

# AGENDA

## Development Control Committee

**Friday, 10 January 2020 AT 10:00**

**In the Council Chamber, Civic Centre, Carlisle, CA3 8QG**

### **Apologies for Absence**

To receive apologies for absence and notification of substitutions

### **Declarations of Interest**

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

### **Public and Press**

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

### **Minutes of Previous Meetings**

**7 - 20**

To note that Council, at its meeting of 7 January 2020, received and adopted the minutes of the Development Control Committee meetings held on 9 October (site visits), 11 October, 20 November (site visits) and 22 November 2019. The Chairman will sign the minutes.  
[Copy minutes in Minute Book 46(4)].

To approve the minutes of the meeting held on 7 January 2020 (site visits).

## **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.

<b>Explanatory Notes</b>	<b>21 - 26</b>
<b>Item 01 - 19/0494 - L/A rear of Walton Parish Church, Walton, Bampton, CA8 2DH</b>	<b>27 - 48</b>
<b>Item 02 - 19/0493 - Land to Rear of 44 Scotby Road, Scotby, Carlisle, CA4 8BD</b>	<b>49 - 72</b>
<b>Item 03 - 19/0193 - St Michaels and All Angels Church, The Square, Dalston, Carlisle, CA5 7PJ</b>	<b>73 - 106</b>
<b>Item 04 - 19/0184 - Land Adjacent to Hillcrest, Milton, Bampton, CA8 1HS</b>	<b>107 - 124</b>
<b>Item 05 - 19/0517 - Land adjacent to Fair Lea, Moorhouse, Carlisle, CA6 4EA</b>	<b>125 - 142</b>

<b>Item 06 - 19/0670 - Green Meadows Caravan Park, Blackford, Carlisle, CA5 6EL</b>	<b>143 - 152</b>
<b>Item 07 - 19/0606 - Old Methodist Church, Albert Street, Longtown, Carlisle, CA6 5SF</b>	<b>153 - 182</b>
<b>Item 08 - 19/0851 - Land Adjacent To King Edwards Fauld, Burgh By Sands, Carlisle, CA5 6AR</b>	<b>183 - 192</b>
<b>Item 09 - 19/0814 - Whitehorse Centre, Tyne Street, Carlisle, CA1 2NP</b>	<b>193 - 216</b>
<b>Item 10 - 19/0852 - Land adjacent to Hunters Crescent, Garlands Road, Carlisle</b>	<b>217 - 224</b>
<b>Item 11 - 19/0879 - 25 Caldew Drive, Dalston, Carlisle, CA5 7NS</b>	<b>225 - 234</b>
<b>Schedule B</b>	<b>235 - 260</b>

**A.2    CONSULTATION ON APPLICATION 19/9012/CTY – CARLISLE    261 - 282**  
**SOUTHERN LINK ROAD**

The Corporate Director of Economic Development to submit a report which details the proposed response of Carlisle City Council, as Local Planning Authority, on a planning application from Cumbria County Council for the construction of Carlisle Southern Link Road.

(Copy report ED.01/20 herewith)

**A.3    TPO 303 - LAND AT HAYTON, BRAMPTON    283 - 306**

The Corporate Director of Economic Development to submit a report which considers the confirmation of Tree Preservation Order 303 - Land at Hayton, Brampton following objections received to the making of the Order.

(Copy report ED.02/20 herewith)

**PART B**

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

-NIL-

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

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

**Labour** – Birks, Brown, Mrs Glendinning (Vice Chairman), Patrick, Rodgerson, Alcroft (sub), Mrs Bradley (sub), Glover (sub)

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

Enquiries, requests for reports, background papers etc to:

Jacqui Issatt, Committee Clerk (01228) 817557 or  
[jacqui.issatt@carlisle.gov.uk](mailto:jacqui.issatt@carlisle.gov.uk)



# Minutes of Previous Meetings

## DEVELOPMENT CONTROL COMMITTEE

FRIDAY 22 NOVEMBER 2019 AT 10.00 AM

**PRESENT:** Councillor Tinnion (Chairman), Councillors, Birks, Mrs Bradley (as substitute for Councillor Brown), Christian, Collier, Glendinning, Morton, Nedved, Patrick, Rodgeron, Shepherd and Tarbitt.

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

### **DC.101/19 APOLOGIES FOR ABSENCE**

An apology for absence were submitted on behalf of Councillor Brown.

### **DC.102/19 DECLARATIONS OF INTEREST**

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

Councillor Mrs Bradley declared an interest in respect of application 19/0630 – 53/53a Scotland Road, Carlisle, CA3 9HT. The interest related to the applicant being known to her.

Cllr Shepherd declared an interest in respect of application 19/0234 – Civic Centre, Carlisle, CA3 8QG. The interest related to pre-determination of the application.

Items A.1(2) and A.1(3) had been deferred at previous meetings of the Committee following discussions.

Application 19/0302 – Land to the South East of Smiddy Cottage, Great Orton, Carlisle, CA5 6LZ had been considered at the meeting on 30 August 2019, Councillor Tarbitt had not been present at that meeting, she indicated that she would not take part in the discussion or determination of the application.

Application 19/0234 – Civic Centre, Carlisle, CA3 8QG had been considered at the meeting on 7 June 2019 Councillors Mrs Bradley, Christian, Morton, Patrick, Rodgeron and Tinnion had not been present at that meeting, they indicated that they would not take part in the discussion or determination of the application. Councillor Tinnion (Chairman) further indicated that he would facilitate the meeting by chairing that item of business.

### **DC.103/19 PUBLIC AND PRESS**

RESOLVED – That the Agenda be agreed as circulated.

### **DC.104/19 MINUTES OF PREVIOUS MEETINGS**

RESOLVED 1) The Chairman signed the minutes of the meetings held on 28 August (site visits) and 30 August 2019.

2) The minutes of the meetings held on 11 October and 20 November (site visits) 2019 were approved.

## **DC.105/19 PUBLIC REPRESENTATIONS IN RESPECT OF PLANNING APPLICATIONS**

The Corporate Director of Governance and Regulatory Service outlined, for the benefit of those members of the public present at the meeting, the procedure to be followed in dealing with rights to speak.

## **DC.106/19 CONTROL OF DEVELOPMENT AND ADVERTISING**

1) 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 10n. Dwellings, Land adjacent to Croft House, Brunstock, Carlisle, CA6 4QG (Application 19/0452).**

The Development Manager submitted the report on the application which had been subject of a site visit by the Committee on 20 November 2019.

The principle of development of the site was approved with the granting of consent to application 16/0097 in August 2017. The Development Manager noted that the previous application had been for Outline Permission, he set out the differences between it and the current application and summarised a number of features of the application including layout, style and boundary treatment.

Slides were displayed on screen showing: location plan; site plan; elevation plans; floor plans, and photographs of the site, an explanation of which was provided for the benefit of Members.

The Development Manager advised that the Highway Authority had previously examined the visibility splays and considered that no adjustments were needed to the junction with the A689 to accommodate the development and there had been no request by the highway authority to revise the current speed limits in this location.

The Development Manager recommended:

- a) That Authority to Issue Approval be granted to the Corporate Director of Economic Development, subject to the completion of a satisfactory legal agreement relating to the provision of affordable housing;
- b) That should the Legal Agreement be not completed within a reasonable time, delegated authority be given to the Corporate Director of Economic Development to refuse the application.

The Committee then gave consideration to the application.

A Member asked how the strong tree boundary would be maintained.

The Development Manager responded that the trees referred to in paragraph 6.11 were outside the site boundary and thus out with the application site. The Construction Management Plan stipulated “stand-off distances” as a means of protecting the trees in the works phase of the development. Regarding the longer term protection of the trees, Officers may carry out a Tree

Evaluation Method for Preservation Order assessment to identify if any merited a Tree Protection Order.

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

RESOLVED: 1) That Authority to Issue Approval be granted to the Corporate Director of Economic Development, subject to the completion of a satisfactory legal agreement relating to the provision of affordable housing;

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

**2. Erection of 7no. detached dwellings, Land to the East of Smiddy Cottage, Great Orton, Carlisle, CA5 6LZ (Application 19/0302).**

The Planning Officer submitted the report on the application and reminded Members that the Committee had deferred the application at its 30 August 2019 meeting in order to allow an investigation to be carried out into the cause(s) of the then recent flooding of a neighbouring property. Following the Committee's deferral, the applicant had provided a new landscaping plan and detailed surface water drainage scheme, comprising a drainage layout plan, micro drainage details and details of the proposed attenuation options for each plot.

Details of the new drainage scheme were outlined by the Planning Officer who noted that the proposals had been approved by the Lead Local Flood Authority.

Slides were displayed on screen showing: location plan; site plan; landscaping plan; drainage plans, 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, along with an additional condition requiring the submission of details of the foul water drainage system to be submitted to the Local Planning Authority for approval, prior to commencement of the development.

Mr Allan set out the findings of the investigation into the flooding of an adjacent property. Displaying a slide on screen showing: a schematic of the drainage infrastructure in the vicinity of the site; a graph showing rainfall levels at the two recent flood events, and photographs of the flooding, an explanation of which was provided for the benefit of Members. He explained that part of the drainage infrastructure was privately owned and part mains sewer. The privately owned sewer had not sustained any damage but did not have sufficient capacity to cope with the rainfall experienced during the flood events. It was intended that the mains sewer would be surveyed in the coming months, but it was not anticipated that any damages or blockages would be found. The levels of the flooded property were higher than that of the application site, and given the applicant's drainage proposals, he considered that the scheme would not exacerbate flooding in the area.

The Committee then gave consideration to the application.

In response to questions from Members Mr Allan confirmed;

- That the surface water drainage arrangements for the scheme had been approved, full details of which were on the Council's website;
- Approval of the foul water drainage system was a pre-commencement

A Member remained concerned about the proposed surface water drainage arrangements.

Mr Allan stated that tests had been carried out at the site which indicated that infiltration into the soil was not possible. Therefore, the applicant would provide an attenuation tank with capacity to hold a volume of water equal to that of a 1 in 100 year flood event, plus an additional 30% to allow for climate change: a level of provision which exceeded that required by national guidance. Accordingly, the applicant had provided sufficient storage for surface water at the site.

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

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

**3. Demolition of Rotunda and extension to existing car park, Civic Centre, Carlisle, CA3 8QG (Application 19/0234).**

The Principal Planning Officer submitted the report on the application. Members had deferred the application from the June 2019 meeting of the Committee with a request that the car park design be improved, the Principal Planning Officer outlined the amendments to the scheme which included: additional planting and, provision of a civic square.

Slides were displayed on screen showing: location plan; elevation plans; car park arrangement plan; and photographs of the site, an explanation of which was provided for the benefit of Members.

The Principal Planning Officer considered the amended plans acceptable. Accordingly, he recommended that the application be approved, subject to the conditions detailed in the report.

The Committee then gave consideration to the application.

A number of Members welcomed the revised scheme in particular the provision of the plinth and additional planting at the site.

In response to questions from Members the Principal Planning Officer confirmed:

- The scheme would create 20 additional public car parking spaces over the existing arrangement;
- Electric vehicle charging points were to be provided;
- Artefacts from the existing Council Chamber would be retained for future use.

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

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

**4. Erection of 27no. dwellings without compliance with conditions 2, 3, 4, 16, 23, 24 and 26 (Works to be done in 2 phases) including removal of condition 20 (Level 3 Code for Sustainable Homes) of previously approved application 12/0880, Land adj. Hallmoor Court, Wetheral, Carlisle, Cumbria, CA4 8JS (Application 19/0596).**

The Development Manager submitted the report on the application which had been the subject of a site visit by the Committee on 20 November 2019.

Slides were displayed on screen showing: site location plan; phasing site plan; block plan; site layout plan; construction phase plans, and photographs of the site, an explanation of which was provided for the benefit of Members.

The Committee's attention was drawn to the summary of representations where a number of objectors had questioned: the principle of development on the site, including the impact on the occupiers of neighbouring properties; highway and parking issues; and the pressures that would result on local infrastructure, particularly in light of the development that had taken place since planning consent had been granted.

The Development Manager stated that the principle of development on the land remained extant and was not able to be rescinded even in the event of the current application being refused. It was imperative that the issues and details, subject of a separate application for their discharge, were separated from the current application to vary the wording of some planning conditions from the original permission to allow greater flexibility in the development of the site.

In response to the issues raised during the site visit, the Development Manager advised:

- The agent had been contacted with a view to consideration of the incorporation of facilities to charge electric vehicles for each of the properties;
- Drainage arrangements - These were being considered as part of the separate application to discharge conditions. Members were provided with an overview of the proposed system.

The removal of the condition requiring the dwellings to be built in accordance with the Code for Sustainable Homes was acceptable, as those requirements were now addressed via Building Control compliance.

The Development Manager recommended that the application be approved subject to the completion a Deed of Variation to the Section 106 Agreement secure affordable housing and contributions towards public open space and education as detailed in paragraph 6.45 of the report.

Mr Lomax (Objector on behalf of himself, Mrs Gregan and the Hallmoor Management Company) objected to the proposal in the following terms: Phase 1 of the development would require a foul waste tank and associated services to be situated within 10 metres of the railway cutting; a landslip onto the railway had recently occurred in the vicinity of the application site and Network Rail had indicated that there was an increased likelihood of further occurring in the area; United Utilities considered condition 16 should remain, and had raised concerns regarding the imposition of conditions in relation to application 19/0595 and 19/0596; the proposal was not compliant with Paragraphs 118 and 163 of the National Planning Policy Framework; was the proposed surface water drainage sufficient to prevent flooding; poor access arrangements; the boggy nature of the site; the impact of the development on the village of Wetheral.

Ms Lancaster (Agent) responded in the following terms: the principle of development of the site remained extant and outwith the current application along with associated matters relating to scale, layout, design, impact on landscape/living conditions, drainage, infrastructure and contributions towards affordable housing and education. Ms Lancaster set out the variations subject of the application noting that they merely sought to change the deadlines for the submission of information. There had been a significant shift in national planning guidance since the original granting of permission which meant that pre-commencement conditions were no longer favourable unless there was a clear justification. The Council was agreeable to the amended approach and none of the Statutory Consultees who had been invited to comment on the application had raised any objections.

The Committee then gave consideration to the application.

A Member sought clarification of the suitability of the location of the foul water waste tank provided in Phase 1 of the development.

The Development Manager advised that the matter was subject of a separate application where Network Rail were being consulted.

In respect of the phased delivery of the development, a Member expressed concern that the provision of affordable housing stipulated under permission 12/0880 would not be realised should Phase 2 of the scheme not be developed.

The Development Manager responded that were Phase 2 of the scheme not progressed the requirement for affordable housing was be proportionally lower. He undertook to review the Section 106 Legal Agreement to ensure that the provision of affordable homes was proportionate to each phase of the development.

In response to a request that the working hours of the construction phase be amended, the Development Manager stated that was not possible as that matter had been covered as part of the original consent.

A Member moved the Officer's recommendation which was seconded at it was

RESOLVED: That the application be approved, subject to a Deed of Variation to the Section 106 Agreement to secure the provision of seven affordable units on site; a financial contribution towards provision and maintenance of public open space within Wetheral village; the maintenance of the informal open space within the site by the developer; a financial contribution towards education.

*The Committee adjourned at 11:25am and reconvened at 11:40am.*

**5. Erection of 1no. dwelling, L/A rear of Walton Parish Church, Walton, Brampton CA8 2DH (Application 19/0535).**

The Principal Planning Officer submitted the report on the application which had been subject of a site visit by the Committee on 20 November 2019.

Slides were displayed on screen showing: location plan; proposed block plan; proposed block plan – drainage; proposed elevation plans; proposed property plan, and photographs of the site, an explanation of which was provided for the benefit of Members.

Page 1 of the Supplementary Schedule detailed correspondence from the adjacent church setting out concerns in relation to the integrity of the wall, the Principal Planning Officer advised that the applicant proposed the construction of a reinforced retaining wall. Moreover, the applicant had indicated that in the event of any damage to the church, appropriate reparations or rebuilding would be undertaken. The matter would need to be agreed between the applicant and the church.

The Council's Building Control Service had indicated that the retaining walls would need to be designed by an engineer, and the Principal Planning Officer recommended the imposition of a further condition requiring the submission of details of the retaining walls to the Local Planning Authority for approval.

In response to issue raised by Members at the site visit, the Principal Planning Officer advised:

- The application site had never been part of the church, therefore the land had not been consecrated;
- Condition 11 required an archaeological watching brief being undertaken by a qualified archaeologist during the ground works;
- Access to the site was to be over a track which was designated as a Village Green and was owned by the Parish Council. Access was a civil matter, and the Principal Planning Officer noted that the track provided access to a number of existing dwellings adjacent to the village green and was used for parking;
- Drainage – both foul and surface water drainage would discharge to the main public sewer. United Utilities would have to agree a discharge rate with the applicant and the Council's Building Control Services had confirmed that was acceptable.

The Principal Planning Officer recommended that the application be approved, subject to the conditions set out in the report, and the imposition of an additional condition requiring the submission of details of the proposed retaining walls to the Local Planning Authority for approval.

The Committee then gave consideration to the application.

A Member expressed concern about the management of drainage from such a small site, he questioned how it would be achieved and whether United Utilities had consented to discharge into the mains sewer system. In the event of the drainage not being effective it would cause surface water from the site to run-off on to the Village Green.

Mr Allan (Cumbria County Council) acknowledged that the site was small, however, he felt that the design of the site allowed for an attenuation tank for the storage of surface water to be installed under the proposed drive. Furthermore, a condition was able to be added requiring the details of the surface water drainage system be submitted to the Local Planning Authority for approval.

The Development Manager noted that it was not clear whether United Utilities had accepted the proposal to attenuate surface water at the site prior to it being discharged into the main sewer.

The Principal Planning Officer advised that the matter would be dealt with under Building Control standards compliance, he had not been party to any discussion on the matter between the applicant and United Utilities. He suggested that should Members require it, a condition was able to be added to the consent regarding surface water drainage.

The Member responded that he did not feel that the Committee had sufficient information to be satisfied that drainage at the site was able to be effectively managed. On that basis he moved that determination of the application be deferred in order for details of the surface water and foul drainage systems to be submitted. The proposal was seconded.

Turning to the issue of access, a Member was concerned that it required the crossing of an area designated as a Village Green which he believed was not permissible. Furthermore, he understood that the Parish Council who owned the Green did not support the use.

The Corporate Director of Governance and Regulatory Services advised that a right to drive over the Green may be secured with the landowner's agreement or via a Rights of Prescription. He reminded the Committee that it's role in determining the application was to consider the proposed land use, access to the site was a civil matter out with the Planning process.

The Chairman noted that a proposal to defer determination of the application in order for details of the surface water and foul drainage system to be submitted had been proposed and seconded. The matter was put to the vote and it was:

RESOLVED: That determination of the application be deferred in order for details of the surface water and foul drainage system to be submitted and a further report be submitted to a future meeting of the Committee.

**6. Change of Use from A1 (Retail) to A5 (Hot Food Takeaway); Installation of new shopfront and insertion of side window, 53/53a Scotland Road, Carlisle, CA3 9HT (Application 19/0630).**

The Planning Officer submitted the report on the application. He noted that the application site was not a Listed Building, but that it was situated in a Conservation Area.

Slides were displayed on screen showing: block plan; elevation plans; existing floor plan; proposed floor plan, and photographs of the site, an explanation of which was provided for the benefit of Members.

The Planning Officer stated that the assessment of the application had finely balanced a number of material considerations. Given concerns relating to impact on highway safety of the proposed scheme, he recommended that the application be refused for the reasons set out in paragraph 8.1 of the report.

The Committee then gave consideration to the application.

A Member moved the Officer's recommendation and the proposal was seconded.

Another Member appreciated the Officer's concerns, however, he did not support the recommendation. He considered that the site was located in a parade of shops and were it not to be approved the building may fall into disrepair.

In respect of concerns about the impact on highway safety, the Member noted that the level of traffic on Scotland Road had significantly lowered in recent years with the opening of the Carlisle Northern Development Road. Furthermore, the applicant operated another takeaway premise on Newtown Road, Carlisle, where, in his view, the highway was equally as busy as that adjacent to the application site.

The Member further noted that the proposed takeaway would not operate for the same number of hours as the previous business at the site had, which would lessen parking at the site. He proposed that the application be approved.

A Member commented that determination of the application was finely balanced. He felt it was important to support the development in the city by bringing properties back into use, accordingly he seconded the proposal to approve the application.

In response to comments from Members about the unsuitability of the proposed signage, the Corporate Director of Economic Development noted that those details were subject of a separate application but undertook to take the comments on board.

A Member asked whether other A1 (Retail) uses would at the site would have required permission whether or not the operating hours changes

The Planning Officer confirmed that in such circumstance would not have required Planning Permission.

The Chairman noted that proposals to refuse and to approve the application had both been moved and seconded.

The Corporate Director of Economic Development noted that as the Officer had recommended that the application be refused no conditions for a consent had been drafted. In the event of the Committee approving the application, she undertook to incorporate reasonable and appropriate conditions into the consent.

The Chairman put the two proposals to the vote, and it was:

RESOLVED 1) That the Corporate Director of Economic Development incorporate reasonable and appropriate conditions into the consent.

2) That the application be approved, subject to the implementation of relevant conditions as indicated within the Schedule of Decisions attached to these minutes.

**7. Non Material amendment of previously approved permission 17/0603 to amend road serving plots 49 – 52 to a shared driveway; removing turning head and end of road, Land at Dalston Avenue, Raffles, Carlisle, CA2 7EX (Application 19/0787).**

The Principal Planning Officer submitted the report on the application. The proposal sought to amend access to the scheme consented under planning approval 17/0603, as a small parcel of land needed to implement the original permission was not within the applicant's ownership.

The application proposed the removal of the previously agreed footpath and the installation of a shared surface in its stead: the road served only four dwellings, therefore the proposal was acceptable to the Highway Authority.

Slides were displayed on screen showing: site layout plan; plan showing land in private ownership, 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.

The Committee then gave consideration to the application.

A Member sought clarification as to whether the proposed shared surface would be adopted by the Highway Authority as per the rest of the road in the overall development or whether it would have a different status.

Mr Allan stated that the Highway Authority did not adopt shared surfaces. He noted that the road within the overall development was required by condition to be made up to adoptable standard, and only the area of the current application would be formed of non-adoptable shared surface.

Members discussed how the shared surface would be maintained by future occupiers through a management company.

The Corporate Director of Governance and Regulatory Services noted that future owners of plots 49 – 52 would be advised of their responsibilities in relation to the shared surface through house

purchasing process, and that the use of management companies in respect of shared surfaces was an accepted practice.

The Development Manager advised that it was not current practice for the Highway Authority to adopt shared surfaces, however, were the surface to be made up to adoptable standard, it increased the likelihood of its being adopted in the future

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

RESOLVED: That the application be approved.

*The Committee adjourned at 12:50pm and reconvened at 1:30pm*

**8. Erection of Stables, associated hardstanding and relocated access, L/A part field No 1823, Newtown, Blackford, Carlisle, Cumbria (Application 19/0222).**

*Councillor Collier was absent from his seat.*

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

*Councillor Collier assumed his seat.*

The Committee then gave consideration to the application.

A Member expressed concern that the application amounted to creeping urbanisation in a rural area, he requested that a further condition be imposed preventing caravans being installed at the site.

The Planning Officer responded that condition 3 of the proposed consent prohibited any commercial use of the stable/land. The Planning Officer also confirmed that the stables had no Permitted Development Rights, therefore any future siting of a caravan therein would require further Planning Permission.

In response to concerns from Members that the proposed scheme could become a commercial venture, the Planning Officer reiterated that condition 3 restricted the site to private use.

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

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

**9. Siting of hand car wash and valet facility including canopy and portable office store building (Revised Application), Houghton Hall Garden Centre, Houghton, Carlisle, CA6 4JB (Application 19/0503).**

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

Members were provided with an overview of how the proposed scheme would operate including surface water drainage management. The proposed scheme did not require an Environment Agency permit to operate. In order to ensure the proper maintenance and operation of the equipment used in the proposed scheme, the Principal Planning Officer recommended the imposition of an additional condition requiring the applicant, within three months of the commencement of the scheme, to submit details of a management and maintenance plan to the Local Planning Authority for approval.

The Principal Planning Officer recommended that the application be approved subject to the conditions detailed in the report, along with an additional condition requiring the submission of a management and maintenance plan within three months of the operation commencing.

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

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

**10. Construction on new vehicular access onto A7 between The Hill and Elm House, The Hill, Blackford, Carlisle, CA6 4DZ (Application 19/0398).**

The Development Manager submitted the report on the application and slides were displayed on screen showing: site location plan; illustration of the proposed bell mouth and construction details; the existing field access, and photographs of the site, an explanation of which was provided for the benefit of Members.

Submitted objections had been conveyed to Cumbria County Council in its role as Highway Authority who had confirmed (following a Road Safety Audit) that it had no objection to the proposal, subject to the imposition of several conditions. Those conditions required: the closure of existing accesses serving The Hill and Elm Bank; and that use of the proposed access not commence until the visibility splays and radius kerbs had been provided.

The Development Manager advised that, in light of the views of the Highway Authority, it would be difficult to substantiate a refusal of the application on highway safety grounds. Accordingly, he recommended that the application be approved subject to the conditions detailed in the report.

The Committee then gave consideration to the application.

A number of Members expressed concerns about the average traffic speed on the A7 in the area of the proposed scheme. A motion was proposed that the application be deferred in order that consideration be given to the imposition of a speed restriction in that area. The motion was not seconded.

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

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

**11. Display of 2no. non-illuminated post mounted signage panels and 2no. flag posts (Retrospective), Land Adjacent to King Edward Fauld, Burgh by Sands, Carlisle, CA5 6AR (Application 19/0692).**

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

Burgh by Sands Parish Council had objected to the installation of flags and signs, considering the signs only to be sufficient. The Principal Planning Officer considered it standard practice for developers to promote sites using signage and flags, therefore he did not consider the application unreasonable. Moreover, the permission applied for was temporary in nature and would be removed in five years or within 21 days of the sale of the last property, whichever was the sooner.

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

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

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

#### **DC.107/19 STANDING ORDERS**

During consideration of the above item, it was moved, seconded and RESOLVED that Council Procedure Rule 9, in relation to the duration of meetings be suspended in order that the meeting could continue over the time limit of 3 hours.

#### **DC.108/19 SCHEDULE B**

RESOLVED: That the items in Schedule B be noted.

#### **DC.109/19 TPO 305 WOOD COTTAGE/MAYA HOUSE, ST LAWRENCE LANE, BURGH BY SANDS.**

The Planning/Landscapes Compliance and Enforcement Officer submitted report ED.37/19 which considered the making of Tree Preservation Order 305 – Wood Cottage/Maya House, St Lawrence Lane Burgh by Sands.

The process for the making of the Order was summarised for Members. One objection had been received from Maya Cottage who had requested the felling, on the grounds that the tree was interfering with drains of their property and was causing concern that it should fall in high winds. No evidence was provided to support these reasons, and the Planning/Landscape Compliance and Enforcement Officer noted that the submitted Arboricultural report stated that the tree was in a sound, healthy condition. Any limiting of light onto the patio area of Maya House, was able to be addressed through careful management of the tree.

The Planning/Landscapes Compliance and Enforcement Officer recommended that Tree Preservation Order 305 – Wood Cottage/Maya House, St Lawrence Lane, Burgh by Sands, be confirmed with modification to the original Order to list the specimen of the tree as an Alder.

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

RESOLVED – That Tree Preservation Order 305 – Wood Cottage/Maya House, St Lawrence Lane, Burgh by Sands, be confirmed with modification to the original Order to list the specimen of the tree as an Alder.

## **DC.110/19 REVIEW OF TREE PRESERVATION ORDERS 148 & 247 AND THE MAKING OF TREE PRESERVATION ORDERS 307 & 308, GARLANDS, CARLISLE**

The Planning/Landscape Compliance and Enforcement Officer submitted report ED.38/19 which detailed the results of a review of Tree Preservation Orders 148 & 247 and considered the making of Tree Preservation Orders 307 & 308, Garlands, Carlisle.

Tree Preservation Order 148 – Land at Garlands Hospital, Carlisle, and Tree Preservation Order 247 – Land at Garlands Hospital No.2, Carlisle were confirmed in 1999 and 2009 respectively. Numerous applications for works had been submitted and consequently it had been necessary to review the Orders to identify: the remaining trees; which trees remained worthy of protection and, whether any further tree merited the protection of an Order. Professional arboriculturalists were commissioned to carry out the review, and their assessment and findings had been reproduced in the report.

Based on the findings of the arboriculturalist's report, Tree Preservation Orders 307 – Land at Carleton Clinic, to the west of Cumwhinton Drive, Carlisle and 308 – Land at Garlands Estate Carlisle had been made.

The Planning/Landscapes Compliance and Enforcement Officer recommended:

- a) That Tree Preservation Orders 148 – Land at Garlands Hospital, Carlisle, and 247 – Land at Garlands Hospital No.2 be revoked.
- b) That Tree Preservation Order 307 - Land at Carleton Clinic, to the west of Cumwhinton Drive, Carlisle be confirmed without modification.
- c) That Tree Preservation Order 308 - Land at Garlands Estate, Carlisle be confirmed with the following modifications:
  - That trees T131, T132, T138, T142, T144, T146, T147, T171, T179, T180, T191 and T192 be removed from the Order

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

RESOLVED - 1) That Tree Preservation Orders 148 – Land at Garlands Hospital, Carlisle, and 247 – Land at Garlands Hospital No.2 be revoked.

2) That Tree Preservation Order 307 - Land at Carleton Clinic, to the west of Cumwhinton Drive, Carlisle be confirmed without modification.

- c) That Tree Preservation Order 308 - Land at Garlands Estate, Carlisle be confirmed with the following modifications:
  - That trees T131, T132, T138, T142, T144, T146, T147, T171, T179, T180, T191 and T192 be removed from the Order

[The meeting closed at 2:09pm]



# **Development Control Committee Main Schedule**

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

10<sup>th</sup> January 2020

## The Schedule of Applications

This schedule is set out in five parts:

**SCHEDULE A** - 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

**SCHEDULE B** - 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 18/12/2019 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 10/01/2020.

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.

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Applications Entered on Development Control Committee Schedule

<b>Item No.</b>	<b>Application Number/ Schedule</b>	<b>Location</b>	<b>Case Officer</b>
01.	19/0494 A	L/A rear of Walton Parish Church, Walton, Brampton, CA8 2DH	SD
02.	19/0493 A	Land to Rear of 44 Scotby Road, Scotby, Carlisle, CA4 8BD	CH
03.	19/0193 A	St Michaels and All Angels Church, The Square, Dalston, Carlisle, CA5 7PJ	SO
04.	19/0184 A	Land Adjacent to Hillcrest, Milton, Brampton, CA8 1HS	SD
05.	19/0517 A	Land adjacent to Fair Lea, Moorhouse, Carlisle, CA5 6EL	RJM
06.	19/0670 A	Green Meadows Caravan Park, Blackford, Carlisle, CA6 4EA	BP
07.	19/0606 A	Old Methodist Church, Albert Street, Longtown, Carlisle, CA6 5SF	RJM
08.	19/0851 A	Land Adjacent To King Edwards Fauld, Burgh By Sands, Carlisle, CA5 6AR	SD
09.	19/0814 A	Whitehorse Centre, Tyne Street, Carlisle, CA1 2NP	RJM
10.	19/0852 A	Land adjacent to Hunters Crescent, Garlands Road, Carlisle	AC
11.	19/0879 A	25 Caldew Drive, Dalston, Carlisle, CA5 7NS	LT
12.	19/9004 B	Cargo Hill Farm, Cargo, Carlisle, CA6 4AL	SD
13.	19/9013 B	Low Gelt Quarry, Low Gelt Bridge, Brampton, Carlisle CA8 1SY	BP
14.	18/0388 B	Land adjacent Geltsdale Avenue, Durranhill, Carlisle, CA1 2RL	RJM

SCHEDULE A

SCHEDULE A

## SCHEDULE A: Applications with Recommendation

19/0494

Item No: 01

Date of Committee: 10/01/2020

**Appn Ref No:**  
19/0494

**Applicant:**  
Mrs Susan Henshaw & Mr  
Michael Thomlinson

**Parish:**  
Walton

**Agent:**  
Abacus Building Design

**Ward:**  
Longtown & the Border

**Location:** L/A rear of Walton Parish Church, Walton, Brampton, CA8 2DH

**Proposal:** Erection Of 1no. Dwelling

**Date of Receipt:**  
25/06/2019

**Statutory Expiry Date**  
20/08/2019

**26 Week Determination**  
13/01/2020

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### REPORT

**Case Officer:** Stephen Daniel

The application was deferred at the November meeting of the Development Control Committee in order to receive further details about foul and surface water drainage and to await a further report on the application at a future meeting of the Committee.

