# **SCHEDULE A: Applications with Recommendation**

21/0038

Item No: 01	Date of Committee: 30/04/2021		
<b>Appn Ref No:</b> 21/0038	Applicant: East Brownrigg Itd	<b>Parish:</b> Beaumont	
	<b>Agent:</b> Concept Architectural Design Itd	<b>Ward:</b> Dalston & Burgh	
Location: Land to the rea	r of Hallcroft, Monkhill, Carlis	le, CA5 6DB	
<b>Proposal:</b> Erection Of 7nc Outline Permise	o. Dwellings (Reserved Matte sion 18/0994)	rs Application Pursuant To	
<b>Date of Receipt:</b> 24/02/2021	Statutory Expiry Date 21/04/2021	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 Residential Development Is Acceptable
- 2.2 Whether The Scale, Design Is Acceptable
- 2.3 The Impact Of The Development On Hadrian's Wall Buffer Zone
- 2.4 The Impact Of The Development On The Character And Setting Of The Grade II Listed Buildings
- 2.5 The Impact Of The Proposal On The Living Conditions Of Neighbouring Properties
- 2.6 Highway And Access Issues
- 2.7 Foul and Surface Water Drainage
- 2.8 Impact Of The Proposal On Biodiversity

## 3. Application Details

The Site

- 3.1 The application seeks outline planning permission for the erection of seven dwellings. The site is located on the western side of the road leading from Monkhill to Moorhouse. To the north lies a cul-de-sac of six residential properties, to the south are agricultural buildings and dwellings and to the west are 3 bungalows. Agricultural land adjoins the site to the east.
- 3.2 The application site is currently in agricultural use and relatively level; however, the land to the north and west is at a lower level. The site is relatively open with only an established hedgerow and trees along the northern boundary. A vehicular access exists from the west between two bungalows.

## Background

- 3.3 Outline planning permission was granted in 2014 for the erection of seven dwellings, including two affordable units and the change of use of agricultural land to domestic garden to serve the property known as 'Hallcroft'.
- 3.4 In 2015, outline planning permission was granted which was a renewal of the 2014 permission with the exception that the affordable housing contribution was to be by way of a financial contribution rather than on-site provision.

#### The Proposal

- 3.5 The current application seeks reserved matters approval for the erection of seven dwellings on the site following the grant of outline planning permission. All other matters remain subject to the planning conditions attached to the outline planning permission and the matters under consideration as part of this application are limited to the layout, scale, appearance, access and landscaping.
- 3.6 The submitted layout plan shows the development utilising the existing access into the site. A central access road would be constructed centrally through the site which would serve the properties. The development would comprise of four two storey detached houses with double integral garages along the northern boundary; adjacent to the southern boundary would be a single storey bungalow; and adjacent to the eastern boundary would be a further two detached two storey houses with double integral garages.

## 4. Summary of Representations

- 4.1 This application has been advertised by means of a site notice and direct notification to the occupiers of 43 of residential properties. In response, ten letters of objection have been received and the main issues raised are summarised as follow:
  - 1. the site lies within a world heritage site and a scheduled monument any new development, other than on established farmsteads or previously developed land is not permitted. The case and need for housing to be built on such a site has not been established by the local authority;

- 2. the proposed site access off Monkhill Road is inadequate for the size of the proposed development. The local authority needs to advise how this site access hazard will be overcome as part of the development. The noise and vehicle movement impact on the two neighbouring properties, Hall Croft and Gracelands will be severely detrimental to the value of both properties. The increased vehicle movements will be both hazardous and affect the adjoining property owner's quiet enjoyment;
- 3. the site lies at the highest point in Monkhill village and will be clearly seen from the surrounding area. This is further compounded, with the proposal to build 6 houses out of the 7 plots development;
- 4. an archaeological survey of the proposed site is absent together with a proposed site level drawing;
- 5. there is an absence of any safe guards in terms of construction methodology, disruption mitigation measures and timescale for the construction of the development;
- 6. there is no demand for additional housing in Monkhill and the site does not form part of the local plan;
- 7. Two storey houses are not in keeping with the character of the area;
- 8. the development will result in construction over septic tanks and other infrastructure on the land;
- 9. the development could affect water pressure, wildlife, privacy and noise.

#### 5. Summary of Consultation Responses

**Cumbria County Council - (Highways & Lead Local Flood Authority):** - the following response has been received;

#### Local Highways Authority

The lengthy site history is noted with previous applications 06/1035, 13/0728, 15/0284 and 18/0994. The details submitted are unchanged from the previous, therefore all previous recommendations remain.

