

# AGENDA

## Development Control Committee

Friday, 26 March 2021 AT 10:00

**This meeting will be a virtual meeting and therefore will not take place in a physical location.**

### **Virtual Meeting - Link to View**

This meeting will be a virtual meeting using Microsoft Teams and therefore will not take place at a physical location following guidelines set out in Section 78 of the Coronavirus Act 2020.

### **Register of Attendance and Declarations of Interest**

A roll call of persons in attendance will be taken and Members are invited to declare any disclosable pecuniary interests, other registrable interests and any interests, relating to any item on the agenda at this stage.

### **Apologies for Absence**

To receive apologies for absence and notification of substitutions.

### **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 - 12**

To note that Council, at its meeting of 2 March 2021, received and adopted the minutes of the Development Control Committee meetings held on 2 December 2020 (site visits), 4 December 2020, 4 January 2021 (site visits) and 6 January 2021. The Chair will sign the minutes at the first practicable opportunity.  
[Copy minutes in Minute Book 47(5)].

To approve the minutes of the meetings held on 19 February and 24 March (site visits) 2021.

## **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**

**13 -  
18**

#### **Item 01 - 21/0079 - Land adjacent to The Lodge, Bitts Park, Dacre Road, Carlisle, CA3 8UZ**

**19 -  
30**

#### **Item 02 - 20/0695 - Sundown Cottage, Burgh by Sands, Carlisle, CA5 6AX**

**31 -  
50**

#### **Item 03 - 20/0834 - Rose Cottage, Uppertown, Kirklington, Carlisle, CA6 6BD**

**51 -  
70**

<b><u>Item 04 - 21/0072 - 53/53a Scotland Road, Carlisle, CA3 9HT</u></b>	<b>71 - 82</b>
<b><u>Item 05 - 21/0048 - 1 Langdale Avenue, Carlisle, CA2 5QG</u></b>	<b>83 - 98</b>
<b><u>Item 06 - 20/0693 - 104 London Road, Carlisle, CA1 2PE</u></b>	<b>99 - 142</b>
<b><u>Item 07 - 21/0049 - Caldew Riverside (Lower Viaduct) Remediation Works, Carlisle</u></b>	<b>143 - 154</b>
<b><u>Schedule B – Applications Determined by Other Authorities</u></b>	<b>155 - 182</b>

## **PART B**

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

**-NIL-**

### **Members of the Development Control Committee**

**Conservative** – Christian, Finlayson, Meller, Morton, Nedved, Shepherd, Mrs Bowman (sub), Collier (sub), Tarbitt (sub)

**Labour** – Alcroft, Birks, Mrs Glendinning (Vice Chair), Miss Whalen, Patrick (sub), Dr Tickner (sub)

**Independent** - Tinnion (Chair), Paton (sub)

Enquiries, requests for reports, background papers etc to:

Jacqui Issatt, Committee Clerk - [jacqui.issatt@carlisle.gov.uk](mailto:jacqui.issatt@carlisle.gov.uk)

To register a Right to Speak at the meeting contact [DCRTS@carlisle.gov.uk](mailto:DCRTS@carlisle.gov.uk)



**DEVELOPMENT CONTROL COMMITTEE**

**FRIDAY 19 FEBRAURY 2021 AT 10.00 AM**

**PRESENT:** Councillor Tinnion (Chair), Councillors Alcroft, Birks, Christian, Collier (as substitute for Councillor Nedved) Glendinning, Finlayson, Meller, Morton, Shepherd and Whalen.

**OFFICERS:** Corporate Director of Governance and Regulatory Services  
Corporate Director of Economic Development  
Development Manager  
Principal Planning Officer  
Planning Officer x 3  
Mr Allan – Flood Development Officer, Cumbria County Council

**DC.016/21 APOLOGIES FOR ABSENCE**

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

**DC.017/21 DECLARATIONS OF INTEREST**

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

Councillor Christian declared an interest in respect application 20/0867 – Paton House, 9 Victoria Viaduct, Carlisle, CA3 8AN. The interested related to predetermination through participation in discussions and decision making relating to the site, in his capacity as a member of the Council's Executive.

Councillor Morton declared an interest in respect of application 19/0244 – Land at field 3486, Monkhill Road, Moorhouse, Carlisle. The interest related to objectors being known to him.

**DC.018/21 PUBLIC AND PRESS**

**RESOLVED** – That the Agenda be agreed as circulated.

**DC.019/21 MINUTES OF PREVIOUS MEETINGS**

**RESOLVED** - That the minutes of the meetings held on 8 January 2021 and 17 February (site visits) be approved.

**DC.020/21 PUBLIC REPRESENTATIONS IN RESPECT OF PLANNING APPLICATIONS**

The Corporate Director of Governance and Regulatory Services set out the process for those Members of the public who had registered a Right to Speak at the Committee.

**DC.021/21 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. Erection of 14no. Dwellings, Land at field 3486, Monkhill Road, Moorhouse, Carlisle (Application 19/0244).**

The Chair advised that due to a number of matters not having been resolved, that the application be withdrawn from discussion.

RESOLVED – That the item be withdrawn from discussion.

**2. Erection of 4no. Dwellings (Outline), Land to the north of Station View, Station Road, Cumwhinton, Carlisle, CA4 8DL (Application 20/0088)**

The Principal Planning Officer submitted the report on the application which had been the subject of a virtual site visit by the Committee on 17 February 2021. Slides were displayed on screen showing: location plan; block plan; access 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.

The Committee then gave consideration to the application.

In response to questions from Members, Officers confirmed:

- The speed survey had been undertaken in September 2020 when Covid 19 pandemic restrictions were less stringent. The survey had been carried out over a Monday – Friday timescale to take into account peak and non-peak traffic flows;
- The required visibility splays for the scheme were less than those ordinarily imposed in a 30mph speed restriction area, the reduced visibility splays were deemed acceptable on the basis of the speed survey findings;
- The scale of the proposed scheme did not warrant the installation of additional traffic calming measures, highway signage or upgrading of the footpath network;
- The woodland strip was outside the applicant's ownership, consideration may be given to the imposition of a Tree Preservation Order to protect the trees. A condition had been included in the Consent requiring measures to be implemented to protect the trees during the construction phase of the development;
- The layout of the scheme was a Reserved Matter and did not form part of the current application, the submitted layout plan was indicative only and therefore subject to change;
- The Committee were able to impose a condition restricting the number of dwellings developed at the site and the scale of the dwellings e.g. limiting them to single storey;
- It was unlikely that the existing Public Right of Way (PRoW) within the site would be re-routed as that would reduce the space available for development.

A number of Members expressed concern that 4 dwellings amounted to over development of the site which would negatively impact the residential amenity of neighbouring properties and highway safety. Following discussion, it was considered 3 dwellings was a more appropriate level of development for the site.

In considering the matter of the wooded strip, the Committee was of the view that the protection of the trees therein was necessary and requested that a condition be added to address the matter.

Further to a request from a Member that road markings and a secure walkway be provided as part of the scheme, the Principal Planning Officer undertook to liaise with the Highway Authority

on the matter, as that organisation had not requested such provision in its response to the application.

A Member moved:

- a) the Officer's recommendation, along with the imposition of conditions:
  - i) restricting the number of dwellings at the site to 3;
  - ii) requiring the implementation of measures to protect the trees contained within the wooded strip.
- b) That the Principal Planning Officer liaise with the Highway Authority in respect of the provision of road markings and a secure walkway on the highway adjacent to the site.

The proposal was seconded and, following voting it was:

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

2) That the following additional conditions be included in the permission:

- that the number of dwellings at the site be restricted to 3;
- that measures to protect the trees contained within the wooded strip be implemented.

3) That the Principal Planning Officer liaise with the Highway Authority in respect of the provision of road markings and a secure walkway on the highway adjacent to the site.

### **3. Erection of 1no. Dwelling, Land to the rear of The Hollies, Thurstonfield, Carlisle, CA5 6HD (Application 20/0388)**

The Planning Officer submitted the report on the application which had been the subject of a virtual site visit by the Committee on 17 February 2021. Slides were displayed on screen showing: location plan; proposed site plan; elevation plans; floor plans and photographs of the site, an explanation of which was provided for the benefit of Members.

Were the application to be approved, a condition had been recommended by the Highway Authority requiring the wall along the frontage of the application site to be reduced to 1.05 metres. The matter would require a separate application for Listed Building Consent.

In conclusion, the Planning Officer recommended that the application be approved subject to the conditions detailed in the report.

Mr Greig (Objector – on behalf of Ms Walker and Mr Reay) spoke against the proposal in the following terms: the proposal was contrary to paragraph 5.25 of Local Plan policy HO 3 – Housing in Residential Gardens as the future occupiers of The Hollies would have a substandard level of privacy due to the proximity of passing vehicles and pedestrians; the Highway Authority had initially objected to the proposal which had been withdrawn following the submission of visibility splay; the submitted plan detailing the splays was incorrect in respect of the depth of the eastern pavement meaning that the splay could not be achieved without crossing land in the ownership of a third party, that land included an existing wall of a height that was not permitted within the splay; the position of the proposed dwelling was over dominant in relation to Birch House; the proposal necessitated the loss of 20 trees within the site and the dwelling did not comply with the separation distances required in relation to remaining tree and hedgerows which was contrary to Local Plan policies GI 3 – Biodiversity and Geodiversity and GI 6 – Trees and Hedgerows.

Mr Grey (Applicant) responded in the following terms: the application had been discussed with neighbours and some amendments had been made to the proposed scheme based on the feedback received; the location of the proposed dwelling and its design had been considered so that the property would sit well within the site; the proposal would contribute to the vitality of the village; the scheme did not require 20 trees to be removed from the site; the visibility splays would ensure highway safety.

The Committee then gave consideration to the application.

In response to questions from Members, Officers confirmed:

- The applicant and Highway Authority had been in discussions regarding the visibility splays. The width of the pavements had been measured by the Planning Officer and the finding of the planning consultant were not disputed, however, it was an existing access and the Highway Authority had raised no objections, subject to the wall on eastern boundary being 1.05m high, which was confirmed by the Highway Authority representative;
- Any works to the wall at the eastern boundary of the site would be subject of a separate Listed Building Consent application;
- Condition 4 required the submission of a Construction Management Statement, which would limit the size of vehicles permitted to access the site, thus protecting the clay dabbin barn adjacent to the application site;
- The ownership of the boundary wall was shared between the applicant and a third party, a condition had been included, requiring the access road to be surfaced which would help to protect the boundary wall;
- Were the application to be approved a number of shrubs would be removed from the site, the work would be undertaken outwith the bird breeding season.

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

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

#### **4. Demolition of Building, Paton House, 9 Victoria Viaduct, Carlisle, CA3 8AN (Application 20/0867).**

*Councillor Christian, having declared an interest in the item of business took no part in the discussion nor determination of the item.*

The Principal Planning Officer submitted the report on the application, which had been the subject of a virtual site visit by the Committee on 17 February 2021. Slides were displayed on screen showing: site location plan; land ownership plan; ownership boundary site plan; block plan; proposed block plan; proposed 3D view 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.

The Committee then gave consideration to the application.

In response to questions from Members, Officers confirmed:

- A condition had been included in the Consent requiring a photographic record of the site to be undertaken prior to the building's demolition;
- All tenants who had previously operated from the building had secured new premises for their businesses.

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

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

*During consideration of the above item, Councillor Birks lost connection to the virtual meeting and took no part in the discussion nor determination of the items 4, 5 and 6.*

*The Committee adjourned at 11:24am and reconvened at 11:38am.*

**5. Erection of 2no. detached dwellings (Outline/Revised application), Land adjacent to Carwinley, Durdar Road, Carlisle, CA2 4SB (Application 20/0844)**

The Planning Officer submitted the report on the application. Slides were displayed on screen showing: location plan, block 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.

In response to a question from a Member, the Planning Officer confirmed that the road adjacent to the site was classed as unadopted highway and was therefore a civil matter out with the planning process.

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

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

**6. Residential Development (Outline) (Revised Application), Land adjacent to Shortdale Cottage, Tarraby Lane, Tarraby, Carlisle, CA3 0JT (Application 20/0692).**

The Development Manager submitted the report on the application which had been the subject of a virtual site visit by the Committee on 17 February 2021. Slides were displayed on screen showing: site location plan; site layout plan; Public Right of Way plan, and photographs of the site, an explanation of which was provided for the benefit of Members.

The application sought Outline Permission and was a revision of a planning permission granted in October 2019. An indicative layout had been submitted with the application, however, that plan would not be included in the Decision Notice, therefore the number of units was not restricted to the four shown therein. In order to control the number of dwellings on the site it would be advisable to restrict their number by the use of a planning condition based on consideration of the potential impacts of the proposed development.

The Highway Authority considered that the installation of two passing places would sufficiently deal with any potential vehicle conflicts along Tarraby Lane. Subject to planning conditions

stipulating that requirement and other conditions relating to access requirements and parking/turning of vehicles it had no objection.

In conclusion, the Development Manager recommended that the application be approved subject to the conditions detailed in the report.

Ms Titterington (Objector) spoke against the application in the following terms: approving the application would create a number of highway safety issues – increased vehicular movements on a narrow winding roads, the potential for vehicles (including agricultural and HGVs) to have to reverse large distances when meeting other vehicles, damage to the road surface and drainage infrastructure as a result of use by heavy vehicles; the proposed two passing places were insufficient; Tarrbay lane was well used by pedestrians and horse riders, increased traffic use would have a negative impact on their safety; the increase in the number of proposed dwellings meant plots were closer to the road; a highway report had been produced approximately 3 years ago, a current one was needed.

Mr Hutchinson (Objector – on behalf of Mr R MacDowall) spoke against the application in the following terms: approving the application would set a precedent for the future development of the remaining land at the site; the lack of detail submitted in relation to drainage may mean the Council having to accept a less preferential system based on the Cumbria Design Guide and SUDS Manual, the lack of detail meant that the Committee was not in position to determine the application; the form of the proposed scheme was in contrast to the rural character of the area and was therefore not accord with Paragraph 127 of the National Planning Policy Framework; the scheme would overwhelm two existing properties; Tarraby Lane linked to a number of other local footpaths and was a popular public amenity, as such there was a need to safeguard its rural nature; the increased vehicular movements would have a negative impact on highway safety; the application was contrary to Local Plan policies – SP 6 – Securing Good Design, SP 8 – Green Infrastructure, and SP 9 – Healthy and Thriving Communities.

Mr Nicholson (Stanwix Rural Parish Council) spoke against the application in the following terms: the site was no longer part of the allocated site U10 and its orientation had rotated 180° as such its impact on the Tarraby Conservation Area was different; the location of the site meant that it was effective akin to being in or adjacent to the Conservation Area making its impact thereon a material consideration; the proposed 4 dwellings would significantly increase the number of vehicles using Tarraby Lane, which was contrary to Local Plan policy HE 7 – Conservation Areas; the development would have a detrimental impact on Tarraby Lane due to increase vehicular movements – the Highway Authority response acknowledged the potential for increased traffic to create potential conflicts with other road users including pedestrians and horse riders; the proposed mitigation of providing two passing places would only lessen the issue it would not resolve it; the conditions requiring the provision for a vehicle turning area within the site and the provision of passing places on Tarraby Lane ought to be implemented prior to the commencement of the development; the proposed passing places ought to be constructed so as to allow them to be used by construction traffic; the application should be refused to enable the extant Outline Permission for 2 dwellings to be brought forward.

Mr Greig (Agent) responded in the following terms: the site was allocated in the Local Plan and was subject of an extant Outline Permission for two dwellings, thus the principle of development was accepted; the extant earlier granted permission formed the “fallback position” which was a material consideration in the determination of the current application; the indicative plan clearly demonstrated the site was able to accommodate 4 dwellings, Members had to consider whether the increased number of dwellings, over those already permitted at the site, rendered the

proposal non-compliant with planning policy; the principle issue relating to the scheme was acceptability of the increase in vehicle movements, the Highway Authority had stipulated conditions including the provision of two passing places on Tarraby Lane, but had not objected to the application.

The Committee then gave consideration to the application.

In response to questions from Members, Officers confirmed:

- The Outline nature of the application meant that the number of dwellings to be constructed was not defined. The Committee may impose a condition to restrict the number of dwellings, should Members consider it necessary to make the development acceptable;
- The extant Outline Permission constituted the fallback position, as the current application was similar to the previous permission there were very limited planning grounds on which to base refusal;
- The Highway Authority had requested a condition requiring the provision of two vehicle passing places on Tarraby Lane as it considered that number sufficient for the scale of the proposed development;
- Proposed condition 5 required the details of the passing places to be provided prior to the commencement of construction, Members had the option of amending the condition to require the installation to take place prior to construction.

In the context of Local Plan policy IP 2 – Transport and Development a Member considered that the scheme ought to be limited to two dwellings. He moved the Officer's recommendation along with imposition of a condition restricting the development to two dwellings. The proposal was seconded.

The Committee then discussed the matters relating to the timely provision of the two passing places and the provision of a vehicular turning area within the application site. The following additional conditions were proposed: that condition 5 be re-worded to require the provision of the passing places be implemented prior to construction and that a turning space for vehicles be provided within the application site. The mover and the seconder of the motion to approve the application agreed to the insertion of the additional conditions and following voting it was:

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

2) That the following additional conditions be included in the permission:

- that the development be restricted to two dwellings;
- that condition 5 be re-worded to require the provision of the passing places be implemented prior to construction;
- that a turning space for vehicles be provided within the application site.

*Councillor Birks re-joined the meeting.*

## **SCHEDULE B**

The Development Manager submitted the report which detailed other planning decisions taken within the district.

RESOLVED – That the report be noted.

[The meeting closed at 12:53pm]





# **Development Control Committee Main Schedule**

## **Schedule of Applications for Planning Permission**

26<sup>th</sup> March 2021

## 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-frame work--2](https://www.gov.uk/government/publications/national-planning-policy-frame-work--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](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](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](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 –

20/0834 - <https://publicaccess.carlisle.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

**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 11/03/2021 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 26/03/2021.

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.	<u>21/0079</u> A	Land adjacent to The Lodge, Bitts Park, Dacre Road, Carlisle, CA3 8UZ	<u>SD</u>
02.	<u>20/0695</u> A	Sundown Cottage, Burgh by Sands, Carlisle, CA5 6AX	<u>SO</u>
03.	<u>20/0834</u> A	Rose Cottage, Uppertown, Kirkclinton, Carlisle, CA6 6BD	<u>LT</u>
04.	<u>21/0072</u> A	53/53a Scotland Road, Carlisle, CA3 9HT	<u>JHH</u>
05.	<u>21/0048</u> A	1 Langdale Avenue, Carlisle, CA2 5QG	<u>BP</u>
06.	<u>20/0693</u> A	104 London Road, Carlisle, CA1 2PE	<u>SO</u>
07.	<u>21/0049</u> A	Caldew Riverside (Lower Viaduct) Remediation Works, Carlisle	<u>SD</u>
08.	<u>19/0971</u> B	Land adjacent The Coach House, Allenwood, Heads Nook, Brampton, CA8 9AG	<u>AC</u>
09.	<u>20/0213</u> B	Land Adjacent Woodside, Newby East, Wetheral, Carlisle, CA4 8RA	<u>SO</u>
10.	<u>20/0630</u> B	Land adjacent K C Superbikes, 23-27 Church Street, Carlisle, CA2 5TJ	<u>AC</u>
11.	<u>20/9012</u> B	Silvertop Quarry, Hallbankgate, Brampton, CA8 2PE	<u>AC</u>

## SCHEDULE A

Applications to be  
determined by the  
City Council.

## SCHEDULE A

## SCHEDULE A: Applications with Recommendation

21/0079

Item No: 01

Date of Committee: 26/03/2021

**Appn Ref No:**  
21/0079

**Applicant:**  
Green Spaces

**Parish:**

**Agent:**

**Ward:**  
Cathedral & Castle

**Location:** Land adjacent to The Lodge, Bitts Park, Dacre Road, Carlisle, CA3 8UZ

**Proposal:** Erection Of Temporary Hub Of Container Units, Interlinked To Provide Low Key Food And Drink Outlets

**Date of Receipt:**  
02/02/2021

**Statutory Expiry Date**  
30/03/2021

**26 Week Determination**

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### REPORT

**Case Officer:** Stephen Daniel

#### 1. Recommendation

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

#### 2. Main Issues

- 2.1 Whether The Proposal Is Acceptable In Principle
- 2.2 Whether The Scale And Design Would Be Acceptable
- 2.3 Impact Of The Proposal On Carlisle Castle, The City Centre Conservation Area And Archaeology
- 2.4 Flood Risk
- 2.5 Crime Prevention
- 2.6 Other Matters

#### 3. Application Details

##### The Site

- 3.1 The site is currently occupied by portacabins, which sit on a raised mound, and which are being used by the contractor that is undertaking works to improve the existing flood defences around Bitts Park. The site was previously occupied by a high ropes course and climbing wall, which was

enclosed by a 2.4m high mesh fence.

- 3.2 The Lodge adjoins the site to the east, with the children's play area adjoining the site to the west and tennis courts lying to the north. A grass area, which contains a number of trees, lies to the south and this is adjoined by Dacre Road beyond which lies Carlisle Castle.

## **The Proposal**

- 3.3 The application is seeking a temporary five-year planning permission for the container hub. The hub would consist of a series of containers situated within a courtyard arrangement, with the enclosed courtyard containing seating areas. The containers would range in size and would contain a range of uses which would include a cafe, street food units, a bar, retail units, makers space, a well being unit and an office space which would be occupied by a site manager. There is also an option to provide toilets but it is understood that the City Council intends to provide these elsewhere within the park.
- 3.4 The containers would sit directly upon the raised mound, with steps and ramps providing access from all sides. They would contain a large number of windows and would be finished in a dark grey painted finish with coloured artwork being added to the units. They would have a maximum height of 2.6m. Each entry point to the courtyard would have open timber pergolas spanning across the openings with lockable gates.
- 3.5 The containers would arrive ready converted and would be craned into position with only the internal works to be completed.

## **4. Summary of Representations**

- 4.1 This application has been advertised by means of three site notices and a notification letter sent to one neighbouring property. In response, one letter has been received which supports the previous plans to use the Lodge as a cafe.

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

**Cumbria County Council - (Highways & Lead Local Flood Authority):** no objections - proposal would not affect the highway or increase flood risk;

**Local Environment - Environmental Protection:** - all the individual street food units would need to comply with the food safety and hygiene regs;

**English Heritage - North West Region:** - no objections on heritage grounds;

**Environment Agency:** - no objections subject to conditions (anchoring down of units):

**Cumbria Constabulary - North Area Community Safety Unit:** - no



objections - crime prevention has been considered as part of the design;

**United Utilities:** - no objections subject to conditions (foul and surface water drained on separate systems; surface water discharging to soakaways).

## **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, SP8, HE2, HE3, HE7, CC4, IP3, IP6 and CM4 of the Carlisle District Local Plan 2015-2030.
- 6.3 The proposal raises the following planning issues.
  1. Whether The Proposal Is Acceptable In Principle
- 6.4 The proposal is seeking temporary planning permission to site a container hub within Bitts Park. The hub would include a cafe, a bar and various food outlets which would be used by visitors to the park and would enhance the visitor experience.
- 6.5 The site is within walking distance of the city centre and within 300m of the bus stops on West Tower Street. The proximity of the city centre and Carlisle Castle would allow linked trips to occur. In addition, Hardian's Wall Path and Sustrans Cycle Route 72 would pass near to the development.
- 6.6 The container hub would provide accommodation for a range of businesses. Units would be affordable and experience from other projects throughout the country suggests that they would be occupied by small, local independent businesses. A number of these would be new start up businesses who could test out new ideas and concepts in an affordable and safe environment. Experience from elsewhere has also shown that a number of these businesses grow and expand and move on to larger premises in the local area. The hub would also provide a creative space for local artists and performers to showcase their work as well as providing a safe venue for children and families both during the day and in the early evening.
- 6.7 The project is being funded by £150,000 from the Town Deal Capital Accelerated Fund. The funds have been identified for improvements to parks and green spaces.
- 6.8 In light of the above, the proposal would be acceptable in principle.

## 2. Whether The Scale And Design Would Be Acceptable

- 6.9 The containers would sit directly upon the existing raised mound, with steps and ramps providing access from all sides. They would be located within a single-storey courtyard arrangement and would have a maximum height of 2.6m.
- 6.10 The containers would have a contemporary feel and would become a focal point within this area of Bitts Park. They would contain large amounts of glazing on both the inward and outward facing elevations and this would allow visitors to Bitts Park to view the activities taking place within the units. It would also give customers visiting the units views out to the surrounding park and Carlisle Castle.
- 6.11 The containers would be finished in a dark grey painted finish with coloured artwork being added to the units to add visual interest. Each entry point to the courtyard would have open timber pergolas spanning across the openings with lockable gates.
- 6.12 The scheme is seeking to be based on 'green' credentials. Current ideas include providing green roofs on the containers, providing landscaping within and around the development and providing charging points for electric bikes.
- 6.13 In light of the above, the scale and design of the containers would be acceptable.

## 3. Impact Of The Proposal On Carlisle Castle, The City Centre Conservation Area And Archaeology

- 6.14 Carlisle Castle, which is Grade 1 Listed, lies approximately 70m to the south of the proposed container hub and the hub would be visible in certain views of the Castle from the park.
- 6.15 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".*

- 6.16 Policy HE3 of the adopted Local Plan seeks to ensure that Listed Buildings and their settings will be preserved and enhanced.
- 6.17 The application site lies within the City Centre 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".*

- 6.18 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.
- 6.19 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.
- 6.20 The applicant is accompanied by a Heritage Statement. This notes that as the containers are to be installed for a limited period there would be no long-term impact on the setting of Carlisle Castle. The containers would be located within a single-storey courtyard arrangement and a number of existing trees would help to screen the views between the site and the castle. The setting of the Castle is predominantly its relationship with the City and this would be unaffected by the development. The Heritage Statement concludes that the overall impact of the proposed development on the Castle is a minimal one.
- 6.21 Historic England has been consulted on the application. It notes that the development is within the City Centre Conservation Area, and separated by a narrow road from Carlisle Castle. Previous evaluation close to the site of the proposed development has demonstrated that well preserved archaeological remains, which fall into the category of 'nationally important but un-designated', as defined in the National Planning Policy Framework (NPPF), survive within the area. The proposed development has the potential to harm the setting of the Castle and the character of the Conservation Area, as well as to impact directly upon nationally important archaeological remains.
- 6.22 Historic England considers that the proposed development would be sited within one of the more unsightly areas of Bitts Park, the clutter of tennis courts and playground making no positive contribution to the character of the Conservation Area. The relatively low-key nature of the proposed development is unlikely to cause additional harm. Similarly, the massive bulk and commanding appearance of the Castle, which is undoubtedly the most striking historic feature in the northern part of the City Centre Conservation Area, would ensure that the construction of a low-level development of the kind proposed is unlikely to have any significant negative impact upon its setting.
- 6.23 In relation to archaeology, Historic England notes that the levels of parts of the area at the southern end of Bitts Park have been raised in recent years as a response to flooding. The proposed development would be sited on one

of these areas, and should not, therefore, impact upon the nationally important but undesignated archaeology beneath. Connecting into existing service runs, as proposed, should also reduce any risk of impact.

- 6.24 Government advice, as set out in the NPPF, is that harm to designated heritage assets should be avoided, and that any harm requires justification. In this case, Historic England considers the harm to the setting of the Castle and to the character of the Conservation Area to be very low, whilst the impact on nationally important archaeological remains would be minimal. Public benefits are claimed for the proposed development in supplying refreshments to users of Bitts Park, which currently lacks such facilities. Whilst that is unlikely to offer a high level of public benefit, it may well be sufficient to outweigh the low level of harm which the proposed development would cause to designated heritage assets and their settings.

#### 4. Flood Risk

- 6.25 The proposed development falls within Flood Zone 3, meaning it is at high risk of flooding without benefiting from flood defences. The development consists of container units which would have little or no impact on the flood water capacity in the area. In addition, the combination of the mass of units and lack of flood water flow or current means the units are able to resist potential movement in a flood event.
- 6.26 To reduce the impact of the site locally, the surface water runoff would mimic the natural conditions, which would be achieved through the use of SuDS. In addition, the site levels have already been raised locally to reduce the likelihood that flood water would affect the units. The elevated level of the site would also ensure that there is little or no standing water on the site which will allow the facilities to remain functional even after heavy rain.
- 6.27 To protect against flood waters affecting equipment within the units, sockets and appliances would be placed above the 1 in 100 year flood level. In addition, watertight shutters could be used to limit the damage caused internally. For flood events that do not exceed the finished flood levels, non-return valves should be installed on the foul water network to ensure effluent does not back up into the container village.
- 6.28 The Environment Agency has been consulted on the application and has confirmed that it has no objections to the proposed development which would be categorised as 'less vulnerable'. The proposed development is located in Bitts Park which is within Flood Zone 3 and in an area that is known to flood. The development would be at risk of flooding and the finished floor level of 14.2 metres AOD as proposed would be below the predicted 1 in 100 year flood level, without allowing for climate change. The development could potentially experience flood water inundation to a depth of 0.5 metres during the design flood.
- 6.29 The Environment Agency has reviewed the Flood Risk Assessment (FRA). Given the nature and scale of the proposed development, it is satisfied that the development would be safe without exacerbating flood risk elsewhere

provided that the proposed flood risk mitigation measures are implemented. The proposed development must proceed in strict accordance with this FRA and the mitigation measures identified as it will form part of any subsequent planning approval.

- 6.30 Since the FRA does not identify how the containers would be anchored to the ground the Environment Agency has requested that a condition is added to any permission to request these details.

## **5. Crime Prevention**

- 6.31 The containers would be secure with safety glass throughout, full locking door assemblies and they would be wired for intruder alarms. Each entry point to the courtyard would have lockable gates.
- 6.32 The Crime Prevention Officer has been consulted on the application. The scheme architects consulted with the Constabulary prior the application being submitted. It is evident from the published Design and Heritage Statement that crime prevention has been considered as part of the design of this development and thus demonstrates compliance with Policy CM4 of the Local Plan.

## **6. Other Matters**

- 6.33 The Lead Local Flood Authority has confirmed that it has no objections to the proposed development which would not increase flood risk on site or elsewhere.
- 6.34 United Utilities has confirmed that it has no objections to the proposals, subject to conditions to ensure that foul and surface water are drained on separate systems and surface water discharges into soakaways.

## **Conclusion**

- 6.35 The proposal would be acceptable in principle. The scale and design of the container hub would be acceptable and it would not have an adverse impact on the setting of Carlisle Castle, or the City Centre Conservation Area or on archaeology. The proposed development would be acceptable in relation to flood risk. 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 November 2013, planning permission was granted for the erection of a high ropes course with integrated climbing wall, including 2.4m high mesh fence to perimeter of site (13/0724).

## **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 3rd February 2021;
  2. Location Plan/ Block Plan/ General Site Massing & Layout (Dwg 2020-152-12B Rev B), received 3rd February 2021;
  3. General Floor Plan & Elevations (Dwg 2020-152-10), received 3rd February 2021;
  4. Drainage Layout (Dwg 664\_01 (DR) 100), received 3rd February 2021;
  5. Drainage Details (Dwg 664\_01 (DR) 101 P01), received 3rd February 2021;
  6. Design & Heritage Statement, received 3rd February 2021;
  7. Flood Risk Assessment, received 3rd February 2021;
  8. Drainage Statement, received 3rd February 2021;
  9. Transport & Deliveries Statement, received 3rd February 2021;
  10. Emergency Vehicle Access Statement, received 3rd February 2021;
  11. Waste & Refuge Statement, received 3rd February 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.
3. The development shall be removed in its entirety from the site and the land reinstated not later than the five years from the date of the permission. Removal and reinstatement of the site shall be undertaken in strict accordance with a scheme that shall first have been submitted to and approved in writing by the local planning authority.  
**Reason:** The application has been considered on the basis that the buildings will be removed following a specified temporary period.
4. Notwithstanding the details shown on the General Floor Plan, the containers hereby approved shall be used for food outlets, cafes, a bar, makers/ workshop space, health and well being space, retail space, a management office and for toilets for no other purpose unless otherwise agreed in writing

with the local planning authority.

**Reason:** To ensure that the development is occupied by appropriate uses and to accord with Policy SP2 of the Carlisle District Local Plan 2015-2030.

5. Prior to installation of any of the temporary units, details of the measures that will be implemented to ensure the temporary units are secured on site during a flood event must be submitted to, and approved in writing by, the local planning authority. Examples of measures includes anchoring (to a suitable extent) of the units.

**Reason** To reduce the risk of units being displaced during a flood event.

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

**Reason:** To secure proper drainage and to manage the risk of flooding and pollution.

7. The drainage for the development hereby approved, shall be carried out in accordance with principles set out in the submitted Drainage Layout dated 1/2/2021 proposing surface water discharging into soakaways.

No surface water will be permitted to drain directly or indirectly into the public sewer. Any variation to the discharge of foul shall be agreed in writing by the Local Planning Authority prior to the commencement of the development.

The development shall be completed in accordance with the approved details.

**Reason:** To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding.

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8	10/20/2019 12:00 PM	PLANNING ISSUE
9	10/20/2019 12:00 PM	<p>Black Box Architects Ltd 411 Thompson Street Calgary, Alberta Canada T2P 1K9 Tel: 403-242-2888</p> <p><b>BLACK BOX</b> ARCHITECTS</p> <p>www.blackbox-architects.com</p>
10	10/20/2019 12:00 PM	<p>Project: Billis Park Containers</p> <p>Category: Carriage</p> <p>Overview: General site massing and layout Site plan(s)</p> <p>Scale: 1/8" = 1'-0"</p> <p>Notes: 1/8" and 1/16"</p> <p>Client: G42-2032</p> <p>Job No: 2020-152-12B (rev B)</p>





PLANNING ISSUE	
Black Box Architects Ltd 11 Cambridge Gardens Cambridge CB2 3RQ Tel: 01223 402 200 info@blackboxarchitects.com	Black Box Architects Ltd 11 Cambridge Gardens Cambridge CB2 3RQ Tel: 01223 402 200 info@blackboxarchitects.com
Project	Bliss Park Containers Tribal Carriage
Drawing	General Floor Plan and Elevations
Drawn	1:100-500
Date	06/12/2020
Job No.	2020-152-10
Rev	Rev



## SCHEDULE A: Applications with Recommendation

20/0695

Item No: 02

Date of Committee: 26/03/2021

**Appn Ref No:**  
20/0695

**Applicant:**  
Mr Nicholson

**Parish:**  
Burgh-by-Sands

**Agent:**

**Ward:**  
Dalston & Burgh

**Location:** Sundown Cottage, Burgh by Sands, Carlisle, CA5 6AX

**Proposal:** Erection Of Detached Annexe

**Date of Receipt:**  
15/10/2020

**Statutory Expiry Date**  
10/12/2020

**26 Week Determination**  
26/03/2021

### REPORT

**Case Officer:** Suzanne Osborne

#### 1. Recommendation

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

#### 2. Main Issues

- 2.1 The principle of development;
- 2.2 Whether the proposal is appropriate to the dwelling and impact upon the existing street scene;
- 2.3 Impact of the proposal on the living conditions of neighbouring residents;
- 2.4 Impact upon Burgh by Sands Conservation Area;
- 2.5 Impact upon the Solway Coast Area of Outstanding Natural Beauty;
- 2.6 Impact upon Hadrian's Wall World Heritage Site;
- 2.7 Highway impacts;
- 2.8 Impact upon trees;
- 2.9 Impact upon biodiversity; and
- 2.10 Other matters.

#### 3. Application Details

##### The Site

- 3.1 Sundown Cottage is a two storey semi-detached property located on the northern side of the main road leading through Burgh by Sands village. The

property is set back approximately 16.5 metres from the road and sits within a relatively large plot, approximately 1072m<sup>2</sup> in area. The dwelling is constructed from rendered walls under a slate roof with white UPVC windows. The gable to the west is however clad externally in slate tiling.

3.2 The surroundings to the property are wholly residential with an attached two storey property to the east "Hewitt Cottage" and three bungalows (No.s 1, 4 and 5 Beech Croft) to the west. No.1 Beech Croft is set further forward than the front elevation of Sundown Cottage however No.s 4 and 5 Beech Croft are located perpendicular to the application site with their rear elevations facing towards the garden of Sundown Cottage.

3.3 The site is situated within Burgh by Sands Conservation Area, the Solway Coast Area of Outstanding Natural Beauty and within the buffer zone of Hadrian's Wall World Heritage Site.

## **Background**

3.4 In 2018 Members of the Development Control Committee granted Full Planning Permission for the erection of a two storey rear extension to the property to provide a kitchen/diner on the ground floor with bathroom, bedroom and balcony above together with erection of a detached garage (reference 18/0101). The submitted plans illustrated that an existing single storey conservatory, which wrapped round the north-western corner of the property, was to be demolished to provide the proposed development. An original section of part of the rear elevation was also to be rebuilt.

3.5 The submitted plans for application 18/0101 showed that the proposed extension was to project 6.75 metres from the original rear elevation of the property and be constructed from reclaimed brick work under a slate roof. The balcony was to be of oak frame construction with obscure glazed panels either side.

3.6 The proposed garage was to be set back in the rear garden of the property with a footprint of 37.12m<sup>2</sup>, an eaves height of 2.5 metres and a ridge height of 4.1 metres. The garage was to be constructed from reclaimed brick work under a slate roof with the doors constructed from timber.

3.7 At the time of the officer site visit for the current application the proposed rear extension has been constructed only.

## **The Proposal**

3.8 The application seeks full planning permission for the erection of a detached annexe within the rear garden of Sundown Cottage. The submitted plans illustrate that the annexe will have a total footprint of 46.8m<sup>2</sup>, an eaves height of 3.2 metres and a ridge height of 5.6 metres. The submitted plans illustrate that the accommodation will comprise of a bathroom and kitchen/lounge on the ground floor with a mezzanine bedroom provided above. The annexe will be positioned 5.5 metres from the western boundary

of the site, with the ground level lowered by 0.5m to ensure that the ridge height of the development is lower than the adjacent bungalow at No.5 Beech Croft to the west of the site. The annexe will include no windows on the western boundary with the main elevation orientated north facing towards the agricultural land located beyond the rear boundary of the application site.

- 3.9 The submitted plans illustrate that the host property (Sundown Cottage) and the annexe will share a vehicular access and parking as well as a garden area. The applicant has verbally confirmed that the annexe is to share services with the host dwelling and will be predominately for family members.
- 3.10 Members should be aware that when the application was first submitted the application sought approval for an annexe located 2 metres from the western boundary of the site with a ridge height higher than the neighbouring bungalows to the west. The application details have since been amended to that described in paragraph 3.8 above.

#### **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 5 neighbouring properties. In response to the original consultation one objection was received from the Ward Councillor on behalf of the occupier of a neighbouring property.
- 4.2 The objection is summarised as follows:
1. application is described as an annexe to Sundown Cottage which has already been substantially extended to the rear;
  2. it is assumed the proposal is being considered as back-land development in a residential garden assessed against Policy HO3;
  3. presume close proximity to hedge is to enable a separate access;
  4. sun lounge extension of neighbouring property is not shown on the block plan;
  5. distance of blank wall elevation of the proposed building from sun lounge of neighbouring property is approximately 10-12m;
  6. apex of roof is 5.7m compared to 4.15m of earlier approved garage;
  7. neighbouring properties are bungalows with windows facing onto the proposed building;
  8. concern regarding loss of amenity, light and privacy to neighbouring property;
  9. annexe is described in the dictionary as a 'supplementary building' implying a connection between the two. Block plan shows considerable

development of the site. As a separate dwelling with its own access it suggests that the proposal is a discrete development rather than an annexe;

10. not clear from the block plan how far the driveway is extended to provide an access and turning point suggesting over development of the original property; and

11. request for a site visit by Members.