The Barron Wright Partnership (drainage engineers) has contacted United Utilities to ask if it is acceptable to connect the surface water run off from the 275m2 site to the adjacent combined sewer. It has forwarded United Utilities additional information which has been requested, namely confirmation that the permeability of the subsoil, which is clay, is inadequate to allow the use of a soakaway to disperse surface water, and also a full site plan which states explicitly the gross area of the site.

A written response from United Utilities is currently awaited but it is understood from discussions that given the small size of the site and the consequent small volume of run off that would be generated, permission to connect to the sewer would be granted where a soakaway is not viable and no other means of disposal within the site or to a nearby watercourse are available.

At this stage, the developer has not considered attenuation of the flow, but it is anticipated that some attenuation could be provided on-site, for example by providing a throttled outlet within the disconnection manhole, and possibly using permeable paving for the driveway with the sub-base material beneath acting as a filter and a storage volume to reduce the peak flows to the sewer. These matters can be dealt with once the principle of connecting to the public sewer is confirmed in writing as having been accepted. The drainage details would need to be agreed by Building Control and United Utilities.

It is anticipated that a formal written response from United Utilities will be received prior to the committee meeting and Members will be updated at the meeting.

Conditions have been added to the permission to require a condition survey of the village green to be undertaken prior to the commencement of development and to require details of the proposed retaining walls to be erected on the site to be approved in writing by the local planning authority.

## **1. Recommendation**

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

## **2. Main Issues**

- 2.1 Principle of Development
- 2.2 Scale And Design
- 2.3 Impact On The Occupiers Of Neighbouring Properties
- 2.4 Impact On Listed Buildings
- 2.5 Impact On Hadrian's Wall WHS/ Archaeology
- 2.6 Highway Matters
- 2.7 Foul And Surface Water
- 2.8 Impact On Trees
- 2.9 Impact On Biodiversity

## **3. Application Details**

### **The Site**

- 3.1 The application site is a triangular shaped field which sits at a higher level than the adjacent road. A hedgerow and stone retaining wall lie along the front of the site, with trees being located on the southern and western site boundaries. A field gate provides access to the site.
- 3.2 St Mary's Church, which is a Grade II\* listed building, lies to the north of the site. The churchyard, which sits approximately 0.6m higher than the application site, adjoins the site and is separated from it by a stone wall, which forms the northern site boundary.
- 3.3 A terrace of three dwellings lie to the east of the application site. The property immediately adjacent to the site (Townfoot) has a garden that adjoins the application site and is separated from it by a fence.
- 3.4 An access track runs to the south and west of the site beyond which lie further residential properties. A bungalow (South View) lies to the south of the site, with a further bungalow (Montcalm) being located to the west. The track, which provides access to a number of properties and is used for parking, is designated as village green.

## **The Proposal**

- 3.5 The application is seeking full planning permission for the erection of a one-bedroom bungalow on the site. The existing site levels would be reduced by between 0.75m and 1m so that the finished floor levels of the dwelling are reduced to bring it more in level with the level of the road. The dwelling has been orientated so that it faces south and has been designed so that the side elevations do not contain any windows.
- 3.6 The main dwelling would contain a living room, kitchen, bedroom, bathroom and hall. A porch would be added to the front of the dwelling and this would be adjoined by a w.c.. The dwelling would have an eaves height of 2.5m and a ridge height of 4.7m with the porch area having a ridge height of 3.3m.
- 3.7 The dwelling would be constructed of natural sandstone, with a dressed red sandstone plinth and dressed red sandstone quoins, sills and lintels. The windows would be double glazed asphalt grey/ charcoal upvc sliding sash windows, with the front door being stained oak. Rainwater goods would be power coated black cast aluminium. The roof would be covered with Welsh blue slate and would contain a stone chimney.
- 3.8 Two car parking spaces would be provided to the west of the dwelling with a small garden area being provided to the rear. The existing stone wall and hedge that form the front boundary of the site would be retained. The stone wall to the rear, which forms the boundary with the churchyard would be retained and repaired by the applicant. A new hedge is shown being planted on the eastern site boundary between the site and the rear garden of Townfoot.
- 3.9 Foul and surface water drainage would be connected to the existing main public sewer.

## **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 four neighbouring properties. In response six letters of objection have been received which raise the following issues:

### Highway Matters

- the adjacent road is a gravel track and is Parish land which is registered as village green;
- the area is subject to traffic as vehicles use it as a cut through;
- proposal will lead to extra traffic in the area which is already congested;
- whilst there is a parking space within the site the prospective owner might not park there;
- visitors will have to park outside the site given only one parking space is being provided;
- proposal will exacerbate the acute lack of parking in the area;
- there isn't enough space for a vehicle to turn within the site;
- during construction access for lorries delivering materials and removing

277 cubic metres of soil will be too tight;

- the track is designated as village green and it is an offence to damage a village green - any damage would need to be made good by the developer;
- the removal of 1m depth of soil will cause disruption and congestion;
- deliveries and lorries removing soil from the site will destroy the access track;

#### Residential Amenity

- proposed dwelling will overshadow the neighbouring property and its garden and be over-dominant and result in loss of light to both;
- proposal would lead to an over-development of the site;
- the bungalow will have a direct view into Townfoot's kitchen window and will overlook the dining room of Montcalm;
- the proposed dwelling will block views of the church;
- if a hedge is planted on the boundary with Townfoot it will drop leaves in the garden of Townfoot, could become tall leading to loss of light and will prevent maintenance;

#### Excavation/ Site Levels

- the levels shown on the plans are incorrect - the churchyard is approximately 600mm higher than the site;
- if 1m of soil is removed the graveyard will be 1.6m higher than the site;
- concerns about the structural stability of existing boundary walls due to removal of 1m of soil from the site;
- taking 1m of soil off the site level might undermine the bottom of the adjoining churchyard wall which won't have proper foundations and is in a poor state of repair;
- there are graves next to the boundary wall which might collapse;
- the excavation works will cause problems for the retaining wall between the site and Townfoot;
- the site level will be substantially below the level of Townfoot's adjoining garden meaning a retaining wall or earth batter will be required;

#### Character of the Area

- the plans show a grey buff stone which would not be in keeping with the local area;
- the proposal will severely impact on the character of an open space with a beautiful view of the church;
- proposal would have an adverse impact on the character of the area;
- proposal would have an adverse impact on the listed church;
- the dwelling is tight to the boundaries and only a one-bedroom property will fit on the site;
- the building is large in comparison to the site;
- the site is in the buffer zone of Hadrian's Wall WHS;
- the dwelling will only be 1m from the boundary wall of the churchyard and will intrude on its setting;

#### Biodiversity

- there are trees and hedges in or adjacent to the site which are not identified in the application;
- newts, lizards and frogs have been seen on the boundaries of the site;

- the proposal would adversely affect wildlife that uses the site;

#### Water/ Drainage

- the mains water supply for Wallside and Kingbank runs through the site and will need diverting;
- the soakaway is shown too close to the property/ boundary;
- the proposal will cause flooding and overload already over stretched drains;
- concerned that the developers will try and tap into the current water supplying the properties Kingbank and Wallside which would not have capacity to serve another property;

#### Other Matters

- the drawings are inaccurate;
- the site was previously refused permission for a dwelling and the current proposal seems bigger;
- the previous reasons for refusal have not been overcome;
- in the 1960s and 1970s the site was used as a haulage yard with various lorries containers stored there and it might be contaminated;
- in the 1980s and 1990s the site was used as a paddock for horses.

- 4.2 Following the receipt of amended plans and additional reports three letters of objection have been received which raised the following issues:

#### Residential Amenity/ Character of the Area

- even if 1m of soil is removed the bedroom window will still look into the kitchen window of Townfoot;
- proposal will lead to an overdevelopment of an open green space;
- new dwelling will lead to overcrowding and overdevelopment in this part of Walton;
- dwelling is over-dominant when viewed from Townfoot;
- the ridge line of the proposed dwelling is above the gutter line of Townfoot which is higher than previously shown;
- a wood burning stove is shown and this will blow soot and smoke over Townfoot;
- there is no provision for log storage within the site;
- proposal will lead to a loss of view of the church and will have an adverse impact on the amenity of the area;
- the site is untidy but is this deliberate neglect to influence any decision?;
- previous objections are still valid;

#### Highway Matters

- dwelling will add to a lack of parking in the area;
- there is nowhere for vehicles to turn on site and vehicles reversing out will be dangerous;
- any damage to the village green by construction vehicles will need to be made good;
- access for construction vehicles will be tight - a Construction Phase Plan should be part of the planning conditions;

#### Excavation/ Site Levels

- the revised plans show between 0.75m and 1m of soil being removed - which is it? - removing less soil will make the dwelling more dominant;
- removing a large amount of soil from the site will undermine the adjoining church wall and could cause graves to collapse; a retaining wall will be needed for Townfoot;
- the house will be near the boundary with the church and Townfoot and there won't be much room for retaining structures;
- graves are very close to the boundary wall with the church;
- the access track drops 1m from the gate to the Townfoot - which road level will the dwelling be at?;

#### Water Supply

- mains water supply for Wallside and Kingbank runs through the site and will need diverting before works start - the developer/ United Utilities need to sort this to ensure those dwellings are not without water;
- a suitable solution for re-directing the water supply of Kingbank and Wallside should be found and detailed before any work starts on site;
- a water pipe runs through the site and through the garden of Townfoot and this needs to be addressed;

#### Biodiversity

- the ecological appraisal is wrong - frogs, lizards and newts were previously found in the garden of Townfoot - there is a garden pond at Greenacres 150m away from the site;
- proposal will have an adverse impact on wildlife;

#### Other Matters

- the land has previously been used as a haulage yard and for the keeping of horses.

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

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

**Walton Parish Council:** - concern that access to the development is over a registered village green;

**Historic England - North West Office:** - do not wish to comment - suggest to seek comments from conservation and archaeological advisers;

**Cumbria County Council - (Archaeological Services):** - no objections subject to imposition of a condition to ensure that the construction ground works are subject to a programme of archaeological recording;

**United Utilities:** - the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way.

## **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 HO2, HE1, HE3, SP6, CC5, IP3, IP6, GI3 and GI6 of the Carlisle District Local Plan (CDLP) 2015-2030. The Supplementary Planning Documents Achieving Well Designed Housing and Trees and Development are also material planning considerations.
- 6.3 The proposal raises the following planning issues.
1. Principle Of Development
- 6.4 When the previous application was refused planning policies only permitted new dwellings in Walton if there was an identified local need. This is no longer the case and the proposal now needs to be considered against the NPPF and Policy HO2 (Windfall Housing Development) of the adopted Local Plan.
- 6.5 At the heart of the NPPF there is a presumption in favour of sustainable development. Policy HO2 of the adopted Local Plan allows new housing development in villages within the rural area if there are services within the village where the housing is proposed. The application site is located within Walton, which contains a range of services and facilities including a church, a village hall, a tea room, a micro-brewery/ bar and a children's play area. The principle of windfall housing within Walton is, therefore, acceptable and complies with national and local planning policies on the location of new residential development.
2. Scale And Design
- 6.6 Outline planning permission for a dwelling on this site was refused in 2011. The officer's report did not consider that the site was large enough to accommodate a dwelling given the need to provide a parking/ turning area and outdoor amenity space. It was considered that any dwelling on the site would appear cramped and lead to an over development of the site.
- 6.7 The proposal is seeking to erect a one-bedroom bungalow on the site. The existing site levels would be reduced by between 0.75m and 1m so that the finished floor levels of the dwelling are reduced to bring it more in level with the level of the road. The dwelling has been orientated so that it faces south and has been designed so that the side elevations do not contain any windows.
- 6.8 The main dwelling would contain a living room, kitchen, bedroom, bathroom

and hall. A porch would be added to the front of the dwelling and this would be adjoined by a w.c.. The dwelling would have an eaves height of 2.5m and a ridge height of 4.7m with the porch area having a ridge height of 3.3m. Being reducing the levels on the site and by restricting the dwelling to single-storey the proposed dwelling would not be over dominant and would be of an acceptable scale.

- 6.9 The dwelling would be constructed of natural sandstone, with a dressed red sandstone plinth and dressed red sandstone quoins, sills and lintels. The windows would be double glazed asphalt grey/ charcoal upvc sliding sash windows, with the front door being stained oak. Rainwater goods would be power coated black cast aluminium. The roof would be covered with Welsh blue slate and would contain a stone chimney. The proposed materials would be acceptable and would be appropriate to the character of the area.
- 6.10 Two car parking spaces would be provided to the west of the dwelling with a small garden area being provided to the rear. The existing stone wall and hedge that form the front boundary of the site would be retained. The stone wall to the rear, which form the boundary with the churchyard would be retained and repaired by the applicant. A new hedge is shown being planted on the eastern site boundary between the site and the rear garden of Townfoot.
- 6.11 In light of the above, it is considered the scale and design of the dwelling would be acceptable and that previous concerns about erecting a dwelling in this site have been overcome.

### 3. Impact On The Occupiers Of Neighbouring Properties

- 6.12 The previous application was refused in part due to the impact of the proposal on the occupier of the adjacent dwelling Townfoot. That application referred to a dwelling 7m high and did not reduce the site levels. The current proposal is seeking to reduce the site levels by up to 1m and to erect a single-storey dwelling on the site which would have a ridge height of 4.7m. This would ensure that the dwelling does not over dominate the adjacent property.
- 6.13 The occupier of Townfoot has raised concerns about loss of privacy and loss of light. The dwelling has been orientated so that it faces south and the east elevation which faces the garden of Townfoot would not contain any windows. The kitchen window, located in the west elevation of Townfoot, is already overlooked from the adjacent road which passes within close proximity of the window. The oblique angle between the bedroom window of the proposed bungalow and the kitchen window of Townfoot would ensure that there is no loss of privacy to the occupiers of Townfoot from the proposed dwelling.
- 6.14 The proposed dwelling would lie to the west of Townfoot and whilst there would be some overshadowing of part of the garden at Townfoot at certain times of the day at certain time so the year this would be limited and would not warrant refusal of the application.

- 6.15 The front elevation of the proposed dwelling would face South View. This dwelling has a garage that projects forward of the main dwelling. Whilst there are windows in the north elevation of South View which faces the application site these would be 24m away from the living room window, would be largely screened from view by the existing garage and are already overlooked from the adjacent road.
- 6.16 Montcalm would lie to the west of the proposed dwelling and would be a minimum of 19m away. Given the oblique angle between Montcalm and the proposed dwelling there would be no loss of privacy to the occupiers of Montcalm, which is already overlooked from the road.
- 6.17 In light of the above, the proposal would not have an adverse impact on the living conditions of the occupiers of any neighbouring properties through loss of light, loss of privacy or over-dominance.

#### 4. Impact On Listed Buildings

- 6.18 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".*

- 6.19 Policy HE3 of the adopted Local Plan seeks to ensure that Listed Buildings and their settings will be preserved and enhanced.
- 6.20 St Mary's church, which adjoins the site to the north, is a Grade II\* listed building. The proposals would affect the setting of the church and the applicant has, therefore, submitted a Heritage Statement.
- 6.21 In views from the north, across the graveyard and towards the site, the proposed building will not appear prominent. This is due to the large trees and shrubs within the church yard and along the road which provide significant screening, in winter and summer. In addition, the proposed building would be built at a lower level due to the proposed excavation and would only be single-storey. It would be viewed against a backdrop of buildings in a tight knit pattern, in particular Townfoot, Southfoot and Montcalm. It is, therefore, considered that whilst the building would be visible in these views it would not be a prominent feature and would not cause harm.
- 6.22 In views from the south, the listed church is screened by the terrace of properties that include Townfoot. Once past Townfoot, the church is glimpsed over a mix of gardens, sheds, trees and bushes, and over the site

itself. At present, the site is overgrown and untidy. The application proposals would improve the appearance of the site and improve the hedgerow along its frontage. The church building itself is set back from the road and is of a considerable distance from the proposed site. Immediately north of the application site is the graveyard, and there are several trees along the western boundary and within the curtilage of the listed building.

- 6.23 The Heritage Statement concludes that the proposed development would have a neutral impact on the setting of St Mary's Church. In accordance with Policy HE3, the development would preserve and enhance the setting and would be sympathetic in scale, character, materials and layout.
- 6.24 The Council's Heritage Officer has been consulted on the application. He has no objections to the proposal subject to conditions on the proposed materials and windows.

## 5. Impact On The Hadrian's Wall WHS/ Archaeology

- 6.25 The proposal lies within the buffer zone of the Hadrian's Wall WHS. Historic England has been consulted on the application and does not wish to offer any comments. It has suggested that the views of the specialist conservation and archaeological advisers should be sought.
- 6.26 The City Council's Heritage Officer has no objections to the proposal. He considers that the scale and design of the proposed dwelling would be acceptable.
- 6.27 The County Archaeologist notes that the site lies in an area of archaeological potential. The site lies adjacent to St Mary's church which is located on the site of its medieval predecessor and which is likely to have been the focus of earlier religious activity given that a 10th-11th century cross was found in the graveyard. It is, therefore, considered that there is potential for the site to contain buried archaeological assets and that these would be disturbed by the construction of the proposed development. As a consequence, the construction ground works of the proposed development should be subject to a programme of archaeological recording. This recording should be carried out during the course of the development (a watching brief) and should be commissioned at the expense of the developer. This programme of work can be secured by a planning condition.

## 6. Highway Matters

- 6.28 A number of objectors have raised concerns about the impact of the proposed development on parking in the area and on the surface of the road. Two parking spaces would be provided for the dwelling, which is a one-bedroom property and this should be more than sufficient to meet the parking requirements of the future occupiers.
- 6.29 Access to the development would be over a track which is designated as village green. This track provides access to a number of dwellings and is

used as a parking area for a number of vehicles. If any damage is caused to this track during the construction phase of the development, the applicant would need to repair the track to its previous condition.

- 6.30 This application does not take access onto an adopted highway. From a Highway Authority point of view the layout details shown on the submitted plan are considered satisfactory. The Highway Authority, therefore, has no objections to the proposals

## 7. Foul And Surface Water Drainage

- 6.31 The submitted application shows both foul and surface water drainage discharging into the mains public sewer. The Lead Local Flood Authority (LLFA) and United Utilities have been consulted on the application. The LLFA considers that the drainage details are acceptable. United Utilities has stated that surface water should be drained in the most sustainable way and the developer should follow the drainage hierarchy (infiltration; to a surface water body; to a surface water sewer or highway drain; to a combined sewer). This issue would be addressed through a Building Regulations application.

## 8. Impact On Trees

- 6.32 A group of trees (G1) is located adjacent to the site entrance and the boundary wall. It is a group of semi-mature, multi-stemmed trees which have colonised a small section of the site. This group is of low retention value and would need to be removed. A further group of trees (G4) has recently established itself within the site but these do not have a significant retention value and would be removed.
- 6.33 A mature lime tree is located in the adjacent churchyard. The development would require a minor incursion into the root protection area (RPA) of this tree, which is estimated to be less than 3.5% of the overall RPA. An incursion of this size at a distance of 6m would not have any notable impact upon it. Nevertheless, all initial excavation work within the RPAs should be by hand with no heavy plant or machinery used.
- 6.34 A hedge of mixed species is located along the front of the site and this would be retained. The hedge needs to be trimmed and managed.

## 9. Impact On Biodiversity

- 6.35 An Ecological Appraisal has been submitted with the application. A data search and desk study of the site and an area within 2km of the site were undertaken to establish the presence of protected species and notable habitats. The site was then visited by an ecologist who undertook a full botanical study of the site and surveys to establish the presence or absence of notable species at the site.
- 6.36 The plant species recorded at the site are all common in the local area and are considered to be of low ecological value. Domestic gardens are considered to offer habitat of equal or greater ecological value. Any vegetation to be trimmed or cleared should be checked for nesting birds before it is removed. Ideally vegetation clearance should occur outside the

bird nesting season from March to September. The protection of trees on the site boundary and additional landscaping would promote structural diversity and would encourage a wider variety of wildlife to use the site than already occurs.

- 6.37 Common amphibians and nesting birds are known to occur in the local area but there was no conclusive evidence of any protected species regularly occurring on the site which would be negatively affected by the development. Should any species be found during construction all site works would cease and further ecological advice would be sought, with a view to a detailed method statement and programme of mitigation measures being prepared and implemented.

#### Conclusion

- 6.38 The proposal would be acceptable in principle. The scale and design of the dwelling would be acceptable. The proposal would not have an adverse impact on the occupiers of any neighbouring properties, on any listed buildings, or the Hadrian's Wall WHS, on archaeology, on tree or on biodiversity. The proposed access, parking and drainage arrangements would be acceptable. In all aspects, the proposal is compliant with the relevant policies in the adopted Local Plan.

## 7. Planning History

- 7.1 In June 2011, outline planning permission was refused for the erection of a dwelling (11/0239).

## 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 19th June 2019;
2. the Proposed Block Plans & Site Sections (drawing ref 2019/030/11B) received 27th September 2019;
3. the Proposed Property Plan & Elevations (drawing ref 2019/030/10B) received 27th September 2019;
4. the Proposed Property Plan & Elevations (drawing ref 2019/030/13B) received 27th September 2019;
5. the Proposed Property Plan (drawing ref 2019/030/12) received 27th September 2019;

6. the Proposed Drainage Plan received 16th December 2019;
7. the Planning Statement received 27th September 2019;
8. the Heritage Statement received 27th September 2019;
9. the Ecological Appraisal received 27th September 2019;
10. the Desk Top Study Contamination Report received 27th September 2019;
11. the Tree Survey & Impact Assessment received 27th September 2019;
12. the Notice of Decision; and
13. any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason:** To define the permission.

3. Samples or full details of all materials to be used on the exterior shall be submitted to and approved in writing by the Local Planning Authority before any work is commenced. The development shall then be undertaken in strict accordance with the approved details.

**Reason:** To ensure that the external appearance of the building is acceptable in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

4. A sample panel (1m square) of stone masonry walling shall be made available for inspection by the Local Planning Authority. The stone shall be pointed with a cement-free lime mortar. This mortar should contain a range of particle sizes from dust to up to 1/3<sup>rd</sup> joint size. It should be carefully tamped back from the face of the stonework to provide a flush but textured finish (not brushed). Once the sample panels have been agreed as acceptable by the Local Planning Authority, the remainder of the dwelling shall be built in accordance with the sample panel.

**Reason:** To ensure the objectives of Policy SP6 of the Carlisle District Local Plan 2015-2030 are met and to ensure a satisfactory external appearance for the completed development.

5. Details of all new windows and doors, in the form, of quarter or full-size drawings including sections, shall be submitted for prior approval by or on behalf of the local planning authority before any development takes place. Such details shall include the frames, means of affixing to the wall and the size and opening arrangements of the window.

**Reason:** To ensure that the proposed windows are acceptable in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

6. Prior to the commencement of development, details of the proposed hard surface finishes to all external areas shall be submitted for approval in writing by the Local Planning Authority. The approved scheme shall then be implemented in accordance with these details.

**Reason:** To ensure that materials to be used are acceptable and in

compliance with the objectives of Policy SP6 of the Carlisle District Local Plan 2015-2030.

7. No development shall commence until details of any walls, gates, fences and other means of permanent enclosure and/or boundary treatment to be erected have been submitted to and approved, in writing, by the Local Planning Authority.

**Reason:** To ensure the design and materials to be used are appropriate and to ensure compliance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

8. Prior to commencement of development, a detailed landscaping scheme shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in its agreed form prior to the occupation of the dwelling. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.

**Reason:** To ensure that a satisfactory landscaping scheme is prepared and to ensure compliance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

9. Prior to commencement of development a detailed scheme of tree and hedge protection shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in its agreed form prior to the commencement of any development works on the site.

Within the fenced off area;

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

**Reason:** To protect trees and hedges during development works, in accordance with Policy GI6 of the Carlisle District Local Plan

2015-2030.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) there shall be no enlargement or external alterations to the dwelling to be erected in accordance with this permission, within the meaning of Schedule 2 Part (1) of these Orders, without the written approval of the Local Planning Authority.

**Reason:** To ensure that the character and attractive appearance of the dwelling is not harmed by inappropriate alterations and/or extensions and that any additions which may subsequently be proposed satisfy the objectives of Policy SP6 of the Carlisle District Local Plan 2015-2030.

11. Prior to the commencement of development a written scheme of investigation for an archaeological watching brief must be submitted by the applicant and approved by the Local Planning Authority. Once approved, the scheme shall be implemented in full with an archaeological watching brief being undertaken by a qualified archaeologist. Within two months of the completion of the development, a digital copy of the archaeological report shall be furnished to the Local Planning Authority.

**Reasons:** To afford reasonable opportunity for an examination to be made to determine the existence of any remains of archaeological interest within the site and for the investigation and recording of such remains.

12. Prior to the commencement of development, the applicant shall submit details of the proposed wildlife enhancement measures to be incorporated within the site. The development shall then be undertaken in strict accordance with the approved details.

**Reason:** To ensure that the proposal does not have an adverse impact on biodiversity in accordance with Policy GI3 of the Carlisle District Local Plan 2015-2030.

13. No construction work associated with the development hereby approved shall be carried out before 07.30 hours or after 18.00 hours Monday to Friday, before 07.30 hours or after 13.00 hours on Saturdays, nor at any times on Sundays or Bank Holidays.

**Reason:** To prevent disturbance to nearby occupants in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

14. Details of the relative heights of the existing and proposed ground levels and the height of the proposed finished floor levels of the dwelling shall be submitted to and approved in writing by the local planning authority before development commences. The development shall be undertaken in strict accordance with the details approved in response to this condition.

**Reason:** In order that the approved development responds to planning issues associated with the topography of the area and preserves amenity in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

15. Prior to the commencement of development, a condition survey of the roads that would provide access to the site (which are registered as village green) should be submitted to the local planning authority.

**Reason:** To ensure that the condition of the access roads serving the site is recorded prior to the commencement of development.

16. Prior to the commencement of development, details of the proposed retaining walls to be erected within the site, shall be submitted for approval in writing by the local planning authority. The retaining walls shall then be erected in strict accordance with these details.

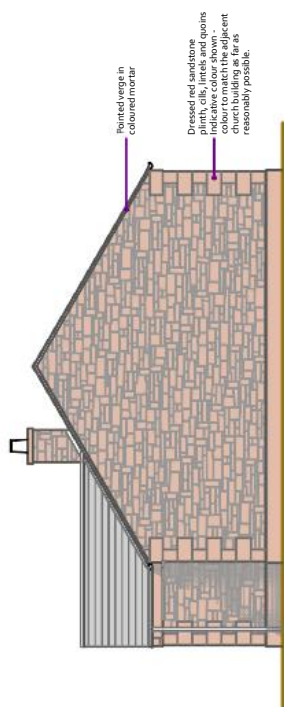
**Reason:** To ensure that the proposed development does not affect the structural stability of the adjoining land and boundaries.

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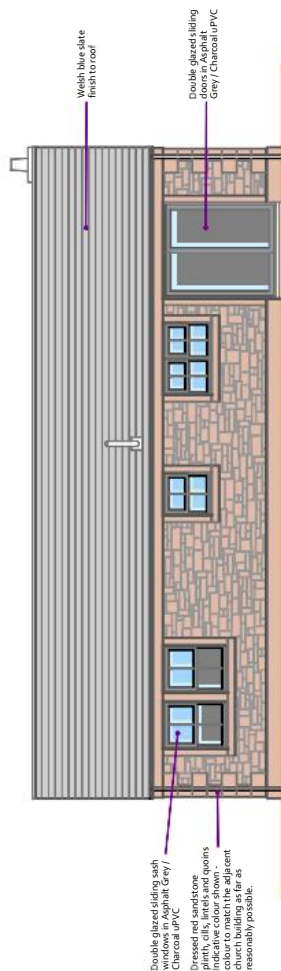




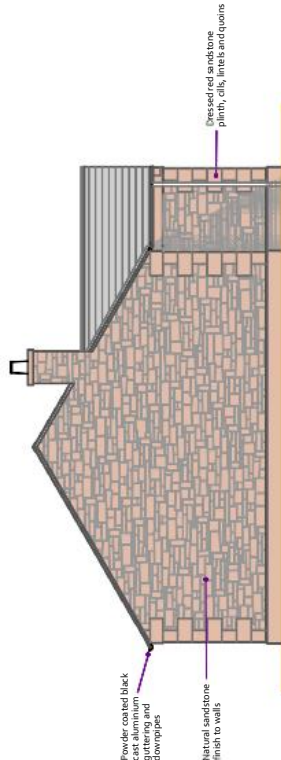
Proposed Front Elevation 1:50



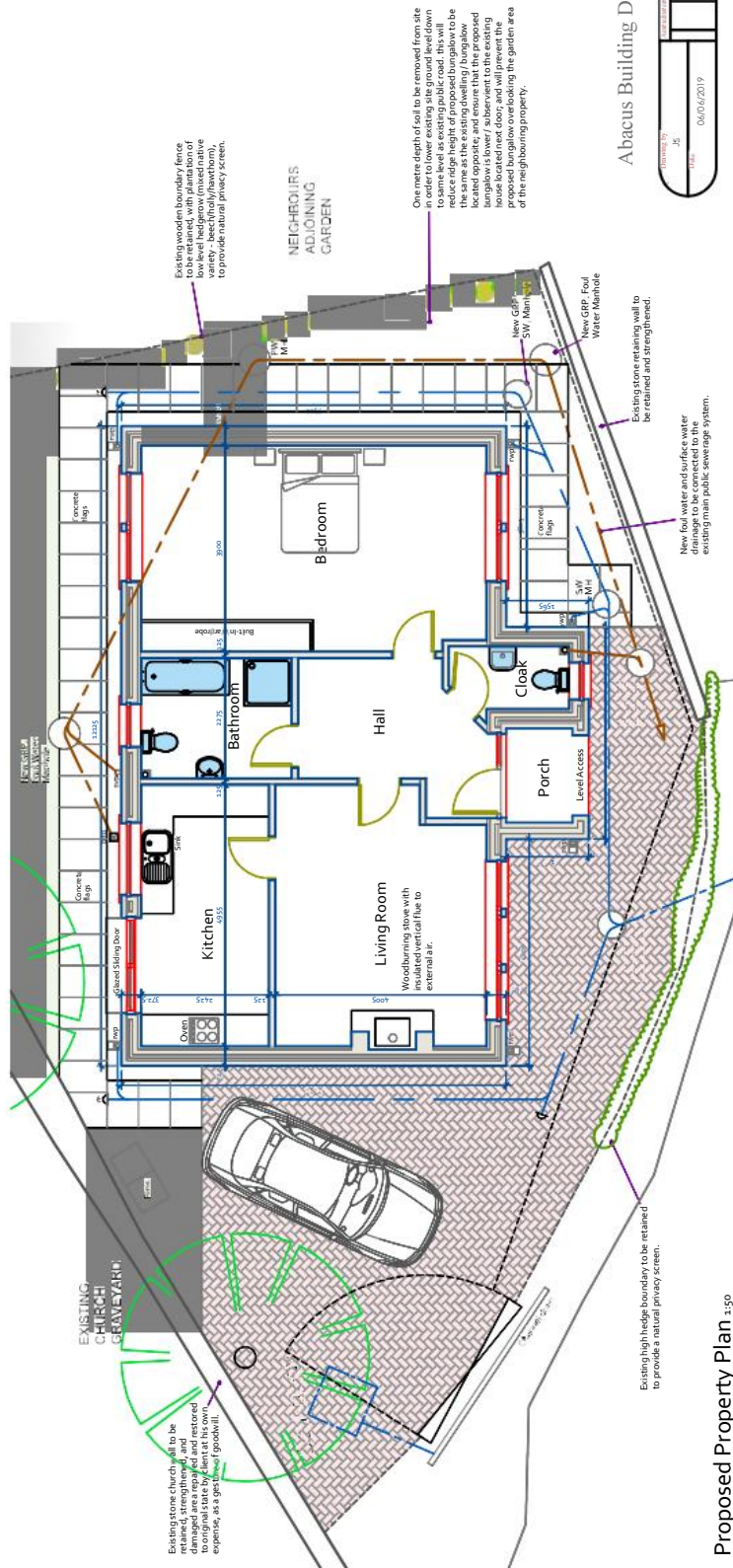
Proposed Side Elevation 1:50



Proposed Rear Elevation 1:50



Proposed Side Elevation 1:50



Proposed Property Plan 1:50

#### PROPOSED EXTERNAL FINISHES

- Roof: Welsh Blue Slate  
Walls: Natural Sandstone to Plinth, Cills, Linels & Quoins  
Windows: Asphalt Grey / Charcoal Colour sliding sash UPVC double glazing.  
Front Door: Medium Solid Oak  
Rainwater: Powder coated black cast aluminium guttering and downpipes.