If the application is approved the applicant must not commence works, or allow any person to perform works, on any part of the highway until in receipt of an appropriate permit allowing such works. They will need to contact Streetworks Central streetworks.central@cumbria.gov.uk for the appropriate permit.

#### Lead Local Flood Authority (LLFA)

The (LLFA) has no records of minor surface water flooding to the site and the Environment Agency surface water maps do not indicate that the site is in an area of risk. The Planning Statement states surface water to soakaway and foul to package treatment.

#### **Conclusion**

The previous recommendations remain unchanged;

Cumbria Wildlife Trust: - no response received;

Local Environment - Environmental Protection: - no response received;

Historic England - North West Office: - no comment;

Local Environment, Waste Services: - no objection;

Natural England: - no objection;

**Beaumont Parish Council:** - the parish council supported the residents' objections.

A road traffic accident occurred as a vehicle was turning out of the junction.

Data has been obtained by the speed indicator device sited in Monkhill opposite the Drovers Rest over three months last summer. Over this period, 118399 vehicles travelled through Monkhill from the Carlisle direction and 686 were travelling at more than 50 mph and two at more than 70 mph. The Parish Council believe that this is a very dangerous junction. The visibility for exiting from this junction is simply not adequate for family-sized vehicles pulling out onto the main road and despite repeated requests for assistance by the Parish Council it has not proved possible for the traffic to be slowed.

On 27th November 2020 a vehicle pulled out of the lane scraped the fence and knocked over the lamp post.

Large vehicles regularly enter and exit the lane. A potential 14 extra vehicles using this junction every morning and evening will make the situation worse.

The wall belonging to the house at the corner has been damaged three times by vehicles trying to turn into the lane.

The situation regarding the access for maintenance of pipes and septic tanks belonging to the houses adjacent to the proposed development has not been resolved. There are currently 4 septic tanks with associated pipework in the field and two of the owners of properties that will be affected by this development have clearly said that they do not want to be part of a shared sewage treatment system which serves 11 houses. Despite the fact that the presence of underground infrastructure would not normally be a barrier to a site being built upon, we believe that this is not a "normal" situation. The Parish Council understand that a developer, Monkhill Developments Ltd, now has a financial interest in the property, nevertheless the existing right of access to the land still applies and is mentioned in the Title to the property.

The right of unimpeded access for 80 years to the septic tank and associated pipework granted to occupiers of neighbouring properties and their successors by the previous owners (and their successors in title to this land) in April 2004 has not been shown to be encompassed within this proposal. The drainage pipes from the septic tank run across the entire field. Although an "access corridor" to the septic tank has been suggested, the Parish Council does not see how 7 properties can be built on this site without

impinging on this right of access to both the septic tank and its associated inlet and outlet pipes.

Historically damage has been caused to the pipework caused by plant driven across the field. The sheer weight of any construction plant is likely to damage the pipework and any tarmac surface will make access to the pipework for future repair or replacement both expensive and disruptive for potential owners of new houses.

Although the parish council understand that exercise of this Deed of Grant may be a civil matter, and would need to be enforced by a court of law, the Parish Council cannot support a proposal which clearly transgresses parishioner's legal rights;

United Utilities: - 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 Development Plan for the purposes of the determination of this application comprise Policies SP1, SP2, SP6, HO2, IP2, IP3, IP4, IP6, CC5, CM5, HE1, HE3, GI3 and GI6 of the Carlisle District Local Plan 2015-2030 are of particular relevance. The City Council's Supplementary Planning Document 'Achieving Well Designed Housing' (SPD) is also a material planning consideration. The proposal raises the following planning issues.

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

- 6.3 The NPPF seeks to promote sustainable development and in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.
- 6.4 Outline planning permission was granted for development of this site for housing. Members will note the objections received in respect of this application, many of which refer to the principle of development being unacceptable and that the junction with the Carlisle to Burgh-by-Sands road is unsuitable for additional vehicles.
- 6.5 Members are reminded that the outline planning permission remains extant. This application seeks to address the reserved matters comprising of the layout, scale, appearance, access and landscaping. As such, the application must be considered in accordance with these matters alone and the issues raised are discussed in the following paragraphs.

## 2. Whether The Scale And Design Is Acceptable

6.6 Paragraphs 124 to 132 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 127 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."
- 6.7 It is further appropriate to be mindful of the requirements in paragraph 130 of the NPPF which states:

"Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used)."