4.3 Amended plans have been received during consideration of the application repositioning the annexe further into the site (5.5 metres away from the boundary with No.5 Beech Croft opposed to 2 metres), showing the positioning of the conservatory of Beech Croft, lowering the ground level where the annexe is to be located to ensure that the ridge height of the development is lower than the bungalows and showing the positioning of trees on the block plan. A further comment from the Ward Councillor has been received in respect of the amended plans which is summarised as follows:

1. increasing distance from 2 to 5.5 metres from the boundary is more acceptable but would prefer the annexe to be moved in the direction of the main building rather than being in front of the neighbouring conservatory;
2. lowering of height is welcome;
3. no objection to the felling of the tree with pronounced lean and few branches;
4. general observation is that the proposal appears to be a separate dwelling in its own right rather than an annexe which you might normally see attached to a back of a building as such proposal has elements of back land development.

## 5. Summary of Consultation Responses

**Cumbria County Council - (Highways & Lead Local Flood Authority):** - no objection. Standing advice received regarding surface water drainage.

**Burgh-by-Sands Parish Council:** - the Parish has raised the following objections -

1. although this proposed free standing build is approximately on the site of a garage on the original plan (18/010) it would vary the height from a single storey garage to that of a house with a ridge height of 5.6m;
2. the building would 5.5m from adjacent properties of Beech Croft and would overshadow and diminish their natural light. The main living areas and gardens would face this building and result in loss of amenity;
3. the additional drainage would impact on the already overloaded and inadequate mains sewage system of the village with the additional run off

- from this larger building;
4. this new build would allow for independent living as a detached unit from the main dwelling. It is crucial to be clear as to how the annexe may be used should the annexe be commercially let at any time then this must be considered at the planning stage; and
  5. as some digging will be involved and the property is in the World Heritage Site buffer zone - relatively close to Mile castle 72 we would request that Historic England is contacted before any work can commence.

Parish has also raised the following observations:

1. this building would damage the root system of very large trees on to the North of this proposed building. These trees directly face the proposed buildings main windows;
2. very large mature trees face are sited directly to the North of this proposed building as shown on the submitted plan so impeding the view of open fields mentioned in the Statement provided by the Applicant; and
3. as it would be difficult to visualize the scale and position of the proposed building, Burgh Parish Council ask for a site visit.

**Historic England - North West Office:** - do not wish to offer any comments;

**Solway Coast AONB Unit:** - no response received;

**Cumbria County Council - (Archaeological Services):** - results of previous archaeological work at Sundown Cottage and other sites close by indicate that it is unlikely significant archaeological assets will be disturbed by the construction of the proposed development. In such circumstances there is no objections to the application.

## **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), Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990 (LBA) together with Policies SP6, HO8, HE1, HE7, IP6, CC5, GI2, GI3 and GI6 of the Carlisle District Local Plan (CDLP) 2015-2030. The City Council's Supplementary Planning Documents (SPD) on 'Achieving Well Designed Housing' (AWDH), 'Trees and Development' and 'Burgh by Sands Parish Design Statement' are also material planning considerations in the determination of this application.
- 6.3 The proposal raises the following planning issues:

## **1. The Principle Of Development**

- 6.4 The proposal seeks Full Planning Permission for a detached one bedroom annexe in the rear garden of Sundown Cottage. The applicant has confirmed that the annexe will share services (gas/electric/water etc), parking and a garden area with the host dwelling. The occupation of the annexe will be predominately for family members.
- 6.5 The principle of a detached annexe within the curtilage of an existing residential dwelling is acceptable subject to an appropriate design, no adverse impacts upon neighbouring properties etc. The Council would not want to see the formation of an independent dwelling in this location due to the close proximity of the annexe to the host dwelling and lack of separate garden/car parking spaces. It has been established through previous appeal decisions (such as APP/E0915/A/06/205112 at Park Fauld Farm, Durdar) that restricting the use of a building for purposes ancillary to a residential use of a dwelling is enforceable. As the formation of an annexe, as demonstrated in previous appeal cases, can be controlled by a relevant planning condition, the principle of the proposed annexe is acceptable.

## **2. Whether The Proposal Is Appropriate To The Dwelling And Impact Upon The Existing Street Scene**

- 6.6 The NPPF attaches great importance to the design of the built environment recognising that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. The NPPF states that planning 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. The NPPF also indicates that planning decisions should not attempt to impose architectural styles or particular tastes. It is however proper to promote or reinforce local distinctiveness.
- 6.7 The relevant design policies of the CDLP seek to ensure that proposals respond to the local context in terms of height, scale and massing and by using appropriate materials and detailing. Local landscape character should be respected and development should be fully integrated into its surroundings.
- 6.8 In respect of new buildings The Burgh by Sands Parish Design Statement (adopted in 2003) states that there should be a consistent theme and/or style within new development which is related to locality and setting. New development should generally be single or two-storey in height. Building styles and materials should be in keeping with 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 brick work and gate posts, might be used to enhance new buildings.



- 6.9 Policy HO8 of the CDLP (which relates to house extensions) confirms that house extensions and alterations should be designed to complement the existing building and be visually subservient. Policy HO8 goes on to state that proposals should maintain the established character and pattern of the existing street scene and be a positive addition as well as retain gaps between buildings where they are characteristic of the area and contribute to the existing street scene.
- 6.10 Sundown Cottage was built in the 1740s and has had various ad-hoc extensions to the rear of the property over the years which are not particularly sympathetic to its original design. The property was granted planning permission in 2018 for the demolition of existing extensions to the property and erection of a two storey rear extension and a detached garage. At the time of the officer site visit for the current application the two storey extension had been constructed and was near completion. The detached garage had not been constructed.
- 6.11 The proposed annexe will replace the previously approved garage and will be sited in the rear garden of the property 5.5 metres from the western boundary of the site. The submitted drawings illustrate that the annexe will provide a lounge/kitchen, bathroom on the ground floor with a mezzanine bedroom above. The annexe will have a total footprint of 46.8m<sup>2</sup>, an eaves height of 3.2 metres and a ridge height of 5.6 metres. It is proposed to lower the ground level by 0.5m to ensure that the ridge height of the annexe is lower than the adjacent Bungalow at No.5 Beech Croft to the west of the site. The annexe will include no windows on the western boundary with the main elevation orientated north facing towards the agricultural land located beyond the rear boundary of the application site.
- 6.12 Given the relatively small footprint of the proposal in relation to the footprint of the existing dwelling and size of the existing curtilage, coupled with the scale of the development, the proposal will appear as a subservient building to the main dwelling commensurate to the size of the existing curtilage. The annexe will be constructed from materials (reclaimed brick walls under a slate roof with UPVC windows and feature stone headers and sills) which will correspond with the existing dwelling and the built form of the surrounding area. Accordingly, the proposal complements the existing dwelling in terms of design and materials to be used. In such circumstances and given the location of the annexe towards the western boundary, set significantly back from the front elevation of the host dwelling, it is not considered that the proposed annexe would dominate the existing dwelling or form a discordant feature within the street scene. The scale and design is therefore considered acceptable.

### **3. Impact Of The Proposal On The Living Conditions Of Neighbouring Residents**

- 6.13 It is acknowledged that the Parish Council and the objector has raised concerns regarding potential overshadowing, loss of light and privacy.
- 6.14 The surroundings to the property are wholly residential with an attached two

storey property to the east "Hewitt Cottage" and three bungalows (No.s 1, 4 and 5 Beech Croft) to the west. No.1 Beech Croft is set further forward than the front elevation of Sundown Cottage however No.s 4 and 5 Beech Croft are located perpendicular to the application site with their rear elevations facing towards the garden of Sundown Cottage.

- 6.15 The City Council's SPD 'Achieving Well Designed Housing' (AWDH SPD) outlines minimum distances between primary facing windows together with primary windows and walls serving habitable rooms in order to protect against loss of amenity and privacy i.e. 21 metres between primary facing windows and 12 metres between primary windows and walls.
- 6.16 As the proposed annexe will be sited in the rear garden of Sundown Cottage the development will be off-set from the primary windows of Hewitt Cottage, No.1 Beech Croft and No.4 Beech Croft. In such circumstances the development will be compliant with the separation distances in the Council's AWDH SPD and will not have an adverse impact upon the occupiers of these properties in terms of over dominance, overlooking or loss of light.
- 6.17 It is acknowledged that the proposed annexe will however be located in front of the rear elevation of No.5 Beech Croft which has primary windows on the rear elevation facing towards the annexe. The proposed annexe will be sited 5.5 metres from the western boundary of the site with no windows on the west elevation facing towards No.5 Beech Croft enabling the minimum separation distance of 12 metres to be achieved as outlined in the AWDH SPD. The submitted plans also illustrate that the existing ground level within the application site will be reduced by 0.5 metres resulting in the eaves height of the development being 0.1 of a metre higher than the single storey bungalows to the west and the ridge height being no higher than the adjacent bungalows. In such circumstances and given the positioning of the annexe to the east it is not considered that the proposed development would result in a sufficient loss of light or over dominance to the occupiers of No.5 Beech Croft to warrant refusal of the application on this basis. In order to protect the living conditions of the occupiers of No.5 Beech Croft it is suggested, if Members are minded to approve the application, that a relevant condition is imposed within the decision notice removing permitted development rights for the insertion of any windows on the west elevation facing towards No.5 Beech Croft.
- 6.18 In overall terms given the positioning of residential properties that surround the site in relation to the proposed annexe, together with the scale and design of the proposal, the development would not have an adverse impact upon the living conditions of the occupiers of any neighbouring properties in terms of loss of light, over dominance or over looking.
- 6.19 Given that the annexe directly overlooks the private amenity space to Sundown Cottage itself an appropriate condition has been imposed within the decision notice to ensure that the annexe remains as an annexe in perpetuity to protect the living conditions of the occupiers of the host property.

#### **4. Impact Upon Burgh by Sands Conservation Area**

- 6.20 The site is wholly located within Burgh by Sands 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".*

- 6.21 The aims of the 1990 Act are reiterated in both the NPPF, PPG and policies within both the adopted Local Plan. Policy HE7 of the Local Plan advises that proposals should preserve or enhance the special character and appearance of the conservation area and its setting. Development should seek to harmonise with their surroundings and be sympathetic to the setting, scale, density and physical characteristics of the conservation area. Policy HE7 also states that proposals should preserve and enhance features which contribute positively to the area's character or appearance, in particular the design, massing and height of the building should closely relate to adjacent buildings and should not have an unacceptable impact on the townscape or landscape. Important views into and out of conservation areas should be protected and a local pallet of materials should be used where ever practicable.
- 6.22 The Council's Heritage Officer has been consulted on the development and has not raised any objections/comments to the proposal.
- 6.23 As stated in paragraphs 6.6-6.12 above the scale and design of the proposed development is appropriate to the site. In such circumstances the development will not have an adverse impact upon the character/appearance of Burgh by Sands Conservation Area.

## **5. Impact Upon The Solway Coast Area of Outstanding Natural Beauty**

- 6.24 Policy GI2 (Areas of Outstanding Natural Beauty) of the CDLP confirms that any development proposals within the AONB must conserve or enhance the natural beauty of the areas. Development proposals must be appropriate to the landscape setting in terms of scale, siting and design.
- 6.25 The Solway Coast AONB has been consulted on the proposal and has not raised any objections during the consultation period. As stated in sections 6.6-6.12 the scale and design of the proposed development is appropriate to the site. In such circumstances the development will not have a detrimental impact on the character/appearance of The Solway Coast Area of Outstanding Natural Beauty.

## **6. Impact Upon Hadrian's Wall World Heritage Site**

- 6.26 The site is situated within the buffer zone of Hadrian's Wall World Heritage Site. Policy HE1 (Hadrian's Wall World Heritage Site) of the CDLP seeks to ensure that development within the buffer zone does not have an adverse impact upon key views both into and out of it. Development that would result in substantial harm will be refused.

- 6.27 Historic England has been consulted on the application and has confirmed that the proposal would not impact directly on any archaeological remains from the World Heritage Site. This is because previous archaeological work undertaken at Sundown Cottage indicates that it is unlikely that significant archaeological deposits would be disturbed by this proposed development.
- 6.28 Historic England has also confirmed that although the proposed development would be visible from the Wall, considering both the location and scale of the development as well as the likely functioning of the Frontier, it would not harm the understanding and appreciation of Roman military planning and land use.
- 6.29 The Historic Environment Officer for Cumbria County Council has also been consulted on the development and has confirmed due to the results of previous archaeological work at Sundown Cottage and other sites close by it is unlikely that significant archaeological assets will be disturbed by the construction of the proposed development.
- 6.30 Given that both statutory consultees raise no objection to the application it is not considered that the proposal would have an adverse impact upon the buffer zone of Hadrian's Wall World Heritage Site or any archaeological assets.

## **7. Highway Impacts**

- 6.31 The annexe will result in one additional bedroom within the curtilage of Sundown Cottage. The property has a large driveway which can accommodate a significant number of incurtilage parking spaces. In such circumstances there will be no adverse impact upon existing highway conditions as a result of the proposal. The relevant Highway Authority has been consulted on the development and has raised no objections.

## **8. Impact Upon Trees**

- 6.32 Policy GI6 of the Local Plan seeks 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. This aim is further reiterated in Policy SP6 which requires all developments to take into account important landscape features and ensure the enhancement and retention of existing hedges/trees.
- 6.33 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.

- 6.34 There are two existing sycamore trees along the rear boundary of the application site. The application is accompanied by a tree survey which suggests the felling of the sycamore tree in the north-western corner of the site as it exhibits poor crown form and is being suppressed by ivy and nearby trees. The arboriculturist recommends the felling of the tree for reasons of sound arboricultural practice as the tree will continue to be dominated and shaded out. The remaining sycamore tree is deemed to be in healthy and sound condition with no outward sign of any significant defects or decay.
- 6.35 The submitted block plan shows that the proposed garden annexe will result in 1% incursion into the root protection area (RPA) of the retained tree. In order to protect the roots of the tree the arboriculturist recommends that ground works undertaken in the RPA should be undertaken by hand with the tree protected by appropriate fencing during the construction period. Subject to the imposition of a relevant condition ensuring adherence to the suggested proposed construction and mitigation techniques it is not considered that the development will have an adverse impact upon the sycamore tree that is to remain on site. Accordingly there is no policy conflict.

## **9. Impact Upon Biodiversity**

- 6.36 The Councils GIS Layer has identified that the site has the potential for several key species to be present within the vicinity. Given the scale and nature of the proposal it is unlikely that the development would harm a protected species or their habitat. 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.

## **10. Other Matters**

- 6.37 The submitted Design and Access Statement confirms that foul and surface water from the development will be tied into the system built for the rear house extension. The Parish Council has raised concerns that the increase in foul water from the development will further burden a system that is overloaded and inadequate. United Utilities has not made any representations in respect of capacity of their system during the consultation period therefore it is presumed they have no concerns. The Lead Local Flood Authority has confirmed that they no longer comment on the drainage associated with minor applications as this is picked up by Building Control. Given the specific concerns raised by the Parish Council a relevant condition has been imposed within the decision notice ensuring that surface water drainage details, in accordance with the hierarchy of drainage options in the NPPF are submitted and approved in writing before commencement of any development. Given that there is no objection from the relevant statutory consultees the application is not in conflict with the relevant drainage policies of the CDLP.

6.38 The human rights of the occupiers of the neighbouring properties have been properly considered and taken into account as part of the determination of the application. Several provisions of the Human Rights Act 1998 can have implications in relation to the consideration of planning proposals, the most notable being:

**Article 6** bestowing the "Right to a Fair Trial" is applicable to both applicants seeking to develop or use land or property and those whose interests may be affected by such proposals;

**Article 7** provides that there shall be "No Punishment Without Law" and may be applicable in respect of enforcement proceedings taken by the Authority to regularize any breach of planning control;

**Article 8** recognises the "Right To Respect for Private and Family Life".

6.39 Article 1 of Protocol 1 relates to the "Protection of Property" and bestows the right for the peaceful enjoyment of possessions. This right, however, does not impair the right to enforce the law if this is necessary, proportionate and there is social need.

6.40 Article 8 and Article 1 Protocol 1 are relevant but the impact of the development in these respects will be minimal and the separate rights of the individuals under this legislation will not be prejudiced. If it was to be alleged that there was conflict it is considered not to be significant enough to warrant the refusal of permission.

## Conclusion

6.41 To conclude given the relatively small footprint of the proposal in relation to the footprint of the existing dwelling and size of the existing curtilage coupled with the scale of the development the proposal will appear as a subservient building to the main dwelling commensurate to the size of the existing curtilage. The proposal complements the existing dwelling in terms of design and materials to be used and given its location towards the western boundary, set significantly back from the front elevation of the host dwelling it is not considered that the proposed annexe would dominate the existing dwelling or form a discordant feature within the existing street scene. The scale and design are therefore considered acceptable and the proposal will not have an adverse impact upon the setting of Burgh by Sands Conservation Area, the Solway Coast Area of Outstanding Natural Beauty or Hadrian's Wall World Heritage Site.

6.42 Subject to the imposition of relevant planning conditions the proposal will not have an adverse impact upon the living conditions of the occupiers of any residential properties, existing drainage conditions or trees. The proposal will also not have a detrimental impact upon highway safety as there are sufficient parking spaces within the existing curtilage of the property. Furthermore, given the scale and design of the proposal there would be no adverse impact upon biodiversity. Overall, the proposal is compliant with the objectives of the relevant Development Plan Policies and approval is recommended.

## **7. Planning History**

- 7.1 In 2018 Planning Permission was granted for the erection of a two storey rear extension to provide kitchen/diner on ground floor with bathroom, bedroom and balcony above together with erection of detached garage (reference 18/0101);
- 7.2 In 2020 a Non Material Amendment application was granted for a non material amendment of previously approved permission 18/0101 for the installation of 3no.conservatory velux windows in west facing roof (reference 20/0195).

## **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 14th October 2020;
  2. the site location plan received 14th October 2020;
  3. the proposed block plan received 16th February 2021 (Titled Proposed Block Plan Revised);
  4. the proposed floor plans received 16th February 2021 (Drawing No.20P/SC/001 Rev B);
  5. the proposed elevations and section received 16th February 2021 (Drawing No.20P/SC/002 Rev B);
  6. the Notice of Decision;
  7. any such variation as may subsequently be approved in writing by the Local Planning Authority.
- Reason:** To define the permission.
3. The development hereby approved shall be occupied only in direct connection with the dwelling known as Sundown Cottage by dependant relatives of the occupiers of the principal dwelling, and shall at no time be sold off, let, occupied or otherwise disposed of in such a way that it becomes

a separate unit of residential accommodation.

**Reason:** To accord with Policy HO8 of the Carlisle District Local Plan 2015-2030, insofar as the development is permitted on the basis that it is to be occupied as ancillary accommodation to Sundown Cottage.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and/or re-enacting that Order) no windows shall at any time be placed in the west elevation of the annexe hereby permitted without the grant of a separate planning permission from the local planning authority.

**Reason:** To safeguard the amenities of the adjoining premises from overlooking and loss of privacy, to accord with Policies SP6 and HO8 of the Carlisle District Local Plan 2015-2030.

5. Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the Local Planning Authority.

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 sewage system with directly or indirectly.

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.

6. The development hereby approved shall be undertaken wholly in accordance with the Root Protection Mitigation Recommendations outlined in the Scheme of Root Protection produced by NICOL Landscapes Ltd Dated February 2021 received on 16th February 2021.

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

7. Notwithstanding any description of materials in the application, the external walling and roofing materials to be used in the building works hereby



permitted shall be identical to those in the existing building.

**Reason:** For the avoidance of doubt, and to ensure that materials to be used are acceptable visually and harmonise with existing development, in accordance with Policies SP6 and HO8 of the Carlisle District Local Plan 2015-2030.

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Sundown Cottage, Road Leading From Drumburgh To Monkhill Via Burgh-by-sands, Burgh By Sands, Cumbria, CA5 6AX

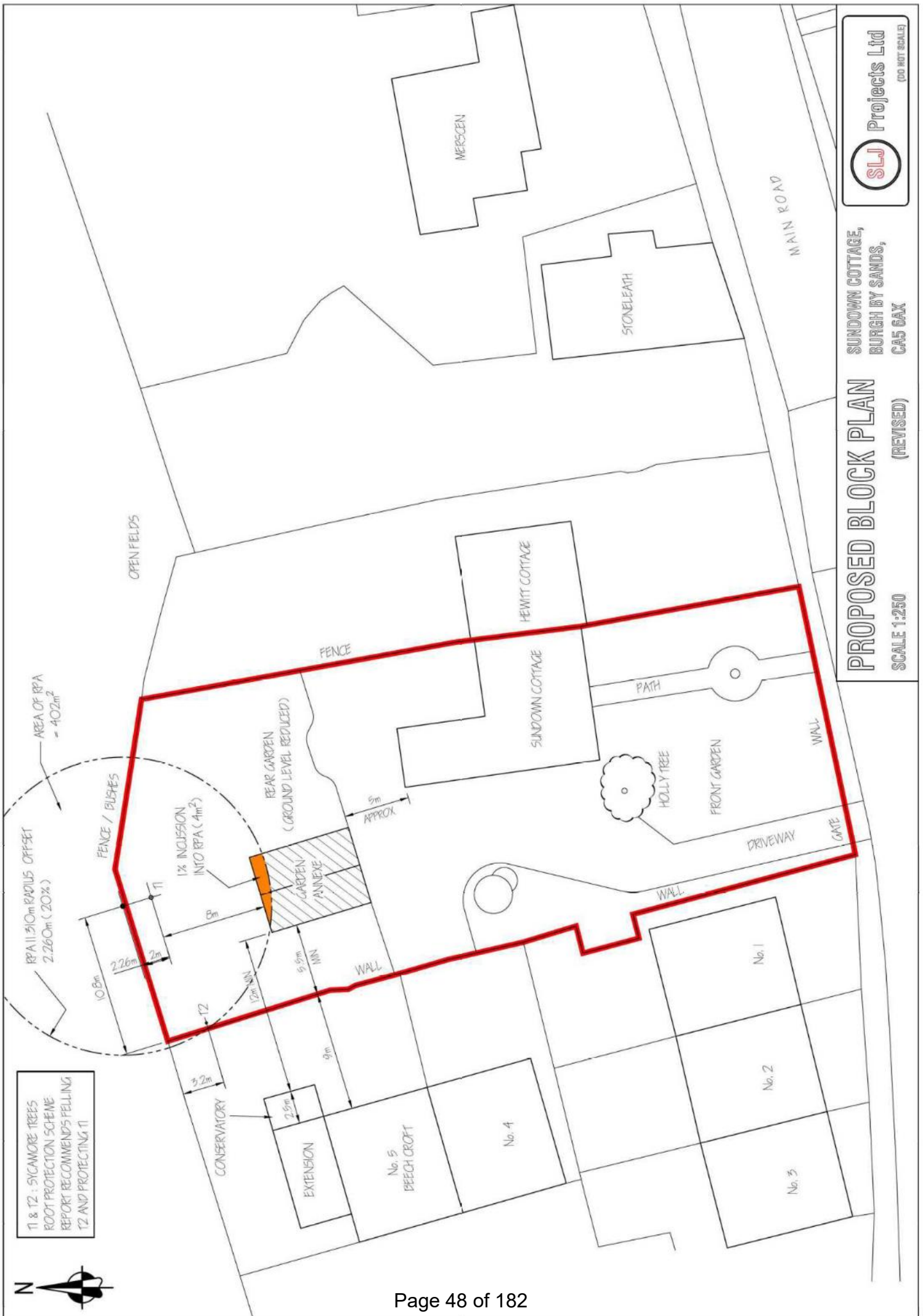


Site Plan shows area bounded by: 332114.84, 558937.11 332314.84, 559137.11 (at a scale of 1:1250), OSGridRef: NY32215903. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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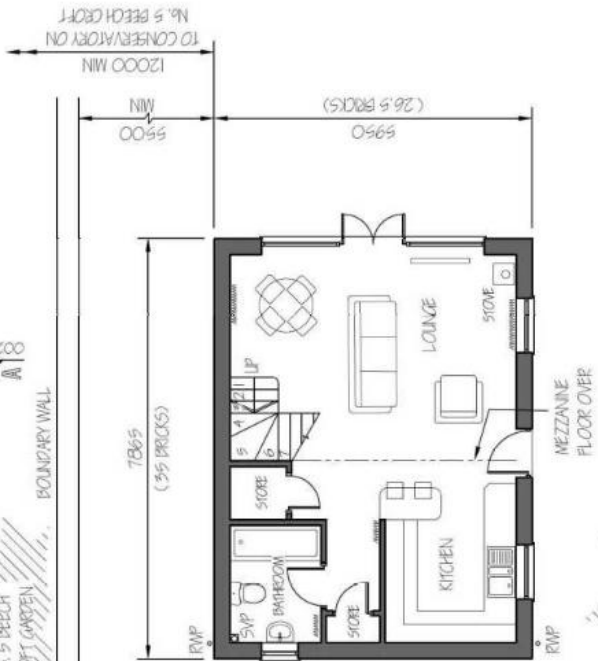








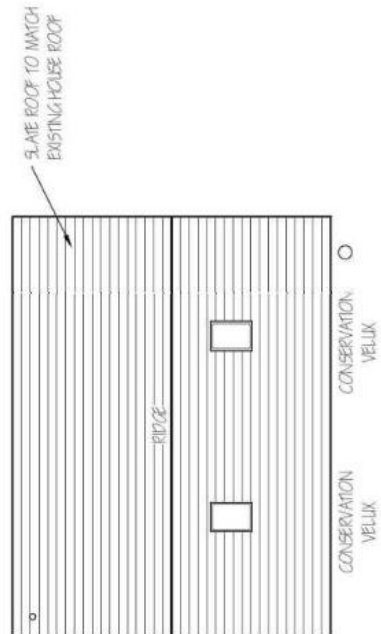
No 5 BEECH CROFT GARDEN  
BOUNDARY WALL



PROPOSED GROUND FLOOR PLAN



PROPOSED MEZZANINE FLOOR PLAN

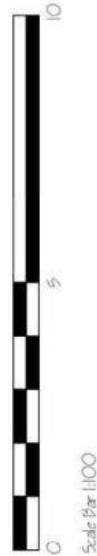


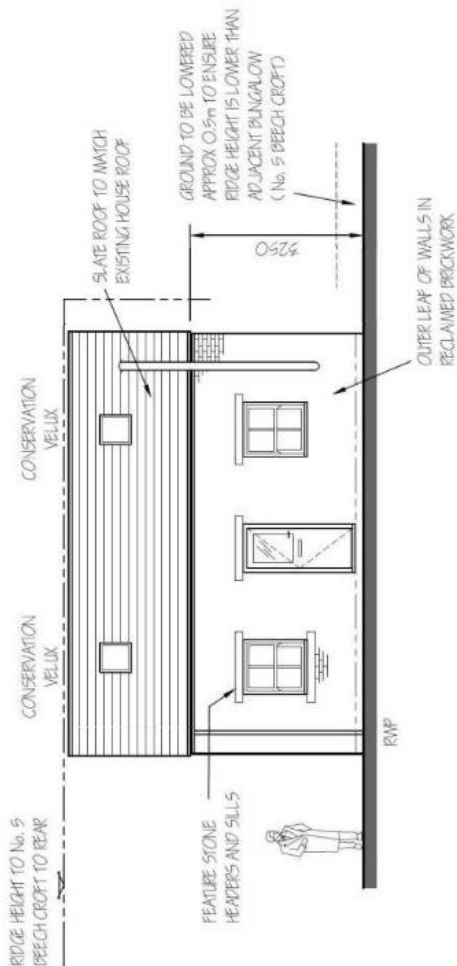
PROPOSED ROOF PLAN

Rev.	Date	Amendments	By
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A	14.10.20	ISSUED TO LOCAL AUTHORITY	SDW

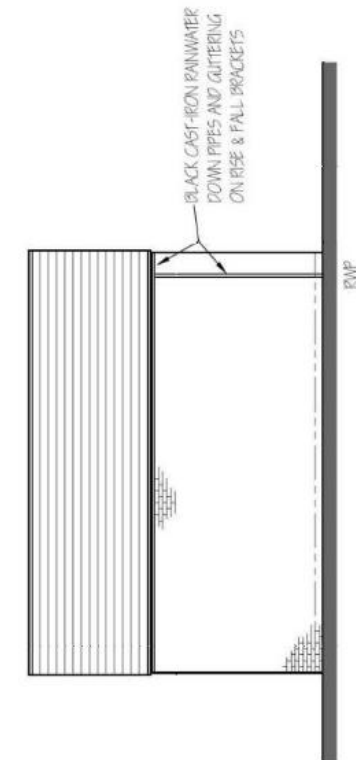
**SLJ Projects Ltd** 35 Barrington Meadows,  
Bishop Auckland,  
DL14 6NT

Client:	Mr. JONATHAN NICHOLSON
Project:	PROPOSED GARDEN ANNEXE TO SUNDOWN COTTAGE, BURGH BY SANDS, C45 6AX
Drawing Title:	PROPOSED PLANS
Scale at A3:	1:100
Drawn By:	SDW
Date:	OCT 2020
Status:	
Dwg No:	20P/SC/001
Rev:	8

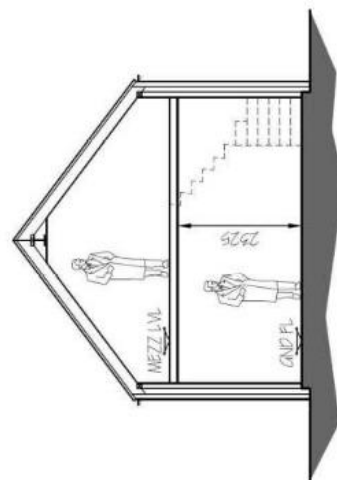




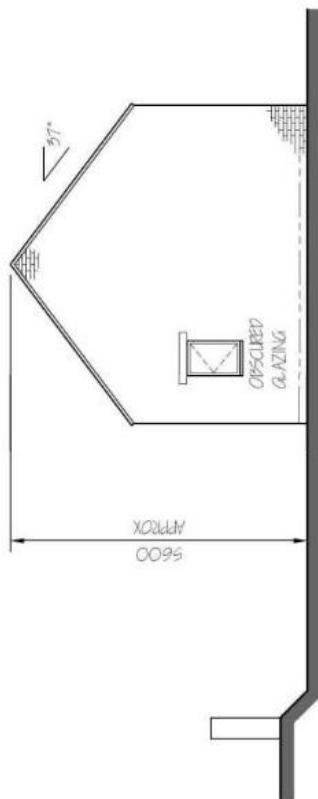
PROPOSED EAST ELEVATION



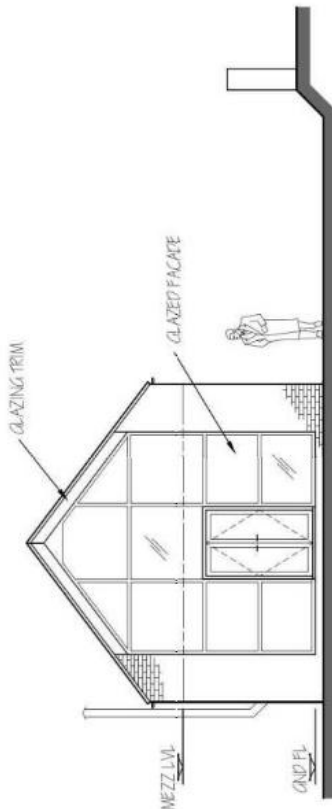
PROPOSED WEST ELEVATION



PROPOSED SECTION A-A



PROPOSED SOUTH ELEVATION



PROPOSED NORTH ELEVATION

Rev.	Date	Amendments	By
B	06.11.20	REVISED TO SUIT LOCAL AUTHORITY	SDW
A	14.10.20	ISSUED TO LOCAL AUTHORITY	SDW

**SLJ Projects Ltd** 35 Barrington Meadows,  
Bishop Auckland,  
DL14 6NT

Client:	MR. JONATHAN NICHOLSON
Project:	PROPOSED GARDEN ANNEXE TO SUNDOWN COTTAGE, BURGH BY SANDS, CWS GAX
Drawing Title:	PROPOSED ELEVATIONS & SECTION
Scale at A3:	1:100
Drawn By:	SDW
Date:	OCT 2020
Status:	
Dwg No:	20P/SC/002
Rev:	8



## SCHEDULE A: Applications with Recommendation

20/0834

Item No: 03

Date of Committee: 26/03/2021

**Appn Ref No:**  
20/0834

**Applicant:**  
Mr & Mrs JG & A Waugh

**Parish:**  
Hethersgill

**Agent:**  
G R Stephen

**Ward:**  
Longtown & the Border

**Location:** Rose Cottage, Uppertown, Kirklington, Carlisle, CA6 6BD

**Proposal:** Proposed Rear Extension To Provide Annexe Accommodation  
Comprising Living Room & W.C. On Ground Floor With 2no. Bedrooms  
& 1no. Bathroom Above (Revised Application)

**Date of Receipt:**  
03/12/2020

**Statutory Expiry Date**  
28/01/2021

**26 Week Determination**  
11/02/2021

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### REPORT

**Case Officer:** Leigh Thompson

#### 1. Recommendation

- 1.1 It is recommended that this application is refused.

#### 2. Main Issues

- 2.1 Impact Of The Proposal On The Living Conditions Of Neighbouring Residents;
- 2.2 Whether The Proposal Is Appropriate To The Dwelling And Impact Upon The Existing Street Scene;
- 2.3 Highway Impacts;
- 2.4 Impact Upon Biodiversity; and
- 2.5 Other Matters.

#### 3. Application Details

##### The Site

- 3.1 The application relates to Rose Cottage, a single storey detached property located within Uppertown. The dwelling constructed from a mix of sandstone and brick, a pitched slate roof, a mix of brown and white UPVC windows and doors.

- 3.2 The dwelling is located within a small cluster of properties made up of a mix of two and 1.5 storey detached, and single storey semi detached properties. Rose Cottage is situated at a T junction, with Uppertown Farm and its associated outbuildings to the north, and 1 Uppertown Cottages to the east, as its immediate neighbours. A small cluster of properties comprising of Bramley Dene, Bramley Cottage, Bramley Mews and Uppertown Court lie on the opposite side of the road to the south of the application site.

## **Background**

- 3.3 In 2020 Planning Permission was granted for the erection of a two Storey Rear Extension To Provide Annexe Accommodation Comprising of Living Room & W.C. On Ground Floor With 2no. Bedrooms & 1no. Bathroom Above (Reference No.20/0374). The submitted plans illustrated two existing rear single storey flat roof extensions, of which the southernmost was to be left as is.
- 3.4 The submitted plans for application 20/0374 showed that the proposed extension was to project 7.5m in length by 5.9m in depth from the original rear elevation of the cottage and would be constructed from render and slate to match the original roof of the Cottage.

## **The Proposal**

- 3.5 The application seeks full planning permission for a Two Storey Rear Extension To Provide Annexe Accommodation Comprising of Living Room & W.C. On Ground Floor With 2no. Bedrooms & 1no. Bathroom Above (Revised Application). The submitted plans illustrate that the proposed extension will be constructed from render and materials to match the existing dwelling. The extension will include no windows upon the northern elevations apart from one rooflight to serve the proposed landing. The main elevation would be orientated to the south, facing into the rear garden of the application site.
- 3.6 Members should be aware that when the original application was first submitted (Reference No.20/0374) the application sought approval for the extensions ridge height to be higher than that of the original Cottage. Permission was granted following amendments to reduce the initial ridge height so that it was in line with the original cottage. This revised application now seeks approval for the previously refused ridge height.

## **4. Summary of Representations**

- 4.1 This application has been advertised by means of notification letters sent to six neighbouring properties. During the consultation period there have been no representations made.

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



**Cumbria County Council - (Highways & Lead Local Flood Authority): -**  
No objections;  
**Hethersgill Parish Council: -** No representations.

## **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 SP6, HO8 & GI3 of the Carlisle District Local Plan (CDLP) 2015-2030. The 'Achieving Well Designed Housing' Supplementary Planning Document, adopted by the Council, and the Dalston Parish Neighbourhood Plan 2015-2030 are also material planning considerations.

6.3 The proposals raise the following planning issues:

#### **1. Impact Of The Proposal On The Living Conditions Of Neighbouring Residents**

6.4 Rose Cottage is a corner plot situated at a T junction, with a small garden area adjacent to the road surrounding the western front and southern side elevations. The western, and a portion of the southern, boundary treatment comprises of a low stone wall. Uppertown Farm lies to the north of the site with its associated outbuildings immediately adjacent to the sites northern boundary. No.1 Uppertown Cottages lie to the east, separated by the applicants large rear garden which contains a large southern facing garage and associated outbuildings. A small cluster of properties comprising of Bramley Dene, Bramley Cottage, Bramley Mews and Uppertown Court lie to the south of the application site. The rest of the boundary treatment along the southern edge of the application site comprises of a relatively low hedgerow which leaves the rear of the site completely exposed and in full view from the aforementioned properties to the south of the site. Overall, there is a variety of surrounding properties which include two storey, 1.5 storey and single storey detached and semi-detached properties.

6.5 The proposed extension would be situated upon the eastern rear elevation of the existing dwelling. All proposed windows and doors would be situated upon the southern facing elevation, bar one rooflight which would be located upon the northern facing roof slope to serve the proposed landing. A total of three dormer windows would be inserted upon the southern facing roof slope to serve the proposed 2no. bedrooms and 1no. bathroom. The proposed dormers would meet the required distances set out within the Council's Supplementary Planning Document, 'Achieving Well Designed Housing', in order to respect privacy between neighbouring properties. Upon the southern

ground floor elevation of the extension, a relocated entrance door and patio doors would serve the proposed lounge. There would be no windows or doors upon the eastern side elevation.

- 6.6 Given the position of the proposed rear extension in relation to neighbouring residential properties, the proposals will not have a detrimental impact on the living conditions of adjoining occupiers on the basis of loss of light, overlooking or over dominance.

## **2. Whether The Proposal Is Appropriate To The Dwelling**

- 6.7 The NPPF attaches great importance to the design of the built environment recognising that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. The NPPF confirms that 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. It goes on to confirm that in determining applications, great weight should be given to 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. The NPPF also indicates that planning decisions should not attempt to impose architectural styles or particular tastes. It is however proper to promote or reinforce local distinctiveness.
- 6.8 The relevant design policies of the CDLP seek to ensure that proposals respond to the local context in terms of height, scale and massing and by using appropriate materials and detailing. Local landscape character should be respected and development should be fully integrated into its surroundings.
- 6.9 Policy HO8 of the CDLP which refers to household extensions also seeks to ensure that the design of an extension should respond to the characteristics of the specific site as well as the distinctiveness of the wider setting. Policy HO8 specifically states that house extensions/alterations should be designed to: 1) relate to and complement the existing building in scale, design, form and materials; 2) be visually subservient to the main building; 3) ensure there is no loss of amenity to surrounding properties by overlooking, overbearing nature of the proposal, or increase in on street car parking caused by the loss of an existing garage or off street parking space; 4) ensure adequate natural light within the building, garden or other outdoor amenity space; 5) maintain the established character/pattern of the street scene and be a positive addition; and, 6) retain gaps between buildings where they are characteristic of the area and contribute to the street scene.
- 6.10 The Achieving Well Designed Housing SPD also echoes the requirements of Policy HO8 of the CDLP by seeking to ensure that extensions are of an appropriate scale and do not dominate the original dwelling.