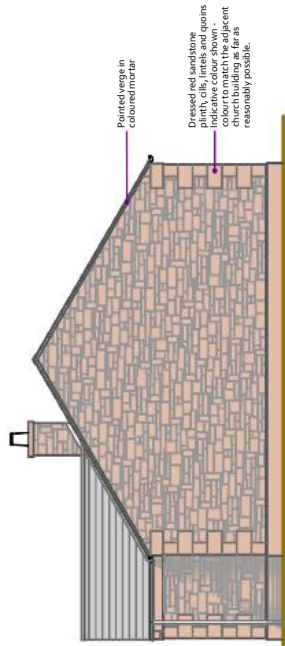
PROPOSED CONSTRUCTION OF A NEW RESIDENTIAL ANNEX ON FIELD SITE TO REAR OF WALTON PARISH CHURCH, WALTON, NR. BRAMPTON, CUMBRIA.  
PROPOSED PROPERTY PLAN & ELEVATIONS  
PLANNING

Abacus Building Design

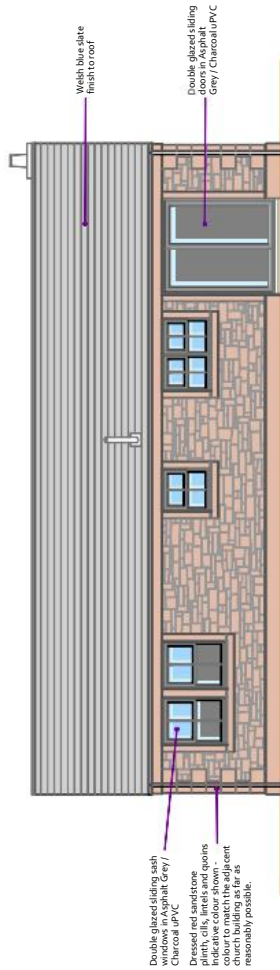
Client No.	2018/000108
Client Name	MRS M THOMLINSON & MRS S HENSHAW
Date	04/07/2019
Scale	1:50



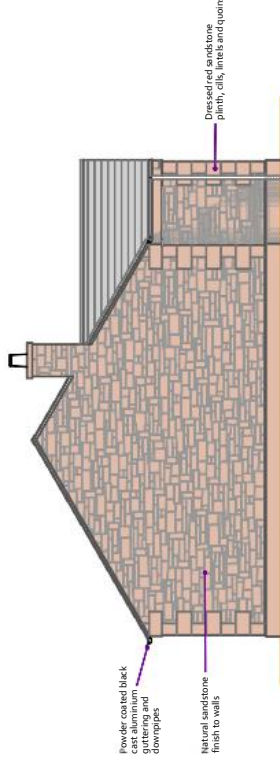
Proposed Front Elevation 1:50



Proposed Side Elevation 1:50



Proposed Rear Elevation 1:50



Proposed Side Elevation 1:50

#### PROPOSED EXTERNAL FINISHES

- Roof: Welsh Blue Slate
- Walls: Natural Sandstone to Walls (Red Sandstone to Plinth, Cills, Lintels & Quoins)
- Windows: Asphalt Grey / Charcoal Colour sliding sash uPVC double glazing.
- Front Door: Medium Solid Oak
- Rainwater: Powder coated black cast aluminium guttering and downpipes.

#### Abacus Building Design

DRAWING NO.		DATE	
2018/0001/13B		1:50	
PROJECT NAME		CLIENT	
PROPOSED CONSTRUCTION OF A NEW RESIDENTIAL BUNGALOW ON FIELD SITE TO REAR OF WALTON PARISH CHURCH, WALTON, MR. BRAMPTON, CUMBRIA.		MR M THOMLINSON & MRS S. HENSHAW	
PROPOSED PROPERTY PLAN & ELEVATIONS		PLANNING	

**ACCESS TO MANUAL CONTROLS**  
All Controls that are intended for operation by the Occupant shall be readily accessible and clearly identifiable. Unless incorporating a Restrictor or other protective device for safety reasons, controls should be operable with one hand.

**WINDOWS, ROOFLIGHTS, VENTILATORS**  
All windows, rooflights and ventilators shall be capable of natural ventilation should have controls for opening positioned at least 350mm from any internal corner, projecting wall or similar obstruction and at a height of:-  
• not more than 1.7m above the finished floor level, or  
• not more than 1.2m above the finished floor level, where access to controls is limited by a fixed obstruction of not more than 900mm. High windows shall be capable of opening inwards by a distance of not more than 600mm. In front of the position of the window, there shall be no fixed obstruction of greater areal area than the area of the window. The window, should be provided, or " not more than 1.2m. above floor level, in an undisturbed location, within an enhanced fire resistant construction and with a minimum ventilation area which is not provided with mechanical ventilation.

**ELECTRICAL FIXTURES**  
Electrical fixtures and systems should be positioned at least 50mm, from any external corner, projecting wall or similar obstruction and, unless the need for a higher location can be demonstrated, not more than 1.2m. above the finished floor level. All electrical outlets, sockets, switches, fire alarm call points, and timer controls or programmers. Height Range to be:-  
• Light switches should be positioned at a height of between 900mm. and 1300mm.  
• All electrical outlets and sockets should be positioned at least 50mm. above the finished floor level.  
• Television should be positioned at least 400mm. above floor level.  
• Above an obstruction, such as worktop, fixtures should be positioned at least 150mm. above the obstruction.  
• Sockets outlets are concealed, such as at the rear of white goods in a kitchen or utility room, separate switching should be provided in an accessible position, to allow appliances to be isolated.

**ALL BATHROOMS:**  
In accordance with Water Byelaws to prevent the development of Legionnaires Disease, hot water storage tanks and hot water vessels should be stored at a temperature of not less than 60 Degrees Centigrade and distributed at a temperature of not less than 55 Degrees Centigrade. To prevent scalding the maximum temperature of water supplied to the hot water tap in a bathroom or bidet, should not exceed 48 Degrees Centigrade. The installation it to include a Thermostatic Mixing Valve (TMV) or fitting complying with BS EN 1311:1999 or BS EN 1287:1999, fitted as close to the point of delivery as practicable.

**DISABLED ACCESS (REAR / SIDE ENTRANCE & ACCESS TO CAR PARKING)**  
Access to all doors on principle floor level to be a minimum of 1800mm clear width and 2000mm clear height.

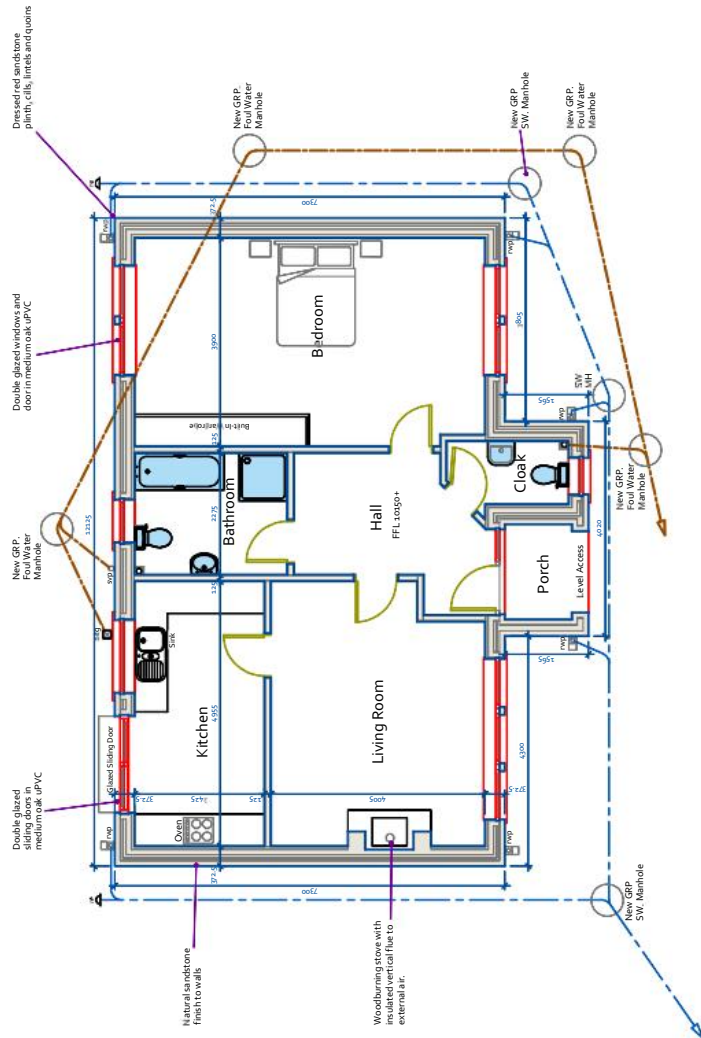
**HEATING**  
Worcester Bosch Gas Fired Combination Boiler in Utility. Ensure 10mm air gap under door. Secondary Heating - Closed Appliance Wood Burning Stove 72% Efficiency. Make, Model and Efficiency to be confirmed.

**Full Details of the Heating and Hot Water System to be in accordance with Manufacturers Design and Specification. Full details of the Heating and Hot Water System to be supplied by the Main Building Contractor to the Building Control Officer prior to installation to ensure compliance and approval by the Building Control Officer before the commencement of any works. The system shall be installed by a competent person, installed by Specialist Contractor. Timber Framed / Timber Construction Log House Supplied to Manufacturers Design and Specifications.**

**Smoke Detection** Mains operated self contained smoke alarms and heat detectors within 7.5 metres of all circulation areas and 7.5 metres of any habitable room and not more than 3 metres from the ceiling. All smoke detectors shall be installed in accordance with BS 5839. All Smoke Detectors to be Permanently wired to a separate fused circuit at the distribution board. Detectors to be interlinked, separate independent battery back up supply. Smoke Detector to have Carbon Monoxide Detection: Mains Operated (with separate battery back up supply) Carbon Monoxide Detector to be installed in the same room as the Smoke Detector. No Outlet to be positioned within 1 meter of Boundary.

Boiler Flue Terminal Ducted at High Level. Flue Vent To be Positioned a Min. of 600mm. from any Window Opening vertically and horizontally.

Extract Fans to be Ducted to External Air. No Outlet to be positioned within 1 meter of Boundary.



Proposed Property Plan 1:50

Abacus Building Design

PROPOSED CONSTRUCTION OF A NEW  
RESIDENTIAL BUNGALOW ON FIELD SITE TO REAR OF  
WALTON PARISH CHURCH, WALTON,  
NR. BRAMPTON, CUMBRIA.

PROPOSED PROPERTY PLAN  
PLANNING

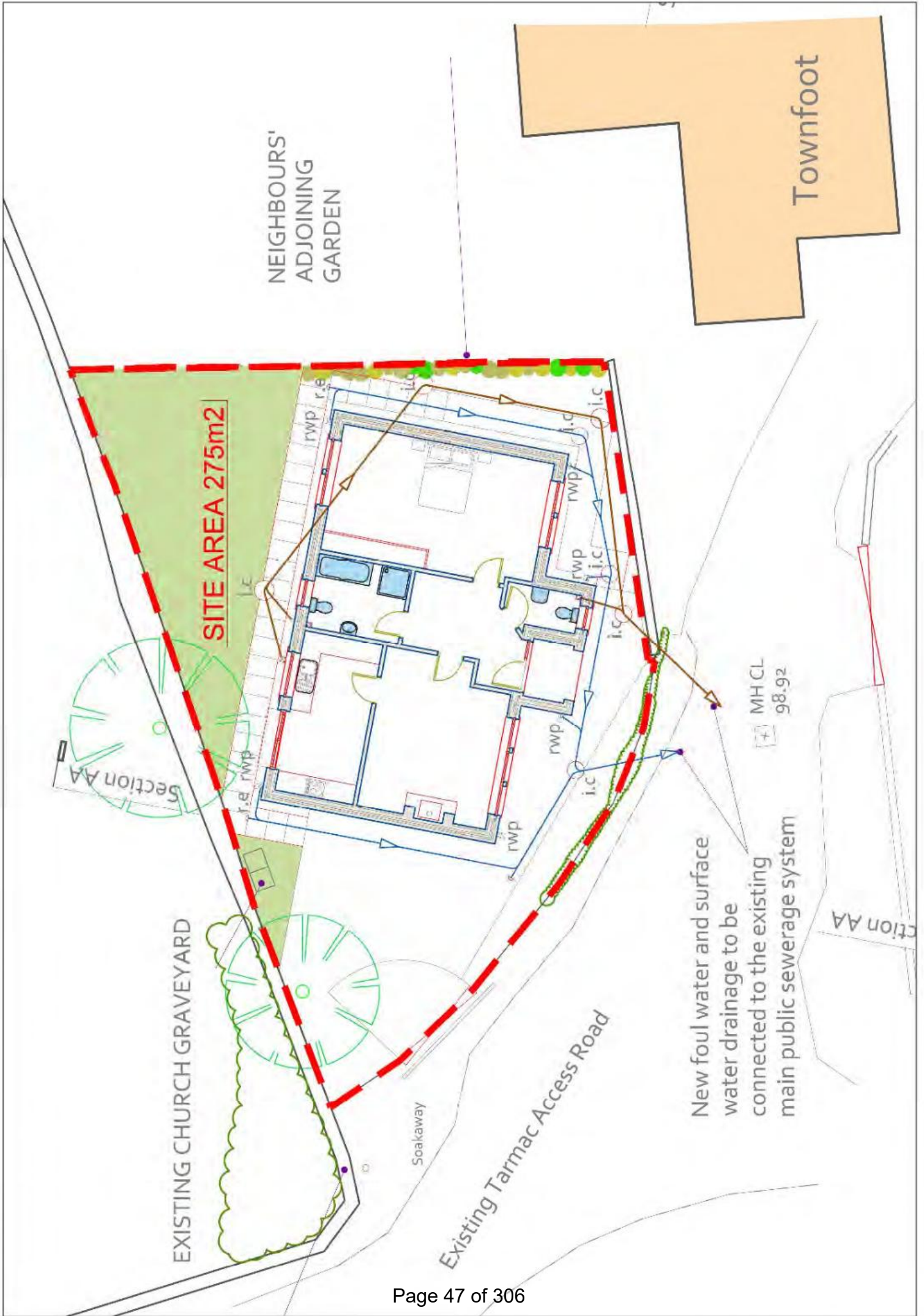
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## SCHEDULE A: Applications with Recommendation

19/0493

Item No: 02

Date of Committee: 10/01/2020

**Appn Ref No:**  
19/0493

**Applicant:**  
Carlisle Estates

**Parish:**  
Wetheral

**Agent:**  
PFK Planning

**Ward:**  
Wetheral & Corby

**Location:** Land to Rear of 44 Scotby Road, Scotby, Carlisle, CA4 8BD

**Proposal:** Erection Of 4no. Dwellings

**Date of Receipt:**  
08/07/2019

**Statutory Expiry Date**  
02/09/2019

**26 Week Determination**

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### REPORT

**Case Officer:** Christopher Hardman

#### 1. Recommendation

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

#### 2. Main Issues

- 2.1 Whether the principle of development is acceptable
- 2.2 Whether the scale, design and layout of the proposed development is acceptable in the context of the surrounding area
- 2.3 Whether the impact of the development on the living conditions/amenity of neighbouring residents is acceptable
- 2.4 The proposed methods for the disposal of foul and surface water
- 2.5 The impact of the proposal on highway safety and parking
- 2.6 The impact on trees and hedgerows
- 2.7 Matters relating to contamination
- 2.8 Impact on biodiversity
- 2.9 Other matters

#### 3. Application Details

##### The Site

- 3.1 The application relates to a narrow strip of land to the side and rear of No.44

Scotby Road, Scotby, Carlisle. To the immediate side and rear of No.44 Scotby Road the site forms residential curtilage associated with this two storey semi-detached house. Adjacent to the north is No.46 Scotby Road, to the south is a range of converted agricultural buildings, and to the west is the public highway along Scotby Road. Open countryside lies beyond the north eastern boundary of the site. The site extends to approx. 0.2ha and can be characterised as an overgrown area of domestic garden. The wider surrounding area is characterised by the village of Scotby to the west, north and southwest and open countryside to the east and southeast.

## **Background**

- 3.2 The site has recently been the subject of an Outline application 18/0275 for residential development with approval sought only for access and all other matters reserved which was granted permission on 10th August 2018.

## **The Proposal**

- 3.3 This application seeks full planning permission for the erection of 4 dwellings to the rear of 44 Scotby Road. The application is accompanied by a Planning Statement, Design Statement, Pre-development Arboricultural Report and contamination statement.

## **4. Summary of Representations**

- 4.1 The application has been publicised by means of a Site Notice and neighbour notifications to eight neighbouring properties. As a consequence, 6 representations from 5 properties have been received. The representations are all objections to the proposed development and raise the following issues:
- There has been over development in the parish of Wetheral
  - This is another back garden development
  - Building is going on behind the existing property and this seems to be taking advantage of existing permissions
  - Services in the area are already over stretched
  - More green space will be permanently lost for surplus housing in Scotby village
  - The main wall of my house forms the boundary between the 2 properties and I believe the additional traffic could have a detrimental effect on this wall.  
The level of the land adjacent to my property has been raised resulting in excess water running onto my property.  
The land on which the houses are to be built is a green space and always has been.  
The entrance to the properties is not designed or wide enough to accommodate the traffic which 4 properties will generate.
  - This planning application speaks of not impinging on others dwellings/ residents, nor creating a cramped development, and of enhancing the local community and not having taken down trees that affect the skyline - I disagree on all those issues.  
The road that is planned, will run alongside the garden of an existing

- dwelling that is not anywhere mentioned in the application.
- The proposed development will have a significant impact on their peace and quiet.  
Numerous trees have been taken out from the development site, and more will in this proposed development.
- Removal of further trees will definitely change the feel of the area for existing neighbours.  
Permission for one property was sought originally to continue to fit in with the linear arrangements of the village.
- This development will generate a cramped development for existing neighbours.  
The village of Scotby has masses of development already underway and planned, and further housing will detract rather than enhance the village.
- Within Carlisle, there is huge amounts of new housing already planned
- It is wrong to increase the density of housing in an infill manner.  
Previous planning permission for this plot was only approved for 1 house - which of the city's planning regulations/ legislations have since changed to allow the construction of 4 properties on this site?
- The plans show parking spaces for numerous cars (15+). This will dramatically increase noise and light pollution for all neighbouring properties.  
The increase in number of cars accessing/leaving the property will increase the traffic slowing outside the property, impacting the traffic flow and directly impacting all neighbouring properties.
- It is not clear what will happen to existing trees in boundary between 44 and 48 Scotby Road. The plot at 44 used to have numerous trees, of considerable age on the site, which have been removed. The ecology supported previously by the plot has been dramatically changed, and is proposed to be further changed.  
The houses proposed in plots 1 to 3 are not in keeping with the character of Scotby road, (zinc roof, photovoltaic). The character of houses on Scotby road are linear gardens extending from the road, maintained as open green family spaces.
- Invasion of Privacy. The upper floor of Plot 1 will directly over look garden at 46 and into extension of 48. Plots 2 and 3 will directly overlook garden at 46 and into rear garden and rear windows of 48. It is also unclear what will be the impact of the change of the view from 48 to 44, it will certainly obscure the current view from 48 to the south.
- Car light pollution from vehicles exiting from new development onto Scotby Road which could be a privacy problem.
- Originally an outline planning application for only one house was approved, so it is surprising that now a new application is proposing four houses on the same site.
- This seems like an inappropriate scheme in terms of density in what is a garden site and completely out of keeping with the rest of Scotby Road's garden landscapes.  
The design and building materials are out of keeping with the rest of Scotby Road. Although emphasis is placed on accommodation being theoretically designed to enable residents to live on the ground floor, a second storey increases the height of the houses to a greater height than the existing buildings at 44 and 46, Scotby Road. It therefore obscures the

view of existing houses and clearly does not blend into the local landscape. Other developments in the area have utilised an existing agricultural access, but the access to this proposed development is to be a new construction, extending along the full boundary hedge of 46, Scotby Road. The design statement highlights the need to reduce 'car dominance', but car parking spaces have been allocated of around 15 cars. Additionally this extra traffic will result in headlights reflecting directly into the downstairs and upstairs of neighbouring properties.

The landscape of the site has already changed, with a number of trees and wild flowers no longer present, and the ecological balance for wildlife, which previously thrived on the site, under threat.

The feel of the linear plan of gardens on Scotby Road should be maintained as all of the existing properties have long, well-maintained gardens, which are extensively used as family outdoor spaces

- Refurbishment of the existing house has resulted in a number of problems including land clearance using JCB's up to 7pm on a Saturday night. Also subjected to an intense and prolonged level of noise as trees were felled.
  - Demolition of a shed and garage left our property devoid of any 'windbreak', while the demolition of the existing extension and re-building of a new extension exposed us to high levels of noise, dust and debris, so we were unable to open windows or sit outside for a considerable number of weeks. Additionally, bricklayers on the site worked beyond the regulated hours and scaffolders even attempted to erect scaffolding on a Sunday morning. Had to ask them to work to regulated hours.
  - We were also concerned about the increased volume of parking outside 44, Scotby Road instead of on-site.
  - Extremely concerned about the scale and size of the proposed development and its effect given our previous experience.
  - The regulation of working hours hopefully will be taken into account when deliberating the application in order that such problems do not occur in the future.
  - Here we go again, more houses and still no more school places available or thought to the infrastructure of the village.
- If it wasn't for the M6 we would be a suburb of Carlisle.

#### 4.2 Following re-consultation on revised proposals the additional issues were raised:

- The new 'gateway' to 44, Scotby Road, is now set at a 45 degree angle from the adjoining boundary wall which forms part of a shared access road to the proposed housing development. The original driveway ran parallel to the side of the property but as the front garden has now been converted into car parking spaces, all vehicles' headlights will be projected directly towards the front bay window of 46, Scotby Road.

I refer you back to the outline planning application 18/0275 for the erection of one dwelling. A comprehensive report was compiled highlighting the need to respect and conserve the trees and hedgerows in order to protect the habitats of birds and animals which are a part of the garden site and the open landscape beyond. Erecting close boarded fencing along all the boundaries is not consistent with previous planning assessment of the site and would certainly block the free movement of the existing wildlife.

## 5. Summary of Consultation Responses

### **Cumbria County Council: -**

The Highway Authority and Lead Local Flood Authority have no objections to this proposal subject to the conditions relating to surface water drainage system; prevention of surface water draining onto the highway; construction surface water management plan and construction of estate road. It should also be noted that any works within the highway must be agreed with the Highway Authority.

**Wetheral Parish Council:** Objection – The committee objects on the following grounds:

- a) According to Policy SP6 (Securing good designs) of the Local Plan 2015-2030, most notably the use of zinc roofs, which is not in keeping with surrounding buildings.
- b) The large property at the end of the cul-de-sac is an extension into open countryside, contrary to Policy HO 2 Criteria 1 and 3 and Policy HO 3 Criteria 1 and 3.
- c) The current proposal has the access road on the north of the site, which will result in headlights, from cars exiting the development after dark, shining into the rear windows of no.44 Scotby Road. The road should be relocated to the south side of the site which will also result in the photovoltaic roof cells and rear gardens getting more light as opposed to the high hedge along the southern boundary.
- d) There is no hammerhead or other turning area at the end of the cul-de-sac, which will result in any large vehicle being unable to turn around.
- e) The green recycling and black refuse bins from the large property will need to be taken 150-200 yards uphill to the collection point, which is unacceptable.
- f) The committee has concerns that both the surface water and foul drainage water (via bio-disc) are being discharged into the Powmaughan beck, as main sewerage is available along Scotby Road.
- g) There are a number of inaccuracies contained within the developer and architect's statements i.e. referring to the site as a brownfield site – see aerial photographs which show a small paddock.
- h) The committee requests a site visit.

**Local Environment, Waste Services:** - No objection. The applicant has provided space at the road end for waste containers, which is helpful as we would not be able to access the site.

**Northern Gas Networks:** - No objections

**Local Environment - Environmental Protection:** - No objection however considers that there is need to control impacts on neighbouring properties from noise, vibration and dust through conditions. Conditions should also cover the potential finding of any on-site contamination. Air quality and transport should be considered such as the need for incorporating facilities for car charging and other ultra-low emission vehicles.

**United Utilities:** - No objection subject to condition requiring surface water drainage strategy.

## 6. Officer's Report

### **Assessment**

- 6.1 Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004, require that an application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. In this case, the relevant local policies are SP1, SP2, SP6, HO2, HO3, IP2, IP3, IP6, CM5, GI3, GI6 and CC5 of the Carlisle District Local Plan 2015-2030. The Council's adopted Supplementary Planning Document: 'Achieving Well Designed Housing' (the Housing SPD) is also a material consideration. The National Planning Policy Framework (NPPF), maintains the supremacy of development plan policies in the consideration of all proposals for development. The NPPF and PPG are also a material planning consideration in the determination of all planning applications.

**1. Whether the principle of development is acceptable**

- 6.2 The National Planning Policy Framework (NPPF) along with Carlisle District Local Plan 2015-2030 (CDLP) policy SP1 requires development proposals to be considered in the context of a presumption in favour of sustainable development in order to secure development that improves the economic, social and environmental conditions of the district.

- 6.3 This approach is consistent with policy HO2 of the CDLP which is permissible of windfall housing development within or on the edge of villages within the rural area of the district provided 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 village 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.*

- 6.4 When assessing the proposal against the criteria of policy HO2, the application represents a residential development within the residential curtilage of an existing dwelling within the village of Scotby. Scotby has a range of services including a public house, school, shop with post office and café, and a village hall. The site is located in the built up area of the settlement and is therefore considered to be an infill site in a sustainable location with good transport links into Carlisle via public transport.

- 6.5 The principle of development can therefore be supported by the NPPF and Local Plan Policies. The granting of outline permission for development of this site also recently established the principle of developing the site. On this

basis it would be appropriate to then turn to matters of detail as this is an application for full planning permission.

**2. Whether the scale, design and layout of the proposed development is acceptable in the context of the surrounding area**

- 6.6 Planning policies require that development proposals offer a good standard of sustainable design that responds to, and is respectful of, the existing character and distinctiveness of the local area. Development must incorporate high standards of design including appropriate siting, scale, materials and landscaping which respect and, where possible, enhance the distinctive character of the existing built environment or rural area. This approach is affirmed by CDLP policy SP6 which requires that development proposals should also harmonise with surrounding buildings respecting their form in relation to height, scale and massing and make use of appropriate materials and detailing.
- 6.7 In addition to Policy SP6 the proposed development is within an existing residential garden and consideration should also be given to Policy HO3 - Housing in Residential Gardens. Policy HO3 states that proposals for housing within existing residential gardens will be permitted providing that the proposal is of a scale, design and siting that would not result in a cramped form of development that would be out of character with the surrounding area and that a safe and attractive garden area, which reflects that predominant in the area, can be created for both the proposed new house and the existing house.
- 6.8 The policies above are consistent with the general themes of the NPPF however it should also be noted that the NPPF at paragraph 131 states that 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 The planning history for the site approved an outline application with layout and scale reserved for a later application however as details were not known a condition was imposed which restricted the proposed development to one dwelling. The officer's report stated the following reason "the site forms a long narrow strip of land extending east from its frontage with Scotby Road. The site has a width of 14m between the side of the existing property and the boundary to the south. Given these physical constraints, it is considered that for any residential development to comply with Policy HO3 the scale and siting of the residential development ought to be restricted to a single dwelling appropriately sited to maintain the linear character of the settlement and to avoid a cramped form of development. Furthermore, restricting the development to a single dwelling will ensure that a safe and attractive garden area, which would reflect those existing in the area, can be provided for the existing and proposed properties. This can be achieved by the imposition of a planning condition to ensure an appropriate scale and design of development is put forward at the reserved matters stage".

- 6.10 The proposed development is therefore at odds with the suggested imposition of one dwelling on the site. In addition, the previous application was outline and there were no details to assess the potential impacts. This proposal therefore provides a proposed layout and form of the development which can be assessed against the relevant policies and the Achieving Well Designed Housing SPD and consider whether such a restriction was necessary.
- 6.11 The site is a vacant cleared rear and side garden which contained overgrown vegetation, derelict garden sheds, greenhouses and some general building rubbish. The main house (no. 44 Scotby Road) has been extended and renovated whilst the application for the rear of the property is under consideration. The site is long and thin falling away gradually from the roadside but steeper at the second half, down to the beck and tree belt near the far eastern boundary. The proposal consists of a low density linear layout with the fourth house acting as a stop barrier at the end of a gently curving shared surface access road.
- 6.12 There were a number of design parameters the architect was tasked with to provide a form of development which would fit the site and its context as follows:
- To develop the client preferences for family homes in a contemporary but energy efficient simple style.
  - To ensure development work and appearance respected the existing landscaping and village character.
  - To introduce a character to the site with a degree of site specific features.
  - To follow contouring, softer curves and to respect boundary features.
  - To ensure that access and layout has little if no impact upon the privacy of the adjoining houses and in return to help to retain enclosure patterns.
  - To preserve character and reduce car dominance.
  - To follow orientation and enclosure principles.
  - To meet local demands of build quality and aspirations in a way that normal estate layouts density cannot do.
  - To ensure the houses were of a high level quality finish both internally and externally but not to overdevelop the site.
- 6.13 There is an existing site entrance with more than adequate visibility in both directions, with the actual boundary set well back from the roadside (see section on highway impacts). In practice the traffic flows reasonably well within the 30mph limits and with no recorded history of accidents or congestion. Visibility is good from the existing site entrance and measurements easily give 45 metres to the northern and southern approaches in either direction. This formed the basis of setting the vehicle entrance / exit point on the same, existing site entrance. By positioning the access gateposts back into the site it gives sufficient buffer zones to the footpath edge. The bin store can also be set immediately next to the access gateposts for ease, and behind a low brick wall.
- 6.14 To preserve a degree of privacy to the semi-detached house alongside, a low brick wall was originally proposed and dense boundary planting will soften the access road as it curves around to the northern edge of the site. This leaves

site plots for houses in the correct orientation, along the southern boundaries. Following objections to the original application the boundary treatment has been changed to a 1.2m close boarded fence which reduces any intervisibility between the two sites up to a point where the existing hedgerow forms the remainder of the boundary to plot 4.