6.8 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.

- 6.9 In addition to the planning policies, development should be appropriate in terms of quality to that of the surrounding area and should not have an adverse impact on the living conditions of the occupiers of adjacent residential properties. The SPD provides guidance as to minimum distances between primary windows in order to respect privacy and avoid overlooking. Any subsequent scheme would have to be mindful and have regard to the distances outlined in the SPD i. e. 12 metres between primary windows and blank gables and 21 metres between primary windows.
- 6.10 The City Council's Supplementary Planning Document "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)

- 6.11 The development would be set within the site to the rear of existing buildings and would not, therefore, occupy a prominent location within the village. The properties themselves would be of modern appearance but there is an eclectic mix of house styles in the village ranging from historic buildings through to modern, new- built properties. The buildings proposed as part of this application would therefore not be uncharacteristic of other properties in the locality.
- 6.12 The development achieves adequate amenity space within around the properties and the development as a whole with appropriate car parking provision. The scheme would be compliant with the requirements of the SPD and as such, the scale, deign and impact on the character and appearance of the area would be appropriate.

#### 3. The Impact Of The Development On Hadrian's Wall Buffer Zone

6.13 Although not part of the Hadrian's Wall Vallum, the site is within the buffer zone of Hadrian's Wall Military Zone World Heritage Site where policies require that proposals for development which would have an unacceptable impact on the character and/or setting of the World Heritage Site will not be permitted. Development within or adjacent to existing settlements, established farmsteads and other groups of buildings will be permitted, where it is consistent with other policies of this Plan, providing that the proposal reflects the scale and character of the existing group of buildings and there is no unacceptable adverse effect on the character and/or appearance of the Hadrian's Wall Military Zone World Heritage Site. 6.14 On the basis of the details submitted, Historic England has not raised any objection.

# 4. The Impact Of The Development On The Character And Setting Of The Grade II Listed Buildings

6.15 Pursuing sustainable development involves seeking positive improvements in the quality of the historic environment (paragraph 8).

Impact Of The Proposal On The Character And Setting of the Grade II Listed Buildings

- 6.16 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. 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).
- 6.17 Paragraph 195 of the NPPF states that local planning authorities should refuse consent for any development which would lead to substantial harm to or total loss of significance of designated heritage assets. However, in paragraph 196, the NPPF goes on to say that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 6.18 Criteria 7 of Policy SP7 seeks to ensure that development proposals safeguard and enhance conservation areas across the District. Policy HE3 of the local plan also indicates that new development which adversely affects a listed building or its setting will not be permitted. Any harm to the significance of a listed building will only be justified where the public benefits of the proposal clearly outweighs the significance.
  - i) the significance of the heritage asset and the contribution made by its setting
- 6.19 The Drovers Rest Inn and The Old Mill are both Grade II listed buildings and are located approximately 70 metres to the north and 20 metres to the west respectively.
  - ii) the effect of the proposed development on the settings of the Grade II listed buildings
- 6.20 Historic England has produced a document entitled 'Historic Environment Good Practice Advice in Planning Note 3 - The Setting of Heritage Assets' (TSHA). The TSHA document and the NPPF make it clear that the setting of a heritage asset is the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings

evolve. Elements of a setting may make a positive and negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

- 6.21 The NPPF reiterates the importance of a setting of a listed building by outlining that its setting should be taken into account when considering the impact of a proposal on a heritage asset (paragraph 194). However, in paragraph 196, the NPPF goes on to say that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 6.22 Section 66 (1) requires that development proposals consider not only the potential impact of any proposal on a listed building but also on its setting. Considerable importance and weight needs to be given to the desirability of preserving the adjoining listed buildings and settings when assessing this application. If the harm is found to be less than substantial, then any assessment should not ignore the overarching statutory duty imposed by section 66(1).
- 6.23 The development would be separated from the listed buildings by other non-listed intervening buildings and given the physical relationship, would not be read in the same context. As such, it is considered that the proposal (in terms of its location, scale, materials and overall design) would not be detrimental to the immediate context or outlook of the aforementioned adjacent listed buildings.