- 6.11 It is appreciated that planning permission has previously been granted under application reference 20/0347 for an identical scheme, comprising of a Rear Extension To Provide Annexe Accommodation Comprising Living Room & W.C. On Ground Floor With 2no. Bedrooms & 1no. Bathroom Above. However, the extension approved under application 20/0347 was considered to be a subservient addition to the existing dwelling as the extensions ridge height was in line, and would not over dominate the host dwelling.
- 6.12 Rose Cottage currently has two single storey, flat roof rear extensions which provide the occupants with a bathroom, kitchen and additional room. The proposals would extend the existing bathroom to come in line with the existing kitchen, and provide additional annexe accommodation which would include a lounge and WC upon the ground floor, and 2no. bedrooms and a bathroom upon the first floor. The proposals would measure 7.5m in length by 5.9m in depth.
- 6.13 The proposed materials of the extension would include a render finish with slate roof tiles to match that of the existing dwelling. Accordingly, the proposals would complement the existing dwelling in terms of design and materials to be used.
- 6.14 The proposals would be 1.5 storey high, comprising of a pitched roof which would extend above the original ridge height of the main dwelling. The proposed ridge height was previously refused within the original application (Reference No. 20/0347) and further amended to come in line with the existing ridge height of Rose Cottage in order to comply with relevant policies. The proposed ridge height within this revised application would create an extension that would not appear subservient to the main dwelling and would ultimately overdominate the existing Cottage. Therefore, the scale and height of the proposals are not comparable to the existing property as they would over dominate. The proposals would not be compliant with Policy HO8 (Criteria 2) of the Carlisle District Local Plan 2015-2030 which states that house extensions and alterations should 'be visually subservient to the main dwelling', alongside para 5.57 of the Council's 2011 Supplementary Planning Document 'Achieving Well Designed Housing' which states that 'extensions should be clearly subordinate to the original dwelling'.
- 6.15 In such circumstances the proposed extension will dominate the original cottage and would result in an obtrusive development that would be inappropriate to the character of the existing dwelling. With that, the visual and physical dominance of the extension would be overpowering, inappropriate and unacceptable. The proposals would therefore not appear subordinate and would therefore be contrary to the objectives of criterion 1 of Policy SP6 of the CDLP, criteria 1 and 2 of Policy HO8 of the CDLP together with the objectives of Carlisle City Council's Supplementary Planning Document 'Achieving Well Designed Housing'.

### **3. Impact Of The Proposal On Highway Safety**

- 6.16 The proposals would be located within a large rear garden space of the property and would not result in a loss of garage or parking spaces. The

Highway Authority has been consulted on the development and has raised no objections to the proposal. In such circumstances the development will not have an adverse impact upon highway safety.

#### **4. Impact Of The Proposal On Biodiversity**

- 6.17 The Councils GIS Layer has identified that the site has the potential for several key species to be present within the vicinity. As the proposed development seeks permission to extend an existing dwelling with minimum disturbance to vegetation, it is unlikely that the development would harm a protected species or their habitat. It is suggested that if the application is approved 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.

#### **5. Other Matters**

- 6.18 Within correspondence between the agent and case officer, the agent has cited two examples of applications recently approved that they believe to be of a similar nature to the proposals at Rose Cottage. These examples include application No.20/0662 - Demolition of existing house and erection of 1no. dwelling at The Cottage, Lees Hill, Brampton, CA8 2BB and application No.20/0208 - Conversion Of Garage, Workshop, Utility And Store To Form 3 Bedroomed Dwelling Including Raising Of Roof To Provide First Floor Accommodation at Midcroft, Burgh By Sands, Carlisle, CA5 6AX.
- 6.19 Application No.20/0662 was to demolish the existing property and the erection 1no. dwelling. Applications seeking to erect new dwellings would be assessed against the relevant housing policies such as policy HO2 with the Carlisle District Local Plan 2015-2030. The cited application No.20/0208, approved for the conversion of an existing garage, workshop, utility and store to form 3 bedroomed dwelling, would also be assessed against policy HO2. The proposals at Rose Cottage seek to extend the original dwelling which would be assessed against policy HO8 which relates to house extensions, rather than policy HO2.
- 6.20 The human rights of the occupiers of the neighbouring properties have been properly considered and taken into account as part of the determination of the application. Several provisions of the Human Rights Act 1998 can have implications in relation to the consideration of planning proposals, the most notable being:
- Article 6** bestowing the "Right to a Fair Trial" is applicable to both applicants seeking to develop or use land or property and those whose interests may be affected by such proposals;
  - Article 7** provides that there shall be "No Punishment Without Law" and may be applicable in respect of enforcement proceedings taken by the Authority to regularize any breach of planning control;
  - Article 8** recognises the "Right To Respect for Private and Family Life".

- 6.21 Article 1 of Protocol 1 relates to the "Protection of Property" and bestows the right for the peaceful enjoyment of possessions. This right, however, does not impair the right to enforce the law if this is necessary, proportionate and there is social need.
- 6.22 Article 8 and Article 1 Protocol 1 are relevant but the impact of the development in these respects will be minimal and the separate rights of the individuals under this legislation will not be prejudiced. If it was to be alleged that there was conflict it is considered not to be significant enough to warrant the refusal of permission.

## **Conclusion**

- 6.23 In overall terms, the proposed rear extension by virtue of its overall scale and relationship with the original dwelling would not appear subservient. The development is therefore contrary to the objectives of criterion 1 of Policy SP6 of the CDLP, criteria 1 and 2 of Policy HO8 of the CDLP, together with the objectives of Carlisle City Council's Supplementary Planning Document 'Achieving Well Designed Housing'.
- 6.24 There have been no highway or biodiversity issues are raised with the application.
- 6.25 It is therefore recommended that the application be refused.

## **7. Planning History**

- 7.1 In 2020 planning permission was granted for Proposed Rear Extension To Provide Annexe Accommodation Comprising Living Room & W.C. On Ground Floor With 2no. Bedrooms & 1no. Bathroom Above (Reference No.20/0347).

## **8. Recommendation: Refuse Permission**

1. **Reason:** The proposed extension would dominate the original cottage and would result in an obtrusive development that would be inappropriate to the character of the existing dwelling. With that, the visual and physical dominance of the extension would be overpowering, inappropriate and unacceptable. The proposals would therefore not appear subordinate and would therefore be contrary to the objectives of criterion 1 of Policy SP6 of the Carlisle District Local Plan 2015-2030, criteria 1 and 2 of Policy HO8 of the Carlisle District Local Plan 2015-2030 together with the objectives of Carlisle City Council's Supplementary Planning Document 'Achieving Well Designed Housing'.
-













VISUAL SCALE 1:100 @ A3









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Notes

Revision	No.	Description	Date
	A	Update Roof annotations as client comment	27/11/2020

Issue 03/12/2020 14:58:17

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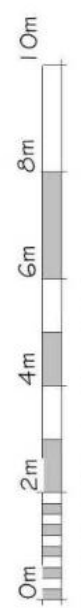
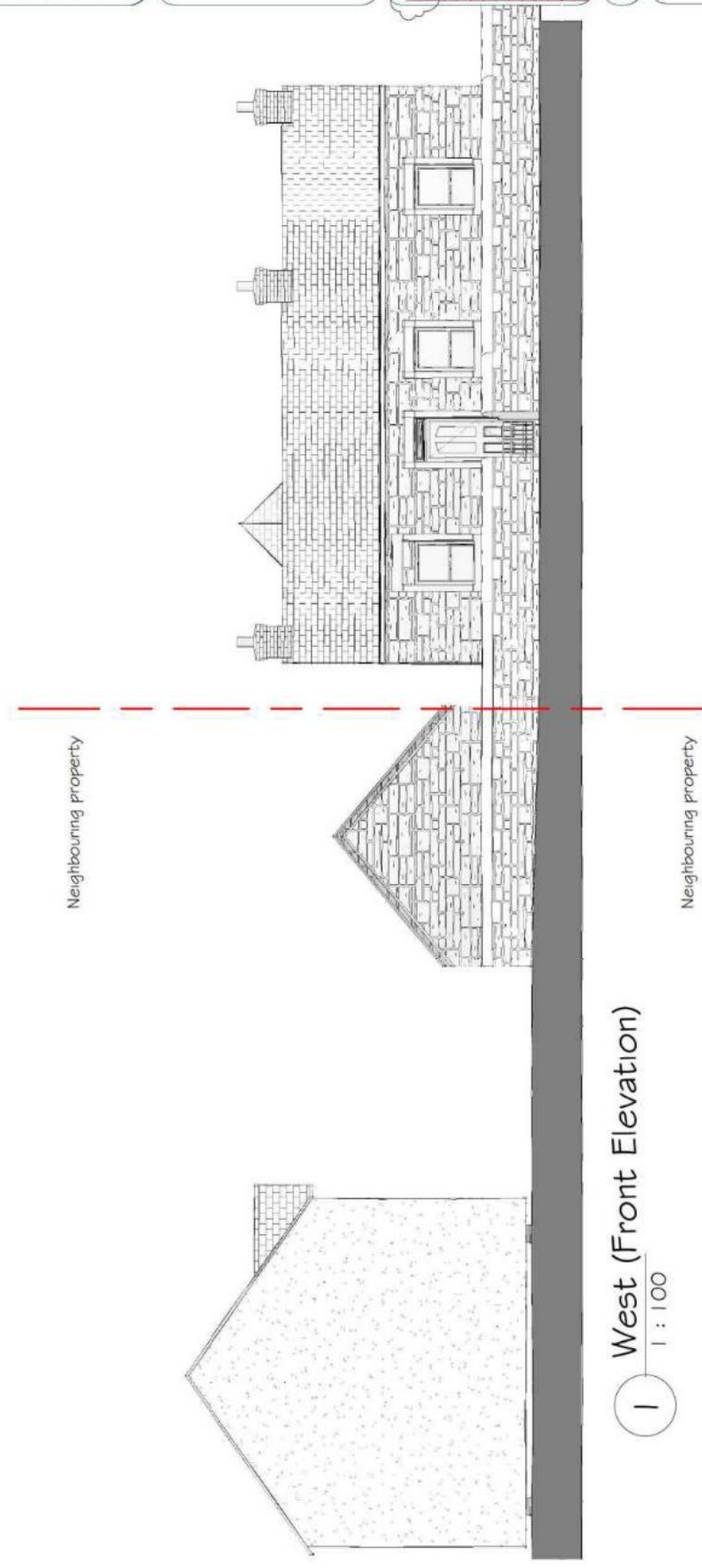
Job: 2020 013 Scale: A3 1 : 100  
Date: Issue Date Revision: A

Drawing Title  
Elevations West  
as Proposed

Client: Mr J G Waugh & Ms A  
Project: Waugh

Rose Cottage  
Uppertown, Kirklington  
CARLISLE, CAG 6BD

Drawn By: George  
Version: Planning  
Drawing no: E106 A



VISUAL SCALE 1 : 100 @ A3



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Notes

Revision

No.	Description	Date
A	Revised approved further to planning application comments	20/07/2020
B	Further floor amendments as client comment	27/11/2020

Issue

03/12/2020 14:57:29

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Job: 2020 013 Scale: A3 1 : 100

Date: Issue Date Revision: B

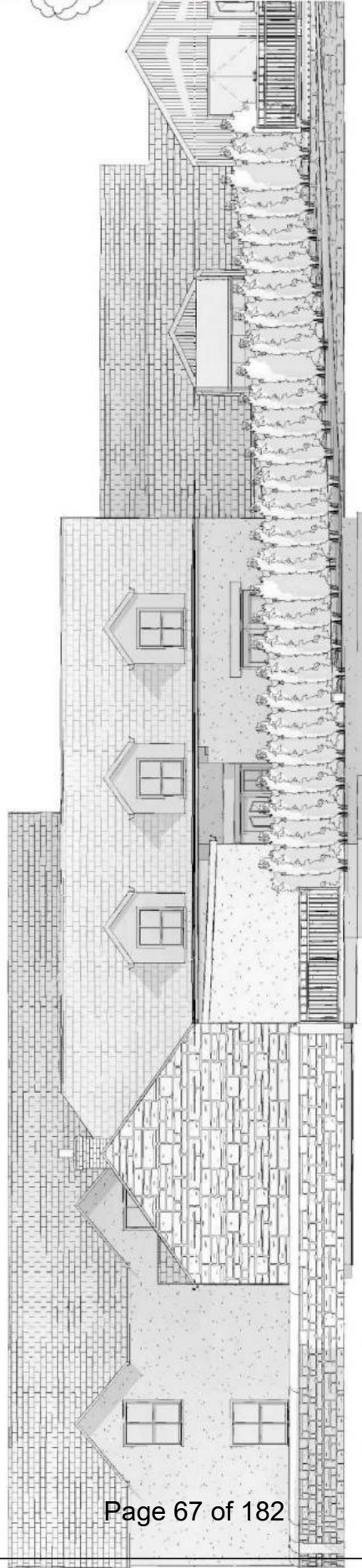
Drawing Title

Elevations South  
as Proposed

Client: Mr J G Waugh & Ms A  
Project: Waugh

Rose Cottage  
Uppertown, Kirklington  
CARLISLE, CAG 6BD

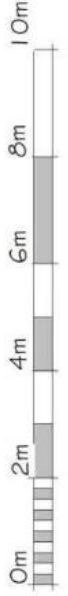
Drawn By: George  
Version: Planning  
Drawing no: E107 B



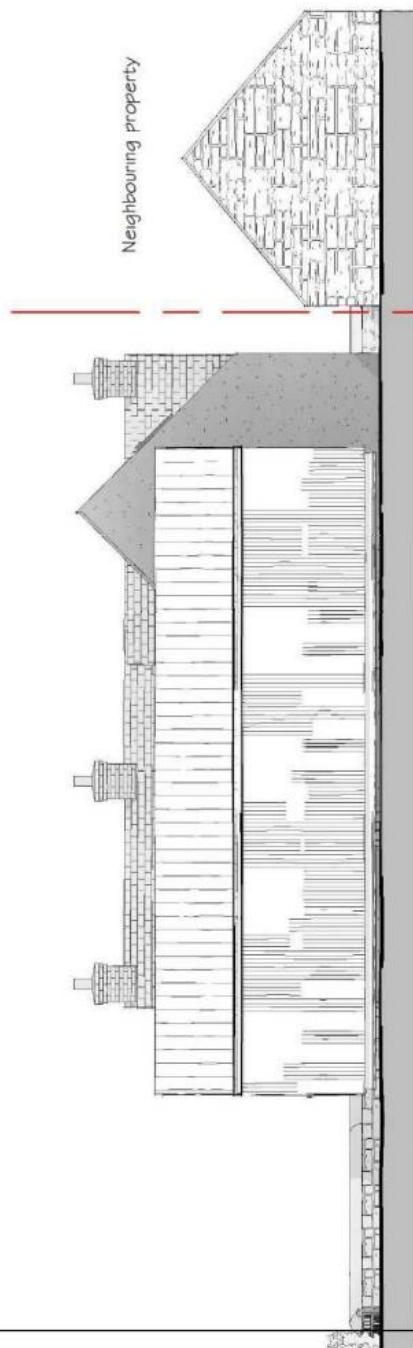
South Side Elevation

2

1 : 100



VISUAL SCALE 1 : 100 @ A3



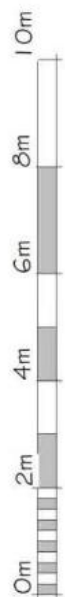
East Rear Elevation  
1 : 100

Neighbouring property



Section 2 From East  
1 : 100

Neighbouring property



VISUAL SCALE 1:100 @ A3

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Notes

Revision

No.	Description	Date
A	Roof amended further to planning	20/07/2020
B	Minor comments	27/11/2020
C	Further roof amendments as client comment	

Issue

03/12/2020 14:56:51

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Job: 2020 013 Scale: A3 1:100  
Date: Issue Date Revision: B

Drawing Title

Elevations East  
as Proposed

Client: Mr J G Waugh & Ms A  
Project: Waugh

Rose Cottage  
Uppertown, Kirklington  
CARLISLE, CAG 6BD

Drawn By: George  
Version: Planning  
Drawing no: E108 B



VISUAL SCALE 1:100 @ A3



## SCHEDULE A: Applications with Recommendation

21/0072

Item No: 04

Date of Committee: 26/03/2021

**Appn Ref No:**  
21/0072

**Applicant:**  
The Fryery

**Parish:**  
Carlisle

**Agent:**  
Centreplan

**Ward:**  
Stanwix & Houghton

**Location:** 53/53a Scotland Road, Carlisle, CA3 9HT

**Proposal:** Variation Of Condition 8 (Opening Times) Of Previously Approved Permission 19/0630 (Change Of Use From A1 (Retail) To A5 (Hot Food Takeaway); Installation Of New Shopfront And Insertion Of Side Window) To Extend Afternoon Opening Time From 16.30 To 16.00

**Date of Receipt:**  
01/02/2021

**Statutory Expiry Date**  
29/03/2021

**26 Week Determination**

---

### REPORT

**Case Officer:** John Hiscox

#### 1. Recommendation

- 1.1 It is recommended the application is approved, to allow the condition on 19/0630 to be varied so that opening hours can be extended by 30 mins, with the shop opening at 1600 hrs, as opposed to 1630 hrs.

#### 2. Main Issues

- 2.1 Whether the principle of extending the opening hours by 30 minutes is acceptable enabling the premises to open as a hot food takeaway daily from 1600 hrs until 2100 hrs during the evening instead of the approved period under planning permission 19/0630, which permits the premises to open in the evenings from 1630 hrs to 2100 hrs.
- 2.2 This principle is to be considered in the light of the wording and reasoning for Condition 8 of planning permission ref. 19/0630.

#### 3. Application Details

**The Site**

- 3.1 The property address is 53/53a Scotland Road, which is partially residential (mainly in the upper floors) and partially a ground floor shop now occupied by The Fryery, a local business now operating three fish and chip shops in Carlisle. It has been open since mid-January 2021. Prior to that, it had been closed for approximately three years following the departure of 'Spar'.
- 3.2 The property is situated within Stanwix Conservation Area, but is not a listed building. It is a prominent corner building having its side elevation on Thornton Road and its frontage onto Scotland Road. The flat(s) upstairs are accessed by separate entrances on the Thornton Road and Scotland Road elevations, and occupy the first and attic floors. The shop is accessed via the corner entrance and has a separate rear service access gate off Thornton Road.
- 3.3 The premises was refurbished in 2020, the ground floor being converted into a hot food takeaway in the light of planning permission. The physical aspects of the conversion, including the illuminated advertisements, are authorised in a planning context.
- 3.4 In front of the main shop window is a hardsurfaced area set back from the line of the front boundary walls to properties in the same row to the north; presumably, this was removed when the building was converted to a shop or sometime subsequently.
- 3.5 Looking at the front elevation, the single-width sash and case window to the right of the shop window serves the shop area inside.
- 3.6 Adjoining the property to the north is the Sunrise Chinese takeaway, which has its own shop window and shopfront scheme including coloured paintwork and advertisements. Opposite on Scotland Road's eastern side is a row of terraced dwellings which are Grade II listed buildings. To the south is the end dwelling in a terrace, which is also Grade II listed. To the rear of the building are residential properties forming the terrace on the northern side of Thornton Road.

## **Background**

- 3.7 The Fryery, which is the now operating fish and chip takeaway at 53/53A Scotland Road, Carlisle, opened earlier in 2021 with the benefit of planning permission under ref. 19/0630;
- 3.8 The planning permission was granted by the Development Control Committee in November 2019;
- 3.9 Condition 8 of planning permission ref. 19/0630 states:  
  
*"The proposed hot food takeaway shall not be open for trading except between (1) 1100 hours and 1400 hours and (2) 1630 hours and 2100 hours on Mondays to Saturdays; and between 1630 hours and 2100 hours on Sundays and Bank Holidays.*

*Reason: To prevent disturbance to neighbouring occupiers and in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030."*

- 3.10 Contrary to the limitations required by Condition 8, the shop has, since its opening earlier in 2021, opened between the hours of 4pm (1600 hrs) and 9pm (2100 hrs). The operations are therefore in breach of the planning permission ref. 19/0630, and are unauthorised.
- 3.11 It should be noted that the opening hours stipulated within Condition 8 are in strict alignment with the opening hours proposed on the applicants' behalf and stated in the supporting statement received on 26 September 2019, prior to the application being considered by the Development Control Committee in November 2019. These intended, limited hours were known to the planning service and to the Development Control Committee when the application was considered.

### **The Proposal**

- 3.12 The application applies in retrospect for variation of Condition 8 of planning permission 19/0630, to allow the premises to open for 30 minutes longer every day, bringing the opening time back to 1600 hrs (4pm) instead of the approved 1630 hrs (4.30pm).

- 3.13 If this application is approved, the Condition will be changed to read:

*"The proposed hot food takeaway shall not be open for trading except between (1) 1100 hours and 1400 hours and (2) 1600 hours and 2100 hours on Mondays to Saturdays; and between 1600 hours and 2100 hours on Sundays and Bank Holidays.*

*Reason: To prevent disturbance to neighbouring occupiers and in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030."*

- 3.14 The remainder of planning permission 19/0630 would be unaltered by this proposed variation.
- 3.15 No specific items have been submitted to support the application (on the applicants' behalf). However, within the application form the following two statements are made to enable understanding of the decision to operate with different opening times:

*"We would like to change the opening time as we feel this will help in maintaining a steady flow of customers in the shop"; and*

*"We would like to apply for permission to open our services to the local community 30 minutes earlier at 4pm."*

## **4. Summary of Representations**

- 4.1 This application has been advertised by means of site and press notices as well as notification letters sent to twenty-eight properties who are either neighbours or who made representations in relation to the original application ref. 19/0630.
- 4.2 In total, 4 written representations have been made during the consultation period. A summary of the issues of relevance raised in objection is as follows:
- (i) timeframe now proposed goes directly against what the applicants proposed in their original application;
  - (ii) timeframe originally proposed intended to maximise avoidance of times when schoolchildren would be likely to pass by/use shop;
  - (iii) opening hours do not conform to other nearby takeaway premises e.g. Sunrise (does not open until 5pm) - no justification for this premises to open at different times;
  - (iv) extended opening hours increase time when associated problems arise including highway safety (parking/speeding), noise and odour pollution (noting that site is within a Conservation Area) and social disorder;
  - (v) premises is already operating in breach of its approved opening times of 1630 hrs to 2100 hrs, and has done so since its initial opening.
- 4.3 The letters of objection give focus to matters of problematic parking activities occurring, principally when the shop is open. This matter will be discussed in the planning report, but it must be acknowledged in advance that the principle of using the premises as a hot food takeaway is established through 19/0630, and that matters relating to potential parking problems in the context of the new use were considered in detail in the planning report, and during the Development Control Committee meeting. Potential planning concerns relating to parking were not considered to be overriding and did not prevent that application from being supported by the Development Control Committee.

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

**Cumbria County Council - (Highways & Lead Local Flood Authority):** - No comment, as in the response to 19/0630 of 5th September 2019, the consultee recommended refusal of the takeaway.

## **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 original application was required to be assessed was the NPPF and Policies SP1, SP6, SP7, SP9,

EC7, EC8, IP2, IP3, CM4, CM5, HE3 and HE7 of the Carlisle District Local Plan 2015-2030.

- 6.3 In the light of the nature of the current application, and taking into account the Reason provided for Condition 8 of planning permission ref. 19/0630, the only Policy now of strict relevance is CM 5, 'Environmental and Amenity Protection', which is as follows:

*"The Council will only support development which would not lead to an adverse impact on the environment or health or amenity of future or existing occupiers. Development will not be permitted where:*

- 1. it would generate or result in exposure to, either during construction or on completion, unacceptable levels of pollution (from contaminated substances, odour, noise, dust, vibration, light and insects) which cannot be satisfactorily mitigated within the development proposal or by means of compliance with planning conditions;*
- 2. it would cause demonstrable harm to the quality, quantity and associated ecological features of groundwater and surface waters or impact on human health;*
- 3. it is on contaminated or unstable land which would pose an unacceptable risk to human health or the environment, unless suitable mitigation and/or remediation is or can be carried out to ensure safe development;*
- 4. it would be subject to unacceptable risk from existing hazardous installations; and/or*
- 5. proposals for new hazardous installations (e.g. certain gases, liquids and explosive chemicals) pose an unacceptable risk to the health or safety of users of the site, neighbouring land and/or the environment.*

*Proposals may be required to submit detailed assessments in relation to any of the above criteria to the Council for approval.*

*Where development is permitted which may have an impact on such considerations, the Council will consider the use of conditions or planning obligations to ensure any appropriate mitigation measures are secured."*

- 6.4 The proposal, therefore, raises the following planning issue: Whether the principle of extending the opening hours by 30 minutes is acceptable enabling the premises to open as a hot food takeaway daily from 1600 hrs until 2100 hrs during the evening instead of the approved period under

planning permission 19/0630, which permits the premises to open in the evenings from 1630 hrs to 2100 hrs.

- 6.5 In other words, whether the extension of opening hours by 30 minutes, adding this extra time to the start of the evening opening period, would give rise to such change to the circumstances that the development can no longer meet the objectives of Policy CM 5, if Condition 8 of 19/0630 is varied in the way proposed.
- 6.6 The key text from Policy CM 5 is at the beginning of the Policy, where it states:
- "The Council will only support development which would not lead to an adverse impact on the environment or health or amenity of future or existing occupiers."
- 6.7 The applicant sought to mitigate potential concerns relating to the usage of the premises by schoolchildren on their way home from school, by limiting its opening hours so that it would minimise the likelihood of children popping in on their way home from school. It is considered that the schools most likely to be relevant to this consideration are Trinity High School, the school day ending there at around 3pm (1500 hrs) and Central Academy, whose school day generally also ends at 1500 hrs (3pm). To a certain extent, the opening hours may be relevant to students passing who attend nearby primary schools, for example Stanwix Primary School, which finishes at 3.30pm (1530 hrs) for Key Stage 2 students.
- 6.8 When the application was originally submitted, the stated opening hours were far greater. An extract from the committee report for 19/0630 includes the following paragraph:
- "The applicant originally specified opening hours as being from 1100-2200 hrs from Monday to Saturday, and from 1600 hrs to 2100 hrs on Sundays and Bank Holidays in the original submission, but has amended this to 1100 hrs to 1400 hrs and then 1630 hrs to 2100 hrs from Monday to Saturday, and 1630 hrs to 2100 hrs on Sundays."*
- 6.9 The change in approach to opening hours was influential in terms of the application being supported, with the committee acknowledging during the November 2019 committee meeting that this showed an appropriate and sensible developer ethos, having particular regard to the aforementioned matter of schoolchildren using the premises in passing, but also in terms of reducing the amount of time the shop would be open, thereby reducing potential effects of a hot food takeaway on nearby residents.
- 6.10 In considering the intended opening hours, the local planning authority agreed with the scope of opening hours proposed if the development were to go ahead (i.e. in the event of planning permission being granted), which led directly to the imposition of Condition 8 because it appeared that there was mutual agreement between the applicant and the local planning authority about an appropriate mode of operation.



- 6.11 The site operators then opened up the shop in contravention of the (mutually agreed) condition without first having approached the local planning authority to seek variation of the condition (prior to the inaugural opening in January). This led to local residents highlighting the exacerbation of impacts caused by extending the period of perceived disturbance caused by odours, noise, social disorder and parking/highway safety.
- 6.12 Members of the Committee are advised that these matters were considered when 19/0630 was a live application in November 2019, and although it is acknowledged that there are ongoing concerns being raised by local residents in these regards, they are not matters for consideration in the context of this planning application. For clarification:
- odour and noise matters are potentially to be considered by the Council's Environmental Health Service, but not by the Planning Service;
  - social disorder and parking/highway safety are now matters only able to be monitored and/or managed by the applicants, in liaison with the police and with relevant sections of local authorities responsible for highways and parking legislation.
- 6.13 It is therefore necessary only to examine whether the proposed variation of the condition would be prejudicial in any way in a planning context to such an extent that the application cannot be supported, having regard to the aforementioned issues discussed in Paragraph 6.4 and 6.5.
- 6.14 30 minutes additional opening time may not seem likely to be particularly significant in the context of the overall permitted opening periods. The premises is already allowed, by virtue of the planning permission, to open for 7.5 hours from Monday to Saturday inclusive, and for 4.5 hours on Sundays and statutory holidays.
- 6.15 The increase would lead to daily opening hours of 8 hours overall on weekdays and Saturdays, and an increase to 5 hours on Sundays and statutory holidays. That would equate to around a 6% increase on weekdays and Saturdays, and around 11% on Sundays and holidays. Overall, the increased opening hours would represent a jump from 49.5 hours to 53 hours, which equates to around a 7.1% increase in opening time in any normal week.
- 6.16 To those households raising objections to the current application, these increases accentuate their concerns about how the premises operate. It has not been helped by the increases being unauthorised, which has somewhat inflamed the local situation. However, as mentioned in Paragraph 6.2, those concerns tend now to relate mainly to matters not required to be re-examined under planning.
- 6.17 Turning now to those matters relevant to planning, although the application was dealt with in good faith and all parties seemed to be working towards the same opening arrangements at the time the planning decision was made, there has been a clear breach of planning control, which has been ongoing

while the current application has been under consideration. The applicants could have opted to revert to the opening hours stipulated in 19/0630, but have decided to pursue an increased opening period.

- 6.18 It is important to reflect that although the applicants identified the reduced hours in part to avoid times when schoolchildren were most likely to be passing, it would not be fair to say that the goods provided by The Fryery are harmful to health in the context of a balanced diet, having regard to Policy CM 5; therefore, while the intentions of the applicants were honourable in that context, it must not be concluded that any premises, in the light of the broad takeaway 'offer' which can be found in Stanwix among other local centres in Carlisle, are to be viewed negatively just because they are hot food takeaways. Some are better than others and, importantly, some are open throughout the day and late into the evenings, to a far greater extent than The Fryery in this location.
- 6.19 It must also be acknowledged that support in a broad sense must be given for appropriate new economic development in new locations in the planning context, and while the operator in this case has arguably pushed the envelope to suit its economic ambitions, a proportionate adjustment to enable the success of a new operation could potentially be tolerated, if it does not change the terms of the operations to such an extent that it is no longer recognisable (i.e. deviates substantially) in relation to the planning permission that enabled it to take place.
- 6.20 The minor increase in opening hours as discussed above does indeed appear to be proportionate, and does not seem to change the essence of the operations in such a way that it substantially deviates from the intentions of the planning permission. The aforementioned increases identified in Paragraph 6.15 are considered to be proportionate to what was originally allowed, notwithstanding the objections, and taking into account the economic development commentary mentioned in the previous paragraph.
- 6.21 It is useful to reflect that the change in hours would not significantly increase the likelihood of the premises being used more often by schoolchildren, notwithstanding the precautionary advice set out in Paragraph 6.18 above. Furthermore, if the hours now operated were stated as being preferred when the supporting statement was submitted in September 2019, they would likely have been concluded to meet the same objectives in relation to these matters. Schoolchildren walking home from Stanwix Primary School, Trinity High School and Central Academy are more likely to have walked past this takeaway by the time it opens, than to be passing after it has opened.

## **Conclusion**

- 6.22 The increase in hours is proportionate to the hours to which the premises has been limited to under planning permission 19/0630, and would not give rise to any overriding additional concerns in the context of the original Condition 8, which was justified in the context of Policy CM 5 of the current Local Plan.
- 6.23 The matters raised in objection are noted and have been acknowledged, but

do not outweigh the acceptability of the proportionate increase in opening hours, which would not prejudice amenity or health in any noteworthy way over and above the way in which they may have been affected in the context of the original planning permission.

- 6.24 It is therefore recommended that variation of Condition 8 of planning permission 19/0630 is permitted so that the premises can be open with authorisation for the extra 30 minutes (between 1600 hours and 1630 hours) daily.

## **7. Planning History**

- 7.1 In February 2021, under ref. 20/0861, Advertisement Consent was granted for the installation of internally illuminated signage - a revised scheme to include an additional section of signage at the northern end of the fascia;
- 7.2 In January 2021, under ref. 20/0860, planning permission was granted for discharge of condition 5 (cleaning and maintenance of all proposed mechanical ventilation and odour control systems) of previously approved application 19/0630;
- 7.3 In December 2020, under ref. 20/0686, the discharge of conditions 3 (materials) & 4 (mechanical ventilation & odour control systems) of previously approved permission 19/0630 was approved; and 20/0761, discharge of condition 7 (waste management) was also approved in this month;
- 7.4 In February 2020, under ref. 19/0635, Advertisement Consent was granted for the installation of new internally illuminated fascia signage;
- 7.5 In November 2019, under ref. 19/0630, planning permission was granted for the change of use from A1 (retail) to A5 (hot food takeaway); installation of new shopfront and insertion of side window;
- 7.6 In March 1987, planning permission was granted for the conversion of the upper floors of 53 Scotland Road to a flat (87/0172)
- 7.7 In October 1985, planning permission was granted for the conversion of 1st and 2nd floors of 53 Scotland Road to bedsit accommodation (85/0360)
- 7.8 In August 1969, planning permission was granted for internal alterations and rebuilding a lean-to to enlarge shop (29692)
- 7.9 In March 1968, planning permission was granted for extension of existing shop premises and removal of internal walls to form store (28838)

## **8. Recommendation: Grant Permission**

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;
2. the location plan received 13 August 2019;
3. Existing Floor Plan received 13 August 2019;
4. Proposed Floor Plan received 13 August 2019;
5. Existing Side Elevation received 13 August 2019;
6. Existing Front Elevation received 13 August 2019;
7. Proposed Side Elevation received 30 September 2019;
8. Proposed Front Elevation received 30 September 2019;
9. the Notice of Decision; and
10. any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason:** To define the permission.

4. Details of the design, height, external finish and position of all proposed mechanical ventilation and odour control systems shall be submitted to and approved in writing by the local planning authority prior to the change of use becoming operational. The development shall then be undertaken in accordance with the approved details and the mechanical extraction system installed prior to the change of use becoming operational.

**Reason:** To safeguard the environment or health or amenity of future or existing neighbouring occupiers and in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

5. A written scheme of cleaning and maintenance of all proposed mechanical ventilation and odour control systems shall be submitted to and approved in writing by the local planning authority prior to the change of use becoming operational. The development shall be undertaken in strict accordance with the approved details.

**Reason:** To safeguard the environment or health or amenity of future or existing neighbouring occupiers and in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

6. Prior to the A5 use being brought into use, a grease trap/digester system shall be installed to the drains.

**Reason:** To prevent pollution of the water environment in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

7. A Waste Management Plan, including details of (i) proposed refuse and oil storage and removal arrangements; and (ii) litter management shall be submitted to and approved in writing by the local planning authority prior to the change of use becoming operational. The development shall be undertaken in strict accordance with the approved details.

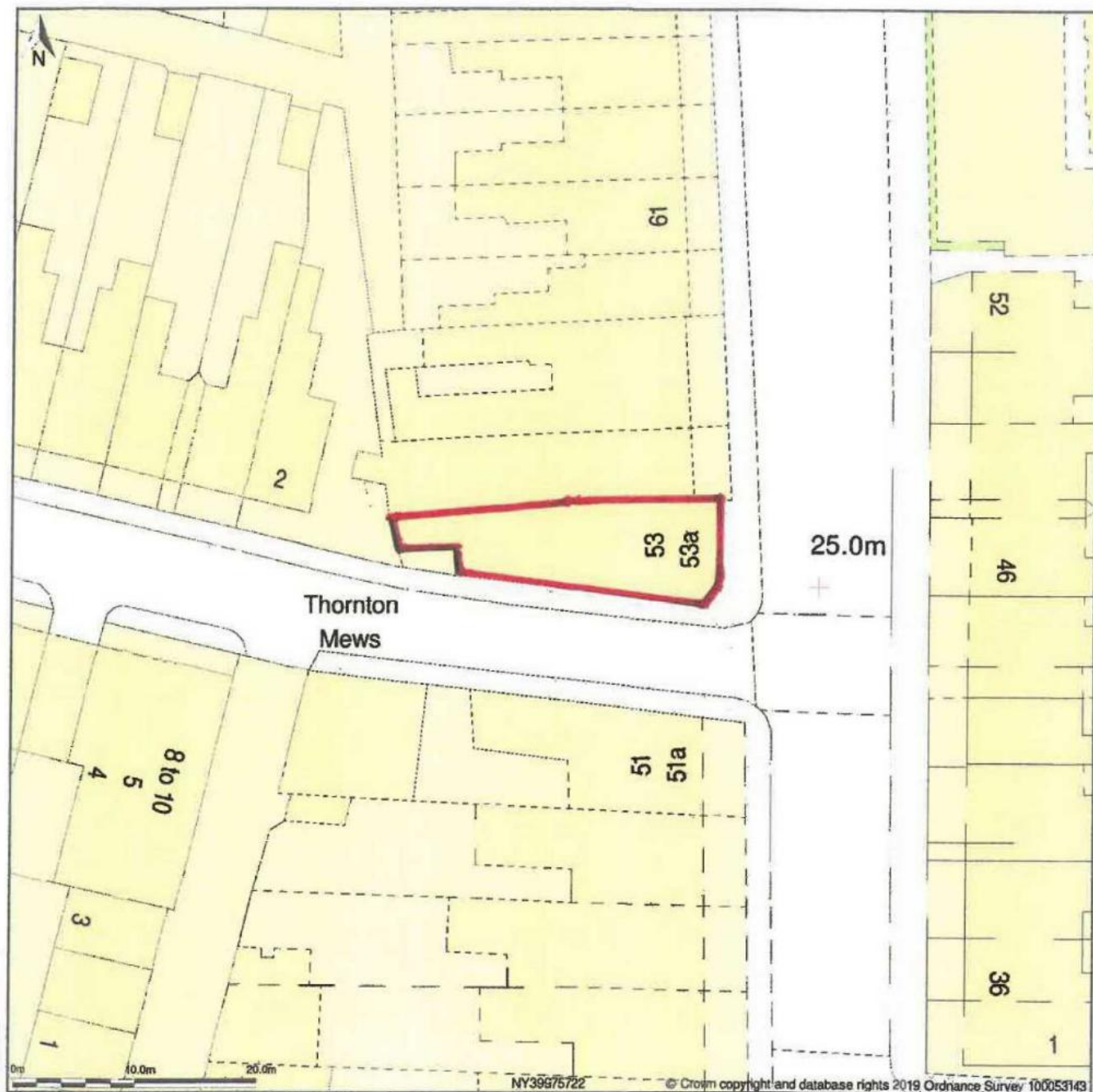
**Reason:** To safeguard the environment or health or amenity of future or existing neighbouring occupiers and in accordance with Policy CM5 of the

8. The proposed hot food takeaway shall not be open for trading except between (1) 1100 hours and 1400 hours and (2) 1600 hours and 2100 hours on Mondays to Saturdays; and between 1600 hours and 2100 hours on Sundays and Bank Holidays.

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

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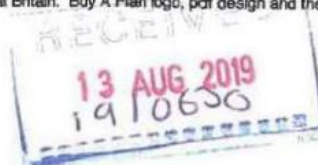
**53a, Scotland Road, Carlisle, Cumbria, CA3 9HT**



Block Plan shows area bounded by: 339934.22, 557182.97 340024.22, 557272.97 (at a scale of 1:500), OSGridRef: NY39975722. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

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## SCHEDULE A: Applications with Recommendation

21/0048

Item No: 05

Date of Committee: 26/03/2021

**Appn Ref No:**  
21/0048

**Applicant:**  
Mr M Rodda

**Parish:**  
Carlisle

**Agent:**

**Ward:**  
Denton Holme & Morton  
South

**Location:** 1 Langdale Avenue, Carlisle, CA2 5QG

**Proposal:** Erection Of Two Storey Side Extension To Provide Office & Kitchen/Diner On Ground Floor With 3no. Bedrooms (1no. En-Suite) Above (Part Retrospective)

**Date of Receipt:**  
27/01/2021

**Statutory Expiry Date**  
24/03/2021

**26 Week Determination**

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### REPORT

**Case Officer:** Barbara Percival

#### 1. Recommendation

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

#### 2. Main Issues

- 2.1 Impact of the proposal on the living conditions of neighbouring residents
- 2.2 Whether the proposal is appropriate to the dwelling
- 2.3 Impact of the proposal on highway safety
- 2.4 Impact of the proposal on biodiversity
- 2.5 Other matters

#### 3. Application Details

##### The Site

- 3.1 Number 1 Langdale Avenue is a two-storey semi-detached house located on the western side of Langdale Avenue. The brick and render property occupies a corner plot with the existing vehicular access serving the dwelling taken from Scawfell Drive.

## **The Proposal**

- 3.2 The application seeks full planning permission for the erection of a two storey side extension to provide office and kitchen/diner on ground floor with 3no. bedrooms (1no. en-suite) above.
- 3.3 The submitted drawings illustrate that the extension would be finished in brick and render with a tiled roof to match the existing dwelling. The existing parking space would be extended to provide 3no. in-curtilage parking spaces.