- 6.15 Visitors parking will be communal and set to the side to keep to economical site costs, giving each house a sufficient enclosed garden with private gated access to the footpath. This improves casual foot traffic and is beneficial to security. It is important in house design to distinguish between public, semi-public and private space. The first three houses laid out in a relaxed form of terracing with each house separated by a car port and pergola against a garden wall. In accordance with principles of energy efficient design, the garden wall forms the private inner garden to each house, all facing south and west with a small garden store, greenhouse and electrical charge point. Garages are no longer a priority in house design, with a covered car port providing a suitable screen. The south western elevations of these first three houses carry principle glazing and passive wall build up, with open light wells and double height spaces behind. The northern and north eastern elevations carry less glazing but with an increased thermal mass to balance the internals. The target is to produce an “A” rated extreme low energy operating house type using orientation, glazing specifications and thermal mass in wall construction. All houses will have solar PV composite zinc roofs to supplement the passive principles and to balance the high thermal mass. Windows are all triple glazed composite units to reduce heat loss but to encourage heat gain. The houses do not need heavy introduction of electrical “add ons” with the associated pay back periods, apart from the low cost PV panel system, relying instead upon building methods and a simpler living style.
- 6.16 The fourth end house has been set with the entrance facing west then stepping down the slope into lower ground floor living and bedroom spaces. This minimizes any excavation on site. The aspect of this house is towards the tree belt and beck further down the slope. It is noted that the Parish Council have referred to plot 4 being considered an extension of the site. The land falls to the rear of the plot and therefore all of the plots are lower than the 44/46 Scotby Road. In terms of visual impact, the site is well contained within existing landscape features with the beck to the rear of the site providing for a natural stop to the development form. Whilst comments have been raised in regards to the linear nature of Scotby, it can be seen that the village does expand and contract along its length. This will become more pronounced once the allocations for the village are built out. The built form of the village is one which is there are a number of built environment features which are formed off the main route through the village. Therefore whilst the settlement runs in a linear fashion around the main routes through which results in an elongated form rather than a more compact form, the development form within this application is not an alien form to the settlement but rather one which can be seen throughout the settlement in different locations.
- 6.17 All houses have a minimum of two parking spaces, (with sufficient visitor

parking) personal bin-stores integral to each house with a general bin store by the site entrance. The road frontage will have a low brick wall with brick piers to mark the entrance along the site boundary, with a protected footpath link between front and back up to the shared surface. All boundary vegetation will remain and will be supplemented with infill planting where thinned out or in need of upgrading. Additional planting strips will form a softer buffer between parking bays and the end house. The house layouts incorporate previous Parker Morris standards and Levitt Bernstein principles, often neglected or dismissed, but extremely important in good house design. These allow for easier circulation, extended family or retirement options to ensure longevity in use and flexibility. Each house type has been designed to maximise location, orientation and privacy with an added benefit of a gabled outlook to the road elevation.

6.18 A choice of off white, soft coloured render, integrated glass and timber insets, grey zinc roofs and low brick walling will help to add to the overall character, together with sensible hardy planting. Finishes on elevations are deliberately simple.

6.19 The Government's National Design Guide (NDG) is a material consideration and seeks to improve the design of new developments. The guidance considers ten characteristics of development which include context, identity, built form, movement, nature, public spaces, uses, homes and buildings, resources and lifespan. Several of the objections to this application have noted that the form of development proposed is at odds with the existing frontage development along Scotby Road. The proposals and policies above present a consistent message about local form of development yet allowing for innovation. When considering this proposal the design represents a challenge to the existing form. The NDG offers guidance on this matter at paragraph 58 which states:

*"Where the scale or density of new development is very different to the existing place, it may be more appropriate to create a new identity rather than to scale up the character of an existing place in its context. New character may also arise from a response to how today's lifestyles could evolve in the future, or to the proposed method of development and construction."*

It is clear that this proposal has been purposely designed to future living requirements, more sustainable living and the use of modern materials. The layout of the site by its setting back from the main streetscene, sloping site away from the frontage means that any glimpsed views of the development would not present a jarring image when the new style of housing is viewed in the context of the existing form.

6.20 On balance, the modern form can be accommodated within the built form of Scotby and whilst utilising a large garden and associated land, it remains within the overall form of the village without compromising the existing vernacular in this part of Scotby.

### **3 Whether the impact of the development on the living conditions/amenity of neighbouring residents is acceptable**

- 6.21 The NPPF requires the planning process to achieve a good standard of amenity for all existing and future occupiers of land and buildings. This is a core principle of the planning system and is echoed by CDLP policies HO3 and SP6 which seek to ensure that development does not result in unacceptable adverse impacts to the living conditions of future or existing occupiers. Accordingly, policies require acceptable levels of privacy, outlook, and general amenity are maintained and/or provided.
- 6.22 When considering the initial outline proposal for this site's development one of the concerns was whether the development of more than one dwelling would give rise to unacceptable levels of noise and disturbance generated through residents accessing dwellings, located to the rear of the site. This would likely affect the occupiers of No.44 and the properties immediately adjacent. The proposed new plots are off-set from the main dwelling through layout design thus avoiding the need for minimum distance separation and the provision of a 1m wall would mean that impact from vehicular movements within the site would be reduced. The layout of the plots avoids direct intervisibility between primary rooms by designing the primary windows on each of the western and southern elevations. The separation between the plots does not meet the expected 12m separation to a blank gable however the gradient of the land means that the proposed new dwellings would be lower than the adjoining plot. The design has also included a 1.2m close boarded fence to ensure that privacy in the rear garden of the adjoining property is not compromised. The orientation of the properties are such that primary windows face away from the neighbouring semi-detached property.
- 6.23 Given the proximity to neighbouring residential properties, the construction of any residential development is likely to result in noise and disturbance to neighbouring residents and this has been evident whilst undertaking renovation of the existing house. To address this a planning condition can be imposed to restrict the hours of construction to protect the living conditions of existing residents during the construction phase.
- 6.24 Subject to conditions, the proposal would comply with policies HO3 and SP6 of the CDLP and the associated provisions of the NPPF.

#### **4. The proposed methods for the disposal of foul and surface water**

- 6.25 To protect against pollution and surface water flooding, CDLP policies IP6 and CC5 seek to ensure that development proposals have adequate provision for the disposal of foul and surface water. This provides a clear policy requirement to ensure that sufficient capacity exists, prior to the commencement of any development, to accommodate the drainage needs of any new residential development.
- 6.26 The application form specifies that foul drainage will be to a package treatment plant and surface water to a sustainable drainage system. The outflow from both these systems will go towards Pow Maughan Beck. In principle the form of drainage would be acceptable and there is no requirement to make the drainage be pumped towards the main sewers along Scotby Road. United Utilities has commented that in terms of surface water

drainage, sustainable methods should first be investigated and with regards to foul drainage, if they are to be adopted they need to be to UU technical specification. They do not require connection to their apparatus. Whilst the Parish Council has raised concerns, it is not reasonable to require drainage to be pumped to Scotby Road. It would however be appropriate in accordance with advice from the Lead Local Flood Authority (LLFA) and UU to secure the drainage details prior to the commencement of any development on site.

## **5. The impact of the proposal on highway safety and parking**

- 6.27 Policies IP2 and IP3 of the CDLP require all development proposals to be assessed against their impact on the transport network and to ensure adequate levels of parking provision. The policy impetus being to maintain highway safety and ensure good access to development sites via all modes of transport.
- 6.28 Vehicular and pedestrian access is proposed to be taken directly from Scotby Road and therefore the applicant's agent has provided a plan to demonstrate an adequate visibility splay in each direction from the proposed access point.
- 6.29 The Local Highways Authority has been consulted over the proposed development and has confirmed that the proposal would not have a material effect on existing highway conditions and raises no objection to the access or parking arrangements as proposed.
- 6.30 Objections have highlighted the potential impact on the dwellings opposite the access point however the scheme has been designed to ensure that vehicles will only face directly to the road for a short distance by curving the access road to the rear of Number 44. This will minimise the potential impact on other properties.
- 6.31 Accordingly, subject to conditions, the proposed development would not have an unacceptable impact on highway capacity, highway safety or parking provision. The proposal therefore complies with policies IP2 and IP3 of the CDLP and the requirements of the NPPF.

## **6. The impact on trees and hedgerows**

- 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 where they contribute to a locality, and/or are of specific natural or historic value. In respect of new development, proposals which would result in the unacceptable or unjustified loss of existing trees or hedges or which do not allow for the successful integration of existing trees or hedges will be resisted.
- 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 trees 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 The application site has several trees and hedges both within and along its boundary. Allegedly a number of these have been removed prior to the application being submitted or works that have taken place during renovation have impacted on the existing hedgerow and some garden trees. The trees and hedgerows were not specifically protected and the Arboricultural Impact Assessment which accompanies the application identifies that the trees provide a moderate landscape and amenity value. Revisions to the scheme by the introduction of a new 1.2m fence to protect privacy will have to be carefully erected to ensure that the existing hedgerow is retained which will then retain the more natural boundary for the adjoining property. Additional planting is proposed within the site to enhance tree cover and replace anything lost from existing works.
- 6.35 It is therefore considered that landscaping matters can be adequately dealt with by specific conditions relating to a planting scheme and maintenance.

## **7. Matters relating to contamination**

- 6.36 The NPPF requires the planning system to address issues associated with the development of known or suspected contaminated land. Accordingly, the development of contaminated land is a material planning consideration and the actual or possible presence of contamination and the associated risks must be established and appropriately mitigated through the planning system. Environmental Health has been consulted on the application and whilst raising no objections have suggested that a condition to ensure that if any contamination is found during works it is dealt with in the appropriate manner.

## **8. Impact on biodiversity**

- 6.37 The Councils GIS Layer has identified that there is the potential for several key species to be present within the vicinity. Using the guidance issued by Natural England, it is unlikely that the proposed development would harm protected species or their habitat. To further protect biodiversity and breeding birds, informatives are recommended within the decision notice drawing the applicants attention to their legal responsibilities under wildlife conservation and environmental legislation.

## **9 Other Matters**

- 6.38 Several provisions of the above Act 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 regularise 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 Having assessed the application against the relevant policies contained within both the local and national planning policy frameworks, it is considered that, subject to conditions, the proposal represents a sustainable form of development that would not result in any unacceptable impacts. The principle of development of this site has been established by a previous permission and on balance the scale, form and layout is acceptable. Subject to further details principally relating to landscaping and drainage the proposals conform with policies in the development plan and NPPF.
- 6.42 It is therefore recommended that planning permission be granted subject to conditions.

## **7. Planning History**

- 7.1 Outline application 18/0275 for residential development with approval sought only for access and all other matters reserved was granted permission on the 10th August 2018.

## **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 19th June 2019;

2. the Block and Location Plans (Dwg 2019-139-25C Rev C) received 21st October 2019;
3. the Entrance Junction (Dwg 2019-139-22) received 19th June 2019;
4. the Ground Floor Plots 1-4 (Dwg 2019-139-23A Rev A) received 21st October 2019;
5. the First Floor Plots 1, Lower Ground Plot 4 (Dwg 2019-139-21B Rev B) received 21st October 2019;
6. the House Type 2 (Dwg 2019-139-24) received 19th June 2019;
7. the Long Section and Hard Surface Details (Dwg 2019-139-20) received 19th June 2019;
8. the Planning Statement 19th June 2019;
9. the Design Statement 19th June 2019;
10. the Pre-development Arboricultural Report 5th July 2019;
11. the Contamination Statement 8th July 2019;
12. the Notice of Decision; and
13. any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason:** To define the permission.

3. Prior to the commencement of development, details of the proposed hard surface finishes to all external areas shall be submitted for approval in writing by the Local Planning Authority. The approved scheme shall then be implemented in accordance with these details.

**Reason:** To ensure that materials to be used are acceptable and in compliance with the objectives of Policy SP6 of the Carlisle District Local Plan 2015-2030.

4. No development shall commence until details of any walls, gates, fences and other means of permanent enclosure and/or boundary treatment to be erected have been submitted to and approved, in writing, by the Local Planning Authority.

**Reason:** To ensure the design and materials to be used are appropriate and to ensure compliance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

5. Prior to the commencement of development, the applicant shall submit a Construction Management Plan for approval in writing by the Local Planning Authority. The development shall then be undertaken in accordance with the details contained within the Construction Management Plan.

**Reason:** In order to protect the amenity of local residents.

6. Before any development takes place, a plan shall be submitted for the prior approval of the local planning authority reserving adequate land for the parking of vehicles engaged in construction operations associated with the development hereby approved, and that land, including vehicular access thereto, shall be used for or be kept available for these purposes at all times until completion of the construction works.

**Reason:** The carrying out of this development without the provision of these facilities during the construction works is likely to lead to inconvenience and danger to road users and to support Local Transport Plan Policies S3 and LD9.

7. No dwellings shall be occupied until the estate road including footways to serve such dwellings has been constructed in all respects to base course level and street lighting where it is to form part of the estate road has been provided and brought into full operational use.

**Reason:** In the interests of highway safety

8. Full details of the surface water drainage system shall be submitted to the Local Planning Authority for approval prior to development being commenced. Any approved works shall be implemented prior to the development being completed and shall be maintained operational thereafter.

**Reason:** To ensure a satisfactory means of surface water disposal in accordance with Policy CC5 of the Carlisle District Local Plan 2015-2030.

9. Details of all measures to be taken by the applicant/developer to prevent surface water discharging onto or off the highway shall be submitted to the local planning authority for approval prior to the development being completed and shall be maintained operational thereafter.

**Reason:** In the interests of highway safety and to minimise potential hazards.

10. No development shall commence until a construction surface water management plan has been agreed in writing with the local planning authority.

**Reason:** To safeguard against flooding to surrounding sites and to safeguard against pollution of the watercourse running through the site.

11. Before development is started details shall be submitted to and approved by the local planning authority showing the proposed measures for the retention of all existing hedgerows and specifying the stage in the development by which these measures are to be completed.

**Reason:** The local planning authority wishes to see existing hedgerows/trees incorporated into the new development where possible in accord with Policy GI6 of the Carlisle District Local Plan 2015-2030.

12. The development shall be landscaped in accordance with details to be submitted to and approved by the local planning authority and shall include details of the proposed type and species of all planted material including

particulars of the proposed heights and planting densities.

**Reason:** To ensure that a satisfactory landscaping scheme is prepared. and to ensure compliance with Policy H16 of the Carlisle District Local Plan

13. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner, and maintained thereafter to the satisfaction of the Council; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

**Reason:** To ensure that a satisfactory landscaping scheme is implemented in accordance with the objectives of Policy \*[insert as appropriate i.e. E9 for housing and E19 if other development] of the Carlisle District Local Plan.

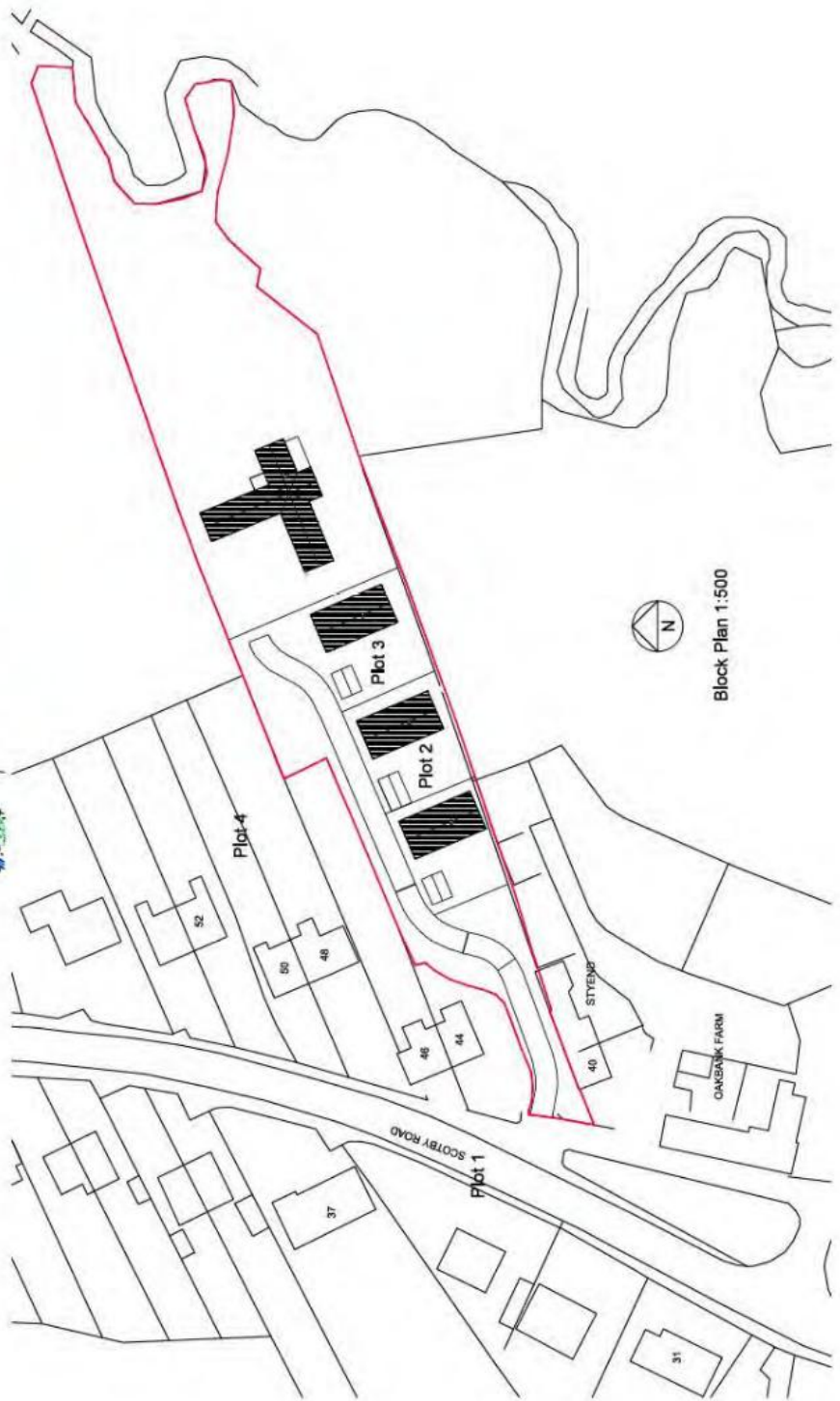
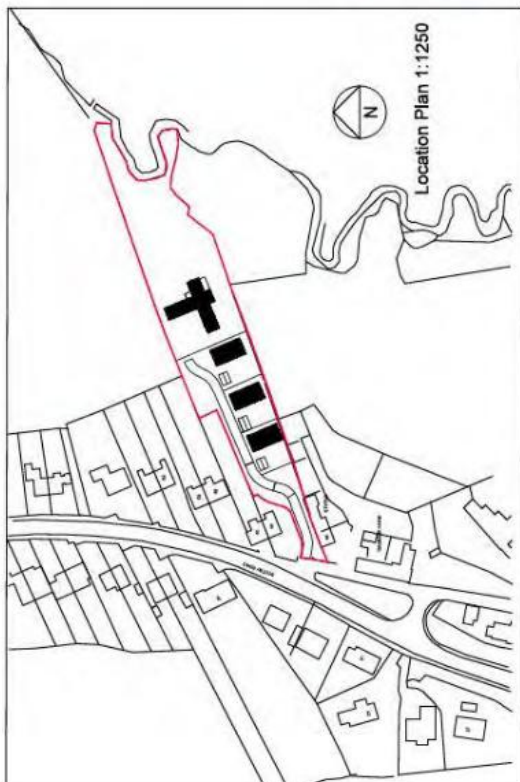
14. No construction work associated with the development hereby approved shall be carried out before 07.30 hours or after 18.00 hours Monday to Friday, before 07.30 hours or after 13.00 hours on Saturdays, nor at any times on Sundays or Bank Holidays.

**Reason:** To prevent disturbance to nearby occupants in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

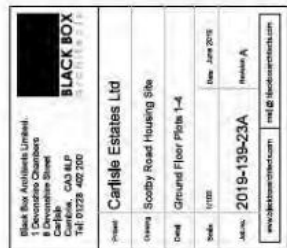
15. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority. Site investigations should follow the guidance in BS10175. 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.

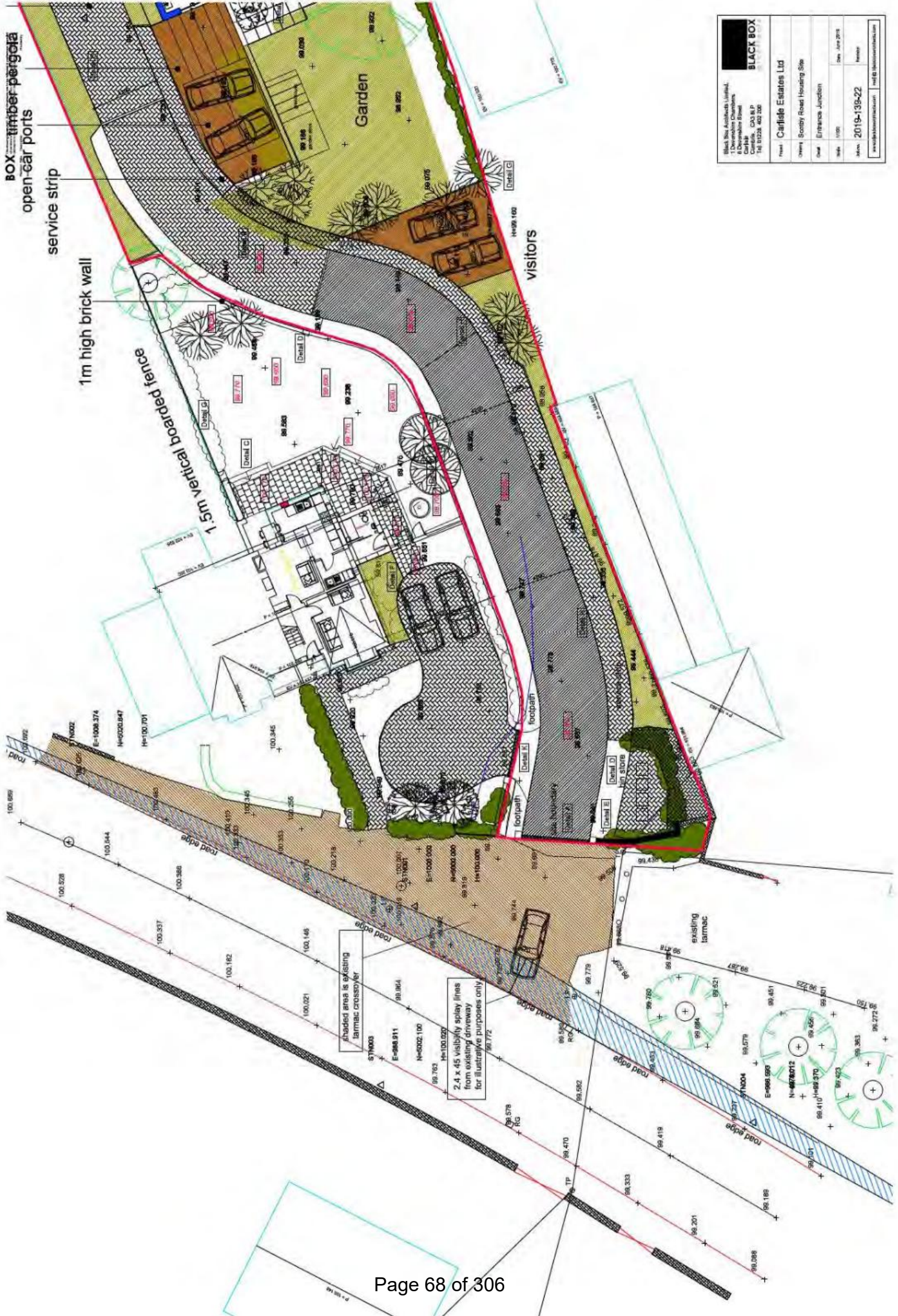
**Reason:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers,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

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<b>BLACK BOX</b> ARCHITECTS 1 Denham Chambers 10 Denham Street Cardiff, CF11 1BP Tel: 01222 402 200	
Project	Carlisle Estates Ltd
Items	Scotby Road Housing Site
Detail	Block and Location Plans
Issue	100011220
Date	June 2019
Author	2019-135-25 C
Reviewer	Review C
<a href="http://www.blackboxarchitects.com">www.blackboxarchitects.com</a>	



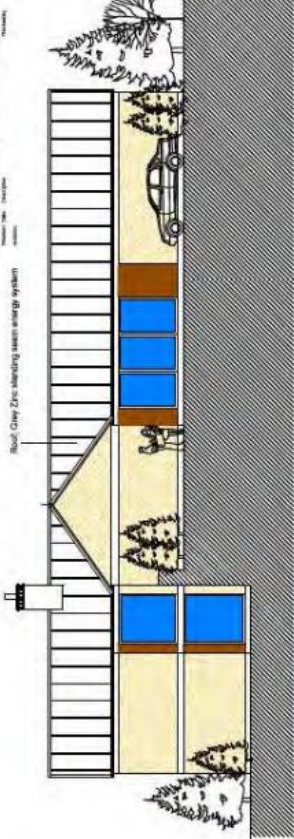


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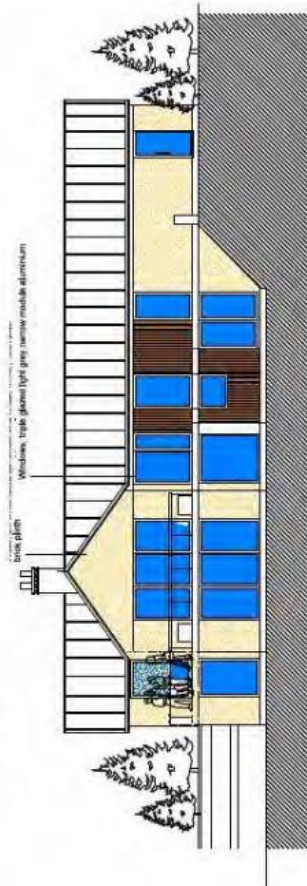
Project	Cardiff Estates Ltd
Client	Scotty Road Housing Site
Drawn	Entrance Junction
Scale	1:1000
Date	June 2018
Ref	2019-139-22
Drawn by	www.blackboxarch.co.uk
Ref	02/10/2018/01/01/01/01



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Cardiff, CA3 8LP  
Tel: 01222 402 200

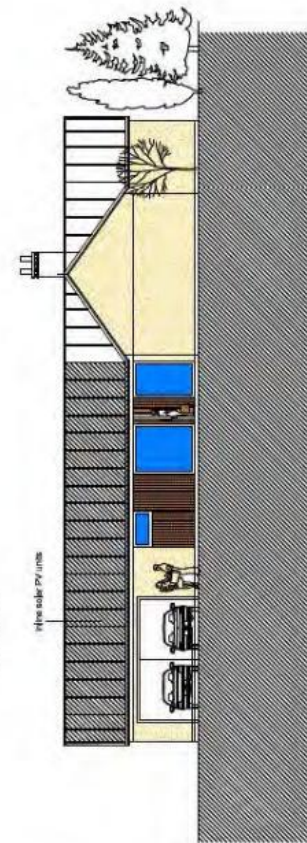


Southern Elevation



Eastern (garden) Elevation

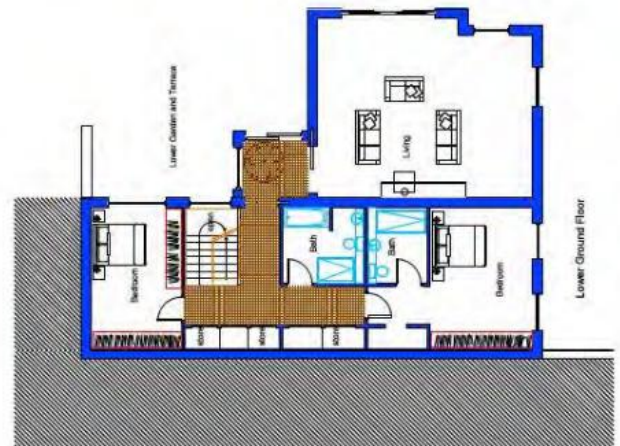
Northern Elevation



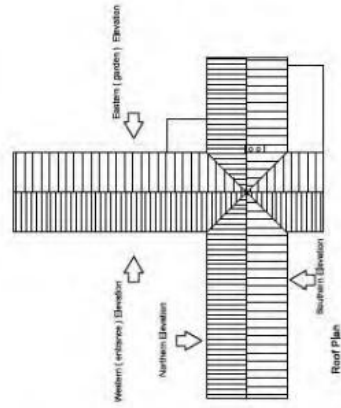
Western (entrance) Elevation



Ground Floor

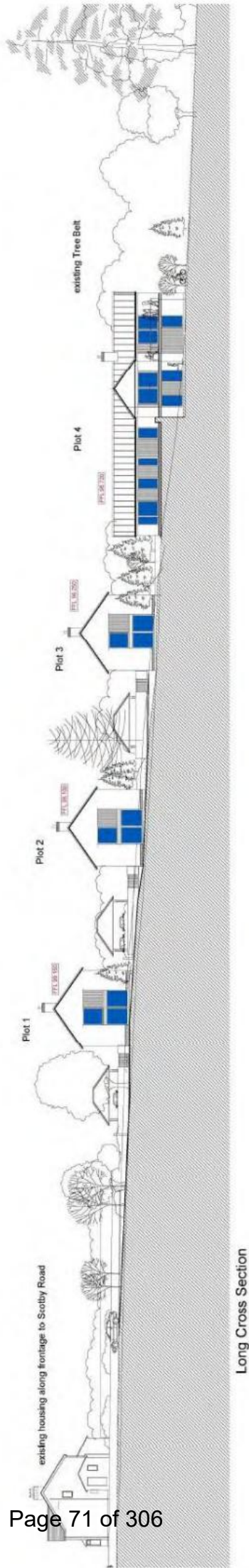


Lower Ground Floor



Roof Plan

<b>BLACK BOX</b> ARCHITECTS		<b>Carlisle Estates Ltd</b>	
Black Box Architects Limited, 1 Denham Chambers 10 Denham Street Cardiff, CA3 8LP Tel: 01222 402 200		Project Name Detail Date Architect Ref No.	Carlisle Estates Ltd 10 Denham Street Cardiff, CA3 8LP Tel: 01222 402 200 2019-135-24 10/10/2019 2019-135-24 www.blackboxarchitects.com info@blackboxarchitects.com





## SCHEDULE A: Applications with Recommendation

19/0193

Item No: 03

Date of Committee: 10/01/2020

**Appn Ref No:**  
19/0193

**Applicant:**  
Dalston Parochial Church  
Council

**Parish:**  
Dalston

**Agent:**  
Architects Plus (UK) Ltd

**Ward:**  
Dalston & Burgh

**Location:** St Michaels and All Angels Church, The Square, Dalston, Carlisle, CA5 7PJ

**Proposal:** Erection Of Extension To Provide Library, Function Room And Entrance; Conversion Of Existing Vestry To Form New Accessible Toilet, Office And Kitchen And Alterations To Existing Disabled WC To Provide Vestry And Accessible Toilet

**Date of Receipt:**  
06/03/2019

**Statutory Expiry Date**  
01/05/2019

**26 Week Determination**

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### REPORT

**Case Officer:** Suzanne Osborne

#### 1. Recommendation

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

#### 2. Main Issues

- 2.1 Whether the principle of the development is acceptable;
- 2.2 Whether the scale and design is acceptable together with the impact upon the Grade II\* Listed Building;
- 2.3 Impact upon the setting of nearby Grade II Listed Buildings;
- 2.4 Impact upon Dalston Conservation Area;
- 2.5 Impact upon the living conditions of neighbouring residents;
- 2.6 Highway issues;
- 2.7 Impact upon protected species;
- 2.8 Impact upon trees;
- 2.9 Archaeological issues/gravestone removal; and
- 2.10 Other matters.

### **3. Application Details**

#### **The Site**

- 3.1 This application relates to St Michaels and All Angels Church, a Grade II\* Listed Building located at the northern end of The Square in the centre of Dalston village. The church is set within a large churchyard which extends to the north and east, running parallel to the River Caldeu. A number of large mature trees are located along the western boundary of the site as well as a footpath which links The Square to the northern end of the village.
- 3.2 Beyond the northern boundary of the site are two residential properties "The Old Vicarage and Caldeu House". To the west is the B5299 which runs through the village with residential properties located beyond. To the south is a variety of residential and commercial properties located around The Square. The church is wholly located within Dalston Conservation Area and all of the buildings surrounding the application site are Grade II Listed.

#### **The Proposal**

- 3.3 The proposal seeks full planning permission for the erection of a single storey extension on the northern side of the church to provide a multi-purpose function room (which will incorporate a library), an office and store together with converting the existing flat roof vestry to provide an accessible toilet and kitchen. The new extension will be linked internally to the church via the existing vestry, which is a single storey Victorian extension to the church, and will also have its own separate external access. The submitted plans illustrate that the proposal comprises of a single storey flat roof link (former vestry extension) and a steeply pitched roof extension to reflect the angles of the other pitches on the church. The extension will be constructed from the same pallet of materials to that of the church with a natural slate roof and locally sourced dressed sandstone walls. All new windows and external doors will be constructed from oak.
- 3.4 Members should be aware that when the application was first submitted the submitted plans illustrated a larger extension to the north of the church which included a separate library and function room with two existing prominent mature trees (Lawson Cypress and a Whitebeam) near the entrance to the north of the site to be removed to provide the proposed extension. Following concerns raised by Officers in relation to the removal of the trees and the design of the extension the proposed plans have been amended to those discussed in paragraph 3.3 above.
- 3.5 Various documents have been submitted to accompany the application namely a Planning Statement, Heritage Impact Assessment, Gravestone Survey, Archaeological Evaluation Report, Design and Access/Heritage Statement, Tree Survey Report, Statement Determining Need, Baseline Ecology Survey, a Scoping Bat Survey and a Contaminated Land Desk Top Study.

