, largely on account of the presence of a busy public road, a good deal of modern infill development and the intermittent nature of the visual links provided by walls, hedgerows and associated tree groups*". As outlined above in paragraphs 6.46 and 6.47, the Design Statement seeking to ensure that new development respects and harmonises with its environs. Ensuring that new property boundaries are in keeping with the locality preferably using natural materials and incorporating existing hedgerows and trees wherever possible.
- 6.51 The application site is identified within the local plan as an allocated housing site and has an implemented permission for the erection of 9no. dwellings, therefore, are material planning considerations in respect of this application. Nevertheless, the application must be considered on its own merits. The proposal seeks full planning permission for the erection of 14no. dwellings which would result in a housing density of 17.50 houses per hectare. To put this into context, the properties opposite, numbers 1 to 6 Monkhill Road, have a density of 27.34 dwellings per hectare. Most of the dwellings would be of single storey construction with the exception of the semi-detached two storey dwellings located adjacent to the north eastern boundaries of the site. The design and materials of the single storey properties reflecting those of the approved single storey dwellings of the implemented permission. All of the proposed dwellings with the development site would also achieve adequate external space and parking provision to serve each of the dwellings. Native species hedgerows would delineate the plots with specimen trees of varying species and maturity planted throughout the development.
- 6.52 In overall terms, the housing density of the scheme would be lower than that of other developments within this part of Moorhouse. The proposed scale, design, and palette of materials of the proposed dwellings would respect and reflect the existing properties within this part of Moorhouse. Furthermore, adequate external space and parking provision to serve each of the dwellings would be achieved. The Agent has advised that the proposed dwellings would be heated by air source heat pumps. No details have been provided; therefore, a condition is recommend requiring the location and size of the units. The single storey dwellings within the development together with the provision of 2no. on-site affordable housing units would also respond to housing needs in the Strategic Housing Market Assessment.
- 6.53 In overall terms, the proposal would respond to the local context and would not be disproportionate or obtrusive within the street scene. Accordingly, the

proposal accords with the objectives of the NPPF, local plan policies and SPDs.

4. Affordable Housing Provision

- 6.54 The application site is identified in the local plan as being within Affordable Housing Zone B. As such Policy HO4 of the local plan is relevant and require all sites of eleven units or over to provide 20% of the units as affordable housing. Policy HO4 of the local plan stipulates that the affordable housing provision should be 50% affordable/ social rent (usually through a Housing Association) and 50% intermediate housing (usually discounted sale at a 30% discount from market value through the Council's Low-Cost Housing Register).
- 6.55 The City Council's Housing Development Officer has been consulted and confirms that: "the applicant's Affordable Housing Statement offers to provide 2 no. 2-bed semi-detached houses for affordable housing (plots 6 and 7). This equates to the 20% affordable housing requirement in Affordable Housing Zone B (rounded down to the nearest whole unit). The council would usually look for 50% of the affordable units to be for social/ affordable rent, but that wouldn't be practical here, as the Housing Associations would not be interested in acquiring a single unit, so this would be considered acceptable. The affordable units have a gross internal area of 64.6 m², which more or less complies with the recommended affordable space standard for a 2-bed house of 65 m², included in the Council's Affordable and Specialist Housing Supplementary Planning Document. The applicant's affordable housing proposals are therefore considered acceptable and in accordance with local plan policy HO4 Affordable Housing".
- 6.56 The provision of on-site intermediate 2no. two-bedroom dwelling (Plots 6 and 7) for low cost homes ownership at 30% discounted rate of market value, should Members approve the application, would be secured by a Section 106 Agreement.

5. Education Provision

- 6.57 Policy CM2 of the local plan highlights that to assist in the delivery of additional school places, where required, to meet the needs of development, contributions will be sought. In terms of primary school provision, Cumbria County Council, as Education Authority, advises that the County Council's Planning Obligation Policy Document (POPD), sets out that contributions towards the provision of education capacity would only normally be sought from development that will result in a net increase of 15 or more dwellings in settlements like Moorhouse which are not a key service centre. As set out below, whilst there are some circumstances where we may see a capacity contribution for schemes that are below the threshold where there is a bespoke issue, this is not considered to be one of those cases.
- 6.58 Based on the dwelling-led pupil yield calculation set out in POPD, this development proposal is estimated to yield 3 school children (2no. primary age and 1no. secondary age). As previously set out, these numbers are

negligible. Furthermore, it is noted that most of the dwellings proposed are bungalows, therefore, likely to attract a smaller number of family forming households than your average housing development. As such, it is considered that there is sufficient flexibility within the admissions system for any children that may be yielded by this development to be accommodated within local schools.

6. Impact Of The Proposal On Archaeology

- 6.59 Cumbria County Council's Historic Environment Officer originally requested the imposition of a condition, should Members approve the application, requiring an archaeological investigation be undertaken prior to commencement of any development. This was because records indicated that the site lies in an area of some archaeological potential. The application site is located in the centre of Moorhouse which has medieval origins, with documentary records of it dating to the mid-15th century. Furthermore, several cropmark complexes indicative of Iron Age and Romano-British settlements and agricultural practices are located around the village, including in the field immediately north of the application site. As such, there was potential for the site to contain buried archaeological assets and that would be disturbed by the construction of the proposed development.
- 6.60 In respect of an earlier approval for the erection of 9no. dwellings within the application site, condition 5 attached to application reference 16/0387 required the applicant to secure the implementation of a programme of archaeological work in accordance with a written scheme of investigation. The aforementioned condition was broken down into 3 components with the first component submitted to and discharged by the local planning authority through the submission of a written scheme of investigation for an archaeological evaluation. The condition, however; could only be discharged in part as components ii) and iii) of the condition were instructive and required further on-site investigations to inform whether any further archaeological work would be required (application reference 21/0611). Further archaeological investigations have now subsequently been undertaken within the site to satisfy the remaining components of condition 5 attached to planning reference 16/0387. Cumbria County Council's Historic Environment Officer has been consulted on the additional information and has confirmed that: *"The results of the evaluation show that there is a low likelihood of significant archaeological assets being disturbed by the construction of the proposed development and so I do not request further archaeological work on the site"*.
- 6.61 In respect of the application before Members, the Historic Environment Officer has confirmed that there is now no requirement for the imposition of a condition requiring an archaeological investigation to be undertaken prior to commencement of any development, should Members approve the application.

7. Impact Of The Proposal On The Living Conditions Of The Occupiers Of Neighbouring Residents

- 6.62 Development should be 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. The living conditions of the occupiers of adjacent residential properties should not be adversely affected by proposed developments. This is echoed and reinforced in local plan policies and SPDs, which importantly requires that the suitability of any development proposal be assessed against the policy criteria.
- 6.63 The City Council's SPD 'Achieving Well Designed Housing' outlines where a development faces or backs onto existing development, in order to respect privacy within rooms a minimum distance of 21 metres should usually be allowed between primary facing windows (12 metres between any wall of a building and a primary window). The layout of the proposed development is such that the proposed dwellings have been so orientated to achieve the minimum distances outlined in the SPD.
- 6.64 Objections have been raised to the development citing loss of privacy, noise and disturbance during construction works and car headlights illuminating properties directly opposite the proposed development. The proposal satisfies the minimum distances as outlined in the council's SPD 'Achieving Well Designed Housing' in respect of loss of privacy. Given that there is an existing streetlight on Monkhill Road, the proposal should not exacerbate the current situation to warrant a refusal of the application on this basis.
- 6.65 In overall terms, given the location of the application site in relation to neighbouring residential properties, the proposal would not have a detrimental impact on the living conditions of the occupiers of those properties based on unacceptable loss of light, overlooking or over dominance. Furthermore, to mitigate for any unacceptable noise and disturbance during construction works a condition is suggested which would limit construction hours.

8. Impact Of The Proposal On Highway Safety

- 6.66 The application site would be served by a vehicular access taken from Monkhill Road. Cumbria County Council, as Highways Authority, has been consulted and raise no objections to the proposal as the layout and access into the development site has been previously agreed. Furthermore, refuse vehicles can enter and leave the site in a forward gear. This enables the refuse vehicles to be within 15 metres of all the dwellings which is acceptable to the Highways Authority. The Highway Authority recommends that the current application be subject to the imposition of a series of conditions in respect of: highway construction; visibility splays; provision of ramps; and the submission of a construction phase management plan. Third parties and the parish council have raised objections in respect of highway safety; however, in light of the comments received from the Highways Authority it would be difficult to substantiate a refusal of the application on highway safety grounds.

9. Proposed Methods For Foul And Surface Water Drainage

- 6.67 There is a clear policy requirement to provide adequate provision for foul and surface water facilities to ensure that sufficient capacity exists prior to commencement of any development. The submitted documents illustrating that foul drainage from the proposed dwelling would enter the mains sewer with surface water attenuated prior to entering a watercourse.
- 6.68 The parish council, ward councillor and third parties have raised objections in respect of the proposed methods for the disposal of foul and surface water. Both United Utilities (UU) and Cumbria County Council, as the Lead Flood Authority (LLFA), have been consulted as statutory drainage consultees. UU as statutory consultee for foul drainage raise no objections to the proposed method for the disposal of foul drainage from the development site subject to the imposition of a condition ensuring that foul and surface water are drained on separate systems.
- 6.69 In respect of surface water drainage, both UU and the LLFA required the submission of further details in order to ascertain that the development could be adequately served by an appropriate surface water drainage scheme and that there would be no adverse impacts from the development out with the application site. It should also be noted that with regards to third party objections the need for a surface water drainage scheme is also necessary to avoid impacts on neighbouring properties.
- 6.70 The proposed methods for the disposal of surface water from the application site has been the subject of protracted discussions and the receipt of revised/additional information since its receipt in 2019. In summary and by way of background, in October 2021, the LLFA acknowledged that the proposed method for surface water drainage together with the maximum discharge rate for this current application remained unchanged from that previously agreed and discharged for an earlier approval on the site for the erection of 9 dwellings (application reference 20/0135). Subsequently; however, a number of flooding events had been noted downstream of application site together within the highway at the location of the new access which resulted in the LLFA reviewing the previously agreed design and assumptions. Accordingly, the LLFA concluded that insufficient information has been submitted to the local planning authority to be able to recommend the application for approval. The LLFA requested further information be provided in respect of: camera survey extending into the site; treatment of surface water for internal roads; contributing areas plan; maximum discharge rate into the culverted ordinary watercourse; update to drainage calculations; attenuation provided on site; and details of exceedance routes with levels.
- 6.71 In January of this year, a further consultation response was received from the LLFA which highlighted that despite no further surface water drainage details being submitted to address its October response, the LLFA had undertaken further investigations. These investigations centred on the highway system and pipework which conveys the water from the highway system within Monkhill Road. The LLFA found 2no. locations where the watercourse was compromised which would contribute to the flooding in the area. It went on to explain that whilst the LLFA would deal with the obstructions, which are the

responsibility of riparian land owners, it would not be acceptable for any further discharges from the current development or previously approved planning permission to enter the highways system as it would increase flood risk in the area contrary to the objectives of the NPPF.

- 6.72 Accordingly, in respect of the application currently before Members the LLFA recommended refusal of the application; however, the LLFA were willing to reconsider surface water drainage discharge proposals which clearly illustrate that it would not lead to flood risk elsewhere. As highlighted earlier in the report, the proposed surface water drainage scheme for 9no dwellings, previously approved within the application site, had been accepted by the LLFA and discharged under planning reference 20/0135. The proposed method for the surface water drainage scheme has been approved under planning legislation; however, it would also require Ordinary Watercourse Consent which is out with the planning process. The LLFA advised that Ordinary Watercourse Consent would not be issued for the consented 9no. dwellings without first satisfying the LLFA that the development would not have a detrimental impact on surface water flooding downstream.
- 6.73 In March, a revised Drainage Strategy was submitted and upon which the LLFA has been consulted. The Drainage Strategy outlines that the disposal of surface water from the proposed development has been assessed in line with the hierarchy of drainage options which aims to discharge surface water run off as high up the hierarchy of drainage options as reasonably practicable (paragraph 080 Reference ID: 7-080-20150323 of PPG). These being:
- into the ground (infiltration)
 - to a surface water body
 - to a surface water sewer, highway drain, or other drainage system
 - to a combined sewer
- 6.74 The report details that infiltration testing of the site confirmed that soakaways are not a viable option due to ground conditions within the application site. The Drainage Strategy goes on to outline that land drainage from the site currently connects directly to the culverted watercourse located under Monkhill Road which ultimately discharges to an open channel located to the west of the village. The revised surface water drainage strategy for the development includes a combination of differing SuDS components to ensure that off-site discharge is significantly reduced and treated compared to the existing greenfield conditions. These include 3no. geocellular storage tanks located within the application site together with the use of permeable block paving for all roads and driveways throughout the proposed development. An existing stone culvert under Monkhill Road is also to be replaced with an upgraded pipe.
- 6.75 The consultation response from Cumbria County Council, as Lead Local Flood Authority, in respect of the revised Drainage Strategy outlines that the revised drainage scheme seeks to discharge to the connected ordinary watercourse in Monkhill Road. The planned discharge rate of 2.5l/s is less than the greenfield runoff rate (QBar) for the development site of 4.5l/s. The lessening of discharge is welcomed and is seen as a betterment to the

current discharge already flowing from the development site. Within the new drainage details there is also now treatment of the surface water before discharge to the adjacent watercourse providing a two-stage treatment of the water before entry to the watercourse. The applicant is also utilising permeable paving for the storage of surface water which provides adequate treatment of surface water from residential properties and roads.

- 6.76 The parish council and third parties have questioned if the application site is connected to the culvert across Monkhill Road. The LLFA has examined details provided by the developer and has also undertaken further inspections of the culverted watercourse. The LLFA concludes that the site does have direct drainage connections feeding the culvert below Monkhill Road. The LLFA also finds that as a result of the development the existing system below Monkhill Road is to be upgraded to a 225mm diameter pipe which will remove the further restrictions found within the existing stone culvert not previously known. The renewal of the culvert will also help to reduce the risk of flooding to the Monkhill Road area. The revised drainage now includes exceedance routes. The LLFA have scrutinised the exceedance routes and are content that the flow routes will not result in flooding to properties and that any exceedance is contained within channels towards the existing drainage infrastructure on Monkhill Road. The LLFA can confirm that the LLFA has no objections with regards to the approval of planning permission.
- 6.77 The concerns of the parish council and third parties are respected; however, in light of the views of the statutory consultees it would be difficult to substantiate a refusal of the application on foul or surface water drainage grounds.

10. Impact Of The Proposal On Trees And Hedgerows

- 6.78 Policy GI6 of the local plan seek to ensure that proposals for new development should provide for the protection and integration of existing trees and hedges. In respect of new development, the City Council will resist proposals which cause unacceptable tree loss, and which do not allow for the successful integration of existing trees and hedges. This aim is further reiterated in Policy SP6 of the local plan which requires all developments to take into account important landscape features and ensure the enhancement and retention of existing landscaping.
- 6.79 The City Council's SPD 'Trees and Development' outlines that native large growing species are intrinsic elements in the landscape character of both rural and urban areas alike and acquire increasing environmental value as they mature. Large trees need space in which to grow to maturity without the need for repeated human intervention. Not only should the design of the development seek to retain existing tree and hedgerow features, but sufficient space should be allocated within the schemes to ensure integration of existing features and space for new planting it is important that these issues are considered at the very start of the planning process.
- 6.80 The proposed site plan illustrates the retention of most of the existing hedgerows around the application site with the exception of the widened

access/exist point. Further landscaping would also be undertaken within the development site. To protect existing hedgerows during construction works a condition is recommended which would ensure that tree and hedge protection barriers are erected prior to the commencement of any works and remain in situ during construction works. A further condition is also recommended which would require the existing hedgerow to be maintained at a height of no less than 1.6 metres when measured from the existing ground level and that any existing gaps within the hedgerow are reinforced by a double row of new native hedgerow plants. In overall terms, existing and proposed landscaping would help to soften and blend the development into the landscape.

11. Impact Of The Proposal On Biodiversity

- 6.81 The Councils GIS Layer has identified that there is the potential for several key species to be present within the vicinity. Using the guidance issued by Natural England it is unlikely that the proposed development would harm protected species or their habitat. A desk study was included within the scope of a Hedgerow Ecological Assessment Report (HEA) undertaken in respect of a previous revision to the development. The HEA assessed the habitats in the locality and the presence of protected species/species of conservation note from within a 1 kilometre radius of the site. No protected or notable species were observed on site, although detailed survey work for protected/notable species was not undertaken. A depression in the ground, which could possibly be a (blocked) historic badger hole, was found near the eastern hedgerow, and birds nests were observed in the hedgerows.
- 6.82 In respect of the application before Members, the proposed site plan illustrates the retention of most of the existing hedgerows around the application site with the exception of the widened access/exist point. Further landscaping would also be undertaken within the development site. To protect existing hedgerows during construction works a condition is recommended which would ensure that tree and hedge protection barriers are erected prior to the commencement of any works and remain in situ during construction works. A further condition is also recommended which would required the existing hedgerow to be maintained at a height of no less than 1.6 metres when measured from the existing ground level and that any existing gaps within the existing hedgerow are reinforced by double rows of native hedgerow plants. In overall terms, existing and proposed landscaping would help to soften and blend the development into the landscape. To further protect biodiversity and breeding birds, informatives are recommended within the decision notice drawing the applicant's attention to the requirement under conservation legislation such as the Wildlife and Countryside Act 1981, The Conservation of Habitats and Species Regulations 2010 etc.

12. Other Matters

- 6.83 Reference has been made to a previous refusal on the site (application reference 02/0691). As Members are aware, planning policy is not static and that things change both at a local and a national level. The 2002 application was assessed under the policy of the time and was not considered to be acceptable. This was, however; almost 20 years ago.

- 6.84 The parish council in its early observations outlined that the development would overlook an existing children's play park. There are existing properties and a public telephone box that have views of the play park. In respect of the development site, views of the park would be partially obscured due to the existing hedgerow which is to be retained and the orientation of the proposed dwellings.
- 6.85 A further issue raised is the potential loss of view resulting from the development of the application site. As Members are aware, the loss of a view is not a material planning consideration.
- 6.86 Structural damage to existing properties from surface water run-off from the application site is another issue raised. The LLFA has following the receipt of a revised Drainage Strategy subsequently confirmed the planned discharge rate from the proposed development site would result in a betterment to the current discharge already flowing from the development site and are content that the development will not result in flooding to properties.
- 6.87 Third parties have also raised concerns about the number of revisions to the proposed scheme. The concerns of third parties are noted; however, each application must be determined on its own merits against the most recently submitted details.
- 6.88 The requirement to provide electric car charging points to the proposed dwellings, where possible, has been included by way of a condition.
- 6.89 Third parties have also refused access onto third party land in order to undertake repairs to the culverted watercourse. This issue falls out with planning legislation and is subject to Ordinary Watercourse Consent administered by the LLFA.

Conclusion

- 6.90 The application site is an allocated site identified under Policy HO1 of the local plan and has the benefit of an implemented planning permission for the erection of 9no. dwellings. The proposed application site is located within an area of Moorhouse which has no particular vernacular with a mix of single and two storey dwellings many of which are of relatively modern appearance. The housing density of the scheme would be lower than that of other developments within this part of Moorhouse. The proposed development would provide 12no. bungalows together with 2no. two storey semi-detached dwellings which respond to the scale and form of existing properties within Moorhouse. The single storey dwellings within the development together with the provision of 2no. on-site affordable housing units would also respond to housing needs in the Strategic Housing Market Assessment. The proposed palette of materials would also respect and reflect those of the existing properties within Moorhouse together with those approved under the implemented application. The retention and reinforcement of most of the existing hedgerows surrounding the application site together with proposed hard and soft landscaping within the site would also help to soften and blend

the proposed dwellings into the street scene. Furthermore, the proposed development would also achieve adequate external space and parking provision to serve each of the proposed dwellings. As such the proposal would respond to the local context and would not be disproportionate or obtrusive within the street scene.

- 6.91 The application would have a less than substantial harm to the significance of the heritage assets and their settings. In line with the objectives of NPPF, PPG, Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 and relevant local planning policies, this less than substantial harm should be weighed against the public benefits of the proposal including where appropriate, securing its optimum viable use. In such a context, the benefits of the proposal would: a) contribute to achieving the council's housing targets through the development of an allocated housing site; b) provide 2no. on-site affordable units where none exist currently; c) provide 12no. bungalows providing an opportunity to provide accommodation for those people looking to 'down size' while freeing up family accommodation for younger households; and d) provide an opportunity for Moorhouse and the surrounding villages which have more service provision the opportunity to grow and thrive.
- 6.92 Given the location of the application site in relation to neighbouring residential properties, the proposal would not have a detrimental impact on the living conditions of the occupiers of those properties on the basis of loss of light, overlooking or over dominance. Furthermore, to mitigate for any unacceptable noise and disturbance during construction works a condition imposed within the outline approval restricts construction hours.
- 6.93 The proposed development would not have a detrimental impact on archaeology. Subject to satisfying pre-commencement conditions, the proposal will not have a detrimental impact on highway safety. The proposed development would also be served by adequate foul and surface water drainage systems.
- 6.94 In overall terms, the proposal is considered to be compliant under the provisions of the National Planning Policy Framework, the Planning Practice Guidance, Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 and relevant policies of the Carlisle District Local Plan 2015-2030 and relevant Supplementary Planning Documents.
- 6.95 The application is therefore recommended for approval subject to the completion of a legal agreement. If the legal agreement is not completed within a reasonable time, then Authority to Issue is requested to Corporate Director of Economic Development to refuse the application. The Section 106 Agreement to consist of the following obligation:
- a) the provision of on-site intermediate 2no. 2 bedroom dwellings (Plots 6 and 7) for low cost homes ownership at 30% discounted rate of market value.

7. Planning History

- 7.1 In 1965, planning permission was refused for erection of dwellinghouses (BA4199).
- 7.2 In 1973, planning permission was refused for residential development (BA7805).
- 7.3 In 2003, full planning permission was granted for erection of 8no. detached dwellings and provision of open space (application reference 02/0691).
- 7.4 In 2016, outline planning permission was granted for erection of 9no. dwellings (application reference 16/0387).
- 7.5 In 2019, planning permission was granted for erection of 9no. dwellings (reserved matters pursuant to outline application 16/0387) (application reference 19/0535).
- 7.6 In 2020, an application to discharge conditions 6 (foul & surface water); 7 (surface drainage scheme); 8 (surface water drainage system); 9 (surface water management plan); 10 (groundwater levels investigation report) and 11 (infiltration tests) of previously approved application 16/0387 was approved (application 20/0135).
- 7.7 In 2021, an application for the removal of hedgerows to facilitate the future development of the residential allocation was refused (application reference 21/0001/HDG).
- 7.8 Also in 2021, an application to discharge of conditions 5 (archaeological work); 13 (highway details); 14 (ramp details); 18 (access during construction); 20 (tree & hedgerow protection); 21 (method statement for root protection areas) & 27 (boundary treatments) of previously approved application 16/0387 was approved (application reference 21/0611).

8. Recommendation: Grant Permission

- 1. The development shall be begun not later than the expiration of 3 years beginning with the date of the grant of this permission.

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
- 2. The development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:
 - 1. the submitted planning application form received 5th May 2021;
 - 2. the Heritage Impact Assessment (Report 283 (Revised) Updated 4th May 2021) received 5th May 2021;
 - 3. the Contaminated Land Statement received 21st March 2019;

4. the Affordable Housing Statement received 9th October 2021;
5. the Drainage Strategy received 11th March 2022 (Ref: K39163.DS/001);
6. the External Materials Schedule received 5th May 2021 (Ref: 18/07/937 - EMS/3);
7. the Dwelling Type Schedule received 5th May 2021 (Ref: 18/07/937 - DS);
8. Landscaping Schedule received 5th May 2021;
9. the location plan received 21st March 2019 (Drawing No. 18/07/937 - 01);
10. the proposed site plan received 5th May 2021 (Drawing No. 18/07/937 - 08f);
11. the Grisdale Elevations (Brick) received 5th May 2021 (Drawing No. 18/06/931 - Grisdale);
12. the Grisdale Floor Plans received 5th May 2021 (Drawing No. 18/06/931 - Grisdale);
13. the Grasmoor (2) Elevations (Brick) (LH Garage) received 5th May 2021 (Drawing No. 18/06/931 - Grasmoor (2) (LH Garage) Rev A);
14. the Grasmoor (2) Floor Plan (LH Garage) received 5th May 2021 (Drawing No. 18/06/931 - Grasmoor (2) (LH Garage) Rev D);
15. the Grasmoor (2) Elevations (Brick) (RH Garage) received 5th May 2021 (Drawing No. 18/06/931 - Grasmoor (2) (RH Garage));
16. the Grasmoor (2) Elevations (Render) (RH Garage) received 5th May 2021 (Drawing No. 18/06/931 - Grasmoor (2) (RH Garage));
17. the Grasmoor (2) Floor Plan (RH Garage) received 5th May 2021 (Drawing No. 18/06/931 - Grasmoor (2) (RH Garage));
18. the Pillar (2) Elevations (Brick) (LH Garage) received 5th May 2021 (Drawing No. 18/06/931 - Pillar (2) (LH Garage) Rev A);
19. the Pillar (2) Floor Plan (LH Garage) received 5th May 2021 (Drawing No. 18/06/931 - Pillar (2) Rev D);
20. the Pillar (2) Elevations (Brick) (RH Garage) received 5th May 2021 (Drawing No. 18/06/931 - Pillar (2) (RH Garage));
21. the Pillar (2) Elevations (Render) (RH Garage) received 5th May 2021 (Drawing No. 18/06/931 - Pillar (2) (RH Garage));
22. the Pillar (2) Floor Plan (RH Garage) received 5th May 2021 (Drawing No. 18/06/931 - Pillar (2) (RH Garage));
23. the Pillar (4) Elevation (Brick) (RH Garage) received 5th May 2021 (Drawing No. 18/06/931 - Pillar (4) (RH Garage));
24. the Pillar (4) Floor Plan (RH Garage) received 5th May 2021 (Drawing No. 18/06/931 - Pillar (4) (RH Garage));
25. the Notice of Decision; and
26. any such variation as may subsequently be approved in writing by the local planning authority.

Reason: To define the permission.

3. The carriageway, footways, footpaths etc shall be designed, constructed, drained and lit to a standard suitable for adoption and in this respect further details, including longitudinal/cross sections, shall be submitted to the local planning authority for approval before work commences on site. No work shall be commenced until a full specification has been approved. These

details shall be in accordance with the standards laid down in the current Cumbria Design Guide. Any works so approved shall be constructed before the development is complete.

Reason: To ensure a minimum standard of construction in the interests of highway safety in accordance with Policy IP2 of the Carlisle District Local Plan 2015-2030.

4. Development shall not be begun until a Construction Phase Traffic Management Plan (CPTMP) has been submitted to and approved in writing by the local planning authority. The CPTMP shall include details of:

1. details of proposed crossings of the highway verge
2. retained areas for vehicle parking, manoeuvring, loading and unloading for their specific purpose during the development
3. retained areas for the storage of materials
4. cleaning of site entrances and adjacent public highway
5. details of proposed wheel washing facilities for vehicles leaving the site
6. the sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials on the highway
7. construction vehicle routing
8. construction hours
9. implementation of noise mitigation measures i.e. use of noise attenuation barriers, storage/unloading of aggregates away from sensitive receptors, use of white noise reversing alarms where possible
10. provision and use of water suppression equipment
11. covering of 'dusty' materials

Reason: To protect the living conditions of the occupiers of the adjacent residential properties in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

5. Ramps shall be provided on each side of every junction to enable wheelchairs, pushchairs etc. to be safely manoeuvred at kerb lines. Details of all such ramps shall be submitted to and approved in writing by the local planning authority for approval before development commences. Any details so approved shall be constructed as part of the development.

Reason: To ensure that pedestrians and people with impaired mobility can negotiate road junctions in relative safety in accordance with Policy IP2 of the Carlisle District Local Plan 2015-2030.

6. Foul and surface water shall be drained on separate systems.

Reason: To ensure a satisfactory means of foul and surface water disposal and in accordance with Policies IP6 and CC5 of the Carlisle Local Plan 2015-2030.

7. The development shall not commence until visibility splays as illustrated on drawing no. 18/07/937 - 08f) have been provided at the junction of the access roads with the county highway. Notwithstanding the provisions of the

Town and Country Planning (General Permitted Development) Order 1995 (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 in accordance with Policy IP2 of the Carlisle District Local Plan 2015-2030.

8. Before development commences a scheme of tree and hedge protection of those trees and hedges to be retained shall be submitted to and approved in writing by the local planning authority. The scheme shall show the position and type of barriers to be installed. The barriers shall be erected before development commences and retained for the duration of the development.

Reason: To protect trees and hedges during development works in accordance with Policy GI6 of the Carlisle District Local Plan 2015-2030.

9. Within the tree protection fencing approved by Condition 8:
 1. No equipment, machinery or structure shall be attached to or supported by a retained tree or by the tree protection barrier.
 2. No mixing of cement or use of other contaminating materials or substances shall take place within, or close enough to, a root protection area that seepage or displacement could cause them to enter a root protection area.
 3. No alterations or variations to the approved tree and hedge protection schemes shall be made without prior written consent of the local planning authority.
 4. No materials or vehicles shall be stored or parked within the fenced off area.
 5. No alterations to the natural/existing ground level shall occur.
 6. No excavations will be carried out within the fenced off area.
 7. The tree and hedge protection fencing must be maintained to the satisfaction of the Local Planning Authority at all times until completion of the development.

Reason: To protect trees and hedges during development works in accordance with Policy GI6 of the Carlisle District Local Plan 2015-2030.

10. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out within a timeframe that has first been submitted to and approved in writing by the local planning authority and maintained thereafter in accordance with maintenance measures identified in the approved landscaping scheme. Any trees or plants which within a period of 5 years from the completion of the development die, are removed

or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

Reason: To ensure that a satisfactory landscaping scheme is implemented and maintained, in the interests of public and environmental amenity, in accordance with Policies SP6 and GI 6 of the Carlisle District Local Plan 2015-2030.

11. The existing hedgerows to be retained to the northern and eastern boundaries of the site as indicated on Drawing Number 18/07/937 - 08f) shall be retained at a height of not less than 1.6 metres as measured from the existing ground level. The existing hedgerows shall be enriched through the planting of a double row of staggered hawthorn plants in gaps exceeding 250mm. All planting shall be carried out in the first planting season following the occupation of the ninth dwelling and maintained thereafter to the satisfaction of the council. Any plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of privacy and amenity in accordance with Policies SP6 and GI6 of the Carlisle District Local Plan 2015-2030.

12. No work associated with the construction of the residential units hereby approved shall be carried out before 0730 hours on weekdays and Saturdays nor after 1800 hours on weekdays and 1300 hours on Saturdays (nor at any times on Sundays or statutory holidays).

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

13. Notwithstanding any description of the boiler details on the submitted drawings, details and location of the air source heat pumps prior to their use as part of the development hereby approved 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.

Reason: Satisfactory details of the air source heat pumps have not yet been provided, therefore further information is necessary to ensure that air source heat pumps to be used are acceptable visually in accordance with Policies SP6 of the Carlisle District Local Plan 2015-2030.

14. No dwellings or buildings or structures shall be commenced until the access roads, as approved, are defined by kerbs and sub base construction.

Reason: To ensure that the access roads are defined and laid out at an early stage in accordance with Policy IP2 of the Carlisle District Local Plan 2015-2030.

15. No dwelling shall not be occupied until the vehicular access and turning requirements have been constructed in accordance with the approved plan and has been brought into use. The vehicular access turning provisions shall be retained and capable of use at all times thereafter and shall not be removed or altered without the prior consent of the local planning authority.

Reason: To ensure a minimum standard of access provision when the development is brought into use in accordance with Policies IP2 and IP3 of the Carlisle District Local Plan 2015-2030.

16. As part of the development hereby approved, adequate infrastructure shall be installed to enable telephone services, broadband, electricity services and television services to be connected to the premises within the application site and shall be completed prior to the occupation of the dwelling.

Reason: To maintain the visual character of the locality in accord with Policy IP4 of the Carlisle District Local Plan 2015-2030.

17. Prior to the occupation of the dwelling, a 32Amp single phase electrical supply shall be installed to allow future occupiers to incorporate an individual electric car charging point for the property. The approved works for any dwelling shall be implemented on site before that unit is first brought into use and retained thereafter for the lifetime of the development.

Reason: To ensure the provision of electric vehicle charging points for each dwelling in accordance with Policy IP2 of the Carlisle District Local Plan 2015-2030.

18. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the local planning authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of 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.

No.	Date	Revision	Initial

ALPHA DESIGN

Architectural Services
Member of the Chartered Institute of
Architectural Technologists

Tel: 01900 829199 email: info@alpha-design.co.uk

Project

**FIELD 3486,
MONKHILL ROAD,
MOORHOUSE,
CARLISLE**

Client

CITADEL HOMES (CUMBRIA) LTD.

Drawing

LOCATION PLAN

Scale 1:2500 @ A3 Drawn GS

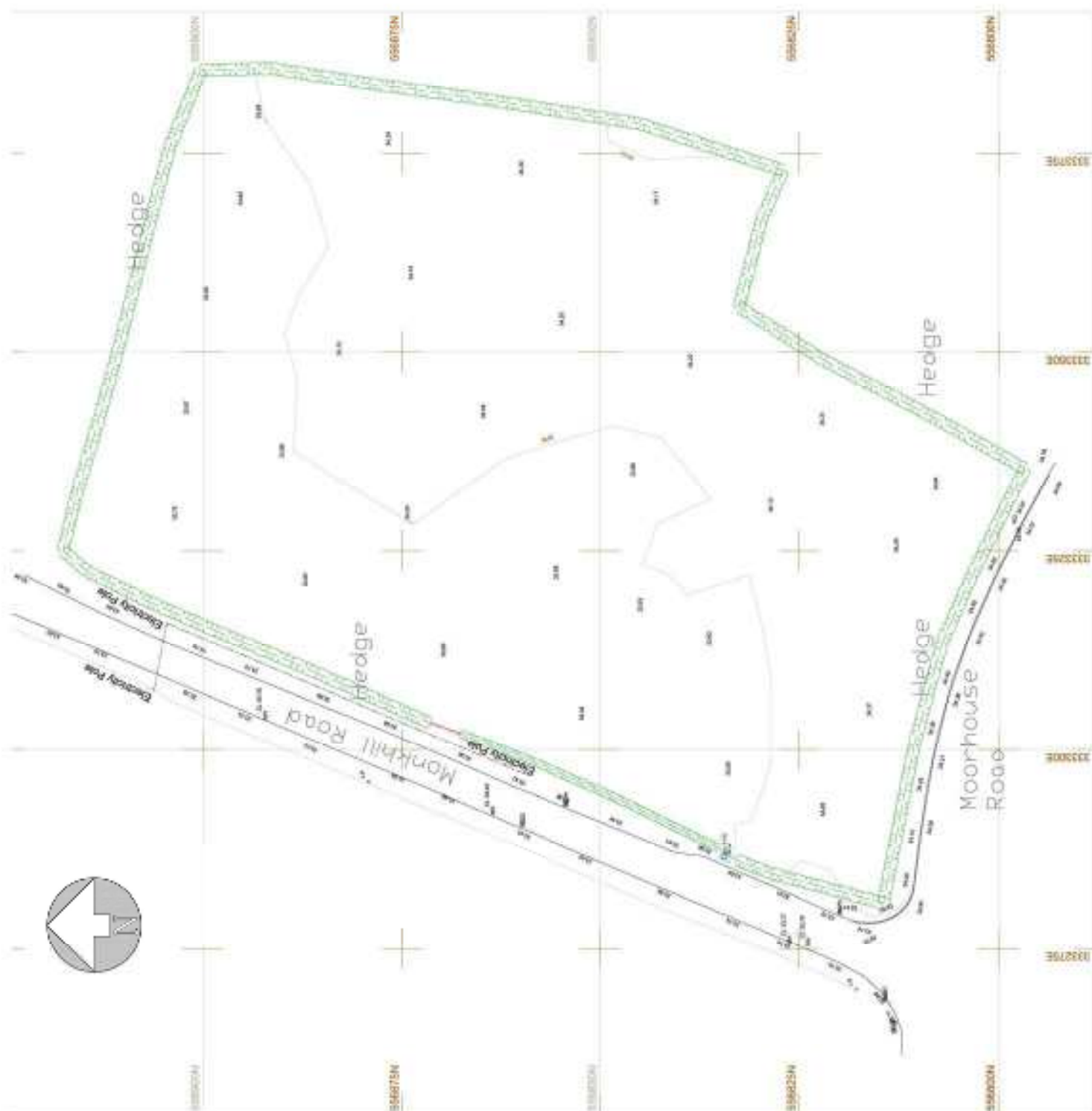
Checked Date DEC. 2018

Drawing No.

18/07/937 - 01

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[illegible]



1	30/01/20	Site layout amended to comply with the 1:200 scale of the proposed development.	20
2	30/01/20	Final layout plan submitted to the Local Planning Authority for approval.	20
3	30/01/20	Final layout plan submitted to the Local Planning Authority for approval.	20
4	30/01/20	Final layout plan submitted to the Local Planning Authority for approval.	20
5	30/01/20	Final layout plan submitted to the Local Planning Authority for approval.	20
6	30/01/20	Final layout plan submitted to the Local Planning Authority for approval.	20
7	30/01/20	Final layout plan submitted to the Local Planning Authority for approval.	20
8	30/01/20	Final layout plan submitted to the Local Planning Authority for approval.	20
9	30/01/20	Final layout plan submitted to the Local Planning Authority for approval.	20
10	30/01/20	Final layout plan submitted to the Local Planning Authority for approval.	20
11	30/01/20	Final layout plan submitted to the Local Planning Authority for approval.	20
12	30/01/20	Final layout plan submitted to the Local Planning Authority for approval.	20
13	30/01/20	Final layout plan submitted to the Local Planning Authority for approval.	20
14	30/01/20	Final layout plan submitted to the Local Planning Authority for approval.	20
15	30/01/20	Final layout plan submitted to the Local Planning Authority for approval.	20
16	30/01/20	Final layout plan submitted to the Local Planning Authority for approval.	20
17	30/01/20	Final layout plan submitted to the Local Planning Authority for approval.	20
18	30/01/20	Final layout plan submitted to the Local Planning Authority for approval.	20
19	30/01/20	Final layout plan submitted to the Local Planning Authority for approval.	20
20	30/01/20	Final layout plan submitted to the Local Planning Authority for approval.	20

ALPHA DESIGN

Architectural Services
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Architects of Technology

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PROJECT

FIELD 3486,
MONKHILL ROAD,
MOORHOUSE,
CARLISLE

Client

CITADEL HOMES (CUMBRIA) LTD.

Drawing

PROPOSED SITE PLAN -
14 DWELLINGS

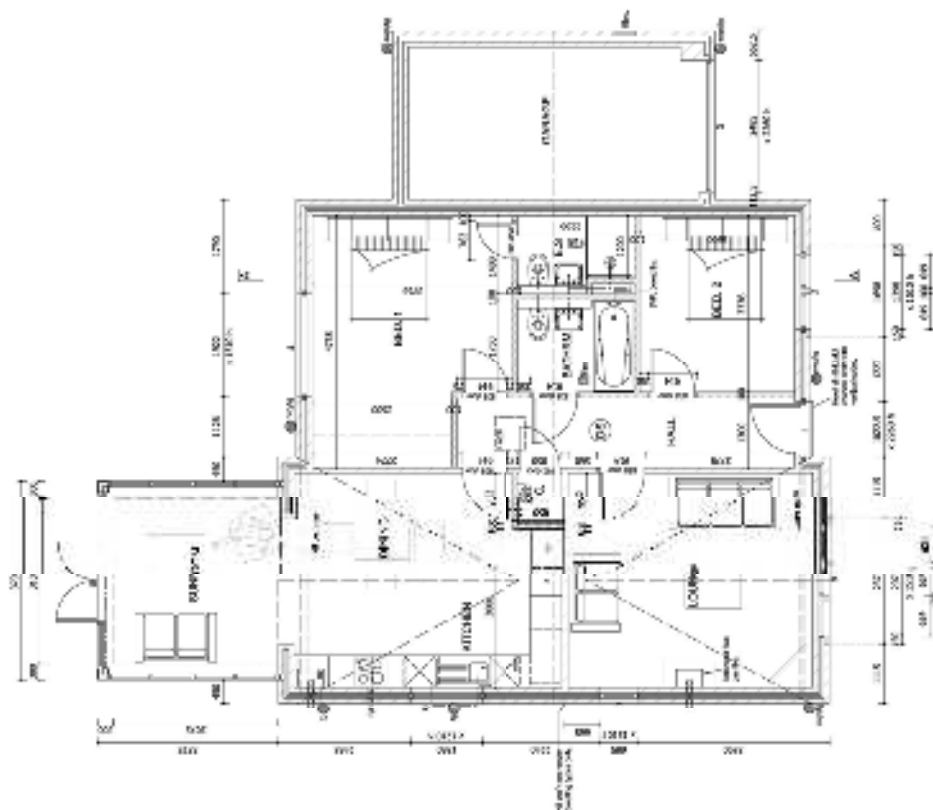
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Created: 01/01/2020 Date: 01/01/2020

Drawing No.

18/07/2017 - 08 F

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GRASMOOR (2) 2-BED FLOOR PLAN (RH GARAGE)

TOTAL G.L.A. - 91.5sqm
1122 sqft.
plus garage @ 15.0 sqm
107 sqm

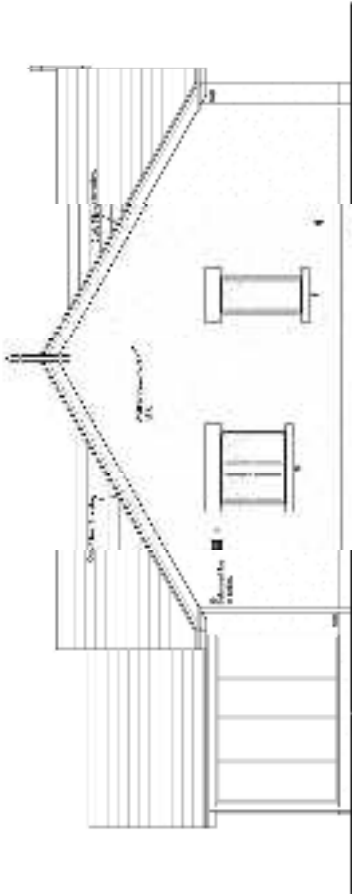
Rev.	Date	Revisions	Notes

ALPHA DESIGN

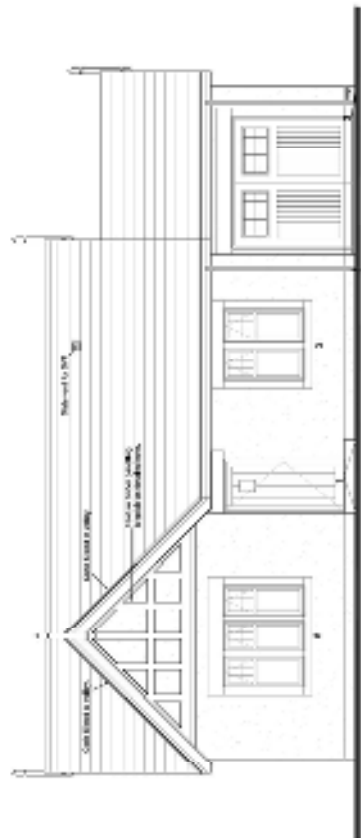
A & B Ltd
100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 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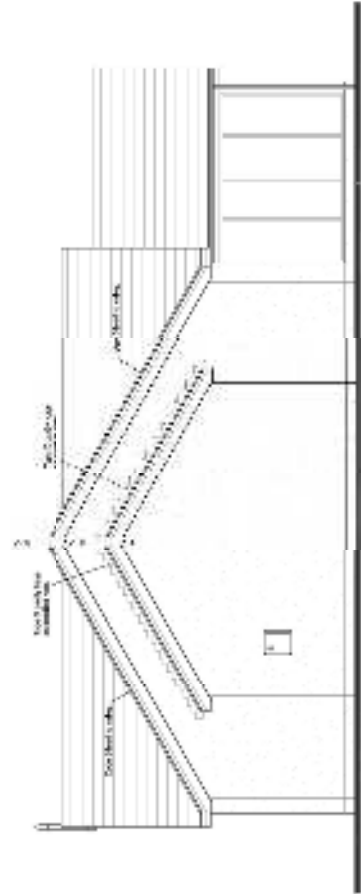
REAR ELEVATION



SIDE ELEVATION

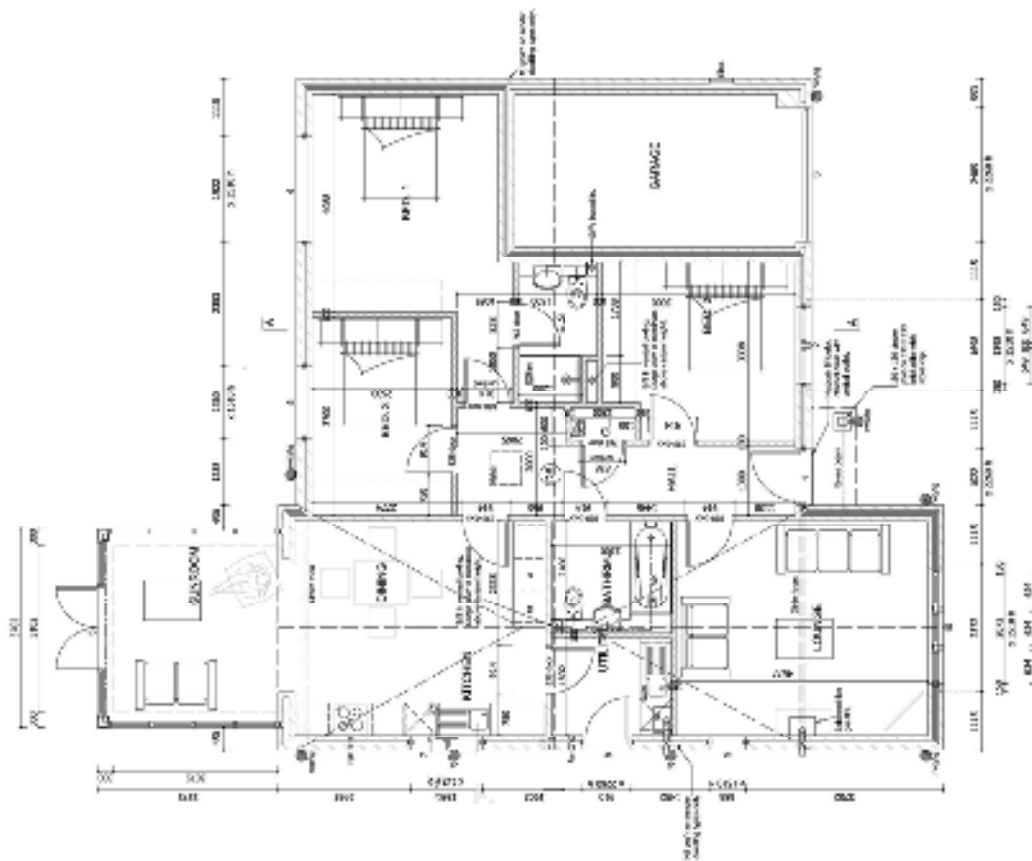


FRONT ELEVATION



SIDE ELEVATION

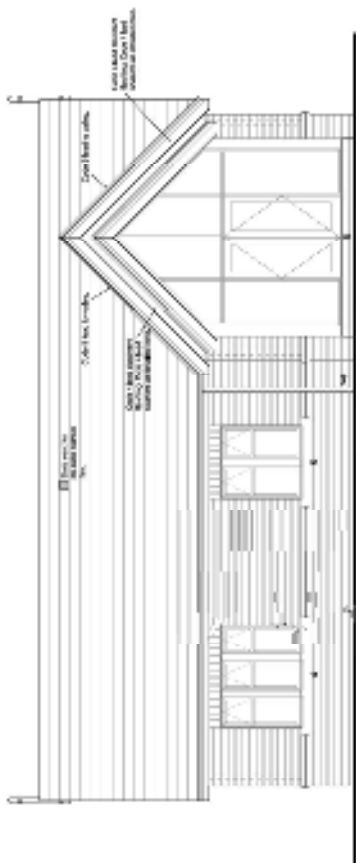
Project Information	
Project Name	THE GLASHOOS (2) - ELEVATIONS
Client	CITADEL HOMES (QUEBEC) LTD.
Architect	STANBROOK ENGINEERING
Scale	1/8" = 1'-0"
Sheet	1 of 1
Notes	
1. All dimensions are given in feet and inches and shall be rounded up to the next whole number.	
2. All elevations are shown in elevation and shall be rounded up to the next whole number.	
3. All elevations are shown in elevation and shall be rounded up to the next whole number.	



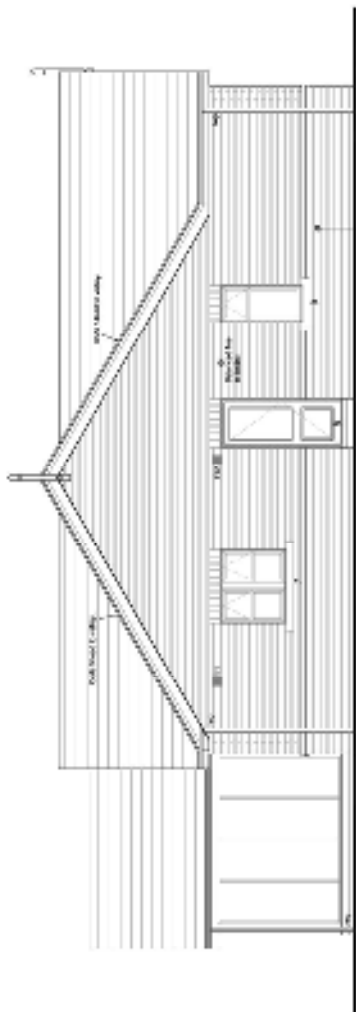
PILLAR (2) 3-BED FLOOR PLAN (RH GARAGE)

TOTAL G.L.A. - 1,114.48sq ft
1,232 sq ft.
plus garage @ 15.08sq ft.
162 sq ft.

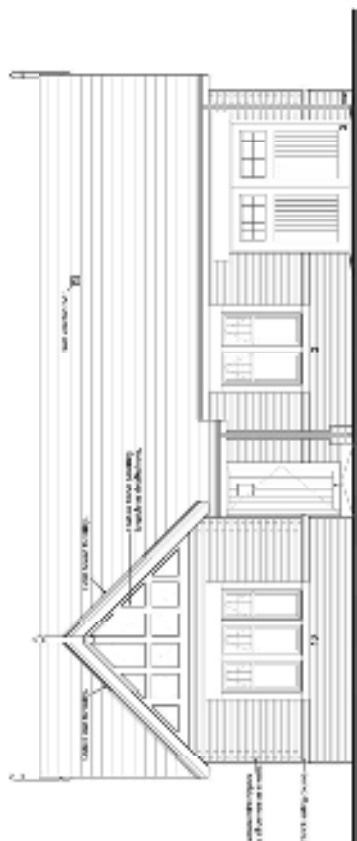
Proj. Name	Section	Sheet
ALPHA DESIGN A & B, Inc. of the state of California, a limited liability company, with its principal office at 10000 1st Street, Suite 100, San Diego, CA 92123.		
THE PILLAR (2) - FLOOR PLAN (RH GARAGE)		
Project	Standard Dwellings Types	
Client	CITADEL HOMES (CUMBRIA) LTD.	
Drawn by	THE PILLAR (2) - FLOOR PLAN (RH GARAGE)	
Checked by	DATE: 07/20/2022	
Drawn by	DATE: 07/20/2022	
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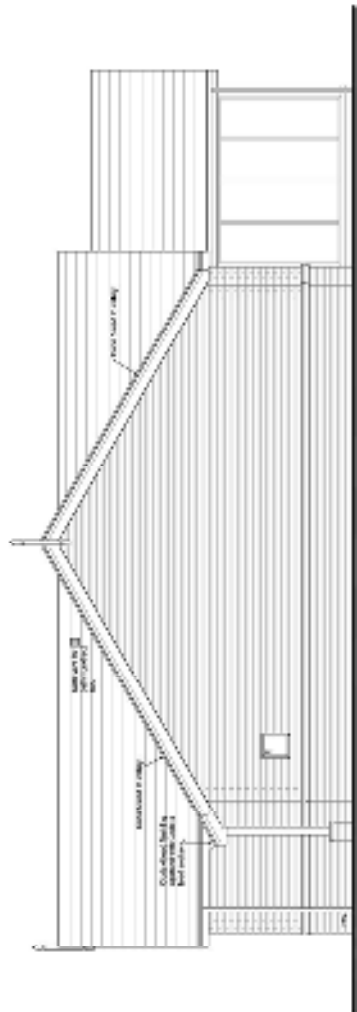
REAR ELEVATION



SIDE ELEVATION

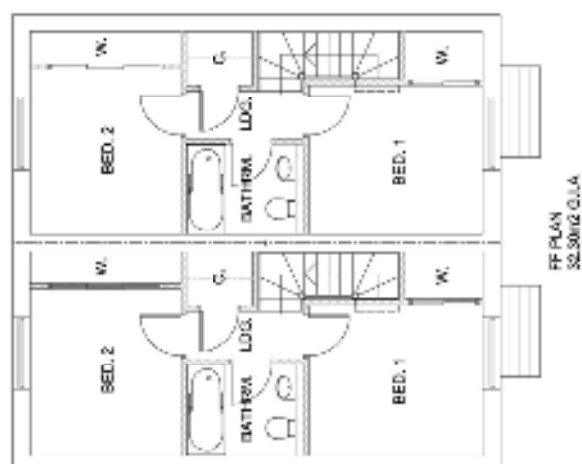


FRONT ELEVATION



SIDE ELEVATION

Project Information	
Project Name	STANDARD DWELLING TYPES
Client	CITADEL HOMES (COLUMBIA) LTD.
Architect	ALPHA DESIGN
Address	10000 100th Ave. S.W. Unit 10000
City	Edmonton, Alberta
Country	Canada
Scale	1/8" = 1'-0"
Drawn By	ALPHA DESIGN
Checked By	ALPHA DESIGN
Approved By	ALPHA DESIGN
This drawing is a preliminary drawing and is not to be used for construction purposes without the written consent of Alpha Design.	



Rev.	Date	Revisions	Notes
ALPHA DESIGN Architects & Planners 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000			
STANDARD DWELLING TYPES			
Project:			
Client:			
CITADEL HOMES (JURBIA) LTD.			
Drawing:			
THE GREYHAT - FLOOR PLANS			
Scale: 1:200 (A1)			
Date: 01/01/2022			
Drawing No:			
2000/001 - 000/000			
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SCHEDULE A: Applications with Recommendation

21/1154

Item No: 02

Date of Committee:

Appn Ref No:
21/1154

Applicant:
Citadel Estates

Parish:
Carlisle

Agent:
Sam Greig Planning Ltd

Ward:
Denton Holme & Morton
South

Location: Former KSS Factory Site, Constable Street, Carlisle, CA2 6AQ

Proposal: Variation Of Condition 2 (Approved Documents) And Removal Of Condition 13 (Emergency Vehicle Access) Of Previously Approved Application 18/0125 (Erection Of 43no. Dwellings) To Amend The Site Layout To Allow Units 12-31 (Inclusive) To Use The Adopted Highway East Of The Site (Retrospective Application)

Date of Receipt:
17/12/2021

Statutory Expiry Date
17/02/2022

26 Week Determination

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 Highway Issues
- 2.3 Crime Prevention, Safety And The Fear Of Crime And Anti-Social Behaviour
- 2.4 Impact On The Amenity Of neighbouring Residents
- 2.5 Other Matters

3. Application Details

The Site

- 3.1 This application was deferred at the previous meeting of the Development Control Committee to allow Members to undertake a site visit.

- 3.2 This application relates to the former Key Safety Systems (car accessories) factory located at the eastern end of Constable Street within Denton Holme, Carlisle. The site measures approximately 0.59 hectares and is generally flat varying in level between 17.45 and 17.60m AOD. Vehicular access is from Constable Street with a crossing over the Little Caldew mill race. The western boundary of the application site follows the Little Caldew/ mill race (which flows south to north) with the River Caldew approximately 250m to the south and east. To the immediate south and east there is a playground and residential development in the form of Ashman Close, Shankly Road, and Blunt Street. To the immediate north there is Freer Court. The former Kangol Factory site, partly developed as student accommodation, lies to the north-west.
- 3.3 The majority of the site was previously occupied by a metal clad building with a circular tank on the western boundary. The remainder of the site was largely tarmac or gravel surfaced hardstanding. Information previously submitted states that the factory closed in September 2014 and the building has been demolished since the submission of the previous planning applications.
- 3.4 The site falls within Flood Zone 2 i.e. a medium probability of flooding. The River Caldew is part of the River Eden and Tributaries SSSI and SAC.

Background

- 3.5 Members will note the varied planning history relating to the site. Planning permission has previously been granted with a central access road through the site with the access taken from Constable Street. A second access was permitted onto Leicester Street, albeit for use by cyclists, pedestrians and in the event of an emergency only.
- 3.6 Additionally, a condition was imposed on the planning permissions which reads:
- “Prior to first occupation of any dwelling a suitable emergency access on to Leicester Street shall be designed and constructed to a suitable standard and in this respect further details shall be submitted to the local planning authority for written approval before work commences. No work shall be commenced until a full specification has been approved and the development shall be undertaken in accordance with the approved details. The approved works shall be complete prior to the occupation of the last dwelling.”*
- 3.7 In 2019 an application was submitted to vary the planning conditions to permit the retention of the bollards within the site, thus allowing half of the traffic from the development to exit onto Constable Street and the remainder to exit via Blunt Street. Following discussions and negotiations between Cumbria County Council as the Local Highways Authority and the applicant's highway consultant, a report was presented to the Development Control Committee with a recommendation for approval; however, following a debate by Members, the application was refused for the following reasons:

“Planning decisions should ensure that developments will function well and add to the overall quality of the area. The retention of the vehicular access onto Leicester Street results in increased vehicle movements from the development through the local highway network. The locality is characterised by terraced properties with narrow roads and on-street parking. The resulting increase in traffic has an adverse effect on the residential amenity of the existing areas. The proposal is therefore contrary to Paragraph 127 a) of the National Planning Policy Framework; and criterion 7 of Policy SP6 (Securing Good Design) of the Carlisle District Local Plan 2015-2030.

The proposal impacts on the wider local road network by increasing potential conflicts in relation to pupils attending Robert Ferguson Primary School and along Denton Street and given the narrow nature of local roads and junctions cause potential conflicts with larger vehicles e.g. delivery vehicles, conflicting with Policy IP2 (Transport and Development) of the Carlisle District Local Plan 2015-2030.”

The Proposal

- 3.8 The current application is seeking permission to vary condition 2 of the planning permission (i.e. the approved documents) to allow the retention of the access unencumbered access onto Leicester Street which, if successful, would also necessitate the removal of condition 13. In addition, the proposal seeks permission for the retention of bollards that have been installed on the access road through the site. The proposal is therefore unaltered from that which was previously determined.

4. Summary of Representations

- 4.1 This application has been advertised by means of two site notices and direct notification to the occupiers of 57 of the neighbouring properties. In response, 16 representations have been received objecting to the application. The representations have been reproduced in full separately for Members, however, the main issues raised are summarised as follows:

1. Blunt Street is a quiet street and the additional traffic is causing damage to residents' cars;
2. the street is narrow with zoned parking on both sides;
3. the volume of traffic has increased as has the speed of vehicles;
4. residents from the development park at the bottom of Blunt Street causing an obstruction;
5. the access poses a danger to children playing in the street and a danger to pupils at Robert Ferguson school through increased traffic;
6. to change the condition limiting the access to being temporary only is very misleading;
7. the turning area at the end of Blunt Street is already difficult large vehicles struggle or cannot use the area;
8. the residents weren't consulted in respect of the new access which was supposed to be a wall;

9. the previous occupiers of the site could not get an entrance to the factory here because of the school crossing;
10. the entrance onto Blunt Street is unnecessary and unacceptable and plans have shown the entrance onto Constable Street where there's an existing and suitable access point;
11. there are no give way or traffic calming measures;
12. vehicles don't slow down or stop when entering/ leaving Carrick Square;
13. the traffic survey was taken at a quiet time;
14. the visibility splays on the access point of Carrick Square are 2.4m in both directions along Leicester Street but should be 60 metres in both directions on a 30mph Road, so this is clearly inadequate;
15. the description on the application form is misleading as it doesn't state what the application is for;
16. the local ward councillor told residents the developer had been instructed to install the bollards at the end of Blunt Street. The retrospective application shouldn't be allowed and enforcement action should be taken;
17. the agent's assertions are wrong and it is disingenuous to suggest the traffic into and out of the development is going to spread out using neighbouring streets;
18. opening the road up would result in a 'rat run' and contribute to crime and anti social behaviour;
19. issues about poor drainage have been reported to the county council which has got worse since the development.

5. Summary of Consultation Responses

Cumbria County Council - (Highways & Lead Local Flood Authority): - the comments made to the previous application 19/0935 should still apply to this application.

For reference, these read:

"Local Highways Authority

Following on from the previous Highways Authority response to this application dated 8 September 2020, a Stage 3 Road Safety Audit has been undertaken for the access onto Blunt Street and Leicester Street from the development site. As stated previously the Highways Authority had no objections with regards to the temporary access approved as part of the application 18/0125 becoming permanent.

The Highways Authority have reviewed the Stage 3 Road Safety Audit and agree with its findings. It is noted that the report does identify two minor safety issues which are stated below:

- 1. The absence of appropriate traffic signs and road markings for the speed hump at the entrance to Carrick Square.*
- 2. The condition of the road surface on Leicester Street between Blunt Street and Carrick Square.*

The applicant has stated that they are willing to provide the Road Hump warning sign and sharks tooth road marking at the speed hump, and to

undertake the patching works on Leicester Street at the Carrick Square / Blunt Street junction. In light of this the Highways Authority have no objections with regards to the proposals along with the granting of planning permission.

Lead Local Flood Authority (LLFA)

The LLFA has no objection to the proposed variation of condition 2 and removal of condition 13 as it is considered that the proposal does not increase the flood risk on the site or elsewhere.

Conclusion

The Highways Authority and LLFA have no objections with regards to the approval of planning permission subject to the resurfacing works on Leicester Street and Carrick Square/ Blunt Street Junction along with the road markings required as part of the Road Safety Audit being undertaken by the applicant”;

Cumbria Constabulary - Community Safety Unit Liaison: - no comment.

6. Officer's Report

Assessment

- 6.1 Section 70(2) of the Town and Country Planning Act 1990/ 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 6.2 The relevant planning policies against which the application is the National Planning Policy Framework (NPPF), the National Planning Practice Guidance (NPPG) and Policies SP6, IP2, IP3, CM4 of The Carlisle District Local Plan 2015-2030 are relevant. 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. The properties have been completed and have been occupied for several years.
- 6.4 The issues of the impact on development within the flood zone; scale, layout and design; and accessibility are unaffected by this application. The remaining issues are discussed in the following paragraphs.

2. Highway Issues

- 6.5 The restrictive use of the access onto Leicester Street was at the request of Cumbria County Council as the Local Highway Authority (LHA). Following the submission of the previous application, the LHA initially raised objections to the proposal with the following consultation response:

“The application under consideration is to allow plots 12-31 to be accessed

permanently via Leicester Street rather than Constable Street as was agreed within the planning approval 18/0125. Please find attached the adoption records for this area. You will note that red lines annotate un-adopted / private roads

As part of the conditions associated with the planning approval 18/0125, conditions 12 and 13 state that there shall be no vehicular access to, or egress from the site, other than via the approved access onto Constable Street and an emergency access onto Leicester Street. This was agreed to avoid vehicles entering or leaving the site by an unsatisfactory access or route, in the interests of road safety.

The Highways Authority have reservations regarding permanently increasing usage of the network to the east of this site onto Leicester Street. The reasons for this are:

- 1. Only Blunt Street (to the east) is an adopted highway. We would therefore not encourage usage of these private roads. The Private Street works authority's view on the increased usage of these roads should be sought.*
- 2. The network to the east (Blunt Street) is constrained by parked cars.*

In light of the above the Highways Authority recommend that the proposed change of conditions are refused. Not only will the proposed changes increase the risk of highway safety issues to the east of the site, but it would also decrease the current users (to the east of the site) amenity."

- 6.6 Officers employed an independent highway consultant to advise on the highway issues raised by this application. The report concluded that:

"16.1 It has been satisfactorily demonstrated that the proposed vehicular access to the site from Leicester Street will result in increased traffic using an inappropriate route that in turn will result in an unacceptable increase in accident risks for all road users including vehicles, cyclists and pedestrians.

16.2 This view has been supported by the Local Highway Authority that has stated in their responses to 3 previous planning applications that vehicular access from Leicester Street should not be permitted for the following reason:

To avoid vehicles entering or leaving the site by an unsatisfactory access or route, in the interests of road safety.

16.3 It is evident that the safe, suitable existing access to the site from Constable Street is available and satisfactorily served the previous commercial use on the site. This existing access arrangement to the site has been approved by the Local Highway Authority for the previous planning applications.

16.4 To summarise, the previously approved access arrangement to the site has satisfactorily served the site with no access to Leicester Street provided or required. The proposal to provide a vehicular access to

Leicester Street would result in increased safety issues for all road users and has previously, and still is, opposed by the Local Highway Authority and local residents.

16.5 It is concluded therefore that the application should be refused in the interests of highway and pedestrian safety as recommended by the Local Highway Authority.”

6.7 Since that time, the applicant engaged a highway consultant who, following meetings with the LHA, submitted a report to them which raised the following points in relation to highway safety:

- the temporary access has been in use for nearly two years and the effects on road safety can be established from the accident records. The temporary access to Blunt Street came into use in 2018, and there have been no personal injury accidents from the opening of the access until 30 April 2020 which is the date of the most recent accident data available;
- the accident record shows that the temporary access has not resulted in an increase in accidents on Blunt Street during its period of operation;
- further evidence as to the effect of a 20-home development being accessed from the end of a terraced street can be gained from Freer Court. This development the same size of the application site, 20 homes, located at the end of Freer Street which is identical to Blunt Street in width, length and on-street parking arrangements.
- Crashmap has been interrogated for accidents over the last 20 years and shows, below, that between 2000 and the 31 December 2019 there have been no accidents in Freer Street. This clearly shows that Freer Court has had no adverse impact on road safety on Freer Street and given the similarities between the two sites, a similar outcome would reasonably be expected at Blunt Street if the present access, limited to 20 homes, was to be made permanent;
- taking both the road safety record of Blunt Street during the period of operation of the temporary access (0 accidents in 2 years) and the road safety record of Freer Street (0 accidents in 20 years) there is no reasonable expectation that there would be an unacceptable impact on road safety if the application was to be approved;
- the consultation responses report a damage only accident involving damage to a car's wing mirror, but there is no indication that this damage was caused by residents at the development site and could have equally been caused by a resident of Blunt Street, and if so would have occurred whether or not the access to the site was open. The use of damage only accident in road safety assessments is not recommended because there is no statutory duty to report them;
- the temporary access serves 29 homes, and if the application is approved the number of homes will be reduced by 30% to 20 homes which will reduce the number of vehicle movements between the site and Blunt Street reducing accident risk compared to the present situation.

6.8 Responding to this information, the LHA confirmed that “...the Highways Authority agree with the conclusion that the proposed access if made permanent would not create an unacceptable impact on road safety” and no

objection is raised to vary conditions 2 and 13 of the planning approval.