## **4. Summary of Representations**

- 4.1 This application has been advertised by the direct notification of eight neighbouring properties. In response, one representation of objection has been received.
- 4.2 The representation identifies the following issue:
1. potential future parking issues.

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

**Cumbria County Council - (Highways & Lead Local Flood Authority):** - no objections subject to imposition of a condition and informative. The condition would ensure the proposed method to prevent surface water discharging onto the highway is implemented and that the applicant must have an appropriate permit in place allowing works on any part of the highway;

**Northern Gas Networks:** - no objections to the proposals, however; there may be apparatus in the area that may be at risk during construction works and should the planning application be approved, then it is required that the promoter of these works to contact Northern Gas Networks directly to discuss their requirements in detail.

## **6. Officer's Report**

### **Assessment**

- 6.1 Section 70(2) of the Town and Country Planning Act 1990/Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.
- 6.2 The relevant planning policies against which the application is required to be assessed is the National Planning Policy Framework (NPPF), the Planning Practice Guidance (PPG) and Policies SP6, HO8, IP3, CM5 and GI3 of the Carlisle District Local Plan 2015-2030. A further material consideration is the Supplementary Planning Document adopted by the City Council, 'Achieving Well Designed Housing'.



6.3 The proposals raise the following planning issues:

### **1. Impact Of The Proposal On The Living Conditions Of Neighbouring Residents**

6.4 Policies within the local plan seek to ensure that development proposals should be appropriate in terms of quality to that of the surrounding area. Policies SP6 and HO8 of the local plan together with the SPD seek to ensure that householder development proposals do not result in loss of amenity to surrounding properties through unacceptable overlooking, over-dominance or unacceptable conditions for future or existing occupiers of properties.

6.5 The proposal seeks full planning permission for the erection of two storey side extension to provide office and kitchen/diner on ground floor with 3no. bedrooms (1no. en-suite) above. Given that the property occupies a corner position together with the orientation of the proposed extension, in relation to neighbouring properties, the proposal will not have a detrimental impact on the living conditions of adjoining occupiers on the basis of loss of light, overlooking or over dominance.

### **2. Whether The Proposal Is Appropriate To The Dwelling**

6.6 Policies seek to ensure the development is appropriate in terms of quality to that of the surrounding area and that development proposals incorporate high standards of design including siting, scale and use of materials which respect and, where possible, enhance the distinctive character of townscape and landscape. This theme is identified in Policy SP6 of the Local Plan which requires that development proposals should also harmonise with the surrounding buildings respecting their form in relation to height, scale and massing and make use of appropriate materials and detailing. In addition to the planning policies, the Council's Supplementary Planning Document (SPD) "Achieving Well Designed Housing" advises that ordinarily extensions should not dominate the original dwelling.

6.7 As highlighted earlier in the report, the application seeks full planning permission for the erection of a two-storey side extension. Development to the gable of this corner property will impact on the character and appearance of the street scene. The ridge height of the extension would follow that of the main dwelling with the proposed extension set back from the main elevation. An area of domestic curtilage would be retained to the front and rear of the property and a paved area would be extended adjacent to the rear for parking facilities.

6.8 The scale of the extension is relatively large but the design would be acceptable incorporating the use of appropriate materials. In the context of the existing building and its corner setting, the proposal would be reasonable and proportionate in scale. In this respect, the extension would not be obtrusive or detract from the character or appearance of the street scene. Accordingly, the proposal is acceptable and does not raise any planning issues.

### **3. Impact Of The Proposal On Highway Safety**

- 6.9 The submitted drawings illustrate that the existing parking provision would be extended to provide 3 in-curtilage parking spaces. A third party has questioned the adequacy of the proposed parking provision. Cumbria County Council, as Highways Authority, has been consulted and advise that the required parking provision of 3 in-curtilage parking spaces has been met. Furthermore, the Highway Authority highlights that there are also no on-street parking restrictions.
- 6.10 In overall terms, the Highway Authority consider the layout details are satisfactory from a highway perspective subject to the imposition of a condition and informative. The condition would ensure the proposed method to prevent surface water discharging onto the highway is implemented and that the applicant must have an appropriate permit in place allowing works on any part of the highway. The views of the third party are noted however; subject to compliance with the condition and informative recommended by the Highways Authority it would be difficult to substantiate a refusal of the application on highway safety grounds.

### **4. Impact Of The Proposal On Biodiversity**

- 6.11 The Councils GIS Layer has identified that the site has the potential for several key species to be present within the vicinity. As the proposed development seeks permission to extend an existing dwelling with minimum disturbance to vegetation, it is unlikely that the development would harm a protected species or their habitat. However, should Members approve the application, an informative is recommended to be included within the decision notice ensuring that if a protected species is found all work must cease immediately and the local planning authority informed.

### **5. Other Matters**

- 6.12 The applicant has recently advised that works have been commenced on the foundations as the applicant had hired machinery to investigate the location of the drainage routes serving the dwelling. No further works have been undertaken and the site remains dormant until such time as this application is determined. As Members are aware, it is not illegal to commence development without first obtaining planning permission. It should also be noted that these works would be reversible and does not prejudice the decision-making process.
- 6.13 The application has been brought before Members of the Development Control Committee as the applicant is related to an employee of Carlisle City Council.

### **Conclusion**

- 6.14 In overall terms, the proposal would not adversely affect the living conditions of adjacent properties by poor design, unreasonable overlooking and

unreasonable loss of daylight or sunlight. The scale and design of the proposed extension is acceptable in relation to the dwelling and would not form a discordant feature within the street scene. Adequate in-curtilage parking provision would be achieved. Furthermore, the proposal would not have a detrimental impact on biodiversity.

- 615 In all aspects the proposals are compliant with the objectives of the National Planning Policy Framework, Planning Policy Guidance and local plan policies. Accordingly, the application is recommended for approval.

## **7. Planning History**

- 7.1 There is no relevant planning history.

## **8. Recommendation: Grant Permission**

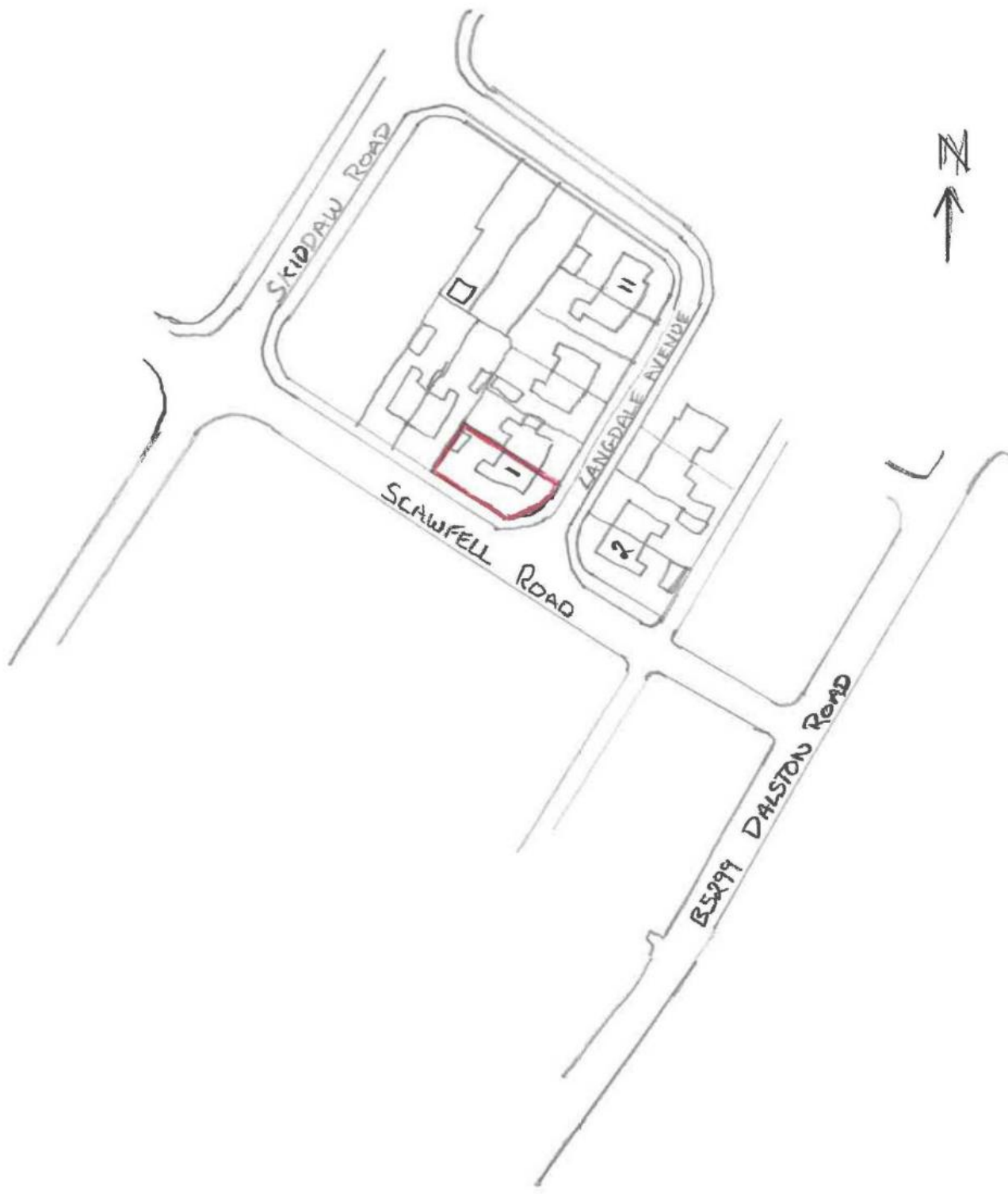
1. The development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:

1. the submitted planning application form received 22nd January 2021;
2. the site plan received 22nd January 2021 (Drawing No. 1);
3. the proposed block plan the proposed side elevation received 27th January 2021 (Drawing No. 3);
4. the proposed rear elevation received 22nd January 2021 (Drawing No. 7);
5. the proposed side elevation received 22nd January 2021 (Drawing No. 8);
6. the proposed front elevation the proposed side elevation received 22nd January 2021 (Drawing No. 9);
7. the proposed ground floor plan the proposed side elevation received 22nd January 2021 (Drawing No. 10);
8. the proposed first floor plan the proposed side elevation received 22nd January 2021 (Drawing No. 11);
9. the highway drainage plan received 25th February 2021;
10. the Notice of Decision;
11. any such variation as may subsequently be approved in writing by the local planning authority.

**Reason:** To define the permission.

2. The measures to prevent surface water discharging onto or off the highway as illustrated on the drawing received 25th February 2021 shall be implemented prior to the development being completed and shall be maintained operational thereafter.

**Reason:** In the interests of highway safety and environmental management in accordance with Policies IP2 and CM5 of the Carlisle District Local Plan 2015-2030.



SITE PLAN  
SCALE 1:1250  
DRAWING 1

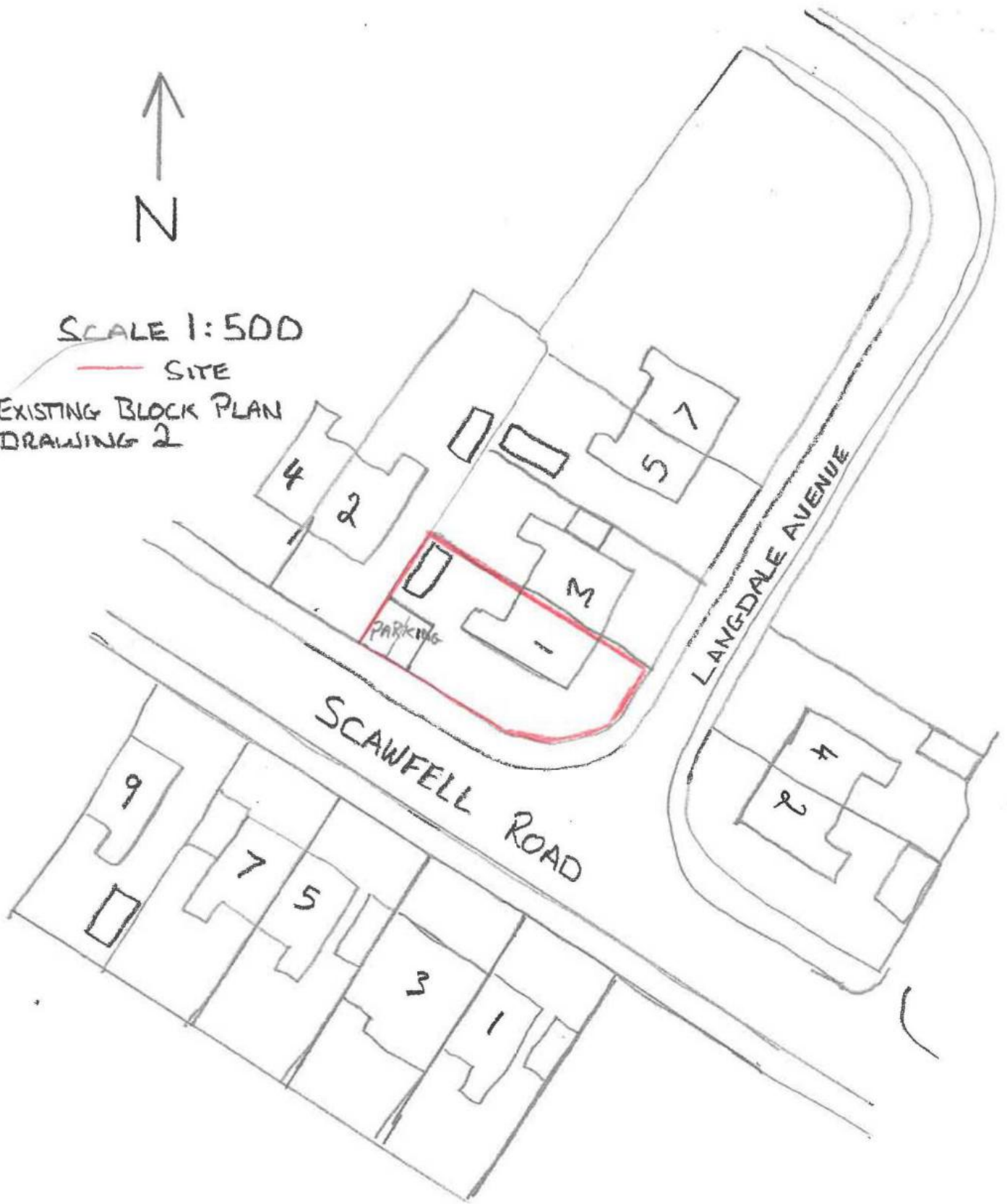
— SITE



SCALE 1:500

— SITE

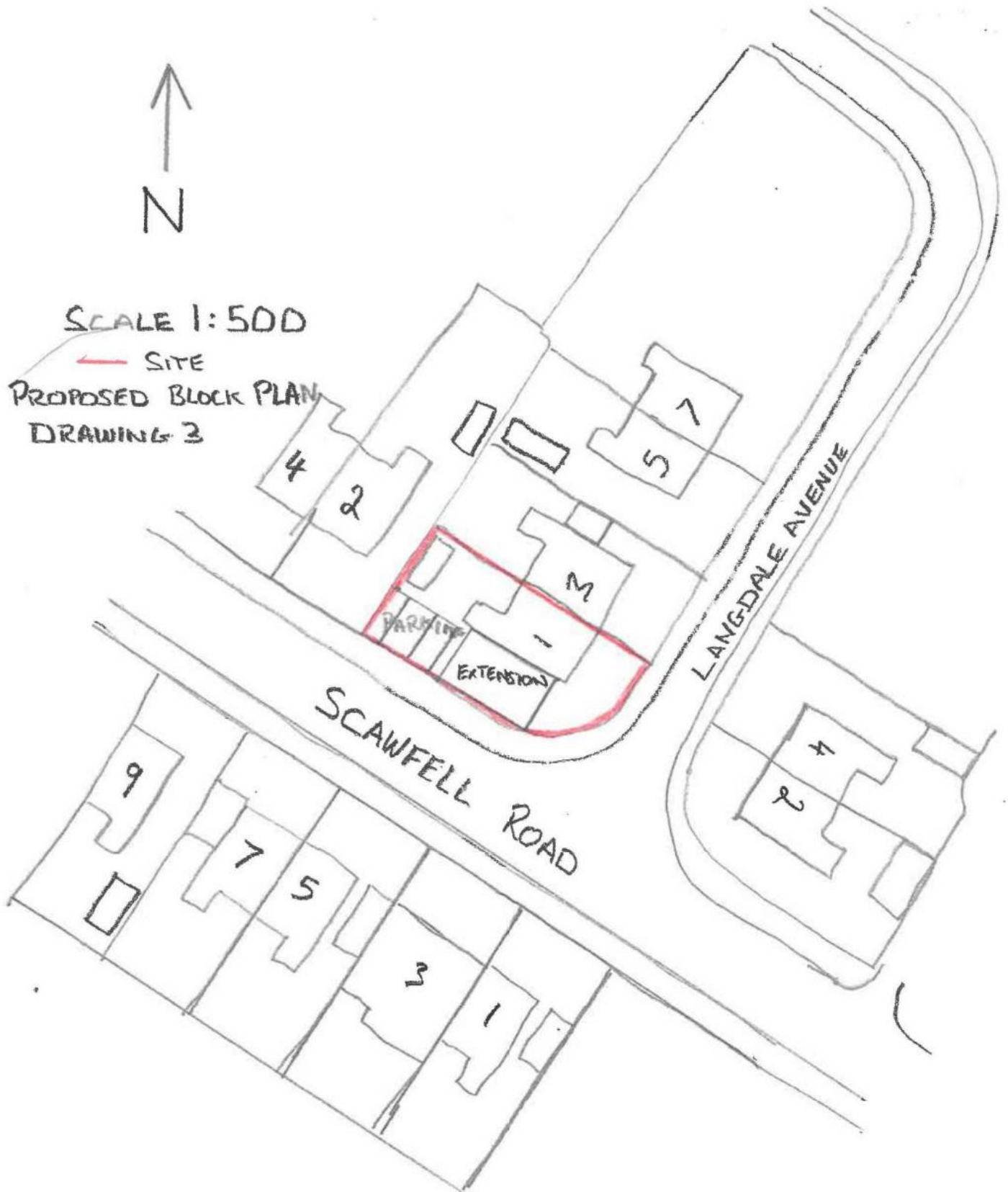
EXISTING BLOCK PLAN  
DRAWING 2





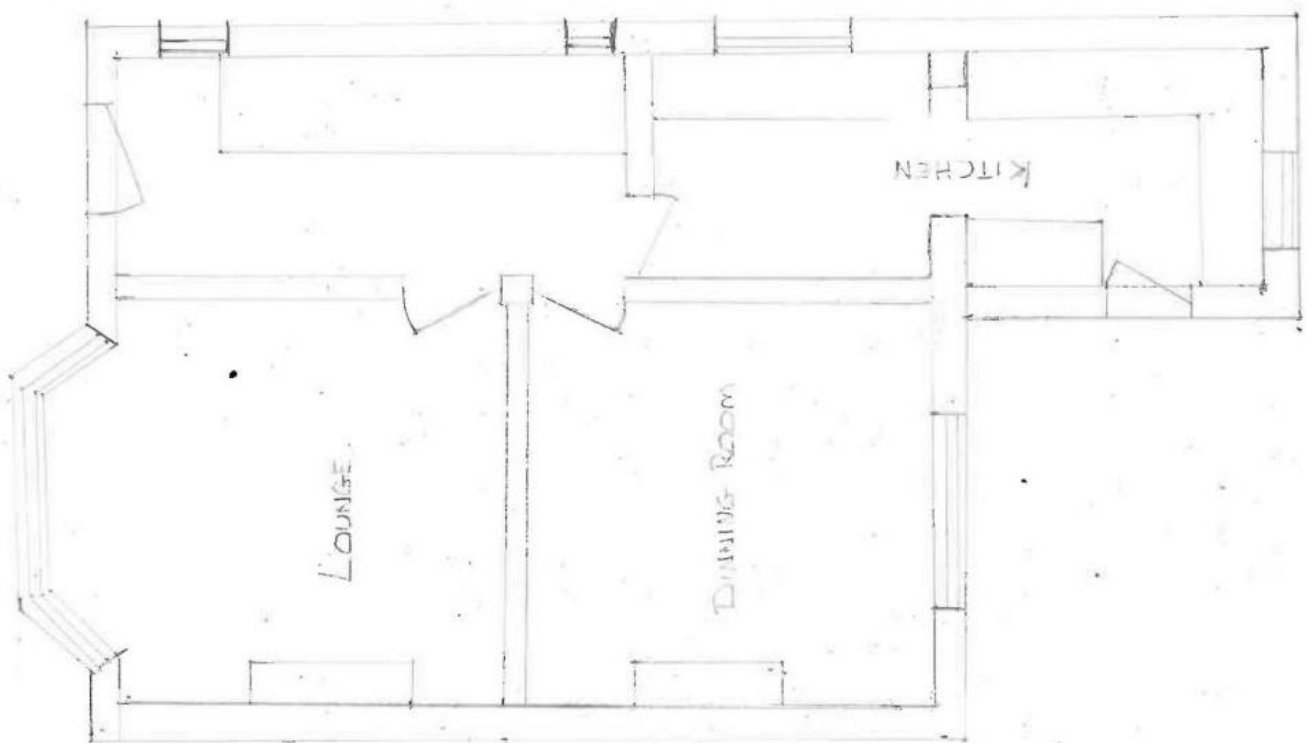
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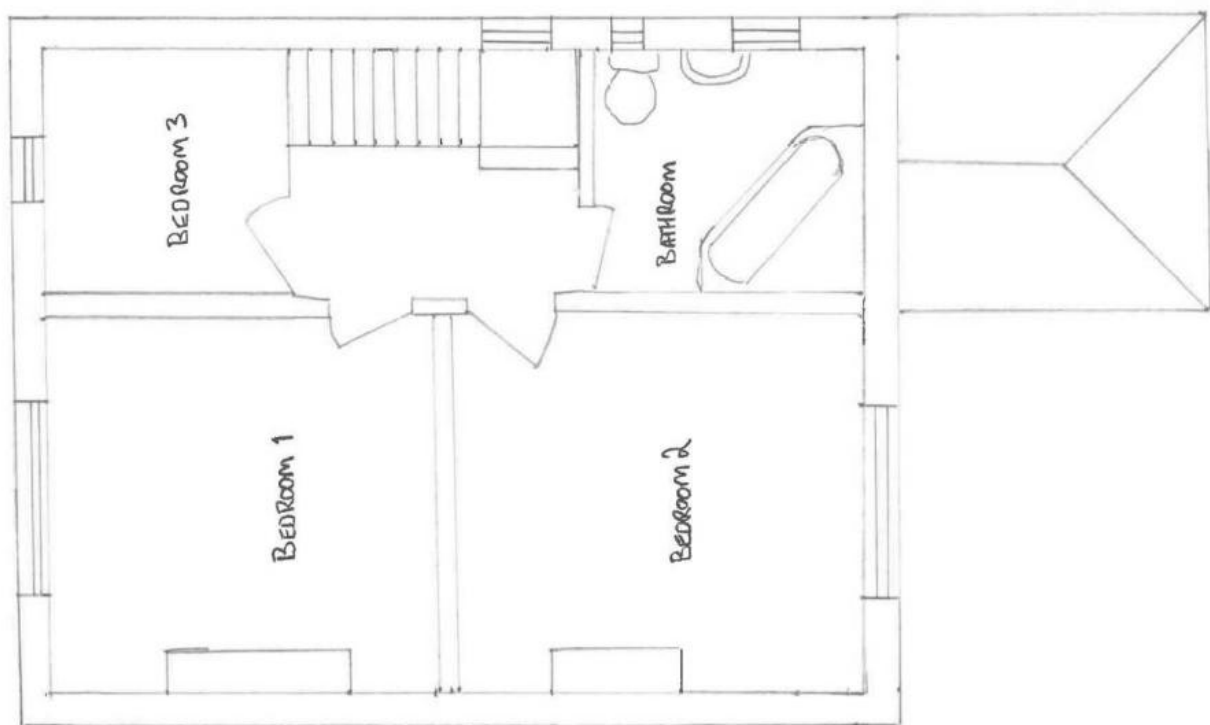
— SITE  
PROPOSED BLOCK PLAN  
DRAWING 3



APPLICATION NUMBER 21/0048  
J LANGDALE, HENRIE, CARLISLE

EXISTING GROUND FLOOR PLAN  
SCALE 1:50  
DRAWING 5

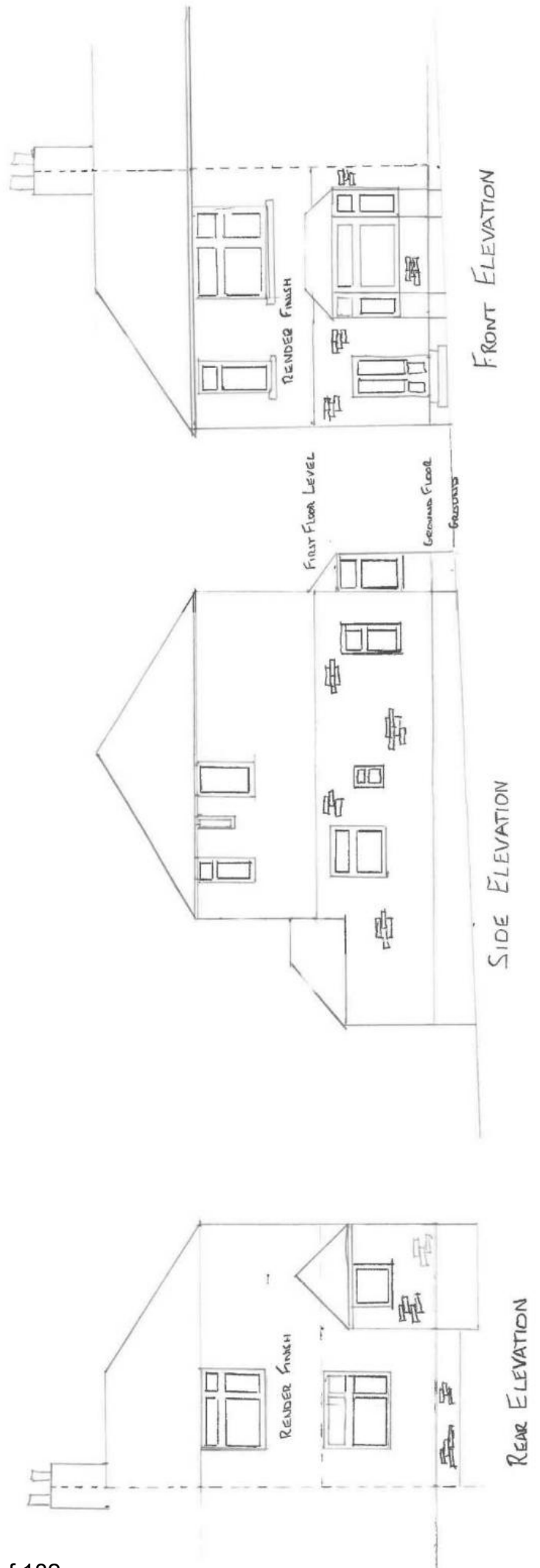




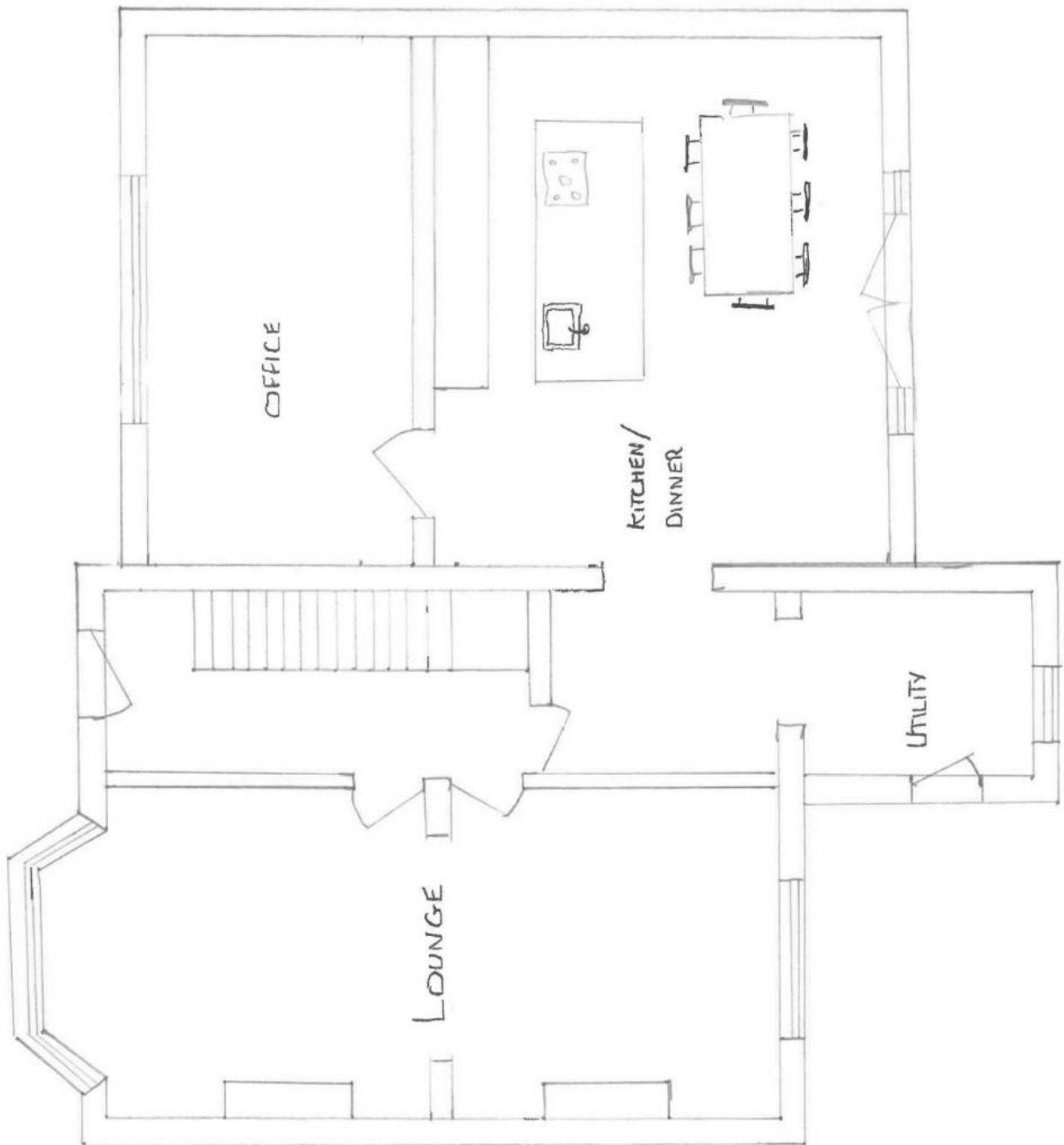
EXISTING FIRST FLOOR PLANS  
SCALE 1:50  
DRAWING-6



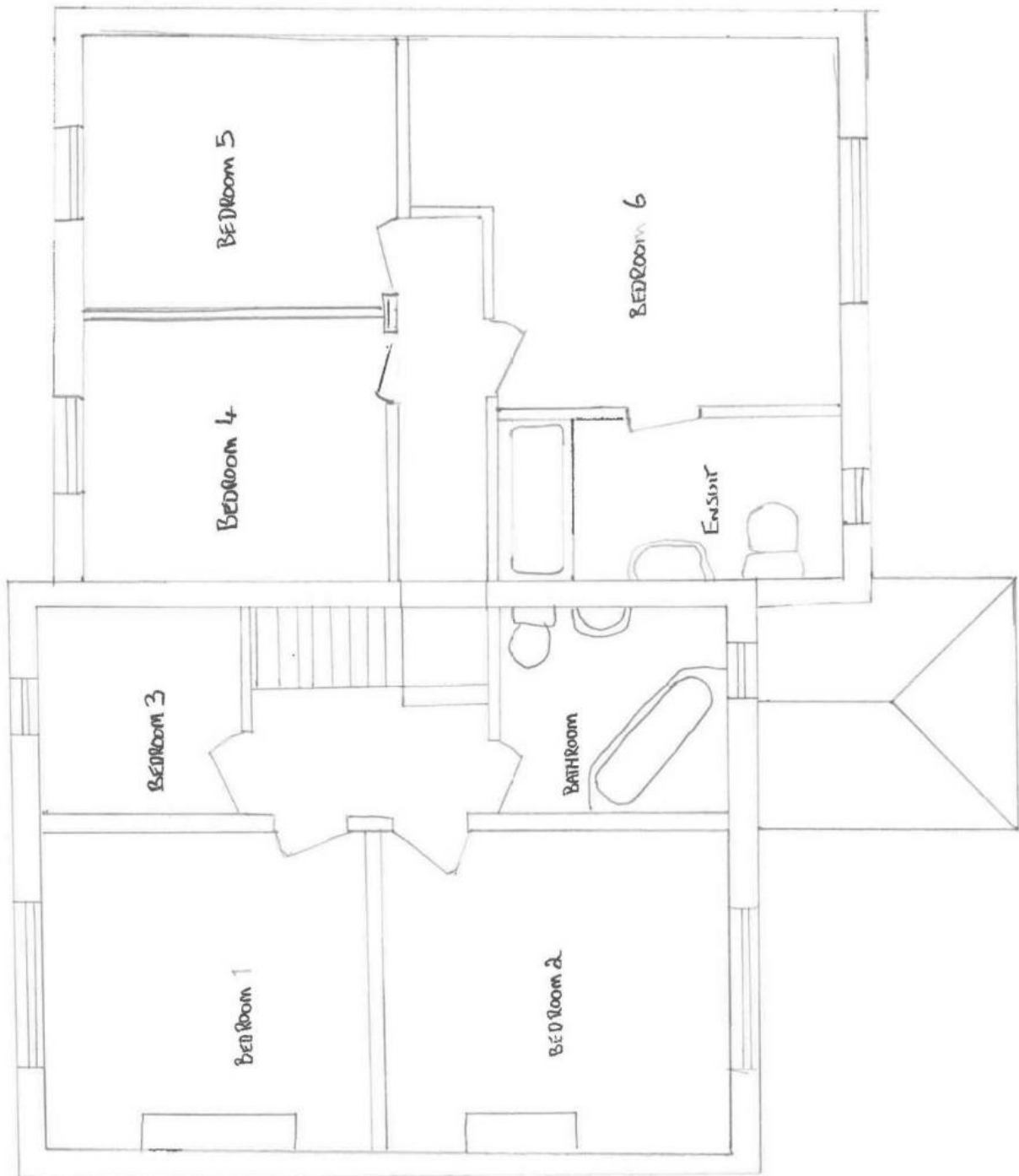
EXISTING ELEVATION PLANS  
 DRAWING 4  
 SCALE 1:100