## 5. The Impact Of The Proposal On The Living Conditions Of Neighbouring Properties

- 6.24 Planning policies require that development proposals should not adversely affect the living conditions of occupiers of residential properties by virtue of inappropriate development, scale or visually intrusive.
- 6.25 Earlier in this report, reference is made to the SPD which is again relevant in consideration of this issue. Furthermore, criterion 7 of Policy SP6 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.
- 6.26 The buildings would be arranged around the central access road with the rear elevations facing the neighbouring properties. The rear of the properties along the northern boundary would be compliant with the minimum distances in the SPD. The outline planning permission remain subject to a condition requiring the agreement of finished floor levels which would also have to demonstrate that the building are constructed to a suitable height in relation to the neighbouring properties.
- 6.27 Given the orientation of the application site with adjacent properties, it is not considered that the living conditions of the occupiers of the remaining properties would suffer from losses in privacy or daylight and sunlight or

unacceptable levels of noise or disturbance due to the siting, scale and design of the property the development would not be over-dominant that merit the refusal of permission.

6.28 On this basis, the development would not conflict either the local plan policies or the council's SPD which requires a minimum distance of 21 metres between primary facing windows.

#### 6. Highway And Access Issues

- 6.29 The site is served by an existing vehicular access. Cumbria County Council, as the Highway Authority has raised no objection to the application which is subject to the previous highway conditions which requires the access to be constructed and drained to the appropriate standard; an area reserved for the parking of vehicles engaged in the construction process; and provisions of appropriate visibility splays.
- 6.30 This is a reserved matters application following the grant of outline planning permission to which the Highway Authority raised no objection. In light of the previous Highway Authority's comments, together with fact that the access is existing, it would be unreasonable to refuse the application on this basis.

#### 7. Foul and Surface Water Drainage

- 6.31 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. These matters are subject to conditions relating to the outline application and will therefore be considered as part of a separate application.
- 6.32 Some of the objections received make reference to septic tank and infrastructure that is under the site and crosses the land and that development of the site would impede further access and maintenance contrary to already established way leaves and legal judgements.
- 6.33 The outline application was subject to condition 16 which states:

"Any subsequent application for Reserved Matters shall take account of existing underground infrastructure on the site and the layout shall take account of such to avoid inhibiting future access for maintenance and repair by the relevant entitled party."

6.34 The layout plans shows an access corridor for the occupiers of Gracelands and Bush Bank to service the septic tanks. In terms of additional infrastructure which crosses the site, the applicant has confirmed that he is aware of the potential for these services. He has stated that legal searches undertaken through his solicitor confirm that there is a drainage corridor which crosses the site and he has further clarified that the development has taken account of this. Notwithstanding this, any requirement to comply with an existing way leave or legal judgement would be a civil matter.

## 8. Impact Of The Proposal On Biodiversity

- 6.35 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.
- 6.36 The City 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 agricultural land, adjacent to existing buildings, it is unlikely that the proposal would affect any species identified; however, an informative should be included within the decision notice ensuring that if a protected species is found all work must cease immediately and the local planning authority informed.

## Conclusion

- 6.37 In overall terms, the principle of residential development has been established through the grant of the outline planning permission which remains extant. This application purely relates to the reserved matters which comprise the layout, scale, appearance, access and landscaping.
- 6.38 The scale and design would be appropriate to the site and would not result in an adverse impact on the wider character or appearance of the area. Similarly, the development would be acceptable in terms of the Hadrian's Wall World Heritage Site Buffer Zone.
- 6.39 The submitted plans take account of the highway issues and the living conditions of the occupiers of the neighbouring properties would not be prejudiced. The setting of any listed building would not be affected.
- 6.40 The development remains subject to 15 other planning conditions which seeks to further control the development, for example, through appropriate construction hours, highway detail, use of appropriate materials, finished floor levels, foul and surface water drainage etc.
- 6.41 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 An application for outline planning permission was submitted in 2006 for the erection of 12 dwellings but was withdrawn prior to determination.