- 6.9 In response to both these responses, the council's highway consultant queried whether the highway authority would be content that bollards would be adequate to prevent tampering, removal and creation of a 'rat-run'. He also recommended that a Stage 1 Road Safety Audit be provided followed by Sages 2 and 3 as the design and construction progresses.
- 6.10 The LHA agreed with the recommendation for the Road Safety Audit and also requested a swept path analysis. They also clarified that there are no objections to the use of bollards which have worked in other locations throughout the county.
- 6.11 A Stage 3 Road Safety Audit was submitted and the LHA advised that subject to the undertaking of the works recommended in the report, no objection was raised. Therefore, subject to the imposition of a condition requiring these works to be completed, it was considered that the proposal didn't raise any highway issues.
- 6.12 As outlined earlier in this report, the previous application was refused by the Development Control Committee in 2021 for the reasons outlined in paragraph 3.6 of this report. The agent has submitted additional and supporting information in response which is summarised as follows:

Reason 1 _

- the reason for refusal refers to the residential amenity of the 'existing areas' and it is unclear whether this is referring to the residents' enjoyment of the surrounding streets or more specifically the amenity of the individual dwellings. In that regard the reason for refusal is vague;
- in relation to the perceived impact on the residential amenity of the 'existing areas', any vehicles exiting the site via the proposed Carrick Square/Leicester Street access could access via other streets thereby diluting the perceived impact of traffic movements associated with 20 dwellings over three streets. Vehicle movements will be slow and relatively infrequent so there will no discernible increase in noise levels over and above that which exists at present;
- the council has previously concluded that the traffic associated with 43 dwellings will have no adverse impact upon the occupants of Constable Street or the wider area;
- it is irrational to suggest that the effect of all vehicular movements associated with 43 dwellings upon the residents of Constable Street is acceptable but that the impact of 20 dwellings via the Carrick Square/Leicester Street access is unacceptable;
- the dwellings on Constable Street are also positioned closer to the road than the properties on Blunt Street, Dale Street or Freer Street, where the streets have a wider pavements (circa 2.5 metres wide) and the properties are set back behind small front garden areas. This is not the case on Constable Street where the dwellings are situated on the directly to the rear of pavement, which is narrower than the aforementioned streets (circa 1.5 metres wide);

- in the delegated report for the temporary access, the only issue highlighted related to the potential use as a “rat-run”;
- in respect of the refused application that potential issue had been addressed through the provision of bollards that separate the eastern side of the site from the western side. In respect of the Council's previous assessment that the use of the temporary access would not “*result in any demonstrable harm to the living conditions of any neighbouring dwellings*” it must also be acknowledged that there has been no material change in circumstance since the Council reached that assessment;
- in the context of the refusal, the council in reaching a different conclusion is “*not determining similar cases in a consistent manner*”. The fact that anyone exiting or accessing the site via Leicester Street would have three potential routes to and from the site (via Dale Street, Freer Street or Blunt Street) and the fact that the dwellings are set back from the road are material considerations to be weighed in the balance;
- the intensity of vehicle movement is not such that there would be an overriding adverse impact. The refusal is based on a perception that the retention of the temporary access will result in an increase in vehicle movements, which will be unacceptable in terms of residential amenity. In reality, however, this is an unsubstantiated claim with no evidential basis;

Reason 2 _

- the application was supported by the Local Highways Authority, the council's independent highway consultant and the applicant's Transport Consultant in addition to a Stage 3 Road Audit, the recommendations of which would have been secured by means of a planning condition.
- the reason for refusal is not based on an adverse impact on highway safety per se, but on specific impacts;
- the increase in vehicle movements from the 20 dwellings using the eastern access, thereby passing Robert Ferguson School, will be imperceptible when compared with the vehicles movements generated by the existing dwellings located to the south of Robert Ferguson School;
- the perceived impact assumes that the additional increase in vehicle movements will occur at the point that children are going to or from school, in reality that will not be the case;
- the existing dwellings are served by large vehicles, such as refuse wagons. The additional larger vehicle movements using these streets that would generated by the additional twenty dwellings would be negligible;
- the use of the Leicester Street/Carrick Square access has taken place for over 3 years and none of the perceived impacts highlighted in the second reason for refusal have occurred;
- the council has already assessed the highway implications of the use of the access on a temporary basis via Application 18/0480 and concluded that “*it is not considered that the proposal raises any highway safety issues*”. The consideration of the highway issues are applicable whether the use is on a temporary or permanent basis and to reach a different conclusion where there has been no material change is inconsistent;
- on the basis of the above and the actual use of the surrounding streets, the use of the access has not generated the perceived conflicts that are alleged would occur and the perceived impact in the reasons for refusal

has been unreasonably overstated.

- 6.13 The points raised in the agent's submission provide further assessment in respect of the issues appertaining to the application. In providing a response to the council's reasons for the previous refusal of permission on this site, they provide grounds for Members to further consider the proposal and the associated planning issues, including the potential impact on the occupiers of neighbouring properties and users of the highway network. On the basis of this information, together with the highway consultants' advice in respect of the earlier application and Cumbria County Council's consultation response to this and the previous application raising no objection, it isn't considered that the proposal raises any issues in terms of highway safety.

3. Crime Prevention, Safety And The Fear Of Crime And Anti-Social Behaviour

- 6.14 Paragraph 130(f) of the NPPF states that planning policies and decisions should ensure that developments *"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."*
- 6.15 In order to comply with Policy CM4 of the local plan, all new development must contribute to creating a safe and secure environment, integrating measures for security and crime prevention and minimising the opportunity for crime. The policy proceeds to list a range of criteria that should be applied to all development proposals.
- 6.16 It would be a concern if there were to be unrestricted access directly through from Constable Street to Leicester Street and visa versa which would lead to a 'rat-run' being created through the development; however, the proposal includes the installation of bollards within the site. Thereby, half the residents would access the site from Constable Street with the remaining residents accessing the site from Leicester Street. The LHA has confirmed that the use of bollards is an appropriate solution and Cumbria Constabulary has raised no objection. As such, it is not considered that the proposal would result in the potential for an increase in crime and disorder and is therefore compliant with planning policies.

4. Impact On The Amenity Of Neighbouring Residents

- 6.17 There are properties adjacent to the applicant site and importantly, adjacent to both Constable Street and Blunt Street that would form the vehicular access into the site. Criterion 7 of Policy SP6 requires that development proposals should:

"ensure there is no adverse effect on the residential amenity of existing areas, or adjacent land uses, or result in unacceptable conditions for future users and occupiers of the development;"

- 6.18 The proposal would lead to an increase number of vehicles using the access from 20 of the properties within the development. The remaining 23 properties would use Constable Street as their means of access. The highway issues raised are discussed in the preceding paragraphs of this report. In terms of amenity, Blunt Street would continue to operate as a highway albeit with the additional vehicles from the development; however, the level of use is considered acceptable and the proposal would not be detrimental to the living conditions of the occupiers of these properties.

5. Other Matters

- 6.19 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.
- 6.20 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.”

- 6.21 The development has been completed with the properties occupied since August/ September 2020 and there is therefore no requirement to impose a condition requiring the commencement of development. Similarly, the majority of the conditions attached to the previous permission which would ordinarily be imposed as part of the revised scheme, have fallen away. Therefore, it is only necessary to attach the conditions outlined in this report.

Conclusion

- 6.22 In overall terms the development of the site has previously been accepted and the development is established. The principle of the formation and use of a permanent access onto Leicester Street has been supported by the applicant's highway consultant which in turn has assessed by the LHA and the council's independent highway consultant. Following the receipt of additional information and a Stage 3 Road Safety Report, the LHA raises no objection. The works outlined in the Road Safety Audit are the subject of a condition requiring them to be undertaken together with a condition requiring

the retention of the bollards.

- 6.23 The use of the access onto Leicester Street would not adversely affect the amenity of the occupiers of neighbouring properties or result in an increase in crime and disorder in the locality due to the restriction of cars to travel through the site from one side to another. In overall terms, 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 1973, under application numbers TP 2584 and TP 2711, planning permission was refused for residential development.
- 7.2 Planning permission was granted in 1978, application 78/0136, for the erection of buildings for general industrial purposes.
- 7.3 In 1979, application 79/0728, permission was given to convert wasteland to a car park.
- 7.4 Planning permission was granted in 1980, application 80/0312, permission was given for the provision of a water tank and pump house for fire protection.
- 7.5 In 2016, planning permission was refused for the erection of 50no. houses and a subsequent appeal to the Planning Inspectorate was dismissed.
- 7.6 With regard to neighbouring land to the site:
- in 1999, under application 99/0120, planning permission was given for the erection of 28 dwellings to form Freer Court;
 - in 2010, under application 10/0415, full permission was given for the erection of 19 dwellings on the south side of Constable Street; and
 - in 2012, application 11/0863, permission was given for student accommodation on land at Norfolk Street.
- 7.7 In 2017, a revised application for planning permission was granted for the erection of 44 dwellings, including formation of riverside path, landscaping and sustainable urban drainage systems.
- 7.8 Planning permission was granted in 2018 for the erection of 44no. dwellings, including formation of riverside path, landscaping and sustainable urban drainage systems (revised application) without compliance of condition 2 imposed by planning permission 17/0232 to reduce the number of units from 44 to 43 and revise the layout including alterations to elevations.
- 7.9 Later in 2018, planning permission as granted for erection of 43no. dwellings, including formation of riverside path, landscaping and sustainable urban drainage systems (revised application) without compliance with condition 2 imposed by planning permission 18/0125 to provide temporary vehicular access onto Leicester Street.

- 7.10 An retrospective application was refused in 2020 for the variation of condition 2 (approved documents) and removal of condition 13 (emergency vehicle access) of the previously approved application 18/0125 (erection of 43no. dwellings) to amend the site layout to allow units 12-31 (inclusive) to use the adopted highway east of the site.

8. Recommendation: Grant Permission

1. The approved documents for this Planning Permission comprise:
 1. the Planning Application Form received 17th December 2021;
 2. the Planning Application Form received 15th February 2018 approved as part of application 18/0125;
 3. the Site Location Plan received 7th February 2018 (Drawing no. 01/2014/00A Rev A) approved as part of application 18/0125;
 4. the Site Plan received 17th December 2021 (Drawing no. 01/2017/05G rev G)
 5. the Typical Ground Floor Plan received 23rd February 2018 (Drawing no. 01/2017/05F Rev F) approved as part of application 18/0125;
 6. the Proposed Front Street Elevation received 23rd February 2018 (Drawing no. 09/2017/10B Rev B) approved as part of application 18/0125;
 7. the Proposed Rear (Garden) Elevation received 7th February 2018 (Drawing no. 09/2017/06C Rev C) approved as part of application 18/0125;
 8. the Gable Elevations received 7th February 2018 (Drawing no. 01/2017/07B Rev B) approved as part of application 18/0125;
 9. the Flood Risk Assessment received 7th March 2018 approved as part of application 18/0125;
 10. the Flood Risk Assessment Addendum received 8th March 2018 approved as part of application 18/0125;
 11. the Stage 3 Road Safety Audit received 17th December 2021;
 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 development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) and the following mitigation measures detailed within the FRA:

1. *Finished floor levels are set no lower than 18.15m above Ordnance Datum (AOD).*

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: In order to provide resilience in case flooding did occur in accordance with Policy CC4 of the Carlisle District Local Plan 2015-2030.

3. The bollards shown on the Proposed Site Access And Visibility Splays (Drawing no. SK004 forming part of the Road Safety Audit) shall be retained and shall not be removed or altered unless otherwise agreed in writing by the local planning authority.

Reason: To ensure prevent access through the development to ensure an adequate means of access and to prevent potential crime and anti-social issues in accordance with Policies SP6, HO2 and CM4 of the Carlisle District Local Plan 2015-2030.

4. The works required by the Stage 3 Road Safety Audit comprising the resurfacing works on Leicester Street and Carrick Square/ Blunt Street Junction along with the road markings shall be undertaken and completed within 3 months from the date of this permission.

Reason: To ensure adequate means of access and highway infrastructure in accordance with Policies SP2 and HO2 of the Carlisle District Local Plan 2015-2030.

Tetra Tech

Residential Development, Former KSS Factory, Carlisle
Junction of Blunt Street, Leicester Street and Carrick Square
Completed Highway Works

Stage 3 Road Safety Audit





REPORT CONTROL			
Document	Stage 3 Road Safety Audit		
Project	Residential Development, Former KSS Factory, Carlisle Junction of Blunt Street, Leicester Street and Carrick Square Completed Highway Works		
Client	Tetra Tech		
Report Number	NS21/623/RSA3		
Primary Author	Kevin Nicholson		
Reviewer	Nancy Sloan		
Revision History			
Issue	Date	Status	Checked for Issue
1	13/04/21	Issued to Client	



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1. INTRODUCTION

- 1.1. This report results from a Stage 3 Road Safety Audit carried out on the completed highway works along the eastern boundary of the redevelopment of the former KSS Factory in Carlisle. The works subject to audit comprise the vehicular and pedestrian access into Carrick Square at the junction of Blunt Street with Leicester Street. Both entry and exit for vehicles from this section of Carrick Square are via this access, the Square being closed to vehicular traffic at its western end by a series of bollards.
- 1.2. Originally, the access was to be used for construction purposes only and was to be closed to vehicular traffic following completion of the building and highway works. Access would then have been from the western end only (via Constable Street and Richardson Street). However, the eastern access has been retained, and the purpose of this audit is to assess its previous and ongoing operation in road safety terms.
- 1.3. The streets in the area are subject to a speed limit of 30 mph and are lit, with a disc zone in operation (with resident's permit exemption). There are footways on both sides of Blunt Street and on the western side of Leicester Street. Carrick Square has a shared space central carriageway with parking bays adjacent to the properties on both sides. Although the access for Carrick Square is bounded by high walls, visibility for motorists on exit is adequate due to the presence of build-outs on both sides on Leicester Street, which also form the ends of informal parking bays. As with many other junctions in the area, there are no marked priorities for road users at the junction of Blunt Street, Leicester Street and Carrick Square.
- 1.4. An investigation of the Crashmap Database shows that there have been no recorded collisions in the vicinity of the works in the 5 years to March 2020.
- 1.5. The Road Safety Audit was requested by Eleanor Bunn of Tetra Tech and was carried out during March and April 2021. The Audit Team visited the site together (in compliance with current Covid-19 guidelines) during the hours of both daylight and darkness on Thursday 25 March, during which the weather was overcast and cold, and the road surfaces were dry. There was some vehicular activity, and a number of pedestrians and cyclists were observed. Also in attendance at the daytime site visit were Sarah Steel, representing Cumbria County Council (the Overseeing Organisation) and Norman Black, representing Cumbria Police.
- 1.6. The Audit Team membership was as follows: -
 - Kevin Nicholson Nicholson Sloan Consultancy Limited (Audit Team Leader);
 - Nancy Sloan Nicholson Sloan Consultancy Limited (Audit Team Member).



-
- 1.7. The terms of reference for this audit are as described in GG 119 in the Design Manual for Roads and Bridges. The Team has reported only on the road safety implications of the proposals and has not examined or verified the compliance of the design to any other criteria. However, and without being prescriptive, the Audit Team might refer to a design standard or technical guidance where this would help to clarify a safety problem or recommendation. In addition, there may be alternative methods of addressing a problem that would be equally acceptable in achieving the elimination or mitigation of a problem, and these should be considered in the light of the recommendations in this report.
- 1.8. The detail provided for the audit is shown in Section 5. All comments and recommendations are referenced to the design drawings and related documents and the locations of the items raised by the audit are shown on the plan in Section 6.
- 1.9. Where relevant within this report traffic signs will be described either by their reference numbers on the drawings or by their diagram number within the Traffic Signs Regulations and General Directions 2016 (TSRGD).
- 1.10. Within this report the generic term “pedestrians” can include walking pedestrians, wheelchair users, mobility scooter users, dismounted cyclists, the blind, partially sighted and mobility impaired. Reference may be made to specific groups where appropriate.



2. ITEMS RAISED BY PREVIOUS ROAD SAFETY AUDITS

- 2.1 The Audit Team are unaware of any previous Road Safety Audits carried out on the works.

3. ITEMS RAISED BY THIS STAGE 3 ROAD SAFETY AUDIT

3.1. PROBLEM

Location: The speed hump at the entrance to Carrick Square.

Summary: The absence of road markings could increase the risk of loss of control collisions.

There is evidence of vehicles grounding on the speed hump, but there are no shark's tooth markings on the ramps or warning signs present. In their absence, drivers and riders could fail to identify the hump, strike it at speed or brake suddenly and lose control.

RECOMMENDATION

It is recommended that road markings to Diagram 1062 are installed on the speed hump, and a sign to Diagram 557.1 provided, together with an appropriate supplementary plate.



Scratch marks on the speed hump

3.2. PROBLEM

Location: The junction of Blunt Street with Leicester Street.

Summary: The condition of the carriageway could increase the risk of collisions.

While perhaps a routine maintenance issue, the carriageway is patchy, broken out and worn in places. Motorists and two-wheelers could strike the damaged areas, with the risk of loss of control and of collisions. There is one area that has been plucked out that could further deteriorate, retain water and freeze, with the attendant risk of skidding collisions.

RECOMMENDATION

It is recommended that the damaged areas are repaired.



Broken out carriageway



4. AUDIT TEAM STATEMENT

We certify that this Road Safety Audit has been carried out in accordance with GG 119.

ROAD SAFETY AUDIT TEAM LEADER

Kevin Nicholson BSc, CMaths, MCIHT, FSoRSA,
HE Certificate of Competency
Director, Nicholson Sloan Consultancy Limited
Cherry Tree Cottage
Hayton, Brampton, Cumbria, CA8 9HT

Signed:

Date: 13/04/21

ROAD SAFETY AUDIT TEAM MEMBER

Nancy Sloan MCIHT, MSoRSA
Nicholson Sloan Consultancy Limited
Cherry Tree Cottage
Hayton, Brampton, Cumbria, CA8 9HT

Signed:

Date: 13/04/21



5. DRAWINGS AND DOCUMENTS PROVIDED

As this is a Stage 3 Road Safety Audit, no drawings or documents required assessment. However, the drawing below was used for information and for the Location Plan in Section 6.

DRAWING OR DOCUMENT NUMBER	PROJECT AND TITLE	DATE
A054387-SK004 REVISION -	FORMER KSS SITE, CARLISLE PROPOSED BOLLARDS AND EXISTING VISIBILITY SPLAYS	13.07.20

6. LOCATION PLAN OF ITEMS RAISED BY THIS AUDIT



SCHEDULE A: Applications with Recommendation

21/0014

Item No: 03

Date of Committee:

Appn Ref No:
21/0014

Applicant:
Mr I Whittaker

Parish:
Castle Carrock

Agent:
CH Design

Ward:
Brampton & Fellside

Location: Land to north of Tarn Lodge Farm, Heads Nook, Brampton

Proposal: Siting Of 4no. Holiday Lodges & 2no. Pods Together With Landscaping, Newt Ponds, A Sealed Foul Water Drainage System, Access Track & Parking (Revised Application)

Date of Receipt:
11/01/2021

Statutory Expiry Date
08/03/2021

26 Week Determination

REPORT

Case Officer: Suzanne Osborne

1. Recommendation

1.1 It is recommended that this application is refused.

2. Main Issues

- 2.1 The principle of development;
- 2.2 Whether the scale and design is acceptable and the impact of the proposal on the landscape character of the area;
- 2.3 Impact upon the living conditions of neighbouring properties;
- 2.4 Highway impacts;
- 2.5 Impact upon public footpaths;
- 2.6 Impact upon the setting of listed buildings;
- 2.7 Impact upon trees;
- 2.8 Impact upon biodiversity;
- 2.9 Impact upon drainage; and
- 2.10 Other matters.

3. Application Details

The Site

- 3.1 This application relates to a parcel of land 2.70 hectares in area located approximately 134 metres to the north of Tarn Lodge Farm, approximately 232 metres to the north of Tarn Lodge and 0.79km west of Castle Carrock village. The land is focused around a tarn and associated boathouse which is within private ownership. The site is situated within a landscape hollow, is heavily wooded and includes an existing access track through farmland to the east which links with the road junction of the C1024 and the C1039. The topography of the existing access track is undulating with the land sloping up from the road junction then back down towards the entrance to the tarn.
- 3.2 The application site has no specific designation within the Carlisle District Local Plan 2015-2030. There is no public access to the tarn or the surrounding woodland however Public Right of Way No.110006 runs along the western periphery of the site, starting at Tarn Lodge Farm/Tarn Lodge to the south and ending at Hayton Moss Wood to the north-west (which is also within the ownership of the applicant). The nearest listed buildings are Tarn Lodge and a Tower Folly which is located on a hill to the north of Tarn Lodge. Both of these buildings are Grade II Listed, surrounded by woodland and are located approximately 196 and 120 metres respectively from the most southern boundary of the application site.

Background

- 3.3 In 1994 full planning permission was granted for the erection of 6no.self catering lodges around the tarn (reference 94/0524). Although this application has never been implemented it is still a material planning consideration in the determination of the current application.
- 3.4 In 1995 under application 95/0039/AGD prior approval was given for the formation of a new access and track which linked the tarn to the wood at Hayton Moss to the north-west.
- 3.5 In October 2018 a planning application was submitted (reference 18/0931) for the siting of 16no.holiday lodges and the installation of a waste water treatment system around the tarn. During consideration of the application a number of issues were raised and the application was subsequently withdrawn in order to undertake further ecological survey work which could not be undertaken at the time of the application submission.
- 3.6 During the course of dealing with application 18/0931 a third party submitted evidence to Natural England that indicated that the woodland subject of this application could be ancient. Natural England's Ancient Woodland Specialist has since confirmed that there has not been sufficient evidence submitted to support the ancient woodland application therefore the site cannot be classified as ancient woodland.
- 3.7 On the 7th June 2019 Members of the Development Control Committee considered the confirmation of Tree Preservation Order 302 on the land subject of the current application in light of representations to the making of the Tree Preservation Order. Members resolved not to confirm Tree

Preservation Order 302 as it was considered that the placing of a woodland tree preservation order was not appropriate as the site is a well managed woodland with a management plan under the jurisdiction of the Forestry Commission.

- 3.8 In May 2020 an application was submitted (reference 20/0237) seeking full planning permission for the siting of 6no.holiday lodges and 2no.pods together with landscaping, waste water treatment system, access track and parking. Application 20/0237 was however withdrawn prior to determination.
- 3.9 Members should be aware that during the course of dealing with application 20/0237 it came to light that some of the trees on site have now been identified as notable/veteran trees on the Woodland Trust Ancient Tree Inventory.
- 3.10 Members should also be aware that during the course of dealing with application 20/0237 a third party request was made to Historic England that the land to the north of Tarn Lodge should be added to the Register of Parks and Gardens of Special Historic Interest in England. Historic England considered this request and completed an assessment of the site based on the material provided and on the 15th June 2020 decided not to add landscape park, including lake and pleasure grounds, north of Tarn Lodge, Castle Carrock to the register at this time. Paragraph 6.56 of this report goes into more detail as to why the site was not recommended for registration.

The Proposal

- 3.11 The current application seeks Full Planning Permission for the siting of 4no.holiday lodges and 2no.pods together with landscaping, new ponds, a sealed foul water drainage system, access track & parking.
- 3.12 The submitted plans illustrate that the proposed 4no. holiday lodges and 2no.pods are to be sited around the northern banks and slopes of the tarn. The holiday lodges will comprise of 2no.2 bed lodges and 2no.3 bed accessible lodges constructed from horizontal boarded timber (larch) walls, aluminium windows and doors under a planted roof system with natural finish fascia boards to match cladding to walls. Each lodge will have a timber decked area with glass balustrading and will sit on stilts. The 2 bed lodges will have a footprint of 145m² (including the decked areas) and will have living room/kitchen/diner, bathroom and 2no.bedrooms (1 en-suite). The three bed lodges will have a footprint of 170m² (including the decked areas) and will have a living room/kitchen/diner, bathroom and 3no.bedrooms (1 en-suite) . Both lodge types will have an eaves height of 3.3 metres and a ridge height of 5.35 metres.
- 3.13 The proposed pods will be 1.bed and will have a footprint of 22.24m² and a total height of 2.85m. They will be constructed from timber boards under a bitumet tiled curved roof. The submitted plans illustrate that the pods will have a shower room as well as a kitchenette, bed and living area.
- 3.14 The existing vehicular access track to the site will be upgraded so that it is 3

metres wide, with a passing place. 11no.parking spaces, including 2no.DDA compliant parking spaces are to be provided on the southern side of the upgraded access track with screen planting adjacent. The access track will be constructed from gravel however the parts of the track which are within the root protection areas of trees (the last 150 metres) will be constructed from a geocell/cell web grid system which will be gravel filled. An internal access path within the site from the main access track to the holiday lodges is also to be provided and will be constructed from a geotextile membrane.

- 3.15 A number of documents accompany the submitted application namely a Planning Statement, Site Management Statement, copy of the Woodland Management Plan, Heritage, Design and Access Statement, Ecological Assessment, Reptile Survey, Arboricultural Impact Assessment, Arboricultural Method Statement, Drainage Strategy Statement, Speed Surveys, letters to Cumbria Highway Authority and a letter in response to the Woodland Trust Consultation.
- 3.16 The application is also accompanied by a Planting Plan, Visibility Plan, Proposed Surface Water Drainage Plan and Proposed Foul Water Drainage Plan.

4. Summary of Representations

- 4.1 This application has been advertised by the display of a site notice, press notice and by means of notification letters sent to 44 neighbouring properties/interested parties. In response to the consultation 43 objections have been received (9 of which are from occupiers of the same properties).
- 4.2 The representations received in respect of the application have been reproduced in full for Members however a summary of the objections raised, which cover a number of matters, are as follows:

Principle

1. No identified need for the development;
2. not on recognised walking/cycling routes;
3. no meaningful support to the rural economy;
4. development not sustainable and accessible to all - will increase car travel and is not on public transport routes, not accessed by a choice of transport; and does not meet challenge of climate change;
5. holiday accommodation already abundant in the area;
6. no local amenities and no safe walking route;
7. a 27 year lapsed application does not justify the application and there is no precedent principle in planning law;
8. no benefit to the locality only the landowner;
9. site not suitable for development by an absentee land owner;
- 10 introduction of 24+ people is like building a small village;
11. applicant does not live locally and is not a farmer wanting to diversify;

General Comments

12. does not secure good design or respect/enhance local character, landscape, natural, built or historic environment;
13. scale, character and materials not sympathetic;
14. not well related to existing group of buildings or are repurposed buildings;
15. parking areas will be visible and unsightly;
16. site is dangerous for children;
17. must be less sensitive sites;
18. development would put people off living in the area;
19. potential trespassing on adjacent farm land and associated health and safety impacts;
20. air pollution from log burners, litter pollution and dog faeces;
21. Councillors should undertake a site visit;
22. this is a third application for the site and should be rejected;
23. adverse impact upon adjacent land users;
24. does not comply with CDLP policies SP1, SP2, SP6, SP7, HE3, EC9, EC10, EC11, IP2, IP3, IP6 and GI3 GI6 or NPPF;
25. application does not comply with policies DEV5, DEV2, DEV3 of Eden Council's Local Plan
26. allegations applicant has tried to influence independent ecological review;

Biodiversity

27. query regarding timing of surveys undertaken and surveys not being in accordance with best practice;
28. allegations that reptile survey was not undertaken by appropriate persons;
29. no bat survey undertaken for the site which leads the application open to judicial review;
30. allegations that applicant has affected baseline of surveys and Great Crest Newt population on site by brush cutting near the tarn, intensive game and water fowl rearing;
31. statements that the site could be ancient woodland due to Bluebells present;
32. botanical surveys or phase 2 NVC botanical surveys should be submitted as there are other species associated with Bluebells and Bog Bean on site;
33. if works have been done to de-risk a site the baseline should be high;
34. concern no invertebrate survey has been undertaken as Tarn Lodge is the former home of a famous entomologist GB Routledge whose insect collection is at Tullie House;
35. loss of Biodiversity assets, environmental features, wildlife and habitats that cannot be mitigated;
36. no benefits to mitigate the loss of habitats and species;
37. biodiversity assets, priority habitats, European and nationally protected and priority species not protected or enhanced;
38. potential pollution risk and impact upon habitats and species from development including construction;
39. NBN Biodiversity Atlas includes thousands of records on site;
40. applicant has not managed invasive knotweed on site;
41. development contravenes Green Infrastructure Plan;

42. statements that CWT are of the opinion that the site is likely to meet the criteria as a Local or County Wildlife site;
43. allegations that Black headed Gulls, Greylag Geese and Shelduck nest on site. Beach trees were home to rare Wood Warbler, several owls and ducks use the area;
44. impact upon birds using the wet areas;
45. concern that an application will come to drain the water to remove biting insects from the site;
46. query as to who will monitor mitigation measures proposed;
47. Great Crested Newts on site are protected by law;
48. evidence of otter tracks a mile away from the development in the snow;
49. query as to whether DEFRA is aware of the site;
50. World Owl Trust object to the development;
51. concern that net gain cannot be measured without appropriate surveys; and disagree that net gain can be dealt with post decision ODPM Circular 06/2005 paragraph 99;
52. query as to whether net gain can be provided and statements that ancient woodland, ancient trees and veteran trees cannot be included in net gain calculations;
53. query accuracy of statements made in the independent ecologist report and that no site visit was made,
54. concern that reptile numbers and GCN will have reduced from introduction of ducks in the tarn.

Trees

55. site is full of ancient trees, Ancient Tree Inventory shows 55 verified trees on site;
56. site will be degraded from pruning or felling veteran trees;
57. development will enter root protection areas and a number of trees may require removal;
58. root protection areas are underestimated as measurements for veteran trees are not used;
59. Woodland Management Plan confers no protection to trees;
60. no overriding social or economic need or benefit to outweigh loss;
61. failure by applicant to acknowledge the presence and importance of veteran trees on the site;
62. geocell technology has recognised negative impacts;
63. query validity and independence of independent tree report commissioned by the Council and how veteran status and impact upon trees has been assessed;

Highway Impacts

64. Highway Authority on previous withdrawn applications raised concerns regarding visibility and junction safety confirming that visibility splays could not be achieved and no information was provided indicating that undulating of the road and hedge growth would not affect visibility ;
65. visibility splays of 215m based on a 60mph speed limit are not achievable due to the geometric characteristics of the public highway and Cumbria Highways have requested speed surveys to back up reduction in visibility

- length;
66. concern regarding different responses from the highway authority;
 67. speed of road must dictate that visibility splays of 215m should be used not 120m;
 68. concerns over validity and analysis of data in initial speed survey undertaken in May with some of survey days (6/7) ignored to reduce 85th percentile speed;
 69. concerns over validity and analysis of subsequent manual speed survey undertaken by the applicant ;
 70. concerns over validity of further speed survey undertaken in February 2022 with regard to analysis of data, how the 85th percentile speeds have been calculated, location of where the pneumatic tubes were placed, weather conditions, a highway diversion was in place which could of affected driver behaviour and results, speed survey company present on site, parked at the access location with headlights on and fluorescent yellow strips, may have inadvertently manipulated driver behaviour and allegations that the land owner also spent a number of hours driving slowly round;
 71. queries as to why speed surveys are allowed to be repeated and access is unchanged from previous applications
 72. statements and assumptions made from the applicants highway consultant are incorrect;
 73. Cumbria Highways have taken on board concerns from third parties and have requested the raw speed survey data from the applicant however this data has not been shared with third parties which leads to queries of Judicial Review as third parties have been denied the opportunity to analyse the raw data;
 74. highway safety concern regarding location of access adjacent to a junction and the intensification of use of the proposed access;
 75. allegations that existing access gate is not used often and has no tracks;
 76. allegations that there has been a number of road traffic accidents at the junction;
 77. concerns that movements at the existing junction and number of accesses near the junction could cause driver confusion and associated highway safety concerns;
 78. concern that 215m visibility splay requirements from Ringgate Road cannot be met due to undulations in the road and no speed survey or topographical survey has been carried out to check vertical and horizontal splays;
 79. visibility plan is inaccurate and does not take into account blind corner, undulations and obstructions (hedges);
 80. applicant does not own field and hedges within the visibility spay;
 81. development does not meet requirements of Policies LD7 and LD8 of the CDLP.

Heritage

82. maps, sales particulars and testimonials evidence that the tarn is within the curtilage and setting of Grade II Tarn Lodge and Tower Folly;
83. Council's Conservation Officer supports view that the tarn is within the

- curtilage of heritage assets;
- 84. no change to site since the estate was formed;
- 85. original Georgian design layout, original planting scheme remain intact;
- 86. site has group value with heritage assets and is visible from both assets;
- 87. query quality and accuracy of the Heritage Statement submitted;
- 88. Tower Folly was constructed to over look the pleasure grounds, tarn and surrounding hills and commands a bird eyes view of the site;
- 89. development will have negative impact upon listed building and setting harming significance and economic viability;
- 90. Tarn Lodge is the former home of a famous entomologist G.B. Routledge;
- 91. Georgian Group and Garden Trust objects to the development of the tarn due to loss of designed landscape, relationship between heritage assets and impact upon setting, character and value;

Impact on amenity of residents

- 92. potential noise, light, ground and water pollution from development and associated impacts on amenity of occupiers of residential properties in the locality;
- 93. queries regarding potential management of the site and adherence to the Site Management Plan in place; and
- 94. impact upon dark skies

4.3 An objection to the application has also been made by County Cllr Roger Dobson. The objection is summarised as follows:

- 1. small developments of holiday accommodation can be welcome as sources of tourist spend for local rural economy and employment is located sensitively, which is not the case here;
- 2. walked round the tarn and have appreciated its beauty;
- 3. tarn is a hidden oasis of wildlife and veteran trees largely untouched accept for the introduction of ducks and pheasant breeding;
- 4. allowing development to proceed would be an act of ecological vandalism denying future generations the opportunity to appreciate such rare biodiversity;
- 5. access appears intrinsically unsafe given speed of vehicles.
- 6. tarn is an exceptionally beautiful haven for wildlife including rare species, largely untouched for centuries;
- 7. vital tarn is protected for future generations;
- 8. ironically whilst the tarn is under threat Cumbria County Council has been commissioned by DEFRA to pilot local nature recovery projects;
- 9. do not oppose holiday/leisure developments and supported a similar development that did not involve any risk to important habitat;
- 10. there is local concern regarding road safety at the access point;
- 11. disturbed by controversy over the authenticity of speed surveys;
- 12. cannot understand the apparent reticence to divulge raw data which residents and I personally want to see; and
- 13. there should be no dispute over the facts and transparency is of vital importance.

4.4 The Council for Protection of Rural England/Friends of the Lake District have also objected to the application. The representations received have been reproduced in full for Members however a summary of the objections raised, which cover a number of matters, are as follows

1. do not consider that the development would reflect the management guidelines of Landscape Type 5c Rolling Lowland or the objectives of Policy GI1 of the CDLP to protect landscape from inappropriate development;
2. impact upon the setting of the North Pennines Area of Outstanding Natural Beauty;
3. potential for light pollution and associated landscape/biodiversity concerns; if application is approved lighting should be kept to a minimum;
4. there should be little weight to previous applications;
5. significant number of trees in the woodland are identified on the Woodland Trust's Ancient Tree Inventory as 'Notable' or 'Veteran' trees. Whilst the ATI is largely collated by local recorders they have to submit their suggestions for corroboration by trained staff at the Woodland Trust as confirmed in their response;
6. there are specific provisions for the protection of Veteran trees in the NPPF and it is not the case that provisions can be met by simply not chopping the trees down as harm can also be indirect (trampling, vegetation clearance etc);
7. It is not possible to ascertain whether the proposal meets the NPPF as the ecological assessment states that 'TEP has not made an assessment of whether the recorded Veterans are actually Veterans'. Support the comments made by the Woodland Trust;
8. the Ecological Assessment acknowledges the site is Deciduous Woodland Priority Habitat but does not acknowledge indirect impacts such as noise, lighting etc. Natural England makes clear how priority habitats and ancient/veteran trees should be considered; and
9. paragraphs 193-196 of the NPPF cannot be met given the heritage impacts identified by The Gardens Trust and The Georgian Group. Harm against heritage assets needs to be weighed against public benefits. Not clear that private individuals using camping pods would amount to public benefits outweighing the harm.

5. Summary of Consultation Responses

Local Environment - Environmental Protection (former Comm Env Services- Env Quality): - no response received;

Castle Carrock Parish Council: - originally responded stating that comparisons to a previous planning approval on the site should be disregarded; no traffic surveys or records of accident history have been supplied and the Highway Authority's previous concerns must remain valid. Access is a dangerous junction which the Highway Authority has recognised in previous withdrawn applications associated with the site; proposal represents a significant impact in a vulnerable environment; insufficient objective information about how the application interacts and supports ecology in the landscape; queries as to whether the spirit of paragraph 5 of

Policy GI3 of the CDLP has been followed; mitigation is insufficient; queries as to what weight will a site management plan have and how will it be enforced; queries regarding level of detail submitted in the Site Management Statement; intensity of use in this location will inevitably have an impact on the environment and negative impact on surface water quality and groundwater quality; no detail on how general flora and fauna in this location will be safeguarded during construction phase; no proven need for the development or that it will provide significant employment or economic benefits; and proposal cannot be deemed sustainable.

Further responses from the Parish Council have also been received which are summarised as follows:

- access position and alignment relative to existing road junction have not changed during the course of this application which the Highway Authority objected to;
- if permitted, road users will have to assess traffic in the vicinity of this junction in its entirety, not assess which road a vehicle may be travelling on and whether it is safe to discount it;
- given historic objections from the Highway Authority, two conflicting reports from highway specialists and the Highway Authorities latest letter an objective traffic assessment should be made;
- site can not be considered sustainable;
- ecology surveys have not been done in accordance with best practice;
- it is possible to protect the habitat of the site by refusing the application;
- actions of the developer introducing several hundred ducks and pheasant breeding on site seems a deliberate de-risking of the site;
- tree survey down plays Ancient Tree Inventory recordings of Woodland Trust experts;
- queries regarding level of information in reptile survey;
- a manual radar gun survey only produces a snapshot of driver behaviour;
- queries as to what industry standards ecology and traffic surveys have been carried out;
- concern about completeness of disclosed data and accuracy of the interpretation of the speed survey undertaken;
- concern that throughout the period of the speed survey a diversion was in place with the pneumatic tubes fixed to the road right by the diversion sign;
- concern that a van from the survey company was parked up with headlights on which was a distortion of driver behaviour;
- no topographical survey has been submitted;
- there is serious doubts about the reliability and usefulness of the speed survey;
- concerns about access, visibility and safety remain alive; and
- there is still inadequate information to satisfy Policies LD7 and LD8.

Planning - Access Officer: - no objections;

Cumbria County Council - (Highways & Lead Local Flood Authority):
object to the application on the following basis:

In accordance with the Cumbria Design Guide and as the access is within a national speed limit zone, visibility splays of 215m x 2.4 are required to be demonstrated. Such splays cannot be achieved to the north due to the undulations of the road and the splay crossing a neighbouring hedge.

The Highway Authority does not accept the rationale behind the highway report submitted as part of the application confirming that a design speed of 40mph is being used (equating to visibility splays of 120 x 2.4m) for the splays without a speed survey undertaken to formally establish if a reduced splay is required.

A number of speed surveys have been undertaken on behalf of the applicant. The speed data in the form of a 'Radar Speed Survey Letter' has not adequately demonstrated that safe access to the site can be achieved. Consequently the Highway Authority advised that a further speed data/camera survey should be provided to support the application.

A further speed survey was undertaken on behalf of the applicant. The Highway Authority has not accepted the results of this speed survey confirming that they have found some anomalies in the speed survey data, in particular the way the data is used to inform the 85%ile speeds. It is the Highway Authorities view that this might have occurred due to the very odd/unique nature of traffic in the area. Traffic firstly is low and secondly it is shown that cars move more slowly but LGV (vans) move much faster. As HGV (busses) and LGV vehicles normally are omitted from the calculations that will give an anomalous view of the 85%ile speeds especially if all vehicles in all time 'blocks' regardless of frequency are included in the calculations.

Design Manual for Roads and Bridges (DMRB) makes it clear that this should normally not be the case therefore if the guidance was strictly followed (cars only, outside of peaks) the 85th percentile speeds would be 35.4mph northbound and 31.7mph southbound. If LGV's are taken into account then the 85%ile increases to 49.4mph northbound and 45mph southbound (if the wet weather correction is done then 51.9mph northbound and 47.5mph southbound).

The Highway Authority have confirmed that DMRB is a trunk road design tool and not primarily for minor roads like the one in question here. There has been considerable pressure from objectors, Parish Council etc to strictly follow the rule as stated in the Design criteria. If this school of logic is followed then the application splays are acceptable.

The Highway Authority has however stated that they can not come to this conclusion as the abnormal impact the LGV vehicles has on the road network in this location should have a real impact on the road design criteria. The Highway Authority therefore advocate that the higher 85%ile speed is used to include the LGV's. In such circumstances the Highway Authority maintain visibility splays of 215m x 2.4 are required and recommend refusal due to lack of visibility from the access of north bound vehicles.

Cumbria County Council - (Highway Authority - Footpaths): Public

Footpath 110006 runs to the west of the proposed development area and must not be altered or obstructed before or after the development has been completed. Advice received regarding processes relating to temporary closures of footpaths if required.

Cumbria Constabulary - North Area Community Safety Unit (formerly Crime Prevention): - no observations or comments;

The Ramblers: - no response received;

Local Environment, Waste Services: - as waste from the site is not domestic the applicant will need to find a private provider who is registered to collect business waste;

Natural England - relating to protected species, biodiversity & landscape: - no objection, standing advice received regarding consideration of protected species and other natural environment issues.

Cumbria Wildlife Trust: - object to application on the following basis:

- construction of the lodges and pods is likely to have a negative impact on the broad leaved woodland within the development site which is listed as a priority for conservation under Section 41 of the Natural Environment and Rural Communities (NERC) Act and in the Cumbria Local Biodiversity Action Plan;
- site contains a small mosaic of other habitats which whilst they have not been identified as priority habitat and do not have any statutory/non statutory designation are of high ecological value. Value is increased as site forms part of existing woodland network within the local area;
- development of site is likely to lead to increase disturbance to wildlife;
- development could be set elsewhere in grounds that are landscaped for nature which would reduce impacts on species and habitats;
- whilst Ecological Assessment provides some recommendations for enhancing the site this does not utilise the recommended Biodiversity Metric 2.0. No decision should be made until such a metric is used;
- if permission is approved would like to see as a minimum the mitigation measures and recommendations set out in Section 5 of the Ecological Assessment

CWT also provided further comments stating that subsequent to the finding of Great Crested Newts in the tarn by eDNA sampling the applicant has attempted to render the site unsuitable for Great Crested Newts by flailing the vegetation around the tarn and introducing large numbers of ducks and pheasants. In effect de-risking the site for GCN. It therefore appears that current conditions on site will not accurately reflect what should be the baseline for this application. It is generally accepted that if there is evidence that works have been undertaken to de-risk a site then in planning terms the baseline set should be high on the precautionary principle, such that actions that have an adverse effect on biodiversity are not rewarded.

North Pennines AONB Partnership: - application site falls outside the

designated boundary of the AONB but is within the area of the Fellfoot Forward Landscape Partnership Scheme which is managed by the AONB Partnership.

Still inevitable that the development will increase disturbance to wildlife; impacts upon biodiversity should be of the highest concern and any risk should be a primary consideration. Compensatory habitat is no substitute for existing functioning habitat in general development. Any construction or on going use of the site should not pose any risk to existing water quality. Full assessment should be made as to whether the proposal will fully meet the 10% net biodiversity gain. It seems inevitable that the site would have a species range and abundance not entirely captured in the ecology report and that development control is one of the mechanisms by which we will arrest the continued decline of nature.

The cultural heritage of the site should be fully considered in determining the application as should the introduction of new lighting. Anticipate that any decision will take into account the Carlisle Local Environment (Climate Change) Strategy as appropriate.

United Utilities - (for water & wastewater comment) see UUES for electricity dist.network matters: - no response received;

Forestry Commission: - no comment to make as no ancient woodland is affected. Advice received regarding replacement of any trees lost.

Woodland Trust: - object to the application on the basis of damage and deterioration to the population of veteran and notable trees on site. Consider impact of development on veteran trees does not comply with national policy. Concern that the submitted Arboricultural Impact Assessment (AIA) dismisses the importance of the veteran trees on site and the assumptions made regarding veteran status. Concern that siting development close to trees and increasing human activity on site will compromise long-term retention of trees, increase the health and safety risks, and, result in loss of local biodiversity.

As the qualities and importance of trees on site have not been fully recognised appropriate mitigation considerations have not been made.

Historic England - North West Office: - do not need to be notified or consulted on this application;

The Garden Trust: - object to application. Consider that Tarn Lake is firmly within the setting of both the Grade II Tower and Grade II Tarn Lodge and the whole forms a layout with strong group value, little altered since its conception in 1802. Consider that the inclusion of visible holiday lodges and pods with associated car parking around Tarn Lake will negatively impact the historic character of the designated landscape. Concern that if the application is approved the lakes link to Tarn Lodge and the Tower Folly would become lost and the setting of heritage assets would be compromised and their significance correspondingly reduced.

Consider that the previous lapsed planning permission is of no relevance and consider that since then the history, significance of heritage assets and landscape setting is far better understood. Pleased to note reduction in number of holiday lodges and would strongly oppose any future increase.

Helpful that detailed Arboricultural Assessment has been undertaken showing that the construction of the lodges and infrastructure will not impact upon root zones of any of the trees. Would like to see what form of lighting is proposed and advise that this is kept to an absolute minimum and be extremely discreet.

The following conditions should be imposed if application is approved: 1) no permanent barbecues or other domestic paraphernalia near the waters edge; 2) lodges/pods to be stained dark green or in a recessive colour; 3) discreet interpretation sign by the car park to educate visitors to the heritage of the site. Also suggest that local heritage varieties of fruit trees should be considered.

Georgian Group - Amenity: - object as there is concern that if the application is approved that the sites link to Tarn Lodge and the Tower Folly would become lost, and their significance therefore correspondingly be reduced. Strongly feel that the proposed development would cause the loss of this historically significant designed Georgian landscape and radically alter the setting, character and value of the associated Georgian listed heritage assets of Tarn Lodge the accompanying Tower Folly.

6. Officer's Report

Assessment

- 6.1 Section 70(2) of the Town and Country Planning Act 1990/Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.
- 6.2 The relevant planning policies against which the application is required to be assessed are the National Planning Policy Framework (NPPF), the Planning Practice Guidance (PPG) together with policies SP1, SP2, SP6, SP7, SP8, EC9, EC10, EC11, IP1, IP2, IP3, IP5, IP6, CC5, CM4, CM5, HE3, GI1, GI3, GI5 and GI6 of the Carlisle District Local Plan (CDLP) 2015-2030. Section 66 of the Planning (Listed Building) Act 1990 (LBA) , The Council's 'Trees and Development' and 'Designing Out Crime' Supplementary Planning Documents together with the County Council's Landscape Character Guidance and Toolkit (LCGT) are also material planning considerations.
- 6.3 The proposal raises the following planning issues:

1. The Principle Of Development

- 6.4 The principle of the erection of 6no.holiday lodges on the land has already been assessed and established as acceptable under previously approved

application 94/0524.

- 6.5 In the intervening period since the previous approval the NPPF, PPG and CDLP have all been adopted. One of the main aims of the NPPF is to support a prosperous rural economy. Paragraph 84 of the NPPF states that planning decisions should enable:
- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;
 - b) the development and diversification of agricultural and other land-based rural businesses;
 - c) sustainable rural tourism and leisure developments which respect the character of the countryside; and
 - d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.
- 6.6 Policy SP2 (Strategic Growth and Distribution) of the Carlisle District Local Plan 2015-2030 (CDLP) also seeks to promote sustainable development through concentrating development within existing settlements and ensuring that developments within the remote rural area are assessed against the need to be in the location specified. Paragraph 85 of the NPPF confirms that planning decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations not well served by public transport. In these circumstances it is important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact upon local roads and exploits any opportunities to make a location more sustainable. The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.
- 6.7 Policy EC9 (Arts, Culture, Tourism and Leisure Development) of the CDLP confirms that proposals will be supported where they contribute towards the development and/or protection of the arts, cultural, tourism and leisure offer of the District and support the economy of the area. Proposals must accord with the following three criteria: 1) the scale and design of the development is compatible with the character of the surrounding area, 2) adequate access by a choice of means of transport, including sustainable modes of travel, and appropriate car parking is provided; and, 3) where relevant, the value and significance of the attraction is not compromised.
- 6.8 Furthermore Policy EC11 (Rural Diversification) supports proposals to diversify and expand upon the range of sustainable economic activities in the rural area. Proposals must be compatible with their rural setting, in keeping with the scale and character of the surrounding landscape/buildings, include adequate access and parking arrangements and not lead to an increase in

traffic levels beyond the capacity of the surrounding local highway network.

- 6.9 The supporting text to Policy EC11 also reiterates that the NPPF supports sustainable rural tourism and leisure developments where they respect the character of the countryside. This type of development is important in areas where identified needs are not met by existing facilities in rural service centres.
- 6.10 Policy EC10 of the CDLP which specifically relates to caravan, camping and chalet sites supports such proposals where clear and reasoned justification has been provided as to why the development needs to be in the location specified; the proposal does not have an adverse impact upon the character of the landscape or upon heritage assets or their settings; the site is contained within existing landscape features and if necessary and appropriate is supplemented with additional landscaping; adequate access and parking arrangements are provided; and, potential implications of flood risk have been taken into account where necessary.
- 6.11 The application site is located with open countryside and extends to around 2.70 hectares and is focused around a tarn and associated boathouse which is within private ownership. The application seeks full planning permission for the erection of four holiday lodges and two pods on the land which will be served by an improved access track and area for car parking.
- 6.12 The supporting statement which accompanies the application recognises that the principle of six self catering holiday lodges has already been accepted at the site and at the time of determining application 94/0524 it was recognised that the lodges would take advantage of the tarn itself as well as providing a facility for tourists visiting the area generally. The statement goes onto confirm that the tarn is the focus for holiday accommodation and provides a natural setting which will draw visitors. The site is also located just outside but within walking distance of the North Pennines Area of Outstanding Natural Beauty and near National Cycle Route 72.
- 6.13 The previous planning approval for the site, although not implemented, is a material planning consideration in the determination of this application. The character of the application site i.e. its positioning within the open countryside is unchanged with no significant changes to the character/appearance of the surrounding area in the intervening period except for developments at Tarn Lodge Farm and Tarn Lodge (which are discussed further within this report). The proposed lodges/pods would still take advantage of the tarn which is an existing attraction and will no doubt draw visitors to this facility. The proposal is also located approximately 0.79km from the North Pennines Area of Outstanding Natural Beauty and Castle Carrock village which has a number of services including a public house, village hall and church. The site is also located within cycling distance of National Cycle Route 72 which leads from the west coast of Cumbria to South Shields. In such circumstances it is considered that the proposal is well related to an existing landscape attraction and the provision of additional holiday accommodation in this location would still help to support existing tourist attractions within the surrounding area. Accordingly the principle of tourism development in this location is still

deemed to be acceptable subject to satisfying detailed policy criteria which are discussed in the following sections of this report.

2. Whether The Scale And Design Is Acceptable And The Impact Of The Proposal On The Landscape Character Of The Area

- 6.14 The NPPF attaches great importance to the design of the built environment recognising that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. The NPPF states that planning decisions should ensure developments function well and add to the overall quality of the area; are visually attractive; are sympathetic to local character and history whilst not preventing or discouraging appropriate innovation or change; establish or maintain a strong sense of place; optimise the potential of the site to accommodate and sustain the appropriate mix of development; and create places that are safe inclusive and accessible. Paragraph 134 of the NPPF states that development that is not well designed should be refused especially where it fails to reflect local design policies and government guidance on design taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to a) development which reflects local design policies and government guidance on design; and, b) outstanding, or innovative designs which promote high levels of sustainability or help raise the standard of design more generally in an area so long as they fit in with the overall form and layout of their surroundings.
- 6.15 As stated in paragraph 6.10 Policy EC10 of the CDLP is supportive of proposals for caravan, camping and chalet site development where the siting, scale or appearance of the proposal does not have an unacceptable adverse effect on the character of the local landscape, and the site is contained within existing landscape features and if necessary supplemented with additional landscaping. Policies EC9 and EC11 of the CDLP also seek to ensure that the scale and design of development is compatible with the character of the surrounding area and their existing rural setting.
- 6.16 Policy GI1 (Landscapes) of the CDLP seeks to protect landscapes from excessive, harmful or inappropriate development. Proposals for development will be assessed against the criteria presented within the Cumbria Landscape Character Guidance and Toolkit (CLCGT).
- 6.17 The application site falls on the border between Landscape Sub Types 5c (Rowling Lowland) and 7c (Sandy Knolls and Ridges) of the CLCGT however it was evident from the Officer site visit that the site has more characteristics of sub type 5c. The key characteristics of landscape sub type 5c is open undulating and rolling topography, lowland agriculture landscape dominated by pasture, hedges and hedgerow trees are common on lower ground and sparse on higher ground and some scrub woodland. The vision for this landscape subtype is to enhance and restore through the improved management of key features and the integration of development. Guidelines for natural features in this landscape sub type is to improve the management, maintenance of existing mature woodlands and carry out supplementary

planting of woodlands, tree groups and copses. Guidelines for development is to consider opportunities to enhance and strengthen green infrastructure to provide a link between urban areas and the wider countryside; integrate new recreation development such as golf courses into countryside by careful siting, appropriate ground modelling and planting and exploit opportunities these developments provide to improve visual and wildlife diversity. For access and recreation the guidelines are to ensure public rights of way are well maintained and quiet recreational areas and facilities should be improved and development to be compatible with the pastoral character of the sub type.

- 6.18 The land surrounding the application site has an undulating and rolling topography with pockets of woodland cover scattered throughout the area. The tarn itself is located within an existing hollow within the landscape and is surrounded by dense woodland. Access to the tarn and woodland is via an existing undulating compacted grassed track which leads from the road junction of the C1024/C1039 sloping up through the farmland and then down towards an existing gated access.
- 6.19 The lodges/pods will be constructed from materials which will be in keeping with the site's rural woodland setting. Furthermore the proposed structures are of a modest size and are adequately spaced out within the site enabling the character/appearance of the tarn to be maintained. Given that the tarn is located within a hollow in the landscape and is surrounded by dense tree cover there will be very limited, if any, views of the proposed lodges/pods and tracks to them from outside of the site. Therefore any landscape impact would be very localised. Where there are views of the lodges/pods and access track, perhaps through gaps of the trees from the public footpath which wraps around the western boundary of the site, the development would be viewed against the backdrop of the dense tree cover.
- 6.20 Part of the improved access track would be able to be viewed from public viewpoints outside of the site however due to the topography of the land, which is rolling in nature, and the heights of existing hedgerows the majority of the access track will be relatively well screened. The access track will be constructed from gravel which is an appropriate material in keeping with the site's rural setting. Additional landscaping is also proposed to the south of the track which will also help to assimilate this part of the development into the landscape. The changes to the existing access track are therefore acceptable.
- 6.21 The majority of the proposed development is well contained within existing landscape features. The siting of the development takes advantage of the existing contours of the land and natural screening. The proposed materials and are also traditional, in keeping with the site's rural character and appearance. Furthermore the overall scale of the development, design and positioning of structures within the site is acceptable and would not detract from the site's rural setting. In such circumstances the proposed development would not cause a significant adverse impact upon the local landscape to warrant refusal of the application on this basis. In such a context it is considered that the visual amenity and character of the area would be sufficiently protected. The scale and design is therefore acceptable.

3. Impact Upon The Living Conditions Of Neighbouring Properties

- 6.22 Policy SP6 (Securing Good Design) of the CDLP seeks to ensure that proposals do not have an adverse effect on the residential amenity of existing areas, or adjacent land uses, or result in unacceptable conditions for future users and occupiers of development. Furthermore Policy CM5 (Environmental and Amenity Protection) also seeks to protect the amenity of future/existing occupiers from unacceptable pollution such as noise and light.
- 6.23 Given the separation distances between the application site and the nearest residential properties (approximately 319 metres between the closest pod and the dwelling at Tarn Lodge and approximately 403 metres from the closest pod and Tarn Lodge Farm House) together with the differences in topography and existing intervening woodland screening, the proposals will not have an adverse impact upon the living conditions of any occupiers of neighbouring residential properties in terms of loss of light, overlooking or over dominance.
- 6.24 In terms of impacts upon the amenity of existing occupiers of neighbouring properties through noise and disturbance it is appreciated that the vehicular access to the site is over 380 metres from neighbouring properties. Given the separation distances and the variance in the typography of the landscape together with existing intervening woodland screening it is not considered that neighbouring properties would suffer any noise disturbance from patrons entering or leaving the site.
- 6.25 With regard to noise impacts from patrons once they are on site it is appreciated that the application is accompanied by a comprehensive Site Management Statement which confirms that the proposal is advanced on the basis that those wishing to visit the site will do so to enjoy the natural surroundings and peace and quiet of the area. The statement details that the site will be marketed as a quiet, tranquil location for nature lovers, bird watchers, cyclists, woodland and outdoor enthusiasts and families. Bookings will be made through a regulated agency with the website and agency highlighting that the site is aimed at those wishing to relax by slowing down and connecting with nature. Guests will be vetted in terms of their profiles with occupancy numbers agreed at booking stage. Operation of the site will be overseen by the owners who already run established businesses to the management standard of ISO 9001 and environmental standard ISO 14001.
- 6.26 The Management Statement (MS) confirms that the lodges and pods are not designed (in terms of their layout, size, furniture, installations and facilities) to be a venue for any type of event such as a party or themed celebration. A map detailing access area will be provided to all visitors informing them where they can and cannot go so local farmers and residents are not disturbed. Map will also detail local attractions, shops etc. Signage to the site will be low key with CCTV in place at the entrance to the site and parking area. Guests will be expected to sign a noise contract policy which will explain what is expected of guests and highlight that any sustained nuisance not remedied immediately will result in the loss of the deposit/contract termination. The lodges will also have design features (such as external dim down lighting on timers) to negate

any possible light pollution on or off the site. Guests will be expected as part of the contract to sign up to a light policy and pet policy to protect local livestock and prevent nuisance to other visitors/residents and wildlife. Only one pod and one lodge will be dog friendly.

- 6.27 The MS also confirmed that a designated site manager will also be employed to meet and greet residents. As part of the introduction, and before receipt of keys, they will be asked to read and sign the relevant policies (including noise, light, pet, ecology and operational policies). The site manager will be contactable 24/7 which neighbours/guests can use to raise any concerns/issues. The site manager is to ensure a litter and hazard check is undertaken weekly and all fencing is kept in good repair. The car park will also be checked weekly. The management plan confirms that no swimming, fishing, boating, canoes/inflatable's by guests will be allowed, fires/barbecues are prohibited, no wood will be allowed to be taken from site and no guest vehicles are allowed on site except wheelchairs.
- 6.28 In relation to the above it is considered that suitable detailed mitigation measures are in place to protect the living conditions of existing and future occupiers of neighbouring properties with regard to noise and disturbance. If Members are minded to approve the application it is recommended that a condition is imposed ensuring adherence to the management plan and a restriction on the number of pods/lodges to protect the living conditions of neighbouring residents.

4. Highway Impacts

- 6.29 Paragraph 110 of the NPPF confirms that when assessing specific applications for development it should be ensured that:
- a) appropriate opportunities to promote sustainable transport modes can be or have been- taken up, given the type of development and its location
 - b) safe and suitable access to the site can be achieved for all users;
 - c) design of streets, parking areas and other transport elements and the content of associated standards reflects current national guidance; and
 - d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 6.30 Paragraph 111 of the NPPF goes onto confirm that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 112 of the NPPF states that applications for development should a) give priority to pedestrian and cycle movements; b) address needs of people with disabilities; c) create safe, secure and attractive places; d) allow for efficient delivery of goods and access by emergency vehicles; and e) be designed to enable the charging of low emission vehicles.
- 6.31 Policies IP1, IP2 and IP3 of the CDLP require all development proposals to be assessed against their impact on the transport network and to ensure

adequate levels of parking provision. Such policies generally require that proposals do not increase traffic levels beyond that of the capacity of the surrounding highway network. Development that will cause severe issues that cannot be mitigated against will be resisted. Furthermore, Policies EC9, EC10 and EC11 seek to ensure that adequate access and parking arrangements are provided for such a proposal with development not leading to an increase in traffic levels beyond the capacity of the surrounding local highway network.

- 6.32 Vehicular access to the tarn is via an existing undulating compacted grassed track which leads from the road junction of the C1024/ C1039 sloping up through the farmland and then down towards an existing gated access to the north of the tarn. The application proposes to upgrade the existing access track so that it is 3 metres wide, with a passing place. The access track will be constructed from gravel however the parts of the track which are within the root protection areas of trees (the last 150 metres) will be constructed from a geocell/cell web grid system which will be gravel filled. 11no.parking spaces, including 2no.DDA compliant parking spaces are to be provided on the southern side of the upgraded access track with screen planting adjacent. The submitted plans illustrate that two turning heads will also be provided.
- 6.33 The application is accompanied by a visibility plan showing the positioning of 215m splays and letter from White Young Green/Tetra Tech confirming that the existing visibility at the junction exceeds the requires splays, the proposed development is small and would result in a minor increase in traffic, most of which would be outside of the peak hours. The letter concludes that the proposed access would not result in a severe impact or unacceptable road safety consequences . Various speed surveys have also been undertaken for the site on behalf of the applicant including a radar speed survey following abnormal speeds on days 2-7 of an initial speed survey that was undertaken for the site, and, a subsequent further survey in February using Automatic Traffic Counters (pneumatic tubing).
- 6.34 Objections have been raised from third parties, the parish council and the county councillor during the application process on the impact upon highway safety as a result of increased traffic using the existing access which is near a junction as well as objections/concerns regarding the validity, reliability and analysis of the speed surveys undertaken for the site as summarised in section 4.2 of this report. Conversely, Members should also be aware that the Council was informed by the applicant's agent that following the laying on the tubes a vehicle was recorded circa 18 consecutive occasions driving up and down the 3 way junction past the cables to the Tarn Lodge junction and back again, with similar unusual activity involving another vehicle.
- 6.35 The relevant Highway Authority has been consulted on the proposal and has confirmed that in accordance with the Cumbria Development Design Guide and as the access is within a national speed limit zone, visibility splays of 215m x 2.4 are required to be demonstrated. Such splays cannot be achieved due to the undulations in the road to the north and the splays crossing third party land which consists of hedgerows. The applicant therefore has no control over the growth and maintenance of the hedgerows that will/could impede visibility upon exiting the application site. The Highway Authority does

not accept the rationale behind the highway report submitted as part of the application which states a design speed of 40mph is being used (equating to visibility splays of 120 x 2.4m) for the splays without a speed survey undertaken to formally establish if a reduced splay is required.

- 6.36 As stated above, a number of speed surveys have been undertaken on behalf of the applicant. The Highway Authority has confirmed that the speed data in the form of a 'Radar Speed Survey Letter' has not adequately demonstrated that safe access to the site can be achieved. Consequently a further speed survey was undertaken on behalf of the applicant in February. The Highway Authority has not accepted the results of this speed survey confirming that they have found some anomalies in the speed survey data, in particular the way the data is used to inform the 85%ile speeds. It is the Highway Authority's view that this might have occurred due to the very odd/unique nature of traffic in the area. Traffic firstly is low and secondly it is shown that cars move more slowly but LGV (vans) move much faster. As HGV (busses) and LGV vehicles normally are omitted from the calculations that will give a anomalous view of the 85%ile speeds especially if all vehicles in all time 'blocks' regardless of frequency is included in the calculations. Design Manual for Roads and Bridges (DMRB) makes it clear that this should normally not be the case therefore if the guidance was strictly followed (cars only, outside of peaks) the 85th percentile speeds would be 35.4mph northbound and 31.7mph southbound. If LGV's are taken into account then the 85%ile increases to 49.4mph northbound and 45mph southbound (if the wet weather correction is done then 51.9mph northbound and 47.5mph southbound).
- 6.37 The Highway Authority have confirmed that DMRB is a trunk road design tool and not primarily for minor roads like the one in question here. There has been considerable pressure from objectors, Parish Council etc to strictly follow the rule as states in the Design criteria. If this school of logic is followed then the application splays are acceptable. The Highway Authority have however stated that they have not come to this conclusion as the abnormal impact the LGV vehicles has on the road network in this location should have a real impact on the road design criteria. The Highway Authority therefore advocate that the higher 85%ile speed is used to include the LGV's. In such circumstances the Highway Authority maintain visibility splays of 215m x 2.4 are required and recommend refusal due to lack of visibility from the access of north bound vehicles.
- 6.38 As the required visibility splays of 215m x 2.4 from the relevant Highway Authority cannot be achieved, the proposed development which would result in an intensification of the site access (which is currently used for agricultural purposes) would have an adverse impact upon highway safety. The development is therefore contrary to the requirements of paragraph 110 of the NPPF together with policies IP2, EC9 (criterion 2), EC10 (criterion 4) and EC11 (criterion 3) of the Carlisle District Local Plan 2015-2030.

5. Impact Upon Public Footpaths

- 6.39 Public Footpath 110006 runs from Tarn Lodge Farm to the south and along the western side of the application site. As the majority of the development is

sited around the tarn and to the north and east the proposal is unlikely to have any adverse impacts upon the use of the Public Footpath. The Footpath Officer for the County Council has been consulted on the development and has confirmed that the footpath must not be altered or obstructed before or after the development has been completed. Advice has also been given regarding temporary footpath obstructions.

6. Impact Upon The Setting Of Listed Buildings

- 6.40 Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 highlights the statutory duties of Local Planning Authorities whilst exercising of their powers in respect of listed buildings. The aforementioned section states that *"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses"*.
- 6.41 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).
- 6.42 Paragraph 199 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 6.43 Paragraph 200 goes onto state that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification. Substantial harm to or loss of a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional; b) assets of highest significance (.e.g. scheduled monuments, Grade I and II* listed buildings/registered parks and gardens and World Heritage Sites, should be wholly exceptional.
- 6.44 Paragraph 201 of the NPPF outlines that where a development will lead to substantial harm (or total loss of significance) of a designated heritage asset local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve public benefits that outweigh that harm or loss, or all of the following apply:
- a) the nature of the heritage asset prevents all reasonable uses of the site; and
 - b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
 - c) conservation by grant-funding or some form of not for profit, charitable or

- public ownership is demonstrably not possible; and
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.
- 6.45 Paragraph 202 of the NPPF states 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, where appropriate, securing its optimum viable use.
- 6.46 Policy HE3 (Listed Buildings) of the Local Plan also indicates that listed buildings and their settings will be preserved and enhanced. Any harm to the significance of a listed building will only be justified where the public benefits of the proposal clearly outweighs the harm. The policy states that any works to listed buildings or new development within the curtilage and/or its setting must have regard to: 1) the significance of the heritage asset, including its intrinsic architectural and historic interest and its contribution to the local distinctiveness and character of the District, 2) the setting of the asset and its contribution to the local scene; 3) the extent to which the proposed works would result in public benefits; 4) the present or future economic viability or function of the heritage asset; and 5) the preservation of the physical features of the building in particular scale, proportions, character and detailing (both internally and externally) and of any windows and doorways.
- 6.47 Historic England (HE) has produced a document entitled 'The Setting of Heritage Assets - Historic Environment Good Practice Advice in Planning: 3 (Second Edition)' (TSHA). The document sets out guidance, against the background of the NPPF and the related guidance given in the PPG, on managing change within the settings of heritage assets, including archaeological remains and historic buildings, sites, areas, and landscapes.
- 6.48 The TSHA document details the definition of the setting of a heritage asset as that contained within Annex 2: Glossary of the NPPF as: *"the surroundings in which 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"*. The document acknowledging that conserving or enhancing heritage assets by taking their settings into account need not prevent change and recommends a staged approach to proportionate decision taking.
- 6.49 In respect of the impact of proposals on the setting and views of heritage assets, the TSHA states that: *"all heritage assets have significance, some of which have particular significance and are designated. The contribution made by their setting to their significance also varies. Although many settings may be enhanced by development, not all settings have the same capacity to accommodate change without harm to the significance of the heritage asset or the ability to appreciate it. This capacity may vary between designated assets of the same grade or of the same type or according to the nature of the change. It can also depend on the location of the asset: an elevated or overlooked location; a riverbank, coastal or island location; or a location within an extensive tract of flat land may increase the sensitivity of the setting (ie the*

capacity of the setting to accommodate change without harm to the heritage assets significance) or of views of the asset. This requires the implications of development affecting the setting of heritage assets to be considered on a case-by-case basis".

a) the significance of the heritage asset and the contribution made by its setting

6.50 The nearest listed buildings to the application site are the Tower Folly (Grade II) located on the hill to the north of Tarn Lodge (approximately 128 metres from the southern most boundary of the application site) and Tarn Lodge (Grade II) itself located approximately 206 metres from the southern most boundary. By way of background there are over 374,000 listed buildings within England which are categorised as Grade I, Grade II* and Grade II. Grade I are of exceptional interest, sometimes considered to be internationally important, only 2.5% of Listed Buildings are Grade I. Grade II* Buildings are particularly important buildings of more than special interest, 5.5% of listed buildings are Grade II*. The final tier of Listed Buildings are Grade II buildings which are nationally important and of special interest.

6.51 The listing details for the Tower Folly (listed in 1957) are as follows:

Tower folly. Probably c1807, same date as house. Dressed red sandstone. Small 2-storey square tower with battlemented parapet on hill behind house. Included partly for G.V. with Tarn Lodge.