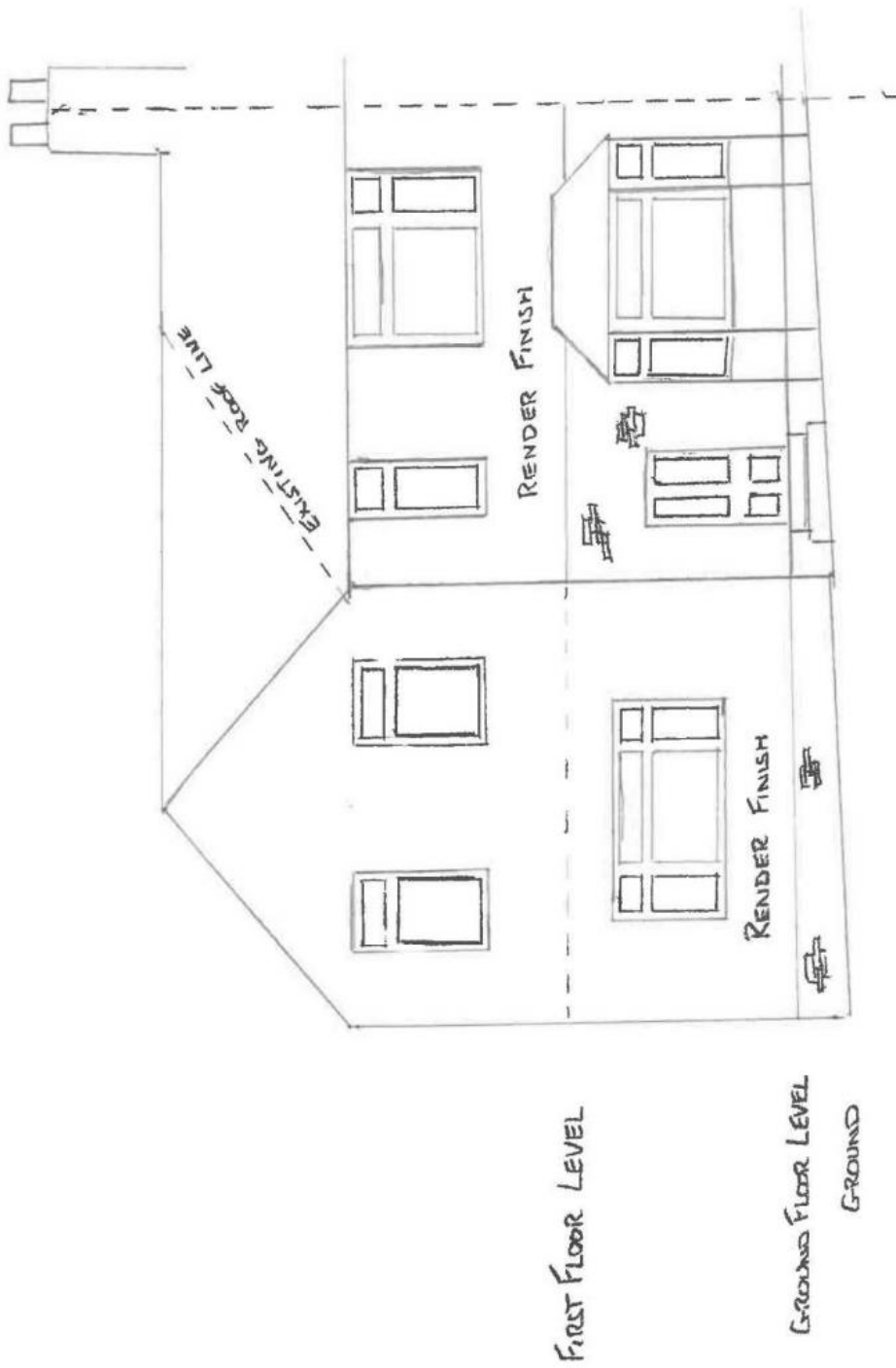


PROPOSED GROUND FLOOR PLAN  
SCALE 1:50  
DRAWING 10

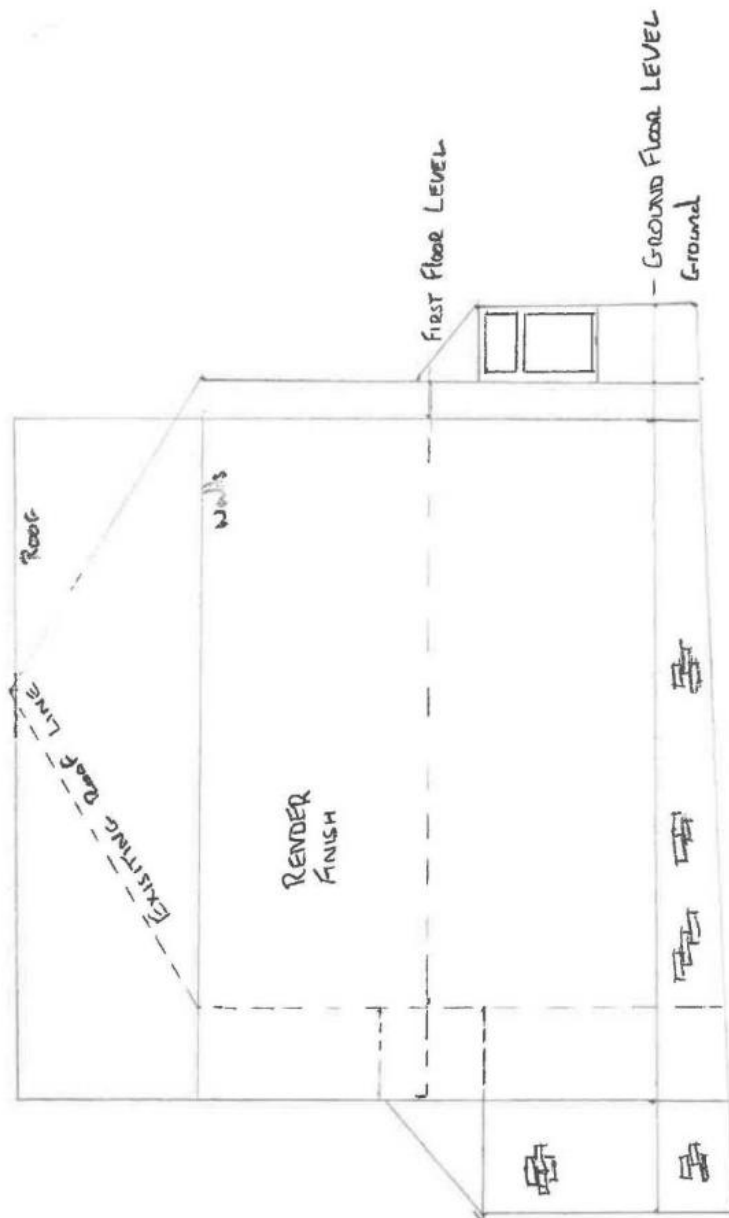


PROPOSED FIRST FLOOR PLAN  
SCALE 1:50  
DRAWING- 11





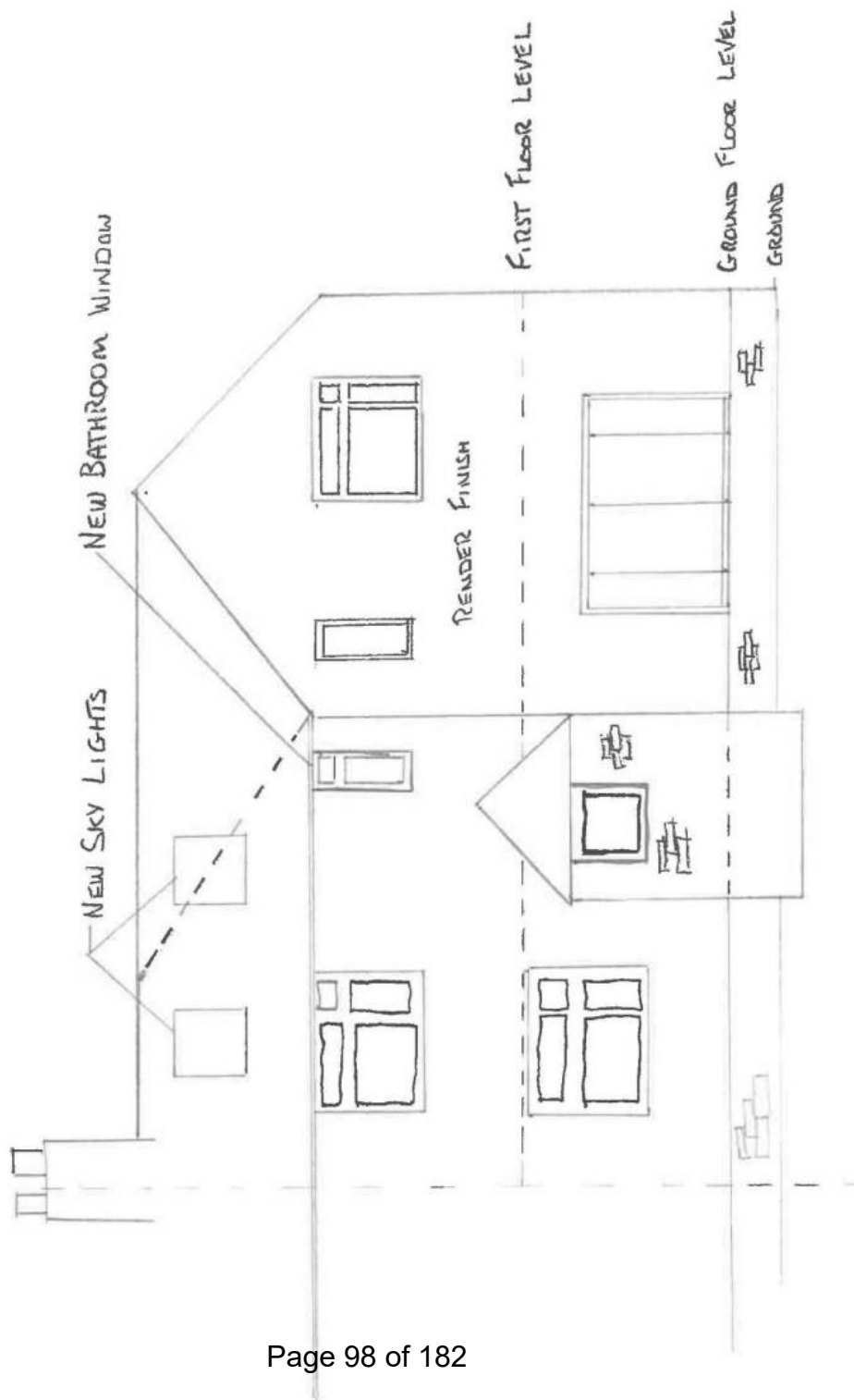
PROPOSED FRONT ELEVATION  
 SCALE 1:100  
 DRAWING 9



PROPOSED SIDE ELEVATION

SCALE 1:100

DRAWING- 8



PROPOSED REAR ELEVATION  
 SCALE 1:100  
 DRAWING 7

## SCHEDULE A: Applications with Recommendation

20/0693

Item No: 06

Date of Committee: 26/03/2021

**Appn Ref No:**  
20/0693

**Applicant:**  
Triple Stone Properties  
Limited

**Parish:**  
Carlisle

**Agent:**  
Exeter Architectural  
Services

**Ward:**  
Cathedral & Castle

**Location:** 104 London Road, Carlisle, CA1 2PE

**Proposal:** Erection Of Rear Extension & Internal Alterations To Form 7no. Flats;  
Erection Of Mews Block To Rear To Provide 2no. Dwellings With  
Associated Parking

**Date of Receipt:**  
20/10/2020

**Statutory Expiry Date**  
15/12/2020

**26 Week Determination**  
26/03/2021

### REPORT

**Case Officer:** Suzanne Osborne

#### 1. Recommendation

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

#### 2. Main Issues

- 2.1 The principle of development;
- 2.2 Whether the scale and design is acceptable together with the impact upon the Grade II listed building;
- 2.3 Impact upon the Carlisle-Settle Conservation Area;
- 2.4 Impact upon residential amenity;
- 2.5 Impact upon the local highway network and whether appropriate parking arrangements can be achieved;
- 2.6 Whether the method of disposal of foul and surface water are appropriate;
- 2.7 Impact upon biodiversity; and
- 2.8 Other matters.

#### 3. Application Details

## **The Site**

- 3.1 This application relates to No.104 London Road, the former Railway Inn Public House, located on the southern side of London Road to the east of Halfords. The property is a substantial detached Grade II Listed Building laid out over four floors with a large rear off-shoot. The building is predominantly constructed from sandstone with the exception of the north-west elevation which is constructed from painted render. The ground levels of the site vary resulting in the basement forming the main footprint of the building with the ground and first floor levels located above. The second floor is situated within the roof void centrally over the front part of the building. Access to the rear of the property and associated parking spaces is via a tarmaced vehicular access situated between the south-east of the building and No.106 London Road. The northern part of the site falls within Carlisle-Settle Conservation Area and is surrounded by commercial properties to the north, west and south together with a series of terraced dwellings to the east.

## **Background**

- 3.2 No.104 London Road was formally a public house known as the Railway Inn and has sat vacant now for a significant number of years resulting in the property now appearing in a dilapidated state with vegetation growing out of the existing walls. Various redevelopment schemes have been submitted and approved over the years however no consented schemes have been implemented. For Members benefit the previously approved redevelopment schemes for the site have consisted of the conversion of the ground floor to retail with a three storey rear extension adjacent to the south-east elevation of the existing off-shoot to house a new staircase to provide access to residential units above and an extension to the rear elevation of the main building to create additional retail space (planning references 06/1363 and 10/1150) together with alterations of the first and second floors to create four apartments (planning references 07/1363 and 10/1156).
- 3.3 In 2017 Full Planning Permission and Listed Building Consent was granted for the creation of a gated access to the rear of the property and a new boundary wall separating the rear of the site from the existing access and tarmaced area to the south-east serving the residential properties at No.s 106-120 London Road and the commercial car garage to the west (references 17/0020 and 17/0021). A subsequent variation of condition was then submitted and approved in 2018 (under application reference 18/0174) to vary Listed Building Consent application 17/0021 to include the partial backfilling of an underground void and additional ground preparation to the new access. The works approved under applications 17/0020 and 18/0174 have all been implemented.
- 3.4 For Members benefit the lawful use of No.104 London Road currently remains a public house with 2no flats above, including an existing gated vehicular access to the south-east of the building from London Road.

## **The Proposal**



- 3.5 The current application seeks Full Planning Permission for the erection of a rear extension to the property and internal alterations to form 7no. flats together with erection of a mews block to the rear to provide 2no. dwellings with associated parking.
- 3.6 The submitted plans illustrate that the frontage of the building onto London Road will be repaired and restored with all original features retained. The existing building will be sub divided internally to create seven apartments. All alterations have been designed to utilise the existing rooms in order to retain as many features as possible with smaller rooms subdivided to form bathrooms etc. The conversion of the existing building is to be supplemented with a proposed side extension to the existing rear off-shoot (part single storey and part three storey) to provide additional accommodation to unit 3 at basement level and a stairwell. The mews building will be attached to the rear elevation of the existing off shoot and will have a total length of 13.4 metres and width of 6 metres. The mews building will be constructed from materials (sandstone walls, under a slate roof with timber windows) to match the existing building and will have a substantially lower eaves and ridge height to the existing off-shoot at the property. The proposed side extension to the existing rear off-shoot will also have a significantly lower ridge and eaves height to the main building and will be constructed from materials to match the existing property with a large amount of glazing incorporated particularly to the stairwell.
- 3.7 In total the development will provide 9 residential units comprising of 6no.2 bed units and 3no.1 bed units. The existing vehicular access to the south-east of the building from London Road will be utilised with 11 incurtilage parking spaces provided as well as a designated cycle and bin storage area.
- 3.8 Members should be aware that an associated Listed Building Consent application for the development has been submitted and approved under the City Council's Delegated Powers Scheme in March 2021 under application reference 20/0694.

#### **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 10 neighbouring properties. No representations have been received in response to the consultation undertaken.

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

**Cumbria County Council - (Highways & Lead Local Flood Authority):** - the proposed number of parking spaces (11) is below the required number of parking spaces outlined in the Cumbria Development Design Guide (2017) which seeks to achieve 1 space per unit for 1 bedroom dwellings and 2 spaces per unit for 2-4 bedroom dwellings.

Refuse bin storage should be provided, a refuse vehicle will only enter a site if it is possible to turn round within the site and normally only if the road is adopted.

No drainage details have been provided would expect to see both separate foul and surface water drainage details.

Recommend refusal as inadequate information has been submitted to satisfy the Local Planning Authority that the development is acceptable in terms of a) off street parking, b) surface water drainage, c) on site turning facilities, d) its effect on local traffic conditions and public safety, and, e) impact on sustainable travel. To support Local Transport Plan Policies LD7 and LD8.

The Highway Authority has subsequently confirmed that drainage could be dealt with via condition.

**Northern Gas Networks:** - no objection, standing advice 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), Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990 (LBA) together with Policies SP1, SP2, SP6, HO2, HE3, HE7, CM5, IP2, IP3, IP6, CC5 and GI3 of the Carlisle District Local Plan (CDLP) 2015-2030. The City Council's Supplementary Planning Document (SPD) on 'Achieving Well Designed Housing' (AWDH) is also a material planning consideration in the determination of this application.
- 6.3 The proposal raises the following planning issues:

#### **1. The Principle Of Development**

- 6.4 The application site is located within the urban boundary of Carlisle and has no specific allocation in the proposal maps which accompany the Carlisle District Local Plan 2015-2030.
- 6.5 When assessing whether the site is appropriate for residential development it is important to note that the National Planning Policy Framework (NPPF) outlines that the purpose of the planning system is to contribute to the achievement of sustainable development.
- 6.6 The aims of the NPPF are reiterated in Policy HO2 of the Carlisle District

Local Plan (CDLP) which allows for windfall housing development other than those allocated within or on the edge of Carlisle, Brampton, Longtown, and villages within the rural area provided that the development would not prejudice the delivery of the spatial strategy of the Local Plan and subject to satisfying five criteria namely that 1) the scale and design of the proposed development is appropriate to the scale form, function and character of the existing settlement; 2) the scale and nature of the development will enhance or maintain the vitality of the rural community within the settlement where the housing is proposed; 3) on the edge of settlements the site is well contained within existing landscape features, is physically connected; and integrates with the settlement, and does not lead to an unacceptable intrusion into open countryside; 4) in the rural area there are either services in the villages where the housing is being proposed, or there is good access to one or more other villages with services, or to the larger settlements of Carlisle, Brampton and Longtown; and 5) the proposal is compatible with adjacent land users.

- 6.7 As stated above the site is located in the urban area boundary of Carlisle with terraced residential dwellings located immediately to the east. The proposal seeks to convert and extend an existing derelict Grade II Listed Building located on one of the main thoroughfares into the City Centre to provide a total of 9 residential units comprising of 6no.2 bed units and 3no.1 bed units. The site is located on a bus route, within walking distance to the City Centre and close to a range of amenities within Botchergate South Local Centre (including supermarkets, A1 shops, takeaways, a gym, hairdressers etc). In such circumstances the site is deemed to be in a sustainable location for housing development and the small number of dwellings proposed would not adversely affect the overall spatial strategy of the local plan. Accordingly the principle of the development is acceptable.

## **2. Whether The Scale And Design Is Acceptable Together With The Impact Upon The Grade II Listed Building**

- 6.8 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; and, optimise the potential of the site to accommodate and sustain the appropriate mix of development. Paragraph 130 of the NPPF states that 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. Paragraph 131 goes on to confirm that in determining applications, great weight should be given to 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.

- 6.9 Policy SP6 of the Carlisle District Local Plan 2015-2030 also seeks to secure good design and contains 12 design principles of how proposals should be assessed.
- 6.10 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"*.
- 6.11 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).
- 6.12 Paragraph 193 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.
- 6.13 Paragraph 194 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 assets of highest significance, such as Grade II\* Listed Buildings, should be wholly exceptional.
- 6.14 Paragraph 195 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 of loss is outweighed by the benefit of bringing the site back into use
- 6.15 Paragraph 196 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.

6.16 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 significance. The policy states that any new development within the curtilage or the setting of a Listed Building 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.

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

6.17 No.104 London Road is Grade II Listed. 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.

6.18 The listing detail is as follows:

*Hotel, now public house. 1837. Red sandstone ashlar on squared plinth with angle pilaster strips, string course, cornice and partial solid parapet. Graduated greenslate roof with coped gables; ridge and end ashlar chimneys stacks. 2 storeys, 5 bays, double-depth plan. Central raised bay has panelled door and patterned overlight, up steps in pilastered surround (formerly has a tetrastyle portico removed in early C20). Sash windows with glazing bars in plain stone reveals with recessed panelled aprons that over entrance in stone architraves. Plastic canopies over ground floor windows. INTERIOR not inspected. Built to serve the London Road Station of the Newcastle & Carlisle Railway opposite, now demolished. Referred to as the 'new' Railway Hotel in Carlisle Journal (1837). At one time it had an attached bowling green, shown on the 1842 Map of Carlisle. (Carlisle Journal: 16 December 1837).*

b) the effect of the proposed development on the Grade II Listed Building

6.19 The application is accompanied by a Design and Access Statement (D&A) and a Heritage Statement (HS). The building, formally used as a public house with residential accommodation above, takes up most of the site frontage with a tarmaced vehicular access to the south-east of the building. To the south-west the remainder of the application site behind the building is laid out as tarmacadam hard standing with a concrete base at the very back of the site that used to have five lock up garages.

- 6.20 The building is a substantial sandstone building laid out over four floors. The site levels mean that the basement level is accessed directly from the rear hard standing area and the ground generally slopes up to London Road which is slightly below ground floor level. The basement forms the foot print of the existing building and the ground and first floor levels sit on top of this footprint. The second floor sits within the roof void centrally over the front part of the building.
- 6.21 The D&A states that structural movement appears to have occurred in the past especially within the rear of the building. Some structural repairs will be required to the roof and stonework where damaged. Some original features are still present in the building mainly cornicing on ground and first floor levels however many have been lost in the past. The original sliding sash windows appear to have been retained on the London Road frontage although on the rear they are a combination of timber sliding sash and casement windows.
- 6.22 The D&A goes on to confirm that the reuse of the building for retail purposes has been assessed but the necessary alterations and return would not be justified furthermore the owners attempt to market the property for retail purposes during the 15 years plus of the buildings closure has failed and the building remains commercially unviable. The intention of the proposal is therefore to return the historical building to the heart of the community by changing its use to residential with an extension to the rear to create more useable and marketable apartments
- 6.23 The D&A states that the proposal entails the restoration of the building by repairing and repointing the sandstone where required., repairing the roof coverings and the existing timber sliding sash windows. The frontage of the building onto London Road will be repaired and restored with all original features retained. The proposal is to sub divide the existing building to create seven apartments supplemented with a proposed extension at the rear of the existing building and a mews building with parking for four spaces underneath. All alterations have been designed to utilise the existing rooms in order to retain as many features as possible. Smaller rooms are to be subdivided to form bathrooms etc.
- 6.24 The D&A confirms that the existing staircase has been substantially altered in the past and it is therefore proposed to replace this with a new staircase positioned within the extension for access within the new extension. The site is large enough to accommodate the new mews building which will provide two apartments. The mews building will be partially screened from London Road by the Halfords building. The extension has been designed to complement the existing building, using traditional materials in a complementary style. The D&A and HS concludes that the development will regenerate a derelict building to provide modern viable dwellings and enhance and contribute to the enrichment of this area of London Road which has been left dilapidated for too long.
- 6.25 The impact of the proposal on the Listed Building has already been assessed and established as acceptable under application 20/0694. The Council's

Heritage Officer (HO) has been consulted on the application and raised no objections subject to the imposition of relevant conditions requesting full details of all new windows, ensuring that all mortar on the exterior leaf is cement-free lime mortar with a sample area agreed together with a sample area of stonework to be submitted and approved before construction of the proposed extension and mews building. Relevant conditions have been imposed on the associated Listed Building Consent application (reference 20/0694) for the site which has been approved under the City Council's Delegated Powers Scheme in March 2021. Members should note that this does not however pre-empt the determination of this planning application and revisions to the Listed Building Consent may be required dependent upon the determination of this application.

- 6.26 The proposed stairwell and single storey extension to the rear of the property appear subservient to the original sandstone building as they have a significantly lower ridge and eaves height. Both extensions incorporate a significant amount of glazing which enables the extensions to appear as light weight modern structures to the substantial sandstone building enabling the existing and new development to be clearly defined. The mews building to rear also as a significantly lower ridge and eaves height to that of the original building allowing the extension to appear as a subservient addition. The extension will be constructed from materials which match those of the existing property and will incorporate similar fenestration details. Although the projection of the mews development is long the architectural detailing provides an interesting contrast to the south-east elevation which overall enhances the rear elevation of the property. In such circumstances the design and scale is acceptable and the proposal would lead to less than substantial harm to the Grade II Listed Building. This level of harm is significantly outweighed by the public benefit of bringing the vacant derelict Grade II Listed Building back into use.

### **3. Impact Upon Carlisle-Settle Conservation Area**

- 6.27 The northern part of the site is located within Carlisle-Settle 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".*

- 6.28 The aims of the 1990 Act are reiterated in both the NPPF, PPG and policies within both the Local Plan. Policy HE7 of the Local Plan advises that proposals should preserve or enhance the special character and appearance of the conservation area and its setting. Development should seek to harmonise with their surroundings and be sympathetic to the setting, scale, density and physical characteristics of the conservation area. Policy HE7 also states that proposals should preserve and enhance features which contribute positively to the area's character or appearance, in particular the design, massing and height of the building should closely relate to adjacent buildings

and should not have an unacceptable impact on the town scape or landscape. Important views into and out of conservation areas should be protected and a local pallet of materials should be used where ever practicable.

- 6.29 As stated in paragraphs 6.8-6.26 above the scale and design of the proposed development is appropriate to the site. In such circumstances the development will not have an adverse impact upon the character/appearance of the Carlisle-Settle Conservation Area.

#### **4. Impact Upon Residential Amenity**

- 6.30 As previously stated within this report there are residential dwellings located to the east of the application site at No.s 106-120 London Road. The residential dwellings are orientated north to south with no windows on the west elevation facing towards the development.
- 6.31 The City Council's SPD 'Achieving Well Designed Housing' outlines minimum distances between primary facing windows together with primary windows and walls serving habitable rooms in order to protect against loss of amenity and privacy i.e. 21 metres between primary facing windows and 12 metres between primary windows and walls.
- 6.32 The proposal will make use of existing openings within the building and new openings will be compliant with the minimum distances outlined in the Council's AWDH SPD. In such circumstances and giving the positioning of the proposed development in relation to the primary windows of neighbouring properties the development will not result in an adverse impact upon the living conditions of any occupiers of neighbouring dwellings in terms of loss of light, over looking or over dominance. Furthermore the re-use of the building for residential is considered to be a compatible use with the neighbouring dwellings.

#### **5. Impact On The Local Highway Network And Whether Appropriate Parking Arrangements Can Be Achieved**

- 6.33 The proposal seeks to utilise the existing vehicular access to the south-east of the building from London Road and will provide 11 incurtilage parking spaces as well as a designated cycle and bin storage area.
- 6.34 Cumbria County Council as the relevant Highway Authority has been consulted on the proposal and has confirmed that the proposed number of parking spaces is below the required number of parking spaces outlined in the Cumbria Development Design Guide (2017) which seeks to achieve 1 space per unit for 1 bedroom dwellings and 2 spaces per unit for 2-4 bedroom dwellings. The Highway Authority has also stated that a private refuse vehicle will only enter a site if it is possible to turn round within the site and normally only if the road is adopted. The Highway Authority therefore recommend refusal of the application due to insufficient parking provided as they consider there is a parking requirement of 15 spaces and the development is only providing 11 spaces.



- 6.35 Members need to consider whether the proposal would lead to a substantial intensification of the use of the existing vehicular access and whether this would have an adverse impact upon highway safety including whether the proposal would displace parking elsewhere to the detriment of highway safety. This assessment is to be made in line with paragraph 109 of the NPPF which states 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"* and Policy IP2 "Transport and Development" of the CDLP which also confirms that development which will cause severe issues which cannot be mitigated will be resisted.
- 6.36 When considering the highway impacts of the proposal the current fall back position (i.e the existing lawful use of the site) is a material planning consideration. The existing lawful use of No.104 London Road is a public house with 2no.residential flats above as none of the past previous redevelopment schemes have been implemented. Using the parking requirements outlined in the Cumbria Design Guide the lawful planning use of the property as a public house with 2no.flats above would generate a parking requirement of 27.6 spaces. Thus the lawful use of the site would generate more traffic movements from the existing access and parking requirements than the proposed residential use. Furthermore when the premises operated as a public house the property would have received regular deliveries from commercial vehicles including from private refuse vehicles to collect commercial waste.
- 6.37 Although the proposed development would provide 11 car parking spaces, which is three less than what is required by the Highway Authority, given the existing lawful use of the site as a public house with 2no.flats above (which generates a significantly higher parking requirement and deliveries from commercial vehicles) and taking into account the sites position to Carlisle City Centre and the local centre at Botchergate South the proposal is clearly located within walking/cycling distance to a significant number of amenities (including supermarkets, a gym, takeaways and retail uses). The proposal is also providing sufficient space on site to encourage more sustainable modes of transport such as cycling and is within walking distance of a bus stop. It is also evident from the Officer site visit that parking along the frontage of the building is prohibited by double yellow lines therefore parking would not be able to be displaced on London Road. In such circumstances it is not considered that the proposal would have a significant detrimental impact upon highway safety, over and above what could take place as existing, to warrant refusal of the application on this basis. If Members are minded to approve the application it is suggested that a relevant condition is imposed within the Decision Notice ensuring that the designated incutillage parking and cycling spaces are provided prior to occupation of the residential units.

## **6. Whether The Method of Disposal of Foul And Surface Water Are Appropriate**

- 6.38 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. The application form, submitted as part of the application, outlines that both foul drainage and surface water would drain to the mains drainage system as is the current arrangement.

- 6.39 United Utilities has not made any representations in respect of capacity of their system during the consultation period therefore it is presumed they have no concerns. The Lead Local Flood Authority has noted that drainage details have not been provided for the extension to the back of the property and would expect to see both separate foul and surface water drainage details which can be dealt with via way of a suitably worded planning condition. Relevant conditions have therefore been imposed within the decision notice requesting full details of the foul drainage system and ensuring that surface water drainage details, in accordance with the hierarchy of drainage options in the NPPF are submitted and approved in writing before commencement of any development. As these matters can be adequately controlled by the imposition of relevant planning conditions there is no policy conflict.

## **7. Impact Upon Biodiversity**

- 6.40 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.
- 6.41 As the proposal would involve the conversion of an existing building within the urban boundary of Carlisle with extensions over existing hard surfaced areas, the proposal would not harm a protected species or their habitat; 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.

## **8. Other Matters**

- 6.42 The human rights of the occupiers of the neighbouring properties have been properly considered and taken into account as part of the determination of the application. Several provisions of the Human Rights Act 1998 can have implications in relation to the consideration of planning proposals, the most notable being:

**Article 6** bestowing the "Right to a Fair Trial" is applicable to both applicants seeking to develop or use land or property and those whose interests may be affected by such proposals;

- Article 7** provides that there shall be "No Punishment Without Law" and may be applicable in respect of enforcement proceedings taken by the Authority to regularize any breach of planning control;
- Article 8** recognises the "Right To Respect for Private and Family Life".

- 6.43 Article 1 of Protocol 1 relates to the "Protection of Property" and bestows the right for the peaceful enjoyment of possessions. This right, however, does not impair the right to enforce the law if this is necessary, proportionate and there is social need.
- 6.44 Article 8 and Article 1 Protocol 1 are relevant but the impact of the development in these respects will be minimal and the separate rights of the individuals under this legislation will not be prejudiced. If it was to be alleged that there was conflict it is considered not to be significant enough to warrant the refusal of permission.

## **Conclusion**

- 6.45 In overall terms the site is deemed to be a sustainable location for housing development given its location within the urban boundary of Carlisle and its proximity to the City Centre and Local Centre of Bothergate South. The principle of the development is therefore acceptable. The scale and design of the proposed alterations are appropriate with existing and original features retained where possible. The proposed extensions to the building will appear as subservient additions given their significantly lower eaves and ridge height. The development will bring a prominent derelict Grade II Listed Building back into reuse which will have a positive impact upon the character/appearance of the Carlisle-Settle Conservation Area and the existing street scene.
- 6.46 The proposal would not harm the living conditions of the occupiers of existing residential properties and will not have a detrimental impact upon any protected species or their habitat. Drainage issues can be sufficiently controlled by the imposition of relevant planning conditions.
- 6.47 Although the proposal will provide three less parking spaces than what it is required given the existing lawful use of the site (which would generate a significantly higher parking requirement) and the sites sustainable location, within walking and cycling distance to a number of amenities, it is not considered that the proposal would have a significant detrimental impact upon the existing highway network/highway safety over and above what could take place from the existing lawful use of the property as a public house. On balance it is considered that the proposed development would allow the viable reuse of a prominent Grade II Listed Building securing the future use of this heritage asset which would be a wider public benefit that would significantly and demonstrably outweigh any perceived harm created through the development failing to meet the exact number of parking spaces required by the Highway Authority. Overall the development accords with the relevant Development Plan Policies and the application is recommended for approval.

## **7. Planning History**

- 7.1 This site has an extensive planning history. The most recent and relevant is as follows:
- 7.2 In March 2021 Listed Building Consent was approved for the erection of a rear extension and internal alterations to form 7no.flats; erection of mews block to rear to provide 2no.dwelling with associated parking (reference 20/0694);
- 7.3 In 2018 Listed Building Consent was granted for the proposed creation of a gated access to rear of property and new boundary wall (variation of previously approved consent 17/0021 to include partial backfilling of underground void and additional ground preparation to new access (reference 18/0174);
- 7.4 In 2017 a discharge of condition application was granted for discharge of condition 3 (sample area) of previously approved application 17/0021 (reference 17/1032);
- 7.5 In 2017 Full Planning Permission and Listed Building Consent was granted for proposed creation of gated access to rear of property and new boundary wall (references 17/0020 and 17/0021);
- 7.6 In 2010 Full Planning Permission was granted for alterations and extensions to form one retail unit and new internal access (renewal of expired application 06/1363, reference 10/1150);
- 7.7 In 2010 Listed Building Consent was granted for demolition of redundant W.C accommodation, erection of extension to rear and internal alterations to form one retail unit and 4no.residential apartments, general repairs to sliding sash windows, stonework and roof coverings, construction of bin storage area to the side of 104 London Road (reference 10/1151); and
- 7.8 In 2010 Renewal of Unexpired Permission was granted for renewal of unexpired permission of previously approved application 07/1363 for conversion of first and second floor to create four apartments (reference 10/1156).
- 7.9 In April 2007 an application was submitted (planning reference 07/0445) seeking Full Planning Permission for the conversion of first and second floors to form 4no. apartments. This application was refused planning consent on the recommendation of the Health and Safety Executive as the proposal fell within the inner consultation zone of a major hazard site. A revised application was submitted in December 2007 (planning reference 07/1363) seeking Full Planning Permission for the conversion of first and second floors to form 4no. apartments. The permission to store hazardous materials on Watts Yard (the major hazard site) had since been revoked therefore the Health and Safety Executive no longer raised any objections to the proposal and planning permission was therefore granted.
- 7.10 In 2007 Full Planning Permission was granted for the construction of a bin

storage area to the side of 104 London Road (reference 07/0143);

- 7.11 In 2006 Full Planning Permission was granted for alterations and extensions to form one retail unit and internal access (reference 06/1363); and
- 7.12 In 2006 Listed Building Consent was granted for the demolition of redundant WC accommodation, erection of extension to rear and internal alterations to form one retail unit and four residential apartments, general repairs to sliding sash windows, stonework and roof coverings (reference 06/1364).

## **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 14th October 2020;
2. the site location plan received 14th October 2020 (Drawing No.AO3O/P);
3. the proposed block plan received 9th February 2021 (Drawing No. BO42/P/B);
4. the site parking plan received 9th February 2021 (Drawing No.BO6O/PB);
5. the visibility line plan received 9th February 2021;(Drawing No.BO65/P);
6. the proposed basement floor plan received 9th February 2021 (Drawing No. B1OO/PD);
7. the proposed ground floor plan received 9th February 2021 (Drawing No. B2OO/PC);
8. the proposed first floor plan received 9th February 2021 (Drawing No. B3OO/PD);
9. the proposed second floor plan received 9th February 2021 (Drawing No. B4OO/PE);
10. the proposed north east elevation received 5th March 2021 (Drawing No.B5O1/PA);
11. the proposed south west elevation received 5th March 2021 (Drawing

No. B5O2/PC);

12. the proposed north west elevation received 5th March 2021 (Drawing No. B5O3/PD);
13. the proposed south east elevation received 5th March 2021 (Drawing No.B5O4/PD);
14. the section on part south west elevation received 9th February 2021 (Drawing No.B537/P);
15. the proposed roof plan received 9th February 2021 (Drawing No. BO64/PA);
16. the proposed ground and first floor plan of the mews received 14th October 2020 (Drawing No.MOO1/P);
17. the proposed second floor and roof plan of the mews received 14th October 2020 (Drawing No.MOO2/P);
18. the proposed elevations of the mews received 14th October 2020 (Drawing No.MOO6/P);
19. the Notice of Decision;
20. any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason:** To define the permission.

3. The designated parking spaces shall be constructed/marked out in accordance with the approved plans before the residential units hereby approved are occupied and shall not be used except for the parking of vehicles in connection with the development hereby approved.

**Reason:** To ensure adequate access is available for each occupier in accord with Policy IP2 of the Carlisle District Local Plan 2015-2030.

4. Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the Local Planning Authority.

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.

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, NPPG together with Policy CC5 of the Carlisle District Local Plan 2015-2030.

5. Foul drainage details shall be submitted to and approved by the local planning authority before the development is commenced.

**Reason:** To ensure that adequate drainage facilities are available in accordance with Policy IP6 of the Carlisle District Local Plan 2015-2030.

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Notes

Revision

No.

Description

Date

Issue

24/09/2020 09:43:59

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Job The Railway Inn Scale@ A3As indicated

Date : Issue Date Revision :

Drawing Title

Location Plan

As Existing

Client Triple Stone Properties

Project

The Railway Inn,

104 London Road,

Carlisle,

CA1 2PE

Drawn By

George

Version

Planning

Drawing no.

A030JP

### Railway Inn Pub, 104, London Road, Carlisle, Cumbria, CA1 2PE



### 1 1:1250 Location Plan

1 : 1250



VISUAL SCALE 1:1250 @ A3



### 2 500 Location Plan

1 : 500



VISUAL SCALE 1:500 @ A3





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Notes

Revision	Description	Date
1	Submitted and 3 & 4 new one 2 leaf	07/09/2020
2	Revised and 3 & 4 new one 2 leaf	07/09/2020
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99	Revised and 3 & 4 new one 2 leaf	07/09/2020
100	Revised and 3 & 4 new one 2 leaf	07/09/2020

Issue 09/02/2021 09:36:01

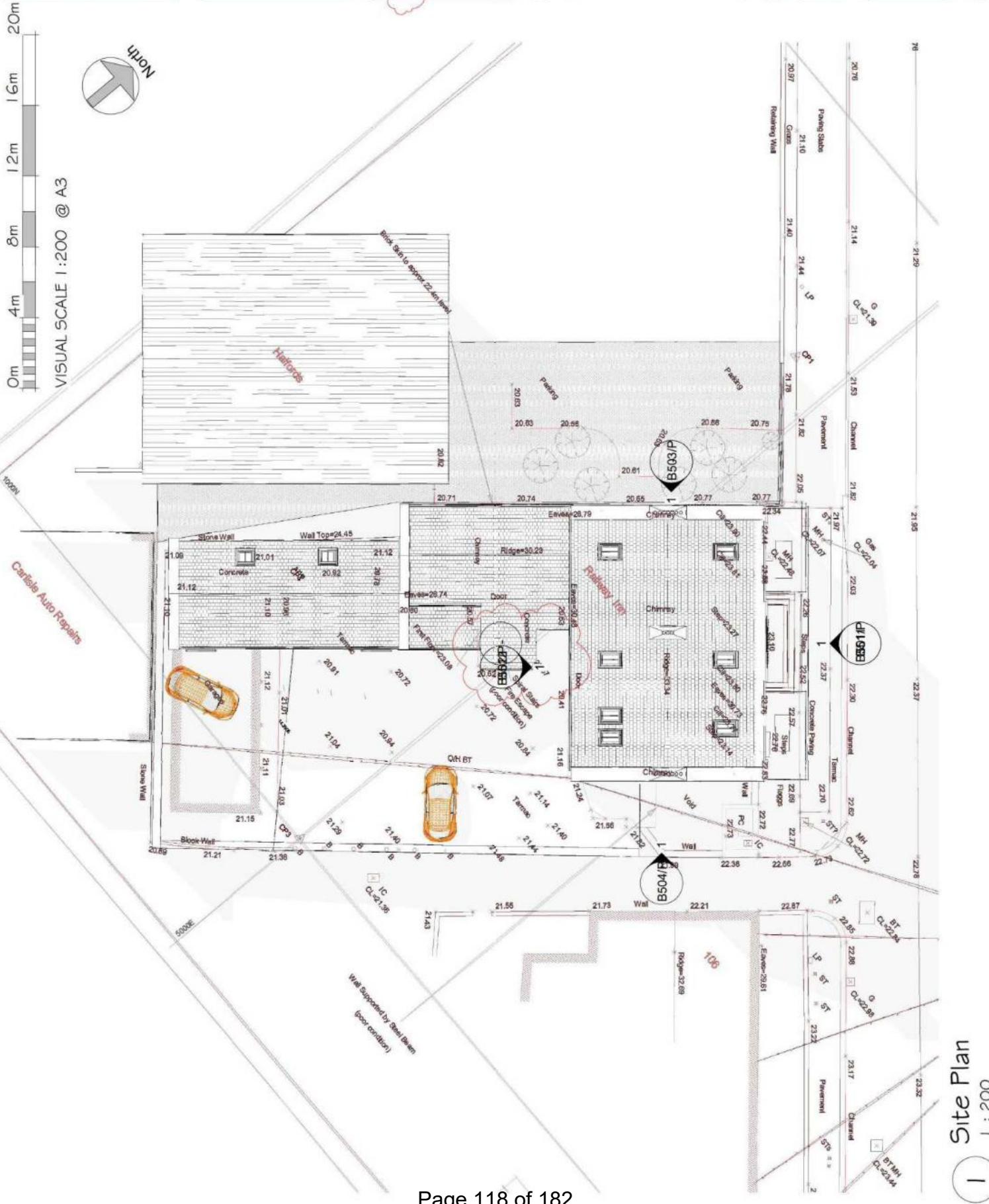
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Job The Railway Inn Scale@ A3 | 200  
Date : Issue Date Revision : B

Drawing Title  
Site Plan  
As Proposed

Client Triple Stone Properties  
Project  
The Railway Inn,  
104 London Road,  
Carlele,  
CAI 2PE

Drawn By George  
Version Planning  
Drawing no. B042P B





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Notes

Revision	No.	Description	Date
A	1	Revised unit 3 & 4 now one 2 bed unit. All units now re numbered	07/09/2020
B	1	Planning Updated	03/11/2020

Issue 09/02/2021 09:35:06

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Job The Railway Inn Scale@ A3 | : 200  
Date : Issue Date Revision : B

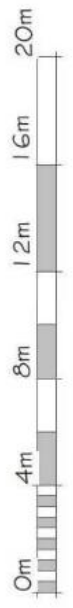
Drawing Title  
**Site Parking**  
As Proposed

Client Triple Stone Properties  
Project The Railway Inn,  
104 London Road,  
Carlisle,  
CA1 2PE

Drawn By George  
Version Planning  
Drawing no. BOCOP B



**1 Site Plan Parking**  
1 : 200



VISUAL SCALE 1:200 @ A3

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Votes

[illegible]

Issue 09/02/2021 09:33:01

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[george@exeetplanning.com](mailto:george@exeetplanning.com)

Job: The Railway Inn Scale@ A3 | : 500  
Date : Issue Date Revision :