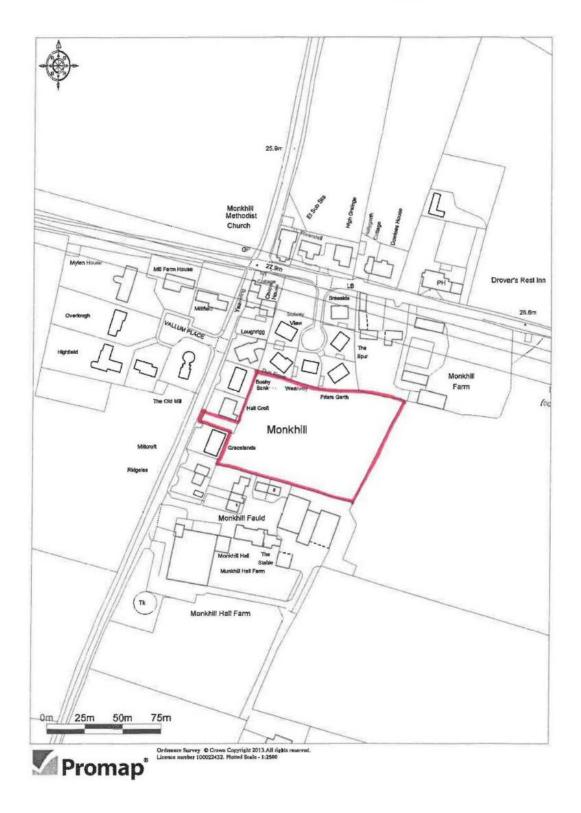
- 7.2 Outline planning permission was granted in 2014 for the erection of 7 dwellings, including 2 affordable units and the change of use of agricultural land to domestic garden to serve the property known as 'Hallcroft'.
- 7.3 In 2019, outline planning permission was granted for the erection of 7no. dwellings (outline/renewal of previously approved permission 15/0284).

## 8. Recommendation: Grant Permission

- 1. In discharge of requirements for the submission of detailed particulars of the proposed development imposed by conditions 1 and 2 attached to the outline planning consent to develop the site granted under reference 18/0994.
- 2. The development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:
  - 1. the Planning Application Form received 18th January 2021;
  - 2. the Site Location Plan received 18th January 2021;
  - 3. the Site Layout Plan received 2nd March 2021 (Drawing no. CA-272-06);
  - 4. the Plot 1 & 2 (Plot 2 Handed) received 18th January 2021 (Drawing no. CA-272-01 Rev A);
  - 5. the Plot 3 received 18th January 2021 (Drawing no. CA-272-02 Rev A);
  - 6. the Plot 4 & 6 (Plot 6 Handed) received 18th January 2021 (Drawing no. CA-272-03 Rev A);
  - 7. the Plot 5 received 18th January 2021 (Drawing no. CA-272-04 Rev A);
  - 8. the Plot 7 received 18th January 2021 (Drawing no. CA-272-05 Rev A);
  - 9. the Notice of Decision;
  - 10. any such variation as may subsequently be approved in writing by the local planning authority.

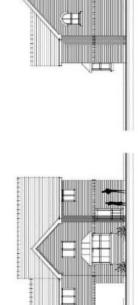
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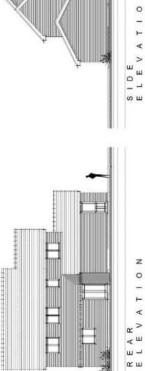
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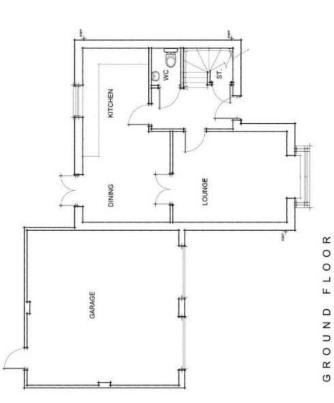