6.52 The listing details for Tarn Lodge (listed in 1957) are as follows:

House. Circa 1807, for John Bell. Painted rendered walls on chamfered plinth, pilaster quoins and stone dressings; hipped slate roof to house and wings, rendered chimney stacks. 2 storeys, 5 bays, with flanking 2-storey, single-bay wings. Semicircular Doric tetrastyle porch, has triglyph frieze and moulded cornice; glazed door with semicircular glazed fanlight, has flanking engaged Tuscan columns with block entablature and pedimented cornice. Sash windows with glazing bars have plain stone surrounds. Outbuildings excluded.

6.53 Tarn Lodge, Tarn Lodge Farm, Tower Folly and the tarn (subject of this application) were originally part of a single estate that has subsequently been divided into separate property holdings namely Tarn Lodge, Tarn Lodge Farm which includes what was originally the coach house, stables and outbuildings to Tarn Lodge as well as the Tower Folly and then the application site itself - the tarn. Tower Folly itself is unchanged since the time of listing however the available planning history indicates that there has been a number of applications submitted and approved within the grounds of Tarn Lodge since the time of listing including an extension in 1990 to form a snooker room in the walled garden (references 90/0035 and 90/0098); change of use to a 5 bed guest house in 1991 (reference 91/0627); alterations to outbuildings in 1994 to form a non-residential eye clinic (references 94/0026 and 94/0027); demolition of an existing two storey rear extension and detached garage and erection of a replacement two storey extension, detached garage, change of

use of annexe from ophthalmic operating theatre to residential flat including alterations, erection of stables and change of use of former tennis court to an equestrian arena and construction of paths within grounds (references 18/0471, 18/0472, 19/0276, 19/0268 and 21/0823). The City Council is also currently dealing with a Listed Building Consent application for Tarn Lodge for re-rendering and associated repairs to external elevations of the main house (reference 22/0121). At the time of preparing this report application 22/0121 was undetermined. A number of applications have also been approved at Tarn Lodge Farm which is to the west of Tarn Lodge, since the listing of the described heritage assets including the farmhouse itself (reference 89/1283) as well as a number of agricultural buildings under references 96/0020/AGD, 15/0260 and 20/0373.

- 6.54 There is a debate between various parties as to whether the application site falls within the domestic curtilage of the aforementioned heritage assets. The Council's Heritage Officer is of the opinion that the site is within the domestic curtilage of Tarn Lodge and should be assessed as part of a designed landscape associated with the lodge. The HO believes that the site falls within the domestic curtilage of Tarn Lodge taking into account past ownership (i.e. it all being one estate at the time of listing) as well as the site being physically and functionally associated with Tarn Lodge (linked by a tree line pathway with sales particulars and past occupants confirming that the tarn/woodland was used as pleasure/leisure grounds). The submitted Heritage Statement (HS) accompanying the application also acknowledges that at the time of listing the available evidence indicates that Tarn Lodge estate was in single ownership and there was access from Tarn Lodge to the tarn and neighbouring fields which included a tree line lane and pathways. However, the HS states that the use of the tarn does not appear to have been functionally within what would be recognised as the domestic curtilage of Tarn Lodge because it was outside the confines of the planning unit comprising Tarn Lodge and its domestic garden. In addition, the HS states that the tarn and wood were functionally more associated with the agricultural/plantation and sporting activities of the estate opposed to the residential use of Tarn Lodge and the Folly Tower, thereby not meeting the basic practical interpretation of the 'curtilage' test outlined in *Sinclar-Lockhart's Trustees V Central Land Board (1950)* which states *"The ground which is used for the comfortable enjoyment of a house or other building may be regarded in law as being within the curtilage of that house or building and thereby as an integral part of the same although it has not been marked off or enclosed in any way. It is enough that it serves the purpose of the house or building in some necessary or useful way"*.
- 6.55 When assessing whether the application site falls within the setting of the Tarn Lodge and Tower Folly a distinction needs to be made between curtilage and setting. Historic England is clear in its guidance that setting is separate from the concepts of curtilage. A curtilage of a building is a legal term describing an area around a building, and for listed structures, the extent of curtilage is defined by consideration of ownership, both past and present, functional association and layout. The setting of a heritage asset will include, but generally be more extensive than, its curtilage. It is clear that historically and at the time of listing the application site was within the same ownership

as Tarn Lodge as it formed one estate and there was an inter relationship between the two via a tree lined lane/pathway leading to the tarn from Tarn Lodge. The tarn and immediate surrounding woodland forms a natural post glacial feature within the landscape and although there is a tree lined pathway linking Tarn Lodge to the tarn, the tarn and woodland itself have not been specially designed as part of the formal landscaping to Tarn Lodge as confirmed by Historic England (see paragraph 3.10 of this report) and was primarily used for leisure purposes rather than domestic purposes. The domestic curtilage of Tarn Lodge is therefore confined to the area immediately to the north of Tarn Lodge and not associated with any other ownership.

- 6.56 Members should also be aware that the Garden Trust in their response state that the proposed development affects a site listed by Historic England on their Register of Parks and Gardens. As confirmed in paragraph 3.10 of this report a request was made to Historic England that the land to the north of Tarn Lodge (i.e. the application site) should be added to the Register of Parks and Gardens of Special Historic Interest in England. Historic England considered this request and completed an assessment of the site based on the material provided and on the 15th June 2020 decided not to add landscape park, including lake and pleasure grounds, north of Tarn Lodge, Castle Carrock to the register at this time. The site was not recommended for registration for the following principle reasons: 1) degree of historic interest - site is a modest early-C19 landscape associated with a small country house with no influence in the development of taste through reputation or reference in literature; and, while Tarn Lodge was the residence of George Bell Routledge, an early-C20 entomologist well-regarded in his specialism, this is not sufficient in its own right to recommend registration of the landscape; 2) degree of design interest - the overall design of the landscape is unambitious and not especially well-developed, utilising the pre-existing, gently undulating topography with unaltered natural tarn as its primary feature; and, there is no known association with the work of a designer of national importance; 3) degree of group value - while the presence of the listed house and the tower folly enhances the landscape's interest, these are removed from the principle feature of the tarn and do not compensate for the overall lack of intrinsic design interest.
- 6.57 In terms of what constitutes a setting Historic England is clear that setting is not itself a heritage asset, nor a heritage designation, although land comprising a setting may itself be designated. Its importance lies in what contributes to the significance of the heritage asset or the ability to appreciate that significance. When looking at the setting of the two aforementioned listed buildings - Tarn Lodge and Tower Folly it is acknowledged that both listed buildings are situated within undulating landscape, resulting in Tarn Lodge being set at a lower level to the trees that surround the perimeter of the property to the north, thus restricting views of the tarn from Tarn Lodge and creating more of an enclosed setting due to the topography of the landscape and boundary treatment. As stated in paragraph 6.53 the immediate setting of Tarn Lodge has changed since the original listing due to the development works that have taken place within the grounds itself.

6.58 Tower Folly is set within the hill to the north of Tarn Lodge also surrounded by woodland trees. Given the positioning of Tower Folly on top of the hill the setting of this listed structure is wider as there would no doubt be views from the folly towards the tarn and the wider landscape.

b) the effect of the proposed development on the setting of the nearby Grade II Listed Buildings

6.59 When assessing the impact of the proposed development on the setting of the nearby Grade II Listed Buildings The Georgian Group is of the opinion that the application sites link to Tarn Lodge and the Tower Folly would become lost as a result of the proposal and their significance correspondingly reduced, with the development causing the loss of a historically significant designed Georgian landscape radially altering the setting, character and value of the associated Georgian listed heritage assets of Tarn Lodge and the accompanying Tower Folly. This opinion is on the basis that the estate (including the tarn) was intact at the time of listing and there is a functional, linking and enduring relationship between the tarn and heritage assets. The Gardens Trust also object to the application confirming that there is panoramic views of Tarn Lake from the elevated viewing platform of the Tower, specifically placed to enjoy the vista over the tarn, pleasure grounds, formal gardens, mature plantation and parkland with Tarn Lake also visible from Tarn Lodge. The Garden Trust are firmly of the opinion that the tarn is within the setting of the Grade II Listed Tower and Lodge and the whole forms a layout of group value little altered since its conception in 1802. The Garden trust are of the opinion that the development will negatively impact on the historic character of the designed landscape, and, the understanding of the history and significance of the heritage assets. The Garden Trust state that the landscape setting is far better understood since the previous planning permission in 1994 and that the lakes link to Tarn Lodge and Tower Folly would become lost as a result of the development and the setting of the heritage assets would be compromised and significance correspondingly reduced.

6.60 When assessing the impact of the development on the setting of the Listed Buildings the Council's Heritage Officer (HO) agrees with the submitted Heritage Statement accompanying the application that there will be no direct or physical impact whatsoever on the historic fabric of either Tarn Lodge or Tower Folly. The HO confirms that the development of the tarn for modest leisure use would be compatible with its original design-intention and that appropriately designed structures could be acceptable, if at a sufficiently low density and suitable design, to retain the sylvan character of the site. The HO considers that the revised proposals with timber lodges and pods under green roofs are a significant improvement on the withdrawn 2020 scheme and are no worse than the approved, though lapsed 1994 proposal. The HO confirms that whilst he would have preferred to have seen a lower density development the works are equivalent to that approved in 1994 and the development would not have an unacceptable impact on the appearance of the tarn environment - which the HO maintains is curtilage to the main house or to the setting of the house itself or Tarn Folly.

- 6.61 It is acknowledged there would be very limited views, if any, of the application site from Tarn Lodge itself due to the undulating topography of the landscape and due to the buffer of trees surrounding both the periphery of the tarn and Tarn Lodge. There would be more views of the site from the Tower Folly, given its elevated position, particularly the access and parking area however views of the development would be seen against the context of the dense woodland that surrounds the tarn, the proposed landscaping and the undulating nature of the landscape. Setting itself is not a heritage asset and the important thing for Members to consider when determining this application is whether the proposal impacts upon the significance of the Grade II Listed Buildings at Tarn Lodge and Tower Folly. As discussed in paragraphs 6.14-6.21 of this report the overall scale of the development is appropriate to the site with materials which correspond with the site's natural environment. In such circumstances, and given that there are no objections raised from the Council's Heritage Officer, it is not considered that the development would have an adverse impact upon the overall significance and settings of Tarn Lodge or Tower Folly.

6. Impact Upon Trees

- 6.62 One of the main aims of the NPPF is to conserve and enhance the natural environment. Paragraph 174 of the NPPF states that planning decisions should contribute to and enhance the natural environment by a number of measures including recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem services, including the economic and other benefits of the best and most versatile agricultural land and of trees and woodland. Paragraph 180 of the NPPF states that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.
- 6.63 Policy GI6 (Tree and Hedgerows) of the CDLP states that proposals for new development should provide for the protection and integration of existing trees and hedges where they contribute positive to a locality and/or a specific natural or historic value. Proposals which result in the unacceptable or unjustified loss of existing trees or hedges or which do not allow for the successful integration of existing trees or hedges identified within a tree survey will be resisted. Policy GI3 states that development which would result in the loss of aged or veteran trees found outside ancient woodland will be refused, unless the need for, and the benefits of, the development in that location clearly outweigh the loss. Policy SP6 of the CDLP requires all developments to take into account important landscape features and ensure the enhancement and retention of existing trees and hedges.
- 6.64 Furthermore, the City Council's Supplementary Planning Document (SPD) 'Trees and Development' outlines that native large growing species are intrinsic elements in the landscape character of both rural and urban areas alike and acquire increasing environmental value as they mature. Large trees need space in which to grow to maturity without the need for repeated human intervention. Not only should the design of the development seek to retain

existing tree and hedgerow features, but sufficient space should be allocated within the schemes to ensure integration of existing features and space for new planting. It is important that these issues are considered at the very start of the planning process.

- 6.65 The application site surrounds a large tarn and is dominated by a plantation of broad-leaved woodland habitats and continuous bracken, with small areas of scattered broad leaved trees and swamp. The site is a managed woodland (subject to a Forestry Commission Management Plan) along with Hayton Moss woodland to the west.
- 6.66 The application is accompanied by an Arboricultural Method Statement (AMS) and a Arboricultural Impact Assessment (AIA) based on a tree survey of all trees throughout the site with individual details recorded for all significant trees within the proximity of the proposed development areas and group records of larger numbers of smaller trees. The AIA confirms that the site is not subject to a TPO and searches on Natural England map data do not indicate the presence of any Ancient Woodland, SSSI's etc. The AIA notes that a number of trees within the site boundaries have been categorised as 'veteran' or 'notable' on the Woodland Trust online Ancient Tree Inventory however the AIA is unsure how these categories have been assessed or assigned as the statement confirms that the 'veteran' trees are Common Beech which are in the mature age class and not estimated to be much greater than 200 years old. The AIA also confirms that the trees in the woodland have a generally good to fair vigour with limited amounts of aerial deadwood in volumes that would normally be encountered through shading within groups of mature Common Beech. Branch loss or damage in Common Beech will often result in the formation of decay cavities of varying sizes, this is not a feature which would confer veteran status as it occurs frequently in Beech of all age categories.
- 6.67 The AIA confirms that the proposed lodges/pods will be located in open ground outside of the root protection zones of trees. The AIA confirms that the root protection areas have been based on the formula of BS5837:2012 which is a minimum area required for the root zone of a given tree size and fine root structure may extend outside of this radius. In such circumstances the AIA confirms that if the proposed lodge/pod locations are constructed on screw piles or supporting posts/pillars (all installed by appropriate hand working methods) then the construction phase will not impact upon the long-term retention of retained trees. The AIA also states that the proposed pod locations can also be created via screw piles, hand dug supporting posts or via a cell web based raised base. The AIA therefore confirms that the nature of the proposed accommodation units and their construction/siting is not incompatible with the retention and protection of mature class surveyed trees if appropriate construction, working methods and site management are used.
- 6.68 The AIA also states that internal access routes to the lodge and pod locations follow existing well defined access tracks within the site which show signs of regular access via smaller vehicles/quad bike etc. The proposed lodges/pods will be accessed by pedestrians with service access for quad or small electric type utility vehicle. This would not represent a change in use from the existing

site and the proposed layout indicates the use of a ground grid along these routes. The use of the a grid would have the potential to reduce erosion of the routes and compaction over that experienced within the current site.

- 6.69 The AIA confirms that the water/electric supplies will be routed above ground at all times and will therefore not impact upon tree constraints. Provision of drainage routes will require installation of below ground structures. A drainage plan has been submitted which shows that the routes are outside of the plotted RTA radii. Subject to hand dig methods there should be no significant impact upon existing tree stock. The AIA confirms that several small soakaways will need to be formed, a number of which are within the outer edge of the plotted RPAs. If hand working methods are used there should be no significant impacts. The proposed storage tank for the holding of sewage waste from the lodges/pods has also been sited in an open area outside any root protection zones.
- 6.70 Part of the proposed access route to the site and turning head goes through the RPA of trees however the AIA states that as the route is formed through a recognised 'no dig' above ground cell web based construction, then no impact will be place upon the root zones of the trees along the northern boundary. The AIA notes that the existing agricultural access passes within the RPA and the fencing of the access route and use of cell web construction would reduce any levels of future compaction from that currently experienced.
- 6.71 The AIA notes that some lower branch tips will require pruning to avoid damage from vehicle movements but this would not include the removal of any significant branches and it would be required irrespective of the proposed development if an agricultural tractor was to traverse the field. The AIA confirms that the proposed newt pond proposed as an environmental improvement will also be located outside of identified tree constraints and will not impact on any mature tree stock. The AIA goes onto state that the upgrading of existing routes within the site with additional grid reinforcement matting would limit or remove any impacts from pedestrian compaction. The creation/upgrading of pedestrian routes by these methods would also reduce or prevent an increase in general compaction by reducing the likelihood of guests using ad hoc (unsurfaced) routes or desire lines.
- 6.72 Overall the AIA notes that the proposal does not require the removal of any trees on site and the development has responded to the identified tree constraints on the site. A number of detailed mitigation measures are proposed such as hand dig installation and geo-cell systems as well as tree protection fencing etc. The AIA also confirms that the site is subject to a Forestry Commission Management Plan which includes enhancement measure such as tree planting etc as well as pest control.
- 6.73 The Woodland Trust have objected to the application on the basis of damage and deterioration to the population of veteran and notable trees on site. They consider that the impact of development on veteran trees does not comply with national policy, the submitted Arboricultural Impact Assessment (AIA) dismisses the importance of the veteran trees on site and the assumptions made regarding veteran status. They are also concerned that siting

development close to trees and increasing human activity on site will compromise long-term retention of trees, increase health and safety risks, and, result in loss of local biodiversity. Objectors have also cited similar concerns.

- 6.74 Given the conflicting comments between the Woodland Trust and applicant's Arboriculturist with regard to the status of the trees within the application site the Council sought independent arboricultural advice. The independent advice confirms that tree girths listed on the Woodland Trusts Ancient Tree Inventory were found to be largely inaccurate and largely speculative as no access to the land by the Woodland Trust was made. Photographs taken didn't always correspond to the correct tree and some were on neighbouring land which the applicant has no control over. The independent report (IR) also confirms that the validation of the Ancient Tree Inventory is flawed as to validate the trees, access to the site would of been required and some of the trees have no views whatsoever without being in the middle of the wood. The IR notes that some trees are incorrectly classified as veteran when they are in fact mature, and, that there are many notable trees on the land but the site is not regarded as ancient woodland as much of the trees growing are less than 70 years old.
- 6.75 The independent arboriculturist visually surveyed all trees and confirmed that measurements taken largely concurred with the tree survey undertaken by the applicant, with the only differences related to additional 3 years in growth. The IR did however classify 5 trees near the development as veteran due to their size, age and condition. The IR considers that a comprehensive tree survey and protection measures have been submitted along with a Woodland Management Plan for 10 years that caters for the future management of the trees. The IR confirms that if the recommendations within the applicants AIA and AMS are followed there should be no adverse impacts on the surrounding trees. The IR does however point out that whilst on site a clump of Japanese Knotweed was found and a specialist company should be used to eradicate it with adequate control measures put in place.
- 6.76 Gov.uk advice states that the root protection area of trees classified as veteran should be at least 15 times the tree's diameter or 5 metres from the edge of the trees canopy if that area is larger than 15 times the tree's diameter. This results in some of the trees within the development site (T955, T961, T967, T988 and T990) having a larger root protection zone than shown on the submitted site location plan with the two western most lodges, the drainage runs, paths and sewage tank located within the root protection zones. It is clear that the sewage tank could be relocated to the north out with the root protection zones (the siting of which could be secured by condition). In terms of the impacts of the lodges, drainage runs and paths within the root protection zones the independent arboriculturist has confirmed that the drainage runs could be hand dug. The applicant's arboriculturist (AA) has provided an explanation confirming how the roots will be minimised from the pile foundations for the lodges namely - the lodges located in excess of 10m from centre stems and specification for initial ground protection for all areas of development including access routes preventing any compaction of soil and leaving route conditions unchanged. Whilst the precise support installation methods require finalising depending on soil conditions, any underlying rock

and calculated structural loadings, the AA has confirmed that helical screw piles and hand dug individual support posts are referenced as suitable construction methods in the AMS. Both methods are accompanied by a methodology for initial supervised hand digging once ground protection is in place allowing for the repositioning of any visible roots which may be present. If repositioning or controlled hand pruning of minor roots is not possible individual support locations can be adjusted on site to avoid any significant root structures. Given the 3 bed accessible lodge is 15.5m from T967 it is unlikely that any significant root structures would be present at the lodge location. Neither methods require the use of heavy plant or machinery and any use of concrete support posts are contained within an impermeable membrane. The AA confirms that foundation based individual supports will not result in any notable root disturbance and the raised nature of the lodges will allow the soil structure to be retained in its current state. This explanation is accepted by the independent arboriculturist who has also advised that an arboriculturist could be present on site to supervise the works.

- 6.77 Whilst objectors have raised concerns regarding the use of cellular confinement systems citing advice in Guidance Note 12 of the Arboricultural Association. It is clear that point 21 of this guidance states *"to minimise the potential for harm to veteran trees or ancient woodland it is recommended that the installation of cellular confinement systems should not be permitted within the buffer zone of ancient woodland or a veteran tree unless it can be determined that any direct impacts to soil and roots are likely to be tolerated by the affected tree. A cellular confinement system could be appropriate for ground protection where temporary access is required past a veteran tree if there are no other viable options available, or as a mitigation measure if a local planning authority has decided that there are wholly exceptional reasons for surfacing to be required in a buffer zone"*. The independent arboriculturist is aware of the aforementioned guidance and has confirmed that the cellular confinement systems within buffer zones has been used effectively in such locations without any long term tree loss and given that it only covers a small part of the site and only parts of the root protection areas the use of cellular confinement systems at the site is accepted.
- 6.78 Standing advice from Natural England and Forestry Commission on the Gov.uk website which is a material planning consideration for local planning authorities states that when making decisions about impacts upon veteran trees local planning authorities should refuse development that will reduce in the loss of deterioration of veteran trees unless there are wholly exceptional reasons or a suitable compensation strategy in place. Recommendations on the gov.uk website are made regarding buffer zones stating that *"you should not approved development proposals, including gardens, within a buffer zone"*. The buffer zone recommendations however do not appear to differentiate between ancient woodland and veteran trees. Notwithstanding this advice it is evident that no trees are to be removed as part of the development and it is clear from the advice by the independent arboriculturalist that the minimal development works taking place in the root protection zones of the veteran trees coupled with the mitigation measures that can be undertaken will not result in any long term harm or deterioration to the trees. In such circumstances subject to the sewage tank being re-sited

further north and the extensive mitigation measures proposed in the AIA and advised by the independent consultant and adherence to the site management statement (which stipulates amongst other things that fires/barbecues are prohibited, no wood will be allowed to be taken from the site etc) all of which can be secured by condition, it is not considered that the proposal would have an adverse impact upon existing trees within the site or result in the loss or deterioration of veteran trees. The development in this regard is therefore considered to be compliant with the relevant planning policies.

7. Impact Upon Biodiversity

- 6.79 As stated in paragraph 6.62 planning decisions should contribute to and enhance the local environment by a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); b) recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem services, including the economic and other benefits of the best and most versatile agricultural land and of trees and woodland; c) maintaining the character of the undeveloped coast; d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; and e) preventing new and existing development from contributing to and being put at unacceptable risk from soil, air, water or noise pollution etc. Development should wherever possible, help to improve local environmental conditions such as air and water quality; and f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land where appropriate.
- 6.80 Paragraph 180 of the NPPF states that a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; b) development on land within or outside a Site of Special Scientific Interest and which is likely to have an adverse effect on it should not normally be permitted; c) development resulting in the loss of deterioration or irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused unless they are wholly exceptional reasons and a suitable compensation strategy exists; and d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.
- 6.81 Policy GI3 of the CDLP reiterates the requirements of the NPPF confirming that all proposals for development should protect and enhance priority habitats, European and nationally protected species as well as maintain and enhance any recognised geodiversity assets. When considering planning applications policy GI3 states that 1) permission for development will be refused if significant harm resulting from development cannot be avoided, adequately mitigated or, as a last resort, compensated for; 2) proposals

where the primary objective is to conserve or enhance biodiversity will be approved; 3) the incorporation and integration of wildlife corridors and other habitats in and around development sites will be required, wherever the opportunity arises; 4) species appropriate provision will be sought on development sites to encourage an increase in biodiversity; and, 5) development which would result in the loss of aged or veteran trees found outside ancient woodland will be refused, unless the need for, and the benefits of, the development in that location clearly outweigh the loss.

- 6.82 The application is accompanied by an Ecological Assessment (EA) including an initial Extended Phase 1 Habitat Survey (HS) undertaken in May 2019 and updated in December 2020 to assess if habitats had changed and to search for signs indicating the presence of protected species, a Reptile Survey (undertaken in September 2021) as well as a Site Management Statement.
- 6.83 The EA/HS states that a large open water tarn dominates the site with bogbean dominating in the west. The tarn is shallow and fringed by swamp habitat (predominantly soft rush amongst other species) along the southern and western edges. The marsh habitat encroaches into the pond to the south-east where scattered birch, goat willow, scots pine and sessile oak are present. The tarn is bordered on its east and northern side by an area of continuous bracken. In this area bluebell (a protected plant species) is abundant. Beyond the continuous bracken habitat the site is surrounded by a mature broad-leaved plantation. To the north of the tarn and woodland there is an area of improved grassland. Stands of giant knotweed and rhododendron (invasive species) are present in the south-east corner of the site.
- 6.84 The EA/HS assesses the impacts of the development upon protected sites, habitats and flora, protected and non-native invasive species, woodland/trees, amphibians, badgers, bats, birds, otter/water vole, red squirrel, hazel dormouse, reptiles, Great Crested Newts, as well as other protected/notable species. The EA/HS confirms that no impacts on any statutory or non-statutory designated sites are anticipated as a result of the proposal
- 6.85 In summary the EA/HS states notes that deciduous woodland habitats on site are Priority Habitats and that there are trees recorded as veterans on site. The EA/HS confirms that the proposal will not have a direct impact upon the tarn as the development will not involve any provision of formal angling facilities nor would the tarn be stocked with fish, boating will also not be permitted except for the management of the water body. Foul drainage sewage treatment arrangements which require approval from the EA have been designed to avoid risk to the tarn and surface water infiltration trenches have an absorptive function and will collect rain water from the roofs of the lodges and pods. No loss of standing water or swamp will occur.
- 6.86 The EA/HS goes onto state that no direct or indirect impact upon trees are anticipated as the proposal does not involve any tree felling/significant pruning, no works are proposed within any root protection areas, lodges and pods will be linked by a geotextile membrane pathway laid over existing ground to reduce adverse impacts upon woodland soils, a geotextile

membrane is also proposed where the vehicular access goes under the root protection areas, lodges will be raised on stilts there will be a negligible loss of soil where the stilts enter the ground however there will be decline of habitats as a result of shading. The EA/HS notes that the lodges and pods will be sited in an area of continuous bracken habitat, lined by a geotextile pathway, which will result in the loss of a small area of continuous bracken habitat however the EA/HS states that this is not considered to be of ecological significance given the abundance of the habitats on site. The EA/HS confirms that the geotextile pathway leading from the access road down towards the lodges will cross a broad leaved habitat which contains limited ground flora as a result of shading from trees therefore the loss from the creation of the pathway is negligible. Excavations for the drains will avoid root protection areas with the drainage system installed predominantly through the continuous bracken on site with the foul drainage tank installed in an area historically used as a pheasant pen. The loss of habitats to create the drainage runs, tank and access to is considered not to be significant. The EA/HS confirms that the pumps and cess tank will be fitted with high level and power loss alarms to ensure the site management is notified immediately of any outages so potential ecological impacts arising from any failures can be minimised. The EA/HS also states that the length of improved grassland lost to facilitate the upgraded access from the main road is not significant given the abundance of this habitat type in the wider area. It is noted that there would be the permanent loss of continuous bracken to create two small new mitigation ponds but this will lead to creation of habitat of improved nature conservation status. Measures are also proposed to ensure retained habitats are protected during construction of the lodges.

- 6.87 In terms of impact upon species the EA/HS confirms that no evidence of badgers were found on site. Several trees were found to have suitability for roosting bats however as no trees are to be removed it is not considered there would be any adverse impact upon roosting, foraging or commuting habitats for bats. Habitats on site were found to support nesting and ground nesting birds however it is not anticipated that there would be any habitat loss for birds and new structures on site could provide nesting opportunities. No evidence was found for otters and water voles on site with development located sufficiently far from the tarn to negate impacts on bank habitats. The site was found to have potential for supporting red squirrels however as no trees are to be lost no direct impact is anticipated however indirect impacts are noted from potential disturbance during construction and operation of the lodges. The EA/HS confirms there will be no implications for invertebrates or pole cats as no habitats used by this species will be lost; the proposed drainage strategy and site management statement will ensure no adverse impact upon aquatic invertebrate fauna; and, there will be no impacts upon hazel dormouse as habitats on site are unsuitable for this species. The EA/HS confirms that habitats are suitable on site for hedgehogs and consideration must be given to these species during construction and the majority of habitat on site is unsuitable for brown hare but the improved grassland could support foraging and commuting however given the small area of habitat lost and the abundance of suitable habitat in the wider area the loss is not considered significant. The Reptile Survey undertaken also did not find any reptiles during survey work and confirms that no implications exist for reptiles.

- 6.88 In terms of amphibians the EA/HS confirms that Great Crested Newts (GCN) are known to be present and presumed to be breeding on site and presumed to also be present in off-site ponds where no access was permitted to survey. As it was not possible to generate a reliable population estimate due to access to off-site ponds being refused and health/safety difficulties associated with installing bottle traps and carrying out torch lit surveys in swampy margins of the tarn the EA/HS has assessed the impact on GCN based on a worst-case assumption of a large GCN population using the tarn/off site ponds. The EA/HS confirms that the habitats surrounding the tarn provide suitable terrestrial habitat structure for newts. The EA/HS confirms that although no works to the tarn and habitat loss are anticipated there is the potential for minor-construction phases impacts to GCN as such appropriate mitigation is required under a traditional EPS licence from Natural England. The EA/HS confirms that there is sufficient land available within the site to mitigate for the modification to terrestrial habitat and long term additional habitat provision will provide mitigation through the creation of two new ponds within the site. Proposed new woodland planting in clumps around the tarn will also provide additional terrestrial habitat quality.
- 6.89 The EA/HS states that bluebells are known to be present within some of the footprint of the lodges and whilst the siting of the lodges avoids the highest concentrations of bluebells a planning condition is suggested to ensure a repeat survey and a scheme of translocation prior to construction to ensure there is no net loss. The EA/HS also proposes a number of extensive mitigation measures to deal with the potential impacts of the proposal such as sensitive lighting strategies, site clearance outside of the nesting bird seasons, Invasive Species Control Plan, Construction Environmental Management Plan, Tree and Habitat Protection Plan, Habitat Management Plan, Great Crested Newt Licence, Precautionary Mammal and Reptile Reasonable Avoidance Measures Method Statement. A number of enhancement measures are also proposed such as eradication of invasive species on site, the installation of bat and bird boxes, Landscape Habitat Establishment Plan which can ensure a 10% biodiversity net gain of the site - such as additional woodland planting, hedgerows along the access track, green roofs on the lodges and open water.
- 6.90 It is clear from paragraphs 4.2-4.4 of this report that a number of objections have been received from third parties with regard to biodiversity impacts of the development including statements that surveys undertaken have not been in accordance with best practice; lack of bat, invertebrate and botanical surveys; allegations that the applicant has affected the baseline of surveys by brush cutting near the tarn in June 2019 and by intensive game and water fowl rearing; as well as allegations that the site could be ancient woodland. The representations received in respect of the application have been reproduced in full for Members.
- 6.91 In light of representations received the Council has sought independent advice from an ecologist to undertake a review of the ecological information submitted for the application including the correspondence from the Woodland Trust, Cumbria Wildlife Trust and Natural England. The ecologist

was also furnished with a copy of the independent tree advice received in respect of the application. In summary the independent review by the ecologist confirms that on the basis of the relatively low impact design of the proposed development and the relevant information provided with the application (including consultee comments and responses) it is advised that the mitigation and enhancement measures included in the Ecological Assessment submitted are generally appropriate and should be conditioned in any planning permission that maybe granted for the proposed development. The independent reviews suggested some additional mitigation measures including a repeat survey of the lodges footpaths, access, pathways and drainage runs prior to works commencing, a detailed translocation plan for bluebells taking into account appropriate timing for the translocation and appropriate methods of sensitive soil handling; invasive method statement to include dealing with Japanese Knotweed; excavation works undertaken to be covered overnight in order to prevent animals becoming trapped/injured, and, advice on further survey work for bats and a licence should any works to trees be undertaken; sensitive lighting strategy undertaken in accordance with more recent guidance; and, a greater number of bat and bird boxes should be installed on site (10 of each). The independent review also confirms that further survey work for reptiles will not be necessary based on the reptile presence/likely absence survey work undertaken however this survey data is only valid for two years so if development works are delayed beyond this date a further reptile survey should be undertaken. The review also recommends 10% Biodiversity Net gain in advance of a planning decision being made.

- 6.92 As part of the independent ecological review an independent Assessment of Likely Significant Effect (ALSE) was also undertaken. In summary the ALSE confirms that the development is unlikely to have a significant effect alone of in-combination with any other plans/projects on the interest features of North Pennines Moors Special Protection Area (SPA), North Pennines Moors Special Area of Conservation (SAC) or the River Eden (SAC) therefore an appropriate assessment is not required.
- 6.93 Members should be aware that the independent ecologist (IE) has raised no issue with regard to the timing of the survey work undertaken for the application confirming that Ecological Assessment surveys and extended Phase One surveys can be undertaken at any time of the year, providing that the timing constraints/limitations are adequately discussed and taken into account in the survey report which has been done. September is also an optimal time to undertake a reptile survey as during this month juvenile reptiles are likely to be detected in addition to adults. The IE also notes that the number of survey visits undertake for the reptile survey were in accordance with the relevant guidelines with the density of the survey undertaken far exceeding the relevant guidelines. The IE has also confirmed that the company undertaking the reptile survey is a well-established and respected ecological consultancy in Cumbria and it is therefore most likely that the surveyors had the relevant experience and training for the work. With regard to objectors concerns regarding lack of bat surveys the IE has confirmed that although the site will be used by bats when foraging and commuting in the locality, and potentially for roosting in trees with suitable roost features on site, it is understood that potential bat roosting habitat will

not be affected by works (e.g. it is understood that no trees will be felled as part of the proposed development and that only minor tip removal will be undertaken on trees along the proposed access route), and therefore that the proposals are unlikely to impact roosting bats or their roosts. There is only one structure on site (shed) and that has negligible potential for roosting bats. It is also understood that works are not proposed to the shed. The bat mitigation proposed in the EA and in the independent Ecological Review includes further bat survey work should any works be necessary to trees with bat roost potential, sensitive siting of lodges, creation of new bat foraging habitat (two ponds), production and implementation of a sensitive lighting strategy to avoid impacts of lighting on bats, and the addition of many bat boxes across the site. This mitigation is considered adequate to address any indirect impacts there may be on foraging and commuting bats using the site, and to enhance bat foraging and roosting opportunities on site.

- 6.94 With regard to the objections raised regard the validity of the Great Crest Newt Survey the IE has confirmed that the limitations to the Great Crested Newt survey work undertaken at Tarn Lodge Farm, such as access restrictions due to lack of permission to survey off-site ponds and health and safety reasons, were highlighted and discussed fully in the information provided by the applicant. Justification for the use of eDNA surveying only was provided and this survey was able to establish the presence of GCN in the tarn. The ecologist then made 'a reasonable worst-case assumption that a 'large' population of GCN are using the tarn on site and ponds off-site to breed, and therefore that a European Protected Species Mitigation Licence would be required on that basis, including appropriate mitigation measures, before development works could proceed. Based on the images of the tarn taken in June 2019 and in June 2021 sent to the council by an objector, the IE has stated that the extent of marginal vegetation around the tarn does appear to have decreased in places between 2019 and 2021. The presence of waterfowl on the tarn may have contributed to this, particularly if their numbers have substantially increased. However, other factors may also have influenced the extent of marginal vegetation, such as differences in climate (e.g. rainfall and/or temperature) between the years. For example, having briefly examined historical weather data for Castle Carrock available online, in 2019 the combined monthly average rainfall between March and June (inclusive) was 404.9mm, whereas for the same period in 2021 the combined monthly average rainfall was considerably less (289.1mm). With regard to objectors allegations regarding the applicant derisking the site and the need for a high baseline the IE has stated that should this be the case and the habitat on site is now less suitable for GCN than it was in 2019, then the proposed mitigation should be based on a high baseline i.e. a 'large' population of GCN being present in the tarn. The proposed mitigation includes the creation of two new ponds on site that will be suitable as GCN breeding habitat.
- 6.95 In terms of objections regarding lack of phase 2 NVC botanical surveys the IE has clarified that EA states that 'impacts on bluebell are unlikely, and that 'there will be a negligible loss of ground habitats during lodge construction, where the stilts enter the ground'. Nevertheless, a translocation scheme for bluebell is still recommended in the EA to ensure no net loss in biodiversity. It

is understood that the tarn and swamp habitats will not be directly impacted by the proposed development, and mitigation measures are proposed in the EA to ensure the tarn and swamp habitats (amongst others) are protected during construction, such as a CEMP and a habitat protection plan, including the use of fencing and delineation of working areas to avoid impacting more sensitive areas of the site. A habitat management plan is also recommended in the EA, to ensure that habitats are appropriately managed in the long-term for biodiversity. It is understood that the surface water drainage strategy and foul drainage have been designed to prevent adverse effects on the tarn. The recommendations of the EA and the independent ecological review include conditioning a repeat botanical survey of the lodge footprints, access routes and drainage runs to inform the detailed bluebell translocation scheme that needs to be submitted to the council for approval before any works commence - this survey should be undertaken as an NVC survey and at an appropriate time of the year.

- 6.96 Furthermore with regard to objectors concerns regarding lack of invertebrate surveys the IE has confirmed that, the main habitats likely to be of greatest importance to invertebrates on site would be the tarn, mature trees and dead wood. It is stated in the EA that, 'TEP has not carried out any invertebrate surveys. The assessment can proceed on the basis that mature trees and the tarn would provide good invertebrate habitats and by avoiding adverse effects on these habitats, any indirect effects on invertebrates can be avoided. The report also states that, 'there are no implications for invertebrates as the affected habitats provide a limited important food source for this species group and there are more suitable foraging habitats in the wider area that invertebrates may use. In addition, no habitats that may be used by invertebrates will be lost and leaf litter will still continue to be generated by retained trees.' 'The proposed drainage strategy and site management statement will ensure aquatic invertebrate fauna are not adversely affected by the proposals.' Enhancement for invertebrates are included in the recommendations of the EA, such as the addition of bug boxes and creation of habitat piles across the site.
- 6.97 The advice from the IE regarding 10% net gain has been noted however the secondary legislation accompanying the Environment Act 2021 requiring mandatory 10% bio-diversity net gain requirements (which can be achieved on/off site) has not come into force yet as it is still being consulted on. In such circumstances there is no policy requirement for 10% net gain requirements on all sites at the moment however Policy 180 of the NPPF does state when determining application opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate. In such circumstances net gain requirements for biodiversity at the application site can be dealt with via the imposition of a suitably worded planning condition and does not need to be dealt with up front.
- 6.98 The relevant planning policies in respect of biodiversity are clear in that development resulting in significant harm to biodiversity should be refused if significant harm cannot be avoided, mitigated or compensated for. It is clear

from all the mitigation measures proposed (including that for veteran trees) and the independent ecological advice received in respect of the application that the development works will not result in significant harm to biodiversity. The proposal in this regard is therefore compliant with the relevant planning policies subject to relevant conditions being imposed within any decision regarding adherence to the mitigation measures proposed in the applicants EA/HS and the mitigation/enhancement measures as suggested by the independent ecologist including a condition requiring biodiversity net gain.

8. Drainage

- 6.99 Policies IP6 and CC5 of the local plan seek to ensure that development proposals have adequate provision for the disposal of foul and surface water.
- 6.100 Foul drainage is to be disposed of via a cess tank located within an existing clearing in the north-eastern corner of the wood. The cess tank will store all foul flows from the development and will be emptied by a licensed waste carrier at no more than 7 day intervals. Surface water from roofs is to be drained by a 5m long infiltration trench constructed near each lodge and angled towards the pond to allow an even flow or rainwater run off into the tarn is to be disposed of via a combination of infiltration into the ground via soakaways and to a surface water body (the tarn). The principle of these drainage methods are acceptable.

9. Other Matters

- 6.101 Although objections have been received regarding the impact of the proposal on the North Pennines AONB the application site is not located within the AONB and for the reasons outlined in sections 6.14-6.21 of this report the landscape impact of the proposal is deemed acceptable.
- 6.102 Article 8 and Article 1 Protocol 1 of the Humans Rights Act are relevant. The applicant's Human Rights are respected but based on the foregoing it is not considered that any personal considerations out-weigh the harm created by the development.

Conclusion

- 6.103 The principle of the erection of 6no.holiday lodges on the land has already been assessed and established as acceptable under previously approved application 94/0524 which is a material consideration in determination of this application. It is up to Members what weight they give this material consideration however it is advised that this weight is limited given the intervening time period since the previous approval and the policy changes - namely the introduction of the Carlisle District Local Plan 2015-2030 and NPPF.
- 6.104 Notwithstanding the above the character of the application site i.e. its positioning within the open countryside and proximity to existing tourist attractions is unchanged since the previous approval with no significant changes to the character/appearance of the surrounding area in the

intervening period except for developments at Tarn Lodge Farm and Tarn Lodge. The application site is still considered to be well related to an existing landscape attraction (a natural tarn) located approximately 0.79km from the North Pennines Area of Outstanding Natural Beauty and Castle Carrock village which has a number of services including a public house, village hall and church. The site is also located within cycling distance of National Cycle Route 72 which leads from the west coast of Cumbria to South Shields. In such circumstances the provision of additional holiday accommodation in this location would still help to support existing tourist attractions within the surrounding area and the rural economy. Accordingly the principle of tourism development in this location is still deemed to be acceptable.

- 6.105 The majority of the proposed development is well contained within existing landscape features. The siting of the development takes advantage of the existing contours of the land and natural screening. The proposed materials and are also traditional, in keeping with the site's rural character and appearance. Furthermore the overall scale of the development, design and positioning of structures within the site is acceptable and would not detract from the site's rural setting. In such circumstances the proposed development would not cause a significant adverse impact upon the local landscape and the visual amenity and character of the area would be sufficiently protected. The scale and design of the development is therefore acceptable. Furthermore given the overall scale of the development, design and positioning in relation to the Grade II Listed Buildings at Tarn Lodge and Tower Folly together with existing and proposed landscaping it is not considered that the development would have an adverse impact upon the overall significance and settings of Tarn Lodge or Tower Folly.
- 6.106 As discussed within the report subject to suitably worded detailed planning conditions it is considered that the living conditions of neighbouring properties can be safeguarded as well as impacts upon biodiversity and trees. The proposal, subject to suitable planning conditions, would also not raise any issues with regard to foul and surface water drainage. Furthermore biodiversity enhancement of the site could also take place subject to relevant conditions.
- 6.107 It is however noted that as the access is within a national speed limit zone, visibility splays of 215m x 2.4m are required to be demonstrated in accordance with the Cumbria Development Design Guide and such splays cannot be achieved due to the undulations in the road to the north and the splays crossing third party land which consists of hedgerows. The applicant therefore has no control over the growth and maintenance of the hedgerows that will/could impede visibility upon exiting the application site. The Highway Authority does not accept the rationale behind the highway report submitted as part of the application confirming that a design speed of 40mph is being used (equating to visibility splays of 120m x 2.4m). Furthermore the Highway Authority has confirmed that the speed survey undertaken in February 2022 shows that LGV vehicles have an abnormal impact on the road network leading the Highway Authority to the conclusion that the 85%ile speed used should include LGV's in this particular instance thus maintaining that 215m x 2.4m visibility splays are required for the site access which cannot be

achieved.

- 6.108 Whilst the proposal will provide benefits to the rural economy via the creation of a new tourist facility on balance it is considered that the negative impacts the proposal will create on highway safety as a result of the 215m visibility splays being unable to be achieved will significantly and demonstrably outweigh any perceived benefits that the development will create. In such circumstances the application is considered to be contrary to the requirements of paragraph 110 of the NPPF together with policies IP2, EC9 (criterion 2), EC10 (criterion 4) and EC11 (criterion 3) of the Carlisle District Local Plan 2015-2030. It is therefore recommended that Members refuse the application.

7. Planning History

- 7.1 In 1994 full planning permission was granted for the erection of 6no.self catering lodges (reference 94/0524);
- 7.2 In 2018 an application was submitted seeking full planning permission for the siting of 16no.holiday lodges and installation of a waste water treatment system. The application was however withdrawn prior to determination (reference 18/0931); and
- 7.3 In 2020 an application was submitted seeking full planning permission for the siting of 6no.holiday lodges and 2no.pods together with landscaping, waste water treatment system, access track and parking. The application was however withdrawn prior to determination (20/0237).

8. Recommendation: Refuse Permission

1. **Reason:** As the access to the site is within a national speed limit zone (60mph) visibility splays of 215m x 2.4m are required to be demonstrated in accordance with the Cumbria Development Design Guide. Such splays cannot be achieved due to the undulations in the road to the north and the splays crossing third party land which consists of hedgerows. The results of the speed survey undertaken in February 2022 do not justify reduced visibility splays due to the abnormal impact LGV vehicles have on the road network in this location. In such circumstances the development will have an adverse impact upon highway safety. The development is therefore contrary to the requirements of paragraph 110 of the NPPF together with policies IP2, EC9 (criterion 2), EC10 (criterion 4) and EC11 (criterion 3) of the Carlisle District Local Plan 2015-2030.
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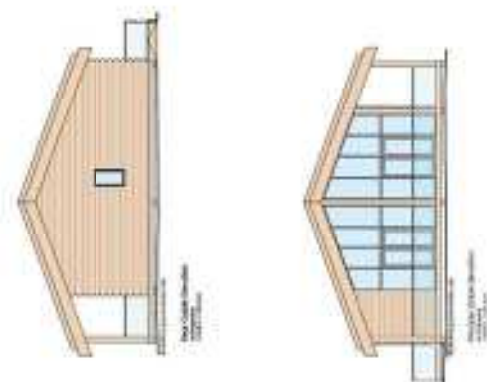
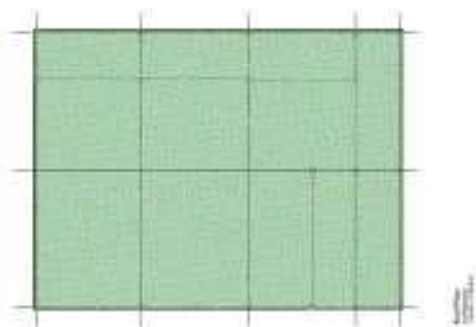
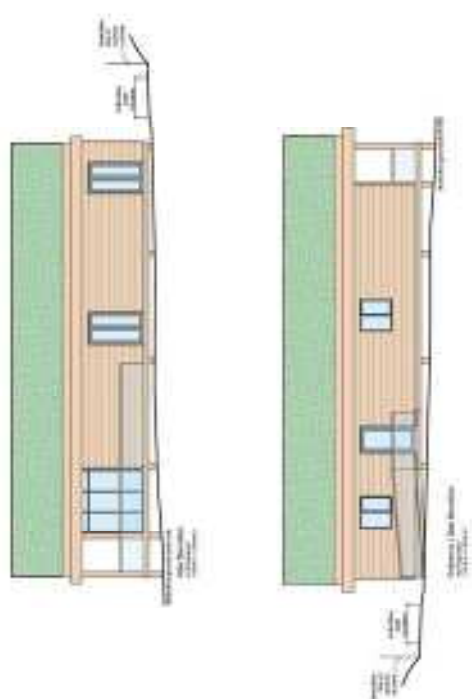
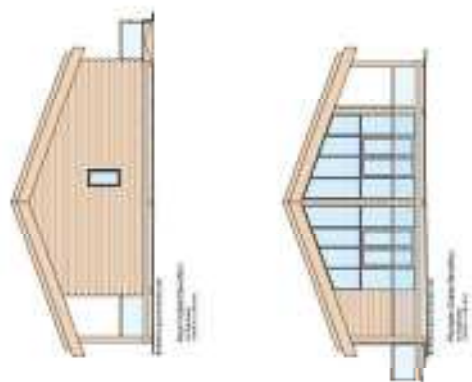
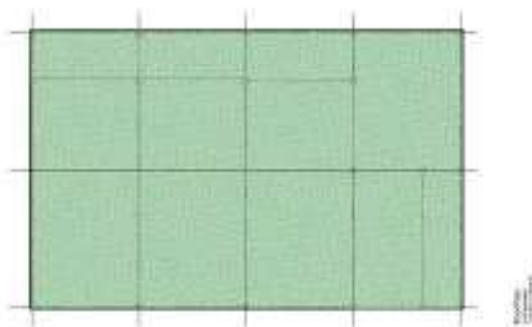


Legend:
 --- Extent of development life
 --- Extent of other site elements

Revision	A Feb 2021 Update to include topographical survey and revised life elements. OC		
Client	Proposed Lodges and Pods		
Project	Farm to the North of Farm Lodge Farm		
	Head of Nook		
	Brampton		
	CAS 98T		
Drawing	Location Plan		
Drawing No.	2065-11	Rev. A	Date Dec 2020
Scale	1:2000 @ A3	Drawn OC	Date Dec 2020

Site plan from this drawing. It is not to be used for any other purpose without the written consent of the author. Any alterations to the plan must be made in consultation with the author. The plan is not to be used for any other purpose without the written consent of the author.



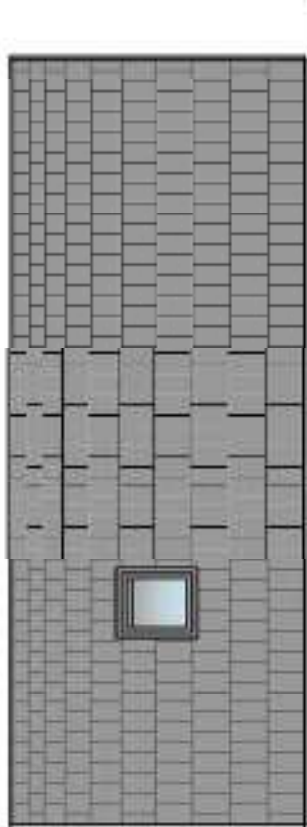
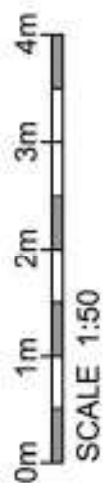
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Author's Address:
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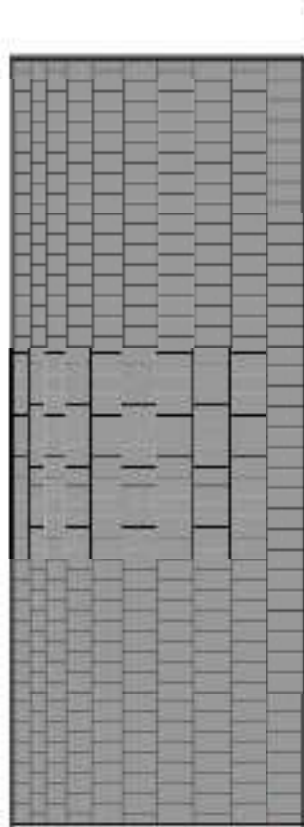
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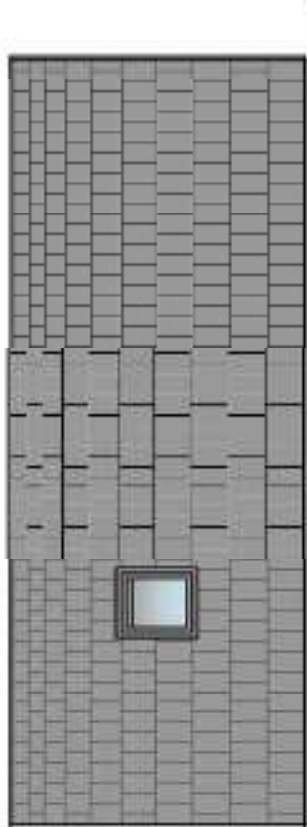
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TYPE B



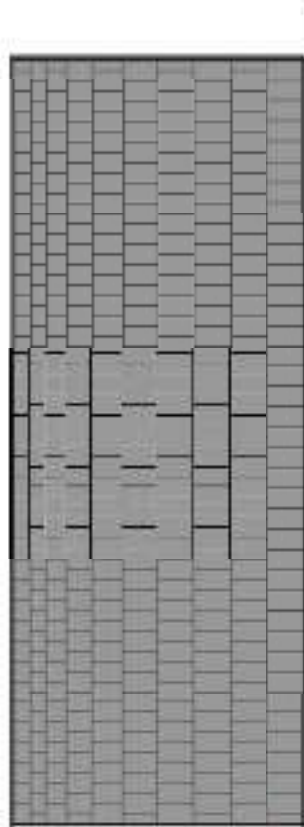
FRONT ELEVATION



REAR ELEVATION



SIDE ELEVATION



SIDE ELEVATION

Project: LUNE VALLEY PODS

THIS: TYPE B
LAYOUT PLAN AND ELEVATIONS

Client:
Lune Valley Pods

Drawn: SD

Checked: SD

Date: 09.08.18

Scale: 1:50

Project: AS

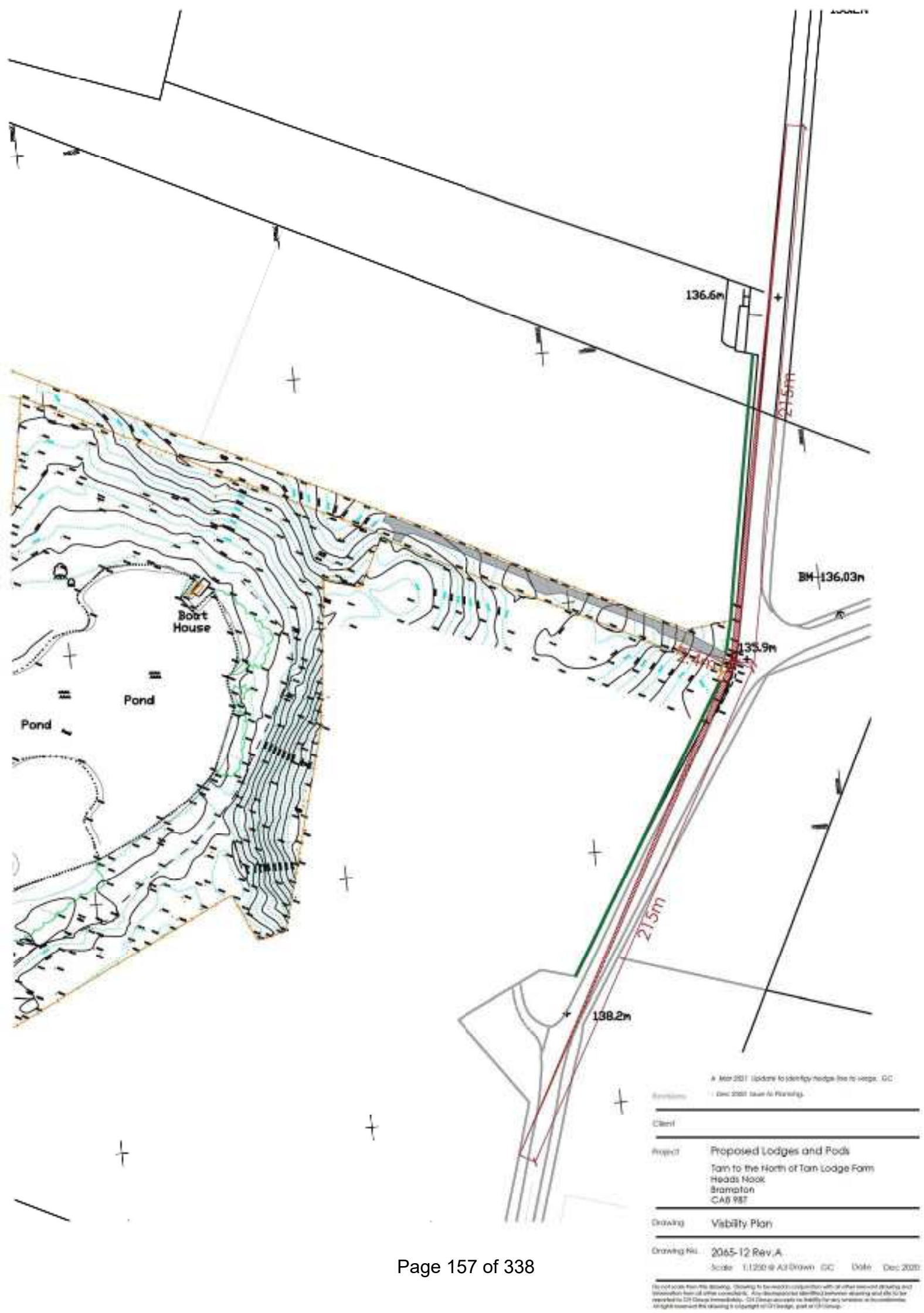
Issue: PLANNING

Drawing Number: Rev

465-002

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Unit 3 Inlack Farm
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SCHEDULE A: Applications with Recommendation

21/1137

Item No: 04

Date of Committee:

Appn Ref No:
21/1137

Applicant:
Mr & Mrs Armstrong

Parish:
Irthington

Agent:
Sam Greig Planning Ltd

Ward:
Longtown & the Border

Location: Rose Cottage, Laversdale Lane End, Irthington, Carlisle, CA6 4PS

Proposal: Change Of Use Of Self Contained Annexe To A Dwelling

Date of Receipt:
14/12/2021

Statutory Expiry Date
08/02/2022

26 Week Determination

REPORT

Case Officer: Stephen Daniel

1. Recommendation

- 1.1 It is recommended that this application is refused.

2. Main Issues

- 2.1 Whether The Proposal Would Be Acceptable In Principle

3. Application Details

The Site

- 3.1 The application site consists of an existing annexe (a two-bedroom bungalow) to Rose Cottage, a large area of hardstanding that lies adjacent to the annexe and a paddock that lies to the rear. The annexe is currently accessed via the main entrance to Rose Cottage off the A6071, through a gap in the existing fence that lies on the boundary between the annexe and dwelling. There is also another existing access that runs from the annexe to the rear of Rose Cottage and this links to the road that lies to the west of Rose Cottage which runs southwards from the A6071 to the village of Laversdale.
- 3.2 Rose Cottage, which is a large two-storey detached property, lies directly to

the north of the annexe. A large detached garage is located to the rear of Rose Cottage.

Background

3.3 In 2014 Planning Permission was granted for a self-contained detached annexe adjacent to Rose Cottage (Application Reference 14/0215). Two further applications were later submitted for part-retrospective revisions to the proposal (Application References 14/1065 and 15/0625). The annexe was constructed in late 2015.

3.4 All three of the aforementioned permissions included the same restrictive occupancy condition which stated that:

The annex hereby permitted shall not be occupied at any time other than for the purposes ancillary to the residential use of the dwellinghouse known as Rose Cottage, Laversdale Lane End. Under no circumstances shall the applicants or their successors in title subsequently sell, let or in any way dispose of or use or permit to be used any part of the accommodation hereby approved, independently of the remainder of the overall property.

Reason: The Local Planning Authority are not prepared to permit the establishment of a separate unit of accommodation on this site in accordance with Policy H1 of the Carlisle District Local Plan 2001-2016.

The Proposal

3.5 This proposal is seeking to change the use of the annexe into a dwelling. The paddock to the rear would be included with the dwelling. The existing access, that runs to the rear of Rose Cottage would be used to access the proposed dwelling, with the existing access via Rose Cottage from the A6071 being blocked off. A fence would be erected on the boundary between Rose Cottage and the proposed dwelling.

3.6 The agent has submitted the following information in support of the application:

- it is considered that the Council has not fully appreciated the size of the annexe; the scale of the curtilage in which it sits; its physical separation from the 'host' dwelling, Rose Cottage, and the absence of any demonstrable harm that would arise from its independent occupation;

- the annexe was occupied by Yvonne Armstrong's mother, however, due to ill health she became unable to occupy the annexe independently. The applicants do not have anyone else who requires the annexe. Consequently the annexe is no longer required for its intended use;

- the annexe is physically separated from the main dwelling, with all the facilities for independent living and its own domestic curtilage. It is currently accessed via the main entrance to Rose Cottage off the A6071, although there is also a secondary access to the rear of the property from the road to

the west which runs southwards from the A6071 to the village of Laversdale. It is proposed that the secondary access will form the access to the independent dwelling;

- subsequent to the Council providing its pre-application advice the Government has revised the National Planning Policy Framework (NPPF), specifically Paragraph 80 d) (formerly Paragraph 79). Paragraph 79 d) previously stated that:

“Planning policies and decisions should avoid the development of isolated homes in the countryside, unless one or more of the following circumstances apply:

d) the development would involve the subdivision of an existing residential dwelling;”

Paragraph 80 d) now states:

“Planning policies and decisions should avoid the development of isolated homes in the countryside, unless one or more of the following circumstances apply:

d) the development would involve the subdivision of an existing residential building”

The above change is a subtle but important change of emphasis to the Government’s advice. The revised guidance is clear that the subdivision of a residential building to a dwelling is acceptable in policy terms. This is an important distinction to the national guidance that the Council based its previous advice on.

- under the previous version of the NPPF the reference to the specific word ‘dwelling’ was defined by the High Court as literally relating to the dwelling and not the planning unit (Wiltshire Council v Secretary of State for Housing, Communities and Local Government – Case No. CO/5006/2019). In concluding that Judgement and assessing the wording of the NPPF, Mrs Justice Lieven stated that *“The issue is whether “dwelling” means a single residential building, or a wider residential unit that can include secondary buildings within the same plot”* (Paragraph 26). Mrs Justice Lieven went on to clarify that *“The words “subdivision of an existing residential dwelling” tend in my view towards the dwelling being one physical building rather than a wider residential unit...”* and that *“To my mind, sub-division of a dwelling, implies a single building”* (Paragraph 27).

In light of Mrs Justice Lieven’s logic and applying that logic to the revised wording of the NPPF it is clear that an exception to allowing development in the open countryside now applies to the subdivision of a ‘residential building’. The definition of a residential building, not a dwelling as per the superseded version of the NPPF, should apply to the annexe in question.

- the purpose of precluding new development in the rural area is to minimise the visual impact upon the rural landscape and to prevent development in locations that are deemed to be unsustainable. When considering the above in respect of the annexe at Rose Cottage, there would be no additional visual impact as the building already exists. In terms of whether the development would represent an unsustainable form of development, it is argued that there would be no greater impact as the lawful occupation of the

annexe is, by virtue of its scale and accommodation provided therein, tantamount to a separate dwelling. Accordingly, restricting the change of use of the annexe to a dwelling is purely an academic application of the policy and no greater harm will occur if it was to be physically occupied as a separate residential unit.

- notwithstanding the change to the wording of the NPPF, whilst the Council previously perceived subdivision of the annexe to be non-compliant with their policies the following material considerations should be given significant weight when assessing the extent of any alleged non-compliance:

1. The floor plan of the annexe shows a well proportioned two bedroom dwelling with an independent kitchen, living room, bathroom, utility and also a conservatory. Its occupation requires no interconnection with the 'host' dwelling;
2. The size, design and location of the annexe, together with the size of its curtilage, was approved by the Council;
3. The annexe is not subordinate to the host dwelling. Aside from the physical size of the annexe, the curtilage of Rose Cottage is circa 1035.2 sq m and the curtilage of the annexe circa 1033.85 sq m;
4. Whilst the properties share an access from the A6071, it is proposed that should the application be successful, the secondary access will become the main access to the annexe. Once the shared access is closed off, the two properties would be entirely separate;
5. As such, the annexe can benefit from its own access, its own curtilage, and by all intents and purposes it is already a detached dwelling and can effectively be occupied independently to Rose Cottage;
6. In approving such a large, detached annexe in this location the Council have already established that the visual impact is acceptable. The separation of the annexe from the host dwelling will not result in any greater visual impact;
7. The scale of the annexe and its curtilage is such that it can be occupied by a family. Its occupation as an annexe is no different to how it would function as a separate dwelling;
8. Whilst the Council have stated verbally that an annexe is typically occupied ideally by a single, elderly person who is reliant on the host dwelling, this is a generic statement unsupported by the facts of this case. Furthermore, as evidenced by the wording of the restrictive occupancy condition, it is not an enforceable supposition and an annexe can be occupied by anyone with a tie to the occupants of the main dwelling. As such, a family could occupy the two bedroom property, generating their own journeys etc, with little (if any) reliance on Rose Cottage. In sustainability terms, its lawful occupation would have no greater impact than that which the Council are trying to avoid;
9. Taking account the above, the independent occupation of the annexe as

a separate dwelling would not result in any demonstrable harm. The relationship of the properties to one another is such that there will be no impact on the occupiers of either residence by virtue of them being occupied independently. This proposal presents an opportunity to create a new dwelling in the rural area without any adverse visual or sustainability impacts, whilst making a modest contribution to sustaining services in the rural area. This is the ultimate material consideration that justifies a departure from the Development Plan.

- as outlined above there are clear material considerations that justify the approval of this proposal. Those material considerations are unique to this application and, therefore, the support for this proposal ought not to preclude the Council resisting other applications for the conversion of annexes to dwellings where the material considerations are not so overwhelming. In essence, it goes back to the old adage of determining each application on its own merits.

- it is considered that the proposal to separate the annexe from Rose Cottage is compliant with the wording of the Government's revised NPPF. If this point was to be disputed, there will be no adverse visual impact, nor additional impact in terms of sustainability.

4. Summary of Representations

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

5. Summary of Consultation Responses

Irthington Parish Council: - no comments 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 Planning Practice Guidance (PPG) and Policies SP2, SP6, HO6, IP3, 1P6 and CC5 of the Carlisle District Local Plan 2015-2030.
- 6.3 The proposal raises the following planning issues.
1. Whether The Proposal Would Be Acceptable In Principle

- 6.4 Rose Cottage and the annexe lie within the open countryside and the creation of new dwellings within the open countryside is restricted by both national and local planning policies.
- 6.5 Para 79 of the NPPF states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.
- 6.6 Para 80 (formerly para 79) of the NPPF states that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:
- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
 - b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
 - c) the development would re-use redundant or disused buildings and enhance its immediate setting;
 - d) the development would involve the subdivision of an existing residential building; or
 - e) the design is of exceptional quality, in that it:
 - is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
 - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.
- 6.7 Policy HO6 (Other Housing in the Open Countryside) allows new housing in the open countryside in the following special circumstances:
- 1. where there is an essential need for a rural worker to live at or near their place of work;
 - 2. for replacement dwellings;
 - 3. for the conversion of structurally sound redundant or disused buildings.
- 6.8 Para 80(d) of the NPPF allows new dwellings in the countryside through the subdivision of an existing residential building. It is not considered that this would allow the change of use of an annexe to a dwelling. A High Court judgement in April 2020 found that a Planning Inspector erred her interpretation of the words “subdivision of an existing residential dwelling” in para 79(d) of the NPPF. She applied those words to the subdivision of the

residential planning unit where there were two separate buildings (a dwelling and an annexe) in residential use, and it was the second and separate building (the annexe) which was the subject of the application. The Council argued that in the context of para 79(d) the subdivision must be of one physical residential building and therefore the Inspector was wrong to apply the policy in the circumstances of the appeal before her.

6.9 The conclusions of the High Court Judgement are summarised below:

- The words “subdivision of an existing residential dwelling” tend in my view towards the dwelling being one physical building rather than a wider residential unit encompassing other buildings. Although it is always possible to posit clearer or different words that could have been used, if the Secretary of State had intended to encompass sub-division of the residential plot then it would have been more natural to use the words “the residential unit” or “the property”. To my mind, sub-division of a dwelling, implies a single building.
- Most importantly, in my view the context strongly militates towards a narrow interpretation. The sub-paragraphs in para 79 are exceptions to the general policy against creating new residential development in isolated rural locations. It is important to have in mind that the policy reason for not supporting new housing in such locations is that it would be fundamentally unsustainable, being poorly located for local services, and that sustainability lies at the heart of the NPPF. As such, it does in my view follow that the exceptions should be narrowly construed as being in general not supportive of sustainable development. The exceptions are all forms of development which could be said to enhance the countryside, whether by adding housing for rural workers, or reusing redundant buildings.
- As the letter from GLD dated 15 January 2020 states, para 79(d) makes sense in this context as allowing the sub-division of large properties into flats where that is a good use of the existing dwelling. To allow the sub-division of residential units by allowing separate buildings to become separate dwellings goes well beyond that limited exception.
- It is clear from Chapter 5 of the NPPF, and paras 77-79 in particular, that the general thrust of the policy to increase housing is specifically excluded when it comes to the creation of isolated homes in rural locations. Therefore, I do not think the broader policy in the NPPF is of assistance.
- Subject to there being no need for any operational development requiring permission, and there being no issue of planning conditions, then internal alterations of an outbuilding to allow ancillary residential use (i.e. not the creation of a separate residential dwelling) would not require planning permission. It follows from this that if para 79(d) supported the sub-division of a residential planning unit into two separate dwellings, then the implications could be very wide. Any residential property with a suitable outbuilding into which a residential use could be inserted would then have policy support to become a separate dwelling.