#### **4. Summary of Representations**

- 4.1 The application has been advertised by the display of a site notice, press notice and by means of notification letters sent to 43 neighbouring properties/interested parties. In response to the consultation undertaken 29 objections (some of which are from the same properties), 9 letters/emails of support and 1 comment has been received.
- 4.2 The objections received cover a number of matters which are summarised as follows:
1. question the need/justification for the proposal;
  2. number of other venues/facilities within the village that could be used as well as the existing church and Church House;
  3. query whether community services should be placed within a church;
  4. no need for a permanent library as last one was closed down due to lack of use and there is already a library that attends the village
  5. impact upon the character/appearance of the Grade II\* Listed Church including its setting;
  6. impact upon the churchyard including the removal of historic tombstones;
  7. impact upon existing healthy trees and shrubs within the churchyard which are highly valued and common features of Victorian churchyards;
  8. trees should be protected by a Tree Preservation Order;
  9. impact upon trees within the grounds of the adjacent residential property
  10. impact upon existing habitats including ancient meadowland, slow worms, Holly Blue butterfly, bats, barn owls and other protected species;
  11. no environmental assessment submitted with the application;
  12. impact upon views of the church including the vestry stone door and rose window in the north wall of the church;
  13. artists impression of the development is misleading;
  14. development will have a substantial impact upon the Grade II Listed Old Vicarage;
  15. development will increase existing anti-social behavioural problems;
  16. query regarding level of consultation behind the application;
  17. accuracy of documentation submitted;
  18. development would exacerbate parking problems in the square;
  19. impact upon green spaces in the centre of the village;
  20. concern that church funds might be used for the development;
  21. little detail on materials and finishing of the development;
  22. impact upon the amenity of the neighbouring residential property;
  23. development does not satisfy Policies E1 and E2 of the Dalston Parish Neighbourhood Plan or Policies HE3 and HE7 of the Carlisle District Local Plan 2015-2030;
  24. exploratory trenches dug to enable archeological assessment follow footprint of earlier proposals and not footprint of development now proposed;
  25. do not agree with digging up consecrated ground;
  26. development will damage beauty of church paths,

27. parish council has objected to the development;
28. ecology report not fit for purpose - timings of slow worm survey, local records not referred to and no reference regarding bats;
29. saving of trees is welcome;
30. appears original plan for library has been replaced by small fixed shelving; and
31. accuracy of 3D visuals;

4.3 The letters of support covers a number of matters which are summarised as follows:

1. Church House is not suitable for use as it has no disabled access (due to steps and lack of disabled toilet) and needs refurbishment;
2. a new hall with modern facilities is required;
3. library can be accessed directly from outside and will have a computer for anyone to use;
4. meeting room will be a homely space and will enable people to meet informally;
5. as the vicarage is away from the church a central office is needed;
6. hall will be a smaller space than other halls within the village and will complement village resources and meet different needs;
7. development would be a major asset to St Michael's Church and to the wider community;
8. development is an imaginative scheme which will provide a substantial meeting place as well as a permanent location for the public library;
9. have been assured that the trees to be felled have no particular value and they will be replaced with others that are more suitable;
10. scheme will ensure future of the library;
11. local venues will not be affected as church will use larger venues in the village when needed;
12. not a member of Church of England but Dalston Church has provided support;
13. architectural detail is in harmony with the church;
14. there are currently no changing facilities for performers in the church or catering facilities other than provision of basic refreshments;
15. a suitable home for the library in Dalston could not be found;
16. rows of pews have been removed for the library and will be reinstated on completion of the extension;
17. auxiliary seating is currently employed for events and stored with library moved along the aisles to the vestry;
18. useful facility for church community;
19. church is one of the hubs of the village; and
20. proposal will provide much needed space for the Sunday school

4.4 The comment received is summarised as follows:

1. there are two trees in a neighbouring property closer to the proposed extension and foundations; and
2. concern regarding root interference and safety of trees in the neighbouring property.

4.5 One of the letters of support is from a local ward councillor (Cllr Allison) which is summarised as follows:

1. welcome changes in response to concerns expressed regarding felling of trees whilst retaining essential elements of original plans;
2. most earlier responses classified as neutral are in fact supportive;
3. church authorities see future of the church being dependant of wider role in community;
4. present facilities are inadequate;
5. extension will help secure future of the building;
6. threat to existing facilities, perceived by some, is not a planning issue;
7. query whether it is the role of planning to apportion parking spaces on the highway to a particular venue;
8. there were 26 parking spaces available at 13:30 hours in Dalston mid week;
9. the offer of a library service in the back of the church saved the library service when the library vehicle was withdrawn;
10. lighting between bookshelves is not adequate, bottom shelves are few inches from the floor which are inaccessible to older users, and, shelves have to be moved out when there is an event in the church;
11. wall mounted shelving in new extension will extend the offer and be secure. Computer facility will allow access to full catalogue of Carlisle Library etc;
12. pews will be able to be restored in the church; and
13. Policy HE2 provides for new development and future economic viability of the heritage asset; and
14. proposal shows a commitment to the church in Dalston and should be supported.

## 5. Summary of Consultation Responses

**Cumbria County Council - (Highways & Lead Local Flood Authority):** - no objection subject to the imposition of one condition regarding details of the surface water drainage system. Standing advice also received regarding highway permits and drainage.

**Dalston Parish Council:** - request a site visit. The Parish Council unanimously agreed the development be refused on the grounds that there is no provision for car parking and the extension is to be built over existing graves.

The PC feel that parking within the village is already stretched to its limit and this extension will only exacerbate the problem unless the church can provide its own parking provision.

The PC are however pleased to see that the trees aren't going to be disturbed.

The PC are also extremely concerned that a number of graves will be disturbed and need to be relocated. No provision has been made for these relocation arrangements.

Dalston is a thriving village with many existing community facilities available to all. Therefore would it not be more viable to make better use of the church space as it is, perhaps by replacing the fixed pews with moveable chairs and providing some means of sub-division? Church House is of a similar size to the extension and could also be utilised.

**Planning - Access Officer:** - no objection;

**Ancient Monument Society - Amenity:** - no response received;

**Council for British Archaeology - Amenity:** - no response received;

**National Amenity Society:** - no response received;

**Georgian Group - Amenity:** - no response received;

**Victorian Society - Amenity:** - no objection to amended plans;

**Twentieth Century Society - Amenity:** - no response received;

**Historic England - North West Office:** - no objection;

**Cumbria Constabulary - North Area Community Safety Unit (formerly Crime Prevention):** - presently no issues relating to youth nuisance or anti-social activity at this location and it is not on any patrol plan at this time. From a crime prevention perspective any increase in legitimate activity in the church and new facility would be favourable, as this will extend the amount of time throughout the day that 'capable guardians' shall be on site to be able to notice any unwelcome behaviour. Standing advice received regarding crime prevention.

**Local Environment - Environmental Protection (former Comm Env Services- Env Quality):** note comments of the Heritage Impact Assessment and Archaeological Report. Advice received regarding lawful permissions which should have been obtained/need to be obtained in order to disturb buried human remains.

## **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), Dalston Parish Neighbourhood Plan together with Policies SP1, SP2, SP6, SP7, SP9, EC5, EC11, IP3, IP6, CC5, CM4, CM5,

HE3, HE7, GI1, GI3 and GI6 of the Carlisle District Local Plan 2015-2030 (CDLP). The Council's Supplementary Planning Documents on "Trees and Development" and "Designing Out Crime" are also material planning considerations.

The proposal raises the following planning issues:

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

- 6.3 The Church of St Michael and All Angels, Dalston has originated on the site since the 12th Century. An extension to an existing established church is therefore acceptable in principle subject to an appropriate scale and design, and, no adverse impacts upon the Grade II\* Listed Building, the setting of adjacent Listed Buildings, the character/appearance of Dalston Conservation Area, protected species, living conditions of neighbouring dwellings, trees etc. All of these issues are discussed in the following paragraphs below:

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

- 6.4 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.
- 6.5 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.
- 6.6 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"*.

- 6.7 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).
- 6.8 Paragraph 193 of the revised 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.
- 6.9 Paragraph 194 goes on to 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.
- 6.10 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 or loss is outweighed by the benefit of bringing the site back into use.
- 6.11 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.
- 6.12 Policy HE3 (Listed Buildings) of the Local Plan also indicates that listed buildings and their settings will be preserved and enhanced. Any harm to the significance of a listed building will only be justified where the public benefits of the proposal clearly outweighs the harm. The policy states that any works to listed buildings or new development within the curtilage and/or its setting must have regard to: 1) the significance of the heritage asset, including its intrinsic architectural and historic interest and its contribution to the local distinctiveness and character of the District, 2) the setting of the asset and its contribution to the local scene; 3) the extent to which the proposed works would result in public benefits; 4) the present or future economic viability or function of the heritage asset; and 5) the preservation of the physical features

of the building in particular scale, proportions, character and detailing (both internally and externally) and of any windows and doorways.

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

6.13 The Church of St Michael and All Angels, Dalston was listed as Grade II\* in 1984. 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.

6.14 The listing details of the church are as follows:

*Church. C12 and C13, partly rebuilt on 1749; 1890 restoration by C.J. Ferguson. Red sandstone rubble; graduated greenslate roof with coped gables. 4-bay aisled nave, the lower part of which is C13, with double open bellcote and north porch; north and south transepts. 3-bay C13 chancel with 1890 north vestry. nave: blocked medieval south door now forms recess under 1890 rededication inscription. Blocked C18 entrance in west wall. C19 porch incorporates, inside, an C18 font, 2 medieval graveslabs, a carved Transitional style capital and a C17 inscription stone partly covered by 1914-18 war memorial. C19 2-light windows with geometrical tracery. North transept has C19 circular window with geometrical tracery. Chancel: priest's door in pointed arch under pedimented hood. Original lancet windows and small pointed leper window. 3-light east window. Interior of nave: open timber ceiling of 1890, supported on timber columns. Continuous low stone seat along south wall is thought to be medieval. Walls panelled in 1890 with wood from the C18 box pews. South transept stained glass by Clayton and Bell, 1909. North transept organ screen by C.J. Ferguson. C19 font by R.H. Billings with carved oak cover by Sir Robert Lorimer. Chancel: rounded rere-arches to medieval windows. White marble wall plaque to Reverend Walter Fletcher 1846 by Musgrave Lewthwaite Watson.*

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

6.15 As stated in paragraph 3.3 the proposal seeks full planning permission for the erection of a single storey extension on the northern side of the church to provide a multi-purpose function room (which will incorporate a library), an office and store together with converting the existing flat roof vestry to provide an accessible toilet and kitchen. The new extension will be linked internally to the church via the existing parapeted flat roof Victorian vestry extension and will also have its own separate external access. The submitted plans illustrate that the proposal comprises of a single storey flat roof link (former vestry extension) and a steeply pitched roof extension. The extension will be constructed from the same pallet of materials to that of the church with a natural slate roof and locally sourced dressed sandstone walls. All new windows and external doors will be constructed from oak and will have

moulded sandstone surrounds to echo the existing vestry extension.

- 6.16 The steep pitched roof of the proposed extension will reflect the angle of other pitches on the building. The linked extension will be located a sufficient distance from an existing rose window in the wall on the north elevation of the church to not obscure the window or obstruct light into the window or the nave. The proposal will also retain the existing internal door from the north transept into the vestry and will reuse the existing walling stone and moulded stone features to the demolished part of the Victorian vestry. The development will also incorporate a new feature circular glass window in the south-west and north-east elevations of the extension which picks up details from the existing elevations of the church.
- 6.17 The application is accompanied by a Heritage Impact Assessment (HIA) which confirms that the proposed development lies to the north of the Grade II\* listed church and associated graveyard. The affected area contains several gravestones and a pathway. The development will abut the vestry to the north and west. Several gravestones are placed along the west elevation of the vestry which maybe affected by the development. The interior of the vestry is plain, and, the east and south elevations of the vestry will not be significantly impacted upon. The west elevation will however be completely removed including the lead glass and stone mullion window. The HIA confirms that the development will result in a major impact on the heritage significance of the Grade II\* listed church and associated graveyard which may require mitigation perhaps through design and further archaeological work. The development will impact upon a Victorian extension of the church, thus the impact on the historic value of the church would be low. Although there is a substantial magnitude of impact, the developments aim is to retain the church as an active centre of the community which would raise the community value of the site. The HIA states that the structure is subordinate in its size with the church and partially obscured by greenery to the north.
- 6.18 The application is also accompanied by a "Statement Determining Need" which confirms that the new extension will provide a home for the village library (which is temporarily placed at the rear of the church in the place of 3 rows of seating); a reception/church office to accommodate the church secretary, records and office equipment; a disabled toilet with changing facilities; a modern kitchen equipped to a level to enable preparation of light lunches etc; a community function room which will seat up to 50 people but will allow flexibility in use (meeting room, hiring for small groups etc) and a changing room/store area for performers during performances and events.
- 6.19 The Heritage Statement goes onto state that the 850 year old church is not suitable for reordering, is not a large building, is often full to capacity for religious and non religious functions on numerous occasions during the year, and, the acoustic quality of the building must be protected. The HS confirms that the PCC owns Church House within The Square however this is not suitable to be used as a public building as the property is small and it unable to be extended. Furthermore the access to Church House does not comply with building regulations. The HS states that the extension will provide a modern, flexible and equipped facility alongside the historic building. The

development will provide a community hub which will accord with the 12 petals of the "sustainability rosette" of the Churches Trust for Cumbria.

- 6.20 The Council's Heritage Officer has been consulted on the development and has confirmed that the revised scheme with its smaller footprint, reuse of existing fabric, defenestration and retention of the two mature trees within the grave yard is far more acceptable. Given the case made for additional space at the church and the desirability of retaining the building in church use - the use optimum to its preservation - it is considered that the proposed extension would be compliant with Policies HE3 and HE7 of the CDLP and the considerations set out in chapter 16 of the NPPF. The Heritage Officer therefore has no objections to the proposal subject to the imposition of relevant conditions regarding joinery details, a bedding and pointing specification and a sample stone area.
- 6.21 Historic England has been consulted on the proposed development and has also raised no objection. Historic England confirmed in respect of the original plans submitted (which included a larger footprint and removal of two mature trees) that there would be some minor harm to the listed building as a result of the proposed works, including alterations to the late 19C vestry and the loss of trees. However, the location of the extension minimises the impact on the architectural character and setting of the church, particularly its nave, with sufficient space to allow the form of the church to be appreciated. The extension provides facilities that would support the continued use of the church and sustain its future. The siting still allows access to the churchyard to the rear and the loss of trees, which are poor specimens, can be mitigated by re-planting.
- 6.22 Historic England, when commenting on the plans as first submitted, confirmed that the design might be improved by the reuse of carved stone features from the demolished west elevation of the vestry. The door surround could be re-used for the new vertical window on the east elevation and paired arched windows and surrounding stonework in the disabled toilet, with secondary obscured glazing. As stated in section 3 of this report the design of the proposed extension has been amended since the original submission to reduce the footprint of the extension, retain the mature trees to the front of the site and re salvage the materials from the demolished west elevation of the vestry. Historic England has been re consulted on the amendments and has raised no objection.
- 6.23 The relevant amenity societies have also been consulted on the development. The Victorian Society when commenting on the original plans submitted confirmed that they were broadly content with the principle of the extension but made a number of comments in relation to design with particular reference to fenestration details and details of panelling in the vestry. The submitted plans have since been amended and the Victorian Society has confirmed that they are much happier with the revisions, particularly with the fenestration.
- 6.24 When assessing the impact of the proposed development on the Grade II\* Listed Building it is appreciated that there will be some harm to the listed

building as a result of the proposal as the development will include alterations to the Victorian vestry. The level of harm however is deemed to be less than substantial due to the location of the development which is set substantially back from the front elevation of the church (which faces towards Carlisle Road) and way from the north elevation of the main church. Although the development requires the removal of the west elevation of the vestry and alterations to the north elevation it is appreciated that the vestry is an existing Victorian extension to the building and the features that are to be removed will be re salvaged in the new extension. The positioning of the proposed extension still allows the existing architectural form of the church to be appreciated with the old and new buildings being clearly defined. The proposed extension will be subordinate in terms of scale and will be constructed from materials to match the existing church. In such circumstances the scale and design of the development is considered to be sympathetic to the historic character of the Grade II\* Listed Building.

- 6.25 It is appreciated that where a proposal will lead to less than substantial harm to the significance of a designated asset this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. As stated in paragraph 6.18 the supporting documents accompanying the application confirm that the proposed development will provide a multi-purpose function room which will be used for a variety of uses including community hire, a venue following events in the church, home for the village library, meeting room for the PPC and bible studies etc. The extension will also provide a reception/church office to accommodate the church secretary, records and office equipment; a disabled toilet with changing facilities; a modern kitchen equipped to a level to enable preparation of light lunches etc and a changing room/store area for performers during performances and events. The proposal will clearly provide additional facilities for the community of Dalston which will be a public benefit. The extension will also provide improved amenities for the existing use of the church as a place of worship which will also help contribute to the sustained use of the church for this purpose which in turn will contribute to the revenue stream helping to secure future viability and maintenance of the church. This is also a public benefit as a Grade II\* Listed Building is an asset of highest significance. On balance it is considered that the public benefits of the proposal (as described above) would outweigh the limited harm created.

### **3. Impact Of The Development On The Setting Of Nearby Grade II Listed Buildings**

- 6.26 The application site is surrounded by Grade II Listed Buildings to the north (The Old Vicarage and Caldew House), to the west (No.s 24-28 The Square) and to the south (Nos.1-6 The Square).
- 6.27 Paragraphs 6.4-6.12 of this report describe the policy considerations for Members to have regard to when assessing the impact of the development on the setting of the Grade II Listed Buildings which surround the application site.
- 6.28 The Heritage Impact Assessment (HIA) which accompanies the application

confirms that there are 29 heritage assets located outside the development boundary of which 18 are Grade II listed buildings or structures and are therefore of district or county significance, 2 are find spots of negligible significance and the remaining 9 are unlisted and of local significance. Members should be aware that the 29 assets described in the HIA include buildings located further beyond the development site boundary than those described in paragraph 6.26 above.

- 6.29 The HIA confirms that the magnitude of the impact of the development on 18 of the assets of district/county significance would be no change as there would be no inter visibility with the development. For three of the assets immediately opposite the development site (Dover House at 24 The Square, 25-26 The Square and 27 The Square) the magnitude of impact would be minor as the development would change their immediate setting.
- 6.30 The HIA states that the magnitude of impact for the 9 assets of local significance would be no change as these assets mainly comprise documentary evidence and records of buildings and demolished buildings, with no inter visibility. There would also be no change to the find spots.
- 6.31 Given the location of the proposed development to the north of the church it is not considered that the development would have an adverse impact upon the setting of Nos.1-6 The Square or No.s 24-6 The Square as the development would not be visible from these properties. Whilst the extension maybe visible from No.s 27-28 The Square it is also not considered that the development would affect the setting of either of these properties as the development is located on the opposite side of the road and is set back significantly back from the front elevation of the church.
- 6.32 The proposed development will be seen in certain viewpoints from The Old Vicarage and Caldew House to the north however as the proposed extension is of an acceptable design and scale (as described in paragraphs 6.4-6.25 above) it is not considered that the development would have an adverse impact upon the setting of either of these Grade II Listed Buildings.

#### **4. Impact Upon Dalston Conservation Area**

- 6.33 The application site is located within Dalston Conservation Area. As highlighted earlier in the report, Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990, the NPPF, PPG and Policy HE7 (Conservation Areas) of the Local Plan are relevant.
- 6.34 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*".
- 6.35 The aims of the 1990 Act are reiterated in both the NPPF, PPG and policies within the Local Plan. 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 assets conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 194 of the NPPF goes on to 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. Paragraph 195 states that where a proposed development will lead to substantial harm to a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or total loss or if 4 criteria apply (i.e. the nature of the asset prevents all reasonable uses of the site, no viable use of the asset can be found in the medium term, conservation by grant funding is not possible, and, the harm/loss is outweighed by the benefit of bringing the site back into use).

- 6.36 Paragraph 196 of the NPPF confirms that where a development will lead to less than substantial harm to the significance of a designated asset, this harm should be outweighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Paragraph 200 of the NPPF states that LPA's should look for opportunities for new developments within Conservation Areas to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset should be treated favourably. Paragraph 201 highlights that not all elements of a Conservation Area will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of a Conservation Area should be treated as substantial harm or less than substantial harm taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area.
- 6.37 Policy HE7 (Conservation Area) of the Local Plan advises that proposals within Conservation Areas should preserve or enhance the special character and appearance of the conservation area and its setting. Specifically proposals should: harmonise with their surroundings; be sympathetic to the characteristics of the conservation area; preserve or enhance features which contribute positively to the areas character/appearance; not have an unacceptable impact upon historic street patterns, boundaries, roof scape, skyline and setting including protecting important views into and out of conservation areas; not other than a last resort result in demolition and redevelopment behind retained facades; where possible draw on a local palette of materials; retain individual features of interest; and not generate a significant increase in traffic movements.
- 6.38 The Heritage Impact Assessment confirms that the magnitude of impact of the proposed development on Dalston Conservation Area, an asset of District or County (Higher) significance, is likely to be less than substantial, as there would be visual changes to a few key aspects of the historic landscape. A magnitude of impact of less than substantial on the Conservation Area, an

asset of District or County (Higher) significance, would result in a limited impact on heritage significance, which may require mitigation, perhaps through design.

- 6.39 The Conservation Area Advisory Committee (CAAC) has been consulted on the application as first submitted and confirmed that they considered the principle of the extension to be acceptable. They did however have significant concern over the loss of trees; and, concern over the removal of gravestones, construction access and buildability of the scheme. CAAC suggested revisions to the northern elevation by omitting clear story windows and nudging the remaining windows to allow more mass at the edges. They also had concerns over the east elevation door and suggested making it full height and omitting the fanlight over. CAAC also suggested strengthening plinth detail and kneelers/springers. Overall CAAC recommended that the scheme should not be approved in its current form.
- 6.40 As stated in section 3 of this report the scheme has been amended to reflect the comments made by Historic England and CAAC. Whilst the proposed extension will be visible from some parts of Dalston Conservation Area it is considered that the scale and design of the extension is acceptable (as discussed in paragraphs 6.4-6.25 above). Furthermore none of the statutory consultees have raised any objections to the proposed revisions etc. In such circumstances the development will not have an adverse impact upon the character and appearance of Dalston Conservation Area.

## **5. Impact Upon The Living Conditions Of Neighbouring Residents**

- 6.41 Paragraph 127(f) of the NPPF highlights that developments and decisions should

*"create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience."*

- 6.42 The City Councils' Supplementary Planning Document "Achieving Well Designed Housing", on the matter of privacy, states that:

*"where a development faces or backs onto existing development, in order to respect privacy within rooms a minimum distance of 21 metres should usually be allowed between primary facing windows (and 12 metres between any wall of the building and a primary window). However, if a site is an infill, and there is a clear building line that the infill should respect, these distances need not strictly apply (para 5.44)."*

- 6.43 The relevant planning policies require that development proposals should not adversely affect the living conditions of occupiers of residential properties by virtue of inappropriate development, scale or visually intrusive. Furthermore, Policy DNP-JE7 (Dalston Village Square) also seeks to ensure that new development fronting Dalston Square (as defined in the maps accompanying the Neighbourhood Plan) does not have a detrimental impact on residential

properties and residential amenity in the immediate locality.

- 6.44 Although the church is not included within the defined area subject to the Dalston Square policy in the neighbourhood plan it is located immediately to the north. When assessing the impact of the proposed development on residential properties that surround the site, including Dalston Square, it is appreciated that all of the windows in the development will be compliant with the separation distances outlined in the Council's Achieving Well Designed Housing SPD. As discussed in the previous paragraphs the proposed development is of an appropriate scale and given the relatively small footprint of the development coupled with the proposed use (facilities to complement existing activities taking place within the church) it is not considered that the development would cause an adverse impact upon the living conditions of the occupiers of any neighbouring properties (through loss of light, over looking, over dominance or undue noise and disturbance) to warrant refusal of the application on this basis.

## **6. Highway Issues**

- 6.45 Policy DNP-JE5 (Transport and New Development) of the Dalston Parish Neighbourhood Plan 2015-2030 states that any application for business development must satisfactorily demonstrate that levels of traffic increase would not have a severe detrimental impact on the free and safe flow of vehicles on the local road network. Policy IP3 of the CDLP also seeks to ensure that there is appropriate parking provision for new developments.
- 6.46 The application site has no specific allocated parking areas however the church is located to the north of The Square where there is informal parking and in close proximity to two car parks adjacent to the Co-Op and The Green. The application site is situated within the centre of the village and is easily accessible by foot. There is also a bus stop in close proximity to the site and a train station within the village.
- 6.47 The relevant Highway Authority has been consulted on the proposal and has raised no objections. In such circumstances, and given that the site is located within a sustainable location which can be accessed via a range of transport modes, the proposal will not cause a detrimental impact upon highway safety or existing parking conditions to warrant refusal of the application on these grounds.

## **7. Impact Upon Protected Species**

- 6.48 The Council's GIS Layer has identified that the site has the potential for a number of species to be present including slow worms. The applicant has therefore commissioned a reptile survey, scoping bat survey and baseline ecological survey to assess the impact of the development on protected species and their habitat.
- 6.49 The reptile survey undertaken states that there are records of Slow Worms at the southern end of the site where the river banking and scrub vegetation provide refuge and a south facing slope for basking. There are no areas of

the core development area at the northern end of the site which would be particularly favourable to reptiles. The very short grass and high levels of maintenance for the graveyard do not provide any safe or suitable refuge areas, basking sites or foraging habitat for reptile species. No indication of reptiles were recorded at the site at the time of inspection. Although the survey confirms that the risk of harm to individual reptiles is low without mitigation it confirms that the risk would be reduced to a negligible level if a number of mitigation measures are incorporated.

- 6.50 The scoping bat survey confirms that the application site is located in good habitat (is as it well connected to river and fragmented woodland) which would provide a good level of foraging opportunities for bat species. The survey states that the external walls of the church are in good condition with no gaps between the stones in the pointing or structural cracks that could provide roosting opportunities. All windows and door frames are fully sealed and ventilation grills are inaccessible to bats from the outside. The parapet roof of the vestry sits within the wall tops of the extension so there are no eaves or wall tops which could provide roosting potential. The parapet wall tops are fully pointed and sealed. No signs of bats were found during the survey and the main church building and its roof will be unaffected by the proposed works. The survey therefore concludes that the proposal will not have a significant impact on bats and the risk is negligible. A number of working guidelines are however suggested.
- 6.51 The ecological survey undertaken confirms that the impacts on amphibians and badgers will be negligible as no ponds were identified on or near the site, grass within the application site is short mown and intensively maintained, and, no badger sets or signs of badgers were recorded on or within 30m of the site. The survey also confirms that no breeding birds were located on the building to be extended or any nesting birds recorded in the grounds affected by the proposal. With regard to invertebrates the survey acknowledges that a small area of meadow saxifrage will be lost to the proposal but this can be compensated through the seeding of a new area of grassland adjacent. The survey also confirmed that the development will have a negligible impact on otters as the construction zone is away from the river bank. The survey acknowledges that there is potential for red squirrels to use the churchyard however no active dreys were located in proximity to the working area.
- 6.52 Subject to the mitigation measures outlined in the reptile survey, scoping bat survey and baseline ecological survey it is not considered that the proposal would have an adverse impact upon any protected species or their habitat.

## **8. Impact Upon Trees**

- 6.53 There are a number of mature trees within the application site including a Lawson Cypress and Whitebeam located to the north of the church which are significant features within the existing street scene and have a positive contribution to the character and appearance of Dalston Conservation Area and the setting of the church.
- 6.54 The original plans for the development proposed the removal of the Lawson

Cypress and Whitebeam to facilitate the proposed extension. Given the significance of these trees within the existing street scene the Council appointed an independent tree consultant to inspect the trees. Both trees were deemed to be worthy of retention as the Lawson Cypress was categorised as category B and the Whitebeam as category A. The Lawson Cypress forms a group of three species along the road corridor which increases the importance to keep the group intact.

- 6.55 The consultant noted that a yew tree located next to the Whitebeam, near the development site, is of low landscape and amenity value which can be readily replaced therefore its loss would be negligible, particularly as there are several similar yew trees within the grounds which can satisfy the religious traditions and beliefs on the presence of Yew trees in churchyards. The consultant noted that the Yew tree could be located to another position in the churchyard if required. Two rhododendrons are located to the north of the church however these are classed as low value, category C, and are more shrubs than trees. The consultant also noted a Hornbeam tree adjacent to the road, which whilst not near the development site was categorised as category A and should be protected from any damage. The consultant also noted two trees in the adjacent property (a mature Japanese cedar tree and a twin cherry) which are located on private land and should be protected. In conclusion the consultant stated that the Lawson Cypress and Whitebeam should be retained and the hornbeam protected from construction work.
- 6.56 Based on the above advice the plans for the application were amended to reduce the footprint of the extension so that the Lawson Cypress and Whitebeam trees could be retained. The submitted tree survey which accompanies the application confirms that a small amount of excavation work will be required within the root protection areas of these trees however the foundation design will be of post and beam construction which will minimise any excavation work within the root protection zone. The survey also suggests that any excavation works will be hand dug. Two yews and two rhododendrons will be removed to facilitate the development but will be replaced with additional yew shrubs. It is also recommended that the retained trees and shrubs are protected during development works.
- 6.57 The loss of the shrubs can be mitigated by a suitable replanting scheme. Furthermore subject to the protection measures outlined in the tree survey being adhered to (post and beam foundation design, hand dig construction methods and tree protection barriers) it is not considered that the development will have a significant adverse impact upon retained trees to warrant refusal of the application on this basis.

## **9. Archaeological Issues/Gravestone Removal**

- 6.58 The application is accompanied by an Archaeological Evaluation Report (AER) and a Gravestone Survey. The Gravestone Survey has found that 17 gravestones (which are in a variety of conditions and date from 1800-1914) will be directly or indirectly affected by the development. The proposal would require the removal of gravestone and potentially associated bodies. The survey also confirms that there is the potential for unknown remains to

survive within the development site boundary. The AER states that three trial trenches were excavated to establish the nature and extent of below ground archaeological remains within the vicinity. The investigation revealed a mixed layer of disturbed human remains along with one possible articulated burial, revealed at a depth of 0.9m. The investigation also identified the remains of associated burial shrouds and possible coffin remains. The proposed development on the site would have a significant impact on any further likely remains located outside of the trial trenches. In mitigation the application proposes post and beam foundations to reduce ground disturbance.

- 6.59 The Historic Environment Officer for Cumbria County Council has been consulted and has confirmed that he does not wish to make any comments on the application and whilst any impact upon remains and burials would need to be treated with due respectability, care and attention they are not archaeological concerns. The HEO has therefore confirmed that there is no merit to undertaking archaeological recording.
- 6.60 Whilst concerns have been raised during the consultation period regarding gravestone/grave removals this would be subject to separate ecclesiastical consent and cannot be considered under this application. Any exhumations would also need to comply with the relevant Environmental Health Legislation.

## **10. Other Matters**

- 6.61 Objectors have raised concerns regarding competition of the development with other facilities in Dalston. Competition is however not a planning consideration.
- 6.62 Concerns have been raised from third parties that the development would increase anti-social behavioural problems. As stated in section 5 of this report the Crime Prevention Officer for Cumbria Constabulary raises no objections to the application and is of the opinion that the development will be favourable as this would extend the amount of time during the day that capable guardians would be on site.
- 6.63 Concerns have been raised regarding timings of the reptile survey. The surveys were undertaken at the appropriate time of year as per the guidance on the GOV.UK website.
- 6.64 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".