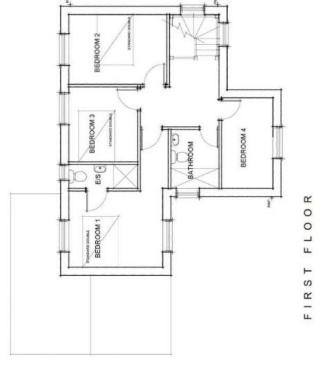




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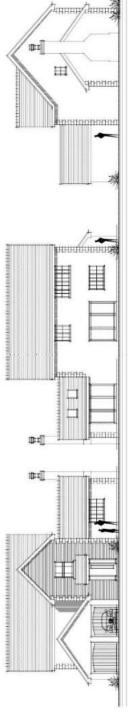
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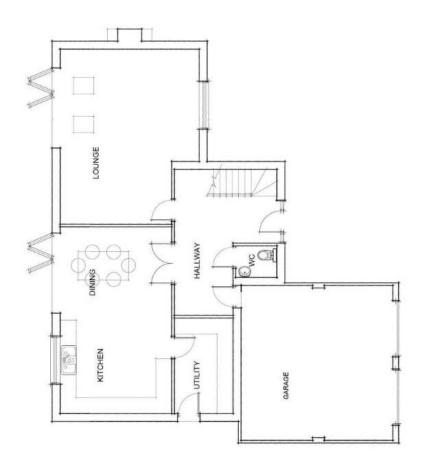
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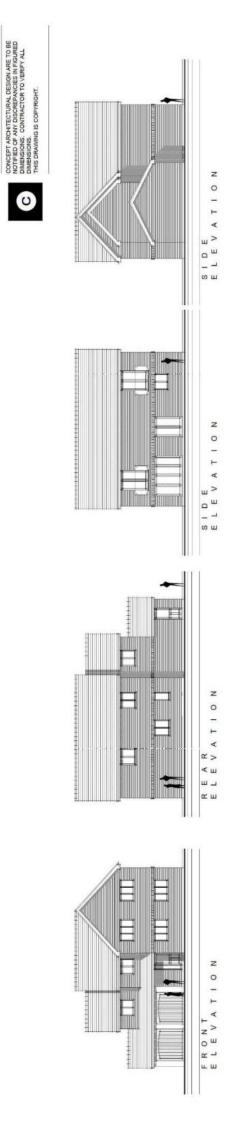


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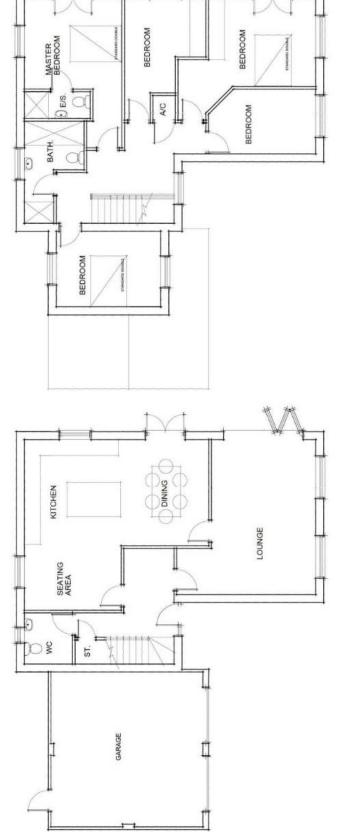
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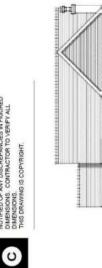


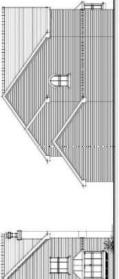


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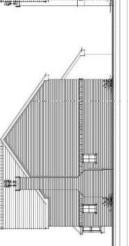


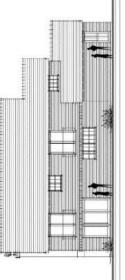
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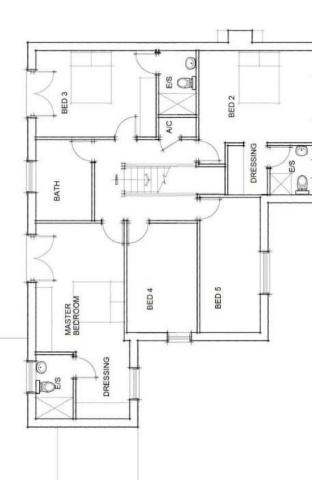


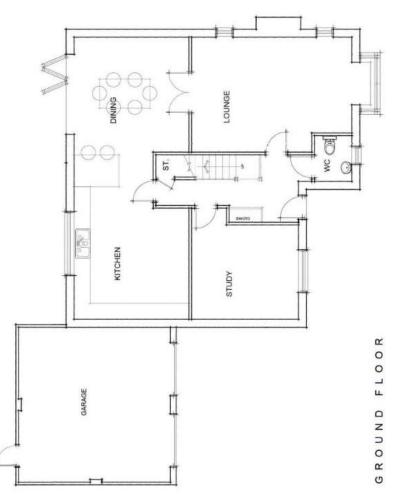










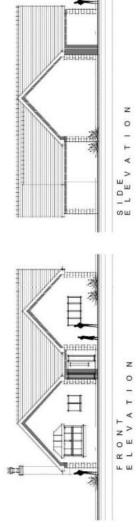




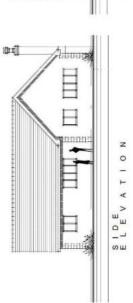
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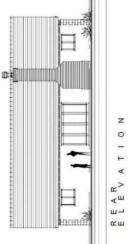


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