- 6.10 It is acknowledged that the wording of Para 80(d) (formerly para 79(d)) has changed since the High Court Judgement was issued. It now reads: the development would involve the subdivision of an existing residential building (it now refers to a residential building rather than a residential dwelling).
- 6.11 The agent considers that this change to the NPPF now applies to the subdivision of a 'residential building and that the definition of a residential building, not a dwelling as per the superseded version of the NPPF, should apply to the annexe in question.
- 6.12 There is, however, no evidence to back up the agent's interpretation of the revised NPPF. In the High Court judgement, Mrs Justice Lieven considered that "sub-division of a dwelling, implies a single building". The new wording of the NPPF refers to the subdivision of an existing residential building and following Mrs Justice Lieven's logic sub-division of a residential building, implies a single building. If the intention was to include annexes within this definition the NPPF would have referred to the residential unit.
- 6.13 Furthermore, Mrs Justice Lieven considered that the context of para 79 strongly militates towards a narrow interpretation. The sub-paragraphs in para 79 are exceptions to the general policy against creating new residential development in isolated rural locations. She was of the opinion that the exceptions should be narrowly construed as being in general not supportive of sustainable development.
- 6.14 Mrs Justice Lieven also considered that if para 79(d) supported the sub-division of a residential planning unit into two separate dwellings, then the implications could be very wide. Any residential property with a suitable outbuilding into which a residential use could be inserted would then have policy support to become a separate dwelling. This could lead to large numbers of new dwellings in the open countryside, which would be contrary to the general thrust of the NPPF and the adopted Local Plan, which seeks to restrict new housing in the countryside.
- 6.15 It is acknowledged that the annexe is a two bedroom dwelling, in a large plot, which could have its own access and it could be occupied independently of Rose Cottage. The building was, however, built as an annexe to Rose Cottage and is tied to that dwelling by condition. This was because a separate dwelling in this location would be contrary to national and local planning policy.
- 6.16 In April 2019, an inspector allowed a two-bedroom dwelling, which had its own garden and access and which was an independent dwelling to be retained as an annexe. (Ref 17/0857 - Farndale/ Pennine View, Sandy Lane, Broadwath). The Inspector's Decision is summarised below:

The proposal sought to retain 'Farndale' as an annexe to the new main house known as 'Pennine View. The Inspector noted that Farndale has a scale and appearance that is consistent with a 2-bedroom bungalow and benefitted from having two bedrooms, a living room, kitchen / dining room, bathroom and entrance hall. There was agreement between the main parties

that Farndale is capable of, and has the facilities required for, independent day-to-day living. However, although that may be so, a separate, independent dwelling is not what the appellant initially applied for. Rather, the proposal, expressed in the appellant's wording for a revised condition 8, quite clearly seeks to retain Farndale, not as a separate dwelling, but as a residential annex to provide ancillary accommodation to the recently built Pennine View.

However, other factors also inform an assessment of the ability, or likelihood, of a building such as the retained bungalow, being occupied as ancillary accommodation. Thus, the retained Farndale would be significantly smaller in all quantifiable aspects than Pennine View. As a consequence, the living accommodation provided within it, whilst sufficiently capable of being used as independent accommodation, would be of a different nature to, and more basic in terms of the range of accommodation and smaller in scale, than that provided within Pennine View.

I agree, as does the appellant in evidence, that Farndale is capable of occupation as an independent, self-contained dwelling. However, for the reasons I have set out above, I am satisfied that the bungalow known as 'Farndale' is also clearly capable of occupation providing living accommodation ancillary to the occupation of Pennine View. I have not been directed towards any Carlisle District Local Plan (CDLP) policies that preclude the principle of a residential annex and it seems that there is agreement between both main parties on this matter. CDLP policies HO6 and SP2 seek to resist unjustified encroachment into the open countryside and only permit housing in such locations where special circumstances exist. A condition to restrict occupancy of Farndale to an ancillary role relative to occupancy of Pennine View would secure such a relationship, avoid the creation of an additional dwelling (via retention) in an open countryside location and ensure that it is occupied as an ancillary residential annex.

- 6.17 In light of the above appeal decision, it is clear that a two-bedroom dwelling can be classed as an annexe to a larger property and this is the case in this application. It should be noted that an appeal to retain Farndale as a dwelling was dismissed by an Inspector in January 2017 (Ref 16/0196) as it would direct an approach contrary to the development plan's and the Framework's aim to avoid isolated new homes in the countryside.

Conclusion

- 6.18 Rose Cottage and the associated annexe lie within the open countryside. The proposal to change the use of the annexe to a new dwelling would be contrary to the NPPF and policies SP2 and HO6 of the Carlisle District Local Plan 2015-2030 which seek to restrict new dwellings in the open countryside unless there are special circumstances. No special circumstances have been put forward which would over ride the policy presumption against the creation of new dwellings in the open countryside and there are no material considerations that would justify approval of the application.
- 6.19 Furthermore, the granting of this permission would set a dangerous

precedent which could lead to other detached annexes that lie within the open countryside being converted into dwellings.

6.20 In light of the above, the application should be refused.

7. Planning History

- 7.1 In 2018, planning permission was granted for the change of use of part of the fencing contractors premises for use by an agricultural engineer, specialising in the repair and maintenance of all terrain vehicles, off-road utility vehicles, and amphibious off road utility vehicles, together with ancillary retail sales (18/0345)
- 7.2 In 2015 planning permission was granted for erection of a 2no.bedroom granny annexe (15/0625);
- 7.3 In 2015 planning permission was granted for change of use from agricultural land to land for external storage of materials used in conjunction with a fencing and paving business (15/0036);
- 7.4 In 2014 planning permission was granted for erection of 2no.bedroom granny annexe (revised application/part retrospective) (14/1065);
- 7.5 In 2014 planning permission was granted for erection of 2no.bedroom granny annexe (14/0215);
- 7.6 In 2013 a variation of condition application was granted for the variation of conditions 2,3,4 and 5 of previously approved permission 10/0752 to allow the kennels to be used on a commercial basis for the boarding of cats and dogs (13/0453);
- 7.7 In 2012 planning permission was granted for change of use from builders yard to enable manufacturing of fence panels, gravel boards and concrete posts, together with the use of the site as a fencing/paving contractors compound (12/0769).
- 7.8 In 2012, planning permission was granted for variation of condition 2 of previously approved application 03/0126 to remove the restriction that stipulates that the builders yard, store and office shall be used solely by Hogg and Robinson (builders) limited, together with the removal of condition 10 to enable the stables to be used for commercial use as opposed to private use only (12/0331).
- 7.9 In 2010, planning permission was granted for erection of dog breeding kennel facility for personal use (revised application) (10/0752).
- 7.10 In 2009, planning permission was granted for erection of dog breeding kennel facility for personal use (09/0869).
- 7.11 In 2003, planning permission was granted for erection of steel clad builders'

store with attached loose boxes, use of part of site as a builders' yard and conversion of part of garage into office space (03/0126).

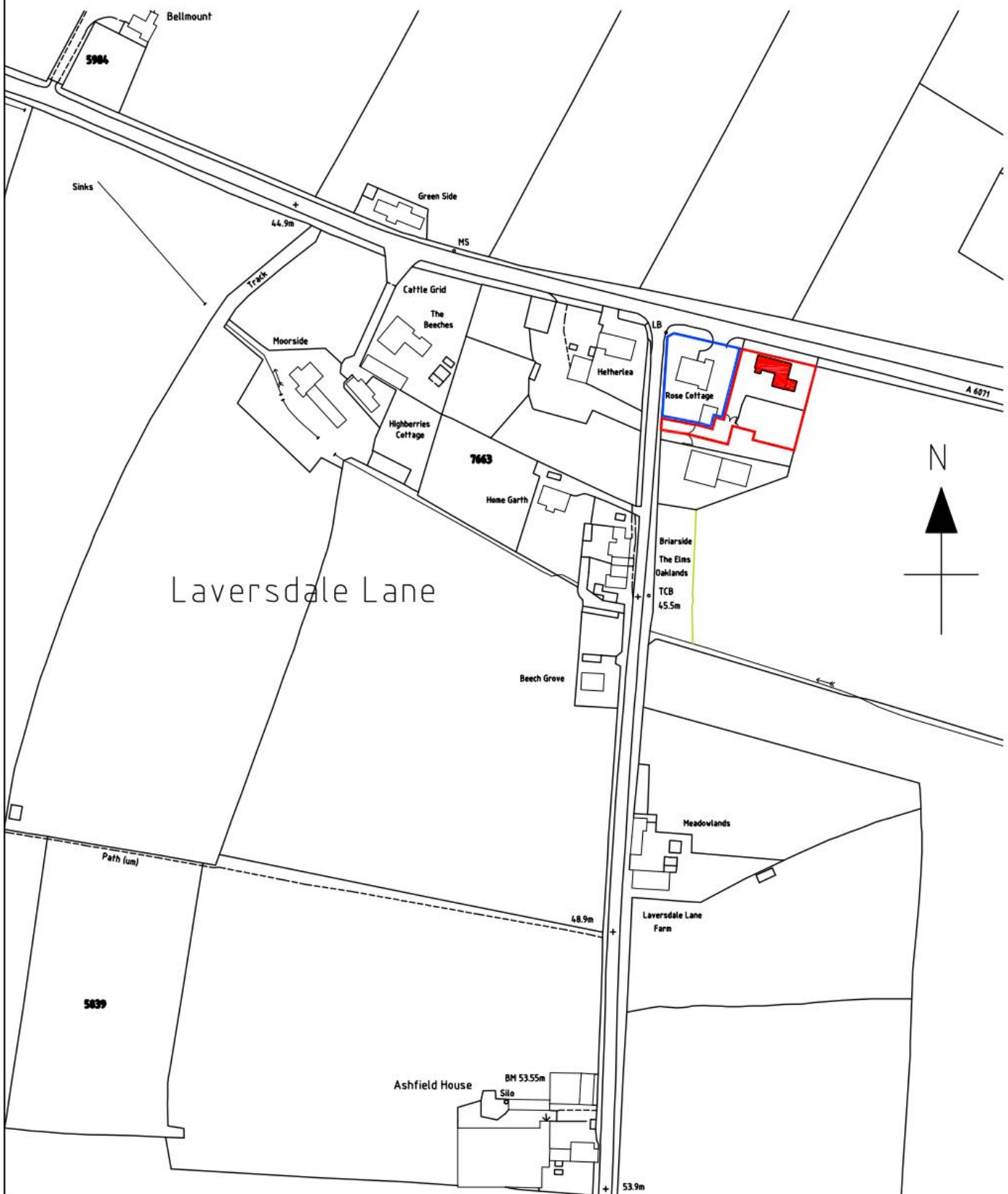
7.12 In 1997, planning permission was granted for erection of double garage (97/0480).

7.13 In 1985, planning permission was granted for erection of a replacement dwelling (85/0036).

8. Recommendation: Refuse Permission

1. **Reason:** Rose Cottage and the associated annexe lie within the open countryside. The proposal to change the use of the annexe to a new dwelling would be contrary to the NPPF and Policies SP2 (Strategic Growth and Distribution) and HO6 (Other Housing in the Open Countryside) of the Carlisle District Local Plan 2015-2030 which seek to restrict new dwellings in the open countryside unless there are special circumstances. No special circumstances have been put forward which would over ride the policy presumption against the creation of new dwellings in the open countryside. Furthermore, the granting of this permission would set a dangerous precedent which could lead to other detached annexes that lie within the open countryside being converted into dwellings.
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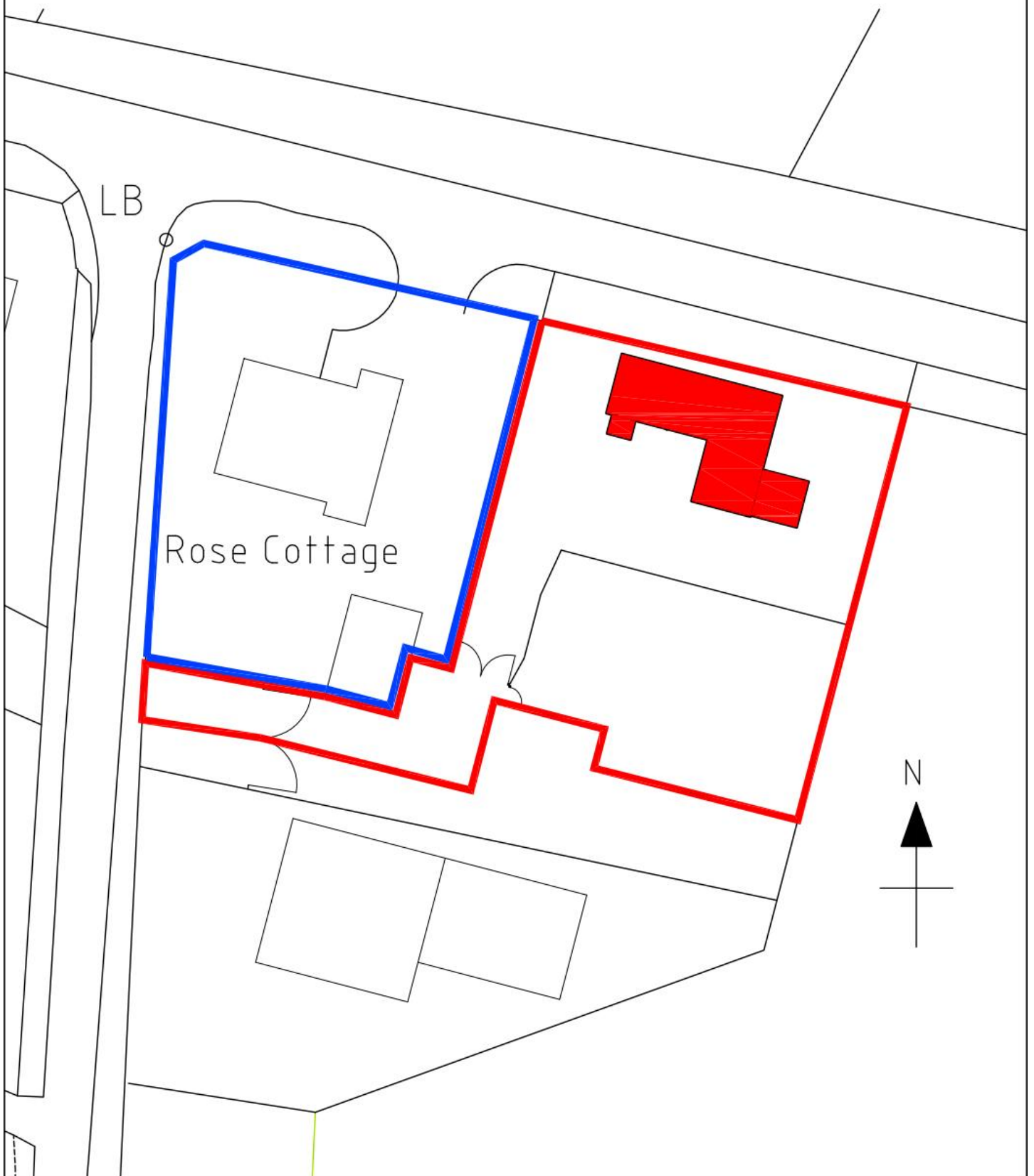
AA DESIGN SERVICES



ROSE COTTAGE, LAVERSDALE LANE END, LAVERSDALE,
CARLISLE - CHANGE OF USE OF ANNEXE TO A DWELLING
FOR MR M. ARMSTRONG
LOCATION PLAN SCALE 1:2500

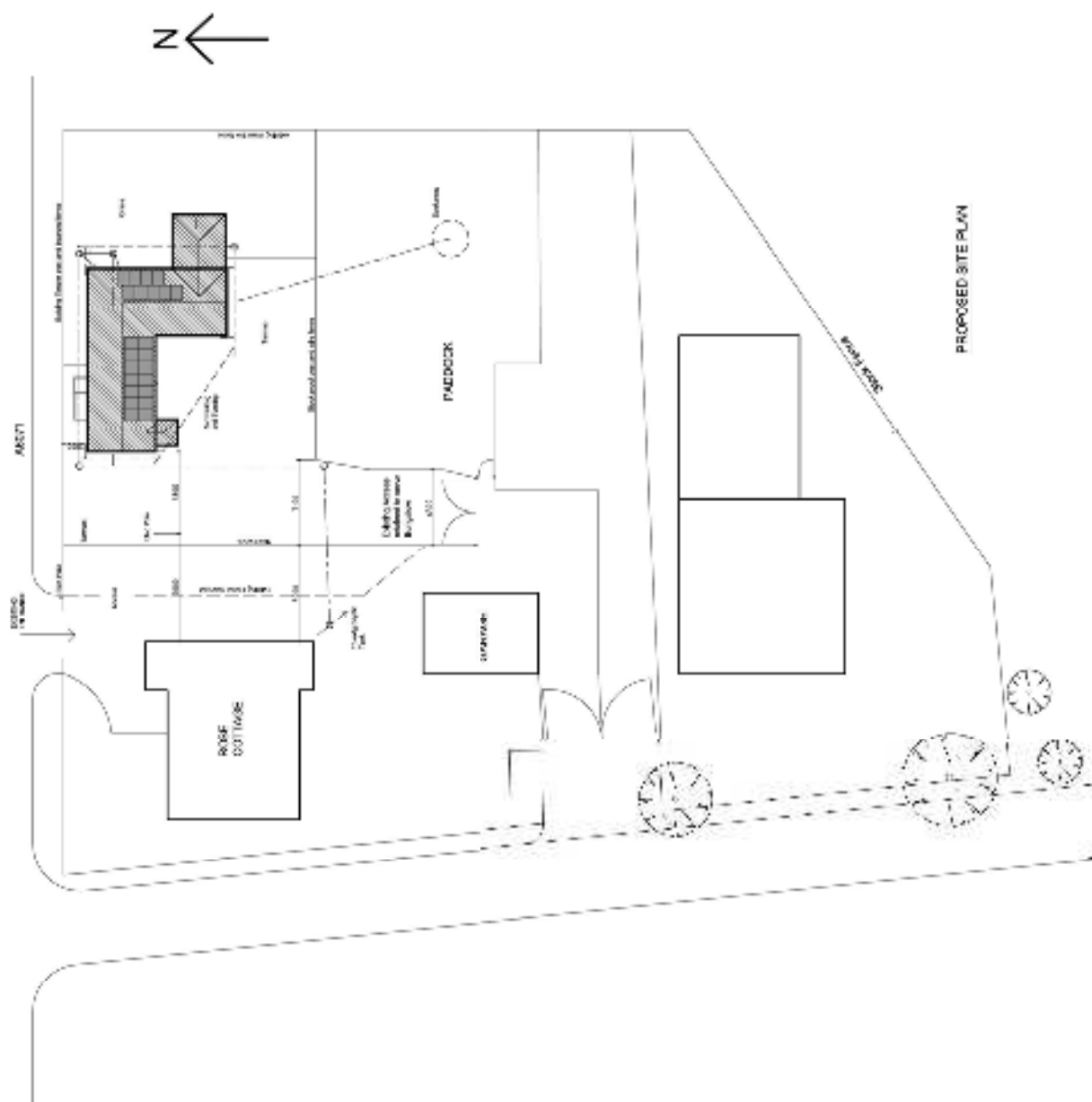
DRG NO 2015/6/2/003

AA DESIGN SERVICES



ROSE COTTAGE, LAVERSDALE LANE END, LAVERSDALE,
CARLISLE - CHANGE OF USE OF ANNEXE TO A DWELLING
FOR MR M. ARMSTRONG
BLOCK PLAN SCALE 1:500

DRG NO 2015/6/2/004



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SCHEDULE A: Applications with Recommendation

21/0768

Item No: 05

Date of Committee:

Appn Ref No:
21/0768

Applicant:
Mr Bobby Gibson

Parish:
Stanwix Rural

Agent:

Ward:
Stanwix & Houghton

Location: 24 Hendersons Croft, Crosby on Eden, Carlisle, CA6 4QU

Proposal: Erection Of First Floor Balcony To Rear Elevation (Retrospective)

Date of Receipt:
04/08/2021

Statutory Expiry Date
29/09/2021

26 Week Determination

REPORT

Case Officer: Richard Maunsell

1. Recommendation

- 1.1 It is recommended that this application is refused.

2. Main Issues

- 2.1 Whether The Scale And Design Is Appropriate To The Dwelling And The Character Of The Locality
- 2.2 Effect On The Living Condition Of The Occupiers Of The Nearby Properties
- 2.3 Highway Matters
- 2.4 The Impact On The Hadrian's Wall World Heritage Site Buffer Zone
- 2.5 Development Within The Flood Zone
- 2.6 Biodiversity

3. Application Details

The Site

- 3.1 This application was withdrawn from discussion from the previous meeting of this committee to allow the applicant to prepare and submit additional information for the Development Control Committee.
- 3.2 24 Hendersons Croft is a two storey detached dwelling located in

Crosby-on-Eden. The property is constructed from facing brick under a tiled roof and forms part of a residential cul-de-sac to the west of the village.

- 3.3 The property is flanked by residential properties to the east, south and west and to the north is the road leading from the village to the A689 beyond which is the village hall. The site is within Flood Zones 2 and 3.

The Proposal

- 3.4 Retrospective planning permission is sought for the installation of a balcony on the west elevation of the property. The balcony has been constructed from two steel columns which support the balcony structure that is affixed to the wall. The balcony hasn't been completed and no floor or glazed screening have been installed.
- 3.5 The west elevation of the property is approximately 4.1 metres from the boundary with the neighbouring property, Burnside. The balcony projects 1.4 metres from the property and is 3.4 metres in width.
- 3.6 Following the deferral of the application from the February meeting, revised drawings have been submitted which include a 1.8 high obscurely glazed screen to the north and south elevations which are effectively the sides of the balcony. On the rear elevation facing west, it is proposed that three glazed panels would be installed. The panel in the south-west corner would be 1.8 metres in height reducing to 1.1 metres in height for the remaining two panels.

4. Summary of Representations

- 4.1 This application has been advertised by means of direct notification to the occupiers of three of the neighbouring properties. In response, two representations have been received objecting to the application and the main issues raised are summarised as follows:
1. it was evident as the balcony as being constructed that it would have a negative effect on immediate neighbours' privacy;
 2. the proposal would have a negative effect on the value of the two houses directly next to the balcony as well as the two property's being less attractive for prospective buyers;
 3. although 120 households in Crosby have been asked to lend their support, the balcony is only relevant to and would have a negative effect on two properties;
 4. if planning permission had been sought before the balcony was built, these issues would have come to light then and the balcony would not have gone ahead;
 5. a letter has been issued to residents in the village which it is assumed is a deliberate attempt to canvass support far and wide as there are only two households that can actually see the balcony;
 6. the applicant states in a letter that he canvassed all of his immediate neighbours and other visible house owners to gauge whether or not any of

them would have any objection, of which there were none; This statement is untrue as other residents have also canvassed the same neighbours and nobody has been consulted about the proposal;

7. the first floor balcony that has already been constructed directly overlooks neighbouring rear gardens which removes all privacy from residents' enjoyment of these areas causing stress to these families.

4.2 In addition, three letters of support have been received which raise the following issues:

1. on learning that the proposal is declined on the basis that consenting to the proposal would be impacting on future neighbours amenity and enjoyment of their garden but with the opaque glazing, this wouldn't put potential occupiers off purchasing the property;
2. the structure is slim, discreet and well-designed and adds to the architectural environs in a positive manner;
3. during these times of the pandemic, such a balcony would enable direct access to the outside and nature with all of the well-being and mental health benefits that this would bring;
4. refusal of this proposal would be totally ridiculous;
5. only planning related considerations should be taken into account and factors such as loss of value or loss of a view are not related planning considerations.

4.3 The applicant has submitted 40 identical letters signed by residents of the village drafted by himself setting out his statement of case in support of the proposal.

4.4 Following the receipt of the amended details and further consultation with third parties, one representation has been received objecting to the proposal with the main issues being raised as follows:

1. nothing significant has changed;
2. from the back door of the neighbouring property there is still the physical presence of the balcony there with privacy still compromised;
3. with regards to the garden view this would also compromise the privacy of the adjoining front garden;
4. the balcony would have a negative on the saleability as well as having a negative affect on the value of the neighbouring property;
5. if the balcony had gone to planning before the construction of it then planning would have been rejected.

5. Summary of Consultation Responses

Stanwix Rural Parish Council: - the parish council is concerned regarding the potential for the proposed balcony to create issues of overlooking in respect of neighbouring dwellings, prejudicial to their residential amenity through loss of privacy.

In the absence of objections from neighbouring residents and provided any issues that arise can be satisfactorily overcome, the parish council

recommends determination in accordance with local and national planning and conservation policy and guidance.

The original comments have been supplemented with the following response:

The parish council's response to the above application expressed concerns regarding the potential for the proposed balcony to create issues of overlooking and loss of privacy in respect of neighbouring dwellings. It also recommended, in the absence of objections from neighbouring residents, determination in accordance with local and national planning and conservation policy and guidance. This recommendation remains unchanged.

The parish council is alert to a neighbour objection voicing serious anxieties regarding the proposal. However, following the applicant's seeking the parish council's advice on this matter, it also conscious of a significant number of expressions of support for the application from local residents.

The parish council also notes the opinion of officers with regard to the future residential amenity of neighbouring dwellings, the contrary opinion of the applicant's architect, and the practical impossibility of conditioning potential removal of the balcony at some future time.

In order to inform its own considerations, the parish council seeks clear guidance as to the criteria considered by Officers when balancing the level of protection required to ensure future residential amenity, with the ability of future potential occupiers to decide for themselves, prior to purchase or renting, the extent to which their residential amenity may have been prejudiced by any neighbouring development;

Historic England - North West Office: - no comment.

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 National Planning Practice Guidance (NPPG) and Policies of SP6, HO8, IP3, CC4, HE1 and GI3 of the Carlisle District Local Plan 2015-2030 are also relevant. Carlisle City Council's Supplementary Planning Document (SPD) on "Achieving Well Design Housing" is also a material planning consideration. The proposal raises the following planning issues.

1. Whether The Scale And Design Is Appropriate To The Dwelling And The Character Of The Locality

- 6.3 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.”*

- 6.3 It is further appropriate to be mindful of the requirements in paragraph 134 of the NPPF which states:

“Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:

- a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/ or*
- b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.”*

- 6.4 Policy SP6 of the local plan requires that development proposals demonstrate a good standard of sustainable design that responds to local context taking account of established street patterns, making use of appropriate materials and detailing, and reinforcing local architectural features to promote and respect local character and distinctiveness. Specific to householder

proposals, Policy HO8 of the local plan requires that extensions and alterations be designed to relate to and complement the existing building in scale, design, form and materials which maintain the established character and pattern of the street scene resulting in a positive addition. In addition to the planning policies, the council's SPD "Achieving Well Designed Housing" advises that ordinarily extensions should not dominate the original dwelling.

- 6.5 The balcony is to the rear of the property with public views from the main road through the village to the north and its visible from neighbouring properties. In the context of the development, the scale, design and use of materials would be appropriate to the character and appearance of the property, would not appear obtrusive within the wider character of the area and the proposal is compliant with policies in this regard.

2. Effect On The Living Condition Of The Occupiers Of The Nearby Properties

- 6.6 In addition to paragraph 130 of the NPPF, the city council's SPD "Achieving Well Designed Housing", on the matter of privacy, states that:

"Where a development faces or backs onto existing development, in order to respect privacy within rooms a minimum distance of 21 metres should usually be allowed between primary facing windows (and 12 metres between any wall of the building and a primary window). However, if a site is an infill, and there is a clear building line that the infill should respect, these distances need not strictly apply. (para. 5.44) While it is important to protect the privacy of existing and future residents, the creation of varied development, including mews style streets, or areas where greater enclosure is desired, may require variations in the application of minimum distances." (para. 5.45)

- 6.7 Moreover, Policies SP6 and HO8 of the local plan requires that proposals ensure that there is no adverse effect on residential amenity or result in unacceptable conditions for future users and occupiers of the development and that development should not be inappropriate in scale or visually intrusive.
- 6.8 26 Hendersons Croft is located immediately adjacent to and to the south of the application site and is separated by a leylandii hedge. The property is orientated east/ west with garden area to the south and north. The southern element of the garden is grass with planted borders. The curtilage to the north, adjacent to the application site, is a patio area which is used as a seating area by the occupiers of the property.
- 6.9 Burnside is located adjacent to the application site to the west. This is a large detached single storey property with a detached garage that is set approximately 25 metres from the frontage with the highway. There is little in terms of curtilage to the rear with the vast majority being laid to lawn to the front of the property and which is immediately adjacent to the proposed balcony. The boundary comprises of a timber bow-top fence that is approximately 1.8 metres in height.

- 6.10 Given the scale, height and positioning of the proposed balcony, particularly in relation to the boundary between the two properties, it was initially considered that the use of the balcony would result in a significant loss of privacy and result in an unreasonable degree of actual and perceived overlooking to the curtilage of the adjacent property, Burnside, that would adversely affect the enjoyment of the garden areas that people could reasonably expect. Additionally, there would have been an oblique view to the patio area of 26 Hendersons Croft to the south, although this is partially screening by an existing hedgerow.
- 6.11 In certain circumstances, it can be the case that any privacy impacts can be mitigated through the installation of screening along the sides of a balcony which could potentially address any concerns in respect of the current and future occupiers of 26 Hendersons Croft. The scheme has been amended such that the sides of the balcony would include a 1.8 metre high obscurely glazed glass panel. Subject to the imposition of a condition requiring their retention, this would address the concerns in respect of the impact on the occupiers of 26 Hendersons Croft.
- 6.12 It appears that the inclusion of a 1.8 metre high glazed screen to the west elevation is intended to mitigate overlook to the rear door and garage of the neighbouring property, Burnside. Whilst this may be the case when stepping onto the balcony or when sitting on the balcony in the corner behind the adjoining 1.8 metre high screens, any restriction to the use of this part of the balcony only can't be conditioned. Furthermore, this doesn't address the loss of privacy to the garden area either from the obscurely glazed screened part of the balcony or the remainder.
- 6.13 In this instance, therefore, it isn't considered that such concerns can be overcome by screening to the front of the balcony to mitigate overlooking issues to Burnside as this would involve enclosing the main aspect which would be unreasonable. As such, the proposal fails to comply with the policy requirements.

3. Highway Matters

- 6.14 Planning policies generally require that development proposals do not lead to an increase in traffic levels beyond the capacity of the surrounding local highway and provide adequate parking facilities.
- 6.15 The development would retain an area of curtilage parking to the front of the property and the proposed extension would not result in any additional demand for parking facilities. On this basis, it is not considered that the proposal raises any highway issues.

4. The Impact On The Hadrian's Wall World Heritage Site Buffer Zone

- 6.16 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.

- 6.17 Historic England has submitted no comment in respect of this application. The development would form an extension to a property in a residential area surrounded by existing dwellings. As such, this development is acceptable in the context of this site and adjacent buildings and would not result in harm to the setting of the scheduled monument or WHS and the development would be acceptable in this regard.

5. Development Within The Flood Zone

- 6.18 The property is within Flood Zones 2 and 3. Planning policies seek to promote development in less vulnerable areas of flood risk and where submitted in areas at higher risk of flooding, proposals should be supported by mitigation strategy and supporting documents. In this instance, the application seeks planning permission to construct a first floor balcony with no change to existing ground levels. Although two supporting columns have been installed, these together with the remainder of the proposal would not impact on the existing flood risk of the property and are not considered to exacerbate existing flooding conditions to warrant refusal of the application on this basis.

6. Biodiversity

- 6.19 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.
- 6.20 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. As the extension would be built within the curtilage of a domestic property on land previously developed, the building would not harm a protected species or their habitat; however, an Informative has been included within the decision notice ensuring that if a protected species is found all work must cease immediately and the local planning authority informed.

Conclusion

- 6.21 In overall terms the proposal is appropriate to the property in terms of scale and design and would not result in a discordant feature within the locality and would not be detrimental to the area or the WHS. No flooding or highway issues are raised by this proposal.

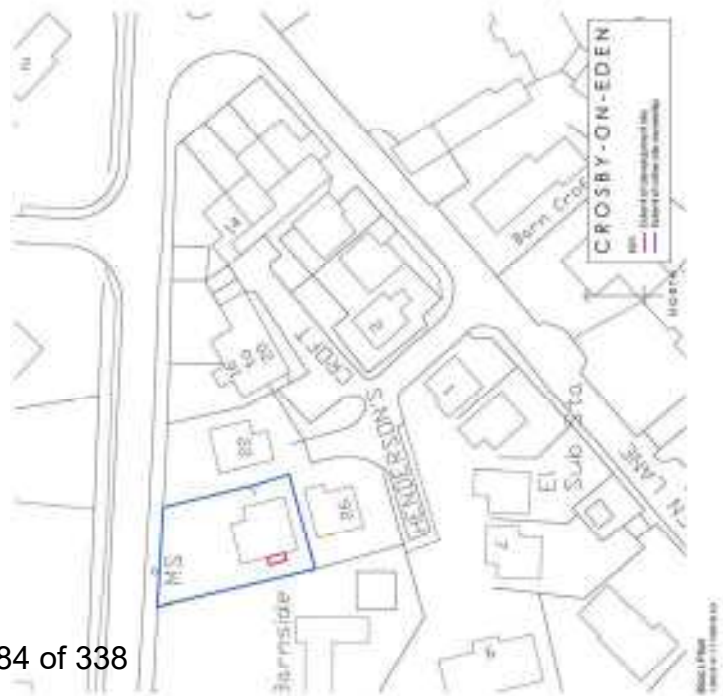
- 6.22 Given the scale, height and positioning of the proposed balcony it is considered that the use of the balcony would result in a significant loss of privacy and result in an unreasonable degree of actual and perceived overlooking to the curtilage of the adjacent property that would adversely affect the enjoyment of the garden areas that current and future occupiers could reasonably expect.
- 6.23 In all aspects the proposal fails to comply with the objectives of the relevant planning policies and on this basis, planning permission should not be forthcoming.

7. Planning History

- 7.1 Planning permission was granted in 1999 for an extension to provide additional playroom, bedroom and study.
- 7.2 In 2002, planning permission was granted for a two storey extension to provide a playroom with bedrooms above.

8. Recommendation: Refuse Permission

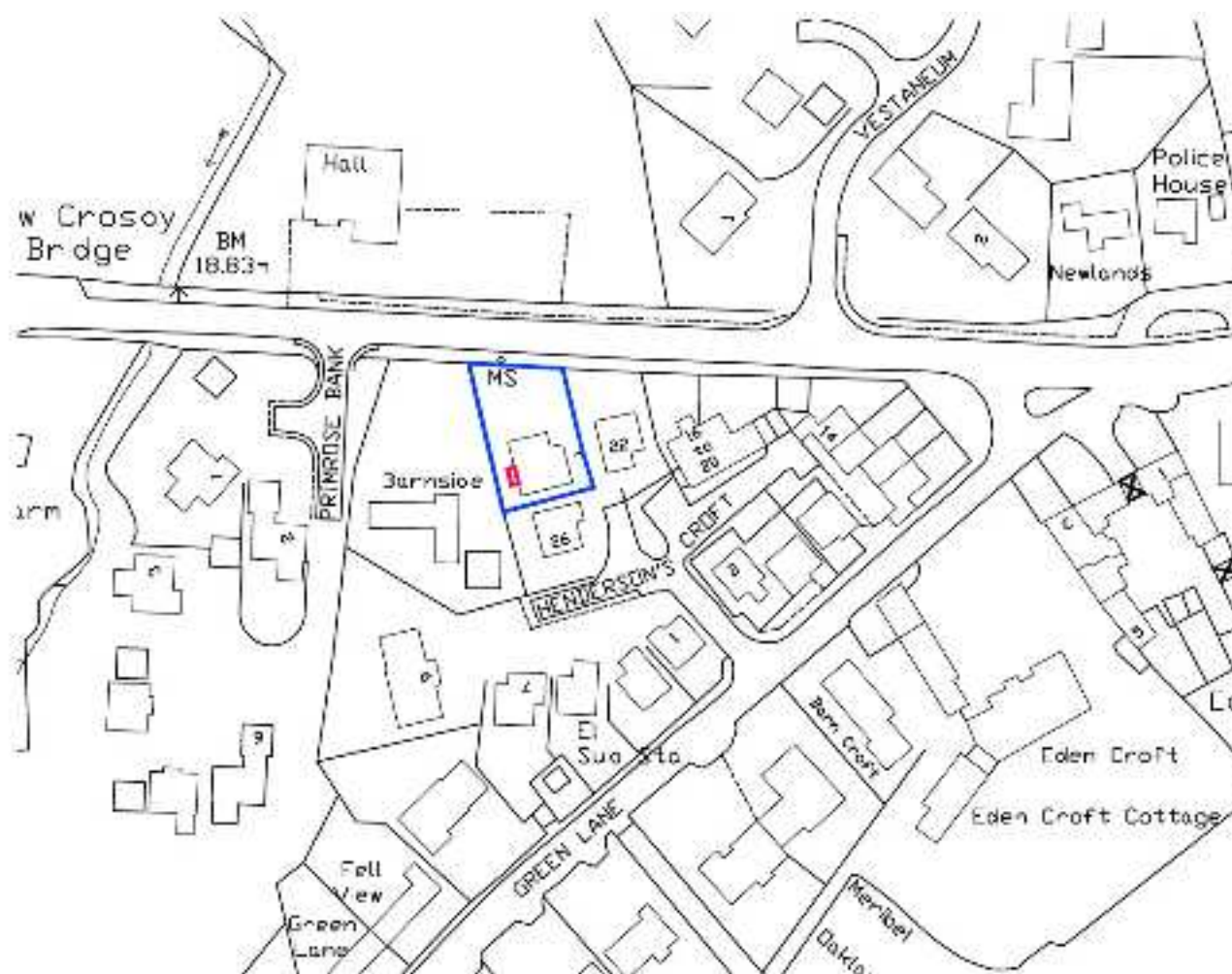
1. **Reason:** The dwelling is located close to the boundary with the neighbouring property, Burnside, to the west where the dominant proportion of its curtilage is to the rear of the property. In this instance, by virtue of the formation of the balcony, the development would result in actual and perceived overlooking and a significant loss of privacy to the current and future occupiers of the neighbouring properties and their associated gardens. The proposal is therefore contrary to criteria 7 of Policy SP6 (Securing Good Design) and criteria 3 of Policy HO8 (House Extensions) of the Carlisle District Local Plan 2015-2030 together with the objectives of Carlisle City Council's Supplementary Planning Document on "Achieving Well Designed Housing".
-

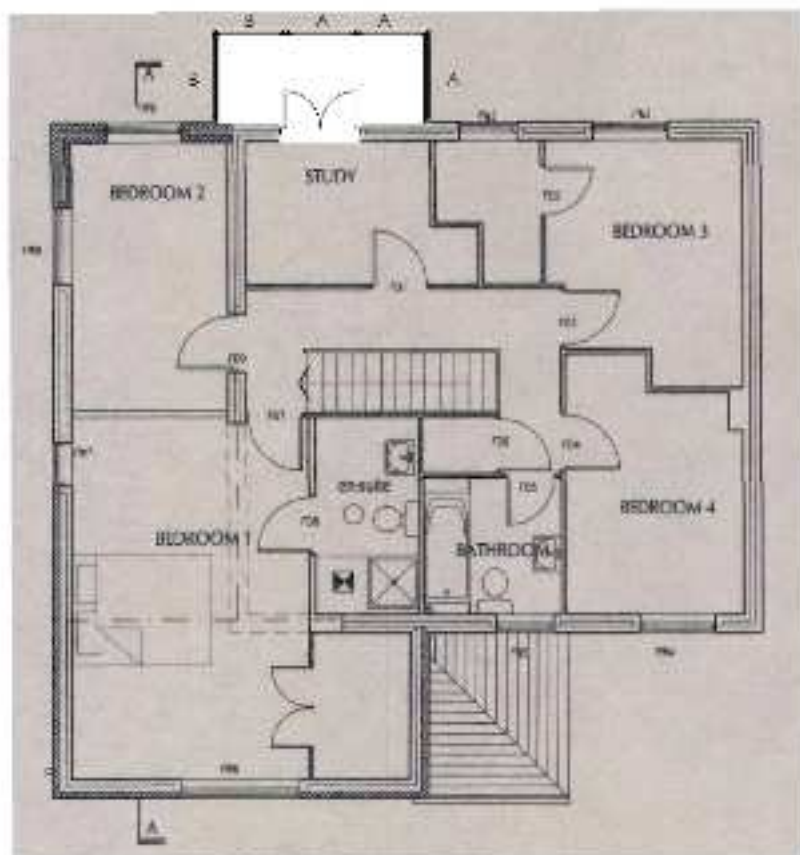


Precedent images: Similar period above ground at approx. 1:100 scale



Precedent images: Close-up of building to show details

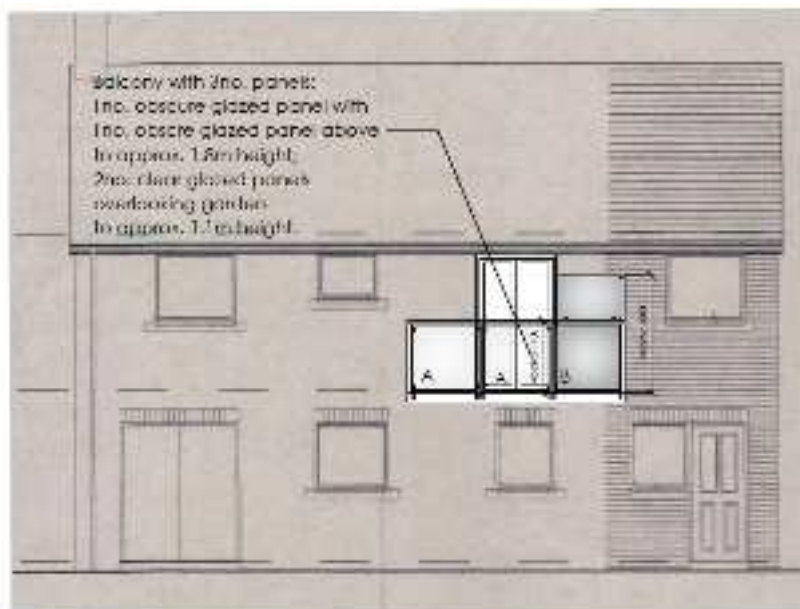




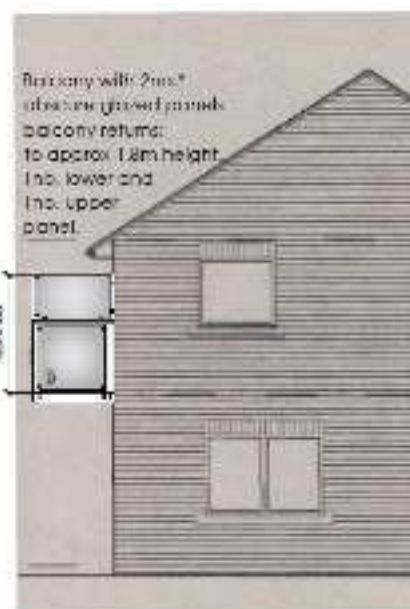
Balcony with
 (A) clear glazed panels overlooking garden; to c
 (B) opaque glazed panels to balcony railing; to
 comprising two lower and two upper glazed



First Floor Plan
 As Proposed
 1:100 @ A1 / 1:200 @ A3



Rear (West) Elevation
As Proposed
1:100 & A1 / 1:200 & A3



Side (South) Elevation
As Proposed
1:100 & A1 / 1:200 & A3

SCHEDULE A: Applications with Recommendation

21/1143

Item No: 06

Date of Committee:

Appn Ref No:
21/1143

Applicant:
D Routledge

Parish:
Stanwix Rural

Agent:
Summit Town Planning

Ward:
Stanwix & Houghton

Location: Land adjacent to Meadow Cottage, Tarraby, Carlisle, CA3 0JS

Proposal: Erection Of 4no. Dwellings And Associated Works

Date of Receipt:
14/12/2021 16:01:45

Statutory Expiry Date
08/02/2022 16:01:45

26 Week Determination

REPORT

Case Officer: Stephen Daniel

1. Recommendation

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

2. Main Issues

- 2.1 Principle Of The Development
- 2.2 Layout, Scale And Design
- 2.3 Impact on The Tarraby Conservation Area
- 2.4 Impact On Residential Amenity
- 2.5 Impact On Listed Buildings
- 2.6 Impact On Hadrian's Wall World Heritage Site
- 2.7 Highway Matters
- 2.8 Drainage Issues
- 2.9 Biodiversity
- 2.10 Contaminated Land

3. Application Details

The Site

- 3.1 The application relates to an irregular parcel of land to the immediate northeast of Meadow Cottage which is located on the edge of the village of

Tarraby. The site extends to approx. 0.34ha and is largely bound by mature hedgerows, with some sections of 1.8m high close boarded fence. A track leading from the adjacent public highway provides access to the site and to the rear of Meadow Cottage.

- 3.2 The site, along with Meadow Cottage, is located on the eastern side of the public highway and forms the last property in the village on this side of the lane, beyond which is undeveloped countryside.
- 3.3 Meadow Cottage is a two-storey traditional brick built cottage fronting the highway along Tarraby Lane. Its domestic garden area is laid out primarily to the side (north) of the property with areas of hardstanding providing parking to its rear.
- 3.4 The area is framed by the surrounding rural landscape to the north and east with residential properties located along the highway to the west and the heart of the village located to the immediate south.
- 3.5 The westernmost part of the site, including Meadow Cottage and its garden area, fall within the Tarraby Conservation Area. The entirety of the site falls within the Buffer Zone of the Hadrian's Wall World Heritage Site.

Background

- 3.6 In March 2019, planning permission was granted for the erection of two detached dwellings on the application site (18/0928). Although two-storey in height, the proposed properties incorporated bedrooms within the roof space and therefore dormer roof features were proposed as part of the overall design along with two-storey bay windows and projecting gable features with stone detailing. The properties were to be laid out facing each other, with one to the north of the access road and one to the south. Materials included red heritage brick and buff sandstone to the elevations, Welsh blue slate to the roofs and white painted timber framed casement windows. The north-east corner of the site was retained as a paddock. Vehicular and pedestrian access was to be via the existing access track off Tarraby Lane which was to be widened via the removal of a single Ash Tree in order to meet highway requirements.
- 3.7 In April 2020, planning permission was granted for the erection of a detached garage on the site for use by the occupiers of Meadow View (20/0161).

The Proposal

- 3.8 The site would be accessed from Tarraby Lane, with the access running through the centre of the site. Plot 1 and its detached garage and Plot 2 would occupy the northern part of the site, with the detached garage to Plot 2, Plots 3 and 4 (which have detached garages to the rear of the properties) and a new garage for Meadow Garage being located on the southern part of the site.

- 3.9 Plot 1 would have a two-storey projecting gable to the front and this would be adjoined by an open porch. A large two-storey section would project out from the rear of the dwelling and this would be glazed to the ground floor with a balcony above. The two-storey section would contain two bedrooms (one en-suite), with a further bedroom and a bathroom being provided in the roofspace of the remainder of the dwelling. The ground floor would contain a dining area/ sunroom, a lounge, a bedroom and a utility room. A detached double garage, with an attached single car port, would be located to the rear of the dwelling.
- 3.10 Plot 2 would have a two-storey projecting gable to the front and this would be adjoined by a catslide roof. The front elevation would also contain a pitched roof dormer window at eaves level. The rear elevation would contain a two-storey projecting gable, which would be adjoined by a projecting balcony. This would be adjoined by bi-fold door beyond which would lie a single -storey section, which would be adjoined by a chimney. The two-storey section of the dwelling would contain two bedrooms, with two further bedrooms and two bathrooms being provided within the roofspace of the remainder of the dwelling. The ground floor would contain an open plan lounge/ kitchen/ dining area, a living room, a family room, a utility and a w.c. A detached double garage would be located to the front of the dwelling.
- 3.11 Plots 3 and 4 would be one-a-half-storey properties. The ground floor of the dwellings would contain a lounge, kitchen, two bedrooms and a bathroom. An en-suite bedroom would also be provided in the roofspace this would be served by rooflights and a windows in the gables which would serve the staircase and bathroom. Detached single garages would be provided to the rear of the dwellings, with two parking spaces being provided in front of these.
- 3.12 The dwellings would be largely constructed of brick, with small elements of render on each of the dwellings, under slate roofs. The garages would be constructed of brick under slate roofs.
- 3.13 A detached single garage with an attached covered storage area, would also be provided within the site for use by the occupiers of Meadow Cottage. This would be finished in render under a slate roof.

4. Summary of Representations

- 3.1 This application has been advertised by means of site and press notices as well as notification letters sent to eleven neighbouring properties. In response, 4 letters of objections have been received which raise the following issues:

Impact On Tarraby Conservation Area

- who is the developer kidding with talk of a courtyard? This is no courtyard, it is a cul-de-sac - this cul-de-sac of homes would not look out of place in the Storey Homes development at Eden Gate, Houghton. The architects must do better;

- as it stands, the Conservation Area has three former Georgian farmsteads within it, where linked buildings sit opposite one another at right angles around a cobbled yard. Those yards are at Tarraby Farm, Beeches Farm/Clydesdale Stud and The Thorn / Thorn Farm. These yards bear no resemblance to the proposal and there are no other yards in the immediate vicinity;
- ironically, since Tarraby became a Conservation Area in 1969 it has been much spoiled by development that detracted rather than enhanced. Just look at the neighbouring homes around Meadow Cottage. Carvina, a modern looking bungalow was built around 1971. Red Nook Cottage was renovated in a modern style around the same time and its thatch was removed (admittedly the thatch was in a dilapidated state and was covered in sheets of corrugated metal). Aren't Planners only meant to allow planning applications that enhance a Conservation Area? Let Carvina and Red Nook Cottage be a lesson in how not to enhance a Conservation Area and apply that lesson to this application;
- in the Heritage Statement it states there is no overall building style in Tarraby. Regrettably that may be true these days because of poor scrutiny in the planning process, but up until the mid 20th century, it did have a building style of large brick built Georgian farmhouses and their associated outbuildings, together with white washed cottages. Just because there is a mix of styles now does not excuse poor architectural design that we see in this proposal. What house in Tarraby has dormer windows? None of them. What house in Tarraby has a first floor balcony? None of them;
- historically, the site was part of a large field that was pasture for the dairy herd of The Thorn. The field went right up to the farmyard of The Thorn until the 1990's when part of the field was purchased by the owners of Carvina and Meadow Cottage. Until then, the old field hedgerow was just about up to the kitchen windows of both Carvina and Meadow Cottage;
- recently, owners of properties along a field behind Whiteclosegate have been purchasing part of the field and extending their gardens. This process involves a planning application to change the use of the field from agricultural to domestic. I don't ever remember Carvina or Meadow Cottage making similar applications in the 1990's. If they had, it would have given the City Council an opportunity to consider extending the boundary of the Conservation Area to include the new garden land, thereby making this application wholly within the Conservation Area. Can this be considered now by the Council?;
- essentially, this planning application is on a green field site. Aren't green fields around a Conservation Area an enhancing feature in themselves, and building on them would be a detraction?;

Highway Matters

- greatly concerned by the subsequent increase in traffic and the effect on the many pedestrians that use the lane, should the development go ahead;
- planning application 18/0928 (for two dwellings on this site) was actually recommended for refusal by the Planning Officer but sadly he was overruled. Let's hope permission is denied this time because it is now worse than ever, in that there are four houses planned instead of two, so twice the traffic than was anticipated in 18/0928;
- can Tarraby's unclassified road really take any more traffic when pedestrian

use has soared since 18/0928 was given permission?;

- there is the possibility of the proposed dwellings having 8 vehicles or more;
- where will visitors park? - there is no extra parking within the development or outside the development;
- would like assurances that all vehicles will exit the development in a forward gear to ensure road safety;
- need regular cleaning of road surface to ensure road safety and minimal disruption;
- this proposal coupled with a possible approval for four further dwellings down Tarraby Lane adj to Shortdale Cottage (20/0692) will adversely impact residents living both in the vicinity of the site and in Tarraby;
- the current plan does not provide any indication of the vehicle access/ egress/ parking / turning space for Meadow Cottage;
- there is no indication of the proposed on-site parking arrangements of the site operatives' vehicles or proposal for dealing with delivery lorries, including turning areas and on-site material lay down areas;
- question the feasibility of lorries, refuse vehicles and fire engines using the proposed entrance and turning round on site;
- object to the Transport Assessment (TA) which asserts that the Highways Authority is allowing a reduction in visibility splays at the site entrance which is potentially dangerous;
- Tarraby Lane is an un-restricted single lane carriageway with a speed limit of 60mph, with no street lighting or designated footpaths - it has blind bends and is barely able to cope with the weekly visits by the Local Authority service vehicles;
- modern farm vehicles/machinery struggles to remain on the carriageway when gaining access to fields down the lane;
- a number of residents have no off-street parking, which reduces the width of the carriageway;
- the TA fails to consider the impact of the increase in traffic throughout the whole length of Tarraby Lane - the lane up to the junction with Houghton Road is effectively single carriageway with no designated footpath, street lighting or vehicle passing places;
- there are two large family dwellings and the public house car park entrance situated close to the junction with Houghton Road and planning permission has been granted for a further large family dwelling adjacent to Wensleydale, which would have its own access onto the lane;
- the TA has not considered the Persimmon development of 300 dwellings at the end of the lane - those residents now have pedestrian and cycle access on to Tarraby Lane to visit the Near Boot public house and the petrol station/ convenience store on Brampton Road;
- Tarraby Lane now provides access to an established amenity enjoyed by young families, cyclists and walkers from a wider area to enter the nearby Wildlife Trust site;
- there is no footpath provision along the length of Tarraby Lane so additional vehicles increase safety issues for cyclists, pedestrians and dog walkers;
- vehicles often park on the verges in the area;
- an objector has enclosed a letter from Cumbria Police which was sent to all residents of Tarraby in 2012 - this highlighted the number of complaints the police had received in relation to the manner of driving through Tarraby of

which some incidents had resulted in near misses;

Drainage Matters

- the Drainage Report makes no mention of the fact that an important drain for Tarraby Farm, Nos. 1-4 Tarraby Mews and Paddock Cottage is on the proposed site. The drain will be 200 years old and takes rainfall away from the farmyard through the site, through the original garden of Meadow Cottage, under the road, through the garden of Red Nook Cottage and then through the field behind. Where it then goes downhill towards Stanwix and joins the gutter network in the next field. The drain was indicated in the plans for Paddock Cottage (14/0483) and needs to be plotted on this proposal too. The drain should not be disturbed by any proposed work;
- the drainage would discharge to the existing surface water drainage in the road just outside the site. The existing road gullies and below ground surface water drainage discharges to a minor water course/ field ditch some distance away to the west - this drain serves Meadow Cottage, the proposed development, but also paved areas, the carriageway and all other properties in Tarraby and is regularly overloaded and needs to be addressed. Flooding regularly occurs in this area.

5. Summary of Consultation Responses

Cumbria County Council - (Highways & Lead Local Flood Authority): - no objections subject to conditions (highway construction details; surfacing of access road; provision of visibility splays; surface water drainage scheme; Construction Surface Water Management Plan; condition and capacity survey of culverted watercourse downstream of the surface water discharge point to include any improvement that are required);

Historic England - North West Office: - does not wish to comment;

United Utilities: - foul water should drain to the public sewer with surface water draining in the most sustainable way;

Waste Services: - waste/ recycling containers would need to be brought to the end for emptying so space should be made for these;

Stanwix Rural Parish Council: - approved planning application reference 18/0928 proposed the construction of 2 large 4 bedroom, 2 storey dwellings. Strong objections were submitted by Parish Council and the application was recommended for refusal due to the adverse impact on the conservation area. Unusually, members of the Development Control Committee entirely disregarded the Planning Officer's reasoned advice and recommendation, and approved the application on 15 February 2019.

Application 20/0161, approved 15 April 2020, proposed to retrieve an area from the site approved above in order to build a large free-standing garage to lie within the curtilage of Meadow Cottage. In this application the longitudinal axis of the proposed garage is to be aligned in a northeast/southwest orientation. Garage G4 on the Site Plan is the only garage not related to a plot number and is therefore assumed to show a 90 degree re-alignment of the garage approved under Appn Ref 20/0161.

The Parish Council believes this and the amendment to the site boundary, should properly be addressed through a formal application to amend Condition 2 of the permission in respect of Appn Ref 20/0161, rather than via approval of an obscure reference included in the current application.

12 parking spaces are proposed and that this constitutes a difference of 12 spaces. This indicates an expected increase of 12 domestic vehicles accessing and exiting the proposed development, in addition to those of visitors and service vehicles and, of course any traffic associated with the existing Meadow Cottage.

In addition to this permanent increase, construction traffic would also be required to enter and exit the site, an operation incapable of being mitigated by visibility splays and the provision of on-site parking and turning areas.

All these vehicle movements would occur at a restricted point in Tarraby Lane that is also prone to flooding.

The Parish Council considers the DS is inadequate and that the proposal significantly increases the probability of localised flooding in Tarraby Lane, to the detriment of neighbouring properties.

The site abuts the northern boundary of Tarraby Conservation Area, designated in 1969 - the oldest, smallest and most vulnerable rural conservation area in Carlisle. Meadow Cottage, its curtilage and thus the site access do, however, lie within the Conservation Area.

Viewed objectively, the proposed development is patently incapable of maintaining the conservation area, or its setting, in its original or existing state. Nor can it be considered, even remotely, to enhance, intensify, increase, or further improve the quality, value, or extent of the Conservation Area.

It is the Parish Council's view that the proposal:

- Is contrary to Policy HE7 of the Local Plan;
- would have a major detrimental impact upon the character and setting of the conservation area.
- constitutes a wholly inappropriate and unacceptable over intensification of use of the site;
- would increase the incidence of localised flooding, to the detriment of neighbouring residential amenity;
- generate an increase in vehicle movements to an unacceptable level in a particularly restricted part of a narrow lane used by growing numbers of pedestrians, equestrians and cyclists.

6. Officer's Report

Assessment

- 6.1 Section 70(2) of the Town and Country Planning Act 1990/Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.
- 6.2 The relevant planning policies against which the application is required to be assessed are the National Planning Policy Framework (NPPF), the Planning Practice Guidance (PPG) and Policies SP1, SP2, SP6, SP7, HO2, HE1, HE3, HE7, IP2, IP3, IP6, CC4, CC5, GI3 and CM4 of the Carlisle District Local Plan 2015-2030. The Supplementary Planning Document Achieving Well Designed Housing is also a material planning consideration.
- 6.3 The proposal raises the following planning issues.

1. Principle Of The Development

- 6.4 Planning permission has previously been granted for the erection of two dwellings on this site. The principle of residential development on this site has, therefore, been established by this earlier permission.

2. Layout, Scale And Design

- 6.5 The site would be accessed from Tarraby Lane, with the access running through the centre of the site. Plot 1 and its detached garage and Plot 2 would occupy the northern part of the site, with the detached garage to Plot 2, Plots 3 and 4 (which have detached garages to the rear of the properties) and a new garage for Meadow Cottage being located on the southern part of the site.
- 6.6 Plot 1 would have a two-storey projecting gable to the front and this would be adjoined by an open porch. A large two-storey section would project out from the rear of the dwelling and this would be glazed to the ground floor with a balcony above. The two-storey section would contain two bedrooms (one en-suite), with a further bedroom and a bathroom being provided in the roofspace of the remainder of the dwelling. The ground floor would contain a dining area/ sunroom, a lounge, a bedroom and a utility room. A detached double garage, with an attached single car port, would be located to the rear of the dwelling.
- 6.7 Plot 2 would have a two-storey projecting gable to the front and this would be adjoined by a catslide roof. The front elevation would also contain a pitched roof dormer window at eaves level. The rear elevation would contain a two-story projecting gable, which would be adjoined by a projecting balcony. This would be adjoined by bi-fold door beyond which would lie a single -storey section, which would have a chimney attached. The two-storey section of the dwelling would contain two bedrooms, with two further bedrooms and two bathrooms being provided within the roofspace of the remainder of the dwelling. The ground floor would contain an open plan lounge/ kitchen/ dining area, a living room, a family room, a utility and a w.c. A detached double garage would be located to the front of the dwelling.
- 6.8 Plots 3 and 4 would be one-a-half-storey properties. The ground floor of the dwellings would contain a lounge, kitchen, two bedrooms and a bathroom. An en-suite bedroom would also be provided in the roofspace and this would be served by rooflights and windows in the gables which would serve the staircase and bathroom. Detached single garages would be provided to the rear of the dwellings, with two parking spaces being provided in front of these.
- 6.9 The dwellings would be largely constructed of brick, with small elements of render on each of the dwellings, under slate roofs. The garages would be constructed of brick under slate roofs.
- 6.10 A detached single garage with an attached covered storage area, would also

be provided within the site for use by the occupiers of Meadow Cottage. This would be finished in render under a slate roof.

- 6.11 In light of the above, the layout, scale and design of the proposed dwellings are considered to be acceptable.

3. Impact on The Tarraby Conservation Area

- 6.12 The site lies adjacent to the Tarraby Conservation Area. Section 72 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 to any buildings or land in a conservation area. The aforementioned section states that:

"special attention shall be paid to the desirability or preserving or enhancing the character or appearance of that area".

- 6.13 The aims of the 1990 Act are reiterated in both the NPPF, PPG and policies within the adopted Local Plan. Policy HE7 of the Local Plan advises that proposals should preserve or enhance the special character and appearance of conservation areas.
- 6.14 Case law (South Lakeland District Council v Secretary of State for the Environment (1992)) has established the principle that if development has a neutral impact on a conservation area, in that it made no positive contribution but left it unharmed, it could properly be said to preserve the character and appearance of that area.
- 6.15 The Conservation Area boundary incorporates the western part of the site alongside Tarraby Lane. It extends out of the village along Tarraby Lane incorporating a narrow band of land on each side of the highway. It includes all the buildings of Tarraby and some historic paddocks enclosures and field boundaries which add to its traditional village character.
- 6.16 The application for two dwellings on this site that was approved by committee in March 2019 was recommended for refusal by officers due to concerns that the development would "introduce a built form of development within the rural setting of the Tarraby Conservation Area that would harmfully erode its rural character and diminish views into, through and out of the designated area. The design, layout and orientation of the proposed dwellings would be at odds with the historical character and appearance of the Conservation Area and as such the proposal would not preserve or enhance the Conservation Area".
- 6.17 The previous approval was for two large detached dwellings which had side elevations facing Tarraby Lane. Whilst this proposal is for four dwellings, Plot 1 would be orientated to face the lane. Plot 2 would be sited in the north eastern corner of the site to the east of Plots 1, 3 and 4 and would be partly screened by these dwellings. Plot 2 would also be orientated to face the lane. Whilst plots 3 and 4 would have gables facing the road, these dwellings would occupy the same position as one of the dwellings in the previous

approval. The proposed garage for Meadow View would be located adjacent the garage to Plot 4 and this would replace a garage that was granted planning permission on this site in April 2020. The presence of landscaping and existing dwellings on the roadside would help to screen the proposed dwellings from the conservation area.

- 6.18 In light of the above, given the previous permission for two dwellings on the site which is currently being implemented, it is considered that the proposal would not have an adverse impact on the Tarraby Conservation Area but would have a neutral impact.

4. Impact On Residential Amenity

- 6.19 The NPPF requires the planning process to achieve a good standard of amenity for all existing and future occupiers of land and buildings. This is a core principle of the planning system and is echoed by Policy SP6 of the Local Plan which seeks to ensure that development does not result in adverse impacts to the living conditions of existing residents and future occupants. To this end, policies set out a number of criteria which are aimed at ensuring that adequate privacy and outlook are provided for the occupants of new dwellings and maintained for the occupants of existing dwellings that adjoin development sites. Such criteria are set out in the Council's Supplementary Planning Document (SPD) 'Achieving Well Designed Housing'. The SPD requires that in order to demonstrate acceptable levels of privacy and outlook a minimum of distance of 21m between facing primary windows and 12m between such windows and a blank elevation is achieved.
- 6.20 In this case, the layout and orientation of the proposed development is such that the proposal would not adversely impact on the residential amenity of any neighbouring residents, including those at Meadow Cottage and Paddock Cottage. Whilst there would be one bedroom window in the upper floor of the side elevation of Plot 2, the window in the side elevation of Paddock Cottage, which would be 10.5m away, serves a bathroom and is obscure glazed. Paddock Cottage also has some lounge windows in the side elevation facing Plot 2 but these would be further away and are secondary windows (with the main windows being in the rear elevation) and given the layout would not lead to overlooking of the lounge. The proposed balconies on Plots 1 and 2 would face fields, with the balcony on Plot 1 having privacy screens, on that on Plot 2 being screened by the pitched roof of a single-storey extension.
- 6.21 Overall it is considered that the proposed development, due to its design and layout, would not amount to any unacceptable impacts on the residential amenity of neighbouring properties as it would not result in any significant loss of light, over shadowing or visual intrusion. In addition, the proposal would not result in any unacceptable overbearing effects or loss of privacy to neighbouring residents and would maintain an acceptable level of outlook for existing and future occupiers.
- 6.22 Accordingly, the proposed development does not give rise to any concerns

regarding residential amenity.

5. Impact On Listed Buildings

- 6.23 Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 highlights the statutory duties of Local Planning Authorities whilst exercising of their powers in respect of listed buildings. The aforementioned section states that:

"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses".

- 6.24 Policy HE3 of the adopted Local Plan seeks to ensure that Listed Buildings and their settings will be preserved and enhanced.

- 6.25 Tarraby Farm, The Thorn and The Beeches are Grade II Listed Buildings located to the south and east of the application site, however, due to the orientation of the site, the distance to the designated heritage assets and the intervening built environment and landscaping, the proposal is unlikely to have an appreciable impact upon the setting of these buildings. Consequently, it is considered that the proposal would not result in any adverse impacts to the designated heritage assets or their settings.

6. Impact On Hadrian's Wall World Heritage Site

- 6.26 The site is located within the buffer zone of the Hadrian's Wall Roman Frontier World Heritage Site where policies SP7 and HE1 of the CDLP require that proposals for development be assessed against their impact on the outstanding universal value of the World Heritage Site (WHS) including consideration of views into and out of the WHS, with a presumption in favour of preserving the fabric, integrity and authenticity of the site. In addition, the area around the Roman frontier adds further significance to the World Heritage Site by allowing an appreciation of the siting of the Roman Frontier in relation to local topography, something which is crucial in understanding historical Roman military planning and land use.
- 6.27 Given the location of the application site within the Buffer Zone of the World Heritage Site, Historic England has been consulted over the proposal but does not wish to submit any comments.
- 6.28 Given that the proposed layout, scale and design are acceptable, the proposal would not have an adverse impact on the Hadrian's Wall Buffer Zone.

7. Highway Matters

- 6.29 Policies IP2 and IP3 of the CDLP require all development proposals to be assessed against their impact on the transport network and to ensure

adequate levels of parking provision.

- 6.30 Access is proposed by an existing vehicular access directly off Tarraby Lane that would be improved to provide adequate visibility splays. This is the same access that was approved in the previous application for two dwellings on this site.
- 6.31 The Local Highways Authority has been consulted on the application and confirms that there would be no significant effect on existing highway conditions and that an appropriate level of off-street parking has been provided. It offers no objection to the proposal on the basis that, should planning permission be granted, conditions could be attached to secure the required visibility splays and associated standards for the improved vehicular access.
- 6.32 The Parish Council and objectors have expressed concerns that the proposal would result in increased traffic movements on Tarraby Lane to the detriment of other road users. Officers acknowledge that the development of four properties at this location would increase vehicular and pedestrian movements, however, it is considered that this increase would be not be significant and would not compromise highway safety. This small increase in traffic would not in this case amount to a reason to refuse planning permission.
- 6.33 Accordingly, it is considered that the proposed development would not have an unacceptable impact on highway capacity, highway safety or parking provision.

8. Drainage Issues

- 6.34 In order to protect against pollution, local plan policies IP6 and CC5 seek to ensure that development proposals have adequate provision for the disposal of foul and surface water.
- 6.35 The site naturally drains to the western boundary which is formed by the U1170 Tarraby Lane. It would appear that the site eventually drains into the network of ditches and drains which discharge to the Gosling Syke, eventually entering the River Eden at Rickerby Park. There appears to be no formal land drainage present on the site.
- 6.36 It is proposed that a new foul drainage system should be discharged to a new packaged treatment plant suitable for the capacity of the development. It is proposed to discharge the surface water on the site to the existing drain located to the western boundary of the site currently servicing Meadow Cottage. This eventually discharges to the larger Gosling Syke catchment. The flows from the site should be attenuated and discharged at greenfield runoff rates to the drain, mimicking the natural discharge arrangements from the site.
- 6.37 The Parish Council and objectors have raised concerns about flooding from this site, with flooding regularly occurring on the road outside the site. The

development of the site and the attenuation and discharge at greenfield runoff rates should provide betterment to the current situation in the wider community. The submitted FRA considers that flooding around Meadow Cottage would reduce by 2/3rds [based on 1 in 100 Y + 40% Climate Change] as a consequence of development and the storage of surface water runoff on the site.