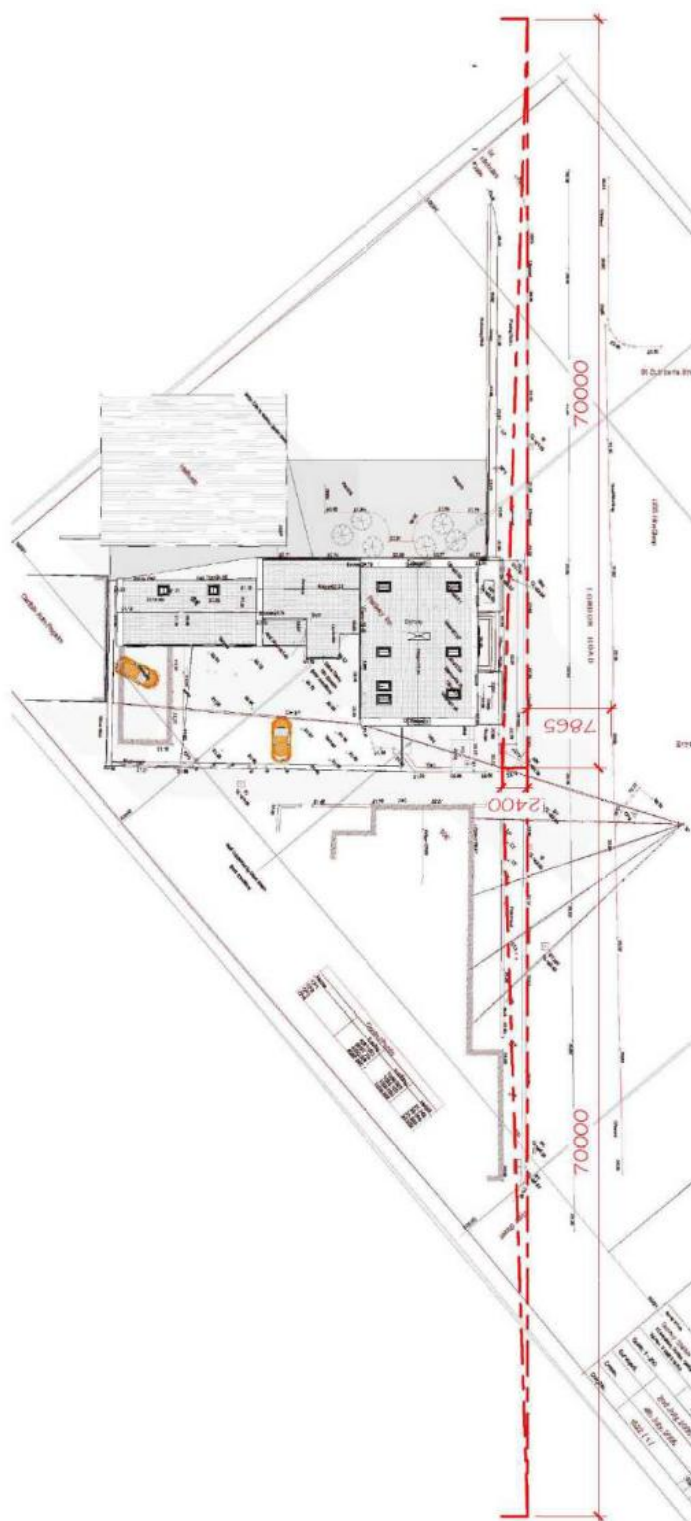
Drawing Title	Visibility Lines	As Proposed
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Client Triple Stone Properties  
Project The Railway Inn,  
104 London Road,  
Carlisle,  
CA1 2PE

Drawn By  
George

Version  
Planning

Drawing no.  
BOG5/P

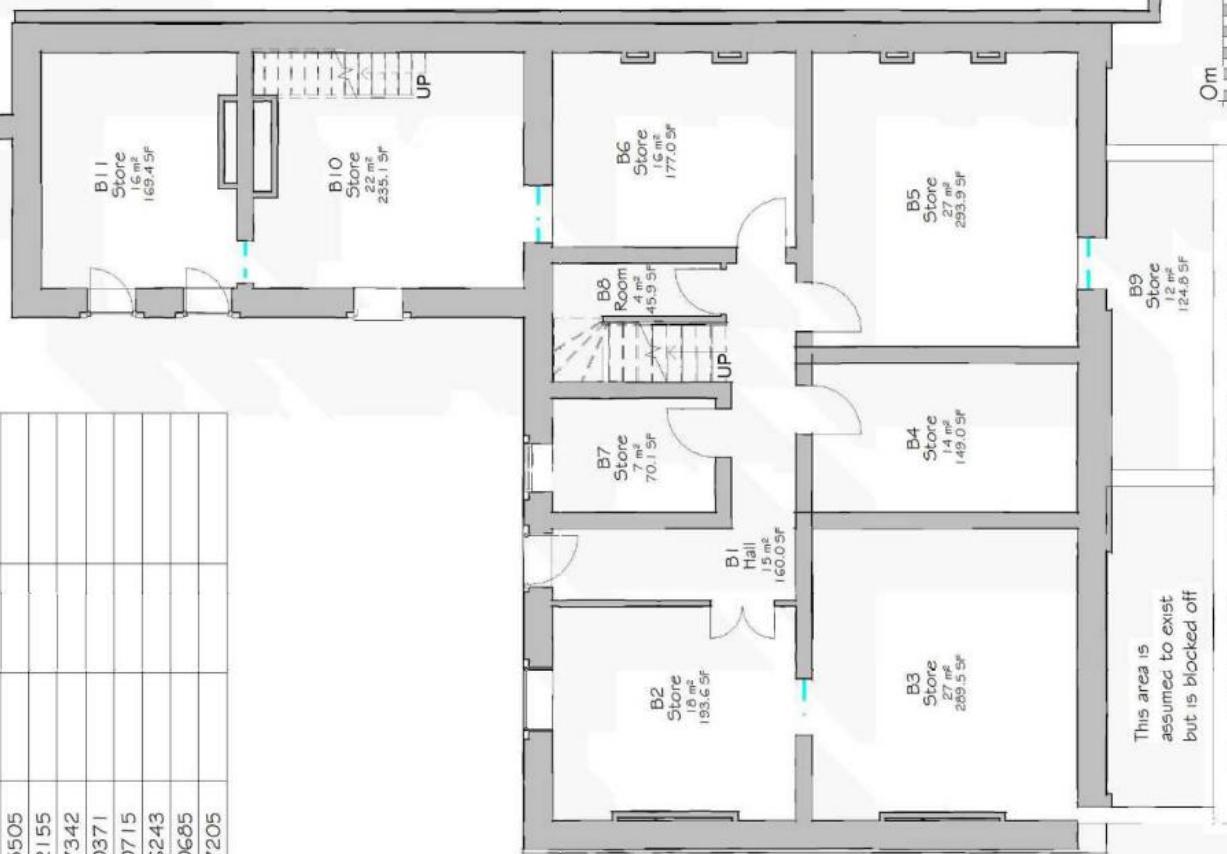


Visibility lines  
1 : 500

Basement Room Schedule

Level	Number	Name	Area	Perimeter	Floor Finish	Wall Finish	Comments
Basement	B1	Hall	15 m <sup>2</sup>	26456			
Basement	B2	Store	18 m <sup>2</sup>	17759			
Basement	B3	Store	27 m <sup>2</sup>	21463			
Basement	B4	Store	14 m <sup>2</sup>	15505			
Basement	B5	Store	27 m <sup>2</sup>	22155			
Basement	B6	Store	16 m <sup>2</sup>	17342			
Basement	B7	Store	7 m <sup>2</sup>	10371			
Basement	B8	Room	4 m <sup>2</sup>	10715			
Basement	B9	Store	12 m <sup>2</sup>	16243			
Basement	B10	Store	22 m <sup>2</sup>	20685			
Basement	B11	Store	16 m <sup>2</sup>	17205			

1  
Basement  
1 : 100



0m 2m 4m 6m 8m 10m

VISUAL SCALE 1:100 @ A3



Notes

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Revision	Description	Date
A	Existing drawing issue	24.07.2020

Issue 24/09/2020 09:48:04

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Job The Railway Inn Scale@ A3 | 100  
Date : Issue Date Revision : A

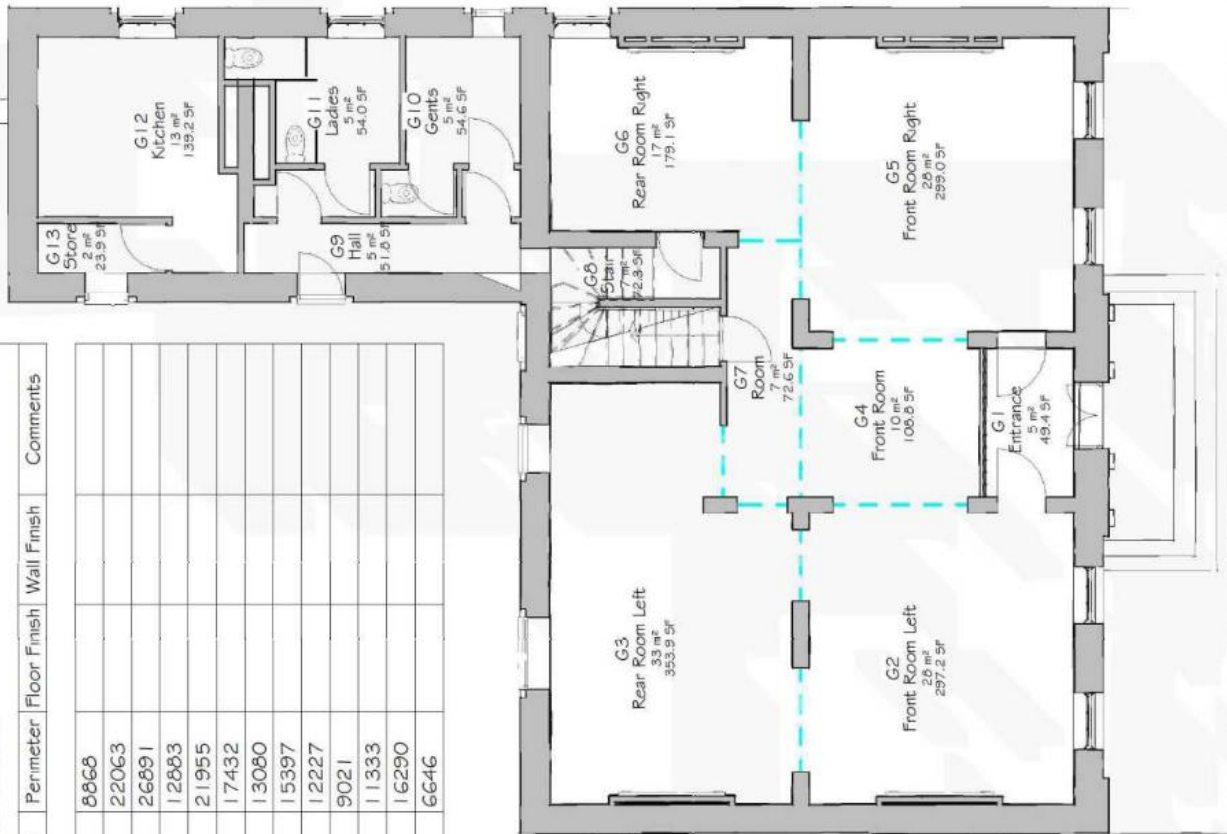
Drawing Title  
Basement  
As Existing

Client Triple Stone Properties  
Project The Railway Inn,  
104 London Road,  
Carlisle,  
CA1 2PE

Drawn By George  
Version Planning  
Drawn no. A100P A



Ground Floor Room Schedule							
Level	Number	Name	Area	Perimeter	Floor Finish	Wall Finish	Comments
Ground Floor Detail	G1	Entrance	5 m <sup>2</sup>	8868			
Ground Floor Detail	G2	Front Room Left	28 m <sup>2</sup>	22063			
Ground Floor Detail	G3	Rear Room Left	33 m <sup>2</sup>	26891			
Ground Floor Detail	G4	Front Room	10 m <sup>2</sup>	12883			
Ground Floor Detail	G5	Front Room Right	28 m <sup>2</sup>	21955			
Ground Floor Detail	G6	Rear Room Right	17 m <sup>2</sup>	17432			
Ground Floor Detail	G7	Room	7 m <sup>2</sup>	13080			
Ground Floor Detail	G8	Stair	7 m <sup>2</sup>	15397			
Ground Floor Detail	G9	Hall	5 m <sup>2</sup>	12227			
Ground Floor Detail	G10	Gents	5 m <sup>2</sup>	9021			
Ground Floor Detail	G11	Ladies	5 m <sup>2</sup>	11333			
Ground Floor Detail	G12	Kitchen	13 m <sup>2</sup>	16290			
Ground Floor Detail	G13	Store	2 m <sup>2</sup>	6646			



1 Ground Floor  
1 : 100

0m 2m 4m 6m 8m 10m  
VISUAL SCALE 1:100 @ A3

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Notes

Revision	No.	Description	Date
	1	Issued drawing issue	24.07.2020

Issue 24/09/2020 09:45:52

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Job The Railway Inn Scale@ A3 1 : 100  
Date : Issue Date Revision : A

Drawing Title  
Ground Floor  
As Existing

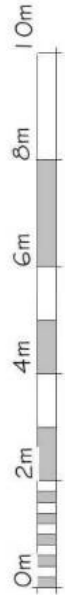
Client Triple Stone Properties  
Project The Railway Inn,  
104 London Road,  
Carlisle,  
CA1 2PE

Drawn By George  
Version Planning  
Drawing no: A2000P A

First Floor Room Schedule							
Level	Number	Name	Area	Perimeter	Floor Finish	Wall Finish	Comments
First Floor	F1	Rear Left	19 m²	18335			
First Floor	F2	Front Left	24 m²	20168			
First Floor	F3	Front Middle	17 m²	17270			
First Floor	F4	Front Right	27 m²	21355			
First Floor	F5	Rear Right	16 m²	16802			
First Floor	F6	Rear Middle	10 m²	12621			
First Floor	F7	Main Hall	9 m²	16019			
First Floor	F8	Stair	7 m²	15922			
First Floor	F9	Rear Hall	5 m²	12647			
First Floor	F10	Room	3 m²	6916			
First Floor	F11	Room	12 m²	15281			
First Floor	F12	Room	16 m²	17136			



1 First Floor  
1 : 100



VISUAL SCALE 1 : 100 @ A3

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#### Notes

Revision	By	Description	Date
1	NA	Existing drawing issue	24.07.2020

Issue 24/09/2020 09:49:37

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Job The Railway Inn Scale@ A3 : 100  
Date : Issue Date Revision : A

Drawing Title  
First Floor  
As Existing

Client Triple Stone Properties  
Project  
The Railway Inn,  
104 London Road,  
Carlisle,  
CA1 2PE

Drawn By George  
Version Planning  
Drawing no. A300P A

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Notes

Revision	No.	Description	Date
	A	Existing drawing issue	24 07 2020

Issue 24/09/2020 09:50:25

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Job The Railway Inn Scale@ A3 | : 100  
Date : Issue Date Revision : A

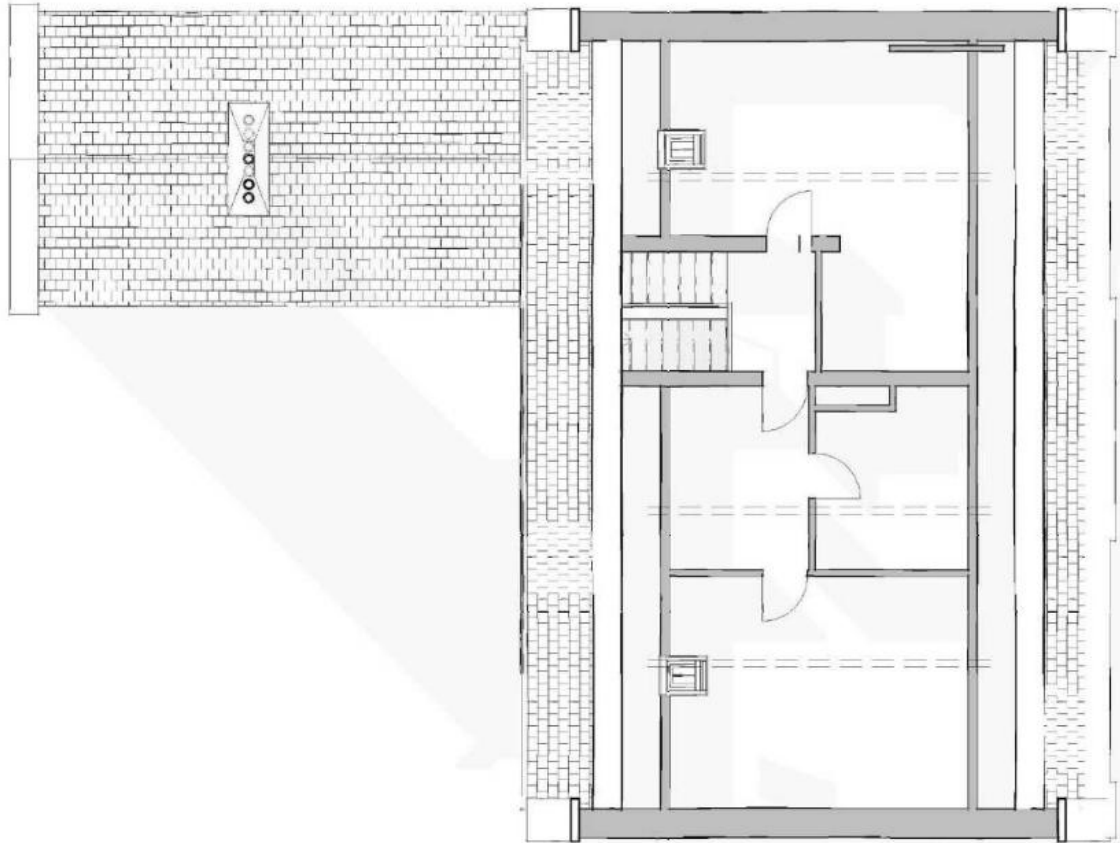
Drawing Title  
Second Floor  
As existing

Client Triple Stone Properties  
Project  
The Railway Inn,  
104 London Road,  
Carlisle,  
CA1 2PE

Drawn By  
George

Version  
Planning

Drawn no.  
A400P A



1 Second Floor  
1 : 100



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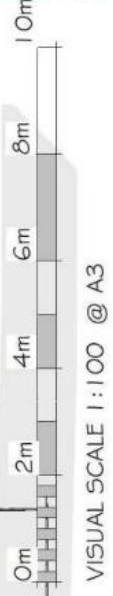
FOR DETAILS OF MEWS  
PLEASE SEE DRAWINGS



- UNIT 1 75 + 73 = 148m<sup>2</sup>
- UNIT 2 79 + 65 = 144m<sup>2</sup>
- UNIT 3 54 + 40 = 94m<sup>2</sup>
- UNIT 4 40m<sup>2</sup>
- UNIT 5 63m<sup>2</sup>
- UNIT 6 65m<sup>2</sup>
- UNIT 7 98m<sup>2</sup>



1 Basement  
1 : 100



VISUAL SCALE 1:100 @ A3

Revision	No.	Description	Date
A	Amendments further to Client Comment	20.07.2020	
B	Individual units colour keyed	07.08.2020	
C	Amendments to drawings as per consultation with comments	15.12.2020	
D	Final amendments after planning comments	02.02.2021	

Issue 09/02/2021 09:31:47

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Job The Railway Inn Scale@ A3 | 1:100  
Date : Issue Date Revision : D

Drawing Title  
Basement  
As Proposed

Client Triple Stone Properties  
Project The Railway Inn,  
104 London Road,  
Carlisle,  
CA1 2PE

Drawn By Version  
George Planning  
B100P D

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Notes

Revision	No.	Description	Date
A	1	Revised unit 3 & 4 now one 2 bed unit. All units now re numbered.	07/09/2020
B	2	Revised unit 3 & 4 now one 2 bed unit. All units now re numbered.	15/12/2020
C	3	Further amendments after planning comments.	02/02/2021

Issue 09/02/2021 09:31:20

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Job: The Railway Inn Scale@ A3 | 1:100  
Date: Issue Date Revision: C

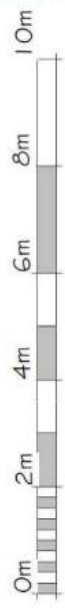
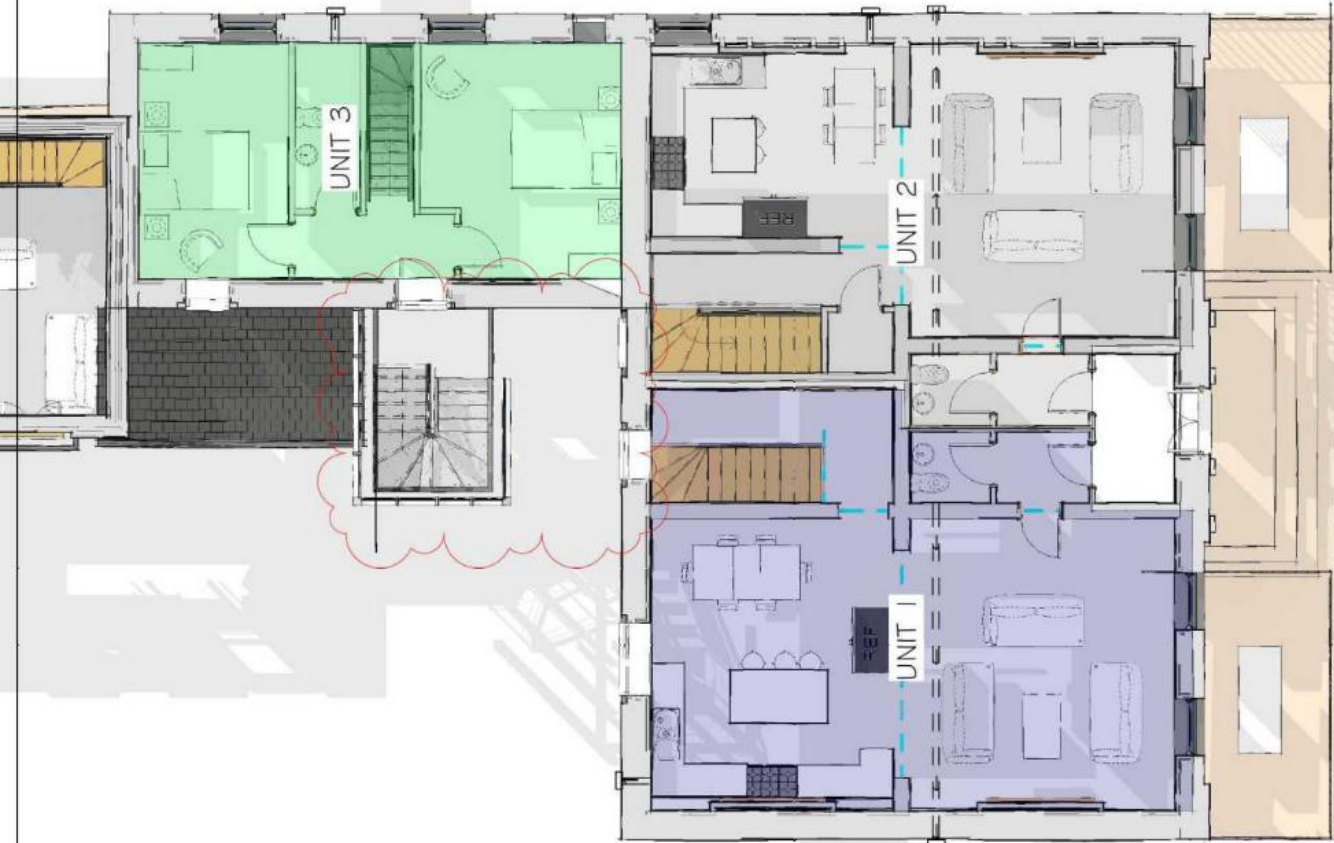
Drawing Title  
Ground Floor  
As Proposed

Client: Triple Stone Properties  
Project: The Railway Inn,  
104 London Road,  
Carlisle,  
CA1 2PE

Drawn By: George  
Version: Planning  
Drawn no: B200P C

- UNIT 1 75 + 73 = 148m<sup>2</sup>
- UNIT 2 79 + 65 = 144m<sup>2</sup>
- UNIT 3 54 + 40 = 94m<sup>2</sup>
- UNIT 4 40m<sup>2</sup>
- UNIT 5 63m<sup>2</sup>
- UNIT 6 65m<sup>2</sup>
- UNIT 7 98m<sup>2</sup>

- UNIT 1 = 2 BED
- UNIT 2 = 2 BED
- UNIT 3 = 2 BED
- UNIT 4 = 1 BED
- UNIT 5 = 1 BED
- UNIT 6 = 1 BED
- UNIT 7 = 2 BED
- MEWS UNITS
- UNIT 1 = 2 BED
- UNIT 2 = 2 BED
- TOTAL BEDS 15



VISUAL SCALE 1:100 @ A3

1 Ground Floor  
1:100



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Notes

Revision	Description	Date
A	Amendments further to Client Comment 26.07.2020	26.07.2020
B	Amendment and 3 & 4 new one 2 bed	07.09.2020
C	Amendments for planning and	15.12.2020
D	Amendments after planning	02.02.2021
	comments	

Issue 09/02/2021 09:30:41

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Job The Railway Inn Scale@ A3 | : 100  
Date : Issue Date Revision : D

Drawing Title  
First Floor  
As Proposed

Client Triple Stone Properties  
Project  
The Railway Inn,  
104 London Road,  
Carlele,  
CA1 2PE

Drawn By George  
Version Planning  
Drawing no: B300P D

- UNIT 1 75 + 73 = 148m<sup>2</sup>
- UNIT 2 79 + 65 = 144m<sup>2</sup>
- UNIT 3 54 + 40 = 94m<sup>2</sup>
- UNIT 4 40m<sup>2</sup>
- UNIT 5 63m<sup>2</sup>
- UNIT 6 65m<sup>2</sup>
- UNIT 7 98m<sup>2</sup>

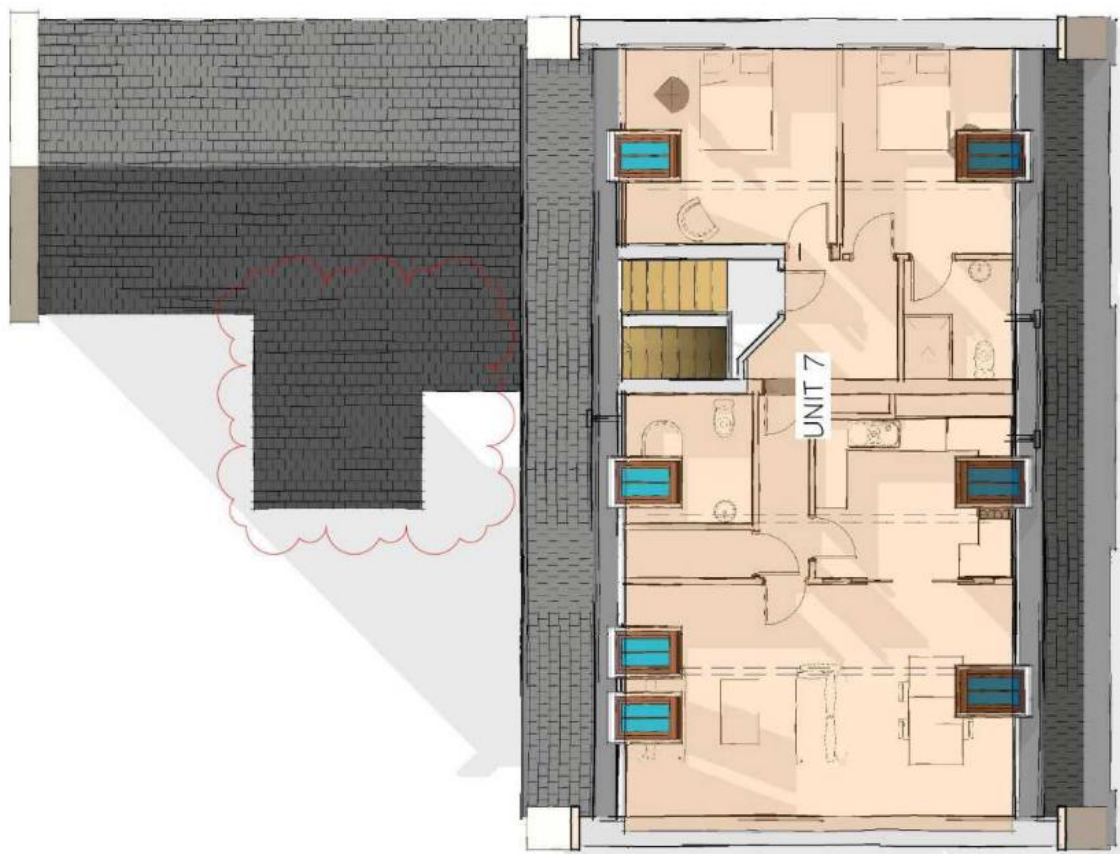


0m 2m 4m 6m 8m 10m

VISUAL SCALE 1:100 @ A3

1  
First Floor  
1:100

1 Second Floor  
1 : 100



- UNIT 1 75 + 73 = 148m<sup>2</sup>
- UNIT 2 79 + 65 = 144m<sup>2</sup>
- UNIT 3 54 + 40 = 94m<sup>2</sup>
- UNIT 4 40m<sup>2</sup>
- UNIT 5 63m<sup>2</sup>
- UNIT 6 65m<sup>2</sup>
- UNIT 7 98m<sup>2</sup>

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Notes

Revision	No.	Description	Date
A	1	Revised to include client comments 26.07.2020	26.07.2020
B	2	Revised to include client comments 07.08.2020	07.08.2020
C	3	Revised to include client comments 07.09.2020	07.09.2020
D	4	Revised to include client comments 15.12.2020	15.12.2020
E	5	Revised to include client comments 02.02.2021	02.02.2021

Issue 09/02/2021 09:30:10

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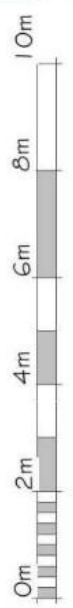
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Job The Railway Inn Scale@ A3 1 : 100  
Date : Issue Date Revision : E

Drawing Title  
Second Floor  
As Proposal

Client Triple Stone Properties  
Project The Railway Inn,  
104 London Road,  
Carlisle,  
CA1 2PE

Drawn By George  
Version Planning  
Drawn no B400P E



VISUAL SCALE 1:100 @ A3

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Notes

Revision	No.	Description	Date
	A	Existing drawing issue	24 07 2020

Issue 24/09/2020 09:51:20

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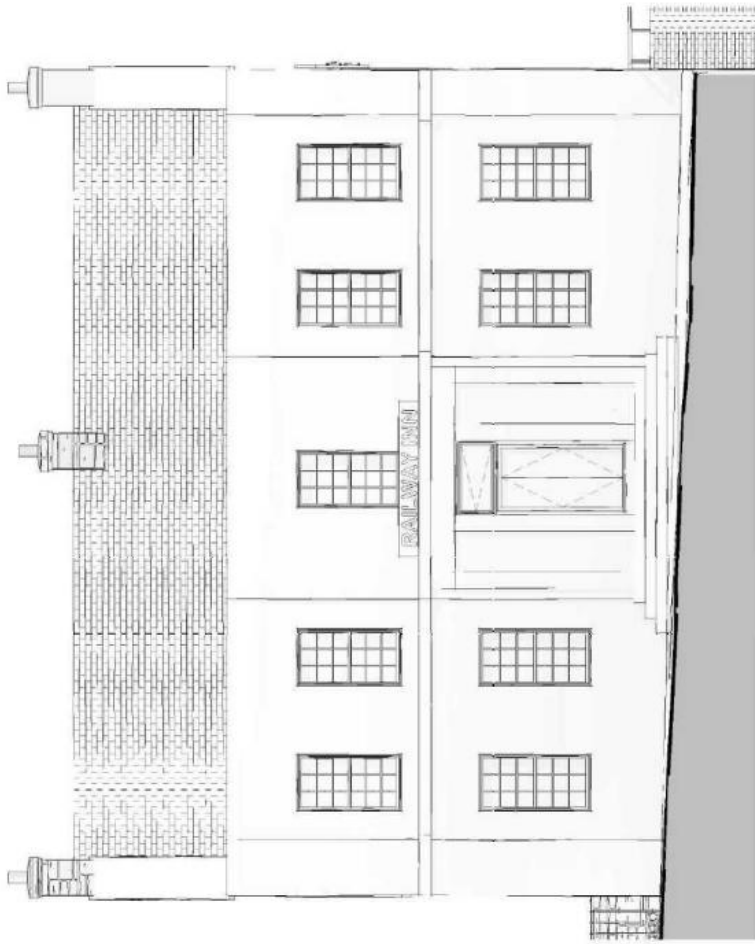
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Job The Railway Inn Scale@ A3 | : 100  
Date : Issue Date Revision : A

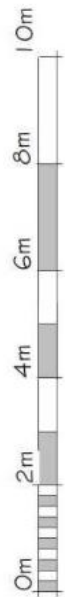
Drawing Title  
North East Elevation  
As Existing

Client Triple Stone Properties  
Project  
The Railway Inn,  
104 London Road,  
Carlisle,  
CA1 2PE

Drawn By George  
Version Planning  
Drawing no. A501/P A



1 North East  
1 : 100



VISUAL SCALE 1:100 @ A3



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Notes

Revision		
No.	Description	Date
1	Issued drawing issue	24.07.2020

Issue 24/09/2020 09:52:12

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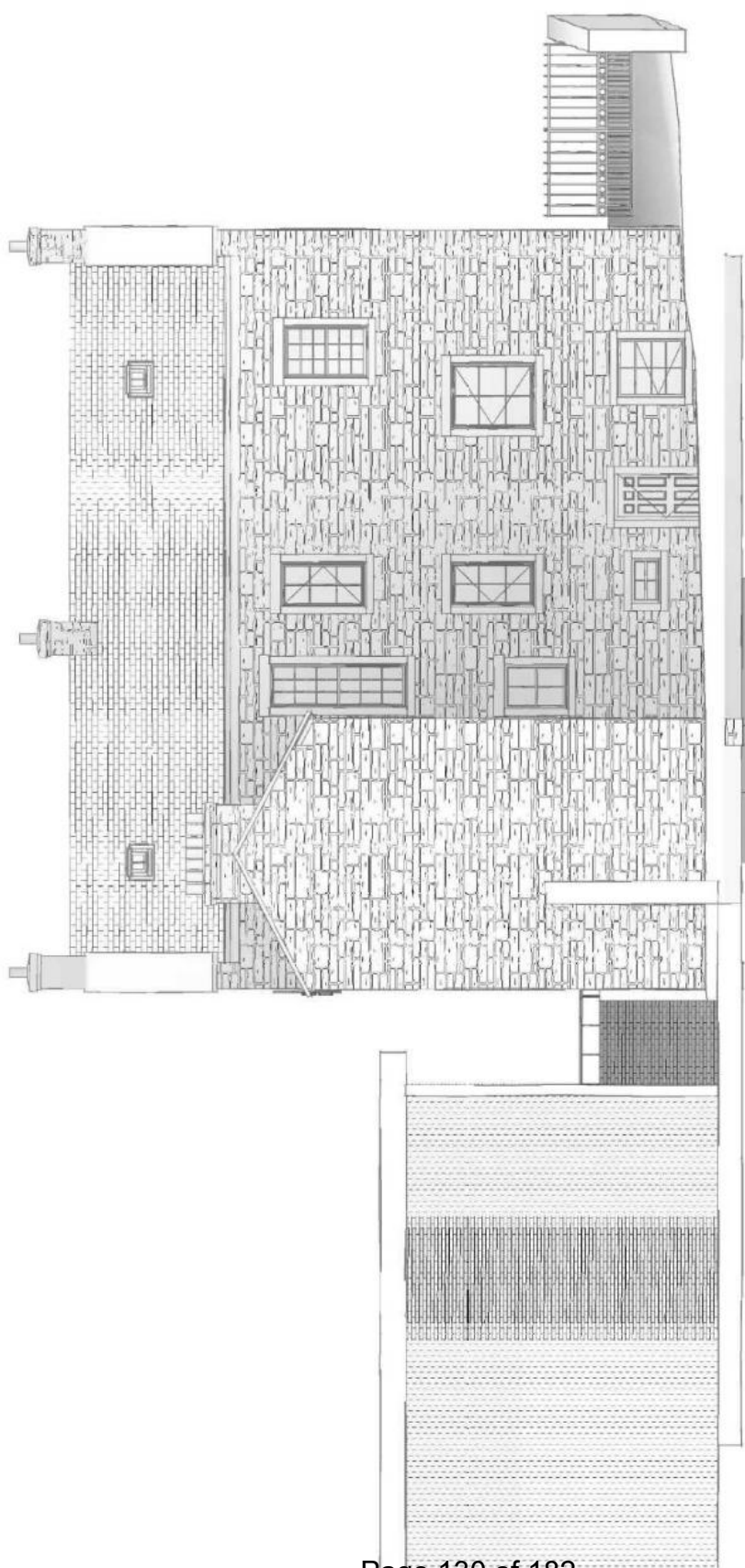
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[duncan@exeterplanning.co.uk](mailto:duncan@exeterplanning.co.uk)

Job The Railway Inn Scale@ A3 1 : 100  
Date : Issue Date Revision : A

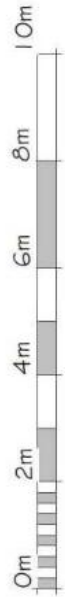
Drawn Title  
South West Elevation  
As Existing

Client Triple Stone Properties  
Project The Railway Inn,  
104 London Road,  
Carlisle,  
CA1 2PE

Drawn By George  
Version Planning  
Drawn no: AS02/P A



1 South West  
1 : 100



VISUAL SCALE 1 : 100 @ A3





South East  
1 : 100

VISUAL SCALE 1:100 @ A3

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Notes

[illegible]

Issue  
25/09/2020 15:30:51

Job Title: Railway Institute A3 : 1 : 100	Revision : A
Date : Issue Date	Revision : A
<p>Drawing Title</p> <p>South East Elevation</p> <p>As Existing</p>	
<p>Client/Type: Stone Properties</p> <p>Project</p> <p>The Railway Inn, 104 London Road, Carlisle, CA1 2PE</p>	



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Notes

Revision	No.	Description	Date
A	1	Revised to drawing as per Conservation Officers comments	15.12.2020

Issue 05/03/2021 11:10:17

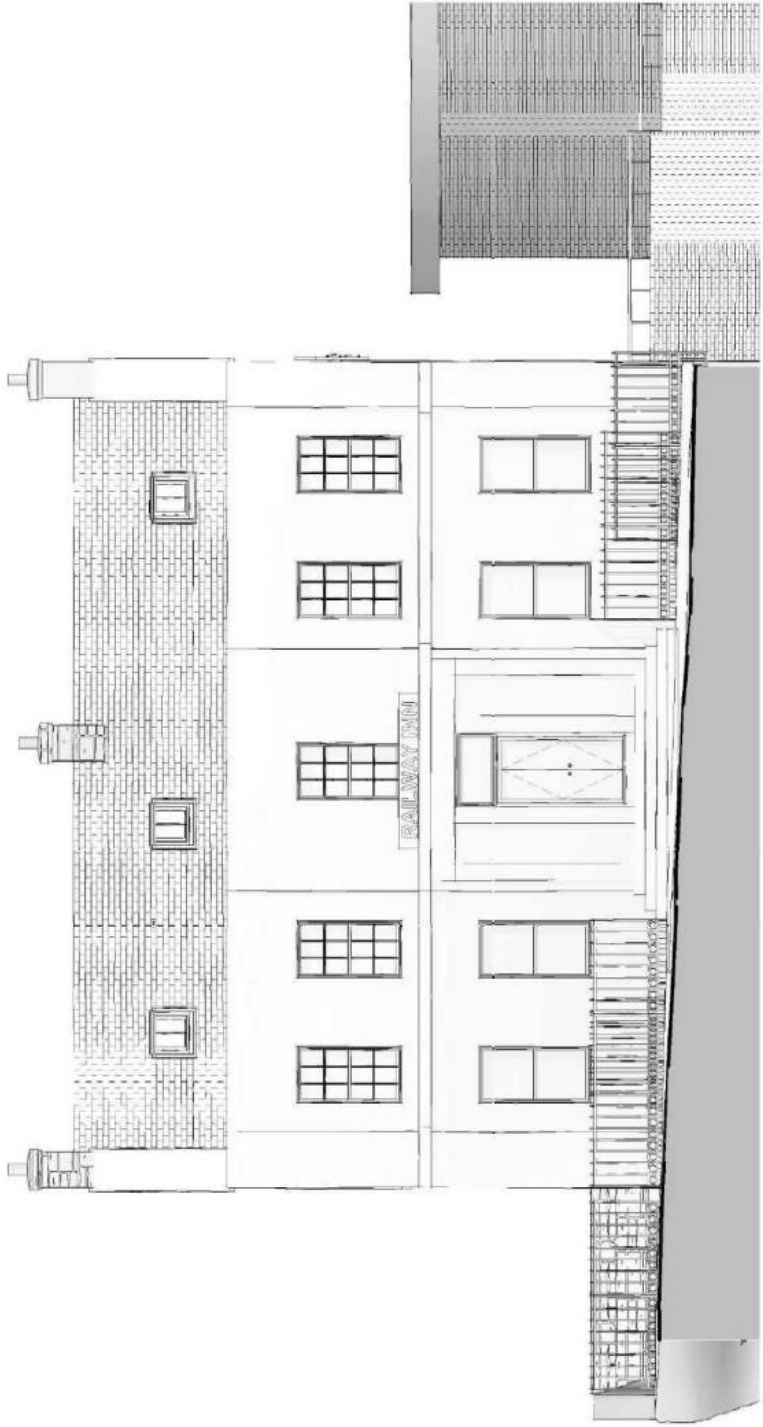
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[george@exeterplanning.com](mailto:george@exeterplanning.com)