- 6.65 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.
- 6.66 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**

- 6.67 To conclude the Church of St Michaels and All Angels, Dalston has originated on site since the 12th Century. The principle of extending an established church to provide facilities which are complementary to its existing use is acceptable. There will be some harm to the Grade II\* listed building as a result of the proposal as the development will include alterations to the Victorian vestry. The level of harm however is deemed to be less than substantial due to the location of the development which is set substantially back from the front elevation of the church (which faces towards Carlisle Road) and way from the north elevation of the main church. Although the development requires the removal of the west elevation of the vestry and alterations to the north elevation it is appreciated that the vestry is an existing Victorian extension to the building and the features that are to be removed will be re salvaged in the new extension. The positioning of the proposed extension still allows the existing architectural form of the church to be appreciated with the old and new buildings being clearly defined. The proposed extension will be subordinate in terms of scale and will be constructed from materials to match the existing church. In such circumstances, and subject to the imposition of relevant planning conditions regarding materials, the scale and design of the development is considered to be sympathetic to the historic character of the Grade II\* Listed Building.
- 6.68 As the development is acceptable in terms of its scale and design it is not considered that the proposal will harm the setting of any Grade II Listed properties that surround the site or have an adverse impact upon the character/appearance of Dalston Conservation Area. Furthermore due to its positioning in relation to neighbouring properties, coupled with its design, it is not considered that the proposal would have a detrimental impact upon the living conditions of the occupiers of any neighbouring residential properties.
- 6.69 The site is situated in the centre of Dalston village (a sustainable location) and can be accessed via a range of transport modes. Given that the relevant highway authority has raised no objections to the proposal it is not considered that the development would have an adverse impact upon highway safety. Furthermore, subject to the imposition of appropriate planning conditions, as discussed within the report, the proposal will also not have an adverse impact

upon any trees or protected species.

- 6.70 Whilst the development will involve gravestone and possibly burial removal this would be subject to separate ecclesiastical consent and cannot be considered under this application
- 6.71 The proposal will provide additional facilities for the community of Dalston which will be a public benefit. The extension will also provide improved amenities for the existing use of the church as a place of worship which will also help contribute to the sustained use of the church for this purpose. This in turn will contribute to the revenue stream of the church which will help to secure its future viability and contribute to maintenance. This will also be a public benefit as a Grade II\* Listed Building is an asset of highest significance.
- 6.72 On balance it is considered that the public benefits of the proposal (as described in paragraph 6.71 above) would outweigh the limited harm created to the Grade II\* Listed Building, protected species and trees which can be adequately controlled by the imposition of relevant planning conditions. Accordingly the application is considered to be compliant with the criteria of the relevant Development Plan Policies and is therefore recommended for approval subject to the imposition of relevant conditions.

## **7. Planning History**

- 7.1 In 2009 a discharge of condition application was granted for discharge of condition 3 of previously approved planning application 08/0123 (reference 09/0194);
- 7.2 In 2009 a discharge of condition application was granted for the discharge of condition 6 of previously approved application 08/0123 (reference 09/0003);and
- 7.3 In 2008 full planning permission was granted for external alterations comprising formation of west doorway and porch and construction of notice case within the existing porch doorway (reference 08/0123).

## **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 6th March 2019;
2. the site location plan received 6th March 2019 (Drawing No. 12013-20);
3. the block plan as proposed received 5th November 2019 (Drawing No.12013-25A);
4. the proposed site plan/floor plans received 5th November 2019 (Drawing No.12013-23C);
5. the proposed elevations received 5th November 2019 (Drawing No.12013-27B);
6. the statement determining need received 6th March 2019;
7. the design and access statement and heritage statement received 5th November 2019 (revision A);
8. the reptile survey received 29th April 2019 (ref 5235);
9. the baseline ecology survey received 23rd May 2019 (ref 5235);
10. the scoping bat survey received 29th April 2019 (ref 5235);
11. the tree survey report received 5th November 2019 (revised 1st November 2019);
12. the tree root protection plan received 5th November 2019 (Drawing No.12013-28A);
13. the contaminated land desk top study received 6th March 2019;
14. the typical section of foundation received 6th March 2019;
15. the gravestone survey received 6th March 2019 (Dated November 2017);
16. the planning statement received 5th November 2019;
17. the archaeological evaluation report received 6th March 2019 (Dated January 2019);
18. the heritage impact assessment received 5th November 2019 (October 2019);
19. the Notice of Decision; and
20. any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason:** To define the permission.

3. Full details of the surface water drainage system shall be submitted to the Local Planning Authority for approval prior to development being commenced. Any approved works 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.

4. Prior to the commencement of development a bedding and pointing specification shall be submitted to and approved in writing by the local planning authority. All bedding and pointing shall then be undertaken in accordance with the approved specification.

**Reason:** To ensure the works harmonise as closely as possible with the existing building in accordance with Policy HE3 of the Carlisle

District Local Plan 2015-2030.

5. A sample area of the stonework for the proposed extension measuring no less than 1m x 1m, including a corner detail as well as proposed mortar and pointing details, shall be prepared and approved in writing by the local planning authority in advance of the erection of the extension. The extension shall then be constructed in strict accordance with the approved sample area.

**Reason:** To ensure the works harmonise as closely as possible with the existing building in accordance with Policy HE3 of the Carlisle District Local Plan 2015-2030.

6. Prior to the commencement of any development details of all new joinery at 1:1 or 1:2 shall be submitted to and approved in writing by the local planning authority. The development shall then take place strictly in accordance with the approved details.

**Reason:** To ensure that the works harmonise as closely as possible with the listed building, in accordance with Policy HE3 of the Carlisle District Local Plan 2015-2030.

7. The development hereby approved shall be undertaken in accordance with the mitigation measures and working practices outlined in the Reptile Survey received 29th April 2019 (Ref:5235), the Baseline Ecology Survey received 23rd May 2019 (Ref 5235) and the Scoping Bat Survey received 29th April 2019 (Ref:5235).

**Reason:** In order to ensure that the works do not adversely affect the habitat of protected species in accordance with Policy GI3 of the Carlisle District Local Plan 2015-2030.

8. Before any development is commenced on the site, including site works of any description, a protective fence in accordance with Fig. 2 in B.S. 5837: 2005 shall be erected around the trees and hedges to be retained at the extent of the Root Protection Area as calculated using the formula set out in B.S. 5837. Within the areas fenced off no fires should be lit, the existing ground level shall be neither raised nor lowered, and no materials, temporary buildings or surplus soil of any kind shall be placed or stored thereon. The fence shall thereafter be retained at all times during construction works on the site.

**Reason:** In order to ensure that adequate protection is afforded to all trees/hedges to be retained on site in support of Policy GI6 of the Carlisle District Local Plan 2015-2030.

9. Any excavation works within the root protection zones of the trees to be retained shall be hand dug in accordance with BS5387, 2012. In the event of trenches or excavations exposing tree roots of 50mm/2 inches diameter or more, these should be carefully retained and protected by suitable measures including (where otherwise unavoidable) bridging trenches. No severance of tree roots 50mm/2 inches or more in diameter shall be undertaken without prior notification to, and the subsequent approval of the local planning authority and where such approval is given, the roots shall be cut back to a smooth surface.

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

10. A landscaping scheme to mitigate for the loss of the two yew trees shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented during the first planting season following the completion of the development hereby approved and any trees or shrubs which die, become diseased or are lopped, topped, uprooted or wilfully destroyed within the following five years shall be replaced by appropriate nursery stock.

**Reason:** To ensure that a satisfactory landscaping scheme is prepared in accordance with Policy GI6 of the Carlisle District Local Plan 2015-2030.

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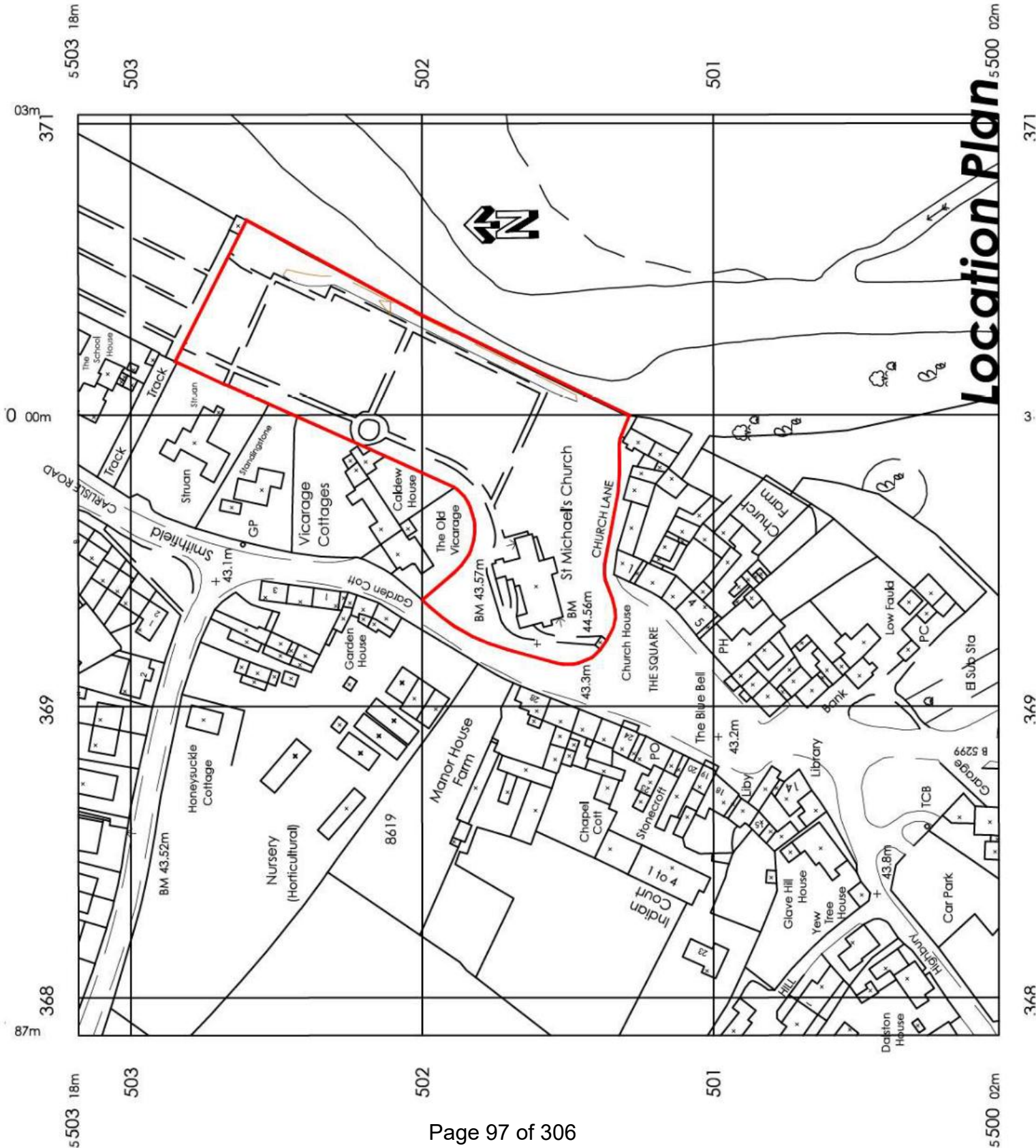
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NEW COMMUNITY CENTRE

Client: ST MICHAELS PCC

Drawing: LOCATION PLAN

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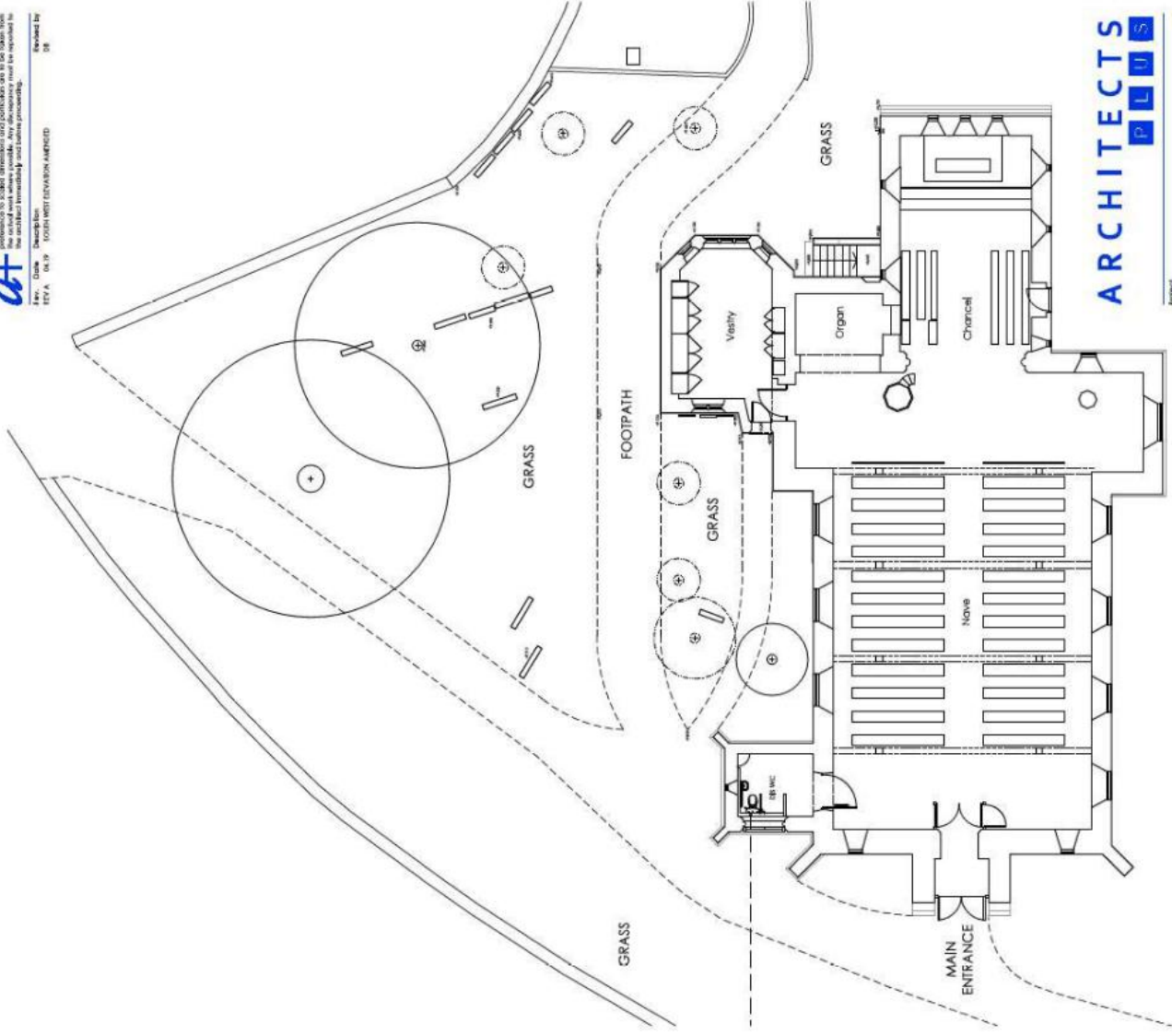


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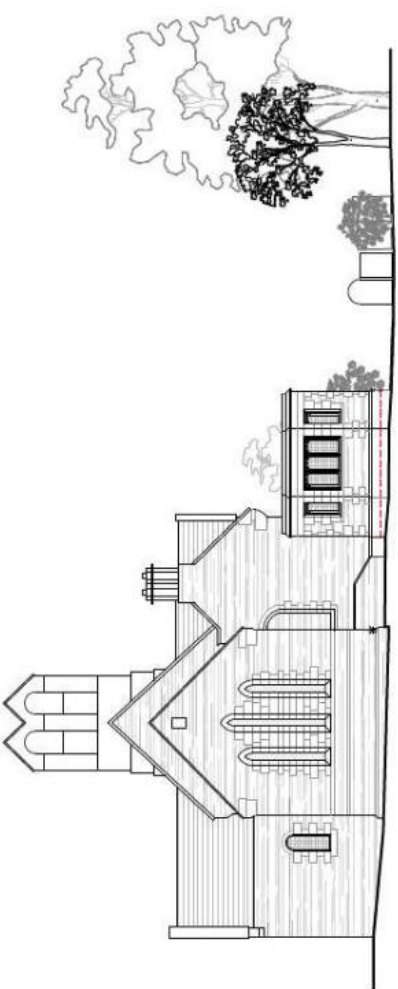
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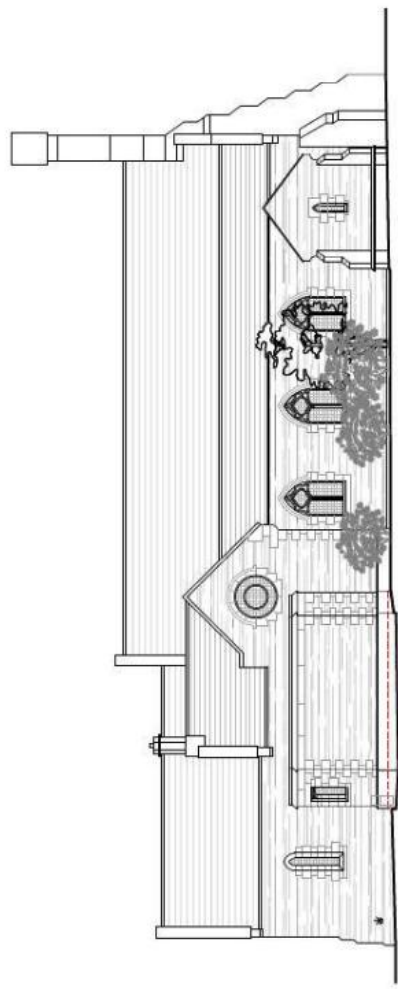
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Client	ST MICHAEL'S PCC			
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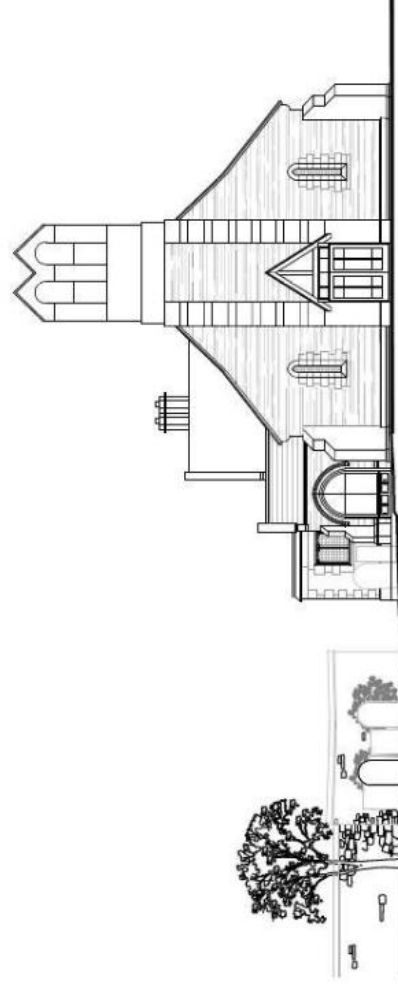
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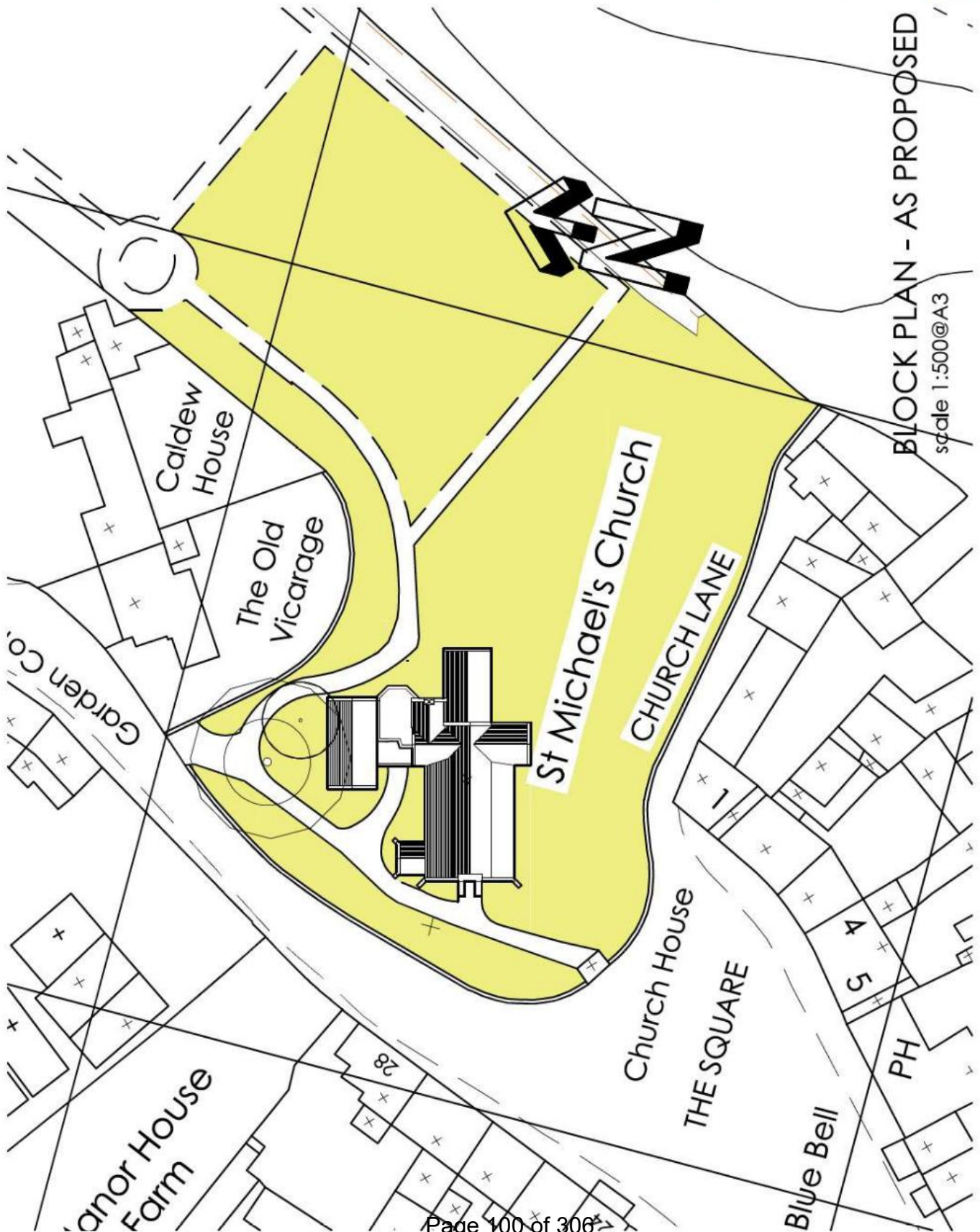
North - East Elevation



North - West Elevation



South - West Elevation



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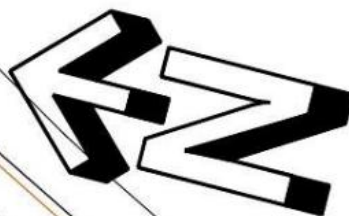
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AS PROPOSED

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Client	ST MICHAEL'S PCC

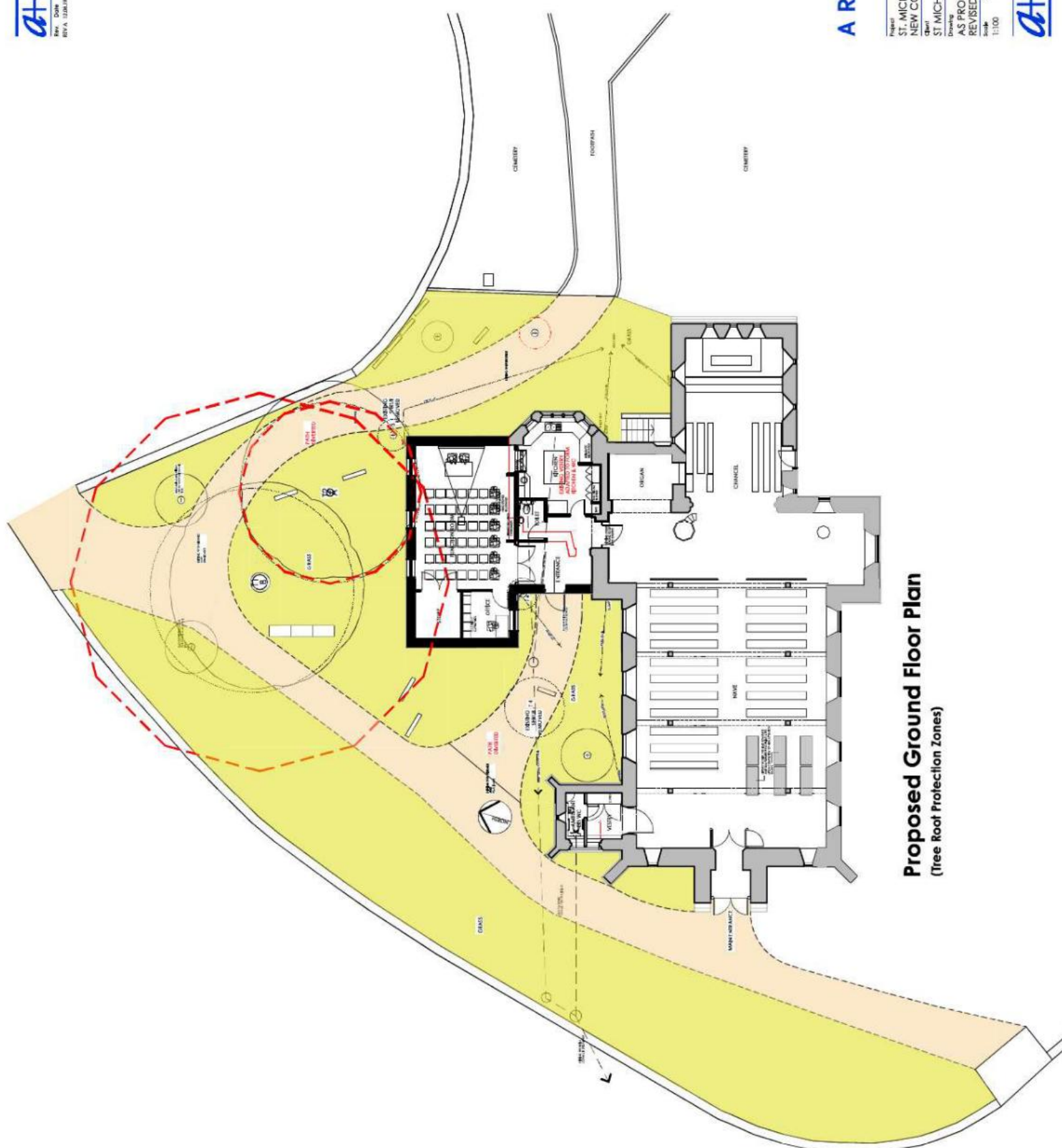
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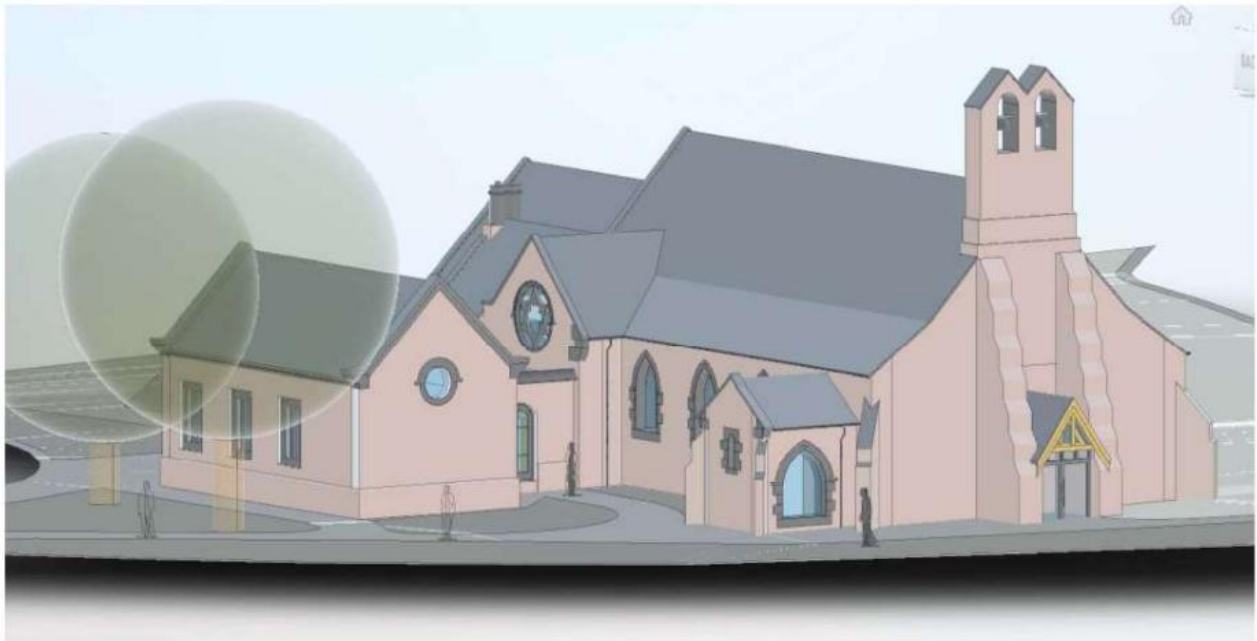
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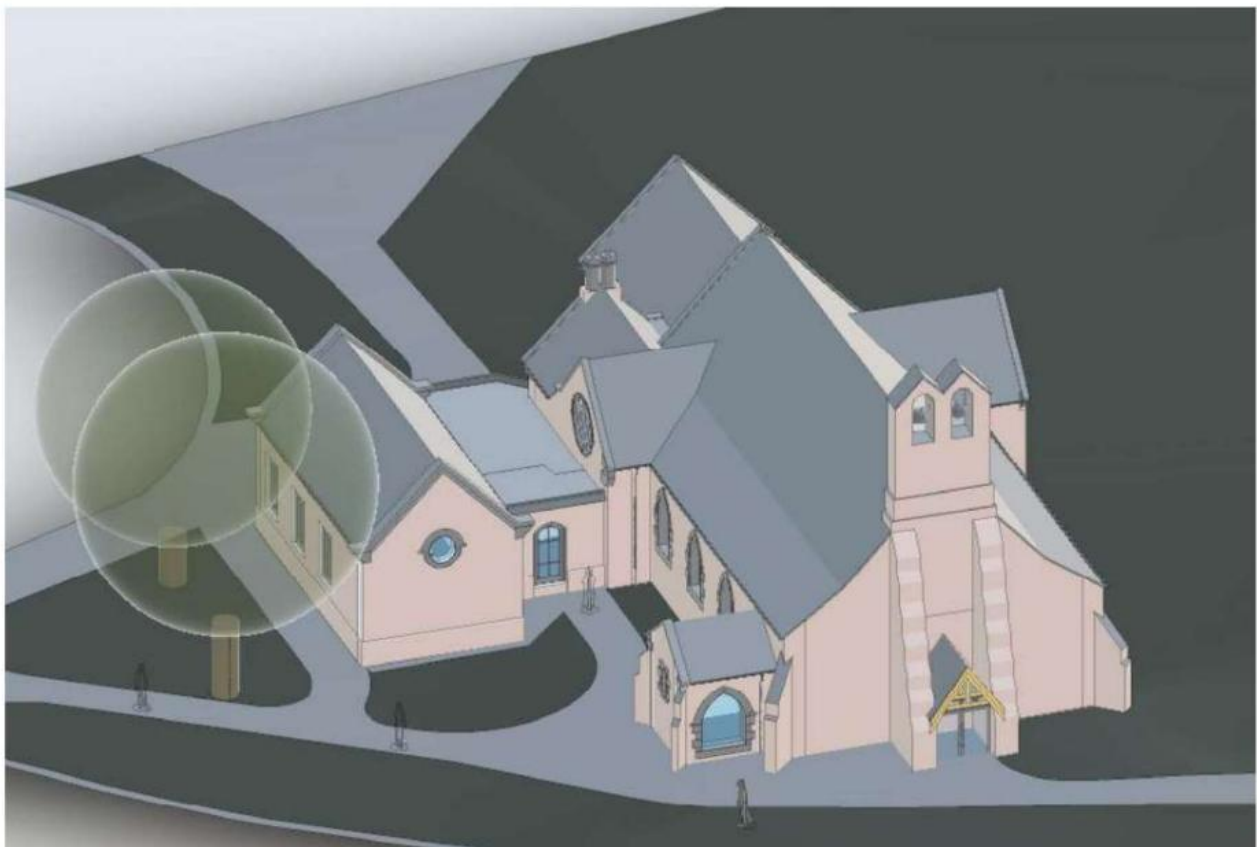
## Proposed Ground Floor Plan

(Tree Root Protection Zones)





3D Visuals of revised proposals – retaining 2No mature trees



3D Visuals of revised proposals — retaining 2No mature trees



## SCHEDULE A: Applications with Recommendation

19/0184

Item No: 04

Date of Committee: 10/01/2020

**Appn Ref No:**  
19/0184

**Applicant:**  
Mr Ridley

**Parish:**  
Brampton

**Agent:**  
Sam Greig Planning

**Ward:**  
Brampton & Fellside

**Location:** Land Adjacent to Hillcrest, Milton, Brampton, CA8 1HS

**Proposal:** Erection Of 1no. Dwelling

**Date of Receipt:**  
04/03/2019 23:00:45

**Statutory Expiry Date**  
29/04/2019 23:00:45

**26 Week Determination**  
13/01/2020

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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 Principle Of Development
- 2.2 Impact On Landscape Character
- 2.3 Scale And Design Of The Development
- 2.4 Impact On The Living Conditions On The Occupiers Of Neighbouring Dwellings
- 2.5 Access And Parking Issues
- 2.6 Drainage Issues

#### 3. Application Details

##### The Site

- 3.1 The site forms part of a field which slopes uphill away from the adjacent road. A stone wall lies to the front of the site, beyond which lies a grass verge. The northern and eastern boundaries consist of post and wire fences and a blackthorn hedge has recently being planted along both these boundaries. A foul drain and water main run through the site.