- 6.38 The Lead Local Flood Authority (LLFA) has been consulted on the application. Following the receipt of a FRA, a CCTV survey of the existing outfall and additional information on the proposed drainage including confirmation that works to repair the highway outfall and to clean out any siltation is to be undertaken at the applicant's expense and prior to any construction being undertaken on site, the LLFA has confirmed that it has no objections to the proposal subject to the imposition of a conditions (surface water drainage scheme; Construction Surface Water Management Plan; condition and capacity survey of culverted watercourse downstream of the surface water discharge point to include any improvement that are required).
- 6.39 Similarly, United Utilities has no objections in principle to the proposed methods of foul and surface water drainage subject to conditions to secure further details.
- 6.40 In this regard, subject to conditions, the proposed drainage arrangements would be acceptable.

9. Biodiversity

- 6.41 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.
- 6.42 The Council's GIS System has identified that the site has the potential for protected species to be present on or in the vicinity of the site. As the proposal would be development of a small area of agricultural land it is unlikely that any protected species or their habitats would be affected, however, to ensure this is the case, an informative note could be included with the decision notice should planning permission be granted.

10. Contaminated Land

- 6.43 The NPPF requires the planning system to address issues associated with the development of known or suspected contaminated land or ground

instability. Accordingly, the development of contaminated or potentially unstable land is a material planning consideration and the actual or possible presence of contamination or instability and the associated risks must be established and appropriately mitigated through the planning system. In addition, a site assessment for contaminated land is required where the proposed use would be particularly vulnerable or sensitive to the presence of contamination.

- 6.44 As the proposal relates to the development of an agricultural field it is unlikely that the land would be contaminated. To support this assumption the applicant has provided a Preliminary Risk Assessment (PRA) for Land Contamination. This desktop risk assessment confirms the historical use of the site as agricultural land lying outside of the built up area of the village and therefore there is no reason to conclude that the land could be contaminated. Accordingly, the proposal raises no concerns with regard to ground conditions and would not pose a risk to future users of the site.

Conclusion

- 6.45 The proposed development would be acceptable in principle. The proposal would not have any unacceptable impacts with regard to residential amenity, highway safety, drainage matters, ecology or land contamination and it would not result in harm to the conservation area, nearby listed buildings or the appreciation of the Hardian's Wall WHS. In all aspects, the proposal is considered to be compliant with the relevant policies in the adopted Local Plan.

7. Planning History

- 7.1 In March 2019, planning permission was granted for the erection of 2no. detached dwellings on land to the rear of Meadow View (18/0928).
- 7.2 In July 2019 a discharge of conditions application was approved for the discharge of conditions 4 (landscaping scheme); 7 (parking of construction vehicles) & 14 (surface water drainage scheme) of previously approved permission 18/0928 (19/0379).
- 7.3 In April 2020 a variation of condition application was approved for the variation of condition 2 (approved documents) of previously approved permission 18/0928 (erection of 2no. detached dwellings) to modify red line site boundary in south west corner (20/0160).
- 7.4 In April 2020, planning permission was granted for the erection of a detached garage (20/0161).

8. Recommendation: Grant Permission

1. The development shall be begun not later than the expiration of 3 years beginning with the date of the grant of this permission.

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:
 1. the submitted planning application form, received 15th Dec 2021;
 2. Location Plan (Dwg T001/LP), received 15th Dec 2021;
 3. Site Layout (Dwg T001/SL1/A Rev A), received 10th March 2022;
 4. Plot 1 - Elevations (Dwg T001/P1/PE), received 15th Dec 2021;
 5. Plot 1 - Floor Plans (Dwg T001/P1/PP), received 15th Dec 2021;
 6. Plot 2 - Elevations (Dwg T001/P2/PE), received 15th Dec 2021;
 7. Plot 2 - Floor Plans (Dwg T001/P2/PP), received 15th Dec 2021;
 8. Plots 3 & 4 - Elevations (Dwg T001/P3-4/PE), received 15th Dec 2021;
 9. Plots 3 & 4 - Floor Plans (Dwg T001/P3-4/PP), received 15th Dec 2021;
 10. Plot 1 - Garage - Floor Plan & Elevations (Dwg T001/P1/G), received 15th Dec 2021;
 11. Plot 2 - Garage - Floor Plan & Elevations (Dwg T001/P2/G), received 15th Dec 2021;
 12. Plots 3 & 4 - Garage - Floor Plan & Elevations (Dwg T001/P3&P4/G), received 15th Dec 2021;
 13. Garage 4 (for Meadow Cottage) - Floor Plan & Elevations (Dwg T001/MC/G4), received 15th Dec 2021;
 14. Parking & Turning Plan (Dwg T001/PT), received 10th March 2022;
 15. Construction Management Plan (Dwg T001/CMP), received 10th March 2022;
 16. Planning Statement and Design & Access Statement, received 15th Dec 2021;
 17. Heritage Statement including Design & Access Statement, received 15th Dec 2021;
 18. Flood Risk Assessment, received 10th March 2022;
 19. Land Contamination Report, received 15th Dec 2021;
 20. Geotechnical Investigations, received 15th Dec 2021;
 21. Drainage Report, received 15th Dec 2021;
 22. Site Entrance & Emergency Vehicle Access, received 15th Dec 2021;

23. Construction Management Plan, received 15th Dec 2021;
24. the Notice of Decision;
25. any such variation as may subsequently be approved in writing by the Local Planning Authority.

Reason: To define the permission.

3. Notwithstanding any description of materials in the application hereby approved, no external materials for the development shall be used on site until samples of all external materials have been submitted for approval by the Local Planning Authority. The development shall then be undertaken in strict accordance with these details.

Reason: To ensure that the materials are suitable and do not have an adverse effect on the character and appearance of the surrounding area and conservation area in accordance with policies SP6, SP7 and HE7 of the Carlisle District Local Plan 2015-2030 and the associated requirements of the National Planning Policy Framework.

4. Other than the alterations to the highway access, no further development shall commence until details of hard and soft landscaped works has been submitted to, and approved in writing by, the Local Planning Authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner, and maintained thereafter to the satisfaction of the Local Planning Authority; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To ensure a satisfactory landscaping scheme is implemented to fulfil the requirements of policy SP6 and HE7 of the Carlisle District Local Plan 2015-2030.

5. Notwithstanding the details shown on the approved plans, full details of the siting, height, design, materials and finish to be used for all boundary treatments throughout the site shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall then be undertaken in strict accordance with these details.

Reason: To ensure that the appearance of the area is not compromised by a lack of satisfactory screening in accordance with policy SP6 and HE7 of the Carlisle District Local Plan 2015-2030.

6. Before any development takes place, a plan shall be submitted to, and approved in writing by, the Local Planning Authority reserving adequate land for the parking of vehicles engaged in construction operations associated with the development hereby approved, and that land, including vehicular

access thereto, shall be used for or be kept available for these purposes at all times until completion of the construction works.

Reason: The carrying out of this development without the provision of these facilities during the construction works is likely to lead to inconvenience and danger to road users. The facilities are therefore required to comply with Cumbria Local Transport Plan policy LD8 and policies IP2 and SP6 of the Carlisle District Local Plan 2015-2030.

7. The carriageway, footways, footpaths, cycleways etc shall be designed, constructed, drained and lit to a standard suitable for adoption and in this respect further details, including longitudinal/cross sections, shall be submitted to the Local Planning Authority for approval before work commences on site. No work shall be commenced until a full specification has been approved. These details shall be in accordance with the standards laid down in the current Cumbria Design Guide. Any works so approved shall be constructed before the development is complete.

Reason: To ensure a minimum standard of construction in the interests of highway safety and to support Local Transport Plan Policies LD5, LD7 & LD8.

8. The development shall not commence until visibility splays providing clear visibility of 32 metres north bound and 36m south bound measured 2.4 metres down the centre of the access road and the nearside channel line of the carriageway edge 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 such Order revoking and re-enacting that Order) relating to permitted development, no structure, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grown within the visibility splays 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 in accordance with Local Transport Plan Policies LD7 & LD8.

9. The surfacing of the access road serving the new dwellings shall extend for at least 10 metres inside the site, as measured from the highway boundary prior to the dwellings being occupied and in accordance with details of construction which have been submitted to and approved by the Local Planning Authority. The access road shall be constructed in accordance with the specification approved by the Local Planning Authority.

Reason: In the interests of highway safety in accordance with Policies IP2, IP3 and SP6 of the Carlisle District Local Plan 2015-2030 and to support Local Transport Plan Policies LD5, LD7 and LD8.

10. The new dwellings shall not be occupied until the access and parking arrangements have been fully constructed and made available in accordance with the approved details. The access and parking arrangements shall be retained and capable of use when the development is completed and shall not be removed or altered without the prior consent of the Local Planning Authority.

Reason: To ensure a minimum standard of access and parking provision for the development in accordance with Policies IP2, IP3 and SP6 of the Carlisle District Local Plan 2015-2030 and to support Local Transport Plan Policies LD5, LD7 and LD8.

11. Foul and surface waters from the development, hereby approved, shall be drained on separate systems with surface water draining in the most sustainable way.

Reason: To ensure that adequate drainage facilities are available and to ensure compliance with Policies IP6 and CC5 of the Carlisle District Local Plan 2015-2030.

12. Other than the alterations to the highway access, no further development shall commence until 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.

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 drainage scheme submitted for approval shall also be in accordance with the principles set out in the Flood Risk Assessment & Drainage Statement dated 9 March 2022 proposing surface water discharging to the highway drain.

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

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution. This condition is imposed in light of policies within the NPPF and NPPG.

13. No development shall commence until a Construction Surface Water Management Plan has been agreed in writing with the Local Planning Authority.

Reason: To safeguard against flooding to surrounding sites and to

safeguard against pollution of surrounding watercourses and drainage systems.

14. Prior to the commencement of any development, a condition and capacity survey of the culverted watercourse (or piped drainage system) downstream of the surface water discharge point shall be provided to the Local Planning Authority. The information provided should also include mitigation measures where it is deemed the improvements are required.

Reason: To promote sustainable development, secure proper drainage and to manage the risk

15. All external works associated with the implementation of the development, including deliveries to the site, shall be carried out only between the hours of 0730 hours and 1800 hours on Mondays to Fridays inclusive, 0800 hours and 1300 hours on Saturdays and at no time on Sundays or Bank Holidays.

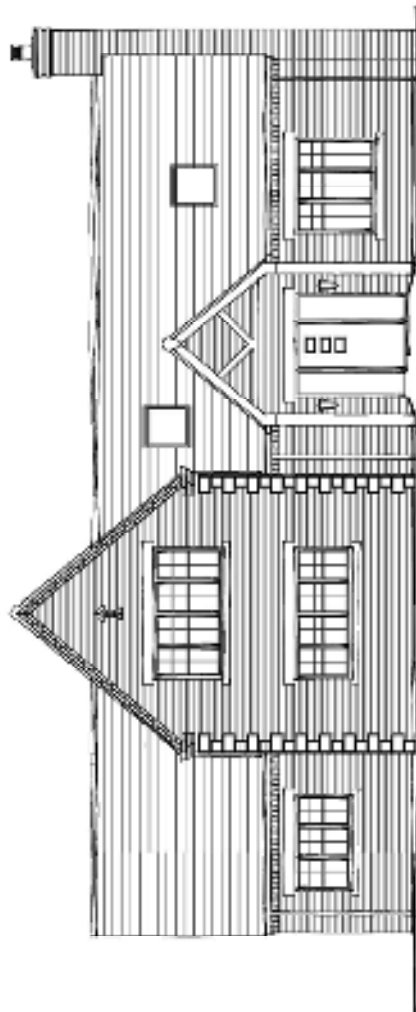
Reason: To safeguard the amenity of neighbouring residential occupiers in accordance with policy SP6 of the Carlisle District Local Plan 2015-2030.

16. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority.

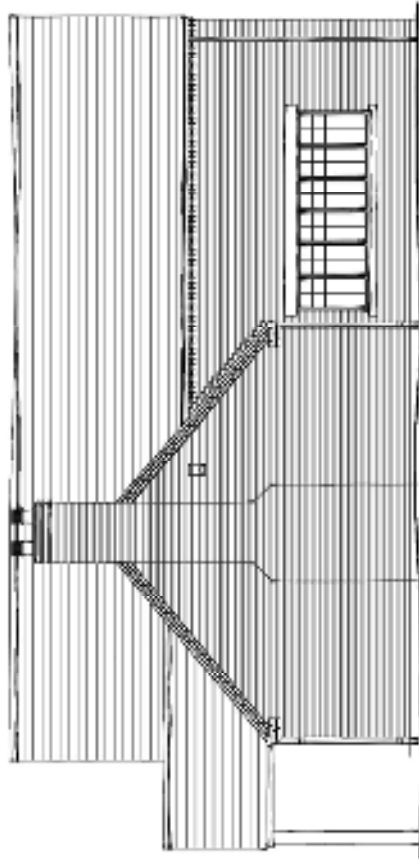
Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

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.

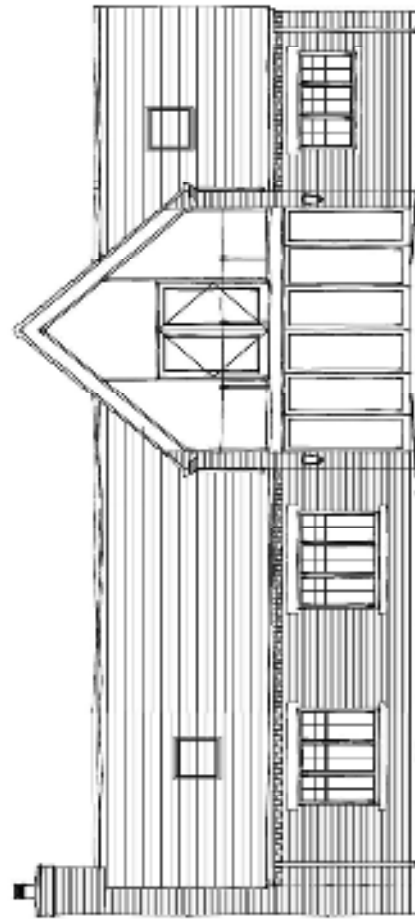




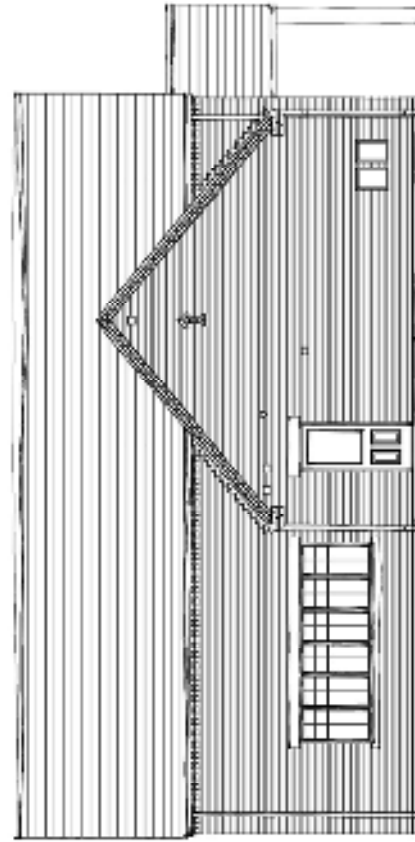
Front Elevation



Side Elevation



Rear Elevation



Side Elevation

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Plot 1

STANDARD

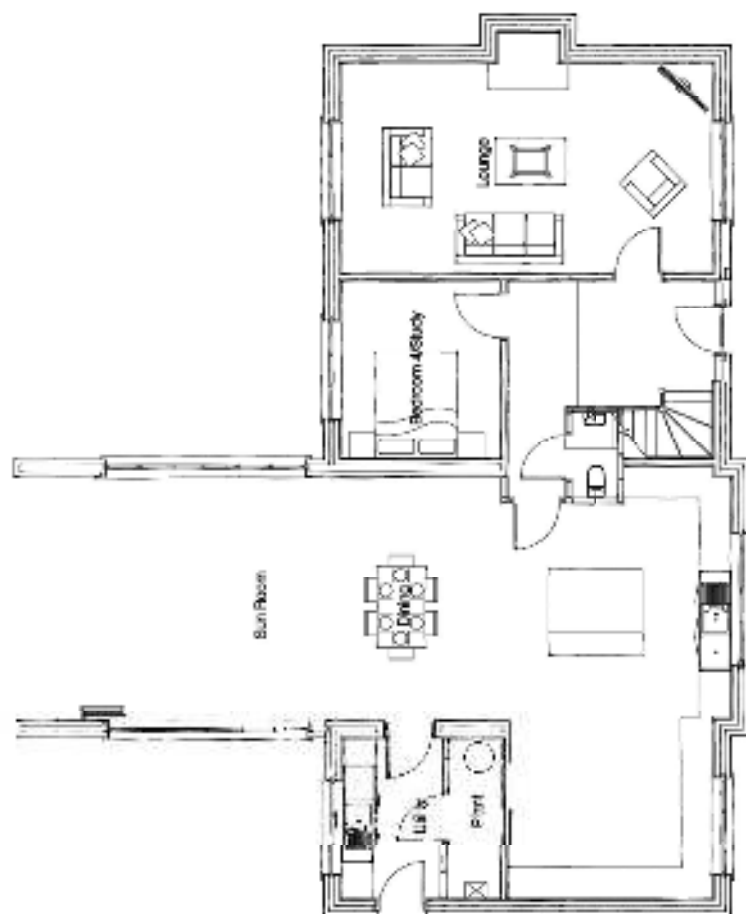
Elevations 1

DATE 12/12/12

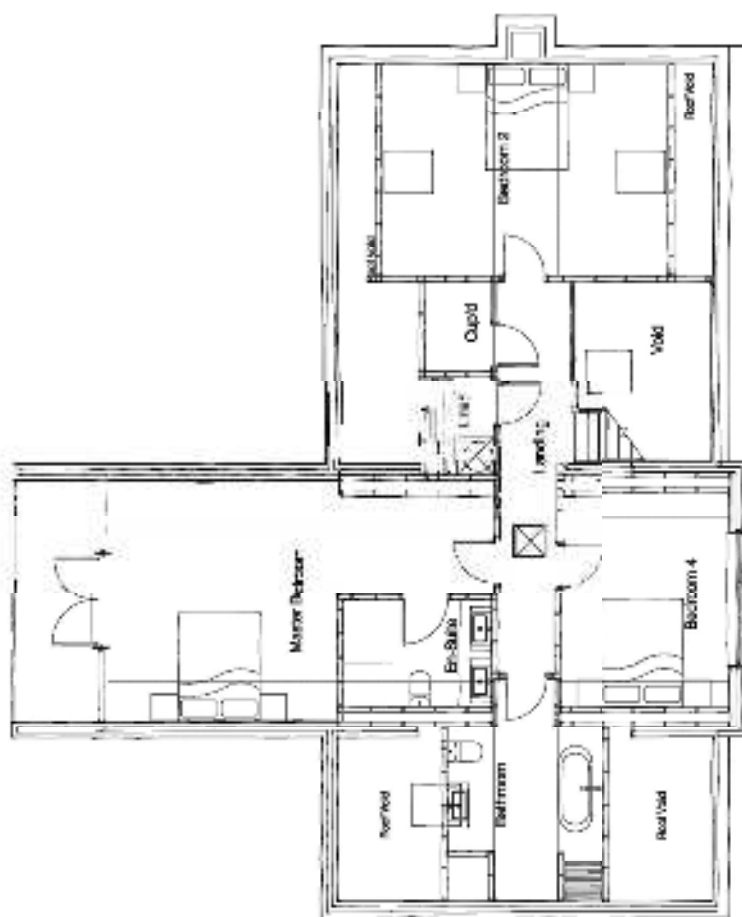
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PROJECT T001/P1/PE

REVISION



Ground floor plan



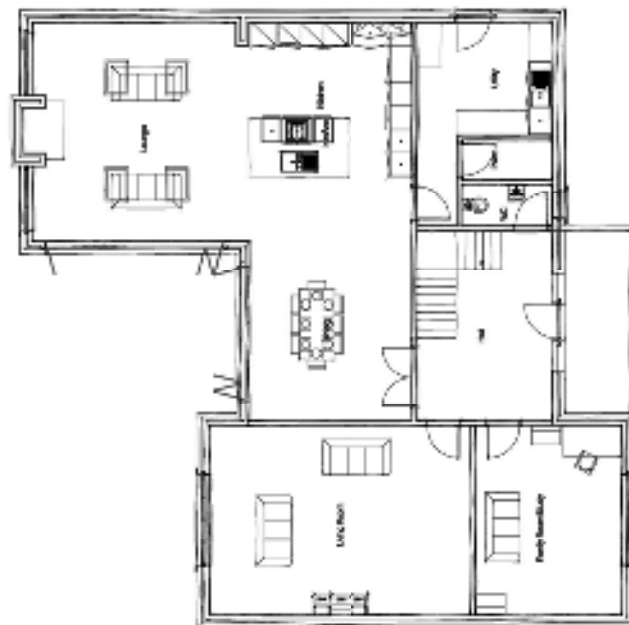
First Floor Plan

NO. OF FIVE

Plot 1

Planning Plans

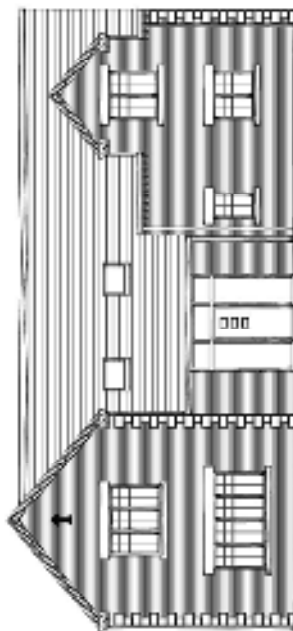
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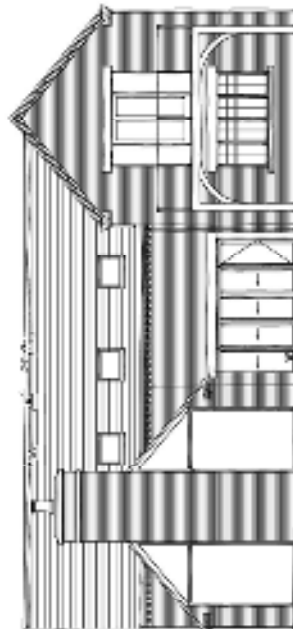
Ground Floor Plan



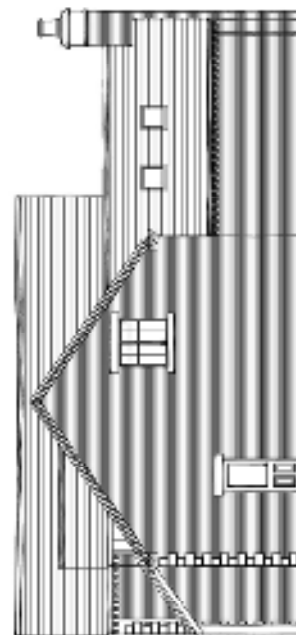
First Floor Plan



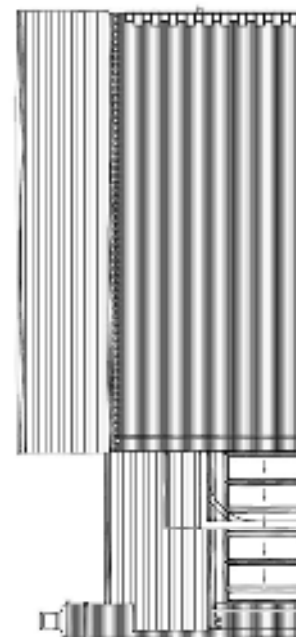
Front Elevation



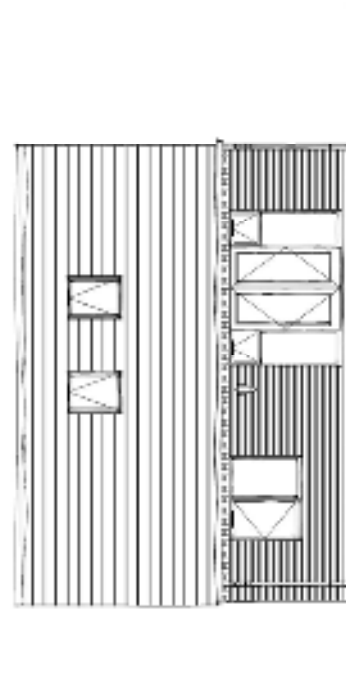
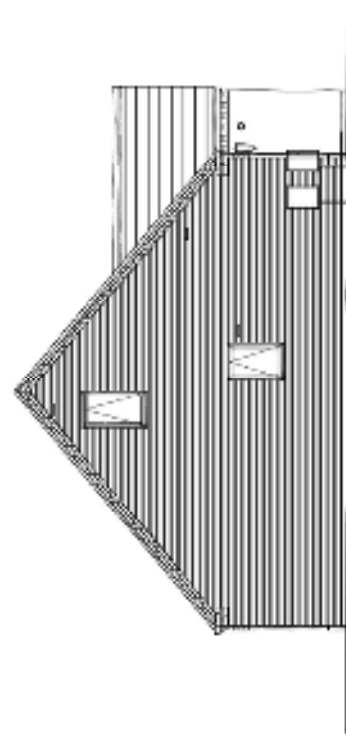
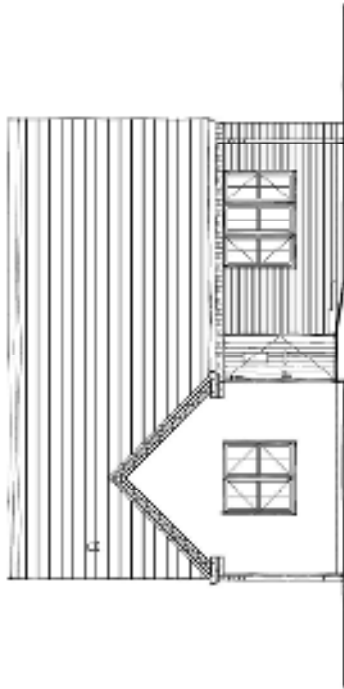
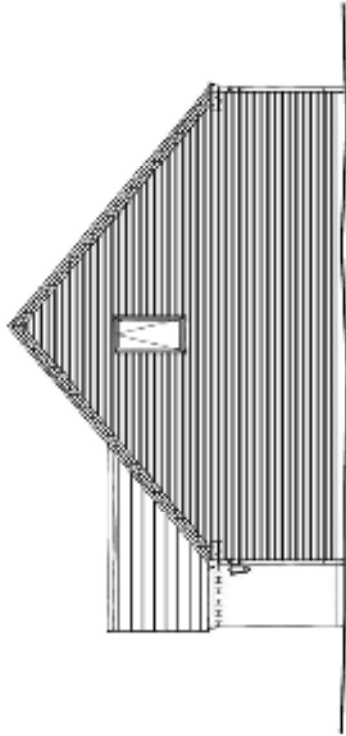
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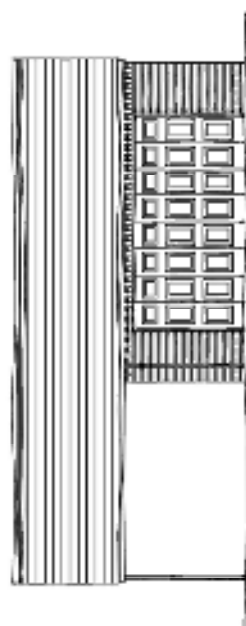
Side Elevation



Side Elevation



Architect: Tammy		Client: Tammy	
Project: Planning Elevations		Scale: 1/8" = 1'-0"	
Drawn by: Tammy	Checked by: Tammy	Project: Planning Elevations	Project: Planning Elevations
Date: 10/1/2011	Date: 10/1/2011	Date: 10/1/2011	Date: 10/1/2011



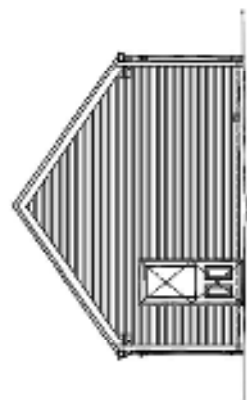
Front Elevation



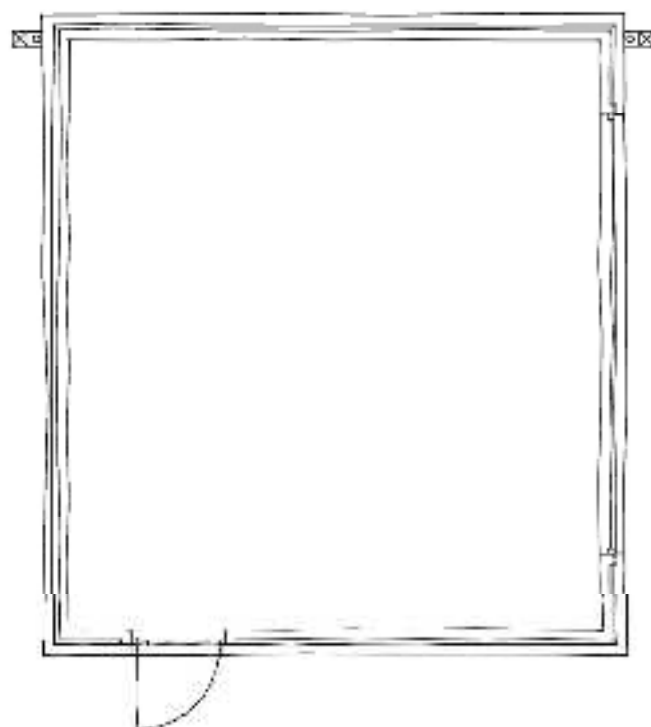
Side Elevation



Rear Elevation



Side Elevation



Ground Floor Plan

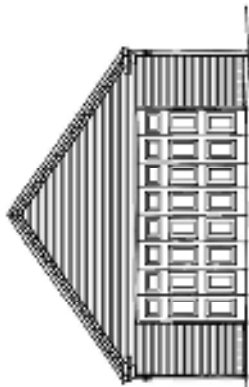
Plot 1

Garage

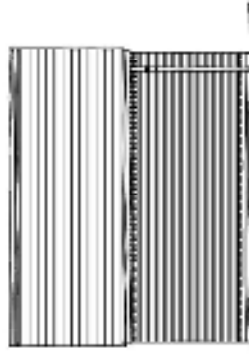
1001/P1/G

DATE: 2023
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 CHECKED BY: JONAS
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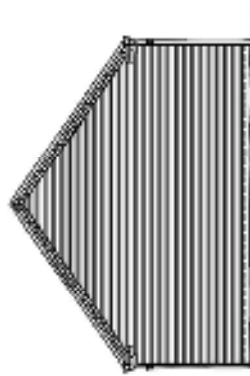
Project	
Client	
Location	
Area	
Volume	



Front Elevation



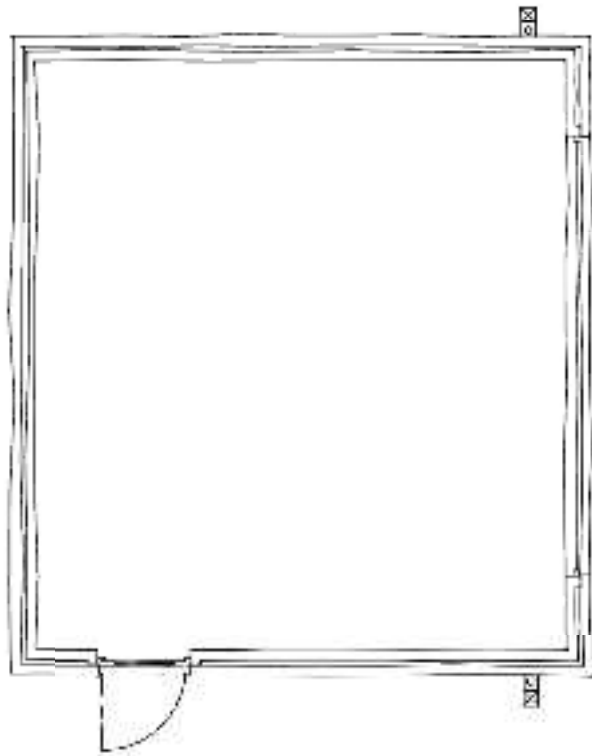
Side Elevation



Rear Elevation



Side Elevation



Ground Floor Plan

DATE: 1/1/00

Plot 2

OWNER:

Garage

DESIGNER:

DATE: 1/1/00

LOCATION:

LOCAL: 1/1/00

REMARKS:

1/1/00

T001/P2/G

1/1/00

1/1/00

1/1/00

1/1/00

1/1/00

1/1/00

1/1/00

1/1/00

1/1/00



Front Elevation



Side Elevation



Rear Elevation



Ground Floor Plan

PROJECT

Plot 3 & 4

DATE

Garage

DESIGN

DATE

SCALE

1001/P3&4/S

REVISION

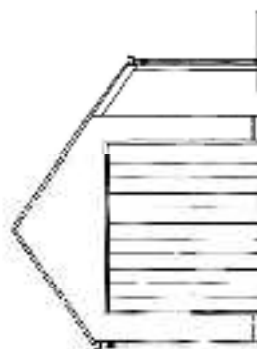
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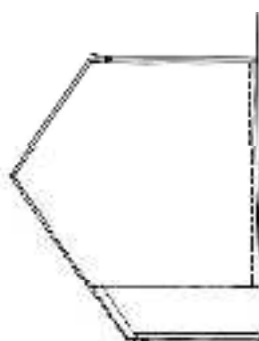
BY



Front Elevation



Side Elevation



Rear Elevation



Side Elevation



Ground Floor Plan

DATE: 11/11/11

Garage 4

DATE: 11/11/11

Garage

DATE: 11/11/11

DATE: 11/11/11

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DATE: 11/11/11

SCHEDULE A: Applications with Recommendation

21/1161

Item No: 07

Date of Committee:

Appn Ref No:
21/1161

Applicant:
Mr C Broughton

Parish:
Wetheral

Agent:
Jock Gordon Architectural
SVS Ltd

Ward:
Wetheral & Corby

Location: Scotby Acres, Broomfallen Road, Scotby, Carlisle, CA4 8DE

Proposal: Variation Of Condition 5 Of Previously Approved Appeal Decision
APP/E0915/W/15/3127903 (Siting Of 2No. Residential Gypsy/Travellers
Pitches With Utility/Day Room; 2No. Static Caravans And 2No. Further
Toilet/Shower Rooms (Part Retrospective) To Allow An Additional 8no.
Touring Caravans & Storage Shed

Date of Receipt:
20/12/2021

Statutory Expiry Date
21/02/2022

26 Week Determination

REPORT

Case Officer: Richard Maunsell

1. Recommendation

- 1.1 It is recommended that this application is refused.

2. Main Issues

- 2.1 Whether The Principle Of Development Is Acceptable
- 2.2 Detailed Matters
- 2.3 Drainage
- 2.4 Biodiversity
- 2.5 Accommodation Needs
- 2.6 Other Matters

3. Application Details

The Site

- 3.1 Broomfallen Road is the main road leading north into the village of Scotby.

At the southern margins of the linear housing form along Broomfallen Road, a bridleway (number 138037) leads west and then south-west towards the M6 motorway and to The Garlands beyond.

- 3.2 This site is located to the west of the bridleway and is bounded to the south-west by a copse of trees with countryside to the west and north. On the opposite side of the bridleway, to the east, is a Gypsy site with a further four Gypsy pitches providing accommodation for five Gypsy pitches further to the south-east.
- 3.3 The overall site area measures 0.49 hectares and is located approximately site itself measures approximately 0.88 kilometres (0.55 miles) in a direct linear distance from the centre of the village.
- 3.4 The site is not within any landscape designations and the site is also located wholly within Flood Zone 1, the area with the lowest flood risk probability.

The Proposal

- 3.5 Planning permission is sought for the change of use of the land to provide a transit site for Gypsies and Travellers incorporating eight pitches and a storage shed.

4. Summary of Representations

- 4.1 This application has been advertised by means of a site notice and direct notification to the occupiers of 15 properties, In response, 46 representations have been received objecting to the application. The representations have been reproduced in full separately for Members, however, the main issues raised are summarised as follows:
 - 1. the proposal will led to an increased and unacceptable level of traffic along the bridleway which leads to speed and noise;
 - 2. the bridlway has been surfaced and has speed bumps, this isn't a rural lane anymore;
 - 3. there are many caravans there which don't have planning so this would be giving permission to carry on;
 - 4. the site are connected to the old style septic tanks which overflow into the adjacent beck causing pollution;
 - 5. road planings are used as hardcore which are contaminated with tar;
 - 6. the applicant already has approval for 6 caravans which should be more than enough for personal use. There are already way more than 6 caravans on the site;
 - 7. 14 caravans on this site is an overdevelopment;
 - 8. the public bridleway is now intimidating and residents no longer feel as if they can use it;
 - 9. there are too many caravans which devalues neighbouring properties;
 - 10. dogs are loud on an evening barking, no more development there should be authorised as will only ruin the village more;
 - 11. this site is adjacent to mature mixed deciduous woodland and is likely to

- constitute a UK Priority Habitat - therefore there should be an Ecology report to assess the likelihood of disturbance to valuable wildlife. It is also adjacent to Washbeck which is vulnerable to damage during and after these works such as contaminated run off;
12. there is no indication of how foul water or chemical waste will be disposed. Many chemicals used in caravan toilets are toxic to waterways and as Washbeck is a low flow stream, this could have a devastating impact;
 13. the council's policy on gypsy and traveller sites has a number of criteria that applications should comply with. This application doesn't meet 3 of them namely integration with the community; inadequate utilities; adverse impact on the area;
 14. this is a commercial enterprise not a private one;
 15. the local school is at full capacity;
 16. there is an outstanding court injunction on this land which neither the Planning Authority nor the occupants appear to uphold. Consequently no more development should be allowed.

5. Summary of Consultation Responses

Wetheral Parish Council: - the parish council objects to the application which represents a substantial overdevelopment of the site.

The only access to the site is a bridleway, which is effectively being used as a busy highway due to the number of vehicles and journeys to and from this and adjoining developments. The bridleway is totally unsuitable for this level of traffic, which is not legal.

Provisions for refuse collection and recycling from the site are not made clear.

Wash Beck is a small, shallow stream which is not suitable for this level of water discharge;

Cumbria County Council - (Highways & Lead Local Flood Authority): - Cumbria County Council as the Local Highway Authority (LHA) and Lead Local Flood Authority (LLFA) has reviewed the above planning reference and our findings are detailed below.

We are aware of the extensive planning history along this bridleway.

During a previous appeal in 2016 (APP/E0915/W/18/3202754) for a similar yet smaller application the Inspector stated -

“Of greater concern is the potential conflict between traffic and walkers/horse riders on the bridleway, a matter raised by residents and Wetheral Parish Council. There are two aspects to this: the physical risk of an accident; and the quality of the recreational experience. Both these aspects may then discourage people from using the right of way. The most dangerous part of the track is the S-bend where forward visibility is limited and there are no verges to allow vehicles and horses/pedestrians to pass comfortably. Children and horse riders would be particularly at risk.”

“There is no doubt that the proposal would see the use of the track increase significantly and would result in an increase in highway dangers to users of the bridleway. Walking, horse riding and cycling would be a less pleasant experience.”

“In this instance, although at the very upper limit of what would be acceptable, I conclude that the level of use proposed would not cause significant harm to the safety and the recreational experience of bridleway users.”

It was the independent highway consultants’ (and the Local highway Authorities) view that *the residual cumulative impact for all and in particular bridleway users and the wildlife is severe and the local highway authority will no longer be able to exercise its duties hence, must be objected to on highway grounds.”*

This application therefore is yet another application taking access off this bridleway and increasing the vehicular usage of it. This will exacerbate the issue raised during the previous appeals to such an extent that the impact will be severe on this part of the network and that the potential safety impact will be unacceptable.

Of real concern is the potential of the vehicles associated with this application to deter potential and current users of this PROW (pedestrians and horse riders) from making use of it;

Cumbria Constabulary - North Area Community Safety Unit: - no response received;

Cumbria County Council - (Highway Authority - Footpaths): - Public Bridleway 138037 and 129016 follow an alignment to the north and west of the proposed development area and must not be altered or obstructed before or after the development has been completed;

The Ramblers: - 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), Planning Policy for Traveller Sites (PPTS) (which must be read in conjunction with the NPPF), National Planning Practice Guidance and the Cumbria Gypsy and Traveller Needs Assessment (GTAA) Final Report January 2022 together with Policies SP2, SP6, HO11, IP3, IP6, CC5, CM5, GI1, GI3, GI5 of the Carlisle District

Local Plan 2015-2030. The proposal raises the following planning issues.

1. Whether The Principle Of Development Is Acceptable

- 6.3 Specific advice on Traveller sites is contained in PPTS which seeks, amongst other things, to create sustainable communities where Gypsies have fair access to suitable accommodation from which Travellers can access education, health, welfare and employment infrastructure. It advises that local plans must identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against locally set targets. Locally set targets are contained within Policy HO11 of the local plan which draws upon the most up to date evidence on need in the form of the GTAA.
- 6.4 Policy HO11 of the local plan requires that where there is an identified need the city council will consider the provision of Gypsy and Traveller sites and that they will be acceptable providing that they meet a number of detailed criteria.
- 6.5 Importantly Policy HO11 must be read in conjunction with Policy SP2 which sets out a settlement hierarchy as a means of securing sustainable development. This approach accords entirely with the NPPF and should therefore continue to be afforded full weight in the decision making process. Policy SP2 identifies that *"outside of the locations specified (i.e. in open countryside) development will be assessed against the need to be in the location specified"*.
- 6.6 Policy HO11 of the local plan amplifies this stance with specific regards to proposals for Traveller pitches, identifying that such proposals will be considered favourably providing they comply with a number of criteria including, at criterion 1, that *"The site is physically connected, and integrates with, an existing settlement, and does not lead to an unacceptable intrusion into open countryside"*.
- 6.7 A further 5 pitches were allowed on appeal on land to the east of the bridleway under appeal references 3127905, 3127903, 3130384 and 3127907. In addressing the principle of development in this location, in paragraph 32 the Inspector confirms that *"this is a sustainable location for a gypsy site."* As such, the location is not considered to be unsustainable and the council has not raised this as an issue in the defence of recent planning appeals. Policy HO11 adopts, alongside making a specific allocation, a criteria based approach to assessing proposals for the provision of sites for Travellers.
- 6.8 Paragraph 3.50 of the GTAA highlights the issue of transit provision and states:
- "GTAA studies require the identification of demand for transit provision. While the majority of Gypsies and Travellers have permanent bases either on Gypsy and Traveller sites or in bricks and mortar and no longer travel, other members of the community either travel permanently or for part of the year. Due to the mobile nature of the population a range of sites can be developed*

to accommodate Gypsies and Travellers as they move through different areas.”

- 6.9 The GTAA provides an assessment and conclusion of Gypsy and Traveller accommodation needs across each of the local authority areas that currently exist with Cumbria. Specific to Carlisle, the GTAA concludes on the issue of transit provision in paragraph 9.11 that:

“It was not felt that any formal transit provision is required in the area given the volume of encampments that are experienced. There are private sites with permission for transit but they are either closed or have not built to accommodate the agreed permission. It was felt that this demonstrates that transit availability is not commercially viable, further evidencing the lack of need for Council run transit provision.”

- 6.10 Beyond the requirements of the GTAA and Policy HO11, regard has also been had to the following detailed matters.

2. Detailed Matters

- 6.11 Policy HO11 of the local plan states that proposals for Gypsy and Traveller sites will be acceptable providing that they meet eight criteria. These are:

- i) the location, scale and design would allow for integration with, whilst not dominating or unacceptably harming, the closest settled community to enable the prospect of a peaceful co-existence between the site and the local community;
- ii) the site has reasonable access to key services and facilities including schools, shops, doctors' surgeries and health care and other community facilities;
- iii) there are opportunities to access these facilities by public transport, walking or cycling;
- iv) adequate utilities can be provided or are already available;
- v) the site is well planned to be contained within existing landscape features, or can be appropriately landscaped to minimise any impact on the surrounding area;
- vi) satisfactory living conditions can be achieved on the site and there would be no unacceptable impact on the amenity of adjacent land uses including residential uses;
- vii) any ancillary business uses that are intended to be carried out on the site will not have an unacceptable impact on the residential use of the site, any adjacent land uses or the visual amenity of the area; and
- viii) the site should have, or be able to provide, adequate access and turning space for large vehicles and caravans.

- 6.12 Each of these is considered in turn.

- i) The Location, Scale And Design Would Allow For Integration With, Whilst Not Dominating Or Unacceptably Harming, The Closest Settled Community To Enable The Prospect Of A Peaceful Co-Existence Between The Site And The Local Community

6.13 The site is approximately 425 metres south-west from the fringe of the village of Scotby and 550 metres north-east of the Garlands estate. As such, the physical relationship of the site to the settled community is acceptable in this instance.

ii) The Site Has Reasonable Access To Key Services And Facilities Including Schools, Shops, Doctors' Surgeries And Health Care And Other Community Facilities

6.14 The site is approximately 1 kilometre south-west of the centre of the village which has local facilities in the form of a shop, public house, school and church. Carlisle is only a short distance further to the east and in this instance, the accessibility of the site to local services and infrastructure is deemed acceptable.

iii) There Are Opportunities To Access These Facilities By Public Transport, Walking Or Cycling

6.15 Access to the facilities outlined in ii) can be achieved by means of walking or cycling. Once over, there was a bus service with a bus stop on Broomfallen Road but this service has been withdrawn and there is currently no replacement.

6.16 There is pedestrian access via the bridge over the M6 motorway leading to the Garlands estate from through which a bus service continues to operate. As such, the proposal is acceptable in this regard.

iv) Adequate Utilities Can Be Provided Or Are Already Available

6.17 There is no information in the application details regarding the provision of services; however, as the site has already been developed, it is assumed that adequate provision has been made on site. In any event, the site is adjacent to other developed pitches where adequate services have been provided and as such, there would be no conflict with this criterion of the policy.

v) The Site Is Well Planned To Be Contained Within Existing Landscape Features, Or Can Be Appropriately Landscaped To Minimise Any Impact On The Surrounding Area

6.18 When considering the impact of the proposal on the character and appearance of the area, the topography of the surrounding land and the existing landscaping provides some degree of screening to the site which obscures the view from Broomfallen Road. In this context, the scale and siting of the existing work and proposed structures are well related within the landscape and are not visually intrusive from a distance.

6.19 The guidance in the PPTS states that:

"Local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas

allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure."

- 6.20 When viewed from the bridleway, the hedgerow along the northern boundary would provide some degree of screening when approaching from the north. The land slopes down from west to east away from the bridleway and there are trees which flank the boundary with Wash Beck. Coupled with the fact that the site is set back from the bridleway with intervening buildings and Gypsy and Traveller pitches that are enclosed within a site bounded by walls and timber gates adjacent to the bridleway, the development wouldn't affect the character and appearance of the landscape. In conclusion it is considered that the impacts of the proposal on landscape character and on the views of users of the public bridleway would not be of such magnitude as to be considered unacceptable.

vi) Satisfactory Living Conditions Can Be Achieved On The Site And There Would Be No Unacceptable Impact On The Amenity Of Adjacent Land Uses Including Residential Uses

- 6.21 The land to the west is owned by the applicant. There are other Gypsy and Traveller pitches in the locality, most notably to adjacent to the north and south. A planning application for an additional Gypsy and Traveller pitch immediately adjacent to the north of the site currently remains undetermined. are on the opposite of the bridleway but there is sufficient intervening distance. The site is adequately sized with appropriate amenity and parking facilities for a transit site. As such the proposal is acceptable in this regard.

vii) Any Ancillary Business Uses That Are Intended To Be Carried Out On The Site Will Not Have An Unacceptable Impact On The Residential Use Of The Site, Any Adjacent Land Uses Or The Visual Amenity Of The Area

- 6.22 Broomfallen Road lies to the south of the centre of the village of Scotby and is characterised by linear development along the road frontage. Further south, beyond the settlement, the properties remain linear but are more sporadic in their location. There is also a farm close to the site. Whilst there are no properties immediately adjacent to the site, the living conditions of the occupiers of these properties has to be taken into account.

- 6.23 There is the potential that the level of use and the activities from the site could be detrimental to the occupiers of local properties. The use of the land would be occupied as a transit site with limited scope for any business use; however, a condition could be imposed prohibiting any business activities taking place on the site should planning permission be forthcoming.

viii) The Site Should Have, Or Be Able To Provide, Adequate Access And Turning Space For Large Vehicles And Caravans

- 6.24 Cumbria County Council as the local highway authority has raised objections with regard to the cumulative impact of the current proposal together with the

total number of pitches that have been granted planning permission with access from the bridleway. They state that the bridleway whilst permitting a degree of motorised use is mainly meant for other usage, with their enjoyment being greatly affected by further motorised usage and any further development would have a detrimental impact on the safety of the users of the public right of way.

6.25 The local highway authority make reference to the cumulative impact which, in their opinion, has occurred on the bridleway. In 2012, an application was submitted for planning permission for a single Gypsy and Traveller pitch. The application was refused and one of the reasons being that of the impact on the public right of way. As a single Gypsy pitch, the Inspector saw no conflict.

6.26 In 2014, four planning applications were submitted to the council for the formation of five pitches for Gypsies and Travellers. These applications were refused on the lack of need and the impact on highway issues, including the use of the bridleway. The appeal was allowed and in his paragraph 23 of his decision letter, the Inspector states:

“Perhaps more importantly the number of dwellings, or in this case gypsy pitches, served by the track and which would involve negotiating the section around the S-bend would be six. The appellants argue that gypsy sites are often on unmade tracks but it is the interests of bridleway users not those of the appellants that are the concern here. However, this number does not greatly exceed the highway authority rule of thumb and once beyond the S-bend there would in practice be little pedestrian/vehicle conflict. In this instance, although at the very upper limit of what would be acceptable, I conclude that the level of use proposed would not cause significant harm to the safety and the recreational experience of bridleway users. There would therefore be no conflict with the relevant criteria in LP Policy H14 and in emerging Policy HO11 or with the provisions of NPPF paragraph 32.”

6.27 Following on from this decision, a further application for planning permission for a single Gypsy and Traveller pitch was submitted on land known as Oak Meadows. A similar objection was submitted by the local highway authority and to assist in the consideration of the application, the council employed an independent highway consultant. The application was ultimately refused for the following reason:

“The development increases the size of vehicles and the frequency upon which they use the public right of way to the detriment of other users. Sustained use would be likely to increase the conflict of traffic movements on the public right of way which has restricted width, resulting in additional danger and inconvenience to all users. In this context, the proposal is unacceptable and contrary to paragraph 32 of the National Planning Policy Framework, to criterion 8 of Policy HO11 (Gypsy, Traveller and Travelling Showpeople Provision) and criterion 5 of Policy SP6 (Securing Good Design) of the Carlisle District Local Plan 2015-2030.”

6.28 In relation to the appeal decision at Oak Meadows, the Inspector concludes in paragraph 24 that:

“Overall, the merits of the appeal scheme are finely balanced. Based on the evidence presented, the width, surface, topography, alignment and use of the bridleway, leads me to consider that the modest increase in its use would mean that the proposal is just about acceptable. As a result, the proposal would not lead to an unacceptable impact on highway safety, or severe residual cumulative impacts. Also, the recreational experience of bridleway users does not appear to have been harmed by the proposal. Nor would a small uplift in vehicular movements of the scale set out cause harm.”

- 6.29 Each application has considered the highway issues with different Inspectors noting that the various proposals are *“at the very upper limit of what would be acceptable”* and that *“the proposal is just about acceptable”* implying that each permission seemingly being closer to the point of unacceptability.
- 6.30 Planning permission has been granted for Gypsy and Traveller sites adjacent to Washbeck Paddock, which was the first site granted planning permission. In this instance, the planning permissions are to be occupied by the sons of the occupier and the argument submitted was that they already lived and travelled along the bridleway, therefore there would be no increase in vehicle movements.
- 6.31 In the case of this application however, the proposal is for a transit site with eight pitches. Each pitch is likely to have multiple vehicles including those used for commercial/ work purposes and those used for domestic journeys which would be a significant increase in vehicle movements that would be further detrimental to users of the bridleway.
- 6.32 As the development is adjacent to a bridleway, the county council has advised that the bridleway must not be altered or obstructed before or after the development has been completed and that the developer of the site must ensure they have a private vehicular right of access to use the bridleway with vehicles. An advisory note would be included within the decision notice.

3. Drainage

- 6.33 In accordance with the NPPF and the NPPG, the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way. The NPPG clearly outlines the hierarchy to be investigated by the developer when considering a surface water drainage strategy which should be considered 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.
- 6.34 In order to protect against pollution, Policies IP6 and CC5 of the local plan seek to ensure that development proposals have adequate provision for the disposal of foul and surface water. Whilst it is unlikely that there would be dedicated drainage for each transit pitch, no details of either foul or surface

water have been provided. In the absence of such, these matters could be dealt with through the imposition of planning conditions..

4. Biodiversity

- 6.35 The authority should consider securing measures to enhance the biodiversity of a site from the applicant, if it is minded to grant permission for an application in accordance with paragraph 180 of the NPPF. This is reflected in Section 40 of the Natural Environment and Rural Communities Act (2006) which states that every public authority must have regard to the purpose of conserving biodiversity. Local planning authorities must also have regard to the requirements of the EC Habitats Directive (92/43/EEC) when determining a planning application as prescribed by regulation 3 (4) of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), and Article 16 of the Habitats Directive before planning permission is granted.
- 6.36 Planning Authorities in exercising their planning and other functions must have regard to the requirements of the EC Habitats Directive (92/43/EEC) when determining a planning application as prescribed by regulation 3 (4) of the Conservation (Natural Habitats, cc.) Regulations 1994 (as amended). Such due regard means that Planning Authorities must determine whether the proposed development meets the requirements of Article 16 of the Habitats Directive before planning permission is granted. Article 16 of the Directive indicates that if there is reasonable likelihood of a European protected species being present then derogation may be sought when there is no satisfactory alternative and that the proposal will not harm the favourable conservation of the protected species and their habitat.
- 6.37 The council's GIS layer did identify the potential for protected species to be present on the site or within the immediate vicinity. Given that the proposal involves a small piece of land that is largely covered with hard core, it is unlikely that the proposal would affect any species identified; however, an informative has been included within the decision notice ensuring that if a protected species is found all work must cease immediately and the local planning authority informed.

5. Accommodation Needs

- 6.38 Paragraph 9 of the PPTS also requires that when planning for Traveller sites:

“Local planning authorities should, in producing their Local Plan:

- identify and update annually, a supply of specific deliverable sites sufficient to provide five years' worth of sites against their locally set targets*
- identify a supply of specific, developable sites or broad locations for growth, for years six to ten and, where possible, for years 11-15*
- consider production of joint development plans that set targets on a cross-authority basis, to provide more flexibility in identifying sites, particularly if a local planning authority has special or strict planning constraints across its area (local planning authorities have a duty to*

- *cooperate on planning issues that cross administrative boundaries)*
- *relate the number of pitches or plots to the circumstances of the specific size and location of the site and the surrounding population's size and density*
- *protect local amenity and environment.”*

6.39 The recently published GTAA covers all authorities in Cumbria and provides and in paragraph 1.2 describes its purpose:

“The GTAA provides a credible evidence base which can be used toward the preparation and implementation of Local Plan policies and provision of new Gypsy and Traveller pitches and Travelling Showpeople plots for the 15 year period up to 2035, as required by the PPTS, and 2040 to meet Local Plan Periods. The outcomes of this study supersede the need figures of any previous Gypsy, Traveller and Travelling Showpeople accommodation needs assessment completed in the study area.”

6.40 With regard to transit sites, the GTAA provides a useful definition in paragraph 3.50 which reads:

“GTAA Studies require the identification off demand for transit provision. Whilst the majority of Gypsies and Travellers a permanent bases either on Gypsy and Traveller sites or in bricks and mortar and no longer travel, other members of the community either travel permanently or for part of the year. Due to the mobile nature of the population a range of sites can be developed to accommodate Gypsies and Travellers as they move through different areas.”

6.41 Providing an individual assessment and appraisal for each local authority area, the GTAA provides evidence of need for both permanent pitches and transit sites within Carlisle district for the relevant forthcoming period. This was published in January 2022 and provides the most up-to-date information that is available. In respect of the latter, paragraph 9.11 states:

“It was not felt that any formal transit provision is required in the area given the volume of encampments that are experienced. There are private sites with permission for transit but they are either closed or have not been built to accommodate the agreed permission. It was felt this demonstrates the transit availability is not commercially viable further evidencing the lack of need for Council run transit provision.

6.42 On this basis, no evidence of need has been submitted with the application contrary to the conclusion of the GTAA. Whilst it is recognised that the GTAA references ‘Council run transit provision’, this would be the first solution to addressing a need rather than private sites being provided on a piecemeal basis. Members will also be aware that a transit site exists at Hadrian's Camp which has been closed for several years. Were a need to exist that would be viable, it is likely that this site would have been made available again but this isn't the case. As such, in light of the forgoing assessment and the GTAA assessment, it isn't considered that any need exists for a transit site within the district.

6. Other Matters

- 6.43 Reference is made in some of representations that the land is subject to a court injunction. This is not the case and the injunction refers to a separate parcel of land in different ownership at the southern end of the bridleway, adjacent to the bridleway.

Conclusion

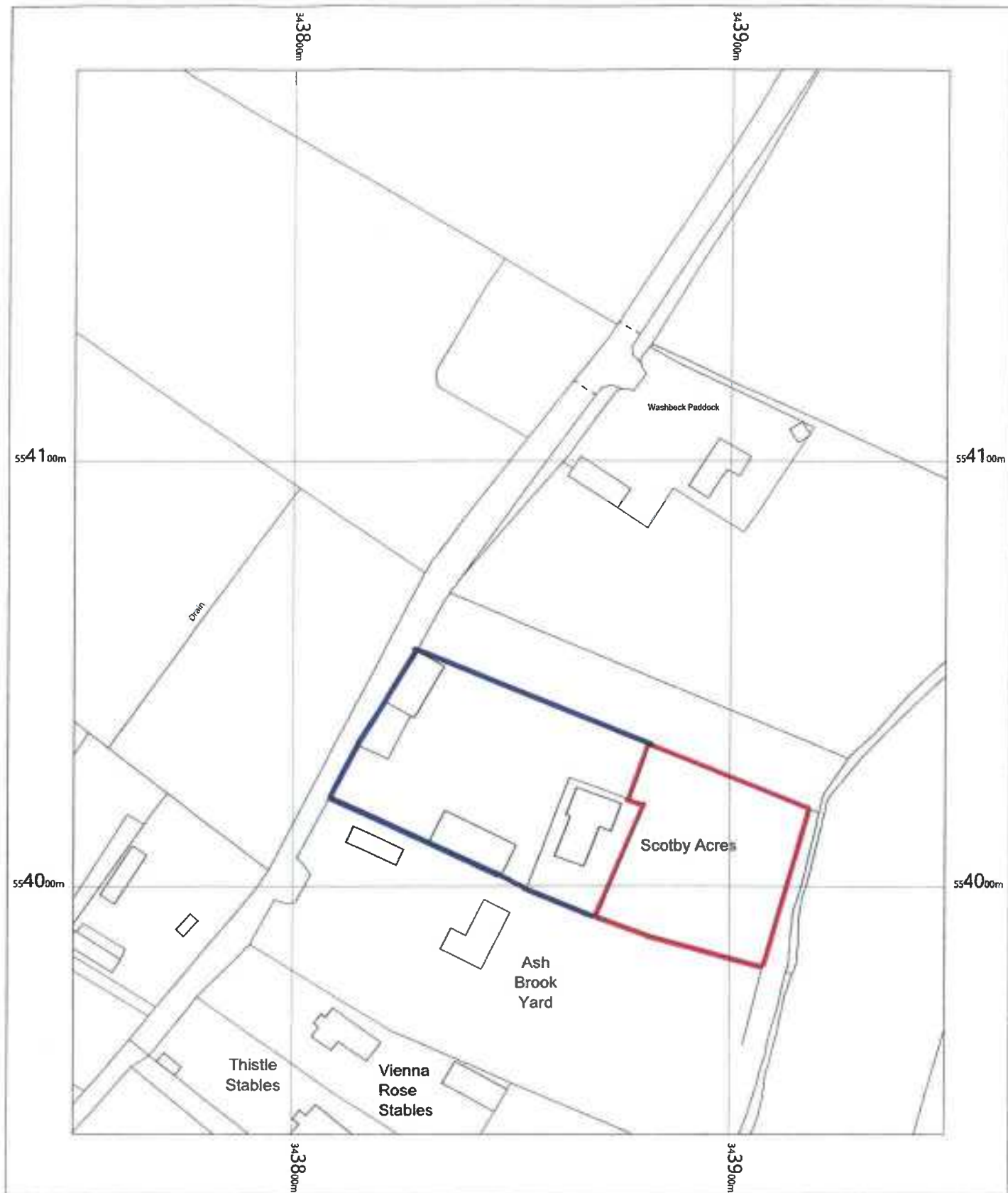
- 6.41 In overall terms, whilst it is noted that the adjacent site and land within the locality have been developed to provide pitches for accommodation by Gypsies and Travellers, no need has been identified in the most recent and up-date GTAA for a transit site. As such, the principle of development is not considered to be acceptable or comply with the relevant policy criteria.
- 6.42 In the case that the principle were considered to be acceptable, development both individually and in concert with development and proposals on the adjacent land, the character and appearance of the area particularly when viewed from the public right of way is unaltered to be significantly altered and whilst there may be glimpsed views, the overall impact of the development is not sufficiently significant to warrant refusal of the application on this matter.
- 6.43 The number and size of vehicles has increased along the public right of way over the last seven years. The issue of the continued use of the bridleway has been considered by Planning Inspectors in recent planning appeal decisions, and has been found to be acceptable, albeit with caveats about the 'upper limit' of the capacity of the bridleway being reached. Additional vehicles from the eight transit pitches is likely to be significant and therefore given the frequency or size of vehicles driving along the bridleway, the development would be detrimental and potentially affect the safety of other users.
- 6.44 As such, the proposal fails to accord with the objectives of the NPPF, PPG and relevant local plan policies.

7. Planning History

- 7.1 An application for part retrospective planning permission was refused in 2015 for the siting of 2no. residential Gypsy/ Travellers pitches with utility/ day room; 2no. static caravans and 2no. further toilet/ shower rooms. The application was subject of an appeal to the Planning Inspectorate where it was subsequently allowed.
- 7.2 A further application was submitted in 2016 to discharge of conditions 3 (external materials) & condition 8 (site development scheme) of the previously approved application 14/0744 which was granted.

8. Recommendation: Refuse Permission

1. **Reason:** Planning policies support the principle development that would contribute to achieving additional provision of transit pitches for Gypsies, Travellers and Travelling Showpeople. The Cumbria Gypsy and Traveller Needs Assessment (GTAA) Final Report January 2022 states that there is no need for transit facilities. No identified need or evidence has been submitted as part of this application to the contrary and as such, the proposed is contrary to criterion 8 of Policy SP2 (Strategic Growth and Distribution); Policy HO11 (Gypsies and Travellers) of the Carlisle and District Local Plan 2015-2030.
 2. **Reason:** The development increases the size of vehicles and the frequency upon which they use the public right of way to the detriment of other users. Sustained use would be likely to increase the conflict of traffic movements on the public right of way which has restricted width, resulting in additional danger and inconvenience to all users. In this context, the proposal is unacceptable and contrary to criterion 8 of Policy HO11 (Gypsy, Traveller and Travelling Showpeople Provision) and criterion 5 of Policy SP6 (Securing Good Design) of the Carlisle District Local Plan 2015-2030.
-



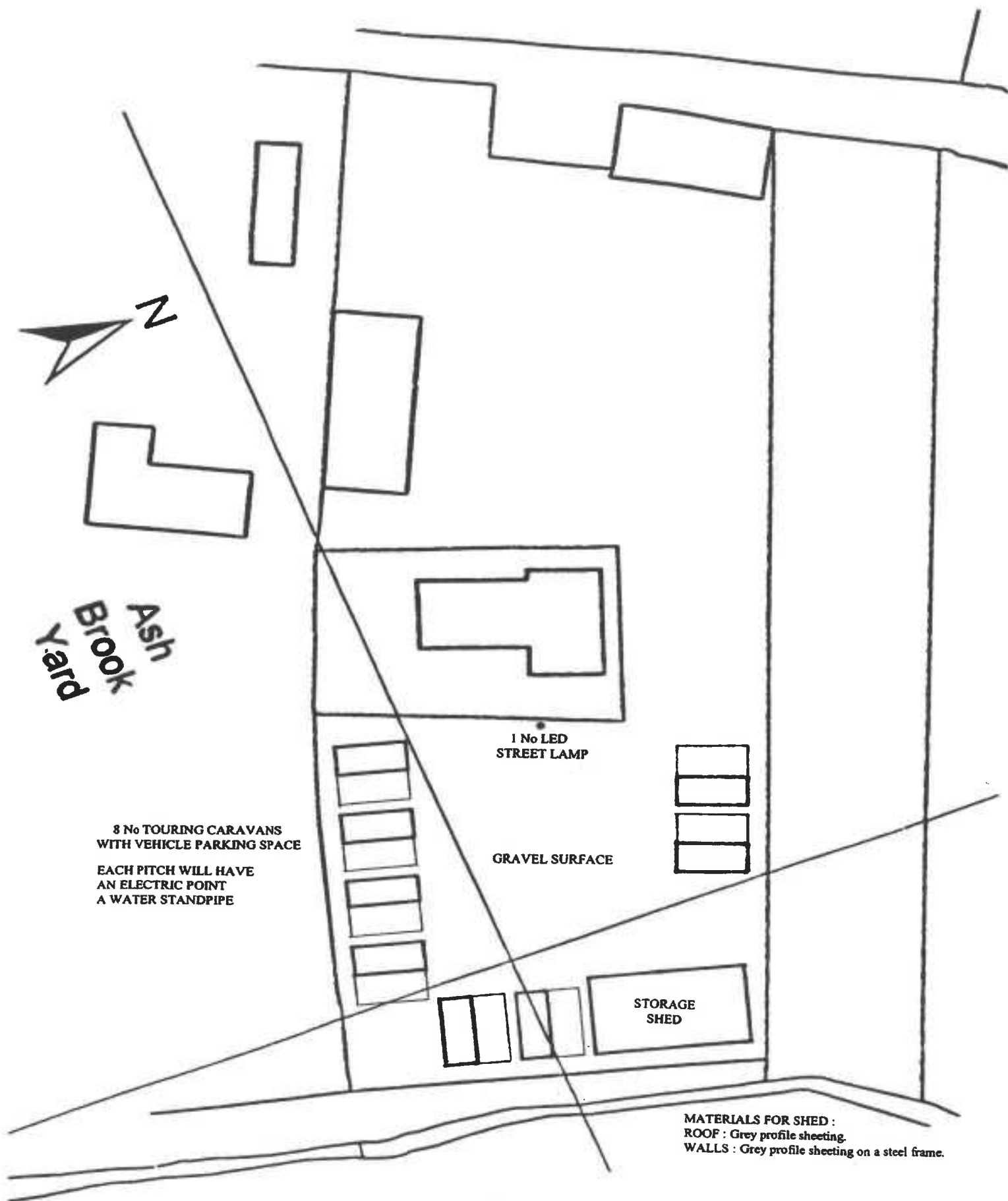
PROPOSED CARAVAN PITCHES & STORAGE SHED

SCOTBY ACRES - SCOTBY - CARLISLE

LOCATION PLAN

DRG. NO. 3304/1

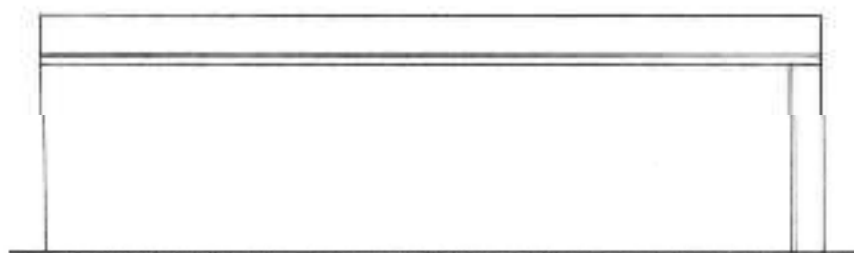
SCALE : 1-1250



PROPOSED CARAVAN PITCHES & STORAGE SHED

SCOTBY ACRES - SCOTBY - CARLISLE

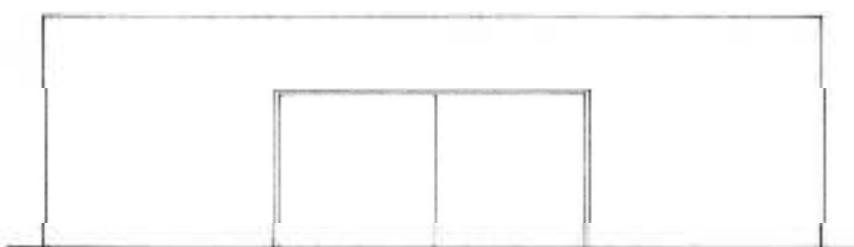
BLOCK PLAN



REAR ELEVATION



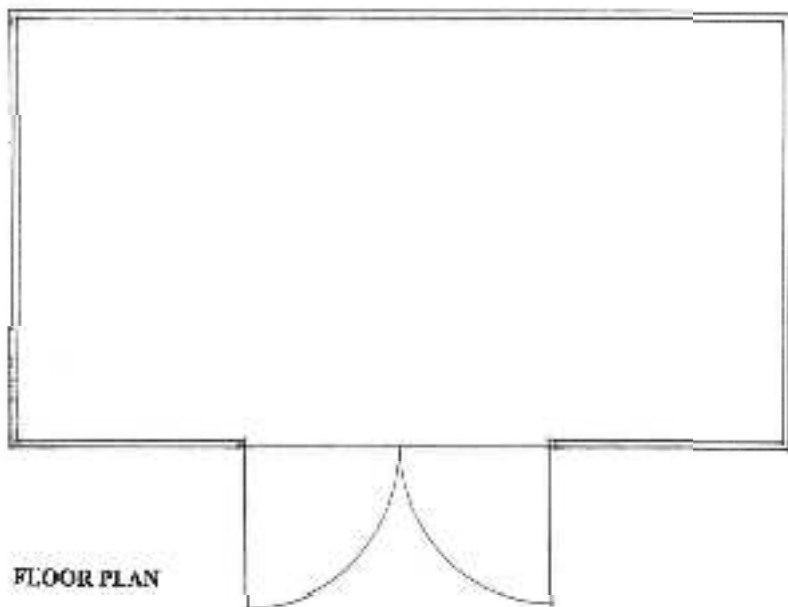
SIDE ELEVATION



FRONT ELEVATION



SIDE ELEVATION



FLOOR PLAN

PROPOSED CARAVAN PITCHES & STORAGE SHED

SCOTBY ACRES - SCOTBY - CARLISLE

STORAGE SHED

DRG. NO. 3304/3

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SCALE : 1:100

SCHEDULE A: Applications with Recommendation

21/0893

Item No: 08

Date of Committee:

Appn Ref No:
21/0893

Applicant:
Mr J.D Lowe

Parish:
Multiple Parishes

Agent:
Jock Gordon Architectural
SVS Ltd

Ward:
Wetheral & Corby

Location: Mannory, Broomfallen Road, Scotby, Carlisle, CA4 8DE

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

Date of Receipt:
20/09/2021

Statutory Expiry Date
15/11/2021

26 Week Determination

REPORT

Case Officer: Christopher Hardman

1. Recommendation

1.1 It is recommended that this application is refused.

2. Main Issues

- 2.1 Whether the principle of development is acceptable
- 2.2 Detailed Matters
- 2.3 Drainage
- 2.4 Biodiversity
- 2.5 Accommodation Needs
- 2.6 Other Matters

3. Application Details

The Site

3.1 Broomfallen Road is the main road leading north into the village of Scotby.

At the southern margins of the linear housing form along Broomfallen Road, a bridleway (number 138037) leads west and then south-west towards the M6 motorway and to The Garlands beyond.