Job The Railway Inn Scale@ A3 | : 100  
Date : Issue Date Revision : A

Drawing Title  
North East Elevation  
As Proposed

Client Triple Stone Properties  
Project The Railway Inn,  
104 London Road,  
Carlele,  
CAI 2PE

Drawn By George  
Version Planning  
Drawing no. BSO I/P A



1 North East  
1 : 100

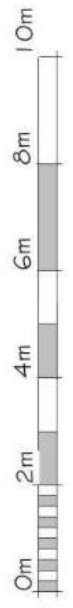
NOTE:- all windows are to be discussed detailed and argeed with Rodger Higgins Urban Design/Conservation Officer



EXTERNAL WINDOW DETAILS



GROUND FLOOR  
INTERNAL WINDOW  
PHOTO



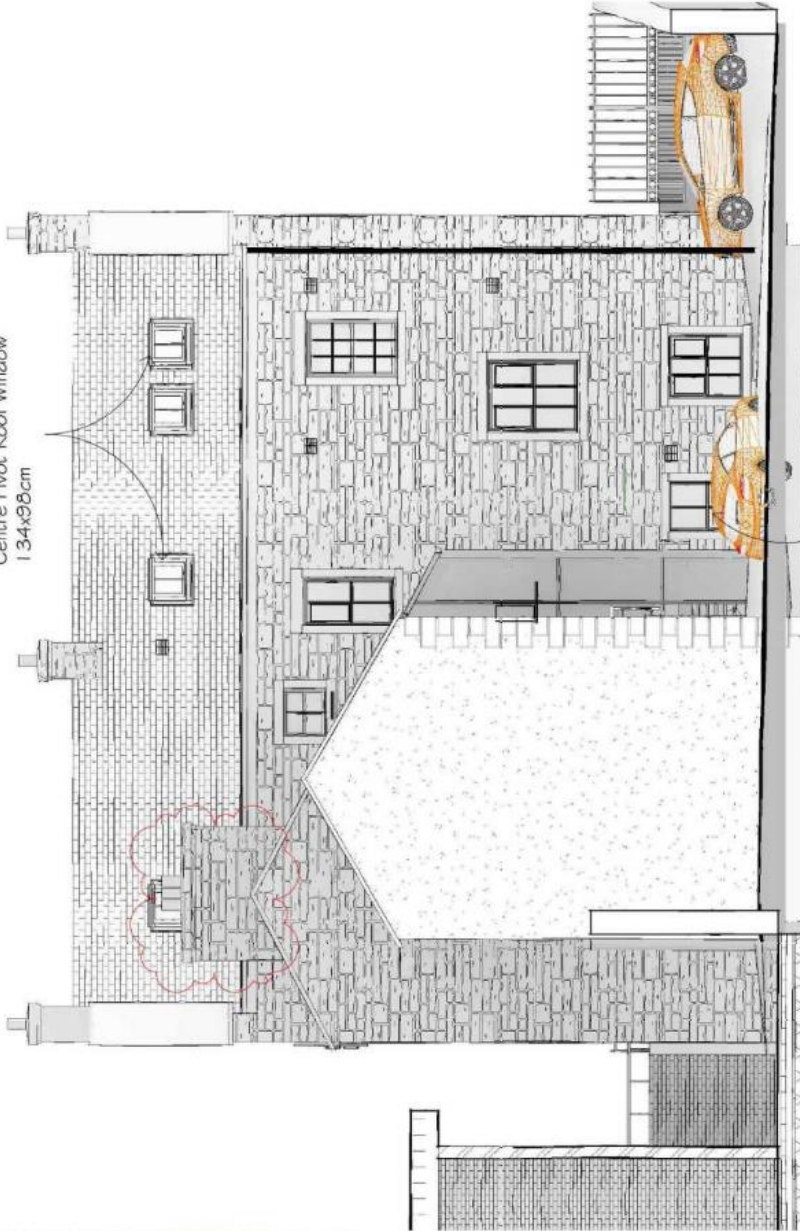
VISUAL SCALE 1:100 @ A3



EXISTING REAR PHOTO

1 South West  
1 : 100

VELUX GGL UK04 3570  
Conservation Pine Laminated  
Centre Pivot Roof Window  
134x38cm



NOTE:- all windows are to be discussed detailed and argeed  
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Notes

Revision	No.	Description	Date
A	1	Drawings set 3 & 4 new one 2 bed unit. All units now to be measured for planning.	07/09/2020
B	1	Drawings set 3 & 4 new one 2 bed unit. All units now to be measured for planning.	26/02/2021
C	1	Amendments added as requested by Urban Design/Conservation Officer	09/03/2021

Issue 05/03/2021 11:06:46

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Job The Railway Inn Scale@ A3 1 : 100  
Date : Issue Date Revision : C

Drawn Title  
South West Elevation  
As Proposed

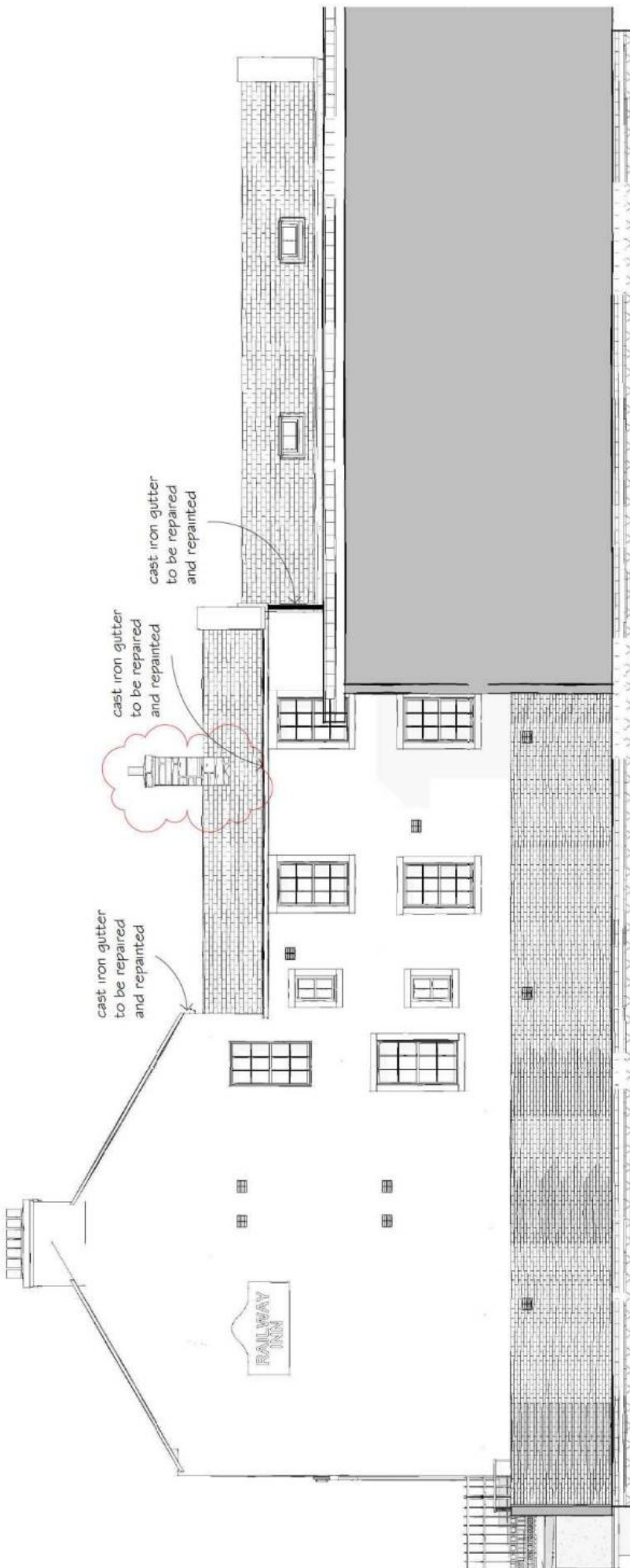
Client Triple Stone Properties  
Project  
The Railway Inn,  
104 London Road,  
Carlisle,  
CA1 2PE

Drawn By  
George  
Version  
Planning

VISUAL SCALE 1:100 @ A3







1 North West  
1:100

NOTE:- all windows are to be discussed detailed and argeed with Rodger Huggins Urban Design/Conservation Officer

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Notes

Revision	Description	Date
1	Issued for planning	07 09 2020
2	Revised to include all windows to be discussed with Rodger Huggins Urban Design/Conservation Officer	15 12 2020
3	Revised to include all windows to be discussed with Rodger Huggins Urban Design/Conservation Officer	26 03 2021
4	Revised to include all windows to be discussed with Rodger Huggins Urban Design/Conservation Officer	05 03 2021

Issue 05/03/2021 11:08:21

Job: The Railway Inn @ A3 1:100  
Date: Issue Date  
Revision: D

Drawing Title  
North West Elevation  
As Proposed

Client: Triple Stone Properties  
Project:  
The Railway Inn,  
104 London Road,  
Carlisle,  
CA1 2PE

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Drawn By: George  
Version: Planning  
Drawing no: B503PD



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1 South East  
1 : 100

0m 2m 4m 6m 8m 10m

VISUAL SCALE 1 : 100 @ A3

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Notes

Revision	No.	Description	Date
A	1	Placement unit 3 & 4 took one 2 bed unit. All units now re numbered	07 09 2020
B	2	Amendments to drawings as per comments	15 12 2020
C	3	Further amendments after planning comments	02 02 2021
D	4	near chimney re added as planning comments	25 02 2021

Job : The Railway Inn, 104 London Road, Carlisle.  
Drawing Title : South East Elevation  
Date : Issue Date :  
Revision : D

As Proposed

Client: Triple Stone Properties  
Project: The Railway Inn, 104 London Road, Carlisle.  
CAI 2PE

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Drawn By: George  
Version: Planning  
Drawing no.: BSO4P/D

Issue: 05/03/2021 11:07:19





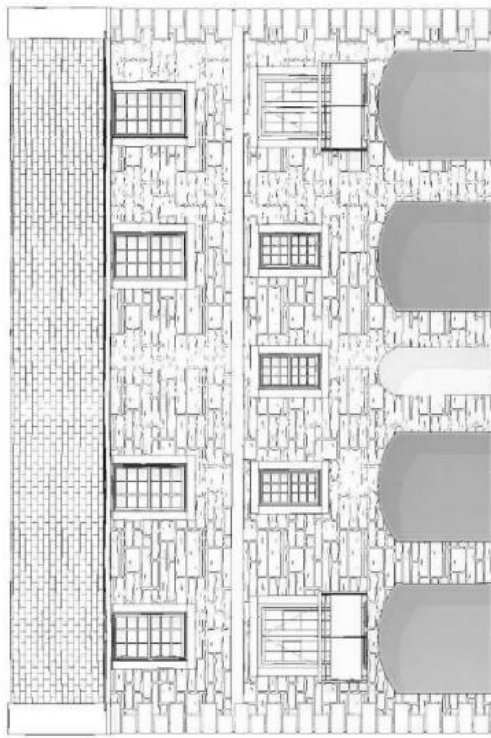












South East

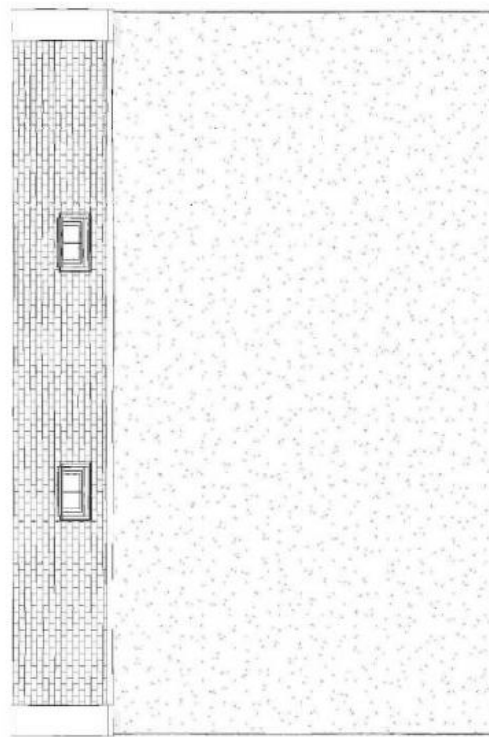
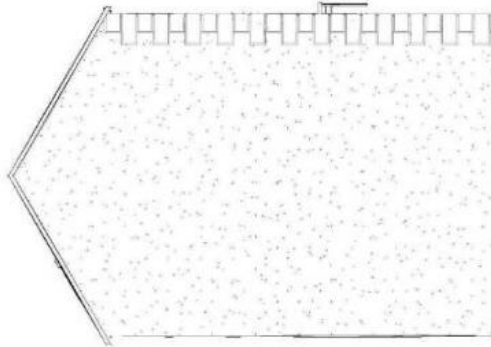
1 : 100

1

South West

1 : 100

2



North West

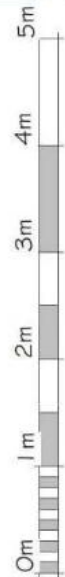
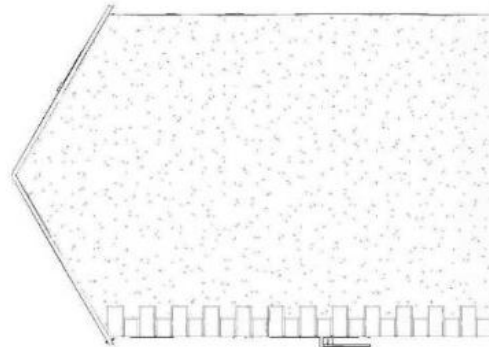
1 : 100

3

North East

1 : 100

4



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No.

Description

Date

Issue

03/10/2020 09:35:35

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Job / Project Name Scale@ A3 | : 100

Date : Issue Date Revision :

Drawing Title

Elevations

As Proposed

Client Triple Stone Properties

Project

The Railway Inn,

104 London Road,

Carlisle,

CA1 2PE

Drawn By  
George

Version  
Planning

Drawing no.  
MOOGP



1 Title

Planning View List		
Sheet Number	View Name	Scale Value I :
B000/P	Title	100
B042/P	Site Plan	200
B050/P	External View 1	200
B060/P	Site Plan Parking	200
B061/P	Basement Plan	200
B062/P	Ground Floor Plan	200
B063/P	First Floor Plan	200
B064/P	Roof Plan	200

Planning View List		
Sheet Number	View Name	Scale Value I :
B065/P	Visibility Lines	500
B100/P	Basement	100
B200/P	Ground Floor	100
B300/P	First Floor	100
B400/P	Second Floor	100
B501/P	North East	100
B502/P	South West	100
B503/P	North West	100
B504/P	South East	100
B537/P	Section 1 I	100

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Notes

Revision	No.	Description	Date
A	1	Revised unit 3 & 4 now one 2 bed unit all units now 12 month tenancy	07/09/2020
B	1	Revised unit 3 & 4 now one 2 bed unit all units now 12 month tenancy	02/02/2021

Issue

09/02/2021 09:37:12

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Job: The Railway Inn Scale: A3

Date : Issue Date Revision : B

Drawing Title

Title

As Proposed

Client Triple Stone Properties

Project

The Railway Inn,

104 London Road,

Carlisle,

CA1 2PE

Drawn By  
George

Version  
Planning

Drawings no.  
B000/P B

## SCHEDULE A: Applications with Recommendation

21/0049

Item No: 07

Date of Committee: 26/03/2021

**Appn Ref No:**  
21/0049

**Applicant:**  
Economic Development.

**Parish:**  
Carlisle

**Agent:**

**Ward:**  
Cathedral & Castle

**Location:** Caldew Riverside (Lower Viaduct) Remediation Works, Carlisle

**Proposal:** Remediation Works To Prepare The Site For Future Development

**Date of Receipt:**  
26/01/2021

**Statutory Expiry Date**  
28/04/2021

**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 Whether The Proposal Is Acceptable In Principle
- 2.2 Whether The Proposed Remediation Works Would Be Acceptable
- 2.3 Impact On Ecology
- 2.4 Flood Risk
- 2.5 Highway Matters
- 2.6 Other Matters

#### 3. Application Details

##### The Site

- 3.1 The site is located in the centre of Carlisle, adjacent to the River Caldew. It includes the Lower Viaduct Car Park which is a City Council owned pay and display car park (Parcel C) and a vacant site that contains areas of hardstanding together with an area of trees and is enclosed by fencing (Parcel B).

- 3.2 The site is adjoined to the south by the Upper Viaduct Car Park (Parcel A), which sits at a higher level than the Parcel B and is separated from it by an embankment that contains a belt of trees. A footpath/ cycleway lies to the west of the site beyond which lies the River Caldew, with the Viaduct Estate Road adjoining the eastern site boundary. Cumbria Indoor Bowls Club lies directly to the north of the Lower Viaduct Car Park.
- 3.3 The site has a varied industrial history including a gas works (Parcel A), railway sidings (Parcel B and C), and car showrooms (Parcel B).

## **The Proposal**

- 3.4 This proposal is seeking planning permission for the remediation/ enabling works that would be required to facilitate the redevelopment of Parcel C and the majority of Parcel B of the site.
- 3.5 The application is accompanied by a Site Remediation Report, a Preliminary Ecological Report, a Shadow Appropriate Assessment (Under The Habitats Regs) and a Flood Risk Assessment.

## **4. Summary of Representations**

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

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

**Environment Agency:** - no objections subject to conditions (maintain access to flood defences);

**Natural England:** - a detailed Construction Environmental Management Plan should be submitted prior to work commencing on site;

**Cumbria County Council - (Highways & Lead Local Flood Authority):** - no objections;

**Local Environment - Environmental Protection:** - no objections subject to conditions (submission of remediation scheme; implementation of approved remediation scheme; reporting of unexpected contamination);

**Northern Gas Networks:** - no objections;

**Cumbria County Council - (Archaeological Services):** - no objections;

**United Utilities:** - no objections subject to conditions (foul and surface water draining on separate systems; details of surface water drainage scheme).

## **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 SP4, SP6, CC4, GI3 and CM5 of the Carlisle District Local Plan 2015-2030.
- 6.3 The proposal raises the following planning issues.
1. Whether The Proposal Is Acceptable In Principle
- 6.4 Policy SP4 (Carlisle City Centre and Caldew Riverside) of the adopted Local Plan states that Caldew Riverside constitutes a significant regeneration opportunity to bring back into beneficial use land for a mix of uses which would complement those found in the City Centre and in doing so aid its overall attractiveness.
- 6.5 This proposal is seeking to undertake remediation works to prepare the site for future development. Any future plans for the site would be considered under subsequent planning applications.
- 6.6 In light of the above, the proposals to prepare the site for future development would be acceptable in principle.
2. Whether The Proposed Remediation Works Would Be Acceptable
- 6.7 Parcel A, which is the former gas works is not included within this planning application. Contamination under Parcel A is substantial, and via migration, mobile fractions of gas works residues have impacted approximately the first third of Parcel B.
- 6.8 Further characterisation of Parcel B and C, is necessary, and a supplementary ground investigation is proposed. This would provide information about the ground conditions for assessment and subsequently help inform the location(s) and degree of remediation required to enable and make the land suitable for any future development. The proposed investigation works also include scope to better delineate the extent of Parcel B that is more seriously affected by migration from the contamination present beneath Parcel A. It would also allow a better understanding of which parts of Parcel B are impacted by contamination associated with suspected former fuel storage tanks.
- 6.9 The level of remediation that would be required to render Parcels B and C suitable for the proposed development would be determined after the next phase of ground investigation. Following on from assessment of the

investigation data, a Remediation Strategy would be prepared for Parcel B and C detailing the work that would be required. The Strategy would be agreed with the regulators prior to implementation.

- 6.10 Based on the current knowledge of the site (historical land use and ground investigation data) the remediation outlined in paragraphs 6.11 and 6.12 below is considered likely for each Parcel.
- 6.11 The remediation of contamination in Parcel C is likely to be mainly the removal of areas (hotspots). The main aspects of the works are detailed below:
- remove car parking infrastructure;
  - undertake remedial works;
  - mark out localised “hotspot” areas identified by the site investigation work / assessment;
  - over-excavate contaminated soils within hotspot areas and undertake verification to confirm that all contamination has been removed from the area. Replace contaminated material with certified clean materials and compact;
  - excavated soils to be removed off site to soils re-cycling facility or permitted landfill;
  - grubbing up and removal of significant old foundations or major obstructions;
  - crush hard materials for planned re-use as capping materials in accordance with a Site Materials Management Plan.
- 6.12 For the majority of Parcel B, the level of remediation is likely to be consistent with that of Parcel C and the aspects of work set out above would apply. However, the southern section of Parcel B, adjacent to the former gas works (Parcel A) is likely to require the following additional remediation:
- removal of two redundant below ground fuel tanks (in south eastern corner). If volumes of hydrocarbon impacted soils are significant, on site treatment could be undertaken;
  - installation of an in-ground barrier;
  - recovery of NAPL (non-aqueous phase liquid e.g. oil and petroleum) from the up-gradient side of the barrier (hence on the Parcel A side) would likely be by skimming pump systems. This would require periodic (1-3 months) maintenance and disposal of recovered NAPL to off-site disposal facility.
- 6.13 Officers in Environmental Health have been consulted on the application. They have no objections to the proposal subject to conditions (submission of remediation scheme; implementation of approved remediation scheme; reporting of unexpected contamination).

### 3. Impact On Ecology

- 6.14 A Preliminary Ecological Report has been submitted with the application. A desk study was undertaken to identify existing information relating to the site and its surroundings. Following on from this, an extended phase 1 habitat

survey was undertaken in November 2020, which comprised a walkover of the land and habitats within and immediately adjacent to the site boundary.

- 6.15 The site sits approximately 5m above the River Caldew's high-water line at all points and a flood defence wall forms a significant barrier between Parcel B and the river. The limited nature of the proposed works (site investigation to inform remediation) at this stage do not suggest there would be any impacts to the River Caldew or the flood defence wall, hence no impacts to the River Eden SAC or River Eden and Tributaries SSSI are anticipated.
- 6.16 Based on the locality and the nature of the proposed works, it is not considered that any notable flora, invertebrates, badger, otter and water vole would be significantly affected by the proposed works.
- 6.17 The habitats within and adjacent to the site have the potential to support common amphibians, breeding birds and foraging and commuting bats, with some limited potential for roosting bats within the woodland, scattered trees and flood defence wall. There is a low likelihood that hedgehog may be present on site.
- 6.18 If trees require removal or works adjacent to trees or woodland is required to facilitate the proposed works, it is recommended that a BS5837:2012 tree survey is undertaken to assess the arboricultural value of the site.
- 6.19 The previous ecology survey recommended that an isolated stand of Japanese Knotweed situated within the site was eradicated. This stand was not recorded during the recent survey. The survey was, however, undertaken at a sub-optimal time for identifying vegetation and it is recommended that precautions are still taken in this area. Furthermore, Indian Balsam is widespread along the River Caldew and may also be present within the site. It is recommended that an Invasive Non-native Species Protocol document should be produced prior to the commencement of works, detailing the containment, control and removal of any invasive species present within the site.
- 6.20 There is limited potential for common amphibians and hedgehogs to be present on site. It is anticipated that their presence would be limited to piles of rubble, logs or brash that provide refuge for such species. It is recommended that the proposed works avoid such areas and features and if their removal is required it is recommended that this is undertaken by hand to allow animals to disperse.
- 6.21 To avoid the potential disturbance or entrapment of amphibians or hedgehogs (and other small mammals) it is recommended that any excavations within the site are not left open overnight unless a suitable access and egress point (in the form of a roughened plank or mammal ladder) is provided. Excavations should be inspected every morning prior to works commencing for any animals that have entered overnight and become trapped and / or have tunnelled within the structure. If a trapped animal is encountered, works should be stopped in that area and the advice of an ecologist should be sought.

- 6.22 The main breeding season for most UK bird species runs from March to August (inclusive), therefore it is recommended that any vegetation clearance works are undertaken outside of this time period. If any trees or scrub vegetation within the site are to be removed between March to August, a nesting bird check should precede the start of the works. It should be undertaken by a suitably qualified ecologist no more than 48 hours prior to the works being undertaken. If an active nest is found during the check, a protection zone should be put in place around the nest and it must remain in situ until the chicks within the nest have fledged.
- 6.23 Due to the limited scope of the proposed works (site investigation to inform remediation), it is not proportionate to recommend enhancements for biodiversity at this stage. However, should further development works be proposed then enhancements for biodiversity and specifically biodiversity net gain calculations should be considered.
- 6.24 A Shadow Appropriate Assessment under the Habitats Regulations has also been submitted with the application. Assessment under Regulation 63 of the Habitats Regulations is required in this instance, since the application site lies in close proximity to the River Caldw, which forms part of the River Eden SAC.
- 6.25 Mitigation is expected to be required to ensure that there is no adverse impact on the integrity of the SAC. The following mitigation measures would be implemented:
- works are separated from the SAC by the existing flood defence wall thus it is not necessary to segregate the works from the SAC with a visual barrier;
  - impacts during remediation works would be controlled through strict adherence to a project-specific Construction Environmental Management Plan (CEMP) that would be developed using best practice techniques but also a suite of bespoke control measures such as avoidance/minimisation of illumination from sensitive construction areas and scheduling potentially disruptive works to avoid sensitive periods for specific species/species groups (i.e. night-time working would be avoided to minimise impacts on nocturnal animals such as otter);
  - all site works would be carried out in accordance with best environmental working practices to ensure adequate pollution control measures are implemented during construction and operation with monitoring to ensure their effectiveness;
  - no groundwater extraction is envisaged. However, if groundwater enters the excavated areas, the water would be removed by pumping or discharge before refilling to avoid water spilling out across site and into the River Caldw. Sandbags would also be used around areas to soak up any excess water;
  - short-term airborne pollution resulting from site vehicle emissions and dust would be controlled through best practice measures such as wetting, if dictated by very dry weather conditions. Any operations with a high potential for dust production would be fully enclosed;
  - chemicals and hazardous materials would be stored in accordance with the



relevant Environment Agency pollution prevention guidance, which would prevent discharges into the surrounding environment, thereby protecting surrounding habitats;

- appropriate measures would be taken to avoid the spread of invasive and non-native plants.

- 6.26 The Shadow Appropriate Assessment has concluded that the proposed development would not have any likely significant effects on the River Eden SAC, either alone or in combination with other plans or project. This is due to an absence of pathways for potential impacts and/ or because the proposed mitigation measures set out above would negate any potential impacts. It is proposed that these mitigation measures along with construction and environmental management measures for site investigation and subsequent remediation works are detailed within a project-specific CEMP. It is also proposed that works do not proceed until the CEMP has been submitted to and approved in writing by the Local Planning Authority.
- 6.27 Natural England has been consulted on the application. It has confirmed that it has no objections to the proposal subject to the submission of a detailed CEMP prior to works commencing on site, detailing mitigation required to protect the adjacent River Caldw, which is designated as part of the River Eden & Tributaries SSSI and River Eden Special Area of Conservation (SAC).

#### 4. Flood Risk

- 6.28 The application is accompanied by a Flood Risk Assessment (FRA). Most of the development site falls within Flood Zone 3 but benefits from flood defences. The site, therefore, has a high probability of flooding without the defences, which protect the area against a river flood with a 1% chance of happening each year, or a flood from the sea with a 0.5% chance if happening each year.
- 6.29 The remediation work would not impact on the long-term flood risk of the site as no built structures are planned at this time other than remediation measures that would be agreed as part of the remediation strategy. During the remediation works a site welfare unit would be in position for the duration of the works. It is expected that the works would be undertaken and completed within 3-5 months.
- 6.30 The FRA states that:
- any temporary structures including the site welfare units would be anchored down;
  - any temporary structures would be located adjacent to the Viaduct Estate Road and away from the Caldw River;
  - materials would not be stock piled on site during the works;
  - all waste would be removed from site;
  - in the event of imminent flooding, equipment would be removed from site in good time;
  - ground levels would not be altered during the remediation of the site;

- an area of land with an approximate width of 7m from the flood defence wall would be maintained so that the Environment Agency can gain access to the flood defences;
- a Site Flood Plan including access and evacuation procedures would be in place and adhered to if flooding is imminent during the works period;
- the works programme would include a link to the Environment Agency flood warning system to ensure that early warning is received;
- if excavation is required during the works, material would be placed back into the voids to the existing ground level.

- 6.31 The Environment Agency has been consulted on the application and has confirmed that it has no objections to the proposals. It has reviewed the FRA and is satisfied that it is appropriate to the nature and scale of the proposed development. The proposed development would, however, only meet the NPPF policy to avoid flood risk to people and property if a condition is included in the permission to require the submission of a scheme to ensure access to, and maintenance of, existing flood defences.

## 5. Highway Matters

- 6.32 The site currently has a number of existing access points onto Viaduct Estate Road. Within the application it is stated that the access and egress points are to utilise the existing access points onto the Viaduct Estate Road with no new access points being created. Bearing in mind the existing use of the Lower Viaduct site, the proposal would not lead to an increase in vehicular traffic to and from the site. The Highway Authority, therefore, has no objections to the proposal.

## 6. Other Matters

- 6.33 United Utilities has requested conditions are added to the permission to deal with foul and surface water drainage. Given that the application is merely seeking to remediate the site and no drainage works are planned these conditions are not necessary.

## Conclusion

- 6.34 The proposed remediation works would be acceptable and they would not have adverse impact on any protected species, on the River Caldey, on flood risk or on the highway network. 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 January 2016, permission was granted for the demolition of car showrooms and workshops (15/0007/DEM).
- 7.2 In May 2002, outline planning permission was granted for the erection of a foodstore and associated parking, access and infrastructure works

(99/0842). A subsequent Reserved Matters application was approved in June 2009 (07/0857).

**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 26th January 2021;
2. Site Location Plan, received 26th January 2021;
3. Site Remediation Report, received 22nd January 2021;
4. Preliminary Ecological Report, received 26th January 2021;
5. Shadow Appropriate Assessment under the Habitats Regulations, received 22nd January 2021;
6. Flood Risk Assessment, received 1st March 2021;
7. the Notice of Decision;
8. any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason:** To define the permission.

3. A detailed Construction Environmental Management Plan should be submitted prior to works commencing on site, detailing mitigation required to protect the adjacent River Caldew, which is designated as part of the River Eden & Tributaries SSSI and River Eden Special Area of Conservation (SAC). The development shall then be undertaken in strict accordance with Construction Environmental Management Plan.

**Reason:** To ensure that the proposed development does not have an adverse impact on the River Eden & Tributaries SSSI and River Eden Special Area of Conservation (SAC) in accordance with Policy GI3 of the Carlisle District Local Plan 2015-2030.

4. The proposed remediation works shall be undertaken in strict accordance with the mitigation measures set out in the Preliminary Ecological Report (received 26th January 2021).

**Reason:** To ensure that the proposed development does not have an

adverse impact on protected species or on the River Eden & Tributaries SSSI and River Eden Special Area of Conservation (SAC) in accordance with Policy GI3 of the Carlisle District Local Plan 2015-2030.

5. The development hereby permitted must not be commenced until such time as a scheme to ensure access to and maintenance of existing flood defences has been submitted to, and approved in writing by, the local planning authority. The scheme shall be fully implemented and subsequently maintained, in accordance with the scheme's timing/ phasing arrangements, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

**Reason:** To ensure the structural integrity of the existing flood defences thereby reducing the risk of flooding.

6. No development other than that required to be carried out as part of an approved scheme of remediation shall be commenced until a detailed remediation scheme to bring the site to a condition suitable for the intended use (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) has been prepared. This is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

**Reason:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

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

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and 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

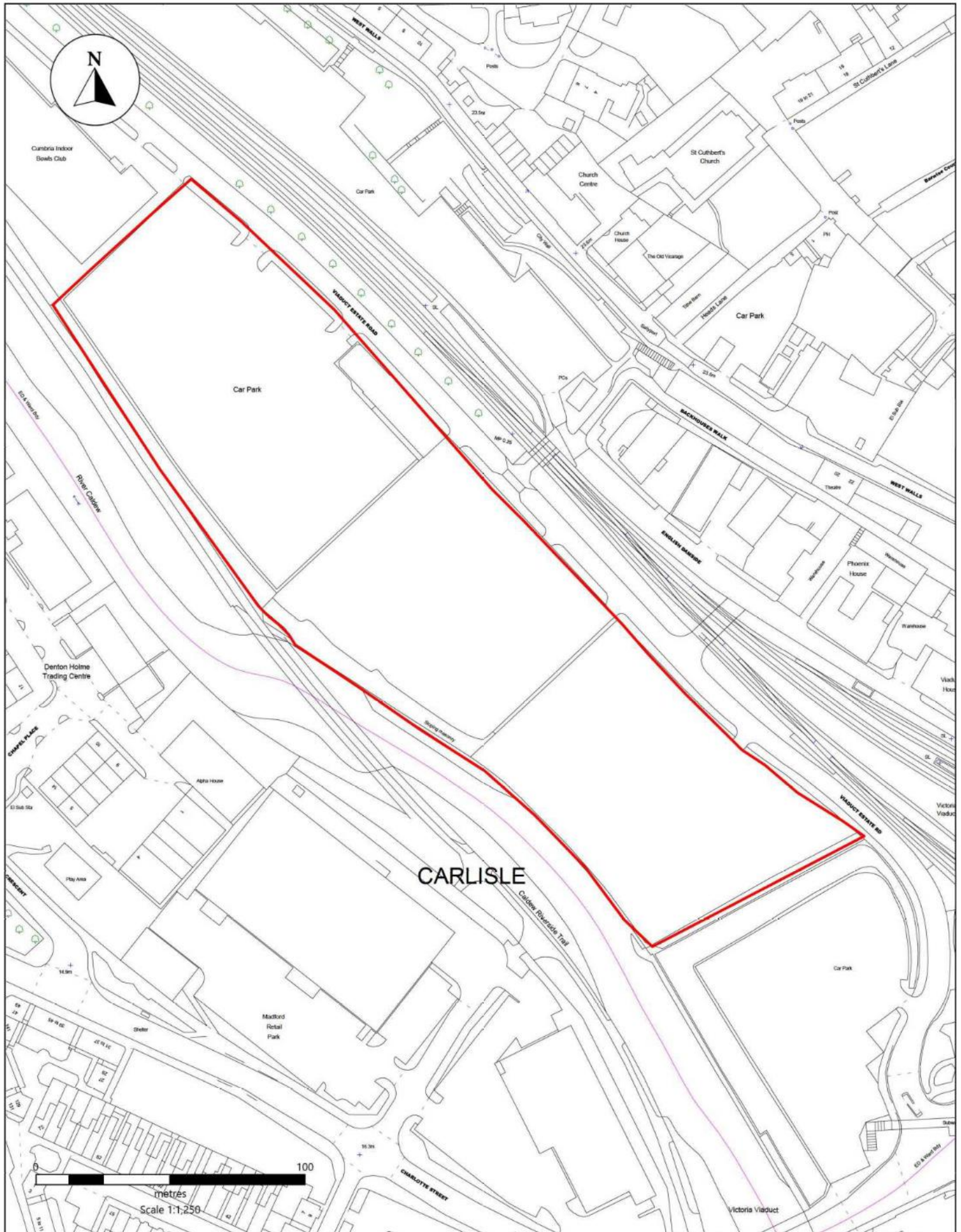
8. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Further guidance can be found on the Carlisle City Council website “Development of Potentially Contaminated Land and Sensitive End Uses – An Essential Guide For Developers.”

Site investigations should follow the guidance in *BS10175:2011 (or updated version) “Investigation of Potentially Contaminated Sites.- Code of Practice ”*.

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.

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# SCHEDULE B

**Applications  
determined by other  
authorities.**

# SCHEDULE B

## SCHEDULE B: Applications Determined by Other Authorities

19/0971

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**Item No: 08**

Between 05/02/2021 and 11/03/2021

**Appn Ref No:**

19/0971

**Applicant:**

Mr M Johnson

**Parish:**

Multiple Parishes

**Date of Receipt:**

30/12/2019

**Agent:**

Acorus Rural Property  
Services

**Ward:**

Wetheral & Corby

**Location:**

Land adjacent The Coach House, Allenwood,  
Heads Nook, Brampton, CA8 9AG

**Grid Reference:**

349034 555859

**Proposal:** Residential Development (Outline)

**Amendment:**

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### REPORT

**Case Officer:** Alanzon Chan

**Decision on Appeals:**

**Appeal Against:** Appeal against refusal of planning perm.

**Type of Appeal:** Written Representations

**Report:**

**Appeal Decision:** Appeal Dismissed

**Date:** 04/03/2021

A copy of the Notice of the decision of the Planning Inspectorate is printed following this report.

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# Appeal Decision

Site visit made on 22 February 2021

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

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

**Decision date: 4 March 2021**

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**Appeal Ref: APP/E0915/W/20/3260935**

**Land adjacent the Coach House, Allenwood, Heads Nook,  
Brampton CA8 9AG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr M Johnson against the decision of Carlisle City Council.
  - The application Ref 19/0971, dated 27 December 2019, was refused by notice dated 28 April 2020.
  - The development proposed is an outline application for residential development.
- 

## Decision

1. The appeal is dismissed.

## Procedural Matters

2. I have adopted the address set out on the Council's decision notice and the appellant's appeal form as it is usefully more comprehensive than that initially set out on the planning application form.
3. The application has been submitted in outline form with all matters reserved for subsequent consideration. No indicative plans have been submitted and the application form does not state the proposed quantum of development, although the accompanying Planning Statement and Appeal Statements both refer to the proposal being for up to four dwellings. I have determined the appeal accordingly.

## Main Issue

4. The main issue is whether or not the appeal site is an appropriate location for housing, having regard to the development plan, national planning policy and other material considerations.

## Reasons

5. The appeal site was used as a car park in connection with the former Coach House public house, which has since been converted to residential use and is known as Allenwood House. Elements of the former car park use, particular remaining areas of hard-standing, can still be seen in places within the appeal site. The appeal site lies adjacent to a small group of houses in the open countryside formed by the now converted Allenwood House and two cottages on the crossroads junction a short distance to the west of the appeal. Such sporadic clusters of houses are not an uncommon feature within the open, expansive and gently rolling countryside in which the appeal site lies.