- 3.2 A dwelling (Hillcrest) adjoins the site to the east and this dwelling has a large side garden adjacent to the site, which is separated from it by a solid timber fence.

## **Background**

- 3.3 In July 2018, outline planning permission was granted for the erection of one dwelling on this site (18/0079). The application form makes reference to a three-bedroom bungalow with garage. The submitted block plan shows a water main running through the front of the site approximately 4m to 5m behind the boundary wall. It also shows a foul drain running through the site. At the western end of the site the foul main is shown approximately 1.5m back from the boundary wall, whilst at the eastern end of the site (adjacent to the boundary with Hillcrest) it is shown being 10m back from boundary wall. A 6m easement (3m to each side) is required for both pipelines
- 3.4 The indicative plans show a dwelling, located in the north west corner of the site, with a front elevation set back approximately 12.5m from front boundary wall so that it sits clear of the foul drain and water main that run through the site. A large parking and turning area is shown adjacent to the dwelling and this is accessed via a new driveway. A small rear garden is also shown on the indicative plan.
- 3.5 Following the granting of outline planning permission the site was sold to the applicant. It has now become apparent that the foul water pipeline is plotted incorrectly on the United Utilities sewer maps. At the western end of the site the foul main is actually 8m back from the boundary wall, whilst at the eastern end of the site it is 19m back from boundary wall. This has major implications for the location of a dwelling on the site, which are discussed below.

## **The Proposal**

- 3.6 This proposal is seeking full planning permission for the erection of one dwelling on the site. The dwelling would be sited in the north west corner of the plot, with the front elevation being set back 18m from the boundary wall in order to avoid both the water main and the foul main. A 4.5m garden is shown to the rear of the dwelling.
- 3.7 The dwelling, which would be a dormer bungalow, would be dug into the site, with site levels being lowered by approximately 0.45m. It would have an eaves height of 2.9m and a ridge height of 6.6m. It would contain a x to the and an integral garage to the ground floor. Three bedrooms (two en-suite) and a bathroom would be located within the roofspace and these would be served by three pitched roof dormer windows in the front roofslope and four rooflights in the rear roofslope. A pitch roof porch would be attached to the front elevation. The dwelling would be finished in smooth ivory K-Rend render, with natural red sandstone sills and window surrounds, under a grey Sandtoft 'Rivius' natural slate effect roof tiles. The windows

would be anthracite grey upvc, with the dormer cheeks being anthracite grey weather boarding.

- 3.8 A new access would be formed at the eastern end of the plot and this would be in accordance with the access shown in the outline application. Visibility splays of 90m in both directions would be provided before work commences on site. The access, which would be constructed of stone chippings, would serve a parking/turning area and an integral garage.
- 3.9 The existing blackthorn hedges that have recently been planted along the western, northern and eastern site boundaries would be allowed to mature. The hedge on the western site boundary would be supplemented by English holly whips to provide foliage all year round and some of the blackthorn and holly would be allowed to grow into hedgerow trees. Fruit trees (cherry and bramley apple) would be planted along the eastern edge of the site, with new planting also taking place to the front of the site, to the rear of the stone boundary wall.
- 3.10 Foul drainage would discharge to the main sewer to the front of the site. Surface water drainage would connect to a soakaway, with the exact location being agreed with Building Control following the carrying out of percolation tests.

#### **4. Summary of Representations**

- 4.1 This application has been advertised by means of a site notice and a notification letter sent to one neighbouring property. In response two letters of objection have been received from the same household, which raise the following issues:

- when the outline plans were originally submitted we argued that the maps drawn by UU were outdated and incorrect. This has since been proven to be the case. The sewer pipe is indeed a lot further back than in the diagram used in the outline plans and on Mr Ridley's plans meaning the proposed house still has one corner that lies on the easement access strip/the pipe;

- unclear about the exact location of the pipe and the angle it goes through Mr. Ridley's plot, we also believe the proposed soakaway and the tree may lie on top of it;

- UU were very clear they wouldn't permit any large trees with substantial roots to be planted near their pipes due to the possibility of the damage that can be caused;

- the proposed house has been pushed back 2-3 metres more than the outline plans. To push it back further (to avoid the pipes) would separate it further from the rest of the village;

- looking at the plans, the front of Mr. Ridley's house is set back further than the back of the neighboring house and there will be a substantial gap

between the neighboring house of around 30 metres. This surely isn't how a close knit village should appear?;

- the rest of the houses in Milton are all of a similar layout, close together with small gardens to the front, and houses 'slightly' set back - not detached from the rural envelope;

- as you drive into Milton, you would be hit with an ugly house on a hill as soon as you're through the 30mph sign; not what a small village wants or needs;

- when granting permission for an application like this, does this then open the floodgates to a row of houses being built along the side of the A689, a very busy 'A' road?;

- at what point do you say that we can't go further up the road with new builds - when all the green fields are taken?;

- hope someone from the planning department considers coming to view this proposal before signing it off. I've been informed this seldom happens, but should;

- other concern is the drive being built over the UU "trunk main" UU have informed me that this pipe is a 15" pipe that cannot be dug near or over. When widening our drive we were not permitted within 3 metres of the pipe because we would flood Milton if it were to be disturbed/broken;

- know from the pipe being uncovered by Mr. Ridley (to find its location) that it is approximately 4ft below the surface level as it currently stands. Roughly 2ft more would need to be excavated to get the land down to a slope for the drive, then more removed for hardcore and drive to be laid. How can this possibly be safe to do? The machines to whack the hardcore flat, in such close proximity to the pipe will surely do damage;

- furthermore, how will Mr. Ridley get mains water in and foul water out? There surely won't be the space to get these essential amenities through either;

- after a brief discussion on the phone with UU, they have stated there would be a "considerable" cost if the pipe were to be moved - hinted that it wouldn't be worthwhile/feasible;

- because this proposed property is detached from Milton, there won't even be a telegraph pole nearby for Mr. Ridley to connect to; broadband and telephone connections are considered essential commodities these days;

- with the house being on the outskirts of the village, near to the 30mph limit sign, believe it would be a dangerous place to put a new drive. Residents of the village are currently liaising with the local police with regards to speeding issues in the village - the last couple of months they have even sent their mobile van to assess the seriousness of the problem;

- cars and wagons don't slow down at all entering the village, and some are even airborne over the small bridge in Milton. Hear them whizz past, sometimes with tyres screeching;
- if two wagons meet, there are often tyre marks in the grass verges as they don't have enough time to slow down and react accordingly;
- the lack of street lighting and footpaths means walking from the proposed house into the village to catch a bus etc is very dangerous and not recommended;
- do not see that there is one single good point to this proposed build either for ourselves or Milton as a village;
- the proposed development by virtue of its location would be inappropriate to the form and character of Milton and lead to an unacceptable intrusion into the open countryside imposing a negative change to the local landscape character. This would be contrary to Policies HO2 and GI1 of the Carlisle District Local Plan 2015-2030 and the Cumbria Landscape Character Guidance and Toolkit (March 2011)."

## 5. Summary of Consultation Responses

**Cumbria County Council - (Highways & Lead Local Flood Authority):** - no objections subject to conditions (visibility splays; construction details of access; no other vehicular access to the site; access gates to open inwards; provision of access and turning facilities prior to occupation);

**Brampton Parish Council:** - objects to the application. Members were initially concerned with the outline planning application at this site with regards to the issues raised by United Utilities. An added concern is that the soil pipe is apparently not correctly drawn on the plans and the property would need to be pushed further back in order to cause no disturbance to the pipe. If the property footprint is relocated, it further detaches itself from the village of Milton which is contrary to Policy HO6 in that its location is inappropriate.

Speeding along this road is also a major concern despite highways acknowledging that the proposed access will have adequate visibility splays. The number of HGV's accessing the A69 through Milton from nearby quarries is also a major concern;

**United Utilities:** - no objections, subject to conditions and informatives (foul and surface water drainage; access strip width of 6m for public rising main that runs through the site; unrestricted access to water trunk main which crosses the site). There is an easement on the site which has restrictive covenants that must be adhered to.

## 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, SP6, HO2, IP3, IP4, IP6, CC5, GI1, GI3 and GI6 of the Carlisle District Local Plan 2015-2030. The Supplementary Planning Documents Achieving Well Designed Housing and Trees and Development are also material planning considerations.
- 6.3 The proposal raises the following planning issues.
1. The Principle Of Development
- 6.4 The application site is located within Milton and lies in the corner of a field adjacent to an existing dwelling. The National Planning Policy Framework (NPPF) recognises at paragraph 55 that in rural locations the addition of some housing in smaller villages can support services in that and neighbouring villages. Milton lies in close proximity to Brampton and Hallbankgate and the occupiers of the dwelling could access the services in these settlements. In light of the above, outline planning permission was granted for the erection of a dwelling on this site in July 2018. The proposal would, therefore, be acceptable in principle.
2. Impact On Landscape Character
- 6.5 Although the area has no statutory landscape designation, the Cumbria Landscape Character Guidance and Toolkit outlines that the area is characterised as sandy knolls and ridges (sub type 7c). The key characteristics are described as: regular knolls and ridges; the land cover is generally pasture; field patterns are irregular; and there are significant amounts of woodland cover. The vision for the area seeks to conserve and enhance the landscape. Small-scale development will be carefully sited and landscaped to exploit the natural potential for visual containment. Residential development will be carefully controlled.
- 6.6 The dwelling would be located within an undeveloped agricultural field that lies on the western edge of Milton and adjoins an existing dwelling (Hillcrest). Given that the proposal is for one dwelling on a site that adjoins an existing dwelling, subject to suitable landscaping to help integrate the dwelling into the landscape, the proposal would not have an adverse impact on landscape character.
3. The Scale And Design Of The Development
- 6.7 The outline application made reference to a three-bedroom bungalow with garage. The adjoining property is a one-and-a-half-storey dwelling. It is

considered that a bungalow or dormer bungalow would be acceptable on this plot and a condition was added to the outline permission to restrict the proposed dwelling to a dormer bungalow.

- 6.8 This proposal is seeking to erect a dormer bungalow on the site. The dwelling would be sited in the north west corner of the plot, with the front elevation being set back 18m from the boundary wall in order to avoid both the water main and the foul main. A 4.5m garden is shown to the rear of the dwelling. Whilst the siting of the bungalow towards the rear of the site is not ideal and would ideally be sited further forward in the plot, this is the only option given the location the water main and foul drain.
- 6.9 The dwelling, which would be a dormer bungalow, would have an eaves height of 2.9m and a ridge height of 6.6m. The dwelling would be dug into the site, with site levels being lowered by approximately 0.45m. The ground floor of the dwelling would contain a lounge, kitchen, study, utility, W.C. and an integral garage, with the first floor containing and an integral garage to the ground floor. Three bedrooms (two en-suite) and a bathroom would be located within the roofspace and these would be served by three pitched roof dormer windows in the front roofslope and four rooflights in the rear roofslope. A pitch roof porch would be attached to the front elevation. The dwelling would be finished in smooth ivory K-Rend render, with natural red sandstone sills and window surrounds, under a grey Sandtoft 'Rivius' natural slate effect roof tiles. The windows would be anthracite grey upvc, with the dormer cheeks being anthracite grey weather boarding.
- 6.10 A new access would be formed at the eastern end of the plot. This would be constructed of stone chippings and would serve a parking/turning area and an integral garage. The existing blackthorn hedges that have recently been planted along the western, northern and eastern site boundaries would be allowed to mature. The hedge on the western site boundary would be supplemented by English holly whips to provide foliage all year round and some of the blackthorn and holly would be allowed to grow into hedgerow trees. Fruit trees (cherry and bramley apple) would be planted along the eastern edge of the site, with new planting also taking place to the front of the site, to the rear of the stone boundary wall.
- 6.11 The Council's Heritage/ Urban Design Officer raised some concerns about the application as first submitted. He notes the prominent position of the site on the road side and raised concerns about the quality of the design which included concrete roof tiles, white upvc windows, white upvc sidings to the dormers, asymmetrical window casements, overly prominent eaves and white render which he considered would result in an incongruously designed and overly prominent building dominating the entrance to the village.
- 6.12 The scheme has been amended and the dwelling would now be finished in smooth ivory K-Rend render, with natural red sandstone sills and window surrounds, under a grey Sandtoft 'Rivius' natural slate effect roof tiles. The windows would be anthracite grey upvc, with the dormer cheeks being anthracite grey weather boarding. The Heritage/ Urban Design Officer has confirmed that has no objections to the amended plans, subject to

consideration being given to the use of a natural slate roof and subject to the garage door being change to vertical boarding.

- 6.13 In light of the above, whilst the siting of the dwelling in the plot is not ideal, given the revised design, the proposal to reduce the site levels by 0.45m and the proposed landscaping scheme, which would help to reduce the impact of the dwelling in the landscape, on balance the scale and design of the dwelling is considered to be acceptable.

#### 4. Impact On The Living Conditions Of The Occupiers Of Neighbouring Dwellings

- 6.14 The dwelling would have a side elevation approximately 37m away from the side elevation of Hillcrest. The proposed dwelling would have a bedroom window in the side elevation facing Hillcrest, which has windows at ground and first floor level in the west elevation facing the site. This separation distance is sufficient to ensure that the proposal does not have an adverse impact on the occupiers of Hillcrest. The provision of suitable boundary treatment would ensure that there is no overlooking of the side garden of Hillcrest. The proposal would not, therefore, have an adverse impact on the living conditions of the occupiers of Hillcrest through loss of light, loss of privacy or over-dominance.

#### 5. Access And Parking Issues

- 6.15 The Local Highway Authority has been consulted on the application. A plan has been submitted which shows adequate visibility splays of 90m in both directions. Parking and turning facilities can be accommodated within the site. On this basis, the Local Highway Authority has confirmed that it has no objections to the proposal subject to the imposition of a number of conditions.

#### 6. Drainage Matters

- 6.16 The Lead Local Flood Authority (LLFA) has been consulted on the application and has raised no objections to the proposal, which is a minor development below the LLFA threshold.
- 6.17 United Utilities has been consulted on the application. It has confirmed that it has no objections to the proposal subject to conditions to ensure that: foul and surface water are drained on separate systems; no development shall commence until a sustainable surface water drainage scheme has been submitted to and approved in writing by the local planning authority; and a sustainable drainage management and maintenance plan for the lifetime of the development is submitted to and agreed in writing by the local planning authority.
- 6.18 United Utilities has also noted that a public rising main runs through the site and it will require an access strip width of 6m, 3m either side of the centre line of the sewer. Deep rooted shrubs and trees should not be planted in the vicinity of the public sewer. In addition, a 15 inch critical water trunk main crosses the site. United Utilities needs unrestricted access for operation and maintenance purposes and development is not permitted over, or in close

proximity, to the mains.

#### Conclusion

- 6.19 In overall terms, the proposal is acceptable in principle. The scale and design of the dwelling would be acceptable and it would not have an adverse impact on landscape character or the occupiers of any neighbouring properties. Appropriate access and parking could be provided. Conditions have been added to cover foul and surface water drainage. In all aspects, the proposal is considered to be compliant with the objectives of the relevant national and local planning policies.

### 7. Planning History

- 7.1 In July 2018, outline planning permission was granted for the erection of one dwelling (18/0079).

### 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 4th March 2019;
2. Location Plan (Dwg No. 2019/2/2/003), received 9th December 2019;
3. Block Plan (Dwg No. 2019/2/2/002 rev D), received 9th December 2019;
4. Plan and Elevations as Proposed (Dwg No. 2019/2/2/001 Rev A), received 4th November 2019;
5. Drainage Plan, (Dwg No. 2019/2/2/004 rev 0), received 9th December 2019;
6. Design & Access Statement received 4th March 2019;
7. the Notice of Decision; and
8. any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason:** To define the permission.

3. The materials (and finishes) to be used in the construction of the proposed development shall be in accordance with the details contained in the submitted application, unless otherwise agreed in writing by the local planning authority.

**Reason:** To ensure the objectives of Policy SP6 of the Carlisle District Local Plan 2015-2030 are met and to ensure a satisfactory external appearance for the completed development.

4. Within 3 months of the granting of this permission, details of hard and soft landscape works, including a phased programme of works, shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved prior to the occupation of the dwelling or in accordance with the programme agreed by the Local Planning Authority. Any trees or other plants which die or are removed within the first five years following the implementation of the landscaping scheme shall be replaced during the next planting season.

**Reason:** To ensure that a satisfactory landscaping scheme is prepared and to ensure compliance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

5. Within 3 months of the granting of this permission, details of any walls, gates, fences and other means of permanent enclosure and/or boundary treatment to be erected shall be submitted to and approved, in writing, by the Local Planning Authority. The development shall then be undertaken in strict accordance with these details.

**Reason:** To ensure the design and materials to be used are appropriate and to ensure compliance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) there shall be no enlargement or external alterations to the dwelling to be erected in accordance with this permission, within the meaning of Schedule 2 Part (1) of these Orders, without the written approval of the Local Planning Authority.

**Reason:** To ensure that the character and attractive appearance of the dwelling is not harmed by inappropriate alterations and/or extensions and that any additions which may subsequently be proposed satisfy the objectives of Policy SP6 of the Carlisle District Local Plan 2015-2030.

7. Prior to the commencement of development, the applicant shall submit details of hedgerow protection fencing to be installed on the site for approval in writing by the Local Planning Authority. This fencing shall be erected prior to the commencement of development and shall remain in place until the works are completed.

**Reason:** To ensure that the existing hedgerow is protected in accordance with Policy GI6 of the Carlisle District Local Plan 2015-2030.

8. Prior to the occupation of the dwelling hereby permitted suitable receptacles

shall be provided for the collection of waste and recycling in line with the schemes available in the Carlisle District.

**Reason:** In accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

9. Adequate infrastructure shall be installed to enable telephone services, broadband, electricity services and television services to be connected to the premises within the application site and shall be completed prior to the occupation of the dwelling.

**Reason:** To ensure adequate provision of infrastructure and to accord with Policy IP4 of the Carlisle District Local Plan 2015-2030.

10. 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.

Site investigations should follow the guidance in BS10175.

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.

11. No construction work associated with the development hereby approved shall be carried out before 07.30 hours or after 18.00 hours Monday to Friday, before 07.30 hours or after 16.00 hours on Saturdays, nor at any times on Sundays or Bank Holidays.

**Reason:** To prevent disturbance to nearby occupants in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

12. The development shall not commence until visibility splays providing clear visibility as Drawing Number 2019/2/2/002 Rev D (received 9th December 2019). Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grown within the visibility splay which obstruct the visibility splays. The visibility splays shall be constructed before general development of the site

commences so that construction traffic is safeguarded.

**Reason:** In the interests of highway safety and to support Local Transport Plan Policies LD7 & LD8.

13. The access drive shall be surfaced in bituminous or cement bound materials, or otherwise bound and shall be constructed and completed before the development is brought into use. This surfacing shall extend for a distance of at least 10metres inside the site, as measured from the carriageway edge of the adjacent highway.

**Reason:** In the interests of highway safety and to support Local Transport Plan Policies LD5, LD7 & LD8.

14. There shall be no vehicular access to or egress from the site other than via the approved access, unless otherwise agreed by the Local Planning Authority.

**Reason:** To avoid vehicles entering or leaving the site by an unsatisfactory access or route, in the interests of road safety and to support Local Transport Plan Policies LD7 & LD8.

15. Access gates, if provided, shall be hung to open inwards only away from the highway, be recessed no less than 4.5m as measured from the carriageway edge of the adjacent highway and shall incorporate 45 degree splays to each side.

**Reason:** In the interests of highway safety and to support Local Transport Plan Policies LD7 & LD8.

16. The dwelling shall not be occupied until the vehicular access and turning requirements have been constructed in accordance with the approved plan and has been brought into use. The vehicular access turning provisions shall be retained and capable of use at all times thereafter and shall not be removed or altered without the prior consent of the Local Planning Authority.

**Reason:** To ensure a minimum standard of access provision when the development is brought into use and to support Local Transport Plan Policies LD5, LD7 & LD8.

17. Before any development takes place, a plan shall be submitted for the prior approval of the local planning authority reserving adequate land for the parking of vehicles engaged in construction operations associated with the development hereby approved, and that land, including vehicular access thereto, shall be used for or be kept available for these purposes at all times until completion of the construction works.

**Reason:** The carrying out of this development without the provision of

these facilities during the construction work is likely to lead to inconvenience and danger to road users and to support Local Transport Policy LD8.

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

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

19. No development shall commence until a sustainable surface water drainage scheme including a timetable for implementation has been submitted to and approved in writing by the local planning authority. The approved scheme shall be in accordance with the principles of the submitted Design and Access Statement dated Feb 2019 ref: 2019/2/2/003 and also in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. No surface water will be permitted to drain directly or indirectly into the public sewer. The development hereby permitted shall be carried out only in accordance with the approved drainage scheme.

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

20. Prior to occupation of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the local planning authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum:
- a. Arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a resident's management company; and
  - b. Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime.

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

**Reason:** To ensure that management arrangements are in place for the sustainable drainage

21. Details of the relative heights of the existing and proposed ground levels and the height of the proposed finished floor levels of the dwelling and garage shall be submitted to and approved in writing by the local planning authority before development commences. The development shall be undertaken in strict accordance with the details approved in response to this condition.

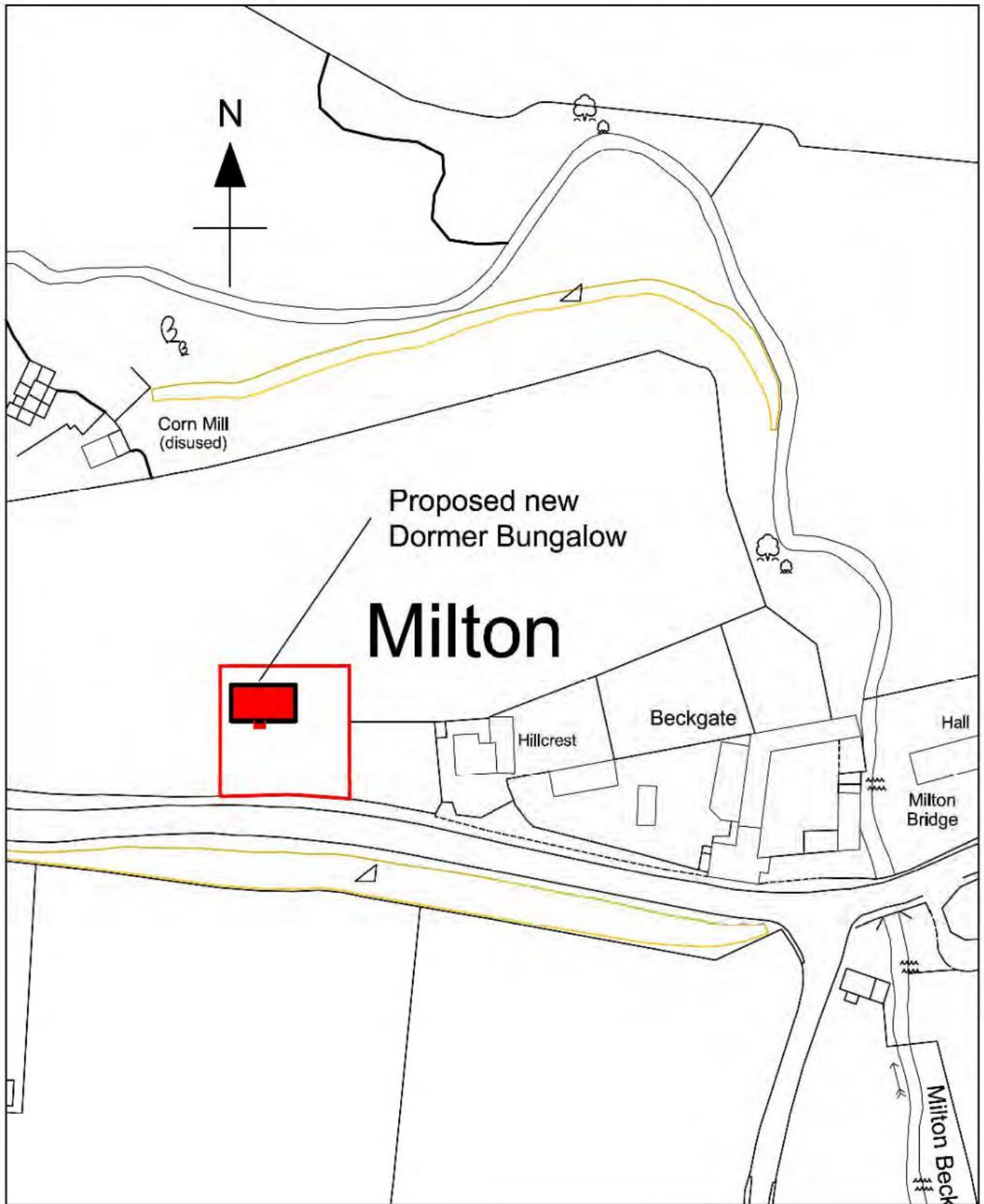
**Reason:** In order that the approved development responds to planning issues associated with the topography of the area and preserves amenity in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

22. Notwithstanding the garage door detail shown on the approved plan, details of the proposed garage door shall submitted for approval in writing by the local planning authority prior to its installation. The garage door shall then be installed in strict accordance with these approved details.

**Reason:** To ensure the objectives of Policy SP6 of the Carlisle District Local Plan 2015-2030 are met and to ensure a satisfactory external appearance for the completed development.

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# AA DESIGN SERVICES



PROPOSED NEW DWELLING, MILTON, BRAMPTON, CUMBRIA,  
FOR MR R. RIDLEY

LOCATION PLAN SCALE 1:1250

DRG NO 2019/2/2/003

**MANUSCRIPT ACCEPTED**



# THE GUYTON

[illegible]

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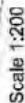
IR. R. RIDLEY

PROPOSED NEW DWELLING  
HILTON

## LOCK PLAN

DATE	01/02/2019
TIME	1:20:00
DATE	2019/2/2/002
TIME	1:20:00

DO NOT SCALE THIS DRAWING



**BLOCK PLAN AS PROPOSED**





## SCHEDULE A: Applications with Recommendation

19/0517

Item No: 05

Date of Committee: 10/01/2020

**Appn Ref No:**  
19/0517

**Applicant:**  
Messrs Norman

**Parish:**  
Burgh-by-Sands

**Agent:**  
Whitfield Architects

**Ward:**  
Dalston & Burgh

**Location:** Land adjacent to Fair Lea, Moorhouse, Carlisle, CA5 6EL

**Proposal:** Erection Of Dwellings (Outline)

**Date of Receipt:**  
01/08/2019

**Statutory Expiry Date**  
26/09/2019

**26 Week Determination**

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### REPORT

**Case Officer:** Richard Maunsell

#### 1. Recommendation

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

#### 2. Main Issues

- 2.1 Whether The Principle Of Residential Development Is Acceptable
- 2.2 Whether The Scale And Design And Impact On The Character And Appearance Of The Area Is Acceptable
- 2.3 The Impact Of The Proposal On The Living Conditions Of Neighbouring Properties
- 2.4 Highway Issues
- 2.5 Foul And Surface Water Drainage
- 2.6 Impact Of The Proposal On Biodiversity

#### 3. Application Details

##### The Site

- 3.1 The application site is located on the southern fringe of the village of Moorhouse and comprises a 0.42 hectare parcel of land. The site is bounded by a mature hedgerow along its frontage which continues along its southern axis and continuing along the western flank. The slopes down from north to

south.

- 3.2 Adjacent to the site is a single storey bungalow known as "Fair Lea" and the land relating to the application wraps around its curtilage to its western boundary. Further north, are more residential properties leading into the centre of the village. To the south and east is countryside.

## **The Proposal**

- 3.3 This application is for outline planning permission for the erection of dwellings with all matters reserved.

## **4. Summary of Representations**

- 4.1 This application has been advertised by means of a site notice and direct notification to the occupiers of three of the neighbouring properties. In response, no representations have been received.

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

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

### Local Highway Authority

The application under consideration is for an outline application of 5 dwellings on the southern extent of the village of Moorhouse. The access for the proposed development is indicated to be onto the existing Moorhouse to Great Orton Road to the east. The applicant is proposing to extend the 30mph zone to cover the proposed new access into the development which is acceptable to the Highways Authority. As mentioned within the previous response to this planning application; the applicant has undertaken a speed survey for the proposed development site. This has been reviewed and it is considered appropriate that the visibility splay requirement is 2.4m x 60m in both directions. This is due to the applicant extending the 30mph zone to the south of the development site and 2.4m x 60m is the standard expected within the Cumbria Development Design Guide for a 30mph carriageway. The applicant has demonstrated that these visibility splays are achievable on site through the submission of a revised site plan which is acceptable to the Highways Authority.

It is also proposed that any walls, fences or vegetation would be no higher than 1050mm within the visibility splay area; once again this is also acceptable. Therefore the Highways Authority have no objections with regards to the visibility splays proposed and their achievability on site.

### Lead Local Flood Authority (LLFA)

The applicant has not submitted any information regarding the proposed drainage for the site. The site itself has no recorded flooding instances from

surface water or ground water according to the Environment Agency flood risk mapping. However it should be noted that the applicant will need to provide a detailed flood risk assessment as part of a full planning application for this site. In terms of the drainage for the development, the applicant is to work through the drainage hierarchy stated within the Cumbria Development Design Guide in order to establish a surface water discharge method. The first method to be explored is discharge of surface water via a soakaway. In order to investigate this a valid infiltration test in accordance with the BRE 365 method is required to be completed by the applicant and submitted to the Lead Local Flood Authority for comment. If the infiltration test is negative, then it can be explored discharging surface water into a watercourse, with in this instance Bramble Beck being nearby. Discharge from the site should be equal to the greenfield runoff rate for the site and attenuation provided to account for a 1 in 100 year plus 40% to account for climate change storm event. This information can be provided at a later stage of the planning process and secured through the use of the planning conditions;

**Orton Parish Council:** - no objection;

**Burgh-by-Sands Parish Council:** - the parish council objects to the application.

Moorhouse is already over its housing allocation as per the Carlisle District Local Plan 2015-2030. The plan lists 10 properties on land to the east of Monkhill Road. Recent permissions and current applications amount to 25 properties. The addition of these 5 properties, taking the number to 30, is treble the number allocated in the local plan;

**Local Environment - Environmental Protection:** - no response received;

**Local Environment, Waste Services:** - no objection but adequate provision should be made for waste collection vehicles to turn at reserved matters stage.