- 3.2 This site is located to the south of the bridleway and is bounded to the north-east by a tree line/fence boundary with land the subject of application 21/0878 to the south leading to countryside. On the opposite side of the bridleway, to the north, is a Gypsy/traveller site. A further application for Gypsy/traveller pitches (21/1117) to the west is separated from this site by a new access road. Further west the bridleway continues alongside the M6 motorway.
- 3.3 The overall site area measures 0.24 hectares.
- 3.4 The site is not within any landscape designations and the site is also located wholly within Flood Zone 1, the area with the lowest flood risk probability.

Background

- 3.5 Works were undertaken to remove the hedgerow on the northern boundary of this site alongside sites for applications 21/0878 and 21/1117. During these works the bridleway was the subject of considerable damage resulting in its closure by the County Council. Other works also took place including the deposit of road planings and erection of fencing. The City Council sought an injunction to prevent the development continuing and reparation of the bridleway. The bridleway has since re-opened. Two sites became occupied following on from last year's Appleby fair. As part of the injunction was based on a lack of identified need and no planning permission in place, the next stage is to give consideration to all three applications affecting the land.

The Proposal

- 3.6 Planning permission is sought for the change of use of the land from agricultural use to 1no. gypsy pitch comprising the siting of 4no. mobile homes, 1no. utility block, 2no. toilet blocks & 2no. touring caravans together with the formation of an area of hard standing & installation of a treatment plant (part retrospective). This larger pitch is an extended family pitch indicated by the number of mobile homes.

4. Summary of Representations

- 4.1 This application was advertised by the posting of 3 site notices and direct notification to 2 neighbouring properties. In response, 34 representations of objection and two comments have been received. The responses are summarised as follows:

Why are we allowing additional planning permission time and time again when there is still a court injunction to return existing work to natural order. This site has grown significantly over the last 12 months. Traffic has

increased with cars driving unsafely at high speeds creating a lot of noise for the village. Parking on Broomfallen Road has become a nightmare. We are losing our village
Please no more! I strongly object!

This will block off the public right of way footpath linking Scotby over to The Garlands. Scotby is already becoming overpopulated, there are not enough local amenities to cater for so many people! This is a village and it's getting too big.

There is no reason to develop any of the land further in this location. It has already become way too big for what should be agricultural land. The traffic of caravans, commercial vehicles and wagons is too high and very dangerous considering where the entrance to this is on Broomfallen road. I know there's been a number of complaints regarding this area so I think any further planning should be stopped until a full review of what work has been carried out and if it's suitable for the area.

There is already a court injunction on this land for it to be turned back into agricultural land, the development is quite big now and there is increased traffic on what is already a small bridleway which was being used for the general public but which now feels very much out of bounds.

I object to this application as it relates to an area where there is a court injunction in place requiring the return of the land in question to its original state. It should not be possible for the injunction to be ignored and the council should enforce it. How can further planning applications, such as this one, be considered since the injunction has not been complied with? The siting of further caravans and mobile homes, plus related services, is opposed by local residents including myself.

We wish to strongly object to this planning application on the following grounds: Proposed development on land which has a court injunction on it. Any application should never have even been accepted for consideration. Increased traffic on the public footpath/Bridleway 138037 - from Broomfallen road to the Garlands Footbridge. Motor vehicles are legally banned from Bridleways A traveller caravan site in the village which will continue to grow and/or become official. There are already three official traveller sites in the Carlisle area. Fear of walking or cycling on the Bridleway because of more and more vehicles using it, intimidation by travellers and being bitten by their dogs

I wish to object to this planning application on the following grounds: The land subject to this planning application has had a court injunction served which requires the existing unauthorised development to be removed and the land reinstated to its former agricultural status. There is clearly no intent to comply with this injunction. There is already significant unauthorised vehicular traffic on the access route which is a bridleway yet no action appears to be taken to stop the vehicular movements. Broomfallen Road has been subject to significant increase in traffic movements and on road parking due to the recent Story Development and other smaller developments in the close

vicinity. To the extent that there is already "an accident waiting to happen", the scale and nature of these proposals will exacerbate the situation. Traditionally, local residents used to frequent the bridleway for leisure and exercise purposes but since the current unauthorised development was established this is now avoided because of unpleasant interactions with the occupants of the development. I do not understand why action has not been taken to remedy the court injunction

The land subject to this planning application has had a court injunction served which requires the existing unauthorised development to be removed and the land reinstated to its former agricultural status. There is clearly no intent to comply with this injunction. There is already significant unauthorised vehicular traffic on the access route which is a bridleway yet no action appears to be taken to stop the vehicular movements. Broomfallen Road has been subject to significant increase in traffic movements and on road parking due to the recent Story Development and other smaller developments in the close vicinity. To the extent that there is already "an accident waiting to happen", the scale and nature of these proposals will exacerbate the situation. Historically, villagers always used to use the bridleway as a popular walk for leisure and recreation purposes but since the current unauthorised development was established this route is avoided because of the risk of unpleasant interactions with the occupants of the development. The planning rules apply to everyone and should be adhered to

A traveller caravan site in the village which could continue to grow, and or become more official. Fear of walking as the dogs are left to run loose.

I want to object as the site itself is not officially allowed in the first place. I am bewildered as to how this site has been allowed to exist to the point whereby they are putting in planning permission, and at this point find it insulting. I was previously able to walk through the area to see my parents in the garlands area however this is now not possible as I feel it unsafe to walk through here due to the out of control dogs and verbal abuse from residents. I feel it would drive householders away from the village and turn it from a peaceful well-respected village and turn it into a traveller site, of which there are already 3 in Carlisle.

Proposed development on land which has a court injunction on it. Any application should not have even been considered. Increased traffic on the public footpath/bridleway 138037 which runs from Broomfallen Road to Garlands footbridge. Motor vehicles are legally banned from bridleways. A traveller caravan site in the village which would continue to grow. There are already a number of official traveller sites in Carlisle area. The footpath would become a no-go area because of fear of intimidation by travellers and attack by dogs. Also, more vehicles using bridleways. The village is already being slowly destroyed by excessive development.

The land for development already has a Court Injunction on it. The bridleway which I often walked in the past has become unusable as there are many vehicles driving fast along it. You are made to feel unwelcome when walking through the site, as though it's out of bounds for the general public. The

traffic of caravans, commercial vehicles and wagons is too high and very dangerous considering where the entrance to this is on Broomfallen road. I would be most grateful if you can take these objections in to consideration.

The land it related to has a court injunction on it, so it is protected by law. Also, the development will increase traffic on a public footpath which will prevent a legal right of way footpath being used. Scotby is a little village on the outskirts of Carlisle which already has three travellers' sites so based on demand a fourth cannot be justified on such land that is subject to the two legal justifications above. It is already intimidating walking up Ghyll road lonning with the number of dogs barking and other animals do we really want all bridle ways in Scotby inaccessible to the public walking.

The amount of development already in place at this site is detrimental to the landscape of a rural village. The infrastructure/school cannot cope with anymore developments in Scotby. Scotby is still a village and only due to the motorway has it been prevented it being absorbed into something bigger. Please can we conserve the village as it is to stop development to the green fields that have protected Scotby village status that we know today.

We don't need the village growing anymore as it's already now becoming overcrowded having lived in the village for the last 15 years.

Object to this application on land which is the subject of a court injunction. As such no application should even have been accepted yet alone registered, and the Planning Committee are duty bound by law to firmly reject it. This site has steadily grown during the more than 8 years that we have been residents of Scotby and this growth has accelerated over the last 2 years or so. We used to regularly use the Bridleway for exercise during the early pandemic lockdowns but have now stopped because: a) The area is no longer a pleasant country walk but has become a small housing estate with motor vehicles regularly (and illegally) using the tarmac Bridleway. b) My wife was bitten by a dog in an unprovoked attack which has made her very nervous of going anywhere near the development. I am left wondering whether the Committee is ever aware of what they are being asked to approve and would strongly recommend that a site visit be arranged to ensure they are fully aware of the nature and scale of the current development.

I understand that this application relates to land under court injunction. If this is so, the application should not be considered and I object to it on those grounds. In my view, a more established traveller site would be detrimental to the nature of this village. If this application is passed, it would be a move towards a more permanent site to which I am opposed. Expansion of the current site will inevitably lead to more vehicles using the bridleway, which is in itself illegal. Like others I have spoken to locally, I no longer use this bridleway for my local walks and I know personally of residents who have been challenged by travellers when they have walked in this area, suggesting they have no right to walk on the public bridleway as if it were private property. I find their dogs intimidating and have been verbally abused in the vicinity. I object to the proposal on the grounds that my freedom to walk and enjoy the local area has been infringed already by the presence of this site and I do not wish that threat to be increased.

I have felt threatened walking on the lane from Broomfallen road up to the bridleway joining with Langley bank. Our village does not have many circular walls and during the summer months we like to walk this loop. I also think an increase in traffic on this lane discourages walkers.

1. Vehicle access. With the existing properties and the proposed dwellings, there is now significant vehicle access on this public bridleway (Prow 138037). On a recent visit, there were 15 motor vehicles along both the existing properties and the now completed development within this application. Of these 15 vehicles there were 7 commercial vans that appeared to belong to residents there, and in just a 10 minute period 3 vehicles drove along the bridleway. The application states that there is parking for 10 vehicles which is clearly insufficient as the recent visit has confirmed This is a public bridleway and is therefore cars, vans and pick-ups are prohibited from using it, but it seems that the purpose of the application must assume regular vehicular use. This is not occasional use for dragging the caravans into place - this is becoming a busy thoroughfare and is completely contrary to the statutory restrictions on the use of public bridleways. Furthermore, the choice of a water treatment plant will require an HGV de-sludger at least annually of which the only access is the bridleway

2. Trees and hedges. The answer to Q15 of the planning application is incorrect. There are mature woodland and hedgerow bordering and immediately adjacent to the proposed site. In fact stretches of hedgerow have already been removed to create access which may have breached the law protecting hedgerows. The missing hedgerow is evident from Google Maps satellite imagery. In the application, there was no 'trees and development' supplementary documentation submitted as required. With the hedgerows, rough grass and trees this is classic owl territory which has now been covered in hardcore because the right surveys and planning permissions were not sought. This is also more generally likely to have had an impact on other rare farmland birds. The recent practice in this locality of proceeding with works, damaging the environment and then seeking retrospective planning permission will have damaged a number of fields and made it almost impossible to establish the level of environmental damage being done.

3. Biodiversity. Question 13 does not seem to have considered that the proposed site is within a few metres of two areas of deciduous woodland which are on the Priority Habitat Inventory (as per the Magic map). This should require further investigation as to potential impact.

4. Wastewater disposal (Tricel Novo) - the application doesn't state the model of wastewater plant to be installed. The effluent discharge from such plant is safe only if the size of plant is sufficient for the number of users. With 4 static caravans and 2 touring vans this could comfortably reach 20 people which will require one of the large models in the Tricel Novo range and will be significantly larger and more expensive than the entry models. It is therefore critical that this is established. 5. With the number of properties in this area now all using treatment plants, it is likely that the combined effluent could be impacting Wash Beck where its discharged. This combined impact would warrant further expert review as Wash Beck is a small shallow stream and would quickly suffer detrimental impact should the combined impact of effluent from numerous properties and residents not be appropriately

managed. If the community used a single treatment plant it is likely it would require a permit from the environment agency. The number of dwellings on this site is 6 and is part of a close community of other dwellings so the total number probably meets the requirement to connect to the mains sewage should it be available nearby and with a new development of homes less than 100m west of the boundary, but this does not appear to have been considered.

6. Answer to section 12 appears incorrect - the site is close to Wash beck. There appears to be no report to evaluate the impact of this.

The land in question has a court injunction on it and therefore any application should not have been accepted for consideration in the first place. Vehicles are banned on bridleways and there is already too much traffic using the bridleway. As part of the planning application is retrospective many changes have already been made to this site without consent. If this planning application is allowed what is to stop further alterations taking place, without planning permission, by the same people. Should this planning application go ahead it sends wrong messages encouraging people to break the law by using land as and when they feel like it.

There is a court injunction on the proposed planning area which states the land is to be restored to its original state an agricultural field. The land has not been restored to its original state. This application ignores this legal directive. You as planners have a duty to maintain the legal directive and refuse this application.

This application is for 4no. mobile homes and 2no. caravan pitches plus other utility blocks in other words a caravan park. This application cannot be for a personal need but for a profit making activity. You would be failing in your duty as planners if you allow this application.

Access to this proposed development will be off Broomfallen Road along the Bridleway (138037) for an approx. distance of 640 metres. The first 90 metres from Broomfallen Road has legal right of access (for motor vehicles) due to the existing property (The Cattery) being built and occupied before the access was designated a Bridleway (in the 1970s). There are currently 11 separate gypsy developments already in occupation. Each generates numerous vehicle journeys along this Bridleway. The definition of a bridleway, which this one is, does not allow the use of motorised vehicles i.e. motorbikes, cars, vans, wagons, etc. are not permitted to travel on a bridleway. Cumbria Highways appears silent on this application and has a duty to not approve this application.

Access to the proposed development is a material consideration. As mentioned above, access to the development from the public highway (Broomfallen Road) is via a Bridleway which, to repeat, is by definition does not permit motorised vehicles. This application cannot rely on earlier planning applications for the Washbeck area. There is no information in the planning application to address access to the site and is therefore an invalid application.

As stated above, the access to the proposed development is by Bridleway 138037 and a bridleway should only be used by walkers, cyclists and horses. Beyond The Cattery, there are 3 sharp and blind bends along the route. Therefore with the increased vehicle usage that this commercial development will generate, the safety of walkers, cyclists and horses will be substantially diminished.

The area of this application has had many hundreds of tonnes of road planings delivered, tipped and spread on the subsoil or mixed in with the tipped hardcore. These road planings are a waste product and if they contain tar, which is likely, then the material is hazardous and a contaminant. Being a waste product, there is a requirement for a licence for both transfer and deposition as well as planning permission before placing this material. By placing the road planings in this area, it will now be a waste site and should be licenced by the Environment Agency. By allowing (retrospective) planning for this site, you will be failing in your duty in reinstating/preserving the original state of the land.

I am very concerned over this application. My understanding is that it will double the size of the encampment and cannot in any way be considered as the home of a family. I think the original encampment was only allowed under appeal. The track to the site is a bridle way so should not be used by vehicular traffic at all. It is meant for horses and people not cars or lorries. How is the site rubbish dealt with? And sewage? I also feel that if someone wished to build a housing development of 10-12 houses here this would not be allowed so why is the travelling community any different? I also object as it is outside the local plan for Scotby.

The proposed land has been subject to previous planning applications and is currently subject to an injunction for the land to be returned to agricultural use. It baffles me that the planning department are even considering a further application which this injunction is being flagrantly ignored. Surely the injunction should be enforced before any further consideration.

The site does not have vehicular access and is currently being reached using a public bridleway. The bridleway is unsuitable for the level and size of traffic currently using it again in breach of the current injunction. Regular deliveries of building materials are being delivered using the bridleway. I am unaware of any plans to upgrade the bridleway to a road in support of this planning application.

Please reject this application and ensure the previously enacted injunction.

I object because the travellers that are already there have stolen land, threatened the farmer (land owner) with violence, stealing from the village shop, fly-tipping on the bridleway, out of control dogs biting pedestrians and other pedestrians being told they're not allowed to use the bridleway. More travellers would mean more problems. More travellers means more motorists speeding over the 30mph limit on Broomfallen Road. Crushing agricultural land, building accommodation blocks and then applying for retrospective planning is not how law abiding citizens go about making planning applications. Why is yet another camp needed? Hadrian's camp is virtually empty now, there's plenty of space up there for them.

I object to this planning application. There will be an increase of traffic traveling the Bridleway. Bridleway laws should be applied for the traffic that travels the Bridleway. It is a Bridleway and not an access road. How can a planning application be submitted when there has been a court injunction on the land which stated it must be restored to agriculture land which it has not. The application for that number of static homes and toilet block is turning the site into a caravan park, and if granted more applications for planning will follow. The site has been contaminated by the tipping of road planings (tar)

Increased traffic on the public footpath/bridleway 138037 from Broomfallen Road to Garlands footbridge. Motor vehicles are legally banned from Bridleways. Fear of walking or cycling on the Bridleway because of more and more vehicles using it, intimidation by travellers and being bitten by dogs. Rubbish being dumped.

- 1) Static homes and caravans are already in situ on the bridleway and have been built/parked there without permission or planning.
- 2) Due to the amount of static homes and caravans already on the bridleway, it has now increased fear of walking or cycling on the bridleway due to intimidation from the amount of people and animals around this area.
- 3) Dogs have been running free in/out of the gates leading to the static homes and caravans and chased my child's bike causing anxiety and stress to him and making this route difficult to use due to this.
- 4) Dogs mentioned in point 3 have bitten a work colleague when she has been walking the bridleway on an evening. She was alone with no other animal herself and therefore is now scared to walk along this route following the unprovoked attack.
- 5) Disruption has already been caused by the bridleway been closed for a significant amount of time this year. This was due to illegal development work following the first build of static homes and caravans causing the bridleway to be unsafe to use. This work should never have been allowed and has a court injunction on it.

I would like to object on the grounds firstly the traffic on Broomfallen Road as it is difficult to get onto and has got worse since the new estate was built and will be even worse if this planning goes ahead, secondly it is now impossible to walk on the Bridleway if it is not children shouting and saying you have no right to be there or the dogs let out to frighten you.

I wish to make an objection to the recent application plan for an additional 4 pitches. Based on the traffic being used by the applicants on what is a bridleway.

Our understanding is that this land has a court order to reinstate back to agricultural land (following legal injunction against the applicant). We believe that, as any court order, this should be enforced. If the current application is granted, it will retrospectively approve some of the changes that have already occurred. It will also strongly indicate that this is an acceptable way to proceed for the future i.e. may encourage even further developments on / around this site. Our understanding is that the only one access to this area is

via a Public Bridleway which by definition should be only used by walkers, horses and cyclists. It is already being heavily used by a large number of vehicles. This planning application would imply even more traffic and this will be at the risk of the walkers and other users.

Have the implications of this development on the existing hedgerow, environment and biodiversity been considered? What will be impact on Wash Beck of the sewage treatment possible discharge?

It seems the work may already have been done in advance of this planning application. It is of great concern that this site is clearly not been monitored by the Council and is out of control. Objection on the following grounds: - Development of land which already has a court injunction stating the land should be restored to its original state - which is agricultural land. - There is increased vehicular traffic on a public bridleway. By definition a bridleway is not for primary use by vehicular traffic. It is noted that the bridleway has now been fully tarmacked from its access/egress point from Broomfallen Road, clearly to allow vehicular access/egress including fully laden heavy goods vehicles. This in turn presents safety issues to horse riders, walkers and cyclists trying to use the bridleway for its intended purpose. There is an increased risk of collision between bridleway users and vehicular traffic due to the narrow width of the bridleway and blind bends. - Static caravans are being transported on articulated low loader vehicles on the bridleway and becoming stuck due to the bridleway having sharp bends, being narrow and trees lining it. This has resulted in blocking the bridleway temporarily restricting horse riders passing through. Oak tree branches have been cut to facilitate the passage of the vehicle. - There is increased litter on the bridleway being thrown from vehicles

The size the gypsy site is now growing to and the fact that the current dwellers are blocking roads and letting their dogs run loose is causing intimidation and spoiling an enjoyable walk. I no longer feel safe walking by and the dogs cause fear.

I have been retired for some years now and live alone. As it is the number of cold callers in our road has increased significantly and I find this very daunting.

I used to enjoy the walk leading to Garlands footbridge but as it is I am unnerved walking as far as that so what would it be like if this application was approved with more Gypsies/Travellers and dogs to contend with.

I notice from aerial photos that the site has already expanded. Where did the planning permission come from for this extension? Is the Planning Office policing this? The Gypsy Traveller community should not be a law unto themselves.

This is a much loved footpath and Bridleway; it was built to take farm traffic. It was a shame the council allowed the path to be surfaced with tarmac. (the tarmac would have been better laid on the road from Broomfallen Road to the A69!)

I feel that Carlisle Council has already let this go too far. What will the proposed development cost the council and the taxpayer? What are the benefits to our council? Gypsies/Travellers bring no benefits to the community. Indeed crime rates go up - fly tipping increases and they pester

residents to - tarmac the drive -re roof the house or try to sell you something you don't necessarily want!

And finally, there is the fact that having invested through hard work during your lifetime, the house which is finally yours has now devalued in price. If this planning proposal goes ahead, it will invite more Gypsy/Travellers to the site and Carlisle in general.

I doubt you will find a single rate payer in Scotby who will support this application.

5. Summary of Consultation Responses

Cumbria County Council - (Highways & Lead Local Flood Authority): - *Local Highway Authority response: (11/10/21)*

It is noted that as part of the planning approval 20/0548 for 4 caravans being accessed from the same unclassified road, which was granted at appeal, the planning inspector concluded that the level of use proposed would not cause unacceptable harm to the safety and recreational experience of bridle way users.

The Highways Authority have assessed the current application against the precedent determined by the Planning Inspector and have concluded that the proposed erection of 4 mobile homes, a utility block, 2 toilet blocks and 2 touring caravans would not cause unacceptable harm to bridle way users. As such, I can confirm that the Highways Authority have no objections to the proposal.

However, a PROW (bridleway) number 138037 lies adjacent to the site, the Applicant must ensure that no obstruction to the footpath occurs during, or after the completion of the site works.

Reason: To support Local Transport Plan Policy W1, W2.

Lead Local Flood Authority response:

This is a minor development which is below the Lead Local Flood Authority (LLFA) threshold for comment. As such the drainage arrangements for this development are to be scrutinised by Building Control. It should be noted that the surface water discharge rate should not be greater than the existing, and If installing a soakaway we would advise it is not positioned within 5m highway or property.

Wetheral Parish Council, Wetheral Community Centre: -

Unacceptable number of vehicle movements, as stated in the appeal decision App/E0915/W/18/3202754

The Highway Authority objected to the scheme as it would increase the track's use significantly and cause a danger to other users of the bridleway. Based on the number of dwellings in 2016 (6), the inspector felt that those schemes were at the very upper limit of what would be acceptable. With the additional applications, the pitches would increase to 11. In addition to disregarding the High Court order to reinstate the land and bridleway

St Cuthberts Without Parish Council: -

St Cuthbert Without Parish Council object strongly to the development, which is in open countryside, is unplanned, almost complete and will lead to people as well as horses living directly under the high voltage national grid power lines. The impact on the wash beck and the communities living downstream

has not be fully appraised and will need Environment Agency approval under the general binding rules. The local planning authority should resist unplanned development in open countryside as this will set a precedent which will see a free for all.

Local Environment - Environmental Protection: -

If planning consent was granted to the owner of the above site would be required to make an application to this Council under the Mobile Homes Act 2013 for the residential pitches, an initial application would attract a fee. The site would be considered a protected family site if it was owned and resided in by the same family. If the land was let out commercially or tenanted the owner would be required to comply with the updates to the Mobile Homes Act and apply to be on the Fit and Proper person register. The site would also attract an annual fee in relation to the Authority responsibility to inspect any licensed caravan site.

The site owner would be required to comply with any site conditions placed on them under the legislation under the Mobile Homes Act 2013 and the Control of Development Act 1960. The owner is required to produce documentation relating to the electrical safety and maintenance of fire safety on the site. The site owner must produce a Fire Safety Risk assessment for audit by the Local Authority, under the Regulatory Reform Fire Safety Order, as part of the site conditions.

The proposed site is located next to other smaller residential family sites, with a total of 20 plus caravans. The location of the site and the continued development is now akin to a larger development and a commercial caravan site. The access to the site which is public bridle way has been raised as a concern for other applications and still remains a concern. Caravan site owners are required to comply with the mandatory condition placed on them by the licence, the current access to the site would not allow this and puts others at risk as well should emergency services be required.

To further highlight the following should be achieved for a licence caravan site under the model standards.

3. Roads, Gateways and Overhead Cables

- (i) Roads shall be designed to provide adequate access for emergency vehicles and routes within the site for such vehicles must be kept clear of obstruction at all times.*
- (ii) New roads shall be constructed and laid of suitable bitumen macadem or concrete with a suitable compacted base.*
- (iii) All roads shall have adequate surface water/storm drainage.*
- (iv) New two way roads shall not be less than 3.7 metres wide, or if they are designed for and used by one way traffic, not less than 3 metres wide.*
- (v) One-way systems shall be clearly signposted.*
- (vi) Where existing two way roads are not 3.7 metres wide, passing places shall be provided where practical.*
- (vii) Vehicular access and all gateways to the site must be a minimum of 3.1 metres wide and have a minimum height clearance of 3.7 metres.*
- (viii) Roads shall be maintained in a good condition.*
- (ix) Cable overhangs must meet the statutory requirements.*

Concerns have been raised through the multi-agency HUB about the public

bridle way that runs through the sites and the number of community complaints about the perceived lack of control of any dogs from the site owners. The model standard includes a condition on cooperating with the Local Authority and Police on any matters concerning anti-social behaviour. An additional condition will be applied as part of the caravan site licence to include a condition that requires any animals to be kept in such a manner as to not disturb any occupiers of any adjoining property. This will also include persons using the public bridle way which passes through the site, to enable the use and enjoyment of the land and to prevent a public nuisance.

6. Officer's Report

Assessment

- 6.1 Section 70(2) of the Town and Country Planning Act 1990/ Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.
- 6.2 The relevant planning policies against which the application is required to be assessed is the National Planning Policy Framework (NPPF), Planning Policy for Traveller Sites (PPTS) (which must be read in conjunction with the NPPF), National Planning Practice Guidance and the Cumbria Gypsy and Traveller Needs Assessment (GTAA) Final Report January 2022 together with Policies SP2, SP6, HO11, IP3, IP6, CC5, CM5, GI1, GI3, GI5 of the Carlisle District Local Plan 2015-2030. The proposal raises the following planning issues.

1. Whether The Principle Of Development Is Acceptable

- 6.3 Specific advice on Traveller sites is contained in PPTS which seeks, amongst other things, to create sustainable communities where Gypsies have fair access to suitable accommodation from which Travellers can access education, health, welfare and employment infrastructure. It advises that local plans must identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against locally set targets. Locally set targets are contained within Policy HO11 of the local plan which draws upon the most up to date evidence on need in the form of the GTAA.
- 6.4 Policy HO11 of the local plan requires that where there is an identified need the city council will consider the provision of Gypsy and Traveller sites and that they will be acceptable providing that they meet a number of detailed criteria.
- 6.5 Importantly Policy HO11 must be read in conjunction with Policy SP2 which sets out a settlement hierarchy as a means of securing sustainable development. This approach accords entirely with the NPPF and should therefore continue to be afforded full weight in the decision making process. Policy SP2 identifies that *"outside of the locations specified (i.e. in open countryside) development will be assessed against the need to be in the location specified"*.

- 6.6 Policy HO11 of the local plan amplifies this stance with specific regards to proposals for Traveller pitches, identifying that such proposals will be considered favourably providing they comply with a number of criteria including, at criterion 1, that *“The site is physically connected, and integrates with, an existing settlement, and does not lead to an unacceptable intrusion into open countryside”*.
- 6.7 A further 5 pitches were allowed on appeal on land to the east of the bridleway under appeal references 3127905, 3127903, 3130384 and 3127907. In addressing the principle of development in this location, in paragraph 32 the Inspector confirms that *“this is a sustainable location for a gypsy site.”* As such, the location is not considered to be unsustainable and the council has not raised this as an issue in the defence of recent planning appeals. Policy HO11 adopts, alongside making a specific allocation, a criteria based approach to assessing proposals for the provision of sites for Travellers.
- 6.8 The Cumbria wide GTAA considers the overall need throughout Cumbria and has looked at the situation in each of the districts. For the Carlisle City Council area it identifies that there is a need for additional pitches and this is explored later in this report. It does not however comment on the sustainability of any of the existing sites which is a judgement for the Local Plan and associated planning policies.
- 6.9 Beyond the requirements of the GTAA and Policy HO11, regard has also been had to the following detailed matters.

2. Detailed Matters

- 6.10 Policy HO11 of the local plan states that proposals for Gypsy and Traveller sites will be acceptable providing that they meet eight criteria. These are:
- i) the location, scale and design would allow for integration with, whilst not dominating or unacceptably harming, the closest settled community to enable the prospect of a peaceful co-existence between the site and the local community;
 - ii) the site has reasonable access to key services and facilities including schools, shops, doctors’ surgeries and health care and other community facilities;
 - iii) there are opportunities to access these facilities by public transport, walking or cycling;
 - iv) adequate utilities can be provided or are already available;
 - v) the site is well planned to be contained within existing landscape features, or can be appropriately landscaped to minimise any impact on the surrounding area;
 - vi) satisfactory living conditions can be achieved on the site and there would be no unacceptable impact on the amenity of adjacent land uses including residential uses;
 - vii) any ancillary business uses that are intended to be carried out on the site will not have an unacceptable impact on the residential use of the site,

any adjacent land uses or the visual amenity of the area; and
viii) the site should have, or be able to provide, adequate access and turning space for large vehicles and caravans.

6.11 Each of these is considered in turn.

i) The Location, Scale And Design Would Allow For Integration With, Whilst Not Dominating Or Unacceptably Harming, The Closest Settled Community To Enable The Prospect Of A Peaceful Co-Existence Between The Site And The Local Community

6.12 The site is approximately 475 metres south-west from the fringe of the village of Scotby and 500 metres north-east of the Garlands estate. As such, the physical relationship of the site to the settled community is acceptable in this instance.

ii) The Site Has Reasonable Access To Key Services And Facilities Including Schools, Shops, Doctors' Surgeries And Health Care And Other Community Facilities

6.13 The site is over 1 kilometre (about $\frac{3}{4}$ mile) south-west of the centre of the village which has local facilities in the form of a shop, public house, school and church. Carlisle is only a short distance further to the east and in this instance, the accessibility of the site to local services and infrastructure is deemed acceptable.

iii) There Are Opportunities To Access These Facilities By Public Transport, Walking Or Cycling

6.14 Access to the facilities outlined in ii) can be achieved by means of walking or cycling. Once over, there was a bus service with a bus stop on Broomfallen Road but this service has been withdrawn and there is currently no replacement.

6.15 There is pedestrian access via the bridge over the M6 motorway leading to the Garlands estate from through which a bus service continues to operate. As such, the proposal is acceptable in this regard.

iv) Adequate Utilities Can Be Provided Or Are Already Available

6.16 There is no information in the application details regarding the provision of services; however, as the site has already been developed, it is assumed that adequate provision has been made on site. In any event, the site is adjacent to other developed pitches where adequate services have been provided and as such, there would be no conflict with this criterion of the policy.

v) The Site Is Well Planned To Be Contained Within Existing Landscape Features, Or Can Be Appropriately Landscaped To Minimise Any Impact On The Surrounding Area

6.17 When considering the impact of the proposal on the character and

appearance of the area, the topography of the surrounding land and the existing landscaping would be taken into account. This application is retrospective and hedgerows which contained the site were removed several months ago which prompted action by the Council. These hedgerows have not been reinstated and were a feature of the landscape along the bridleway. The larger site area subject of three applications was contained by natural hedging which had surrounded the agricultural field. This provided a natural sense of enclosure which has now been replaced by wooden fencing. Although from the Broomfallen Road direction the trees at the rear of the site have been retained which obscure views from that direction, the removal of the hedging results in the site giving a stark contrast to natural landscape features when viewed from the bridleway, Carleton/Garlands area or the M6. The height of the mobile homes and ancillary units are not screened and would have still appeared above the height of the hedging if it had been retained. The applicants have offered to install additional hedging particularly in front of post/fence boundary along the lane, however this will not satisfactorily screen the development which remains prominent in the landscape. Given the tight boundaries of the site it would require tree planting to screen the development developing a further tree line in the landscape which could be accommodated however there is insufficient space to provide a screen of sufficient scale to adequately screen the development. The proposed site is located east of a strong tree line boundary and whilst this has been reduced in height still acts as a definable landscape feature which has now been breached.

6.18 The guidance in the PPTS states that:

“Local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure.”

6.19 Given the above consideration in the PPTS and the location of this site in a former agricultural field which extends the existing traveller pitches further into the open countryside the siting has significant impact on the landscape character. In conclusion it is considered that the impacts of the proposal on landscape character and on the views of users of the public bridleway would be considered unacceptable.

vi) Satisfactory Living Conditions Can Be Achieved On The Site And There Would Be No Unacceptable Impact On The Amenity Of Adjacent Land Uses Including Residential Uses

6.20 There are other Gypsy and Traveller pitches in the locality, most notably adjacent to the north and east. A planning application for an additional Gypsy and Traveller pitch adjacent to the west of the site currently remains undetermined. Environmental Health have commented on the application regarding the combined applications as equivalent to a larger site. The distance between pitches would satisfy a site licence however individually

they may need adjustment within the site. The site is adequately sized with appropriate amenity and parking facilities. As such the proposal is acceptable in this regard.

vii) Any Ancillary Business Uses That Are Intended To Be Carried Out On The Site Will Not Have An Unacceptable Impact On The Residential Use Of The Site, Any Adjacent Land Uses Or The Visual Amenity Of The Area

6.21 Broomfallen Road lies to the south of the centre of the village of Scotby and is characterised by linear development along the road frontage. Further south, beyond the settlement, the properties remain linear but are more sporadic in their location. There is also a farm close to the site. Whilst there are no properties immediately adjacent to the site, the living conditions of the occupiers of these properties has to be taken into account.

6.22 There is the potential that the level of use and the activities from the site could be detrimental to the occupiers of local properties and objectors have raised a number of concerns about the volume of use in the area. The use of the land would be occupied as a traveller site and any business use could be limited by condition to prevent nuisance from noise of over-intensification of use. Whilst not adjacent land users in the context of the policy, objectors consider that the number of pitches in the area has increased to such an extent that it now impacting on the village and the wider community. The traffic issues related to the use are considered separately in this report.

viii) The Site Should Have, Or Be Able To Provide, Adequate Access And Turning Space For Large Vehicles And Caravans

6.23 Cumbria County Council as the local highway authority has not raised objections with regard to this application. Their reason for not doing so is related to the longer term situation and the previous permissions which have been granted along the bridleway. A number of objectors have raised concerns about the impact that extra vehicular users of the bridleway will bring preventing those on foot/horse from using it more widely.

6.24 The highway authority response states:

"It is noted that as part of the planning approval 20/0548 for 4 caravans being accessed from the same unclassified road, which was granted at appeal, the planning inspector concluded that the level of use proposed would not cause unacceptable harm to the safety and recreational experience of bridle way users.

The Highways Authority have assessed the current application against the precedent determined by the Planning Inspector and have concluded that the proposed erection of 4 mobile homes, a utility block, 2 toilet blocks and 2 touring caravans would not cause unacceptable harm to bridle way users."

6.25 The local highway authority make reference to the cumulative impact which, in their opinion, has occurred on the bridleway. In 2012, an application was submitted for planning permission for a single Gypsy and Traveller pitch. The application was refused and one of the reasons being that of the impact on

the public right of way. As a single Gypsy pitch, the Inspector saw no conflict.

- 6.26 In 2014, four planning applications were submitted to the council for the formation of five pitches for Gypsies and Travellers. These applications were refused on the lack of need and the impact on highway issues, including the use of the bridleway. The appeal was allowed and in his paragraph 23 of his decision letter, the Inspector states:

“Perhaps more importantly the number of dwellings, or in this case gypsy pitches, served by the track and which would involve negotiating the section around the S-bend would be six. The appellants argue that gypsy sites are often on unmade tracks but it is the interests of bridleway users not those of the appellants that are the concern here. However, this number does not greatly exceed the highway authority rule of thumb and once beyond the S-bend there would in practice be little pedestrian/vehicle conflict. In this instance, although at the very upper limit of what would be acceptable, I conclude that the level of use proposed would not cause significant harm to the safety and the recreational experience of bridleway users. There would therefore be no conflict with the relevant criteria in LP Policy H14 and in emerging Policy HO11 or with the provisions of NPPF paragraph 32.”

- 6.27 Following on from this decision, a further application for planning permission for a single Gypsy and Traveller pitch was submitted on land known as Oak Meadows. A similar objection was submitted by the local highway authority and to assist in the consideration of the application, the council employed an independent highway consultant. The application was ultimately refused for the following reason:

“The development increases the size of vehicles and the frequency upon which they use the public right of way to the detriment of other users. Sustained use would be likely to increase the conflict of traffic movements on the public right of way which has restricted width, resulting in additional danger and inconvenience to all users. In this context, the proposal is unacceptable and contrary to paragraph 32 of the National Planning Policy Framework, to criterion 8 of Policy HO11 (Gypsy, Traveller and Travelling Showpeople Provision) and criterion 5 of Policy SP6 (Securing Good Design) of the Carlisle District Local Plan 2015-2030.”

- 6.28 In relation to the appeal decision at Oak Meadows, the Inspector concludes in paragraph 24 that:

“Overall, the merits of the appeal scheme are finely balanced. Based on the evidence presented, the width, surface, topography, alignment and use of the bridleway, leads me to consider that the modest increase in its use would mean that the proposal is just about acceptable. As a result, the proposal would not lead to an unacceptable impact on highway safety, or severe residual cumulative impacts. Also, the recreational experience of bridleway users does not appear to have been harmed by the proposal. Nor would a small uplift in vehicular movements of the scale set out cause harm.”

- 6.29 Each application has considered the highway issues with different Inspectors

noting that the various proposals are “*at the very upper limit of what would be acceptable*” and that “*the proposal is just about acceptable*” implying that each permission seemingly being closer to the point of unacceptability.

- 6.30 The cumulative impact of the current proposal together with the total number of pitches that have been granted planning permission with access from the bridleway has grown significantly in recent months taking account of the unauthorised activity subject of current planning applications. In relation to other applications for similar usage on this agenda, the highway authority states that the bridleway (whilst permitting a degree of motorised use) is mainly meant for other usage, with their enjoyment being greatly affected by further motorised usage and any further development would have a detrimental impact on the safety of the users of the public right of way.
- 6.31 It therefore follows that, whilst not objecting to this application it is only based on the unsuccessful appeals which have resulted in the existing number of users. The history above indicates that differing planning inspectors have differing degrees of interpretation as to when the usage is likely to cause an issue. Given the level of objections based on the level of use it is clear that safe passage along the bridleway is being significantly impacted and this proposal will just compound that problem. In addition, Environmental Health who licence caravan sites have also commented that the access route to this site along the bridleway is unsatisfactory as it is a two-way route with limited passing bays or road width especially if emergency vehicles require access.
- 6.32 As the development is adjacent to a bridleway, the county council has advised that the bridleway must not be altered or obstructed before or after the development has been completed and that the developer of the site must ensure they have a private vehicular right of access to use the bridleway with vehicles. It is noted that works on this site did cause damage to the bridleway resulting in its closure for several weeks. Restoration of the bridleway has now taken place at the expense of those causing the damage.

3. Drainage

- 6.33 In accordance with the NPPF and the NPPG, the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way. The NPPG clearly outlines the hierarchy to be investigated by the developer when considering a surface water drainage strategy which should be considered 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.
- 6.34 In order to protect against pollution, Policies IP6 and CC5 of the local plan seek to ensure that development proposals have adequate provision for the disposal of foul and surface water. No details of surface water drainage have been provided and the site has been covered with road planings as well as the positioning of several units. Surface water drainage should not cause

increased flows to the beck. In addition, concerns about contamination from the planings has been raised and some form of filtered attenuation may be required. In the absence of details, these matters could be dealt with through the imposition of planning conditions. Foul water disposal is being dealt with by the installation of a package treatment plant which is acceptable.

4. Biodiversity

- 6.35 The authority should consider securing measures to enhance the biodiversity of a site from the applicant, if it is minded to grant permission for an application in accordance with paragraph 180 of the NPPF. This is reflected in Section 40 of the Natural Environment and Rural Communities Act (2006) which states that every public authority must have regard to the purpose of conserving biodiversity. Local planning authorities must also have regard to the requirements of the EC Habitats Directive (92/43/EEC) when determining a planning application as prescribed by regulation 3 (4) of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), and Article 16 of the Habitats Directive before planning permission is granted.
- 6.36 Planning Authorities in exercising their planning and other functions must have regard to the requirements of the EC Habitats Directive (92/43/EEC) when determining a planning application as prescribed by regulation 3 (4) of the Conservation (Natural Habitats, cc.) Regulations 1994 (as amended). Such due regard means that Planning Authorities must determine whether the proposed development meets the requirements of Article 16 of the Habitats Directive before planning permission is granted. Article 16 of the Directive indicates that if there is reasonable likelihood of a European protected species being present then derogation may be sought when there is no satisfactory alternative and that the proposal will not harm the favourable conservation of the protected species and their habitat.
- 6.37 The council's GIS layer did identify the potential for protected species to be present on the site or within the immediate vicinity. Given that the proposal involved what was a small piece of agricultural land, it is unlikely that the proposal would affect any species identified. However to ensure that there are no longer term impacts on species using the beck a planning condition would be appropriate to ensure surface water is not contaminated. In addition, external lights are proposed and it can be seen that there are bright lights across the site, this can have an impact on nocturnal species in the area and the timing/brightness and operation of external lighting should be controlled in the interests of local wildlife.

5. Accommodation Needs

- 6.38 Paragraph 9 of the PPTS also requires that when planning for Traveller sites:

“Local planning authorities should, in producing their Local Plan:

- *identify and update annually, a supply of specific deliverable sites sufficient to provide five years' worth of sites against their locally set targets*

- *identify a supply of specific, developable sites or broad locations for growth, for years six to ten and, where possible, for years 11-15*
- *consider production of joint development plans that set targets on a cross-authority basis, to provide more flexibility in identifying sites, particularly if a local planning authority has special or strict planning constraints across its area (local planning authorities have a duty to cooperate on planning issues that cross administrative boundaries)*
- *relate the number of pitches or plots to the circumstances of the specific size and location of the site and the surrounding population's size and density*
- *protect local amenity and environment."*

6.39 The recently published GTAA covers all authorities in Cumbria and provides and in paragraph 1.2 describes its purpose:

"The GTAA provides a credible evidence base which can be used toward the preparation and implementation of Local Plan policies and provision of new Gypsy and Traveller pitches and Travelling Showpeople plots for the 15 year period up to 2035, as required by the PPTS, and 2040 to meet Local Plan Periods. The outcomes of this study supersede the need figures of any previous Gypsy, Traveller and Travelling Showpeople accommodation needs assessment completed in the study area."

6.40 In summary, page 64 of the report concludes the need for 33 pitches in Carlisle up to 2040 (with a possible further 6 depending on whether they satisfy the planning definition). The report sets out a number of approaches, bearing in mind that the total need is up to 2040 but that there is also some immediate need within the next 5 years. The approaches suggested in the report include additional touring caravans on existing sites; sites occupied by larger extended family groups; or, vacant pitches on larger commercial sites. Paragraph 9.48 recommends that need is met through new pitch allocations and intensification or expansion of existing sites. It also recommends that consideration could also be given to granting planning permission for unauthorised sites.

6.41 In order to deal with the identified need, the report recommends a Pitch Delivery Assessment is undertaken to determine what proportion of the identified need can be met through intensification, reconfiguration of changes to planning conditions on existing sites. This work is currently underway.

6.42 This application is not supported by a specific justification of need and no supporting evidence has been provided that the applicants comply with the planning definition in the PPTS although discussions with the applicants would suggest that they do comply and are part of the currently unmet need which is being met by their unauthorised site. They are therefore likely to meet the need requirements identified in the GTAA.

6. Other Matters

6.43 Reference is made in some of representations that the land is subject to a court injunction. An injunction was put in place on this site as works had

commenced without permission being in place. Work halted for some time and damage to the adjacent bridleway was repaired however the applicant moved onto the site despite the injunction. Having taken further advice, the injunction remains in place and it is necessary to determine the planning application before any further action is considered.

- 6.44 A number of objectors to this application have referred to matters of anti-social behaviour. To a great extent this is outside the remit of planning and through the hub other agencies including the police have been involved in incidents in the area. Whilst the fear of crime can be a planning consideration it is difficult to determine that the use of this site would specifically worsen the current situation and people's enjoyment of the bridleway although the cumulative impact of more people using the bridleway appears to be having a negative effect on long term users of the path.

Conclusion

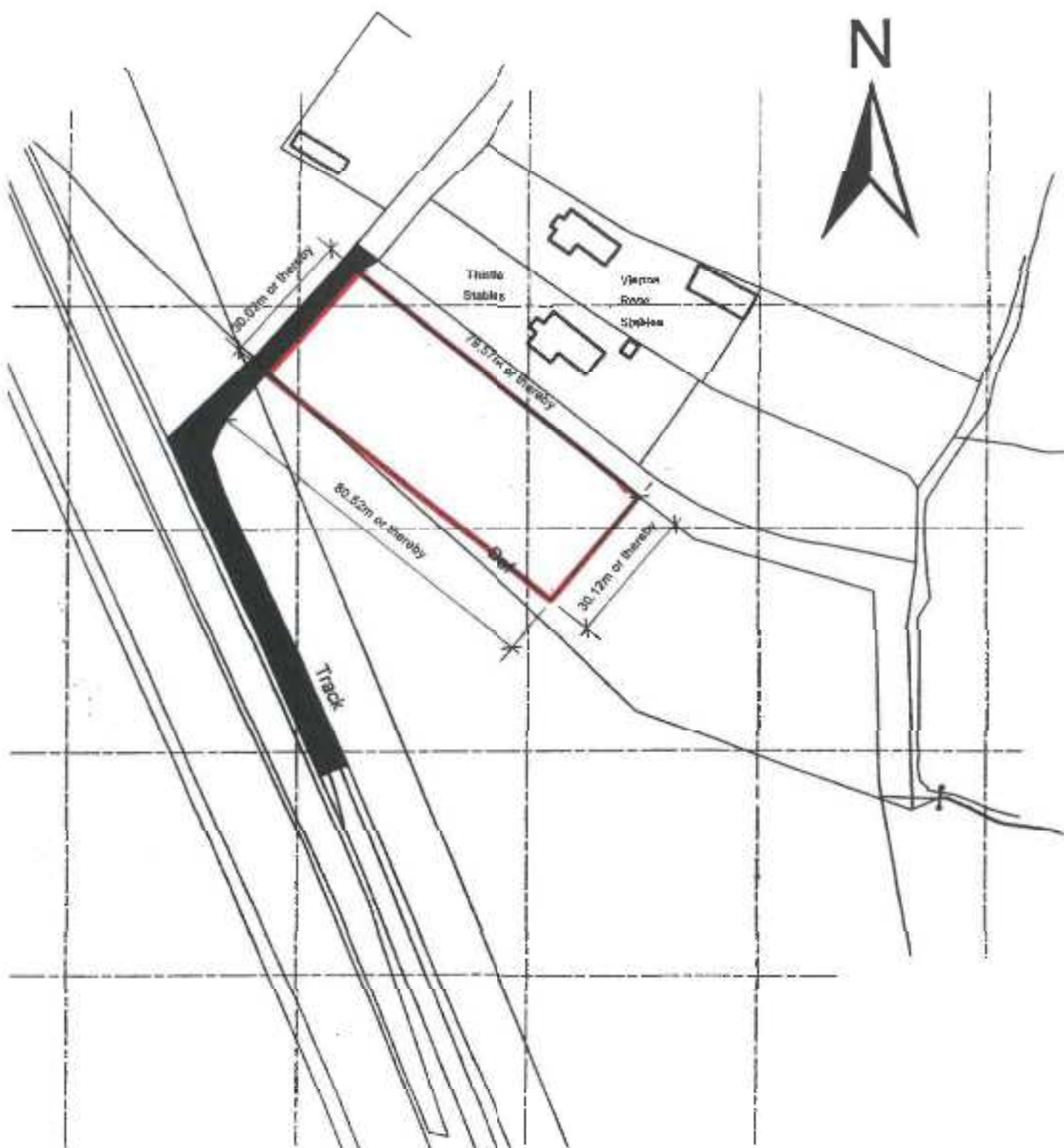
- 6.45 In overall terms, whilst it is noted that the adjacent site and land within the locality have been developed to provide pitches for accommodation by Gypsies and Travellers, there is still a further need identified in the most recent and up-date GTAA for more pitches up until 2040. As such, the principle of development would be acceptable subject to compliance with the relevant policy criteria.
- 6.46 In the case that the principle is acceptable, development both individually and in concert with development and proposals on the adjacent land, the character and appearance of the area particularly when viewed from the public right of way is significantly altered sufficiently to warrant refusal of the application on this matter.
- 6.47 The number and size of vehicles has increased along the public right of way over the last seven years. The issue of the continued use of the bridleway has been considered by Planning Inspectors in recent planning appeal decisions, and has been found to be acceptable, albeit with caveats about the 'upper limit' of the capacity of the bridleway being reached. Additional vehicles from these pitches is likely to be significant and therefore given the frequency or size of vehicles driving along the bridleway, the development would be detrimental and potentially affect the safety of other users.
- 6.48 As such, the proposal fails to accord with the objectives of the NPPF, PPG and relevant local plan policies.

7. Planning History

- 7.1 There are no previous planning applications on this land
- 7.2 Enforcement proceedings commenced against the change of use of the land and an injunction remains in place preventing occupation of the land without the correct planning permissions in place.

8. Recommendation: Refuse Permission

1. **Reason:** The development increases the number of vehicles and the frequency upon which they use the public right of way to the detriment of other users. Sustained use would be likely to increase the conflict of traffic movements on the public right of way which has restricted width, resulting in additional danger and inconvenience to all users. In this context, the proposal is unacceptable and contrary to criterion 8 of Policy HO11 (Gypsy, Traveller and Travelling Showpeople Provision) and criterion 5 of Policy SP6 (Securing Good Design) of the Carlisle District Local Plan 2015-2030.
 2. **Reason:** Planning policies require good design in any development proposals particularly ensuring that development integrates well into the surroundings. The development has removed elements of local landscape character without adequate mitigation or integration of existing features which is contrary to criteria 2, 8 and 9 of Policy SP6 (Securing Good Design) and Policy G16 (Trees and Hedgerows).
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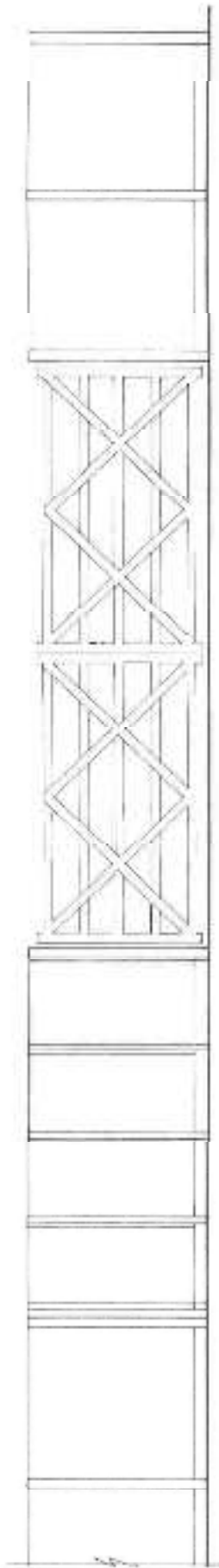
PROPOSED RESIDENTIAL CARAVAN SITE

MANNORY - BROOMFALLEN ROAD - SCOTBY - CARLISLE

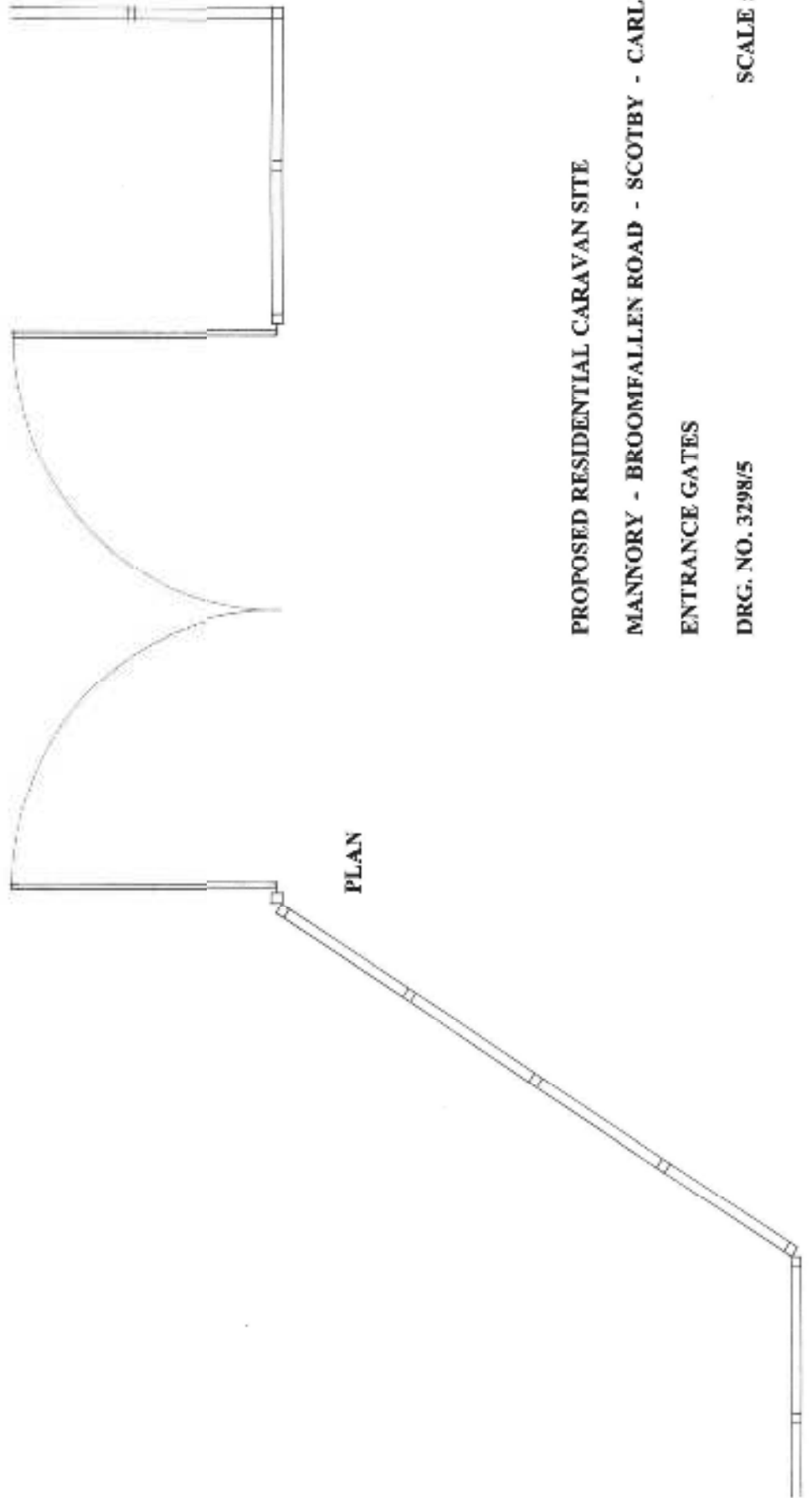
LOCATION PLAN

DRG. NO. 3298/1

SCALE : 1-1250



ELEVATION



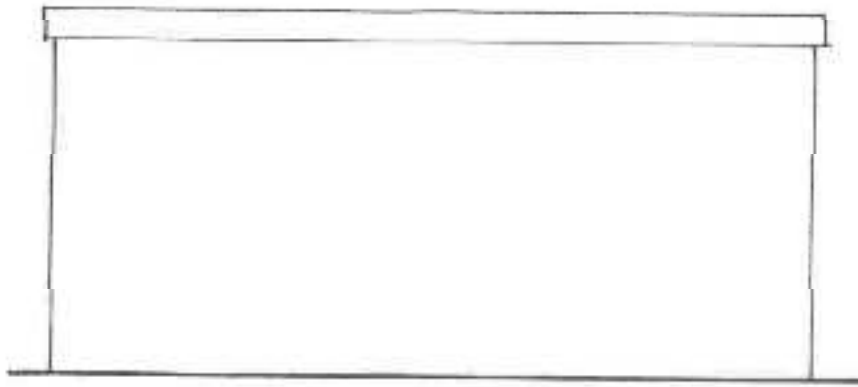
PROPOSED RESIDENTIAL CARAVAN SITE

MANNORY - BROOMFALLEN ROAD - SCOTBY - CARLISLE

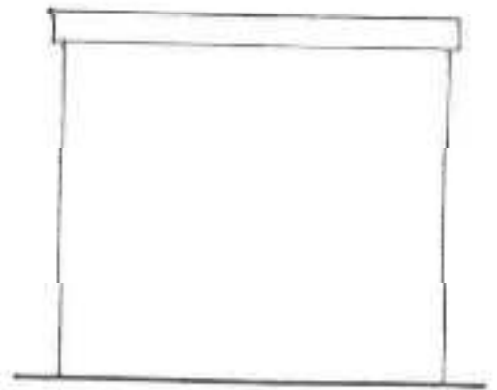
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DRG. NO. 3298/5

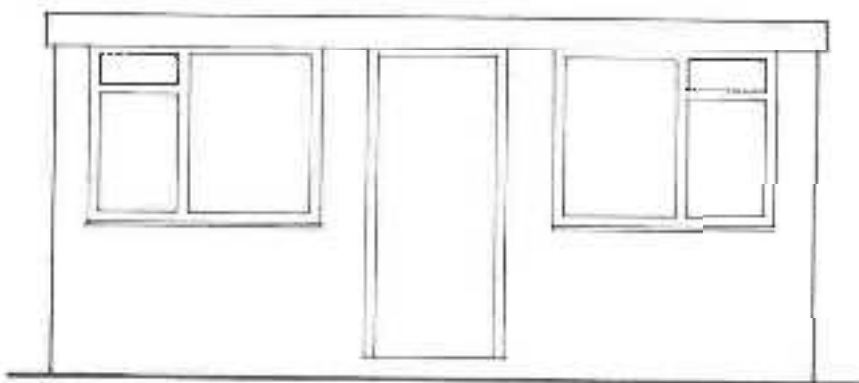
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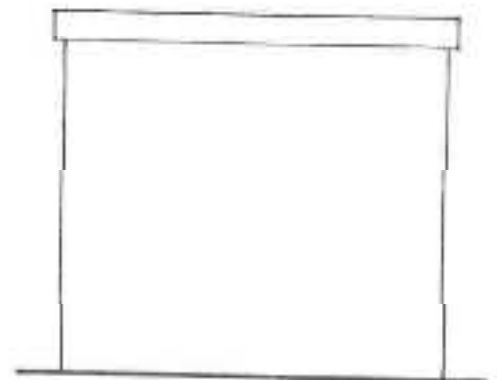
REAR ELEVATION



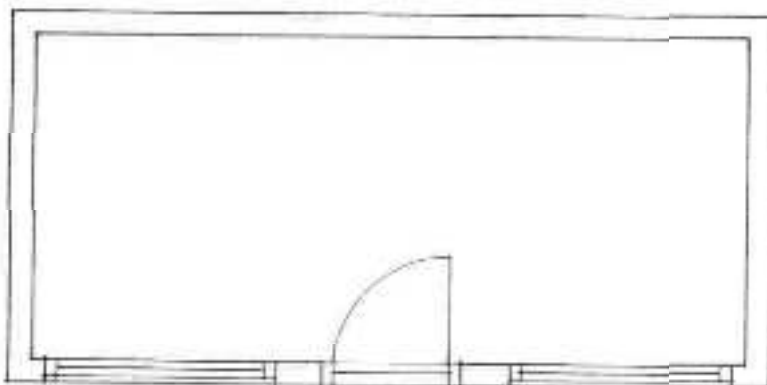
SIDE ELEVATION



FRONT ELEVATION



SIDE ELEVATION



FLOOR PLAN

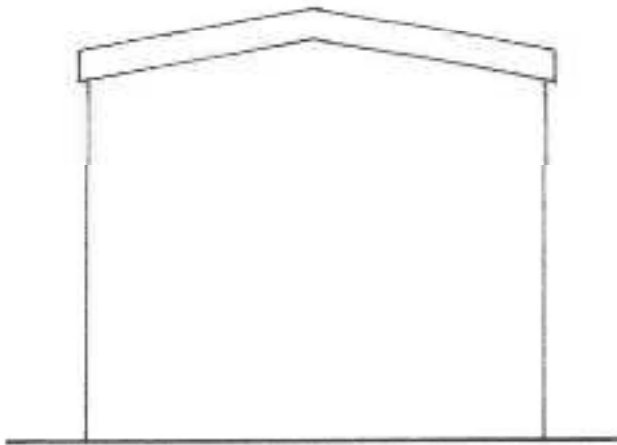
PROPOSED RESIDENTIAL CARAVAN SITE

MANNORY - BROOMFALLEN ROAD - SCOTBY - CARLISLE

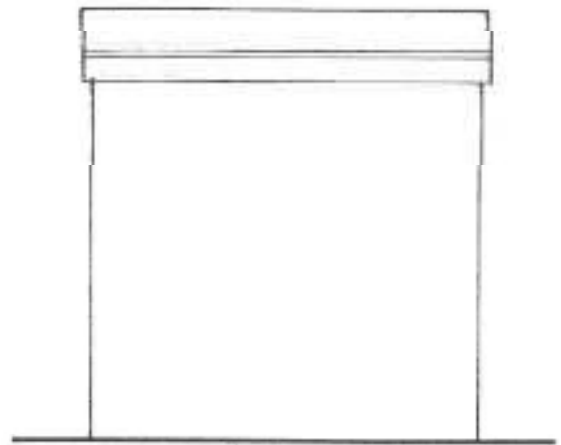
UTILITY ROOM

DRG. NO. 3298/3

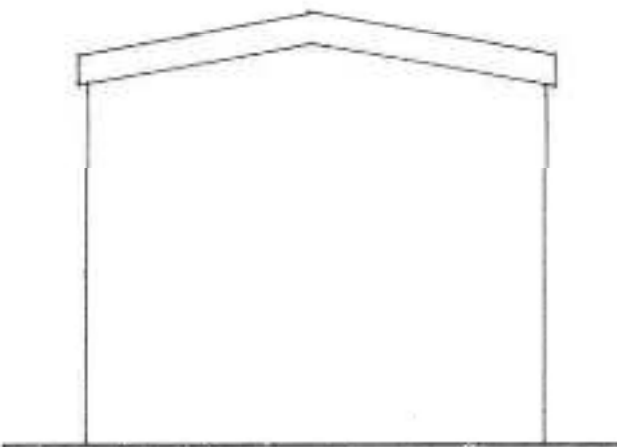
SCALE : 1-50



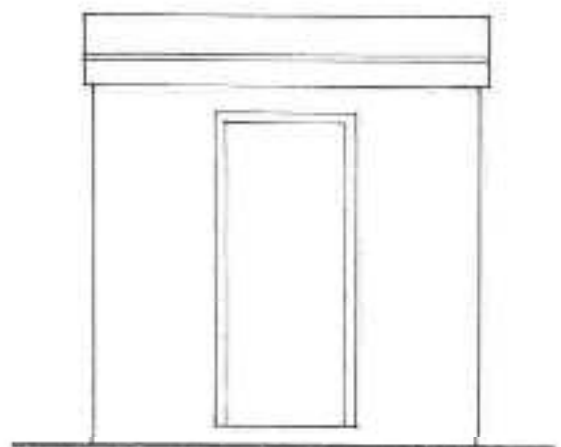
SIDE ELEVATION



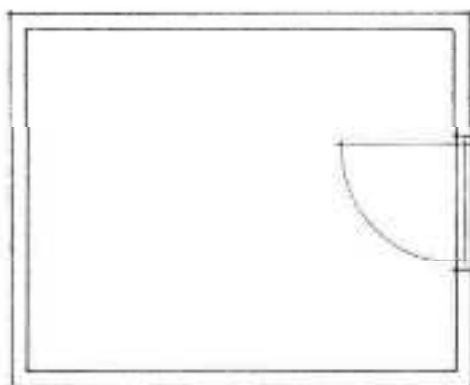
REAR ELEVATION



SIDE ELEVATION



FRONT ELEVATION



FLOOR PLAN

PROPOSED RESIDENTIAL CARAVAN SITE

MANNORY - BROOMFALLEN ROAD - SCOTBY - CARLISLE

TOILET BLOCKS

DRG. NO. 3298/4

SCALE : 1-50

SCHEDULE A: Applications with Recommendation

21/1117

Item No: 09

Date of Committee:

Appn Ref No:
21/1117

Applicant:
Mr David Stewart

Parish:
Multiple Parishes

Agent:
Jock Gordon Architectural
SVS Ltd

Ward:
Multiple Wards

Location: Scotby Oaks, Broomfallen Road, Scotby, Carlisle, CA4 8DE

Proposal: Change Of Use Of Land To Residential For A Single Family Group
Comprising Of 4no. Plots Each Containing 1no. Amenity Building; 1no.
Static Caravan; 1no. Storage Shed & 2no. Touring Caravans Together
With The Formation Of An Area Of Hard Standing & Installation Of A
Treatment Plant (Part Retrospective)

Date of Receipt:
08/12/2021

Statutory Expiry Date
02/02/2022

26 Week Determination

REPORT

Case Officer: Christopher Hardman

1. Recommendation

1.1 It is recommended that this application is refused.

2. Main Issues

- 2.1 Whether the principle of development is acceptable
- 2.2 Detailed Matters
- 2.3 Drainage
- 2.4 Biodiversity
- 2.5 Accommodation Needs
- 2.6 Other Matters

3. Application Details

The Site

- 3.1 Broomfallen Road is the main road leading north into the village of Scotby.