6. The nearest identified settlement, Heads Nook is less than a mile to the southeast of the site, whilst the larger settlement of Warwick Bridge lies approximately 1½ miles to the northwest. Neither are within easy walking distance of the appeal site although both settlements would be reasonably easily accessible by bicycle and, at the time of my visit to the site, I saw several walkers walking along the road between the appeal site and Heads Nook. However, the absence of footways, or even reasonably consistent, wide and smooth grass verges, in either northerly or southerly directions would be unlikely to encourage pedestrians to access the limited services and facilities in Heads Nook, or the wider range of facilities in Warwick Bridge, on a day-to-day basis.
7. Carlisle Local Plan (CLP) policy SP2 sets out the Council's settlement strategy within its approach to strategic growth and distribution of development. Thus, within the open countryside, development will be assessed against its need to be in the location proposed. CLP policies HO2, HO5 and HO6 consider windfall housing development, rural exception sites and housing in the open countryside, respectively.
8. It is acknowledged by the appellant that the site does not lie within a settlement. I agree, there is no doubt in my mind as to the site's open countryside location. The site is not well related to settlements with a range of services or facilities and so the proposal gains no support from CLP policy HO2 in terms of good access to villages or other settlements, whilst the appellant concedes that CLP policy HO5 is not applicable. Nor has a case been made in respect of the provisions of CLP policy HO6 in terms of the proposal providing housing for an essential rural worker. The proposal is clearly not for the construction of a replacement dwelling or dwellings, nor does it involve the conversion of existing buildings. There is therefore no support for the proposal from the provisions of CLP policies HO2, HO5 or HO6, or from SP2.
9. Although the appeal site does not lie in an isolated location, nor is it, for reasons set out above, well related to settlements with services or facilities. There can be little doubt that the appeal site is previously developed land (PDL), particularly in those parts of the site where the remains of the car park are clearly visible. CLP policy SP2(6) encourages the re-use and redevelopment of previously developed land across the District. This is, however, qualified as only 'where possible and appropriate'.
10. The proposal would redevelop PDL, and I concur with the appellant's view that this should carry weight in support of the proposal. However, the site is not well-located relative to services and facilities in Heads Nook or Warwick Bridge and its development would not, in the parlance of CLP policy SP2(6), be appropriate. The proposal gains no support from CLP policy SP2(6) in this respect and the weight I give to the site's PDL status, whilst noting the broad encouragement given by the Framework to the efficient use of land, is limited within its, and the CLP's, broad aims of encouraging sustainable patterns of development.

## **Other Matters**

11. The appeal site lies adjacent to the converted former Coach House public house and was, I understand, granted planning permission in 2014<sup>1</sup>. Although the

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<sup>1</sup> Appellant Grounds of Appeal Appendix 2 - LPA Ref No: 14/0398

appellant contends that there has been no material change in circumstances locally since then, the appended decision notice for that permission clearly refers to an earlier version of the Carlisle District Local Plan. However, that development was a conversion and change of use of an existing building not the construction of new-build dwellings, for which the current CLP sets out specific provision and support.

12. I do not therefore consider the adjacent scheme of conversion to be directly comparable and it provides little support to the principle of the scheme before me. Nor does a previously approved scheme for the redevelopment of the appeal site for the provision of holiday chalets<sup>2</sup> which lapsed without implementation.
13. I have noted the absence of objection to the proposal from neighbours and also, albeit within the context of an outline application for planning permission with all matters reserved, from the Council in terms of scale and design, living conditions of occupiers of neighbouring properties and highways and drainage matters. Together with matters relating to ground conditions arising from the previously developed nature of the appeal site, such matters could adequately and appropriately be dealt with by way of standard conditions on an outline planning permission, and by specific conditions. However, such factors weigh neither in support of nor against the proposal and do not justify a decision other than in accordance with the development plan.

### **Conclusion**

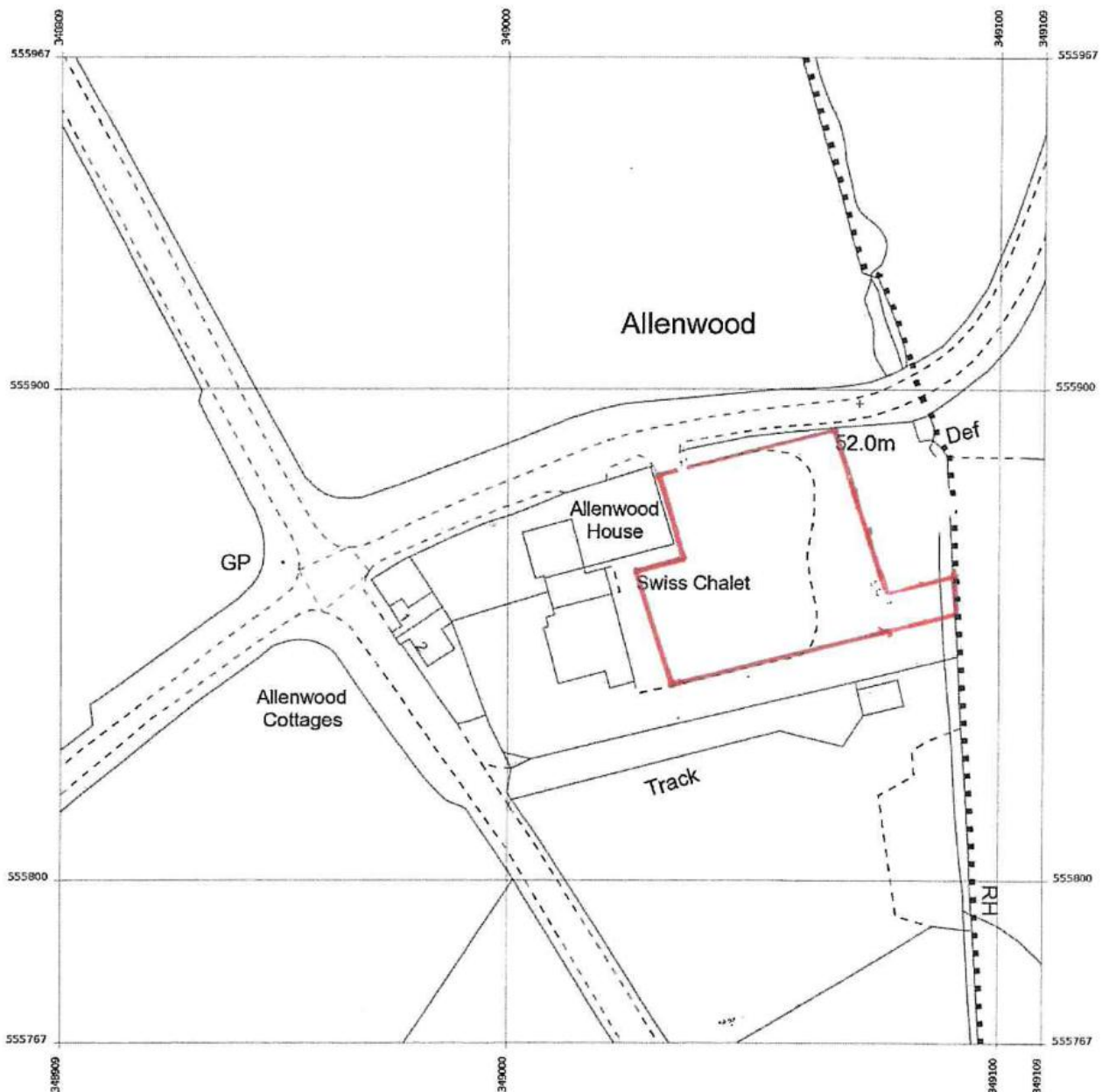
14. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

*Graeme Robbie*

INSPECTOR

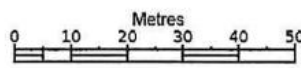
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<sup>2</sup> LPA Ref No: 15/0148



Produced 08 May 2019 from the Ordnance Survey MasterMap (Topography) Database and incorporating surveyed revision available at this date.

The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.



1:1250



Allenwood House, Allenwood, Heads Nook, Brampton CA8 9AG

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Reference: OI1319987  
Centre coordinates: 349009 555867



## SCHEDULE B: Applications Determined by Other Authorities

20/0213

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**Item No: 09**

Between 05/02/2021 and 11/03/2021

**Appn Ref No:**  
20/0213

**Applicant:**  
Mr R Peart

**Parish:**  
Irthington

**Date of Receipt:**  
17/04/2020

**Agent:**

**Ward:**  
Longtown & the Border

**Location:**  
Land Adjacent Woodside, Newby East, Wetheral,  
Carlisle, CA4 8RA

**Grid Reference:**  
348436 559327

**Proposal:** Erection Of 1no. Dwelling Together With Creation Of New Access (Part Retrospective)

**Amendment:**

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### REPORT

**Case Officer:** Suzanne Osborne

**Decision on Appeals:**

**Appeal Against:** Appeal against refusal of planning perm.

**Type of Appeal:** Written Representations

**Report:**

**Appeal Decision:** Appeal Dismissed

**Date:** 16/02/2021

A copy of the Notice of the decision of the Planning Inspectorate is printed following this report.

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## Appeal Decision

Site visit made on 4 February 2021

**by L Nurser BA (Hons) Dip UP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 16 February 2021**

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**Appeal Ref: APP/E0915/W/20/3263334**

**Woodside Kennels, Woodside, Newby East, Carlisle, Cumbria, CA4 8RA**

- 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 Rodney Peart against the decision of Carlisle City Council.
  - The application Ref 20/0213, dated 15 April 2020, was refused by notice dated 28 May 2020.
  - The development proposed is erection of a dwelling to replace kennels application no 13/1009 decided 7/3/2104 and replacement no 14/0443 decided 23/5/2014 to private kennels.
- 

### Decision

1. The appeal is dismissed.

### Preliminary matters

2. The appeal site is associated with a former farmstead. Amongst the buildings on site, are a traditional rendered farmhouse, with a pitched roof, chimneys at both gable ends and a two storey smaller side extension, with what appears to be converted agricultural buildings to the rear, as well as a number of other outbuildings, one of which I understand may not have the benefit of planning permission. Nonetheless, this is a matter which is not before me.
3. I am aware of the detailed history of the site, and that it is proposed that the house would be built on the base which had been constructed as part of the previously approved, but not completed kennel and ancillary building<sup>1</sup>. However, in the interests of clarity, I have determined the appeal on the basis of the merits of an application for a new market dwelling.
4. After the refusal of the application, the appellant submitted amended plans. However, given that there would be a substantive difference in the roof form of the amended scheme, in the interests of fairness, I have not accepted the further plans.
5. The appeal proposal was refused for four reasons. However, the third and fourth reasons for refusal have now fallen away. It has been agreed by both parties that the demolition of the nearby kennels could be required by condition, and therefore, there would be no impact on the living conditions of future residents as a result of noise and disturbance from dogs barking.

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<sup>1</sup> 14/0443

Similarly, the Council no longer considers that it could sustain an objection on highway safety grounds, and I have no reason to demur from this.

### **Main Issue**

6. The main issues in this case are whether the proposed development would be consistent with the settlement strategy of the development plan, and the effect of the proposed development on the character and appearance of the surrounding countryside.

### **Reasons**

#### *Location*

7. The wider appeal site falls within open countryside, surrounded by open fields, set within a defined group of buildings associated with Woodside, which is a former farmstead. At the time of my site visit I noted a loose cluster of individual properties further south beyond the bend of the road, and Tyndle, which is on the same stretch of the C1010 as the appeal site but is physically separate.
8. I have been referred to the appeal site's relative proximity to Carlisle Airport, and the Golden Fleece Hotel, is on the approach road to Newby East and note that the site is around 4 miles from Brampton which I understand to be a market town with a number of amenities. I am also aware that there is a local Rambler bus that serves the rural area and that if required a bus could collect school children to attend the local primary and secondary school. However, any occupants of the proposed dwelling would be dependent on the private car for their day to day needs.
9. In my mind, there is no doubt, that the proposed development would lie within an isolated rural location, within the open countryside. As such Policy SP2 of the Carlisle District Local Plan 2015- 2030 (LP), which sets out the Council's settlement strategy, requires that there be a specific need for development in the open countryside.
10. It is no part of the appellant's case that the proposed development of the market dwelling would fall within any of the categories of development set out in Policy HO 6 of the LP. The proposed market dwelling is not for an essential rural worker, neither is it a replacement dwelling, nor the conversion of a building. Consequently, I conclude that the appeal proposal would be contrary to the Policies SP2 and HO6 of the LP which require development to accord with the settlement strategy and for any development for housing within the open countryside to accord with a number of criteria.

#### *Character and appearance.*

11. I consider that, in isolation, it would be possible through the use of conditions, to control materials and to provide a landscaping scheme to make the appeal proposal appear acceptable. I note an attempt has been made to articulate the front of the property through the use of varying roof heights, and a recessing of the secondary access to the garaging and cloakroom. However, the proposed dwelling's living accommodation would be of a similar height to Woodside, together with the attached cloakroom and garaging, and would appear substantially wider than the rendered element of Woodside.

12. Consequently, both due to its size and its physical proximity to Woodside, the proposed dwelling would appear to compete visually with the host property. Therefore, it would not read as being subservient to Woodside. As such, in my judgment, it would not be sensitive to, nor respond to the local context of the grouping of farmstead buildings. In coming to this conclusion, I note that the proposed development would be set back off the road and that the former stables are to be demolished.
13. I have carefully considered the impact of the proposed development in this particular isolated, and exposed location, taking the opportunity to view the wider site from the road and to drive past the site in both directions. I noted that the avenue of trees to the south of the site, would screen the site to some extent, as would the hedging at the front. Nonetheless, I conclude, given the open nature of the landscape, the scale and form of the proposed development, together with its relationship to Woodside, that the proposed development would result in adverse harm to the character and appearance of the lowland landscape. Consequently, the proposal would not accord with Policies SP6 and GI1 of the LP, which are consistent with the design policies of the Framework in relation to local distinctiveness, both in relation to the built environment and the wider landscape. Therefore, it would have an adverse impact on the character and appearance of the surrounding countryside.

*Other matters*

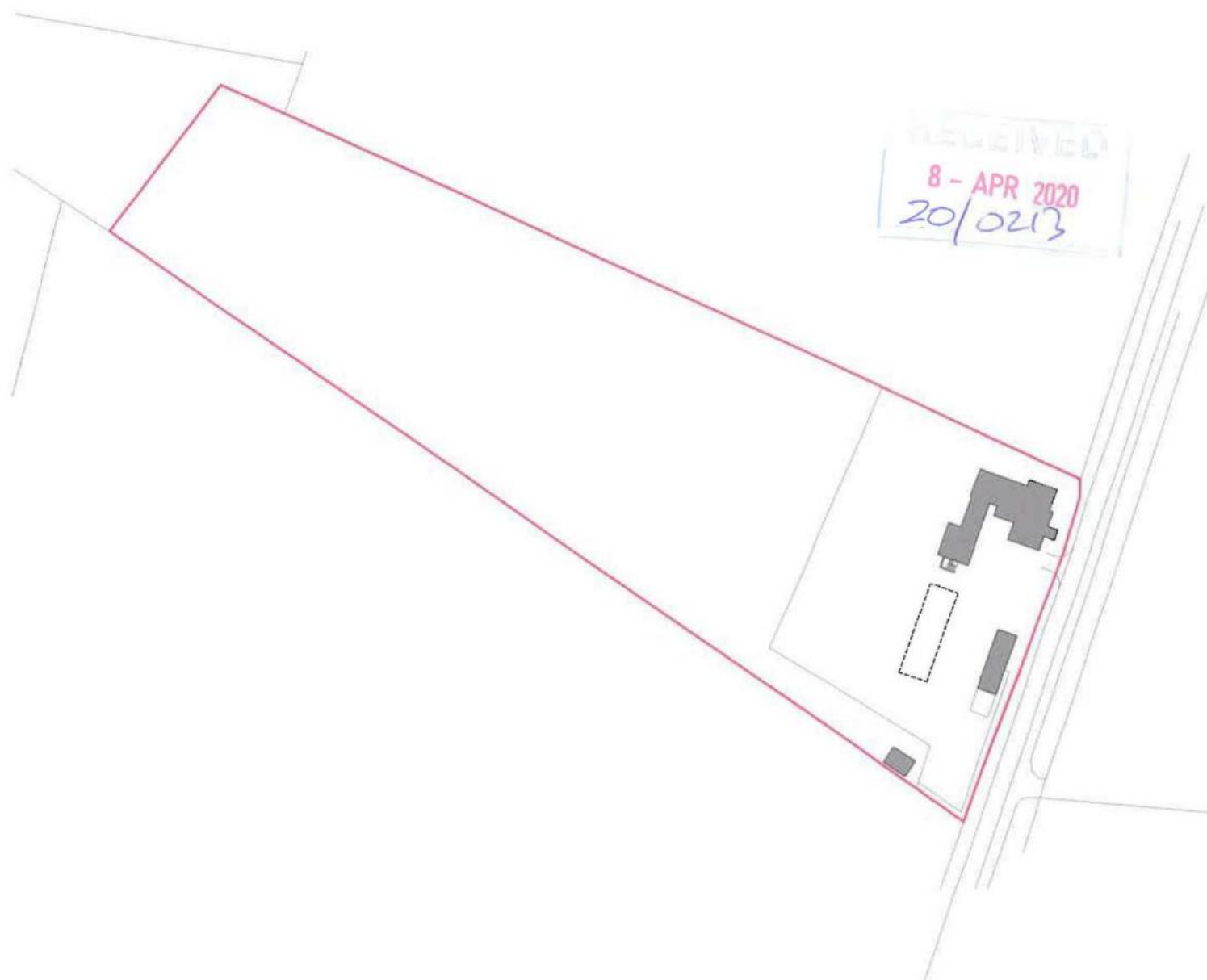
14. I have been referred to a number of developments which have been permitted by the Council. However, I do not have sufficient information to consider if they are comparable to the case before me. Additionally, I noted that there are some substantial properties nearby. However, neither of these matters leads me to a different conclusion other than that set out above.

**Conclusion**

15. For the reasons set out above, I conclude the appeal should be dismissed.

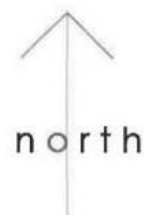
*L Nurser BA (Hons) Dip UP MRTPI*

INSPECTOR



RECEIVED  
8 - APR 2020  
20/02/23

Woodside, Newby East, Carlisle.  
Location Plan 1 : 1250



DWG. 00

## SCHEDULE B: Applications Determined by Other Authorities

20/0630

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**Item No: 10**

Between 05/02/2021 and 11/03/2021

**Appn Ref No:**

20/0630

**Applicant:**

Alight Media

**Parish:**

Carlisle

**Date of Receipt:**

21/09/2020

**Agent:**

Mr C Thomas

**Ward:**

Cathedral & Castle

**Location:**

Land adjacent K C Superbikes, 23-27 Church  
Street, Carlisle, CA2 5TJ

**Grid Reference:**

339364 555917

**Proposal:** Display Of 1no. Freestanding Internally Illuminated Double Sided 48  
sheet Digital LED Display Sign

**Amendment:**

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### REPORT

**Case Officer:** Alanzon Chan

**Decision on Appeals:**

**Appeal Against:** Appeal against refusal of planning perm.

**Type of Appeal:** Written Representations

**Report:**

**Appeal Decision:** Appeal Allowed with Conditions      **Date:** 15/02/2021

A copy of the Notice of the decision of the Planning Inspectorate is printed following  
this report.

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## Appeal Decision

Site visit made on 4 February 2021

**by L Nurser BA (Hons) Dip UP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 15 February 2021**

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**Appeal Ref: APP/E0915/Z/20/3263415**

**Land at KC Superbikes, Church Street, Carlisle, CA2 5TJ**

- 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 Graeme Hughes against the decision of Carlisle City Council.
  - The application Ref 20/0630, dated 14 September 2020, was refused by notice dated 16 November 2020.
  - The advertisement proposed is the erection and display of two freestanding back-to-back 48-sheet sized digital LED advertising units.
- 

### Decision

1. The appeal is allowed and express consent is granted for the display of the advertisement as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the following additional conditions:-
  - 1) The intensity of the illumination of the sign permitted by this consent shall be no greater than 300 candela in the hours of darkness. During the daylight hours the luminance shall be controlled by sensors to reflect ambient light conditions and ensure that the display is not dazzling and at all times it shall remain within that recommended by the Institute of Lighting Professionals in its Professional Lighting Guide 05 (PLG 05) Brightness of Illuminated Advertisements (or its equivalent in a replacement Guide).
  - 2) The minimum display time for each advertisement shall be 10 seconds and the advertisement shall not include any features or equipment which would permit interactive messages/advertisements to be displayed;
  - 3) The interval between successive displays shall be 0.1 seconds or less and the complete display screen shall change with no visual effects (including fading, swiping or other animated transition methods) between displays and the display will include a mechanism to default to a plain, black screen if there is a malfunction, or the advertisement is not in use;
  - 4) No images displayed shall resemble official road traffic signs, traffic lights or traffic matrix signs.

### Procedural matters

2. In refusing the application, the Council refers to conflicts with Policy SP6 of the Carlisle District Local Plan 2015- 2030, adopted 2016, (LP) which requires that development proposals should respect local character and minimise visual

cluttering. The Regulations and paragraph 132 of the Framework both make clear that advertisements should only be subject to control in the interests of amenity and public safety, taking account of cumulative impacts. On this basis, the Council's policies alone cannot be decisive.

### **Main Issue**

3. The main issues in this case are the effect of the proposed display on the amenity of the area and its effect on public safety.

### **Reasons**

#### *Amenity*

4. Church Street (the A595) forms one of the main routes into Carlisle. It is a significant thoroughfare, commercial in nature, with a mix of modern developments such as the large nearby Sainsbury's Superstore, KC Superbikes, and older industrial and smaller scale buildings, such as those on John Street. In sum, it is a typical urbanised roadway, within a commercial area, in which the planning practice guidance concludes that the principle of large advertisements can be acceptable.
5. Nonetheless, I have carefully considered whether the proposed development, which would be a large, free standing structure, constructed of modern materials, with a light emitting diode display (LED), the strength of which would be set to react to the ambient light level, and which would change every 10 seconds, would be in scale and in keeping with the local characteristic of the area. In doing so, I have had particular regard to the requirements set out within the Regulations.
6. It is not a point of dispute that there are no other large format illuminated advertisements of a similar design, or which operate in the same way, in the wider area. However, this, of itself, would not be a reason to dismiss the appeal.
7. Visually, the proposed development, whilst clearly a contemporary iteration of an advertisement, would not jar with the surrounding built environment. Indeed, it would be seen in the context of the modern design of the KC Superbike showroom. It would be set back off the road, would not extend beyond the boundary of the appeal site, and would sit some distance from the flank wall of no 31 John Street. The proposal would clearly be a large display, designed to be highly visible, nevertheless, in my judgement, the location is capable of absorbing the advertisement without detriment. Given the particular locational characteristics of the site, it would not appear out of scale, nor dominate the wider townscape either side of the road.
8. Therefore, I conclude that the proposal would not be overly obtrusive, incongruous or a discordant feature, and would be consistent with both the Regulations and paragraph 132 of the Framework, and therefore, as I have found that it would cause no adverse impact on amenity, it would be consistent with Policy SP6 of the LP.

### *Highway Safety*

9. When approaching the appeal site from the west, the proposed advertisement would be on the other side of the dual carriageway and therefore could not interfere with or be a distraction to drivers.
10. I took the opportunity to cross the dual carriageway on foot taking advantage of the central reservation, as well as to drive towards the appeal site from the eastern direction. In doing so it appeared that the appeal proposal would be partially visible on approaching, and when stationary at the Bridge Street traffic light. However, due to the position of the proposed LED display, the traffic lights would not be viewed directly in front of it. For drivers turning right into Sainsbury's there is a right turn lane and single traffic light. However, this traffic head is in the middle of the carriageway and would not be seen in the context of the proposed advertisement.
11. Similarly, I considered the impact of the appeal proposal on drivers leaving the Sainsbury's car park from Byron Street. However, it would have a negligible impact as only the edge, or a sliver of the display panel would be visible, and when at the traffic lights it would not be in the driver's view.
12. Drivers approaching from John Street would only see the proposed advertisement after having passed the traffic signals and having adjusted to cope with the prevailing conditions.
13. I am aware that this form of advertisement is unusual within Carlisle. However, it would correspond to industry standards in terms of the control of the intensity of the lighting and the frequency of the change of the advertisement. There is no evidence before me to suggest that the proposal is such an unusual form of display, nor its proposed location unacceptable, so as to pose a danger to road users either during the day or at night, and therefore, to cause a traffic hazard.
14. In conclusion, it is important to ensure that advertisements, and especially internally illuminated ones which have a changing display do not obstruct or confuse a road-user's view or reduce the clarity or effectiveness of a traffic sign or signal. However, for the reasons set out above, the particular proposal before me, would not result in such dangers and therefore would not be overly distracting so as to impact on the concentration of drivers. Consequently, the location and design of the proposed digital advertisement would not result in an unacceptable risk to highway safety.

### **Other matters**

15. I have been referred to a number of other examples of advertisements in support of the Council's case. However, none appear to be directly comparable, and in the instance of the appeal proposal at Bradford, I have been given very little information. Moreover, I have determined the appeal, on the basis of the evidence before me and the specific merits of the case.

### **Conclusion and conditions**

16. For the reasons given above I conclude that the display of the advertisement would not be detrimental to the interests of amenity and public safety, and the appeal is allowed and consent granted.

17. I have considered the condition suggested by the Council in terms of the luminance, but in the absence of any technical evidence, there is no justification to depart from established industry standards. Therefore, whilst in the interests of conciseness, I have made some changes to the conditions put forward by the appellant, I consider that these, together with the five standard conditions for an advertisement consent, to be adequate in the case of this development in this particular location. These conditions will protect the visual amenity of the area and maintain highway safety.

*L Nurser BA(Hons) Dip UP MRTPI*

INSPECTOR



36 Soho Square  
London  
W1D 3QY  
[www.alightmedia.com](http://www.alightmedia.com)

#### SITE LOCATION

KC Superbikes  
Church Street  
Carlisle  
CA2 5TJ

#### DRAWING NAME

CSC2 Location Plan

#### DRAWING SCALE

1:1250 @ A4

#### DATE

10<sup>th</sup> September 2020

#### ALIGHT MEDIA REFERENCE

8782



Crown Copyright 2020 Ordnance Survey



## SCHEDULE B: Applications Determined by Other Authorities

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**Item No: 11**

Between 05/02/2021 and 11/03/2021

**Appn Ref No:**

20/9012

**Applicant:**

Thompsons of Prudhoe

**Parish:**

Multiple Parishes

**Date of Receipt:**

08/10/2020

**Agent:**

Cumbria County Council -  
Economy & Planning

**Ward:**

Brampton & Fellside

**Location:**

Silvertop Quarry, Hallbankgate, Brampton, CA8 2PE

**Grid Reference:**

358980 561042

**Proposal:** Erection Of Extension To North Of Quarry

**Amendment:**

### REPORT

**Case Officer:** Alanzon Chan

#### City Council Observations on the Proposal:

**Decision:** City Council Observation - Observations

**Date:** 03/12/2020

**Decision of:** Cumbria County Council

**Decision Type:** Grant Permission

**Date:** 24/02/2021

A copy of the Notice of the decision of the Determining Authority is printed following this report.

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**The Town and Country Planning Act 1990  
The Town and Country Planning (Development Management Procedure)  
(England) Order 2015**

**NOTICE OF PLANNING PERMISSION**

To: Thompsons of Prudhoe  
Princess Way  
Low Prudhoe  
NE42 6PL

In pursuance of the powers under the above Act and Order the Cumbria County Council as Local Planning Authority hereby **permit** the development described in your application and on the plans/drawings attached thereto received on 7 October 2020.

**viz: Proposed extension to the north of Silvertop Quarry, near Hallbankgate  
Silvertop Quarry, Hallbankgate, Brampton, CA8 2PE**

Subject to due compliance with the following conditions:

**Time Limit for Implementation of Permission**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

*Reason: To comply with Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.*

**Approved Scheme**

2. The development hereby permitted shall be carried out, except where modified by the conditions to this permission, in accordance with the following:
  - a. The submitted Application Form – dated 27 September 2020
  - b. Planning Statement – dated September 2020
  - c. Ecological Impact Assessment – dated September 2020
  - d. Bird Breeding Survey – dated November 2019
  - e. Great Crested Newt Survey – dated September 2020
  - f. Carbon Emissions (Climate Change) Report – dated November 2017
  - g. Geotechnics, Surface Water and Flood Risk Assessment – dated September 2020
  - h. Noise and Dust Management Plan – dated July 2020
  - i. Assessment of Potential Impacts on Hadrian's Wall World Heritage Site – dated April 2019 (updated September 2020)
  - j. Survey of Archaeological Earthworks – dated September 2020
  - k. Archaeological Desk Based Assessment – dated July 2020
  - l. Landscape and Visual Impact Assessment – dated September 2020
  - m. Plans numbered and named:
    - i) NT12629-003 - Location Plan
    - ii) NT12629-035 - Site Plan

- iii) NT12629-033 - Proposed Restoration Plan-A1
- iv) NT12629-036 - Proposed Development-A3
- v) NT12629-0NT12629-039 - North Extension Restoration Plan-A3L38  
Site investigation Locations-A1
- vi) NT12629-037 - Location of Limestone Reserves-A3
- n. The details or schemes approved in accordance with the conditions attached to this permission.

*Reason: To ensure the development is carried out to an approved appropriate standard and to avoid confusion as to what comprises the approved scheme.*

### **Timeframe for Working and Restoration**

- 3 The extension area shall be worked for a maximum of three years and shall be completely restored within 3 years of cessation of working the site. Written notification shall be submitted within 14 days of commencement of soil stripping works and 14 days of restoration works starting.

*Reason: To ensure the site is not worked permanently and the amenities of the nearby residents are protected.*

### **Hours of Operation**

- 4 No operations, including the loading or transportation of minerals or operations of quarry plant, shall take place on site outside the following hours:-

07.00 to 19.00 hours Mondays to Fridays

07.00 to 13.00 hours on Saturdays

No operation of quarry plant or loading or transportation of minerals, shall take place on Sundays or on Bank or Public Holidays.

This condition shall not operate so as to prevent the use of pumping equipment and the carrying out, outside these hours, of essential maintenance to plant and machinery used on site.

*Reason: To ensure that no operations hereby permitted take place outside normal working hours which would lead to an unacceptable impact upon the amenity of local residents.*

### **Access and Traffic**

- 5 There shall be no vehicular access to or egress from the site other than via the approved access on A689, as approved under planning permission 1/97/9021.

*Reason: To avoid vehicles entering or leaving the site by an unsatisfactory route.*

- 6 The total number of laden heavy goods vehicles leaving Silvertop Quarry shall not exceed 150 on any weekday and 75 on Saturdays. A record of all laden heavy goods vehicles leaving Silvertop Quarry each day shall be maintained by the operator and access to this record shall be afforded to the local planning authority on request.

*Reason: To keep to acceptable levels the impact of lorry traffic on the amenity of local residents and other road users.*

## Control of Blasting

- 7 Except in the case of emergency, such instances to be notified to the local planning authority, blasting shall not take place on site outside the following hours:-

10.00 to 16.00 Mondays to Fridays

10.00 to 12.00 on Saturdays

There shall be no blasting on Saturday afternoon, Sundays, or Bank or National Holidays.

*Reason: To restrict blasting to those hours of the day when it will cause least inconvenience and disturbance to people living and working in the locality.*

- 8 The number of blasting operations shall not exceed 3 in any one week.

*Reason: To safeguard the amenity of local residents by restricting the number of blasting events which can take place.*

- 9 Before soil stripping commences in the extension area a scheme for the monitoring of ground vibration shall be submitted for approval by the mineral planning authority and shall be subsequently implemented in full. The scheme shall include the requirement to produce and maintain a regression line model to inform blast design so that ground vibration from blasting does not exceed a peak particle velocity of 6mm per second in 95% of all blasts as measured at the following dwellings:

- Carnetely
- New Garth
- Silver Top

The scheme shall also include locations and types of equipment used to monitor blasts.

*Reason: To safeguard the amenity of local residents and to protect the structural integrity of buildings and structures outside the site boundary, by ensuring that blasting vibration does not cause a nuisance outside the site boundary.*

## Control of Noise

- 10 All plant, machinery and vehicles used on site shall be effectively silenced at all times and maintained in accordance with the manufacturers recommendations.

*Reason: To safeguard the amenity of local residents by ensuring that the noise generated in their operation is minimised and so does not constitute a nuisance outside the boundaries of the site.*

- 11 The rating levels for cumulative noise from all plant and machinery during the operational life of the site shall not exceed 5dB above the existing LA90 background levels and 10 dB above the existing LAeq at any noise sensitive premises as assessed in accordance with British Standard 4142:2014+A1:2019.

*Reason: To protect the amenities of local residents from noise pollution and to*

*conform with Policy DC3 of the CMWLP.*

- 12 Before soil stripping commences in the extension area a scheme for the monitoring of noise shall be submitted to and approved in writing by the Mineral Planning Authority. When approved the scheme shall be implemented in full. The scheme shall include:-

- i) noise monitoring locations;
- ii) frequency of measurements;
- iii) presentation of results;
- iv) modelling procedures;
- v) procedures to be adopted if noise limits go above a certain level.
- vi) procedure for investigating complaints notified to the operator by the Local Planning Authority.

*Reason: To enable the effects of the development to be adequately monitored during the course of the operations.*

### **Control of Dust**

- 13 Drilling equipment shall be fitted with effective dust suppression measures and maintained in accordance with the manufacturers instructions.

*Reason: To safeguard the amenity of local residents by ensuring that dust does not constitute a nuisance outside the boundary of the site.*

- 14 Before soil stripping commences in the extension area a scheme detailing dust suppression measures shall be submitted to and approved in writing by the local planning authority. When approved the scheme shall be implemented in full.

- i) Such measures shall include the spraying of haul and access roads,
- ii) working areas,
- iii) plant and stockpiling areas with water to satisfactorily suppress dust in periods of dry weather in order that it does not constitute a nuisance outside the site.

*Reason: To safeguard the amenity of local residents by ensuring that dust does not constitute a nuisance outside the boundary of the site.*

- 15 All vehicles used to transport mineral from the site onto the public highway shall be sheeted so as not to deposit any mineral upon the highway.

*Reason: To ensure that material is not released into the air or deposited upon the highway in the interest of local amenity and highway safety.*

### **Control of Artificial Lighting**

- 16 All artificial lighting units installed on the site shall be so sited and shielded as to be incapable of direct sight from any residential property outside the site.

*Reason: To safeguard the amenity of local residents.*

### **Safeguarding of Watercourses and Drainage**

- 17 Any chemical, oil or diesel storage tanks on the site shall be sited on impervious bases and surrounded by impervious bund walls. Bunded areas shall be capable of containing 110% of the largest tank's volume and should enclose all fill and drawpipes.

*Reason: To avoid the pollution of any watercourse or groundwater resource.*

- 18 There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct or via soakaways.

*Reason: To avoid the pollution of any watercourse or groundwater resource.*

### **Archaeology**

- 19 No development shall commence within the site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority.

This written scheme will include the following components:

- i) An archaeological evaluation;
- ii) An archaeological recording programme the scope of which will be dependent upon the results of the evaluation;
- iii) Where significant archaeological remains are revealed by the programme of archaeological work, there shall be carried out within one year of the completion of that programme on site, or within such timescale as otherwise agreed in writing by the LPA: a post-excavation assessment and analysis, preparation of a site archive ready for deposition at a store approved by the LPA, completion of an archive report, and submission of the results for publication in a suitable journal..

*Reason: To afford the opportunity for an examination to be made to determine the existence of any remains of archaeological or historic interest within the site and to decide on any action to be required for the preservation, protection, examination or recording of such remains.*

### **Stripping, Storage and Use of Soils and Overburden**

- 20 Prior to any mineral extraction taking place within the extension area the topsoil and subsoil shall be stripped and mounds shall be constructed in accordance with drawing no: 'EP1 rev A - Phasing plan'. Soils shall only be stripped when dry and friable.

*Reason: To ensure the residential and visual amenities of the nearby residents are protected.*

- 21 At least 48 hours prior notice shall be given to the Mineral Planning Authority of the commencement and estimated duration of each phase of soil stripping operations. If the boundary of the area to be stripped is not marked by identifiable features it shall be clearly marked with suitable pegs.

*Reason: To allow the Mineral Planning Authority to monitor the soil handling*

*operations.*

- 22 All available topsoil and subsoil shall be separately stripped from any part of the site before it is excavated or is traversed by heavy vehicles or machinery (except for the purposes of stripping that part of stacking topsoil on that part).

*Reason: To ensure that all the topsoil and subsoil is separately removed from the site prior to the commencement of excavations and to prevent any avoidable damage to the structure of the soils.*

- 23 All topsoil, subsoil, soil-making material and other overburden which has been stripped or removed shall be stacked separately in accordance with the approved plans and prevented from mixing.

*Reason: To secure the satisfactory storage and retention of overburden and soils for restoration.*

- 24 The stripping, movement and resspreading of soils shall be restricted to occasions when the soil is in a suitably dry and friable condition and the ground is sufficiently dry to allow passage of heavy vehicles and machinery over it without damage to the soils and the topsoil can be separated from the subsoil without difficulty.

*Reason: To prevent any avoidable damage to the structure of the soils.*

- 25 The maximum height of any topsoil, subsoil or overburden mound above the average original ground level of the land on which they stand shall be:-

- Topsoil 4 metres;
- Subsoil 6 metres.

*Reason: To reduce the damage to the soil structure and fertility.*

- 26 All topsoil and subsoil shall be retained on the site and none shall be sold off or removed from the site.

*Reason: To ensure that all the available soils are kept for use in the restoration of the site.*

- 27 Soil storage and screening mounds shall be sown down to grass in the first available sowing season following their construction.

*Reason: To reduce the washing away of soils in the interests of pollution control and in the interests of visual amenity.*

### **Control of Weeds**

- 28 All non-cropped areas of the site and all topsoil, subsoil and overburden stacks shall be kept free from noxious agricultural weeds and all necessary steps shall be taken to destroy such weeds at early stages of growth to prevent seeding.

*Reason: To properly manage the site and to prevent the spread of weeds onto adjacent land.*



Dated 24 February 2021



Signed: Angela Jones  
Executive Director - Economy and Infrastructure  
on behalf of Cumbria County Council.

## NOTES

- The local planning authority has worked with the applicant/agent in a positive and proactive manner to seek solutions to any problems that arose in dealing with this application and has implemented the requirements of the [National Planning Policy Framework](#).
  - The policies and reasons for the approval of this planning application are set out within the planning officers' report which can be viewed at: <https://planning.cumbria.gov.uk/Planning/Display/1/20/9012>
  - The conditions attached to this permission may override details shown on the application form, accompanying statements and plans.
  - Submissions to discharge planning conditions require a fee and any approval given in relation to these shall be issued in writing.
-

## APPENDIX TO NOTIFICATION OF PLANNING DECISION

This Appendix does not form part of any consent, however, you should take careful notice of the advice given below as it may affect your proposal.

1. This grant of planning permission does not exempt you from regulation under Building Control and Environmental Protection regimes. The County Council regularly shares information with other authorities. Failure to comply with other regulatory regimes may result in prosecution.
2. Any grant of planning permission does not entitle developers to obstruct a public right of way. Development, insofar as it affects a right of way, should not be started, and the right of way should be kept open for public use, until the necessary order under Section 247 or 257 of [The Town and Country Planning Act 1990](#), or other appropriate legislation, for the diversion or extinguishment of right of way has been made and confirmed.
3. The attention of the person to whom any permission has been granted is drawn to Sections 7 and 8A of the Chronically Sick and Disabled Persons Act 1970 and to the Code of Practice for Access of the Disabled to Buildings or any prescribed document replacing that code.
4. Any application made to the Local Planning Authority for any consent, agreement or approval required by a condition or limitation attached to a grant of planning permission will be treated as an application under [Article 27](#) of [The Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#) and must be made in writing. A fee is payable for each submission. A single submission may relate to more than one condition.
5. There is a right of appeal against the failure to determine applications within the specified period and against the refusal of any consent, agreement or approval for which application is made (see enclosed "Notes in respect of Appeals to The Secretary of State").

## NOTES IN RESPECT OF APPEALS TO THE SECRETARY OF STATE

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990. Please note, only the applicant possesses the right of appeal.
- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.
- Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at: [Planningportal.gov.uk/pcs](https://planningportal.gov.uk/pcs)
- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

## Purchase Notices

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of part VI of the Town and Country Planning Act 1990.