At the southern margins of the linear housing form along Broomfallen Road, a bridleway (number 138037) leads west and then south-west towards the M6 motorway and to The Garlands beyond.

- 3.2 This site is located to the south and east of the bridleway and is bounded to the east by an access road separating it from application 21/0893 and leading south to land the subject of application 21/0878 and countryside beyond. On the opposite side of the bridleway, to the northeast, is a Gypsy/traveller site. Further west lies the M6 motorway.
- 3.3 The overall site area measures 0.48 hectares.
- 3.4 The site is not within any landscape designations and the site is also located wholly within Flood Zone 1, the area with the lowest flood risk probability.

Background

- 3.5 Works were undertaken to remove the hedgerow on the northern boundary of this site alongside sites for applications 21/0893 and 21/0878. During these works the bridleway was the subject of considerable damage resulting in its closure by the County Council. Other works also took place including the deposit of road planings and erection of fencing. The City Council sought an injunction to prevent the development continuing and reparation of the bridleway. The bridleway has since re-opened. Two sites became occupied following on from last year's Appleby fair. As part of the injunction was based on a lack of identified need and no planning permission in place, the next stage is to give consideration to all three applications affecting the land.

The Proposal

- 3.6 Planning permission is sought for the change of use of land to residential for a single family group comprising of 4no. plots each containing 1no. amenity building; 1no. static caravan; 1no. storage shed & 2no. touring caravans together with the formation of an area of hard standing & installation of a treatment plant (part retrospective). This larger pitch is an extended family pitch indicated by the number of mobile homes and caravans.

4. Summary of Representations

- 4.1 This application was advertised by the posting of 3 site notices and direct notification to 1 neighbouring property. In response, 72 representations of objection have been received. The responses are summarised as follows:

1) Vehicle access. With the existing properties and the proposed dwellings, there is now significant vehicle access on this public bridleway (Prow 138037). On a recent visit, there were 15 motor vehicles along both the existing properties and the now completed development within this application. Of these 15 vehicles there were 7 commercial vans that appeared to belong to residents there, and in just a 10 minute period, 3 vehicles drove along the bridleway. This is a public bridleway and is

therefore cars, vans and pick-up are prohibited from using it, but it seems that the application must assume regular vehicular use. This is not occasional use for dragging the caravans into place but is becoming a busy thoroughfare and is completely contrary to the statutory restrictions on the use of public bridleways. Furthermore the water treatment plant will require an HGV de-sludger of which the only access is the bridleway

2) Trees and hedges. The answer to Q15 of the planning application is incorrect. There are mature woodland and hedgerow throughout this area, however as the groundwork has been completed, much of this habitat has already been destroyed. E.g., there were wildflower verges bordering this site that have already been removed and replaced with a fence. This is a UK and Cumbria priority habitat but there is no biodiversity report included in the application. In the application, there was no 'trees and development' supplementary documentation submitted as required. With the hedgerows, rough grass and trees nearby, it's very likely to have disturbed a number of priority species including owls, red squirrel, numerous pollinators and other species common to this mixed woodland and pasture habitat. This site has now been covered in hardcore because the right surveys and planning permissions were not sort. The recent practice in this locality of proceeding with works, damaging the environment and then seeking retrospective planning permission will have harmed a number of fragile habitats and made it almost impossible to establish the level of environmental damage being done.

3) Biodiversity. Question 13 does not seem to have considered that the proposed site is within a few meters of two areas of deciduous woodland which are on the Priority Habitat Inventory (Magic map). This requires further assessment of potential impact although on a recent visit it appears a number of these trees have been felled! Another example of damage to UK Priority habitat

4) Section 12 of the application is clearly inconsistent as it states that it is not near a watercourse but that surface water will be discharged into a watercourse! This watercourse is Wash-beck which is very close to the site.

5) Wastewater disposal (Tricel Novo) - the application doesn't state the model of wastewater plant to be installed. The effluent discharge from such plant is safe only if the size of plant is sufficient for the number of users. With 4 static caravans and 8 touring vans this could comfortably reach 20 people which will require one of the large models in the Tricel Novo range which are significantly larger and more expensive than the entry models. It is critical this is established.

6) With the increasing number of properties in this area now all using treatment plants, it is likely that the combined effluent could be impacting Wash Beck where its discharged. Wash Beck also meets the definition of Priority habitat and this combined impact warrants further expert review. Wash Beck is a small shallow stream and will quickly suffer detrimental impact should the impact of effluent from numerous properties not be sufficiently managed. If the community used a single treatment plant it is likely it would require a permit from the environment agency so it is therefore arguable that operating numerous small treatment plants but discharging into the same stretch of land/river should require comparable formal oversight. This is part of a wider development of other Gypsy dwellings so the total number likely meets the requirement to connect to the mains sewage. As there is a new development of homes less than 100m west of the boundary plus the main village settlement just 400m away this would seem to be a far more sustainable and appropriate option.

7) The answer to section 14 is misleading. It was pasture and hedgerow until covered in hardcore and began being used as a caravan site. It does not have permission as a caravan site. This application therefore clearly does not meet the Council planning policy as there are not adequate facilities, it cannot be contained in the local environment and has in fact already destroyed priority habitat. It will also contribute to the change of this bridleway from quiet country lane to busy thoroughfare.

Having walked on the bridleway along the motorway for years with my parents and now my own children. I'm saddened to see what it has become. More caravans and buildings will decrease this once lovely footpath even further. It has already been vastly ruined by the removal of trees and vegetation for other caravans and motor homes I strongly am against more if this happening. The fact that there is already a court injunction in place on this land should be enough alone not to let more planning be approved.

Please know that I object to this application. It would be severely detrimental to the environment of Scotby. It also has a court injunction already on this land.

Strongly object

- Proposed land already has an injunction to restore to agricultural - Increased traffic on footpath/bridleway for access - there is already wagons, cars, caravans and now seeding quad bikes using the bridleway constantly - It is turning into a traveller site. Carlisle already has 3 other sites - Area of land not designated for development I can't see how this area can have application after application when there is an injunction in place? Is the work being carried out daily here monitored, because it looks to go way beyond what's been approved? A review of this development needs to happen asap as it is out of control

Yet again we are having to oppose yet another planning application at the Travellers site in Scotby - when will the council finally put a stop to this site and any further applications being made. It seems no decisions are being made at all and the site continues to grow and expand turning the area into one big travellers site without any planning approvals being given - it seems they are allowed to do as they want and ignore any injunctions with no concern for the surrounding areas. We strongly object yet again to this application.

This site is not designated for development so surely it cannot be approved as it is against council policy. There is already an injunction in place in this area , again how an application be approved when existing conditions have not been met. Is the designated access for vehicles classified as just a bridleway? If so then no vehicles should be allowed unless it is designated as a BOAT.

Because of the injunction on the site there should be no further developments on this area by the planning committee.

I am opposing this planning development for multiple reasons .

- 1- I am aware the proposed development is for land which has a court injunction on it to restore it back to agricultural land .
- 2- I am concerned about the environmental damage to the land of this area of our village , in particular removal of trees vegetation and hedges.
- 3- I often walk with my young children and puppy on the public footpath from Lambley Bank bridleway to Broomfallen Road and I am concerned about the increase in traffic this development would bring.
- 4- I am cautious of a traveller caravan site in the village , which could continue to grow.
- 5- because of the current development down this road it feels unsafe and restricted to pass on the public footpath to Carlton , I would like to use this footpath and haven't for years, due to the current development down there and a feeling of being private rather than public .
- 6- this area of land is not designated for development .

I wish to strongly object to the continuing saga regarding this gypsy site even though

there is a court injunction against this site they are continuing to build whatever they want and it galls me that nothing is done to stop them, as in letters I have sent before the access from Broomfallen road is unsuitable for the now increased traffic many a time I have witnessed cars trucks and wagons having to reverse back out on to the main road because there is no passing places if they meet each other somebody has to reverse out. Also this is a bridle way used by walkers cyclists and horses I have witnessed cars and vans etc driving very fast up and down it is an accident waiting to happen there has been many close calls also there is an element of young kids under 11 driving on quad bikes very fast coming off Broomfallen road and turning down the lane without even stopping to see if anybody is there this cannot be right so I strongly object to all the planning applications regarding this site more traffic on this bridle way will result in an accident.

How does the council continue to accept planning applications while there is still a Court injunction to restore land back to its natural order ? This development is growing at an alarming pace While there are already official traveller sites in Carlisle. Despite this court injunction and planning permission trucks continue to keep going down to the site with building equipment and tarmac regardless of any 'rules'. Last year the trucks went to the site in the middle of the night so they could not be seen. How is this fair on people who adhere and follow these rules? However our council continue to turn a blind eye without any action ...

Other key points:

Environmental damage to the land through the removal of trees, hedges and vegetation and then covering the ground with tarmac. Anyone can see from the motorway that the site is quite frankly a mess.

We have lost a bridle way I no longer feel as if I can use and operate the bridle way. It would be nice to see the council act on this rather than turning a blind eye. As well as this how on earth can planning permission be submitted while under a court injunction ? It's a great shame.

Strongly object, it is not acceptable at all. We need to restore nature with trees and wildflowers. Please keep Scotby as a true village.

I object to this planning application for the following reasons:

In recent years the pace of development in Scotby has been relentless. Any future development should be strictly limited to land set aside in the Council's plan for land designated for development.

The site should remain as agricultural land for environmental reasons.

The plan appears to ignore a Court Injunction.

There is already sufficient space for the traveller community at other sites in in and around Carlisle.

Given what has happened so far, it seems unlikely that the applicants will be mindful of any constraints placed on any planning approval

This site is getting bigger and bigger and never had planning permission in the first place and was supposed to be restored.

But now we've lost hedges, trees and wildlife.

We have too many proposed building sites going on in Scotby, we are a village and don't need any more incomers.

The school cannot cope, the increased traffic is detrimental to the villagers.

This is agricultural land and should remain so, it's also quite intimidating as they don't partake in village life.

I am objecting to this planning application as I believe this is an area of land that is not allocated for development.

I often walk on the lanes around this area and these have already begun to be very busy with increased traffic. I think even more traffic will be dangerous. I don't think the present traveller site shouldn't be increased within the village. The area is already an eyesore when I have driven past it on the M6.

This land already has a court injunction to restore it back to agricultural land - which seems to have been ignored! Environmental damage - loss of tress and natural habitats for animals and wildlife. Already three other traveller sites in Carlisle, do not need a bigger one in Scotby. Safety - increased traffic in an already busy village. School places and other amenities are limited.

This site appears to be developing out of control and in the process destroying a public footpath / bridleway and the natural environment. The bridleway used to form a good circular walk but hardly anyone uses it anymore other than for access to this site. A court injunction and numerous previous planning constraints appear to being ignored by this developer. Parts of the current site are also situated very close to the M6 and directly underneath National Grid power lines, the site doesn't look safe and should be reduced in scope, not expanded.

The access from the Public Footpath/Bridleway 138037 onto Broomfallen Road, Scotby is inadequate for an increase in road traffic. The safety of pedestrians, cyclists and horse riders on Public Footpath/Bridleway 138037 would be put at risk with an increase in road traffic. The area of land is not designated for development.

Object for the following reasons:

Increased traffic on the public footpath/bridal way 138037 Safety concerns for walkers, cyclists and horse riders on the public bridal way because of increased traffic, hostility from the travellers and their dogs to such members of the public and local wildlife i.e.Badger. Area of land not designated for development - a court injunction to restore it back to agricultural land already 3 other official traveller sites in the Carlisle area to try and preserve the character and amenities of Scotby village

From what I understand this land already has a court injunction in place which I believe involved returning it to grassland/ agricultural so unclear how application is a possibility. Destruction of natural foliage to the area where wildlife used to be in abundance is a concern. Find it unsafe to walk across the public footpath having been deterred by intimidating dogs not under control. A friend was bitten walking past current site.

There are already 3 official traveller sites in the area with the potential to develop. These are my objections

I am sending you this email to object strongly to the proposed planning application 21/1117 regards to the addition of 4 plots comprising of static caravans and out buildings.

This proposal is for land that I believe already has a Court Injunction on it to restore back to agricultural land. The village of Scotby is relatively small with very little amenities i.e. One small Post Office/shop, public house and infants school which struggle to serve the community as it is due to every increasing numbers living in the village and traffic moving through it which pose a potential hazard to our children and older people in the village. Not to mention the irreversible environmental damage that will be caused to this green belt land by the proposed site. I have known personally victims of anti-social behaviour by existing travellers living at the site and regular visitors to the site, which will obviously increase exponentially if this planning application goes ahead. Therefore I strongly urge you to consider my concerns and that of other residents within our village when making a decision on this site. The Carlisle area alone has 3 other traveller sites which may or may not be

situated in green belt land.

Having lived in Scotby for many years, it is distressing to see how much building development is taking place within the village and now feel that to permit further development of the Traveller site is a step too far.

Our understanding is that the owners of the building development on this particular Travellers' site, which has already taken place despite the fact that it currently has a Court Injunction upon it, have applied to increase the development to include four further plots, four static caravans, eight touring caravans, four amenity buildings and four storage sheds. We also understand that this is the third application in as many months. Crucially, it is also not a piece of land which is designated for development in the Local Plans. Our many questions include, how has the construction of buildings so far been allowed

and what is being done to prevent further building taking place when permissions have not been granted? Not only is the public bridleway now compromised by the increase of additional vehicle movement but the whole village is affected by the substantial amount of traffic being generated. What is proposed in the application to alleviate this? Carlisle City Council has already provided travellers with other sites within the locality and therefore it has to be questioned why another site is required. This area is substantial in size and looks to at least double or triple in size with this application. As there is currently at least one other large housing development proposed for Scotby, which has also had objections raised, then those same questions apply to the Travellers' site e.g. infrastructure regarding traffic, access and egress and safety issues for pedestrians and cyclists. There are also queries about the local school's ability to support more children, plus the fact that the village is insufficiently resourced with regard to sewage and drainage systems. Although we understand that issues such as preserving the character and integrity of what was once a pretty village into a district estate may not be considered, for the same reasons as people are not permitted an open aspect from their homes, nonetheless, the Council has a responsibility to all residents and needs to consider carefully what the outcome of agreeing to these planning permissions will be. We hope that the above concerns will be registered and considered appropriately.

I wish to register my objection to the above planning application on the following grounds:-

- 1). the propose development is on land which has a Court injunction on it - to restore it back to agricultural land
- 2) It is environmentally damaging to the land - removal of trees, hedges, vegetation and covering the ground with hundreds of tonnes of stone and old tarmac.
- 3) It will increase traffic on the public footpath / bridleway 138037 - from Broomfallen Road to Carton Clinic footbridge - and through Scotby village.
- 4) It will allow the growth of the traveller caravan site in the village to increase and thus of it becoming official
- 5) The area of land is not designated for development.

I hope you will process these objections but if there is anything further you require from me then please do not hesitate to come back to me.

I object strongly to this application for the following reasons:

1. The area of land is not designated for development.
2. Additional traffic pollution through Scotby Village
3. Additional risk to safety with increased vehicles
4. Additional natural rain water drainage being lost to yet more tarmac & hardstanding
5. Additional trees & hedgerows being removed & no equivalent replanting
6. Additional lost habitat for our wildlife
7. Scotby is fast losing its Village status with rapid over development

8. The council do not seem willing/ able to discharge their duties and responsibilities to the existing residents of Scotby

I'm writing in objection to planning application 21/1117 to help protect the character and amenities of Scotby and adjoining area.

I wish to strongly object to the above application on the following grounds.

- This land had not been designated for development and has a court injunction on it to restore it back to agricultural use.
- Trees and hedgerows are being removed without any provision to replace them resulting in a loss of habitat to wildlife. In addition, a vast amount of used stone and tarmac are being spread all over the ground. There already seems to be a complete lack of surveillance or control over this site by our council.
- Our village is already threatened by overdevelopment which will result in a huge increase in traffic and risk of accidents.
- The worry for residents is that such a development, if approved and becomes official, would continue to grow unheeded.
- This development is a huge concern for walkers and cyclists using the public bridle way.
- In my opinion, with regard to this development, together with other development planned, Scotby will soon be in danger of losing its identity as an unspoilt, pleasant place to live. The council continue to disregard the concerns of local residents and do nothing to convince us that they are discharging their responsibility and duties to the village fairly.

The grounds for my objection are as follows:

The proposed development on land which has a Court Injunction on it - to restore it back to agricultural land. Any application should not even have been accepted for consideration. Increased traffic on the public footpath/Bridleway 138037 - from Broomfallen Road to the Garlands footbridge. Motor vehicles are legally banned from Bridleways. Increased traffic Through Scotby Village. A Traveller caravan site in the village, which could continue to grow and / or become official. There are already three official traveller sites in the Carlisle area. Fear of walking or cycling on the Bridleway because of more and more vehicles using it together with intimidation by travellers and the threat of being bitten by uncontrolled dogs. This area of land is not designated for development.

I wish to object to this development.

It is totally outside the area for development in the local plan. Moreover it is on a public bridleway/footpath, not a vehicular road. I assume the applicants have tarmacked the path for their own benefit but it is single carriageway width and has no passing places. I understand that associated land has a court injunction on it but there seems to be no evidence of the applicants complying with this. I would be sympathetic to a single family living here but this development is getting far too big for one family and more like a traveller site. There has been no discussion at Council level about creating a traveller site here.

The Council would not permit a housing estate being built here nor an industrial development so why are they allowing this traveller site to slip through? This application is for 4 plots, static as well as touring caravans, amenity blocks and sheds. So this would suggest that at least 4 extra families are going to be living here. Where is the sewage going, the refuse going, the water mains, electricity etc. This is a rural isolated spot. I am unhappy about walking down this bridle path anymore; I don't feel safe concern over increasing traffic on Broomfallen Road. Increasing pressure on local school and services. Environmental impact damage to surrounding and increasing waste. Inability to use public bridleway safely.

I object strongly to the planning application for a travellers site in the village, this land should be restored to agricultural land; these types of sites tend to grow and become 'official' as has been shown previously and as there are already 3 other official traveller sites in the Carlisle area this one is not needed.

While I have no issue with applying for planning permission to expand the problem is they already built the structures. So they have already gone ahead with it without permission as you can see all the fences, gates and new caravans from the motor way. My issue is with the blocking of the public path, intimidating walkers and releasing dogs when people walk by. It's a public footpath not there's.

Strongly object to this we continue to see a considerable increase of traffic to this site, wagons to and from carrying large loads of hard core as well as new caravans which are already on site - have they planning permission for these and have they ever restored the site from the last event when they were told to restore ? Who is checking that planning rules and decisions are being adhered too? We can no longer walk this route as dogs are aggressive and I was bitten last year.

This is the third application for planning permission in 3 months for this Travelers site. Observation from the M6 to which it is adjacent shows an eyesore on the beautiful Cumbrian landscape and entrance to South Carlisle. The land has already been covered in tonnes of hardcore and road planings and there are numerous caravans, static vans, commercial vehicles and motor vehicles present. Not too dissimilar to a licensed Travelers Site. This holistically has now become a largescale development.

1. Development of this land on this large scale is not identified in the Carlisle Local District Plan.
2. A Biodiversity Report was not submitted with the application. It could not be submitted because the land had already been developed prior to the application. We have lost pasture and hedgerow and we will never know what wildlife habitats etc have been lost.
3. The bridleway used to access the site has become a very busy road. To put this into perspective, 155 vehicle movements in one day observed.
4. The type of vehicles using the bridleway on a daily basis are not just private motor vehicles but are large vans, commercial vehicles, hgv's, large trailers. This is in addition to articulated vehicles transporting static vans and numerous vehicles towing touring caravans. Due to the bridleway being so narrow, there is no room for vehicles to pass each other. This also impacts on pedestrians. It is impossible to walk on the bridleway without encountering several vehicles and having to take refuge on a bank or in a hedgerow.
5. Vehicles are driving at speed down the bridleway since it has been tarmacked in particular on the section providing access/egress to/from Broomfallen Road. I was forced to one side of the bank by a speeding pickup truck and large twin axled flatbed trailer. I was clearly visible to the driver but was given no time to move out of the way and was narrowly missed being hit by the trailer due to it being wider than the truck. This bridleway is no longer safe for pedestrians to freely walk along it and it is only a matter of time before a serious accident occurs.
6. The neighbouring Story Home development have had to segregate the section of managed land on the estate from the bridleway with a fence and gate. This is in order to deter trials bikes coming from the Travellers site. These are joyriding in circuits through the estate with pillion passengers and no safety helmets. In addition, vehicles were reversing onto the footpath on the managed land in order to pass each other on the bridleway. Both aspects were thereby putting pedestrians at risk and spoiling the enjoyment of the land.
7. Section 12 of the application states that it is not near a watercourse. However,

Washbeck watercourse is very close to the site which is a shallow stream and will be used to discharge waste into. It is likely that the methodology to be applied for discharge of effluent could cause detrimental pollution to this watercourse as the numbers of Travelers increase.

8. The development of this land is not in keeping with the rest of the village. It is at odds with it and is actually spoiling it; most likely, given the extent of works done to date, irreparably

Motorists using the M6 are now welcomed to the 'Historic City of Carlisle and Capital of Cumbria' with an unsightly sprawling mass of static vans, touring caravans and a vast array of both private and commercial vehicles and trailers, including HGV's, all of which are clearly visible from the motorway and constitute an eyesore. These vehicles and buildings are sited on a levelled area of agricultural land which is now filled

with hundreds of tons tarmac chippings, concrete and aggregate. Subsequent damage to the eco system and wildlife habitat is most likely irreparable.

1. There are already 3 licensed Travellers' sites in Carlisle: Low Harker Dene, Hadrian's Park and Atchin Tan. In addition, a number of additional pitches are provided through personal consent to cater for the needs of single-family units and a permanent site available to the Showman's Guild at Willowholme. Furthermore, as identified in the Carlisle Local District Plan the transit allocation adjacent to Low Harker Dene provides sufficient land to accommodate up to 15 pitches to offset against the incidences of unauthorised encampment activity in Carlisle. This site in Scotby has NOT been identified in the Carlisle Local District Plan as a site allocated for large scale development to accommodate Travelers. Given the scale and size of this development and legitimate concerns expressed through planning objections by both members of the public and Parish Council, the lack of any decision making or action of any sort to date by Carlisle City Council is bewildering.

2.. The bridleway facilitating access and egress to the site is by its nature narrow and not suitable for the volume of traffic nor indeed the size of vehicles transiting, which includes fully laden large articulated and double axled vehicles.

3. The bridleway is now unsafe for pedestrians, horse riders or cyclists. Ironically proper use of a bridleway calls for cyclists to give way to horse riders and pedestrians, yet we now have the situation where pedestrians have to get out of the way by standing on embankments or in ditches in order to allow vehicles to pass!

I have several reasons to lodge this objection. They are as follows .

How can Carlisle Planning Department consider a planning application ,when an injunction has been served on this site ,from a previous planning breach -and to my knowledge has been ignored by the site owner ?

Other concerns are -in Scotby Village ,if -not just this site can ignore an injunction relating to planning criteria ,this gives a green light for any developer, builder, resident -to build, construct, change. In other words -do what you like, build what you like, change what you like and ignore any legal proceeding issued by Carlisle Planning Department ! Other concerns are -on the planning application it states there is no vehicle parking ,which I would question-also to question the following, No -protected species -how do they know ? No -trade waste ,No hazardous substances ? No-industrial or commercial process?

This objection does not just focus on this planning application. Scotby village is becoming totally swamped by new developments -it is losing its identity as what was once a typical English county village -and I consider that Carlisle City Council have a moral and legal duty to keep Scotby Village as it is now. Other concerns are echoed in the objections to the proposed 112 houses ,development by Story Homes in the site Scotby Road/A69 planning application. Namely -the increased traffic through the village, excessive speed limits witnessed. The local primary school at full compacity . The risk to the local environment. The additional strain on the NHS for new patients .

I'm informed the land is undergoing a court injunction to restore it back to agricultural land. There will be an increase in traffic on the public footpath 138037 from Broomfallen Rd to Carlton clinic footbridge. Through Scotby village and The new Coppice Estate. There's been environmental damage to the land due to the removal of trees, hedges, vegetation and hundreds of tons of stone and tarmac have been laid.

The site is becoming ever more populated by travellers and could become an official traveller site if it grows any more. We have enough traveller sites in the Carlisle area. There is only one entrance and exit road. Safety concerns for walkers and cyclists because of increased traffic. Potential intimidation from traveller community of general public using the right of way. With difficult and time consuming access to respond to any altercation by authorities. The area was never designated for development.

I would like to object this proposed planning application based on the following reasons:

1. Proposed development on land which has Court Injunction on it - to restore back to agricultural land.
2. Environmental damage to land - removal of trees, hedges and vegetation, covering ground with hundreds of tonnes of stone and tarmac.
3. Increased traffic on Public Footpath/Bridleway 138037 - from Broomfallen Road to Carleton Clinic Footbridge - and through Scotby village.
- 3a. Safety concerns for walkers and cyclists on the Public Bridleway because of vastly increased traffic.
4. Area of land not designated for development.
5. A traveller caravan site in the village, which could continue to grow and/or become official.

There are already three other official traveller sites in the Carlisle area.

Safety concerns for walkers and cyclists on the public bridleway because of vastly increased traffic. We have already on a number of times witnessed antisocial behaviour from this site. They stand atop the motorway bridleway and intimidate dog walker while spitting and dropping things on cars. It's an accident waiting to happen. Also our housing estate which is just over the bridge from them has reported to police that people from the site have been coming over and removing wheelie bins which residents have then had to pay for to replace.

A traveller caravan site just near our home which could grow and/or become official. There are already 3 official sites in Carlisle alone. This would be detrimental to the surrounding properties and businesses.

There are already too many new building developments (and more planned) in Scotby, on Scotby Road and Broomfallen Road. The increase in traffic through the small village is already noticeable and approving this application will only worsen the situation and impact on the residents and families with small children. I'm concerned that the character of the village is being damaged with the increasing number of building developments and growth. Every additional building development, however small, increases traffic; damages the environment (removal of hedges, trees etc.); and puts pressure on the local services/amenities (school etc.). I also have concerns over the increasing size of this Traveller site, when there are already other official sites in the Carlisle area.

This will be the third Planning Application within 3 months for this area of land, which is not even designated for development. The land has a Court Injunction on it - to restore it back to Agricultural land. The removal of trees, hedges and vegetation etc.

would cause environmental damage to the land, which would be covered with hundreds of tonnes of stone and old tarmac. There would be increased traffic on the Public Footpath/Bridleway 138037 - from Broomfallen Road to the Carleton Clinic Footbridge - and through Scotby Village. A traveller caravan site in the village could continue to grow and/or become official. There are already three other official traveller sites in the Carlisle area. There will be safety concerns for walkers and cyclists on the Public Bridleway because of the vastly increased traffic.

The said area of land is not designated for development. There would be increased traffic through Scotby Village, it is busy as it is. There would also be increased traffic on the public footpath/bridleway 138037. Safety concerns for all who pass through the village whether it is walkers, cyclists or car users. There are already three official traveller sites in the Carlisle area, we don't need another one. This will start off as a small development but will probably just get larger as that is what usually happens. We have no objection to travellers but we have a lovely village and we want to keep it that way. We moved from the west of the county as Scotby was so appealing. Please do not spoil it by granting this application.

In the application form there are several blatant untruths below are a few of the obvious ones:

Work on this site commenced on or around December 2020 not July 2021 as stated. The existing use of the site was agricultural land not a caravan site as claimed. There were trees and hedges removed, which is the opposite of the answer given. This is clearly a commercial enterprise not a single family need as described in the planning report by PFK. No family would need 4 separate plots with a total of 12 caravans! In addition to the above, our main objections are as follows: The public bridleway is the only means of access to this site and should be preserved for walkers, cyclists, and horses. The site is covered by a legal injunction to restore it back to agricultural land and that directive should be obeyed. The area has been overlaid with old tarmac which is a pollutant. It should be removed as soon as possible to preserve the environment. Trees and hedges as mentioned above have been removed and should be reinstated, to preserve the environment. Wildlife in the area must have suffered. There is no mains water on the site. The nearest fire hydrant is nearly 1,000 metres away and therefore possible fire protection is negligible. This application is for 4 separate plots and therefore not a single need but a commercial enterprise. This area of land is not designated for development in the Local Plan.

I wish to object in the strongest possible terms to the above planning development. The development is clearly visible from the M6 between junctions 42/43 and already appears as a shanty town which must deter tourists to the area and should never have been allowed in the first place. Quite rightly this land has a court injunction on it to restore it back to agricultural use. It beggars belief that local refusals are overturned by central government and highlights the complete lack of respect for traditional values shown by the current Westminster hierarchy.

1. land already has a Court Order on it to return to agricultural land 2. severe environmental damage 3. increased local traffic 4. it is already an unofficial travellers camp 5 safety of local walkers and cyclists 6 this area of land is not designated for any development. The elected members and the local authorities should be bold enough to reject this application and fulfil the wishes of the majority and the legal Court Orders.

I wish to object to this planning application. This is now the third application in a very short time period. How can Carlisle Planning Department consider planning application after planning application, particularly as we understand that this land

has a court order to reinstate back to agricultural land (following legal injunction against the applicant)? We believe that, as any court order, this should be enforced. If the current and previous applications are granted, it will retrospectively approve some of the changes that have already occurred and allow more changes. Does this not strongly indicate that this is an acceptable way to proceed for the future i.e. may encourage even further developments on / around this site? Please restore the land back to agricultural as it is currently requested. The only access to this area is via a Public Bridleway which by definition should be only used by walkers, horses and cyclists. It is already being heavily used by a large number of vehicles. This planning application would imply even more traffic and this will be at the risk of the walkers and other users. Should the Public Bridleway and the public not be protected? Have the implications of this development on the existing hedgerow, trees, vegetation, environment and biodiversity been considered? What will be impact on Wash Beck? There are three official traveller sites in the Carlisle area with the appropriate access. Should this not be taken into consideration in this request? Please protect the identity of the village and refuse further planning applications.

This site is obvious and unattractive from the roadside and lowers the appeal of the area unlike the estate opposite which has been hidden behind a slope and trees. The footpath past the site was unusable for months and anyone passing by in the area was met with hostility and contempt. I'm concerned this will increase should the application go ahead and the route becomes even more of a no go area. It looks unsightly and should be promoted as a thoroughfare, not closed off as part of a private almost gated community.

This land has not been designated for residential development and sits outwith the area designated for the new garden village.

This land is currently subject to a court injunction requiring it be returned to agricultural use. This has so far been ignored and there are clear signs that further development is ongoing. This injunction should be sufficient grounds alone to reject this application. The application is contradictory - as regards water courses and discharge of surface water. Wash Beck is in fact nearby, as can be seen from even a cursory examination of a map. Additionally, the Environment Agency flood risk mapping tool already identifies the Beck as a flood risk. Further discharge from any development will only exacerbate this. Tied to the above factor, the use of large quantities of stone and tarmac to develop this land will significantly impact on the ability of the land to absorb surface water, forcing further discharge in to Wash Beck and posing greater flood risk to property further along the Beck. No mitigation has been proposed by the applicant. The environmental impact is not only limited to the flood risk, already a large amount of habitat has been lost with the removal of hedges, trees and other vegetation. Further development will only be detrimental. It is not clear if the applicant has taken this in to consideration, carried out an impact assessment or planned mitigation. Green space should be protected. There are already 3 official traveller sites within Carlisle that have plenty of capacity for additional occupants and development. This site is neither official or suitable for development. This development is already a large scale site and appears to host many travellers who use it as a transitory facility - in effect, it appears to be being run, at least in part, as a commercial site. Further development will place further pressure on local facilities - the primary school, nearest dentist and doctor are already at or above capacity and this is only going to get worse when the bigger picture is taken in to account with the current application for 112 homes on Scotby Road - no plan has been put forward by any party about how this will be addressed adequately. This site is part way along a public bridleway (138037) that connects Scotby with Carleton Clinic/Garlands and is the only low traffic/low risk route suitable for horses, cyclists and pedestrians to cross the M6 towards Carlisle, the alternatives being: Cumwhinton Road, with limited provision for non-motorised traffic and a

60mph speed limit; the A69, an even higher speed dual carriageway, involving crossing motorway slip roads at a major motorway junction; and Park Road, a narrow road subject to high volumes of motorised traffic. This public right of way has already been blocked at least once by the site occupants and users of the RoW have been subject to threats and intimidation by them for attempting to use the path legitimately. Motorised traffic accessing the site is already placing an unsustainable burden on the RoW, increasing the risk to legal users and is simply illegal - further development will only increase damage to the RoW, which is/should be maintained as useable through the public purse, and increase risk to legitimate users. There has already been an increase in anti-social behaviour in Scotby associated with the current expansion in the site and its occupants and this is likely to only increase further, to the detriment of the settled community.

Having read the planning application I note that on question 13:Answers No to protected and priority species .Only a study of ancient land will suffice .
Question 15 : answers No .There are ancient hedgerows that are already affected having been cut back without permission to allow the wide vehicles and mobile homes through what once was and should still be a bridle way . Also covered in tarmac which should not be on a bridle way . This area used to be beautiful; now an ugly sight and dangerous to walk with family as now a busy road . The land near the watercourse Wash Beck is already flooding in places and cannot cope with increased water discharge. I feel this sight is already it's maximum size to tolerate .Anymore increase will have a devastating impact on the countryside and community

I'm informed the land is undergoing a court injunction to restore it back to agricultural land There will be an increase in traffic on the public footpath 138037 from Broomfallen Rd to Carlton clinic footbridge. Through Scotby village and The new Coppice Estate. There's been environmental damage to the land due to the removal of trees, hedges, vegetation and hundreds of tons of stone and tarmac have been laid. The site is becoming ever more populated by travellers and could become an official traveller site if it grows any more. We have enough traveller sites in the Carlisle area. There is only one entrance and exit road.

Objection on the following grounds

This is the third application for planning permission in 3 months for this Travelers site. Observation from the M6 to which it is adjacent shows an eyesore on the beautiful Cumbrian landscape. The land has already been covered in tonnes of hardcore and road planings and there are numerous caravans, static vans, commercial vehicles and motor vehicles present. Not too dissimilar to a licensed Travelers Site. This holistically has now become a large-scale development.

1. Development of this land on this scale is not in the Carlisle Local District Plan.
2. A Biodiversity Report was not submitted with the application. It could not be submitted because the land had already been developed prior to the application. We have lost pasture and hedgerow and we will now never know what wildlife habitats etc have been lost.

3. The bridleway used to access the site has become a very busy road. To put this into perspective, 155 vehicle movements in one day observed.

4. The type of vehicles using the bridleway on a daily basis are not just private motor vehicles but are large vans, commercial vehicles, hgv's, large trailers. This is in addition to articulated vehicles transporting static vans and numerous vehicles towing touring caravans. Due to the bridleway being so narrow, there is no room for vehicles to pass each other. This also impacts on pedestrians. It is impossible to walk on the bridleway without encountering several vehicles and having to take refuge on a bank or in a hedgerow.

5. Vehicles are driving at speed down the bridleway since it has been tarmacked in particular on the section providing access/egress to/from Broomfallen Road. I was

forced to one side of the bank by a speeding pickup truck and large twin axled flatbed trailer. I was clearly visible to the driver but was given no time to move out of the way and was narrowly missed being hit by the trailer due to it being wider than the truck. This bridleway is no longer safe for pedestrians to freely walk along it and it is only a matter of time before a serious accident occurs.

6. The neighbouring Story Home development have had to segregate the section of managed land on the estate from the bridleway with a fence and gate. This is in order to deter trials bikes coming from the Travellers site. These are joyriding in circuits through the estate with pillion passengers and no safety helmets. In addition, vehicles were reversing onto the footpath on the managed land in order to pass each other on the bridleway. Both aspects were thereby putting pedestrians at risk and spoiling the enjoyment of the land.

7. Section 12 of the application states that it is not near a watercourse. However, Washbeck watercourse is very close to the site which is a shallow stream and will be used to discharge waste into. It is likely that the methodology to be applied for discharge of effluent could cause detrimental pollution to this watercourse as the numbers of Travelers increase.

8. The development of this land is not in keeping with the rest of the village. It is at odds with it and is actually spoiling it; most likely, given the extent of works done to date, irreparably

Motorists using the M6 are now welcomed to the 'Historic City of Carlisle and Capital of Cumbria' with an unsightly sprawling mass of static vans, touring caravans and a vast array of both private and commercial vehicles and trailers, including HGV's, all of which are clearly visible from the motorway and constitute an eyesore. These vehicles and buildings are sited on a levelled area of agricultural land which is now filled with hundreds of tons tarmac chippings, concrete and aggregate. Subsequent damage to the eco system and wildlife habitat is most likely irreparable. Given the scale and size of the development and legitimate concerns expressed through planning objections by both members of the public and Parish Council, the lack of any decision making or action of any sort by Carlisle City Council is bewildering.

1. There are already 3 licensed Travelers sites in Carlisle: Low Harker Dean, Hadrian's Park and Atchin Tan. In addition, a number of additional pitches are provided through personal consent to cater for the needs of single-family units with a permanent site available to the Showman's Guild at Willowholme. Furthermore, as identified in the Carlisle Local District Plan the transit allocation adjacent to Low Harker Dean provides sufficient land to accommodate up to 15 pitches to offset against the incidences of unauthorized encampment activity in Carlisle. This site in Scotby has NOT been identified in the Carlisle Local District Plan as a site allocated for large scale development to accommodate Travelers.

2. The bridleway facilitating access and egress to the site is by its nature narrow and not suitable for the volume of traffic nor indeed the size of vehicles transiting, which includes fully laden large articulated and double axled vehicles.

3. The bridleway is now unsafe for pedestrians, horse riders or cyclists. Ironically proper use of a bridleway calls for cyclists to give way to horse riders and pedestrians, yet we now have the situation where pedestrians have to get out of the way by standing on embankments or in ditches in order to allow vehicles to pass!

This area started off as a seemingly small community of travellers which wasn't too much of an issue. with there being more trees and vegetation to enclosed the area well.

The reason for objection is around safety in the community. Both for access to Scotby from coppice area. This past year you can not walk over the bridge to gain access without feeling extremely nervous. It has become very hostile! Secondly this flattening of the fields started as soon as lockdowns came. This seemed convenient I guess if it was in the plan some where but seemingly convenient as no one would

be able to report this happening so easily. The heavy plant vehicles were never ending even during the night, - seemed to be never ending. This planning application seems to be missing the fact that most of these building are already there. Since the summer of 2021 the site grew in a matter of nights with so many more caravans. In summary- the issue of bridal way safety including feeling you can use the bridge across. Nature and ecological factors now its all been scraped and felled away. Local appeal to the area for future re-sales especially to us that look across at this. And the fact we worry about this becoming an official traveller site.

It is on land which has a court injunction on it - to restore it back to agricultural land. Massive environmental damage to the land. Increased traffic on the public footpath from Scotby to Carlton Clinic which they have already made impassable and are supposed to have reinstated it - which they have not done! This is the third application in 3 months and there are already three other official sites in the area. This area of land is not designated for development. I strongly object!

I'm against all further development of Scotby in principal. The continuing development of this village is destroying the essential character of what used to be Scotby. There is concern of the extra traffic this will bring and the safety concerns that go with it. The access to the site is via a bridle way and by law is not to be used for motor vehicles. This land has not been designated by the council, for development. It is not clearly stated in the proposal what is to be done with the waste water and sewerage. There has been too much damage done to the environment and local wild life by the removal of ancient hedge row and trees, all without permission. There is an injunction on the land to restore it back to agricultural land which must be enforced. How can the council even consider this application before the injunction is upheld. The council must address all of these points and the others that have been posted before permission can be given.

I strongly object to this application, which, having a live injunction against prior work should not be considered. Rules seem to be optional for certain groups in the country. The injunction should be upheld. The land has never been designated for development. For some years dogs in that area have made the footpath intimidating; now it will be unusable. The character of Scotby village has been destroyed by years of infill housing, and large estates. No additional facilities have been provided. This is another expansion of that theme. Scotby is just a place to make money from building development.

I object to this planning permission due to the impact to the local community

Situated off the right-of-way next to the motorway off Broomfallen Road. My objections are the following.-(1)The proposed development has a court injunction on it to restore back to agricultural land.(2) Environmental damage to the land removable of vegetation, trees ,hedges and covering ground hundreds of tons of stone and rubble.(3)increased traffic on the footpath/bridleway138037 (Safety concerns for cyclists and walkers on public bridleway.

I write to strongly object to the above application. My objections are based on my best understanding of the situation which has been complicated by a considerable amount of unlawful development already carried out and the site's chequered history. My reasons are as follows -

The proposed use of the site is contrary to the Carlisle Local Plan which identifies the land as not being allocated for development.

The site is in open country, its development is out of character with the surrounding fields, resulting in the site being an unwarranted visual intrusion in the landscape. It is a large unsightly development which is also highly visible from the adjacent

motorway to the detriment of the City environs.

The only access appears to be along a public bridleway which appears to be an unacceptable and unlawful use, totally unsuitable for the expected level of traffic to be generated.

The application appears to be incomplete and inaccurate. It refers to there being no new vehicle access, it states there is no vehicle parking, that there are no trees or hedges when there previously were until the unlawful development took place.

I understand there is an injunction on the site to restore it to its previous agricultural use. If this is the case it should be enforced by the City Council immediately to prevent further unacceptable development taking place.

I object to the 3rd planning application for the development of the land at the traveller site in Scotby for the reasons as stated below

- environmental damage

- increased traffic on the bridleway path which is NOT a road. The travellers have put a tarmac surface on the path (WITHOUT planning permission) - it is not wide enough to withstand the sudden volume of large vehicles going up and down. It is not safe for pedestrians or for the residents. 73 large vehicles went up and down the bridle path in one day to access the site. There was never that volume of traffic on this pathway.

- why do the travellers need another site ? There are 3 other official Traveller sites in the Carlisle area.

- walkers and cyclists are uncomfortable (feel threatened) using the public bridleway and footpath. There have been several incidents of verbal abuse and dog barking / biting and on occasion, challenging

behaviour from the travellers. The pathway over the bridge can no longer be comfortably accessed - although the authorities are saying it is open to the public. No one supervises the residents. I won't walk that way anymore. It's not fair.

- this area of land was not designated for development. When the residents built or bought houses on the bridleway or in the Storey development, no one ever mentioned the traveller site. This has got to be illegal.

This is misleading. The council planners / builders should be liable for hiding this information.

The council are NOT representing the residents of Scotby. We are not bad people. We are not being unreasonable. We are NOT prejudiced against travellers (as has been suggested).

Any building development there would have been challenged. The access is not suitable for any volume of traffic. It was never designated as a road. People built houses / chose to live there because of its rural

situation. Why is the council allowing this ? And it seems obvious that the development is growing and growing. Why is this being allowed ? I live in Scotby.

We built our own house. We had to go thru difficult

and costly procedures to get planning permission to build. Yet this growing development seems to sail through unchallenged and unsupervised.

Are the planners saying - build what and where you want and apply for retrospective permission ? What example is this ?

Please listen to us and act fairly.

Despite the proximity of the site adjacent to the motorway, this further additional development would represent an unwelcome addition to an already sprawling and unstructured settlement beyond the traditional village setting. It will also increase traffic along the lane onto Broomfallen Road on land which is not zoned for development. There are already a large number of vehicles and caravans and large outbuildings stationed on the existing settlement.

Access to this site is a bridleway which is totally unsuitable for the level of traffic it already receives, let alone the amount of traffic that will occur if this development is allowed to go ahead. The amount of work that has already been done on this site has already destroyed habitat, flora and fauna, which is unforgivable given that planning permission has not been obtained and also given that an injunction is already in place, supposedly to prevent further work taking place and to restore the land back to agricultural use. Why has this injunction not been enforced?

As far as I understand, this area of land has not been designated for development, therefore planning permission should not be given. There are already plenty of official traveller caravan sites in Carlisle. There does not need to be another one in Scotby. Scotby is under attack from all kinds of developers at either end of the village. If all these developments are given the go-ahead then Scotby's character will be changed forever. In order to preserve the character and amenities of the village of Scotby, perhaps it is time to call a moratorium on all up-coming developments within, and around, the village, until such time as a new development plan can be agreed by the city council in line, and with the agreement of, the desires of the existing residents of the village.

I wish to object to yet another application for this site. I can't improve on the comments by Wetheral Parish Council, so I will merely repeat them. The only access to the site is a bridleway, which is effectively being used as a busy highway due to the number of vehicles and journeys to and from this development. The bridleway is totally unsuitable for this level of traffic, which is not legal. Provisions for refuse collection and recycling from the site are not made clear. Section 12 of the application states that the development is not near a water course, yet it is very close to Wash Beck. The application then contradicts the earlier statement, by saying that surface water will be discharged into a water course. Wash Beck is a small, shallow stream which is not suitable for this level of water discharge. The work already done without permission has destroyed valuable habitat such as hedgerows and meadow. Further work should be prevented.

Right of way for locals is being compromised, with many residents feeling intimidated to use the bridleway.

The committee believes that this land was required to be restored to agricultural use. This condition should be met.

The development now resembles a commercial caravan site and is totally out of keeping with the area and with what has been granted planning permission.

There are already injunctions against this site. No further planning applications should be entertained while this is the case.

I object due to the fact that the land already has a court injunction on it - to restore it back to agricultural land.

Environmental damage to the land due to removal of trees, hedges, plants and covering the ground with hundreds of tonnes of stone & old tarmac. Increased traffic on the public footpath/bridleway 138037 Broomfallen Road to Carleton clinic footbridge, and through Scotby village. There are already 3 official traveller sites in the Carlisle area, this is unofficial, unlawful and should be removed. This area of land is not designated for development. Law abiding, tax paying residents of Carlisle have to abide by planning laws and decisions, why are there exceptions for the travelling community,? We need to protect the character and amenities of our villages and expect planning officials and governmental departments to uphold the wishes of the Counties residents that they serve.

My objections include the behaviour which poses a threat to our local community. Safety concerns of walkers on the public bridle way because of increased traffic. A growing number of travelling community that don't obey laws/ rules and decency.

The growing number will soon become an official travels site of which there are already 3 or 4 in the Carlisle area.

The land is not registered for development. Increased traffic through Scotby. Environmental damage to the land- the removal of trees, hedges, wildlife, and replaced by tarmac/stones.

Increased pressure on services- doctors, dental. And also the demand on Scotby primary school on the intake of more children.

As far as I am aware the proposed land has a court injunction already to restore back to agricultural land . Which I support.

I invite you to walk on the public bridle way to Carleton on a evening if you wish to experience the feeling of intimidation.

This proposal is for land that I believe already has a Court Injunction on it to restore back to agricultural land. The village of Scotby is relatively small with very little amenities i.e. One small Post Office/shop, public house and infants school which struggle to serve the community as it is due to every increasing numbers living in the village and traffic moving through it which pose a potential hazard to our children and older people in the village. Not to mention the irreversible environmental damage that will be caused to this green belt land by the proposed site. I have known personally victims of anti-social behaviour by existing travellers living at the site and regular visitors to the site, which will obviously increase exponentially if this planning application goes ahead. Therefore I strongly urge you to consider my concerns and that of other residents within our village when making a decision on this site. The Carlisle area alone has 3 other traveller sites which may or may not be situated in green belt land.

I wish to object to the planning application for the area of land at the traveller site in Scotby adjacent to the M6 motorway. Substantial development of this site has already taken place against planning advice and permissions and further development will cause damage to the environment including removal of vegetation and trees. I understand the land already has a court injunction on it to restore it back to agricultural land but tonnes and tonnes of stone and tarmac have covered the ground. It appears that the travellers continue to ignore the planning regulations and operate outside any law. The development of the site has continued to increase traffic in the village including vans, pick up trucks and trailers and is in danger of changing the rural environment and character of a Scotby village. One of the main objectives is that the travellers access the site from the footpath and bridleway 138037, previously to their presence on the site this footpath was used extensively for villagers for walking, cycling but there have been many reports of intimidation by the travellers and their dogs. In conclusion I wish to strongly object to this planning application which is a change from agricultural land to a traveller site on an area of land not designated for development.

I email you today to inform you of my objection to the latest planning application to the site in Scotby adjacent to the motorway. There are several reasons to why I object, however I will list a few; The proposed site, I believe has a court injunction to restore back to agricultural land. Damage to the Public Footpath/ Bridleway 138037, and at times making it un passable. Removal of trees, hedges etc as well as rubbish been dumped. Large fires causing extensive smoke. Possibility of road accidents as many residents coming from the lane onto Broomfallen Road pulling out at speed without stopping to look! There has been an excessive number of "Amenity Buildings" etc been erected next to the proposed site and I am gravely concerned that this will grow rapidly, ultimately destroying more of the agricultural land. I hope my concerns will be raised and wait to hear the outcome.

1. There are already three legal, well established sites in the area. To approve the

application would legitimise the current illegal development and no doubt lead to further expansion in the future. This would spoil the nature of the village which at present is mainly surrounded by agricultural land. At present there is a Court Injunction on the land to restore it back to agricultural land. If the plans are approved this would ride roughshod over the Court's order and actually encourage further illegal unplanned camps.

2. The current Green agenda is to protect the countryside and avoid destroying the habitats of wild animals, insects, birds etc. The application would result in the removal of trees, hedges and vegetation, causing totally unnecessary environmental damage.

3. There will be an increase in the traffic in and around the village. This will be an additional danger to the children and aged population of the village, and add to the pollution already caused by the village's proximity to the M6

4. The area of land is not designated for development.

I urge you not to agree to this application which would affect the whole feel of this pleasant, mainly rural village.

I object to the above planning proposal on the following grounds: A. Environmental damage to the land, removal of trees vegetation, and hedges. B. This is a public right of way and Bridleway 138037 and will become unsafe for walkers if 2 way traffic is allowed. C. an increase in volume of traffic to Scotby in general.

This site has grown massively in the past couple of years with trees and vegetation removed. There are a number of flood/security lights that are in use through the night which cause a disturbance. Why has this site already been developed if they have not received planning permission yet? This does not bode well for the future if they are continuing to expand without approval.

I object to this on the following grounds.

A. There will be an increase in traffic on the public footpath 138037 from Broomfallen Rd to Carlton clinic footbridge. Through Scotby village and The new Coppice Estate.

B. There's been environmental damage to the land due to the removal of trees, hedges and vegetation.

C. Safety concerns for walkers and cyclists because of increased traffic.

I'm informed the land is undergoing a court injunction to restore it back to agricultural land. I object to this on the following grounds.

There will be an increase in traffic on the public footpath 138037 from Broomfallen Rd to Carlton clinic footbridge. Through Scotby village and The new Coppice Estate.

There's been environmental damage to the land due to the removal of trees, hedges, vegetation and hundreds of tons of stone and tarmac have been laid.

The site is becoming ever more populated by travellers and could become an official traveller site if it grows any more. We have enough traveller sites in the Carlisle area.

There is only one entrance and exit road. Safety concerns for walkers and cyclists because of increased traffic. The area was never designated for development

I object to this planning application because the land concerned is not land designated for development. The land has a court injunction on it requiring the land to be returned to agricultural land. Previous building work on the site was undertaken without permission and the land must be returned to agricultural land by the terms of the injunction. I fail to see why Carlisle council is discussing any other applications for this site until the injunction has been complied with. Who is accountable to ensure the injunction is complied with and has the relevant body been informed? Residents call upon this authority to enforce the injunction. Environmental damage has already been done to the land by the previous work which was undertaken

without permission. This application would increase that damage with further removal of trees, hedges and vegetation and by covering the area in hundreds of tonnes of stone and tarmac. Access to the site is via a bridleway. This should not be used by heavy lorries as it has been. The increase in traffic along the bridleway is astounding. Numerous vans and cars are using this route continuously. Scotby residents need the council to enforce the law and not turn a blind eye to what has been occurring on this site over the last 24 months or more, and what is continuing to occur.

I object to this planing application due to the following grounds:-

- Increased traffic on the Public footpath/bridleway 138037 - from Broomfallen Road to the Carleton clinic footbridge - and through Scotby Village.
- The work already done without permission has destroyed valuable habitat such as hedgerows and meadow. Further work should be prevented.
- Right of way for locals is being compromised, with many residents feeling intimidated to use the bridleway.
- area of land not designated for development.

I cannot believe this is another Planning Application for the area of land down at the Traveller Site in Scotby adjacent to the M6 Motorway.(previous being 21/0878 and 21/0893)

I often walk with a dog from Broomfallen Road along the Public Bridleway towards the Carleton Clinic Footbridge but I do not go as far as the build up of dwellings as I do not feel particularly comfortable or safe. As well as the fact that the traffic which comes up and down this bridleway seem to have no consideration that there might be pedestrians on the path particularly where the three sharp bends are.

How can this proposal even be considered when the land has a Court Injunction on it to restore it back to agricultural land?

I trust the Planning office will take serious notice of Scotby residents as we have to live in this lovely village.

5. Summary of Consultation Responses

Cumbria County Council - (Highways & Lead Local Flood Authority): - Local Highway Authority response:

We are aware of the extensive planning history along this bridleway . During a previous appeal in 2016 (**APP/E0915/W/18/3202754**) for a similar yet smaller application the inspector stated -

“Of greater concern is the potential conflict between traffic and walkers/horse riders on the bridleway, a matter raised by residents and Wetheral Parish Council. There are two aspects to this: the physical risk of an accident; and the quality of the recreational experience. Both these aspects may then discourage people from using the right of way. The most dangerous part of the track is the S-bend where forward visibility is limited and there are no verges to allow vehicles and horses/pedestrians to pass comfortably.

Children and horse riders would be particularly at risk.”

“There is no doubt that the proposal would see the use of the track increase significantly and would result in an increase in highway dangers to users of the bridleway. Walking, horse riding and cycling would be a less pleasant experience.”

“In this instance, although at the very upper limit of what would be acceptable, I conclude that the level of use proposed would not cause significant harm to the safety and the recreational experience of bridleway

users."

It was the independent highway consultants' (and the Local highway Authorities) view that *the residual cumulative impact for all and in particular bridleway users and the wild life is severe and the local highway authority will no longer be able to exercise its duties hence, must be objected to on highway grounds.*

This application therefore is yet another application taking access off this bridleway and increasing the vehicular usage of it. This will exacerbate the issue raised during the previous appeals to such an extent that the impact will be severe on this part of the network (*see note below) and that the potential safety impact will be unacceptable.

*note - Of real concern is the potential of the vehicles associated with this application to deter potential and current users of this PROW (pedestrians and horse riders) from making use of it.

Local Environment - Environmental Protection: -

If planning consent was granted to the owner of the above site would be required to make an application to this Council under the Mobile Homes Act 2013 for the residential pitches, an initial application would attract a fee. The site would be considered a protected family site if it was owned and resided in by the same family. If the land was let out commercially or tenanted the owner would be required to comply with the updates to the Mobile Homes Act and apply to be on the Fit and Proper person register. The site would also attract an annual fee in relation to the Authority responsibility to inspect any licensed caravan site.

The site owner would be required to comply with any site conditions placed on them under the legislation under the Mobile Homes Act 2013 and the Control of Development Act 1960. The owner is required to produce documentation relating to the electrical safety and maintenance of fire safety on the site. The site owner must produce a Fire Safety Risk assessment for audit by the Local Authority, under the Regulatory Reform Fire Safety Order, as part of the site conditions.

The proposed site, is located next to other smaller residential family sites, with a total of 20 plus caravans with protected status. The location of the site and the continued development is now akin to a larger development and a commercial caravan site. The access to the site which is public bridle way has been raised as a concern for other applications and still remains a concern. Caravan site owners are required to comply with the mandatory condition placed on them by the licence, the current access to the site would not allow this and puts others at risk as well should emergency services be required. Due to this constraint Environmental Health would object on safety grounds of the site access.

It is not stated if the water supply is from mains or a Private Water Supply? Prior to the development commencing the applicant shall complete and agree in writing with the Local Planning Authority a suitable and sufficient risk assessment of the private water supply having regard to the requirements and guidance associated with The Private Water Supplies (England) Regulations 2016 and The Private Water Supplies (England) (Amendment) Regulations 2018. Any works identified in the risk assessment necessary to ensure a sufficient and wholesome supply shall be completed to the satisfaction of the Local Planning Authority prior to the occupation of the

dwelling (s).

To further highlight the reasoning the following should be achieved for a licence caravan site under the model standards.

3. Roads, Gateways and Overhead Cables

- (i) Roads shall be designed to provide adequate access for emergency vehicles and routes within the site for such vehicles must be kept clear of obstruction at all times.
- (ii) New roads shall be constructed and laid of suitable bitumen macadem or concrete with a suitable compacted base.
- (iii) All roads shall have adequate surface water/storm drainage.
- (iv) New two way roads shall not be less than 3.7 metres wide, or if they are designed for and used by one way traffic, not less than 3 metres wide.
- (v) One-way systems shall be clearly signposted.
- (vi) Where existing two way roads are not 3.7 metres wide, passing places shall be provided where practical.
- (vii) Vehicular access and all gateways to the site must be a minimum of 3.1 metres wide and have a minimum height clearance of 3.7 metres.
- (viii) Roads shall be maintained in a good condition.
- (ix) Cable overhangs must meet the statutory requirements.

Concerns have been raised through the multi-agency HUB about the public bridle way that runs through the sites and the number of community complaints about the perceived lack of control of any dogs from the site owners. The model standard includes a condition on cooperating with the Local Authority and Police on any matters concerning anti-social behaviour. An additional condition will be applied as part of the caravan site licence to include a condition that requires any animals to be kept in such a manner as to not disturb any occupiers of any adjoining property. This will also include persons using the public bridle way which passes through the site, to enable the use and enjoyment of the land and to prevent a public nuisance.

National Grid UK Transmission - Plant Protection: - No response received
St Cuthberts Without Parish Council: - The parish council strongly object to the development and believe that this is uncontrolled development and must be prevented from continuing.

Wetheral Parish Council: -

Objection

The only access to the site is a bridleway, which is effectively being used as a busy highway due to the number of vehicles and journeys to and from this development. The bridleway is totally unsuitable for this level of traffic, which is not legal.

Provisions for refuse collection and recycling from the site are not made clear. Section 12 of the application states that the development is not near a water course, yet it is very close to Wash Beck. The application then contradicts the earlier statement, by saying that surface water will be discharged into a water course. Wash Beck is a small, shallow stream which is not suitable for this level of water discharge.

The work already done without permission has destroyed valuable habitat such as hedgerows and meadow. Further work should be prevented.

Right of way for locals is being compromised, with many residents feeling

intimidated to use the bridleway.

The committee believes that this land was required to be restored to agricultural use. This condition should be met.

The development now resembles a commercial caravan site and is totally out of keeping with the area and with what has been granted planning permission.

There are already injunctions against this site. No further planning applications should be entertained while this is the case. The Parish Council urges the City Council to follow up its legal proceedings and ensure the injunctions are enforced.

6. Officer's Report

Assessment

- 6.1 Section 70(2) of the Town and Country Planning Act 1990/ Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.
- 6.2 The relevant planning policies against which the application is required to be assessed is the National Planning Policy Framework (NPPF), Planning Policy for Traveller Sites (PPTS) (which must be read in conjunction with the NPPF), National Planning Practice Guidance and the Cumbria Gypsy and Traveller Needs Assessment (GTAA) Final Report January 2022 together with Policies SP2, SP6, HO11, IP3, IP6, CC5, CM5, GI1, GI3, GI5 of the Carlisle District Local Plan 2015-2030. The proposal raises the following planning issues.

1. Whether The Principle Of Development Is Acceptable

- 6.3 Specific advice on Traveller sites is contained in PPTS which seeks, amongst other things, to create sustainable communities where Gypsies have fair access to suitable accommodation from which Travellers can access education, health, welfare and employment infrastructure. It advises that local plans must identify and update annually, a supply of specific deliverable sites sufficient to provide 5 years' worth of sites against locally set targets. Locally set targets are contained within Policy HO11 of the local plan which draws upon the most up to date evidence on need in the form of the GTAA.
- 6.4 Policy HO11 of the local plan requires that where there is an identified need the city council will consider the provision of Gypsy and Traveller sites and that they will be acceptable providing that they meet a number of detailed criteria.
- 6.5 Importantly Policy HO11 must be read in conjunction with Policy SP2 which sets out a settlement hierarchy as a means of securing sustainable development. This approach accords entirely with the NPPF and should therefore continue to be afforded full weight in the decision making process. Policy SP2 identifies that *"outside of the locations specified (i.e. in open countryside) development will be assessed against the need to be in the location specified"*.

- 6.6 Policy HO11 of the local plan amplifies this stance with specific regards to proposals for Traveller pitches, identifying that such proposals will be considered favourably providing they comply with a number of criteria including, at criterion 1, that *“The site is physically connected, and integrates with, an existing settlement, and does not lead to an unacceptable intrusion into open countryside”*.
- 6.7 A further 5 pitches were allowed on appeal on land to the east of the bridleway under appeal references 3127905, 3127903, 3130384 and 3127907. In addressing the principle of development in this location, in paragraph 32 the Inspector confirms that *“this is a sustainable location for a gypsy site.”* As such, the location is not considered to be unsustainable and the council has not raised this as an issue in the defence of recent planning appeals. Policy HO11 adopts, alongside making a specific allocation, a criteria based approach to assessing proposals for the provision of sites for Travellers.
- 6.8 The Cumbria wide GTAA considers the overall need throughout Cumbria and has looked at the situation in each of the districts. For the Carlisle City Council area it identifies that there is a need for additional pitches and this is explored later in this report. It does not however comment on the sustainability of any of the existing sites which is a judgement for the Local Plan and associated planning policies.
- 6.9 Beyond the requirements of the GTAA and Policy HO11, regard has also been had to the following detailed matters.

2. Detailed Matters

- 6.10 Policy HO11 of the local plan states that proposals for Gypsy and Traveller sites will be acceptable providing that they meet eight criteria. These are:
- i) the location, scale and design would allow for integration with, whilst not dominating or unacceptably harming, the closest settled community to enable the prospect of a peaceful co-existence between the site and the local community;
 - ii) the site has reasonable access to key services and facilities including schools, shops, doctors’ surgeries and health care and other community facilities;
 - iii) there are opportunities to access these facilities by public transport, walking or cycling;
 - iv) adequate utilities can be provided or are already available;
 - v) the site is well planned to be contained within existing landscape features, or can be appropriately landscaped to minimise any impact on the surrounding area;
 - vi) satisfactory living conditions can be achieved on the site and there would be no unacceptable impact on the amenity of adjacent land uses including residential uses;
 - vii) any ancillary business uses that are intended to be carried out on the site will not have an unacceptable impact on the residential use of the site,

any adjacent land uses or the visual amenity of the area; and
viii) the site should have, or be able to provide, adequate access and turning space for large vehicles and caravans.

6.11 Each of these is considered in turn.

i) The Location, Scale And Design Would Allow For Integration With, Whilst Not Dominating Or Unacceptably Harming, The Closest Settled Community To Enable The Prospect Of A Peaceful Co-Existence Between The Site And The Local Community

6.12 The site is approximately 475 metres south-west from the fringe of the village of Scotby and 500 metres north-east of the Garlands estate. As such, the physical relationship of the site to the settled community is acceptable in this instance.

ii) The Site Has Reasonable Access To Key Services And Facilities Including Schools, Shops, Doctors' Surgeries And Health Care And Other Community Facilities

6.13 The site is over 1 kilometre (about $\frac{3}{4}$ mile) south-west of the centre of the village which has local facilities in the form of a shop, public house, school and church. Carlisle is only a short distance further to the east and in this instance, the accessibility of the site to local services and infrastructure is deemed acceptable.

iii) There Are Opportunities To Access These Facilities By Public Transport, Walking Or Cycling

6.14 Access to the facilities outlined in ii) can be achieved by means of walking or cycling. Once over, there was a bus service with a bus stop on Broomfallen Road but this service has been withdrawn and there is currently no replacement.

6.15 There is pedestrian access via the bridge over the M6 motorway leading to the Garlands estate from through which a bus service continues to operate. As such, the proposal is acceptable in this regard.

iv) Adequate Utilities Can Be Provided Or Are Already Available

6.16 There is no information in the application details regarding the provision of services; however, as the site has already been developed, it is assumed that adequate provision has been made on site. In any event, the site is adjacent to other developed pitches where adequate services have been provided and as such, there would be no conflict with this criterion of the policy.

v) The Site Is Well Planned To Be Contained Within Existing Landscape Features, Or Can Be Appropriately Landscaped To Minimise Any Impact On The Surrounding Area

6.17 When considering the impact of the proposal on the character and

appearance of the area, the topography of the surrounding land and the existing landscaping would be taken into account. This application is retrospective and hedgerows which contained the site were removed several months ago which prompted action by the Council. These hedgerows have not been reinstated and were a feature of the landscape along the bridleway. The larger site area subject of three applications was contained by natural hedging which had surrounded the agricultural field. This provided a natural sense of enclosure which has now been replaced by wooden fencing. Although from the Broomfallen Road direction the trees at the rear of the site have been retained which obscure views from that direction, the removal of the hedging results in the site giving a stark contrast to natural landscape features when viewed from its adjacent bridleway, the Carleton/Garlands area or the M6. The height of the mobile homes and ancillary units are not fully screened by the 1.8 metre fencing and would have clearly appeared above the height of the hedging if it had been retained. Given the tight boundaries of the site it would require tree planting to screen the development developing a further tree line in the landscape which could be accommodated however there is insufficient space to provide a screen of sufficient scale to adequately screen the development. In relation to the overhead lines, guidance from National Grid recommends only low hedge planting in locations where cables cross limiting the ability to act as a visual screen although the removed hedge could be replaced. The definable landscape feature of the former existing hedgerow has been removed and therefore the proposed development is unable to comply with this criterion.

6.18 The guidance in the PPTS states that:

“Local planning authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate the nearest settled community, and avoid placing an undue pressure on the local infrastructure.”

6.19 Given the above consideration in the PPTS and the location of this site in a former agricultural field which extends the existing traveller pitches further into the open countryside the siting has significant impact on the landscape character. In conclusion it is considered that the impacts of the proposal on landscape character and on the views of users of the public bridleway would be considered unacceptable.

vi) Satisfactory Living Conditions Can Be Achieved On The Site And There Would Be No Unacceptable Impact On The Amenity Of Adjacent Land Uses Including Residential Uses

6.20 There are other Gypsy and Traveller pitches in the locality, most notably to the east which is also the subject of a planning application for an additional Gypsy and Traveller pitch. Environmental Health have commented on the application regarding the combined applications as equivalent to a larger site. The distance between pitches would satisfy a site licence however individually they may need adjustment within the site. The site is adequately

sized with appropriate amenity and parking facilities. The site is however crossed by an electricity line between pylons. Due to health and safety concerns and the need for maintenance relating to overhead electricity supplies no residential development should be sited directly underneath the line of the cables taking into consideration their potential to be grounded. In addition no metal structures should be placed below overhead lines. At least three of the proposed plots show structures directly underneath the overhead lines and as such the proposal is unacceptable in this regard.

vii) Any Ancillary Business Uses That Are Intended To Be Carried Out On The Site Will Not Have An Unacceptable Impact On The Residential Use Of The Site, Any Adjacent Land Uses Or The Visual Amenity Of The Area

6.21 Broomfallen Road lies to the south of the centre of the village of Scotby and is characterised by linear development along the road frontage. Further south, beyond the settlement, the properties remain linear but are more sporadic in their location. There is also a farm close to the site. Whilst there are no properties immediately adjacent to the site, the living conditions of the occupiers of these properties has to be taken into account.

6.22 There is the potential that the level of use and the activities from the site could be detrimental to the occupiers of local properties and objectors have raised a number of concerns about the volume of use in the area. The use of the land would be occupied as a traveller site and any business use could be limited by condition to prevent nuisance from noise of over-intensification of use. The planning statement states that the current owner has no intention to operate a business from the site. Whilst not adjacent land users in the context of the policy, objectors consider that the number of pitches in the area has increased to such an extent that it now impacting on the village and the wider community. The traffic issues related to the use are considered separately in this report.

viii) The Site Should Have, Or Be Able To Provide, Adequate Access And Turning Space For Large Vehicles And Caravans

6.23 Cumbria County Council as the local highway authority has objected with regard to this application. Their reason for doing so is related to the longer term situation and the previous permissions which have been granted along the bridleway. A number of objectors have raised concerns about the impact that extra vehicular users of the bridleway will bring preventing those on foot/horse from using it more widely.

6.24 The highway authority response states:
*"This application therefore is yet another application taking access off this bridleway and increasing the vehicular usage of it. This will exacerbate the issue raised during the previous appeals to such an extent that the impact will be severe on this part of the network (*see note below) and that the potential safety impact will be unacceptable."*

6.25 The local highway authority make reference to the cumulative impact which, in their opinion, has occurred on the bridleway. In 2012, an application was

submitted for planning permission for a single Gypsy and Traveller pitch. The application was refused and one of the reasons being that of the impact on the public right of way. As a single Gypsy pitch, the Inspector saw no conflict.

- 6.26 In 2014, four planning applications were submitted to the council for the formation of five pitches for Gypsies and Travellers. These applications were refused on the lack of need and the impact on highway issues, including the use of the bridleway. The appeal was allowed and in his paragraph 23 of his decision letter, the Inspector states:

“Perhaps more importantly the number of dwellings, or in this case gypsy pitches, served by the track and which would involve negotiating the section around the S-bend would be six. The appellants argue that gypsy sites are often on unmade tracks but it is the interests of bridleway users not those of the appellants that are the concern here. However, this number does not greatly exceed the highway authority rule of thumb and once beyond the S-bend there would in practice be little pedestrian/vehicle conflict. In this instance, although at the very upper limit of what would be acceptable, I conclude that the level of use proposed would not cause significant harm to the safety and the recreational experience of bridleway users. There would therefore be no conflict with the relevant criteria in LP Policy H14 and in emerging Policy HO11 or with the provisions of NPPF paragraph 32.”

- 6.27 Following on from this decision, a further application for planning permission for a single Gypsy and Traveller pitch was submitted on land known as Oak Meadows. A similar objection was submitted by the local highway authority and to assist in the consideration of the application, the council employed an independent highway consultant. The application was ultimately refused for the following reason:

“The development increases the size of vehicles and the frequency upon which they use the public right of way to the detriment of other users. Sustained use would be likely to increase the conflict of traffic movements on the public right of way which has restricted width, resulting in additional danger and inconvenience to all users. In this context, the proposal is unacceptable and contrary to paragraph 32 of the National Planning Policy Framework, to criterion 8 of Policy HO11 (Gypsy, Traveller and Travelling Showpeople Provision) and criterion 5 of Policy SP6 (Securing Good Design) of the Carlisle District Local Plan 2015-2030.”

- 6.28 In relation to the appeal decision at Oak Meadows, the Inspector concludes in paragraph 24 that:

“Overall, the merits of the appeal scheme are finely balanced. Based on the evidence presented, the width, surface, topography, alignment and use of the bridleway, leads me to consider that the modest increase in its use would mean that the proposal is just about acceptable. As a result, the proposal would not lead to an unacceptable impact on highway safety, or severe residual cumulative impacts. Also, the recreational experience of bridleway users does not appear to have been harmed by the proposal. Nor would a small uplift in vehicular movements of the scale set out cause harm.”

- 6.29 Each application has considered the highway issues with different Inspectors noting that the various proposals are “*at the very upper limit of what would be acceptable*” and that “*the proposal is just about acceptable*” implying that each permission seemingly being closer to the point of unacceptability.
- 6.30 The cumulative impact of the current proposal together with the total number of pitches that have been granted planning permission with access from the bridleway has grown significantly in recent months taking account of the unauthorised activity subject of current planning applications. In relation to other applications for similar usage on this agenda, the highway authority states that the bridleway (whilst permitting a degree of motorised use) is mainly meant for other usage, with their enjoyment being greatly affected by further motorised usage and any further development would have a detrimental impact on the safety of the users of the public right of way.
- 6.31 The history above indicates that differing planning inspectors have differing degrees of interpretation as to when the usage is likely to cause an issue. Given the level of objections based on the level of use it is clear that safe passage along the bridleway is being significantly impacted and this proposal will just compound that problem. In addition, Environmental Health who licence caravan sites have also commented that the access route to this site along the bridleway is unsatisfactory as it is a two-way route with limited passing bays or road width especially if emergency vehicles require access.
- 6.32 As the development is adjacent to a bridleway, the county council has advised that the bridleway must not be altered or obstructed before or after the development has been completed and that the developer of the site must ensure they have a private vehicular right of access to use the bridleway with vehicles. It is noted that works on this site did cause damage to the bridleway resulting in its closure for several weeks. Restoration of the bridleway has now taken place at the expense of those causing the damage.

3. Drainage

- 6.33 In accordance with the NPPF and the NPPG, the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way. The NPPG clearly outlines the hierarchy to be investigated by the developer when considering a surface water drainage strategy which should be considered 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.
- 6.34 In order to protect against pollution, Policies IP6 and CC5 of the local plan seek to ensure that development proposals have adequate provision for the disposal of foul and surface water. No details of surface water drainage have been provided and the site has been covered with road planings as well as the positioning of several units. Surface water drainage should not cause

increased flows to the beck. In addition, concerns about contamination from the planings has been raised and some form of filtered attenuation may be required. In the absence of details, these matters could be dealt with through the imposition of planning conditions. Foul water disposal is being dealt with by the installation of a package treatment plant which is acceptable.

4. Biodiversity

- 6.35 The authority should consider securing measures to enhance the biodiversity of a site from the applicant, if it is minded to grant permission for an application in accordance with paragraph 180 of the NPPF. This is reflected in Section 40 of the Natural Environment and Rural Communities Act (2006) which states that every public authority must have regard to the purpose of conserving biodiversity. Local planning authorities must also have regard to the requirements of the EC Habitats Directive (92/43/EEC) when determining a planning application as prescribed by regulation 3 (4) of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), and Article 16 of the Habitats Directive before planning permission is granted.
- 6.36 Planning Authorities in exercising their planning and other functions must have regard to the requirements of the EC Habitats Directive (92/43/EEC) when determining a planning application as prescribed by regulation 3 (4) of the Conservation (Natural Habitats, cc.) Regulations 1994 (as amended). Such due regard means that Planning Authorities must determine whether the proposed development meets the requirements of Article 16 of the Habitats Directive before planning permission is granted. Article 16 of the Directive indicates that if there is reasonable likelihood of a European protected species being present then derogation may be sought when there is no satisfactory alternative and that the proposal will not harm the favourable conservation of the protected species and their habitat.
- 6.37 The council's GIS layer did identify the potential for protected species to be present on the site or within the immediate vicinity. Given that the proposal involved what was a small piece of agricultural land, it is unlikely that the proposal would affect any species identified. However to ensure that there are no longer term impacts on species using the beck a planning condition would be appropriate to ensure surface water is not contaminated. In addition, external lights are proposed and it can be seen that there are bright lights across the site, this can have an impact on nocturnal species in the area and the timing/brightness and operation of external lighting should be controlled in the interests of local wildlife.

5. Accommodation Needs

- 6.38 Paragraph 9 of the PPTS also requires that when planning for Traveller sites:

“Local planning authorities should, in producing their Local Plan:

- *identify and update annually, a supply of specific deliverable sites sufficient to provide five years' worth of sites against their locally set targets*

- *identify a supply of specific, developable sites or broad locations for growth, for years six to ten and, where possible, for years 11-15*
- *consider production of joint development plans that set targets on a cross-authority basis, to provide more flexibility in identifying sites, particularly if a local planning authority has special or strict planning constraints across its area (local planning authorities have a duty to cooperate on planning issues that cross administrative boundaries)*
- *relate the number of pitches or plots to the circumstances of the specific size and location of the site and the surrounding population's size and density*
- *protect local amenity and environment.”*

6.39 The recently published GTAA covers all authorities in Cumbria and provides and in paragraph 1.2 describes its purpose:

“The GTAA provides a credible evidence base which can be used toward the preparation and implementation of Local Plan policies and provision of new Gypsy and Traveller pitches and Travelling Showpeople plots for the 15 year period up to 2035, as required by the PPTS, and 2040 to meet Local Plan Periods. The outcomes of this study supersede the need figures of any previous Gypsy, Traveller and Travelling Showpeople accommodation needs assessment completed in the study area.”

6.40 In summary, page 64 of the report concludes the need for 33 pitches in Carlisle up to 2040 (with a possible further 6 depending on whether they satisfy the planning definition). The report sets out a number of approaches, bearing in mind that the total need is up to 2040 but that there is also some immediate need within the next 5 years. The approaches suggested in the report include additional touring caravans on existing sites; sites occupied by larger extended family groups; or, vacant pitches on larger commercial sites. Paragraph 9.48 recommends that need is met through new pitch allocations and intensification or expansion of existing sites. It also recommends that consideration could also be given to granting planning permission for unauthorised sites.

6.41 In order to deal with the identified need, the report recommends a Pitch Delivery Assessment is undertaken to determine what proportion of the identified need can be met through intensification, reconfiguration of changes to planning conditions on existing sites. This work is currently underway.

6.42 This application is supported by a planning statement which confirms that the existing owners have moved from other pitches in the Carlisle area and are trying to locate as a large family unit on a self contained site. It is therefore likely that the applicants comply with the planning definition in the PPTS. They are therefore likely to meet the need requirements identified in the GTAA.

6. Other Matters

6.43 Reference is made in some of representations that the land is subject to a court injunction. An injunction was put in place on this site as works had

commenced without permission being in place. Work halted for some time and damage to the adjacent bridleway was repaired however the applicant moved onto the site despite the injunction. Having taken further advice, the injunction remains in place and it is necessary to determine the planning application before any further action is considered.

- 6.44 A number of objectors to this application have referred to matters of anti-social behaviour. To a great extent this is outside the remit of planning and through the hub other agencies including the police have been involved in incidents in the area. Whilst the fear of crime can be a planning consideration it is difficult to determine that the use of this site would specifically worsen the current situation and people's enjoyment of the bridleway although the cumulative impact of more people using the bridleway appears to be having a negative effect on long term users of the path.

Conclusion

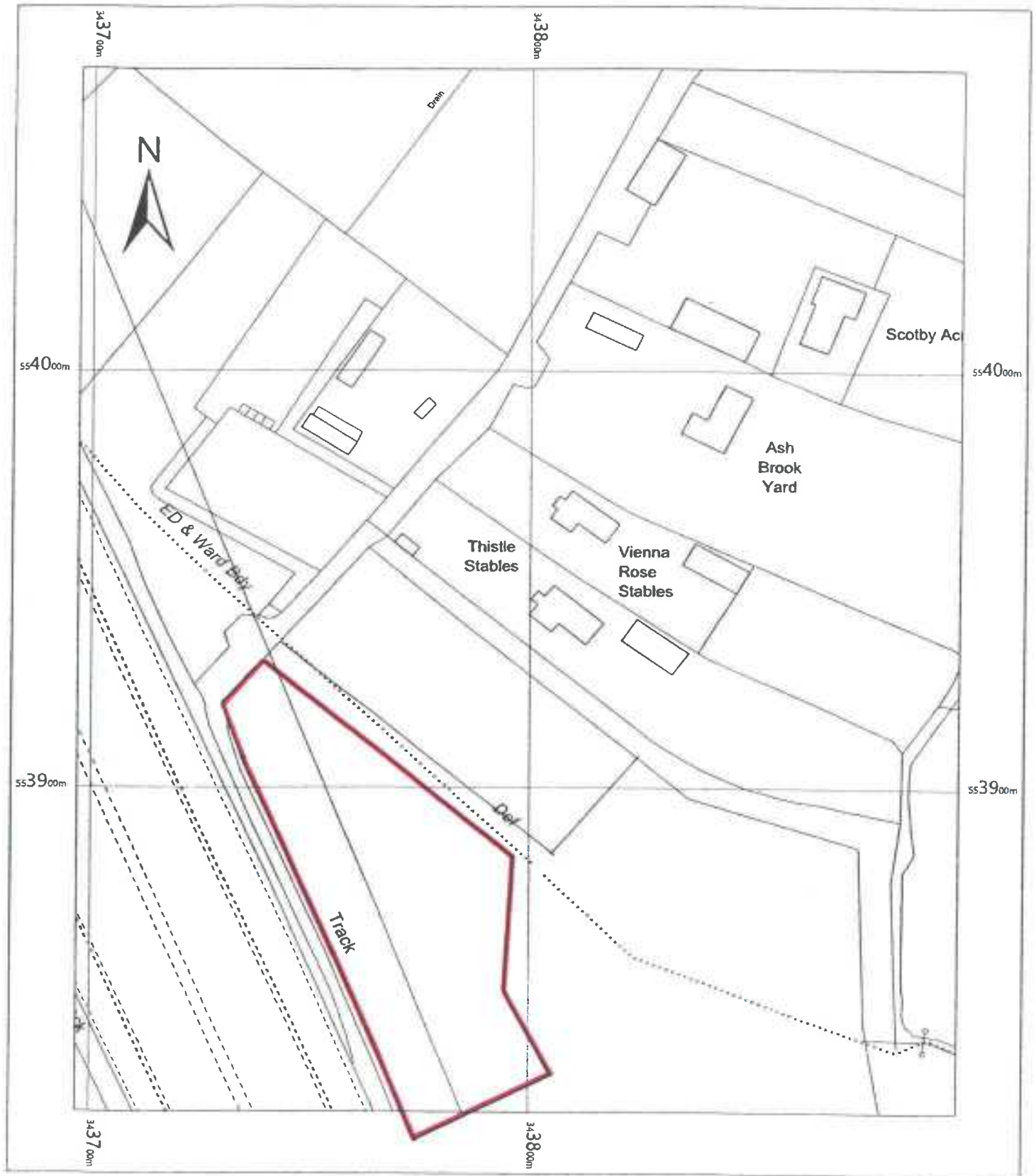
- 6.45 In overall terms, whilst it is noted that the adjacent site and land within the locality have been developed to provide pitches for accommodation by Gypsies and Travellers, there is still a further need identified in the most recent and up-date GTAA for more pitches up until 2040. As such, the principle of development would be acceptable subject to compliance with the relevant policy criteria.
- 6.46 In the case that the principle is acceptable, development both individually and in concert with development and proposals on the adjacent land, the character and appearance of the area particularly when viewed from the public right of way is significantly altered sufficiently to warrant refusal of the application on this matter. In addition, the siting of caravans and mobile homes is contrary to Health and Safety considerations.
- 6.47 The number and size of vehicles has increased along the public right of way over the last seven years. The issue of the continued use of the bridleway has been considered by Planning Inspectors in recent planning appeal decisions, and has been found to be acceptable, albeit with caveats about the 'upper limit' of the capacity of the bridleway being reached. Additional vehicles from these pitches is likely to be significant and therefore given the frequency or size of vehicles driving along the bridleway, the development would be detrimental and potentially affect the safety of other users.
- 6.48 As such, the proposal fails to accord with the objectives of the NPPF, PPG and relevant local plan policies.

7. Planning History

- 7.1 There are no relevant previous planning applications on this land
- 7.2 Enforcement proceedings commenced against the change of use of the land and an injunction remains in place preventing occupation of the land without the correct planning permissions in place.

8. Recommendation: Refuse Permission

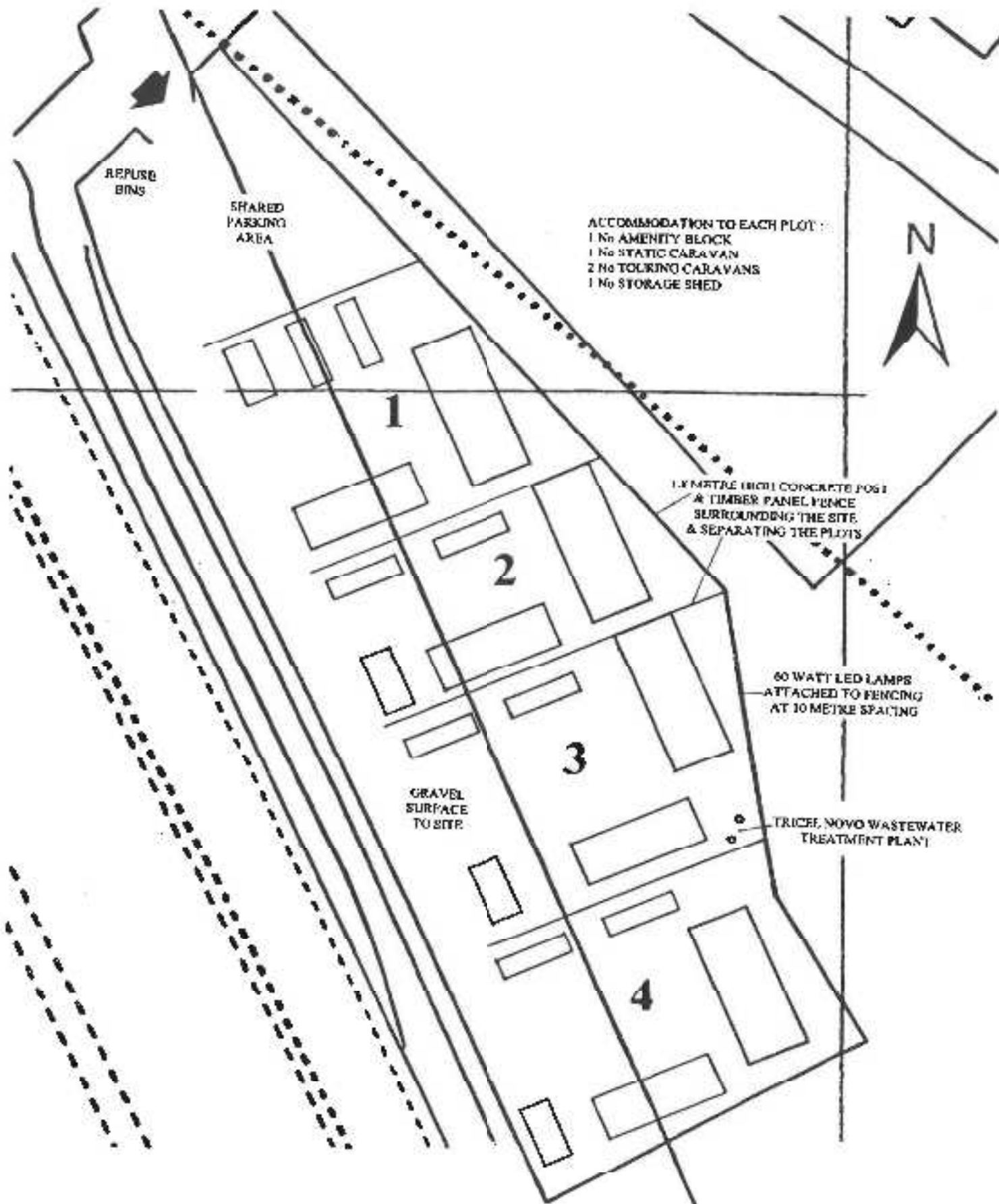
- 1. Reason:** The development increases the number of vehicles and the frequency upon which they use the public right of way to the detriment of other users. Sustained use would be likely to increase the conflict of traffic movements on the public right of way which has restricted width, resulting in additional danger and inconvenience to all users. In this context, the proposal is unacceptable and contrary to criterion 8 of Policy HO11 (Gypsy, Traveller and Travelling Showpeople Provision) and criterion 5 of Policy SP6 (Securing Good Design) of the Carlisle District Local Plan 2015-2030.
 - 2. Reason:** Planning policies require good design in any development proposals particularly ensuring that development integrates well into the surroundings. The development has removed elements of local landscape character without adequate mitigation or integration of existing features which is contrary to criteria 2, 8 and 9 of Policy SP6 (Securing Good Design) and Policy G16 (Trees and Hedgerows).
 - 3. Reason:** The siting of mobile homes and caravans and other structures below an overhead transmission line will provide unsatisfactory living arrangements for future occupiers due to the risk to health and safety contrary to Policy SP6 and CM5 of the Carlisle District Local Plan 2015-2030 and National Grid guidelines for development near HVO power lines.
-



PROPOSED RESIDENTIAL CARAVAN SITE COMPRISING 4 PLOTS
SCOTBY OAKS - BROOMFALLEN ROAD - SCOTBY - CARLISLE
LOCATION PLAN

DRG. NO. 3301/1

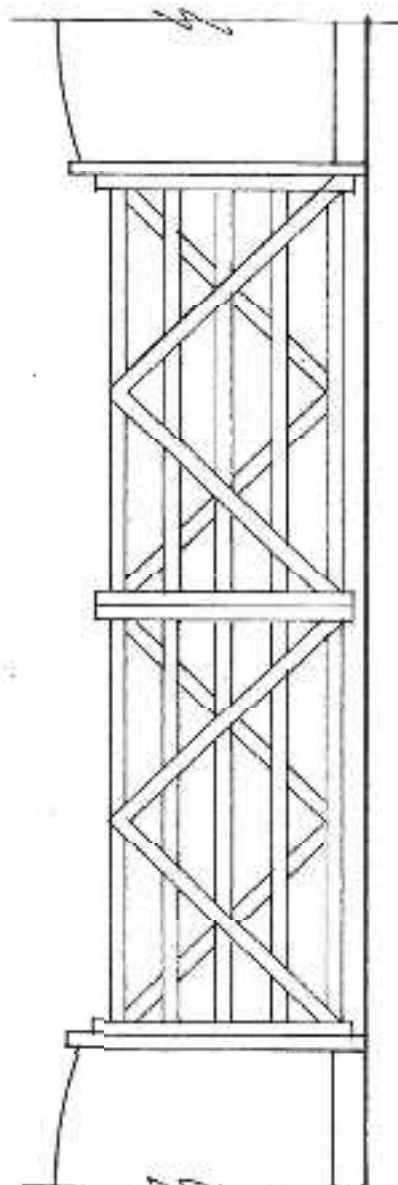
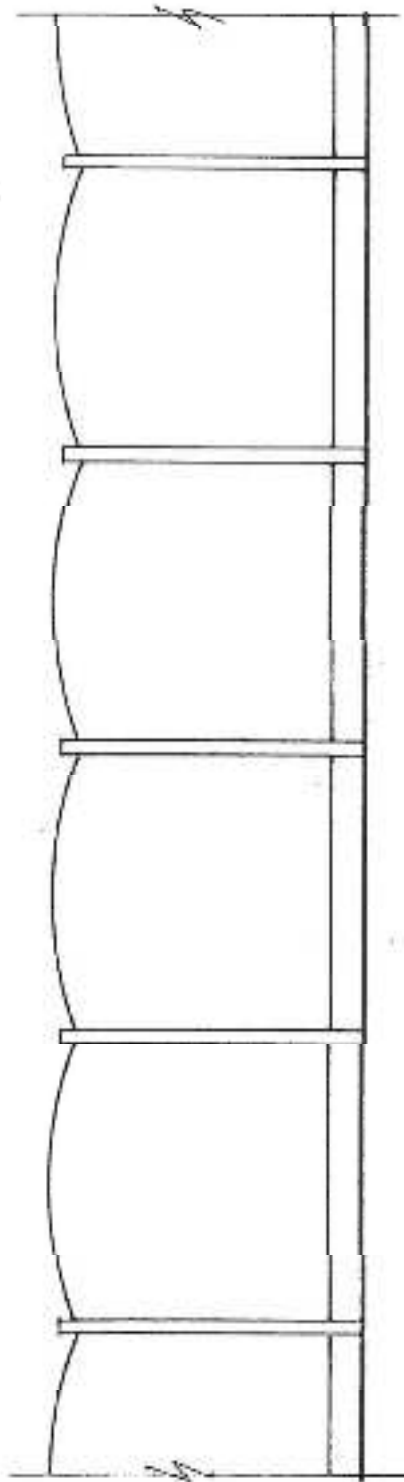
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PROPOSED RESIDENTIAL CARAVAN SITE COMPRISING 4 PLOTS
SCOTBY OAKS - BROOMFALLEN ROAD - SCOTBY - CARLISLE
BLOCK PLAN

DRG. NO. 3301/2

SCALE : 1-500



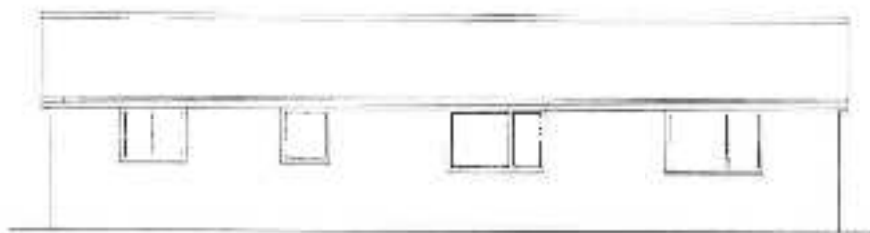
PROPOSED RESIDENTIAL CARAVAN SITE

SCOTBY OAKS - BROOMFALLEN ROAD - SCOTBY - CARLISLE

FENCING & ENTRANCE GATES DETAILS

DRG. NO. 3301/5

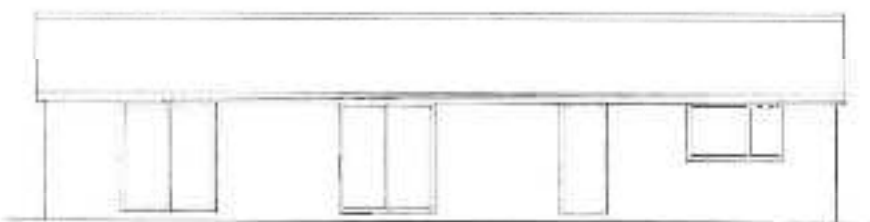
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REAR ELEVATION



SIDE ELEVATION



FRONT ELEVATION



SIDE ELEVATION

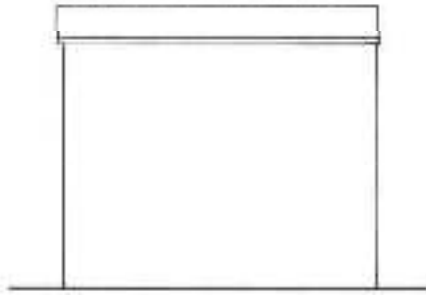


FLOOR PLAN

**PROPOSED RESIDENTIAL CARAVAN SITE COMPRISING 4 PLOTS
SCOTBY OAKS - BROOMFALLEN ROAD - SCOTBY - CARLISLE
AMENITY BUILDING**

DRG. NO. 3301/3

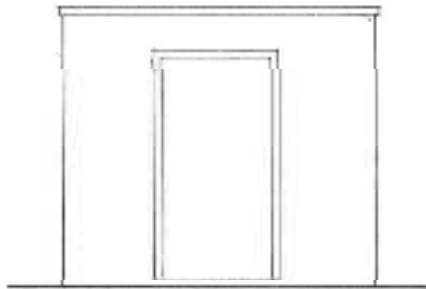
SCALE : 1-100



REAR ELEVATION



SIDE ELEVATION



FRONT ELEVATION



SIDE ELEVATION



FLOOR PLAN

**PROPOSED RESIDENTIAL CARAVAN SITE - SCOTBY OAKS - SCOTBY - CARLISLE
STORAGE SHED**

SCHEDULE B

SCHEDULE B

SCHEDULE B: Reports Requiring Further Information

21/0700

Item No: 10

Date of Committee: 08/04/2022

Appn Ref No:
21/0700

Applicant:
Mr Geoff Hall

Parish:
Stanwix Rural

Agent:
Plan B Building Drawing
Limited

Ward:
Stanwix & Houghton

Location: 5 Chestnut Grove, Linstock, Carlisle, CA6 4RS

Proposal: Erection Of Single Storey Front Porch To Provide Entrance Lobby & WC

Date of Receipt:
30/07/2021

Statutory Expiry Date
24/09/2021

26 Week Determination

REPORT

Case Officer: Stephen Daniel

1. Recommendation

2. Main Issues

3. Application Details

4. Summary of Representations

4. This application has been advertised by means of notification letters sent to three neighbouring properties. In response five letters of objection (four from the same household) have been received which raise the following points:

- No measurements on plans.
- Restricts and adversely alters the frontage of the property.
- Changes the agricultural style of the converted barn.
- Covenants exist on the properties.
- Unclear if proposed building style and materials conform to the restrictions on the original permission.
- Inaccurate plans.

- no reference to how WC will be connected to the mains and what impact this may have.
- Piecemeal alterations to the original structure will create problems and further applications of a similar nature are likely to be made.
- When considering this application reference should be made to previous applications 99/0024 & 12/0803.
- The approval allows the LPA "to protect the character, integrity and appearance of the building and its setting" - this reason is still valid.
- The site and front elevation can be seen from Hadrian's Wall Footpath.
- This is a substantial extension in relation to the size of the property.
- The original plans were approved and designed to retain the buildings agricultural features.
- Potential lighting could affect the occupiers of neighbouring properties.
- Concerned about effluent smells affecting neighbouring properties.
- The building is a barn and should not look like a terraced house.

5. Summary of Consultation Responses

Stanwix Rural Parish Council: - Recommends determination in accordance with local and national planning and conservation policy and guidance;
Historic England - North West Office: - No comments.

6. Officer's Report

7. Planning History

- 4.1 In April 1994, planning permission was granted for the conversion of barn to two dwellings and erection of five linked houses (94/0193).
- 4.2 In September 1997, planning permission was granted for erection of 4no. dwellings and conversion of existing barn into 3no. 2 bedroom dwellings (97/0209).
- 4.3 In February 1999, planning permission was granted for the conversion of existing barn into 3no. dwellings (revision) (99/0024).
- 4.4 In November 2012, planning permission was granted for single storey rear extension to provide enlarged kitchen, enlargement of existing window to form french doors, creation of patio area together with erection of fence (12/0803).
- 4.5 In August 2015, planning permission was granted for the erection of detached garden room; change of use of unused land to incorporate into garden area with hardstanding for car parking (15/0604).

8. Recommendation:



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: 24th February 2022

Appeal Ref: APP/E0915/D/21/3288392

5 Chestnut Grove, Linstock, Carlisle CA6 4RS

- 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 Geoff Hall against the decision of Carlisle City Council.
- The application Ref 21/0700, dated 7 July 2021, was refused by notice dated 24 September 2021.
- The development proposed is erection of single storey front porch to provide entrance lobby & wc.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the appeal property.

Reasons

3. The appeal property is the end home of three within a converted former barn. The building retains a strong but simple linear form, particularly along its front elevation. Visible ventilation slits (now blocked up) are evident on the gable elevations whilst the timber panels below the window openings provide further references to the building's previous use as a barn. Whilst the building lies within a modern residential setting, it retains sufficient elements that hint at its previous function and character and provide a contextual link with other older properties nearby.
4. The proposed porch would be a not inconsiderable addition to the front of property. Its width would be substantial in the context of the appeal property's frontage and it would be a dominant and disruptive addition to the front of No. 5. It would, as a consequence, dominate and disrupt the strong and simple linear form otherwise present across the building's frontage and erode the retained character of the building as a converted former barn. The context within which the appeal building lies is noted, but so too is that of the converted range of which it forms part.
5. Carlisle Local Plan (LP) policy SP6 sets out the Council's approach to securing good design and states, amongst other things, that proposals should respond to local context, form massing and detailing (criterion 1) and take into account the historic environment (criterion 4) whilst LP policy HO8 states that house extensions should relate to, and complement the existing building in scale, design and form. For the reasons I have set out, the proposal would fail to do so and would thus be in conflict with LP policies SP6 and HO8.

6. The incorporation of an oak entrance frame is noted and, together with the glazed panels on one corner of the proposed porch, would be an attractive element of the proposal. However, these features would not alter the form of the proposed extension or its impact on the form or character of the appeal property and do not, as a consequence, alter my conclusions set out above.

Conclusion

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

G Robbie

INSPECTOR

SCHEDULE B: Reports Requiring Further Information

21/0756

Item No: 11

Date of Committee: 08/04/2022

Appn Ref No:
21/0756

Applicant:
Mr S Mohammed

Parish:
Carlisle

Agent:
Jock Gordon Architectural
SVS Ltd

Ward:
Cathedral & Castle

Location: 30 Lismore Street, Carlisle, CA1 2AH

Proposal: Installation Of 2no. Internally Illuminated Fascia Signs

Date of Receipt:
02/08/2021

Statutory Expiry Date
27/09/2021

26 Week Determination

REPORT

Case Officer: Suzanne Osborne

1. Recommendation

2. Main Issues

3. Application Details

4. Summary of Representations

4.1 This application has been advertised by the display of a site notice and by means of notification letters sent to 15 neighbouring properties/interested parties. During the consultation period 10 objections have been received.

4.2 The objections cover a number of matters which are summarised as follows:

1. illuminated lighting is out of keeping for the residential street;
2. concern that applicant is not adhering to planning rules and regulations and is continuing works without the relevant consents;
3. applicant is already advertising the opening hours on his website, van and

signage;

4. applicant has already demolished the ground floor of the building and it is beyond repair;
5. signage is already in situ on the wall;
6. queries regarding opening hours, how rubbish, cooking oils etc will be disposed, where staff/delivery drivers will park, will the premises be illuminated after hours?
7. object to signs with lights especially if they are intended to be left on outside opening hours;
8. property is adjacent to a conservation area and is highly inappropriate;
9. impact on light pollution;
10. illuminated signage is not inkeeping with Victorian architecture of the area;
11. highway safety from illuminated signage;
12. signage is out of keeping with quiet residential area;
13. impact upon residential amenity from light shining in windows;
14. other commercial properties in the area have no illuminated signage;
15. previous takeaway operated successfully without illuminated signage;
16. impact upon house prices;
17. the commercial establishment should be located elsewhere in the city;
and
18. application should be accompanied by a Flood Risk Assessment.

5. Summary of Consultation Responses

Cumbria County Council - (Highways & Lead Local Flood Authority): - no objection.

6. Officer's Report

7. Planning History

- 7.1 The most relevant planning history is as follows:

- 7.2 In 1990 Full Planning Permission was granted for change of use from Use Class A1 to Use Class A3 (reference 90/0579);
- 7.3 In 1990 Advertisement Consent was granted for canopy adverts (reference 90/1003);
- 7.4 In 1991 Full Planning Permission was granted for renewal of permission for fish and chip shop (reference 91/0663);
- 7.5 In 1992 a variation of condition no.4 attached to 91/0663 was granted to allow opening on certain bank holidays (reference 92/0128);
- 7.6 In 1992 Advertisement consent was granted for installation of 4no.swan necked lights to illuminate existing canopies (reference 92/0126);
- 7.7 In 1997 Full Planning Permission was refused for the variation of condition 4 attached to permission no.91/0663 to allow premises to stay open between 11:30hrs to 22hrs Monday to Saturday. An Appeal was subsequently submitted and allowed subject to the imposition of a condition allowing the premises to stay open between 11:30 to 21hrs Monday to Saturday and not at any time on Sundays, Bank or Public Holidays;
- 7.8 In 2000 Full Planning Permission was granted for variation of condition to allow permission to be exercised by Mrs S Kidd (reference 00/0737);
- 7.9 In 2005 Full Planning Permission was granted for removal of condition no.3 of planning permission 00/0737 (reference 05/0773);
- 7.10 In 2021 an application was submitted seeking Full Planning Permission for the installation of a new shop front (reference 21/0759). At the time of preparing this report application 21/0759 was undetermined;
- 7.11 In August 2021 a Variation of Condition application was refused for the variation of condition 1 (opening hours) of previously approved permission 05/0773 to open takeaway 08:00-23:00 hours Monday to Sunday (7 days) including Bank Holidays (reference 21/0730); and
- 7.12 In August 2021 Advertisement Consent was refused for the continuation of display of non illuminated wall mounted signage (reference 21/0806).

8. Recommendation:

Appeal Decisions

Site visit made on 19 March 2022

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 March 2022

Appeal A: APP/E0915/H/21/3283163

30 Lismore Street, Carlisle, Cumbria CA1 2AH

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mr S Mohammed against the decision of Carlisle City Council.
 - The application Ref 21/0806, dated 9 August 2021, was refused by notice dated 3 September 2021.
 - The advertisement proposed is a wall sign.
-

Appeal B: APP/E0915/H/21/3285905

30 Lismore Street, Carlisle, Cumbria CA1 2AH

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mr S Mohammed against the decision of Carlisle City Council.
 - The application Ref 21/0756, dated 19 July 2021, was refused by notice dated 13 September 2021.
 - The advertisement proposed is the installation of 2 No internally illuminated fascia signs.
-

Decisions

Appeal A: APP/E0915/H/21/3283163

1. The appeal is dismissed.

Appeal B: APP/E0915/H/21/3285905

2. The appeal is dismissed.

Procedural Matters

3. In respect of appeal B, I have taken the description of development from the Council's refusal notice as it more accurately describes the appeal proposal.
4. The Council has drawn my attention to the policies it considers to be relevant to this appeal and I have taken them into account as a material consideration. However, powers under the Regulations to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. In my determination of this appeal, the Council's policies have not therefore, by themselves, been decisive.

5. I have determined an appeal for shop front alterations at the site and this is the subject of a separate appeal decision.¹

Main Issue

6. The main issue in respect of both appeals is the effect of the signage on the visual amenity of the area.

Reasons

Appeal A: APP/E0915/H/21/3283163

7. It is proposed to retain a non-illuminated wall sign measuring about 2.6 metres by 1.3 metres on the Lismore Street elevation. The wall sign has blocked up an original ground floor window opening. The sign has a black background with white lettering and a yellow, white, red and blue logo.
8. The appeal property falls within a terrace where the ground floor and first floor windows are aligned. In this regard, there is a pleasing sense of design symmetry relating to the appeal property and the wider terrace. The sign has been installed over a ground floor window and it materially detracts from the aforementioned design symmetry. This harm is exacerbated in so far that the advertisement is large as a proportion of the ground floor elevation and includes bright colours in an area where surrounding building materials and other advertisements are finished in muted tones.
9. For the above reasons, I conclude that the wall sign appears incongruous in the street-scene, and on the appeal property, and hence significant harm has been caused to the amenity of the area. Consequently, it does not accord with the visual amenity requirements of policy SP6 of the Carlisle District Local Plan 2015-2030 (LP) and paragraph 136 of the National Planning Policy Framework 2021 (the Framework).

Appeal B: APP/E0915/H/21/3285905

10. It is proposed to install one illuminated fascia sign above a new shop front on the Lismore Street elevation and one illuminated fascia sign above a new shop front window on the Broad Street elevation. The aluminium signs would have a black background with white vinyl lettering and a yellow, white, red and blue logo. The application form states that the illumination would be static, but no details of illuminance levels have been provided.
11. I have separately found that the proposed shop front alterations would be harmful as part of the determination of a separate appeal. In combination with the shop front alterations, the advertisements would have the effect of departing unacceptably from the consistency of window proportions and fenestration details within the building and wider terrace that existed prior to unauthorised works commencing at the appeal site.
12. Furthermore, this is a predominantly residential area and while I do not have final illuminance details, I am concerned that the use internally illuminated signs would appear as stark and brash additions in this environment, at odds with the traditional simplicity of the Victorian buildings and architecture in the locality. This harm would be compounded in so far that the signs would include

¹ APP/E0915/W/21/3285877

the use of bright colours in an area where surrounding building materials and other advertisements are finished in muted tones.

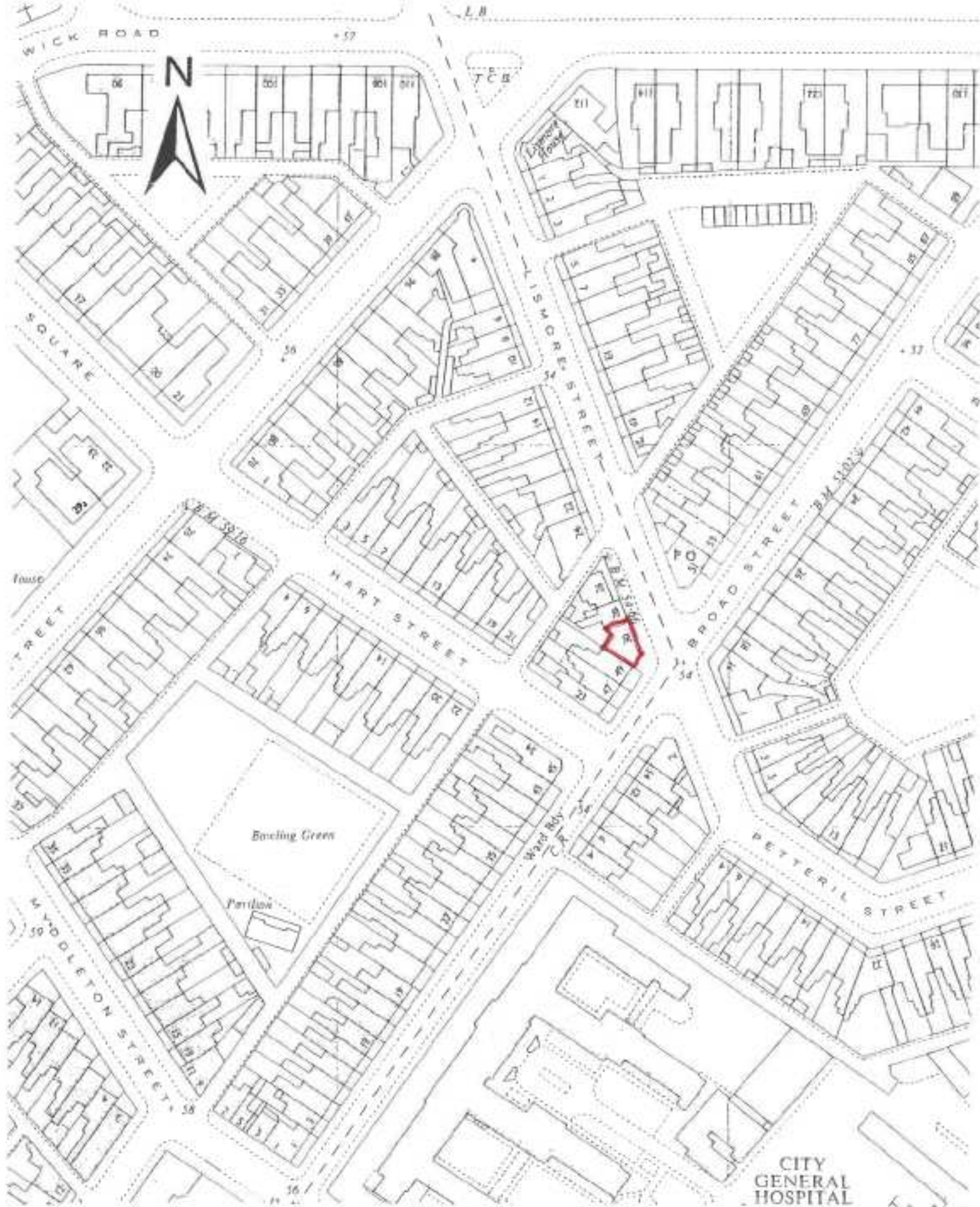
13. For the above reasons, I conclude that the proposed fascia signs would have a deleterious impact on the street-scene and the appeal property. Therefore, significant harm would be caused to the visual amenity of the area. Consequently, the proposal would not accord with the visual amenity requirements of policy SP6 of the Carlisle District Local Plan 2015-2030 (LP) and paragraph 136 of the National Planning Policy Framework 2021 (the Framework).

Conclusions – Appeal A and B

14. For the reasons outlined above, I conclude that both Appeal A and Appeal B should be dismissed. In reaching the above conclusions, I have taken into account the appellant's comment that the intention of the signs is to attract the attention of potential customers. I do no doubt that it would be possible to have some signage on the building, as was the case previously, without harm being caused to the visual amenity of the area. However, in this case the appellant's desire to attract the attention of customers does not outweigh my identified harm.

D Hartley

INSPECTOR



PROPOSED REPLACEMENT SHOP FRONT - 30 LISMORE STREET - CARLISLE

LOCATION PLAN

DRG. NO. 3294/1

SCALE : 1-1250

SCHEDULE B: Reports Requiring Further Information

21/0759

Item No: 12

Date of Committee: 08/04/2022

Appn Ref No:
21/0759

Applicant:
Mr S Mohammed

Parish:
Carlisle

Agent:
Jock Gordon Architectural
SVS Ltd

Ward:
Cathedral & Castle

Location: 30 Lismore Street, Carlisle, CA1 2AH

Proposal: Installation Of New Shop Front (Part Retrospective)

Date of Receipt:
29/07/2021

Statutory Expiry Date
23/09/2021

26 Week Determination

REPORT

Case Officer: Suzanne Osborne

1. Recommendation

2. Main Issues

3. Application Details

4. Summary of Representations

4.1 This application has been advertised by the display of a site notice and by means of notification letters sent to 15 neighbouring properties/interested parties. During the consultation period 17 objections have been received.

4.2 The objections cover a number of matters which are summarised as follows:

1. object to proposed opening hours and delivery service due to disturbance to the amenity of residential properties and proposal exacerbating existing parking issues;
2. impact on health and wellbeing;

3. design of shop not inkeeping with character of the local area or Victorian architecture;
4. shop previously had a traditional shop front;
5. works have already commenced on removing the existing shop front before the submission of the application and are now possibly irreversible;
6. works undertaken have altered the Lismore Street elevation as Victorian long window has been removed and bricks removed to ground level;
7. illuminated sign is inappropriate for residential area not in keeping with the Victorian area;
8. impact upon highway safety;
9. proposal is contrary to policies EC7, EC8 and HO12 of the Carlisle District Local Plan 2015-2030;
10. signage is already affixed to the building and is poor quality not inkeeping with the character of properties in the vicinity;
11. concerns that the applicant has commenced work without planning permission and would not adhere to any future planning conditions;
12. building should be reinstated to its condition prior to the unauthorised development;
13. concerns about waste and litter;
14. impact upon house prices;
15. welcome anyone developing a new business and reusing the premises which needed some renovation however the proposal destroys the residential amenity of the street;
16. safety of the work undertaken;
17. internal walls have been removed which are not included within any application;
18. accuracy of information submitted;
19. red aluminium windows are not appropriate for the area; and
20. site lies in close proximity to a conservation area.

5. Summary of Consultation Responses

6. Officer's Report

7. Planning History

- 7.1 The most relevant planning history is as follows:
- 7.2 In 1990 Full Planning Permission was granted for change of use from Use Class A1 to Use Class A3 (reference 90/0579);
- 7.3 In 1990 Advertisement Consent was granted for canopy adverts (reference 90/1003);
- 7.4 In 1991 Full Planning Permission was granted for renewal of permission for fish and chip shop (reference 91/0663);
- 7.5 In 1992 a variation of condition no.4 attached to 91/0663 was granted to allow opening on certain bank holidays (reference 92/0128);
- 7.6 In 1992 Advertisement consent was granted for installation of 4no.swan necked lights to illuminate existing canopies (reference 92/0126);
- 7.7 In 1997 Full Planning Permission was refused for the variation of condition 4 attached to permission no.91/0663 to allow premises to stay open between 11:30hrs to 22hrs Monday to Saturday. An Appeal was subsequently submitted and allowed subject to the imposition of a condition allowing the premises to stay open between 11:30 to 21hrs Monday to Saturday and not at any time on Sundays, Bank or Public Holidays;
- 7.8 In 2000 Full Planning Permission was granted for variation of condition to allow permission to be exercised by Mrs S Kidd (reference 00/0737);
- 7.9 In 2005 Full Planning Permission was granted for removal of condition no.3 of planning permission 00/0737 (reference 05/0773);
- 7.10 In 2021 an application was submitted seeking Advertisement Consent for the installation of 2no.internally illuminated fascia signs (reference 21/0756). At the time of preparing this report application 21/0756 was undetermined;
- 7.11 In August 2021 Advertisement Consent was refused for the continuation of display of non illuminated wall mounted signage (reference 21/0806); and
- 7.12 In August 2021 a Variation of Condition application was refused for the variation of condition 1 (opening hours) of previously approved permission 05/0773 to open takeaway 08:00 to 23:00 Monday to Sunday (7 days) including bank holidays (reference 21/0730).

Appeal Decision

Site visit made on 19 March 2022

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 March 2022

Appeal Ref: APP/E0915/W/21/3285877

30 Lismore Street, Carlisle, Cumbria CA1 2AH

- 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 S Mohammed against the decision of Carlisle City Council.
 - The application Ref 21/0759, dated 15 July 2021, was refused by notice dated 13 September 2021.
 - The development proposed is described as the 'installation of a new shop front and fascia signage'.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The evidence is that work commenced in respect of the shop front in July 2021. As part of my site visit, I was able to see that this work had commenced. I am therefore determining the appeal on a partly retrospective basis. The description of development in the planning application form includes reference to fascia signage. This is not development and is controlled as part of the advertisement regulations. I am separately dealing with appeals relating to the installation of advertisements on the property¹.
3. Given the above, I have therefore determined the appeal on the basis of the description of development in the Council's refusal notice and appellant's appeal form which is a '*new shop front*'.

Main Issue

4. The main issue is the effect of the development on the character and appearance of the area.

Reasons

5. The appeal site is positioned within a terrace of buildings at the corner of Broad Street and Lismore Street. It is in use as a hot food take-away and work has already commenced in terms of the shop front alterations. The evidence is that the original and former shop front windows had a vertical emphasis and included Victorian detailing such as wooden pilasters and, on the Broad Street elevation, a wooden stallriser. In addition, there were sills and headers matching the appearance of other properties in the Lismore/Broad Street terrace.

¹ Appeal Ref Nos APP/E0915/H/21/3283163 and 3285905

6. While the predominant land use in the area is residential, there is no doubt that prior to works commencing on the site, the appeal building shared a uniformity of design detailing with other properties in the area including window sizes, sills, headers, recessed doorways and other decorative features. Consequently, the appeal building, including its shop front, contributed positively to a visually attractive and traditional form of architecture in the locality.
7. The development has significantly widened the shop front windows to the broad Street and Lismore elevations. This departs significantly from the otherwise verticality of the windows in the area and results in a building where, in respect of the elevations, there is greater emphasis on glass as distinct from breaking up the elevations with the use of brick walls.
8. The use of red aluminium frames, which are more modern in appearance, exacerbates the above harm and represents a further departure from the more traditional architecture and materials that are prevalent in this area. Overall, the proposal would conflict with policy EC7 of the Carlisle District Local Plan 2015-2030 (LP) which states that *'well designed and appropriate shop fronts, whether original or reproduction, should be retained wherever practicable and if necessary restored when the opportunity arises'*.
9. For the above reasons, I conclude that the development looks incongruous in the street-scene and significant harm has been caused to the character and appearance of the area. It does not therefore accord with the design, character and appearance requirements of policies EC7, SP6 and HO12 of the LP; chapter 12 of the National Planning Policy Framework 2021 and the Council's Shopfront Design Guide SPD.

Other Matters

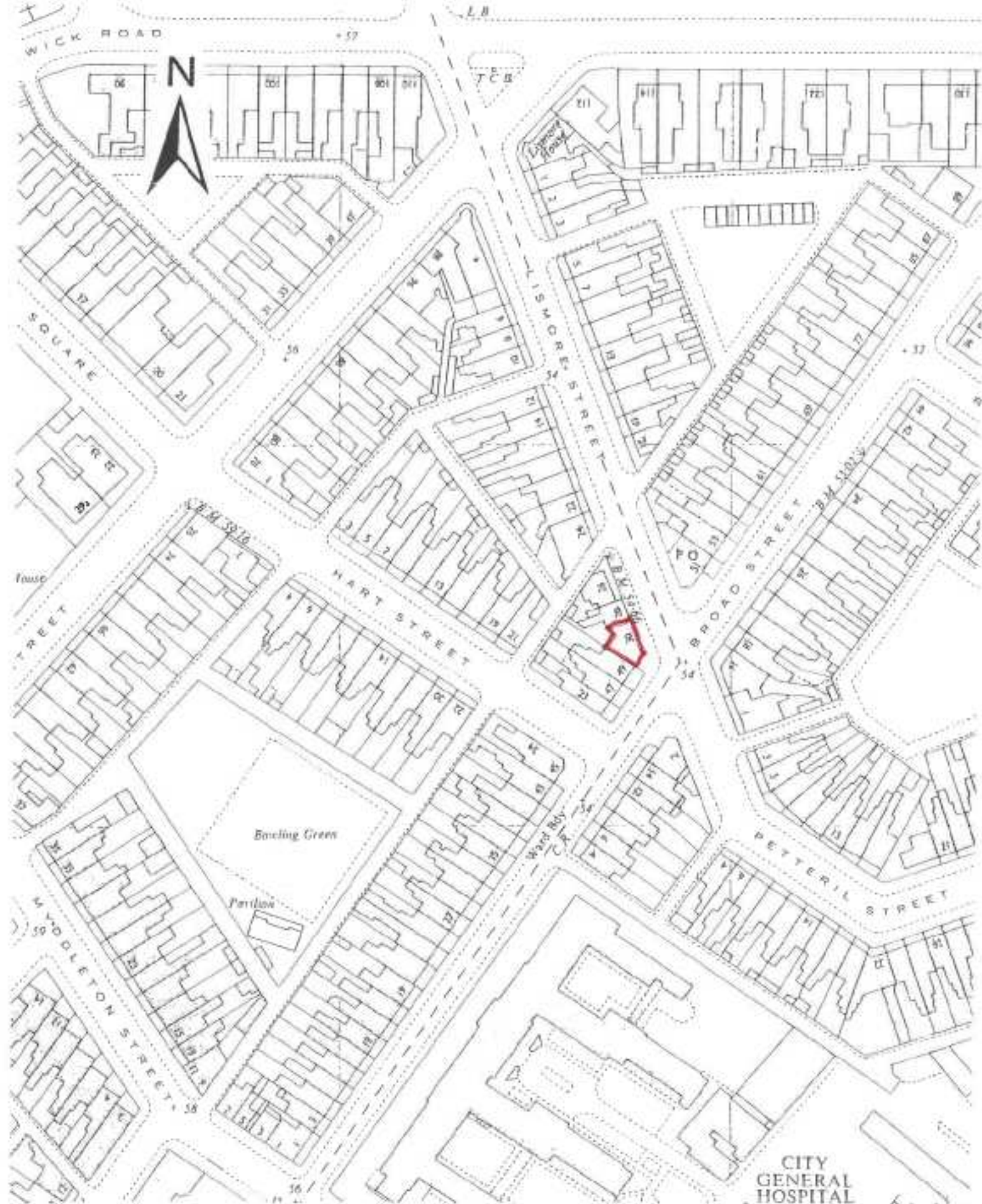
10. I acknowledge the appellant's comment that he is renovating the building internally to bring it up to date to the latest takeaway catering standards. While the appellant may also desire to improve the external appearance of the property at the same time, it is nonetheless necessary that this is done in such a way that harm is not caused to the character and appearance of the area.
11. I acknowledge that as this is a hot food take-away facility, it is necessary to have reasonably sized windows so that customers can see inside. I am not, however, persuaded that in this case larger windows than the originals are a pre-requisite in terms of attracting passing trade. The use of sensitive advertisements and internal lighting would draw sufficient attention from this point of view. In any event, the harm that has been caused to the character and appearance of the area is a matter of overriding concern.

Conclusion

12. For the reasons given above, I conclude that the development would not accord with the development plan for the area taken as a whole and there are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, the appeal should be dismissed.

D Hartley

INSPECTOR



PROPOSED REPLACEMENT SHOP FRONT - 30 LISMORE STREET - CARLISLE

LOCATION PLAN

DRG. NO. 3294/1

SCALE : 1-1250

SCHEDULE B: Reports Requiring Further Information

21/0806

Item No: 13

Date of Committee: 08/04/2022

Appn Ref No:
21/0806

Applicant:
Mr S Mohammed

Parish:
Carlisle

Agent:
Jock Gordon Architectural
SVS Ltd

Ward:
Cathedral & Castle

Location: 30 Lismore Street, Carlisle, CA1 2AH

Proposal: Continuation Of Display Of Non Illuminated Wall Mounted Signage

Date of Receipt:
11/08/2021

Statutory Expiry Date
06/10/2021

26 Week Determination

REPORT

Case Officer: Suzanne Osborne

1. Recommendation

2. Main Issues

3. Application Details

4. Summary of Representations

4.1 This application has been advertised by the display of a site notice and by means of notification letters sent to 51 neighbouring properties/interested parties. During the consultation period 11 objections have been received.

4.2 The objections cover a number of matters which are summarised as follows:

1. sign is not black and white, approximately 1/3 is in full garish colours;
2. accuracy of information supplied;
3. advert does not fit in with Victorian architecture of the area;

4. sign is an eyesore;
5. sign has already been erected and should be removed;
6. sign will cause a distraction to drivers negotiating busy crossroads that is already an accident blackspot;
7. sign is inappropriate for a residential area;
8. sign has been installed in front of a window blocking out natural light to the rear of the premises;
9. sign is not on the wall containing the shop window;
10. sign harms the visual amenities of the area; and
11. concern that application is not adhering to planning rules and regulations.

5. Summary of Consultation Responses

Cumbria County Council - (Highways & Lead Local Flood Authority): - no objection subject to the imposition of one condition.

6. Officer's Report

7. Planning History

- 7.1 The most relevant planning history is as follows:
- 7.2 In 1990 Full Planning Permission was granted for change of use from Use Class A1 to Use Class A3 (reference 90/0579);
- 7.3 In 1990 Advertisement Consent was granted for canopy adverts (reference 90/1003);
- 7.4 In 1991 Full Planning Permission was granted for renewal of permission for fish and chip shop (reference 91/0663);
- 7.5 In 1992 a variation of condition no.4 attached to 91/0663 was granted to allow opening on certain bank holidays (reference 92/0128);
- 7.6 In 1992 Advertisement consent was granted for installation of 4no.swan necked lights to illuminate existing canopies (reference 92/0126);
- 7.7 In 1997 Full Planning Permission was refused for the variation of condition 4 attached to permission no.91/0663 to allow premises to stay open between 11:30hrs to 22hrs Monday to Saturday. An Appeal was subsequently submitted and allowed subject to the imposition of a condition allowing the

premises to stay open between 11:30 to 21hrs Monday to Saturday and not at any time on Sundays, Bank or Public Holidays;

- 7.8 In 2000 Full Planning Permission was granted for variation of condition to allow permission to be exercised by Mrs S Kidd (reference 00/0737);
- 7.9 In 2005 Full Planning Permission was granted for removal of condition no.3 of planning permission 00/0737 (reference 05/0773);
- 7.10 In 2021 an application was submitted seeking Full Planning Permission for the installation of a new shop front (reference 21/0759). At the time of preparing this report application 21/0759 was undetermined;
- 7.11 In 2021 an application was submitted seeking Advertisement Consent for the installation of 2no.internally illuminated fascia signs (reference 21/0756). At the time of preparing this report application 21/0756 was undetermined; and
- 7.12 In 2021 an application was submitted seeking the variation of condition 1 (opening hours) of previously approved permission 05/0773 to open takeaway 08:00-23:00 hours Monday to Sunday (7 days) including Bank Holidays (reference 21/0730). At the time of preparing this report application 21/0730 was undetermined.

Appeal Decisions

Site visit made on 19 March 2022

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 March 2022

Appeal A: APP/E0915/H/21/3283163

30 Lismore Street, Carlisle, Cumbria CA1 2AH

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mr S Mohammed against the decision of Carlisle City Council.
 - The application Ref 21/0806, dated 9 August 2021, was refused by notice dated 3 September 2021.
 - The advertisement proposed is a wall sign.
-

Appeal B: APP/E0915/H/21/3285905

30 Lismore Street, Carlisle, Cumbria CA1 2AH

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mr S Mohammed against the decision of Carlisle City Council.
 - The application Ref 21/0756, dated 19 July 2021, was refused by notice dated 13 September 2021.
 - The advertisement proposed is the installation of 2 No internally illuminated fascia signs.
-

Decisions

Appeal A: APP/E0915/H/21/3283163

1. The appeal is dismissed.

Appeal B: APP/E0915/H/21/3285905

2. The appeal is dismissed.

Procedural Matters

3. In respect of appeal B, I have taken the description of development from the Council's refusal notice as it more accurately describes the appeal proposal.
4. The Council has drawn my attention to the policies it considers to be relevant to this appeal and I have taken them into account as a material consideration. However, powers under the Regulations to control advertisements may be exercised only in the interests of amenity and public safety, taking account of any material factors. In my determination of this appeal, the Council's policies have not therefore, by themselves, been decisive.

5. I have determined an appeal for shop front alterations at the site and this is the subject of a separate appeal decision.¹

Main Issue

6. The main issue in respect of both appeals is the effect of the signage on the visual amenity of the area.

Reasons

Appeal A: APP/E0915/H/21/3283163

7. It is proposed to retain a non-illuminated wall sign measuring about 2.6 metres by 1.3 metres on the Lismore Street elevation. The wall sign has blocked up an original ground floor window opening. The sign has a black background with white lettering and a yellow, white, red and blue logo.
8. The appeal property falls within a terrace where the ground floor and first floor windows are aligned. In this regard, there is a pleasing sense of design symmetry relating to the appeal property and the wider terrace. The sign has been installed over a ground floor window and it materially detracts from the aforementioned design symmetry. This harm is exacerbated in so far that the advertisement is large as a proportion of the ground floor elevation and includes bright colours in an area where surrounding building materials and other advertisements are finished in muted tones.
9. For the above reasons, I conclude that the wall sign appears incongruous in the street-scene, and on the appeal property, and hence significant harm has been caused to the amenity of the area. Consequently, it does not accord with the visual amenity requirements of policy SP6 of the Carlisle District Local Plan 2015-2030 (LP) and paragraph 136 of the National Planning Policy Framework 2021 (the Framework).

Appeal B: APP/E0915/H/21/3285905

10. It is proposed to install one illuminated fascia sign above a new shop front on the Lismore Street elevation and one illuminated fascia sign above a new shop front window on the Broad Street elevation. The aluminium signs would have a black background with white vinyl lettering and a yellow, white, red and blue logo. The application form states that the illumination would be static, but no details of illuminance levels have been provided.
11. I have separately found that the proposed shop front alterations would be harmful as part of the determination of a separate appeal. In combination with the shop front alterations, the advertisements would have the effect of departing unacceptably from the consistency of window proportions and fenestration details within the building and wider terrace that existed prior to unauthorised works commencing at the appeal site.
12. Furthermore, this is a predominantly residential area and while I do not have final illuminance details, I am concerned that the use internally illuminated signs would appear as stark and brash additions in this environment, at odds with the traditional simplicity of the Victorian buildings and architecture in the locality. This harm would be compounded in so far that the signs would include

¹ APP/E0915/W/21/3285877

the use of bright colours in an area where surrounding building materials and other advertisements are finished in muted tones.

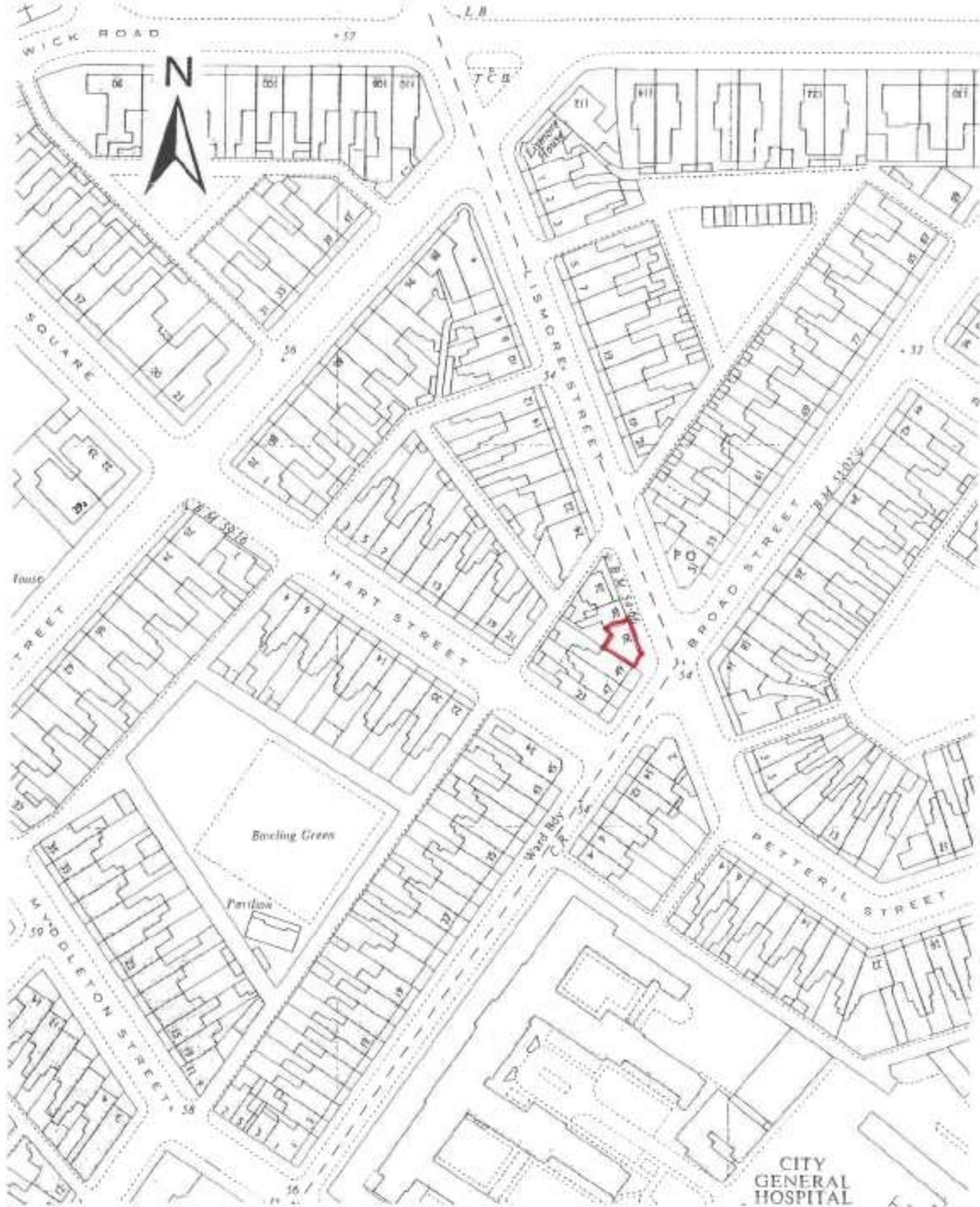
13. For the above reasons, I conclude that the proposed fascia signs would have a deleterious impact on the street-scene and the appeal property. Therefore, significant harm would be caused to the visual amenity of the area. Consequently, the proposal would not accord with the visual amenity requirements of policy SP6 of the Carlisle District Local Plan 2015-2030 (LP) and paragraph 136 of the National Planning Policy Framework 2021 (the Framework).

Conclusions – Appeal A and B

14. For the reasons outlined above, I conclude that both Appeal A and Appeal B should be dismissed. In reaching the above conclusions, I have taken into account the appellant's comment that the intention of the signs is to attract the attention of potential customers. I do no doubt that it would be possible to have some signage on the building, as was the case previously, without harm being caused to the visual amenity of the area. However, in this case the appellant's desire to attract the attention of customers does not outweigh my identified harm.

D Hartley

INSPECTOR



PROPOSED REPLACEMENT SHOP FRONT - 30 LISMORE STREET - CARLISLE

LOCATION PLAN

DRG. NO. 3294/1

SCALE : 1-1250

SCHEDULE B: Reports Requiring Further Information

21/0952

Item No: 14

Date of Committee: 08/04/2022

Appn Ref No:
21/0952

Applicant:
Morton Garden Buildings
Ltd

Parish:
Beaumont

Agent:
LRJ Planning Ltd

Ward:
Dalston & Burgh

Location: Fairview, 3 Harrison Gardens, Monkhill, Burgh By Sands, Carlisle, CA5 6DF

Proposal: Erection Of Summerhouse

Date of Receipt:
13/10/2021

Statutory Expiry Date
08/12/2021

26 Week Determination

REPORT

Case Officer: Laura Brice

1. Recommendation

2. Main Issues

3. Application Details

4. Summary of Representations

4. This application has been advertised by means of notification letters sent to two neighbouring properties. During the consultation period there have been no representations made.

5. Summary of Consultation Responses

Beaumont Parish Council: - no comments

Historic England - North West Office: - not against the proposal in principle

but concerns initially over the impact of the hardstanding/foundations required for the summerhouse on the archaeology of the Vallum, as well as the location proposed since *"the current location of the summerhouse would cause a degree of harm to the current open setting of the line of the Vallum"*,

During the site visit it was noted that the hardstanding for the summerhouse was already in place. Confirmed with the agent that the existing hardstanding is the full extent required for the summerhouse and relayed this information to HE. As such, re-locating the proposed summerhouse would require additional hardstanding to be placed elsewhere.

A final comment that *"The site remains a scheduled monument - in addition to planning permission any summerhouse will require scheduled monument consent (SMC). We would advise that any permission issued should have an advisory note attached to remind the applicant of the need for SMC for this development"*.

6. Officer's Report

7. Planning History

7.1 There is a long and varied planning history for this application site. In 2015 full planning permission was granted for the erection of No.3 dwellings (reference 14/0258). Further applications revised these plans with the latest permission granted in 2020 (reference 19/0895). Due to their location within Hadrian's Wall World Heritage Site Buffer Zone, Permitted Development rights were removed for the properties from the first planning permission in 14/0258. This application relates to the erection of a summerhouse within one of the properties.



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: 24th February 2022

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

SITE LOCATION PLAN
 AREA 2 HA
 SCALE 1:1250 on A4
 CENTRE COORDINATES: 334500, 558569



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