## **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. At a national level, the relevant considerations include the National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG).
- 6.2 The Development Plan for the purposes of the determination of this application comprise Policies SP2, SP6, HO2, IP2, IP3, IP4, IP6, CC5, CM5, GI3 and GI6 of the Carlisle District Local Plan 2015-2030 are of particular relevance. The City Council's Supplementary Planning Document 'Achieving Well Designed Housing' (SPD) is also a material planning consideration. The

proposal raises the following planning issues.

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

- 6.3 The NPPF seeks to promote sustainable development and in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Paragraph 11 of the NPPF continues to support sustainable development stating that:

*“Plans and decisions should apply a presumption in favour of sustainable development.”*

- 6.4 This is reinforced in paragraph 11(c) which states that:

*“approving development proposals that accord with an up-to-date development plan without delay”*

- 6.5 Policy HO2 is equally transparent in its guidance relating to housing development and requires housing is provided within or on the edge of existing settlements. Critically in terms of this application, criteria 3 states:

*“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;”*

- 6.6 As previously outlined, the site is adjacent to other dwellings to the north with a clearly defined site boundaries along the southern and western flanks. The site is clearly contained within the landscape features and is appropriately related to the village of Moorhouse.

- 6.7 Members will note that the parish council has objected to the application on the basis that the land isn't allocated for housing development and that provision has already been made elsewhere within the village. Land doesn't have to be allocated for housing devolvment to allow planning permission to be granted for housing. It is a well-established planning principle enshrined in current policies which are transparent at both national and local level that windfall sites and those which are well-related to existing appropriate settlements are in principle permitted. The simple fact that land is not allocated is not a valid planning reason for refusal. In terms of the principle of development, it is considered to fully accord with both national and local planning policies. The planning issues raised by the development, including the impact on the character and appearance of the area, are discussed in the following paragraphs.

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

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

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

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

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

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

6.10 Policies seek to ensure that development is appropriate in terms of quality to that of the surrounding area and that development proposals incorporate high standards of design including siting, scale, use of materials and landscaping which respect and, where possible, enhance the distinctive character of townscape and landscape. This theme is identified in Policy SP6 of the local plan which requires that development proposals should also harmonise with the surrounding buildings respecting their form in relation to height, scale and massing and make use of appropriate materials and detailing. Development of this site will have an impact on the character of the area.

6.11 As previously highlighted the application seeks outline planning permission with all matters reserved. The layout of the site together with the details of any building would therefore be considered on their merits during any subsequent application. Accordingly, this would ensure that the scale and massing of the proposed dwellings would appear comparable to the existing

properties within the immediate vicinity and would not result in a discordant feature within the area as a whole.

- 6.12 On this basis, it is not considered that approval of this outline application would be prejudicial to these policy objectives or that the development would be detrimental to the character or appearance of the area.

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

- 6.13 Planning policies require that development proposals should not adversely affect the living conditions of occupiers of residential properties by virtue of inappropriate development, scale or visually intrusive.
- 6.14 In addition to paragraph 127 of the NPPF referenced earlier in this report, the city council's Supplementary Planning Document "Achieving Well Designed Housing", on the matter of privacy, states that:

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

- 6.15 Planning policies require that development proposals should not adversely affect the living conditions of occupiers of residential properties by virtue of inappropriate development, scale or visually intrusive.
- 6.16 The principle of residential development would not in itself prejudice the living conditions of the occupiers of any neighbouring properties. Any subsequent application for the development of the land would have to take account of the relationship of the neighbouring property and its curtilage. Although the site slopes down north to south, there is no significant undulation in topography between the site and the neighbouring properties and given the orientation of the application site with the neighbouring properties a scheme could be developed without the occupiers of neighbouring properties suffering from an unreasonable loss of daylight or sunlight subject to an appropriate scheme. Likewise and for the same reason, the siting, scale and design of the development will not adversely affect the living conditions of the occupiers of the neighbouring properties by virtue of over-dominance.

### **4. Highway Issues**

- 6.17 Part of the site is within the 30 mph speed limit of the village but the majority lies within the national speed limit. There is an existing agricultural access to the land and the indicative layout shows this access serving the development. The access is subject to the national speed limit and as such, Cumbria

County Council as the Highway Authority requested additional information in the form of a speed survey. This has since been undertaken and the results sent to the Highway Authority. In response, the Highway Authority has advised that the speed survey is acceptable. No objection has been raised against the application subject to the imposition of conditions and the proposal does not, therefore, raise any highway issues.

- 6.18 Reference is made to the Highway Authority's submission to the 30 mph being extended; however, this is not proposed and does not form part of the application. The access is a matter reserved for subsequent approval; however, an indicative access is shown on the submitted plans that would be within the 30 mph limit rather than the 60 mph limit in which is located the existing field access. The Highway Authority has confirmed that the 30 mph limit does not need to be extended and that reference to this fact was submitted in error.

## **5. Foul and Surface Water Drainage**

- 6.19 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 documents, submitted as part of the application, provides no details in relation to foul drainage but confirms that the surface water would be to a sustainable drainage system, soakaway and mains sewer.
- 6.20 For clarity, options relating to on-site drainage should be explored first and to provide clarity and technical details of the surface water drainage scheme, and also in respect of the foul drainage, conditions are included within the decision notice requiring the submission and agreement of further details including a management and maintenance scheme for the soakaway in accordance with the NPPF.

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

- 6.21 The authority should consider securing measures to enhance the biodiversity of a site from the applicant, if it is minded to grant permission for an application in accordance with paragraph 118 of the NPPF. This is reflected in Section 40 of the Natural Environment and Rural Communities Act (2006) which states that every public authority must have regard to the purpose of conserving biodiversity. Local planning authorities must also have regard to the requirements of the EC Habitats Directive (92/43/EEC) when determining a planning application as prescribed by regulation 3 (4) of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), and Article 16 of the Habitats Directive before planning permission is granted.
- 6.22 Planning Authorities in exercising their planning and other functions must have regard to the requirements of the EC Habitats Directive (92/43/EEC) when determining a planning application as prescribed by regulation 3 (4) of the Conservation (Natural Habitats, cc.) Regulations 1994 (as amended). Such due regard means that Planning Authorities must determine whether the proposed development meets the requirements of Article 16 of the

Habitats Directive before planning permission is granted. Article 16 of the Directive indicates that if there is reasonable likelihood of a European protected species being present then derogation may be sought when there is no satisfactory alternative and that the proposal will not harm the favourable conservation of the protected species and their habitat.

- 6.23 The City Council's GIS layer did identify the potential for protected species to be present on the site or within the immediate vicinity. Given that the proposal involves a small piece of agricultural land, adjacent to existing buildings, it is unlikely that the proposal would affect any species identified; however, an informative has been included within the decision notice ensuring that if a protected species is found all work must cease immediately and the local planning authority informed.

## **Conclusion**

- 6.24 In overall terms, the site is located on the edge of Moorhouse and the application is supported by the NPPF and the development plan and as such, the principle of development remains acceptable. Additionally, the scale and design would be appropriate to the site and would not result in an adverse impact on the character or appearance of the area.
- 6.25 The submitted plans take account of the highway issues and the living conditions of the occupiers of the neighbouring properties would not be prejudiced subject to the imposition of conditions. The means of foul and surface water drainage can be suitably addressed through the imposition of planning conditions.
- 6.26 In overall terms, the proposal is considered to be compliant with the objectives of the relevant local plan policies and the NPPF and is therefore recommended for approval subject to the imposition of planning conditions.

## **7. Planning History**

- 7.1 There is no planning history relating to this land.

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

1. In case of any "Reserved Matter" application for approval shall be made not later than the expiration of 3 years beginning with the date of this permission, and the development shall be begun not later than whichever is the later of the following dates:
  - i) the expiration of 3 years from the date of the grant of this permission, or
  - ii) the expiration of 2 years from the final approval of the reserved matters, or, in the case of approval on different dates, the final approval of the last such matter to be approved.

**Reason:** In accordance with the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended by The Planning and Compulsory Purchase Act 2004).

2. Before any work is commenced, details of the access, appearance, landscaping, layout and scale of the site (hereinafter called "reserved matters") shall be submitted to and approved by the local planning authority.

**Reason:** The application was submitted as an outline application in accordance with the provisions of Part 3 of The Town and Country Planning (Development Management Procedure) (England) Order 2015.

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

1. the Planning Application Form received 1st July 2019;
2. the Location Plan received 1st July 2019 (Drawing no. P(00)01);
3. the Proposed Block Plan received 1st July 2019 (Drawing no. P(00)02);
4. the Phase 1: Desk Top Study Report (Preliminary Environmental Risk Assessment) received 1st August 2019;
5. the Design & Access Statement received 1st July 2019;
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.

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, no surface water shall discharge to the public sewerage system either directly or indirectly.

No development shall commence until a construction surface water management plan has been agreed in writing with the local planning authority.

**Reason:** To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off onto adjoining land including the highway and to reduce the risk of flooding in accordance with Policies SP6 and CC5 of the Carlisle District Local Plan 2015-2030, in the interests of highway safety and environmental management and to support Local Transport Plan Policies LD7 and LD8 and to promote sustainable

development, secure proper drainage and to manage the risk of flooding and pollution in accordance with policies within the National Planning Policy Framework and National Planning Practice Guidance.

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

**Reason:** To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution in accordance with the Policies within the NPPF and NPPG and Policy CC5 of the Carlisle District Local Plan 2015-2030.

6. No development approved by this permission shall be commenced until a scheme for the conveyance of foul drainage to has been submitted to and approved in writing by the local planning authority. The development shall then be undertaken in accordance with the approved details.

**Reason:** To prevent pollution of the water environment in accordance with Policy IP6 of the Carlisle District Local Plan 2015-2030.

7. Before any development takes place, a plan shall be submitted to and approved in writing by the local planning authority reserving adequate land for the parking of vehicles engaged in construction operations associated with the development hereby approved, and that land, including vehicular access thereto, shall be used for or be kept available for these purposes at all times until completion of the construction works.

**Reason:** The carrying out of this development without the provision of these facilities during the construction works is likely to lead to inconvenience and danger to road users in accordance with Policies HO2 and SP6 of the Carlisle District Local Plan 2015-2030 and to support Local Transport Plan Policy LD8.

8. No site clearance, preparatory work or development shall take place until a scheme for the protection of retained trees (the Tree Protection Plan) and the appropriate working methods (the Arboricultural Method Statement) in accordance with Clause 7 of British Standard BS5837 - Trees in relation to Construction - Recommendations has been submitted to and approved in writing by the local planning authority.

Within the fenced off area;

- no equipment, machinery or structure shall be attached to or supported by a retained tree or by the tree protection barrier;
- no mixing of cement or use of other contaminating materials or substances shall take place within, or close enough to, a root protection area that seepage or displacement could cause them to enter a root protection area;

- no alterations or variations to the approved tree and hedge protection schemes shall be made without prior written consent of the local planning authority;
- no materials or vehicles shall be stored or parked within the fenced off area;
- no alterations to the natural/existing ground level shall occur;
- no excavations will be carried out within the fenced off area;

In the event of trenches or excavations exposing tree roots of 50mm/ 2 inches diameter or more, these should be carefully retained and protected by suitable measures including (where otherwise unavoidable) bridging trenches. No severance of tree roots 50mm/ 2 inches or more in diameter shall be undertaken without prior notification to, and the subsequent approval in writing of the local planning authority and where such approval is given, the roots shall be cut back to a smooth surface.

The tree and hedge protection fencing must be carried out as described and approved and shall be maintained until the development is completed.

**Reason:** To ensure the retention of trees and hedges in accordance with Policy GI6 of the Carlisle District Local Plan 2015-2030.

9. The carriageway, footways, footpaths, cycleways etc shall be designed, constructed, drained and lit to a standard suitable for adoption and in this respect further details, including longitudinal/cross sections, shall be submitted to the local planning authority for written approval before work commences on site. These details shall be in accordance with the standards laid down in the current Cumbria Design Guide and shall include the provision of footways that link continuously and conveniently to the nearest existing footway. Any works so approved shall be constructed before the development is complete.

**Reason:** To ensure a minimum standard of construction in the interests of highway safety in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030 and to support Local Transport Plan Policies LD5, LD7 and LD8.

10. Details showing the provision within the site for the parking, turning and loading and unloading of vehicles visiting the site, including the provision of parking spaces for staff and visitors, shall be submitted to the local planning authority for written approval. The development shall not be brought into use until any such details have been approved and the parking, loading, unloading and manoeuvring areas shall be kept available for those purposes at all times and shall not be used for any other purpose.

**Reason:** To ensure a minimum standard of parking provision is made within the site for vehicles visiting the site in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030 and to support Local Transport Plan Policies LD7 and LD8.

11. Development shall not commence until a Construction Phase Plan (CCP)

has been submitted to and approved in writing by the local planning authority. The CPP shall include details of:

- pre-construction road condition established by a detailed survey for accommodation works within the highways boundary conducted with a Highway Authority representative; with all post repairs carried out to the satisfaction of the Local Highway Authority at the applicants expense;
- details of proposed crossings of the highway verge;
- retained areas for vehicle parking, manoeuvring, loading and unloading for their specific purpose during the development;
- cleaning of site entrances and the adjacent public highway;
- details of proposed wheel washing facilities;
- the sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials on the highway;
- construction vehicle routing;
- the management of junctions to and crossings of the public highway and other public rights of way/footway;
- details of any proposed temporary access points (vehicular / pedestrian);
- surface water management details during the construction phase.

**Reason:** To ensure the undertaking of the development does not adversely impact upon the fabric or operation of the local highway network in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030 and in the interests of highway and pedestrian safety.

12. Ramps shall be provided on each side of every junction to enable wheelchairs, pushchairs etc. to be safely manoeuvred at kerb lines. Prior to their construction, details of all such ramps shall be submitted to the local planning authority for written approval. Any details so approved shall be constructed as part of the development.

**Reason:** To ensure that pedestrians and people with impaired mobility can negotiate road junctions in relative safety in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030 and to support Local Transport Plan Policies LD5, LD7 and LD8.

13. Prior to the commencement of any dwelling hereby approved, details of the relative heights of the existing and proposed ground levels and the height of the proposed finished floor levels of the dwelling and garage (if proposed) shall be submitted to and approved in writing by the local planning authority before any site works commence. The development shall then be undertaken in accordance with the approved

**Reason:** In order that the approved development is appropriate to the character and appearance of the area and does not adversely affect the occupier of a neighbouring property in accordance with Policies HO2 and SP6 of the Carlisle District Local Plan 2015-2030.

14. No construction of any dwelling shall commence until samples or full details

of all materials to be used on the exterior have been submitted to and approved in writing by the local planning authority. The hereby permitted development shall be carried out and completed in full accordance with the approved details.

**Reason:** In the interests of visual amenity in accordance with Policies HO2 and CM5 of the Carlisle District Local Plan 2015-2030.

15. Prior to the occupation of any dwelling hereby approved, particulars of height and materials of all screen walls and boundary fences shall be submitted to and approved by the local planning authority prior to the commencement of the development hereby permitted. All works comprised in the approved details of means of enclosure and boundary treatment shall be carried out in accordance with the approved details prior to the occupation of any dwelling.

**Reason:** To ensure that the work is undertaken in a co-ordinated manner that safeguards the appearance and security of the area in accordance with Policies HO2 and CM5 of the Carlisle District Local Plan 2015-2030.

16. Prior to the occupation of any dwelling hereby approved, details of a landscaping scheme have been submitted to and approved in writing by the local planning authority.

**Reason:** To ensure that a satisfactory landscaping scheme is prepared to reduce the potential for crime in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

17. No construction of any dwelling shall commence until full details of the proposed hard surface finishes to all external areas have been submitted to and approved in writing by the local planning authority. The hereby permitted development shall be carried out and completed in full accordance with the approved details.

**Reason:** In the interests of visual amenity in accordance with Policies HO2 and CM5 of the Carlisle District Local Plan 2015-2030.

18. The development shall not commence until visibility splays providing clear visibility of 60 metres measured 2.4 metres down the centre of the access road and the nearside channel line of the carriageway edge have been provided at the junction of the access road with the county highway. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grown within the visibility splay which obstruct the visibility splays. The visibility splays shall be constructed before general development of the site commences so that construction traffic is safeguarded.

**Reason:** In the interests of highway safety in accordance with Policies

HO2 and IP2 of the Carlisle District Local Plan 2015-2030 and to support Local Transport Plan Policies LD7 and LD8.

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

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

20. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner, and maintained thereafter to the satisfaction of the Council; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

**Reason:** To ensure that a satisfactory landscaping scheme is implemented and that it fulfils the objectives of Policy SP6 of the Carlisle District Local Plan 2015-2030.

21. No work associated with the construction of the residential units hereby approved shall be carried out before 07.30 hours on weekdays and Saturdays nor after 18.00 hours on weekdays and 13.00 hours on Saturdays (nor at any times on Sundays or statutory holidays).

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

22. The access drives shall be surfaced in bituminous or cement bound materials, or otherwise bound and shall be constructed and completed before the development is occupied.

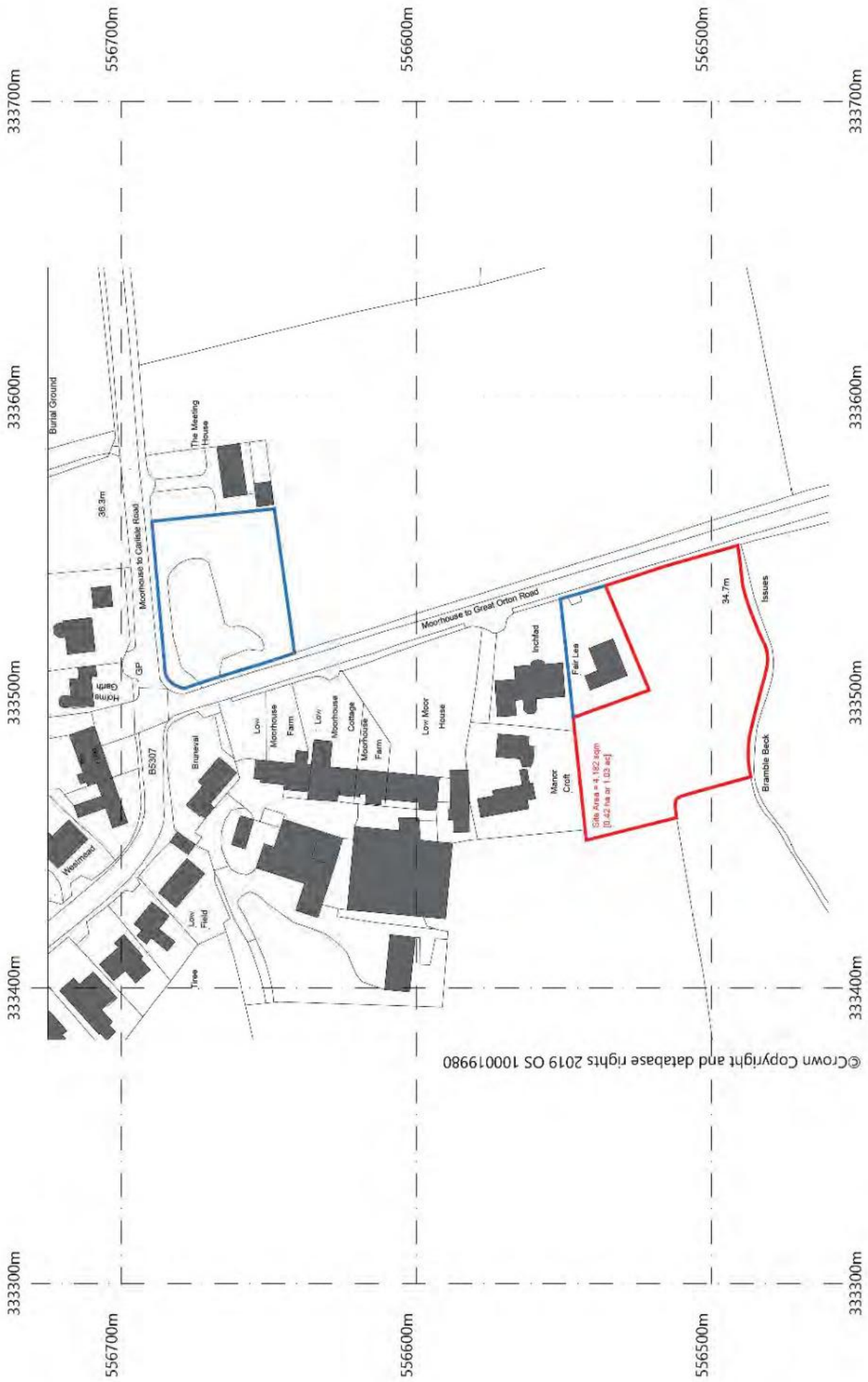
**Reason:** In the interests of highway safety in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030 and to support Local Transport Plan Policies LD5, LD7 and LD8.

23. A 2.4 metre x 2.4 metre pedestrian visibility sight splay as measured from the highway boundary (or footpath boundary), shall be provided on both sides of the vehicular access. There shall be no obstruction above a height of 600mm as measured from the finished surface of the access within the area of the visibility sight splays thereafter.

**Reason:** To provide adequate inter-visibility between the pedestrians and users of the access and the existing public highway for the safety and convenience of users of the highway and of the

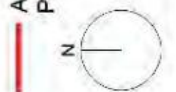
access in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030 and to support Local Transport Plan Policies LD7 and LD8.

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**Planning Policy**  
 The map shows the site of the proposed development. It is intended to provide a visual representation of the site and its surroundings. The map is not to scale and is not intended to be used for any other purpose. The map is a representation of the site and its surroundings and is not intended to be used for any other purpose. The map is a representation of the site and its surroundings and is not intended to be used for any other purpose.



Approximate Client Ownership /  
 Planning Application Boundary

Other Applicant Ownerships

Project Name	Fair Lea, Moorhouse, CA5 6EL	Client Name	Messrs Norman
Project No	1000	Project No	P(00)01
Project Name	Location Plan	Project Name	
Project No	1000	Project No	
Project Name	Location Plan	Project Name	
Project No	1000	Project No	
Project Name	Location Plan	Project Name	
Project No	1000	Project No	





**WMA**  
WILLIAMS & MORGAN  
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4189, 4191, 4193, 4195, 4197, 4199, 4201, 4203, 4205, 4207, 4209, 4211, 4213, 4215, 4217, 4219, 4221, 4223,



## SCHEDULE A: Applications with Recommendation

19/0670

Item No: 06

Date of Committee: 10/01/2020

**Appn Ref No:**  
19/0670

**Applicant:**  
Mr Patrick Lee

**Parish:**  
Westlinton

**Agent:**  
Sam Greig Planning

**Ward:**  
Longtown & the Border

**Location:** Green Meadows Caravan Park, Blackford, Carlisle, CA6 4EA

**Proposal:** Removal Of Condition 7 Of Previously Approved Application 19/0360  
For The Requirement To Install A Package Treatment Plant To  
Facilitate The Increased Number Of Pitches

**Date of Receipt:**  
03/09/2019

**Statutory Expiry Date**  
29/10/2019

**26 Week Determination**  
31/01/2020

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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 Whether the removal of the condition is acceptable  
2.2 Other matters

#### 3. Application Details

##### The Site

- 3.1 The application site, Green Meadows, is located to the east of the A7; however, with the exception of the owners/managers bungalow has no direct vehicular or pedestrian access to the A7 Carlisle to Longtown county highway. Vehicular and pedestrian access to the site is via a 200 metre driveway from the U1074 county highway.
- 3.2 Green Meadows is primarily a holiday caravan park; however, there are also 15 permanent residential units within the site together with a managers

bungalow.

## Background

- 3.3 Earlier this year, full planning permission was granted for the reconfiguration of existing caravan park without compliance with conditions 2 and 3 imposed by planning permission 18/1139 to secure flexibility regarding the size and position of the holiday caravans to be accommodated on the caravan park; to make modifications to the alignment of the northern extent of the eastern boundary of the site and to increase the approved number of holiday caravans from 21 units to 29 units (application reference 19/0360).

## The Proposal

- 3.4 The application before Members now seeks the removal of condition 7 attached to planning approval 19/0360. Planning condition 7 states:

*"The proposed foul drainage systems approved under planning application 17/0075 shall be fully operational prior to the occupation of the eleventh static holiday unit subject of this approval unless otherwise agreed in writing by the local planning authority."*

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

## 4. Summary of Representations

- 4.1 This application has been advertised by the direct notification of the occupiers of fourteen neighbouring properties. No verbal or written representations have been made during the consultation period.

## 5. Summary of Consultation Responses

**Westlinton Parish Council:** - strongly object to this condition being removed. The original application had a document stating that the existing sewerage system need upgrading and did not have spare capacity. Concerns were made by the EA about surface water run-off, that would be increased with extra roads, roof water and hardstanding areas. None of these have changed. There is still a smell at Green Meadows and at The Old Post Office.

Soakaways are not an option and he wants to have run-off going into a water course. With the new legislation this would not be allowed. There is no evidence to back up the applicants new document saying the system has spare capacity and the applicants assertion that most residences only have one occupant is false.

There is already a problem with surface water flowing out of Green Meadows drive and across the A7 - reported to Highway Authority and local councillor.

This condition is a fundamental part of the original approval of the application and it should remain.

The landowner downstream of this water course is not happy about any discharge from the sewerage, as they had problems with raw sewerage when the original plant was put in.

**Environment Agency:-** the EAs national database has no record of a permit application having been submitted to the EA for this site. The e-mail submitted by the agent just confirms that someone has been appointed to submit an application, but no timescales are provided.

The planning condition seeks the installation of an operational foul drainage system prior to the occupation of the 11<sup>th</sup> static unit. The removal of the condition will mean that the site continues to discharge to the existing system, although the EA understand that Building Control are satisfied that it has the capacity to deal with the maximum volume of effluent from the approved development.

The existing system discharges to an adjacent watercourse. Technical information has been submitted to demonstrate that the quality of the effluent discharging to the watercourse is acceptable, but the EA would only review this data as part of a permit application. As no permit is in place, the EA cannot comment on this detail as it could prejudice the determination of the necessary permit application.

Whether or not the planning authority agree to the removal of Condition 7, a permit for the discharge from the existing system to the adjacent watercourse is required and it should not be assumed that a permit will be granted. However, NPPF paragraph 183 makes it clear that planning decisions should assume other pollution control regimes will operate effectively so the condition is not necessary to enforce the requirements of the Environmental Permitting regime. If the local planning authority determines that the condition can be removed, the applicant must understand that if the quality of the effluent is such that a permit cannot be granted by the EA, further works to the foul drainage system may still subsequently be required even if Condition 7 is removed.

## **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, IP6 and CM5 of the Carlisle District Local Plan 2015-2030.

6.3 The proposals raise the following planning issues:

**1. Whether The Removal Of The Condition Is Acceptable**

6.4 Paragraph 170 of the NPPF seeks to ensure planning decision contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.

6.5 This aim is reiterated in Policy CM5 of the local plan which outlines that 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: it would cause demonstrable harm to the quality, quantity and associated ecological features of groundwater and surface waters or impact on human health.

6.6 By way of background, during the processing of early applications for the site, involving the increase in caravan numbers, conditions were imposed requiring the installation of a new biosystem to be fully operational prior to the occupation of the eleventh static holiday unit. The ability of the existing sewage treatment plant to accommodate a specific number of the static units/touring vans/tent pitches based on the submitted details at that time was assessed by the council's Building Control Section.

6.7 As outlined earlier in the report, the application before Members now seeks the removal of condition 7 attached to planning approval 19/0360. Planning condition 7 states:

*"The proposed foul drainage systems approved under planning application 17/0075 shall be fully operational prior to the occupation of the eleventh static holiday unit subject of this approval unless otherwise agreed in writing by the local planning authority."*

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

6.8 The submitted explanatory statement highlighting that the Applicant has now commissioned a civil engineer to assess the drainage capacity of the existing foul drainage plant. Additional information has also been received from an accredited specialist installer of waste water treatment systems to determine the condition of the existing foul drainage system together with the quality of its discharge. In respect of the condition of the existing plant, the waste water installer details that: *"the existing bio-disc was refurbished over a 3 year period from 2007 to 2010. It is still in very good working condition"*. The installer going on to highlight that the tank has a primary storage capacity of around 18,000 litres and a secondary and final settlement humus sludge capacity of around 8,750 litres which equates to 26,750 litres and not as originally stated, 22,730 litres. The original capacity, the submitted

documents explains, was assumed by the applicant as it was based on the capacity of the tankers which empties the foul drainage system. In respect of the quality of the discharge from the existing foul drainage system, the waste water installer outlines that a sample taken from the foul drainage system has been analysed by an environmental testing service which identifies that the sample falls well within the standard permit parameters of what the Environment Agency would normally allow to discharge into a watercourse.

- 6.9 Westlinton Parish Council has been consulted and strongly objects to the condition being removed. The response of the parish council has been reproduced in full in Section 5 of this report. In summary, the consultation response highlights that: *"the original application had a document stating that the existing sewerage system need upgrading and did not have spare capacity ... there is still a smell at Green Meadows and at The Old Post Office ... soakaways are not an option and he (the applicant) wants to have run-off going into a watercourse. With the new legislation this would not be allowed. There is no evidence to back up the applicants new document saying the system has spare capacity and the applicants assertion that most residences only have one occupant is false ... The landowner downstream of this watercourse is not happy about any discharge from the sewerage, as they had problems with raw sewerage when the original plant was put in".*
- 6.10 Policies IP6 and CM5 of the local plan seek to ensure that development proposals do not lead to an adverse impact on the environment through inadequate disposal methods for foul drainage. Paragraph 8.20 of the justification text for Policy CM5 outlining that development that poses a risk to the environment or human health will be carefully considered in conjunction with the city council's Environmental Health team and any external agencies.
- 6.11 Foul drainage methods for caravan sites falls outside the remit of the city council's Building Control Section. Nevertheless, to ensure that the existing foul drainage system could adequately process the foul water from the increased number of caravans and tents the expertise of building control has been called upon during the processing of this application. The city council's Building Control's Business Development Manager has fully reviewed all of the submitted information and has subsequently confirmed that: the serviceability of the existing plant and the quality of its discharge has been adequately addressed; and the capacity of the existing plant able to accommodate the required capacity for the increased number of caravans and tents. Furthermore, the council's Environmental Health Section has been consulted and do not have any records in respect of complaints relating to historic incidents of pollution from the foul drainage system of the site.
- 6.12 The objections of the parish council are respected; however, in light of the views of the relevant statutory consultees and Building Control's Business Development Manager it would be difficult to substantiate a refusal of the application on the adequacy of the existing foul drainage system to accommodate the increase in numbers of caravans and tents. In overall terms, the proposal accords with the objectives of the NPPF, PPG and relevant local plan policies.

## **2. Other Matters**

- 6.13 The parish council has highlighted in its consultation response that: *"there is already a problem with surface water flowing out of Green Meadows drive and across the road ..."*. This issue has been raised with the Agent and photographic evidence provided illustrating that the water is originating from an overgrown roadside ditch to the north of the entrance to the bungalow of Green Meadows. This information has been forwarded to Cumbria County Council, as Highway Authority, for its attention.
- 6.14 The applicant is currently in the process of applying for an environmental permit from the Environment Agency which will regularise the discharge of the outfall from the existing foul drainage system to the watercourse. This permit is subject to separate legislation out with the planning process. Paragraph 183 of the NPPF stating: *"the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities"*.

## **Conclusion**

- 6.15 The submitted details adequately demonstrates that the existing foul drainage system can accommodate the foul waters arising from the increase in numbers of caravans and tents at Green Meadows Caravan Park. As such, condition 7 imposed in planning approval 19/0360 is now unnecessary, therefore, its removal is justified. In overall terms, the application accords with the objectives of the NPPF, PPG and relevant local plan policies with the application recommended for approval.
- 6.16 The original planning permission continues to exist, therefore, to assist with clarity, those conditions that have not been either: discharged, part discharged; or are instructive it is recommended that these conditions be repeated within the conditions as part of this planning approval should Members approve the application. In respect of the standard time condition the application has been partially implemented, therefore, the condition is no longer necessary.

## **7. Planning History**

- 5.1 In 1984, full planning permission was granted for renewal of temporary permission for siting of 15 residential caravans (application reference 84/0826).
- 5.2 In 2016, full planning permission was granted for proposed reconfiguration of

existing caravan park to allow siting of 37no. holiday static units (inclusive of 15no. residential units), 27no. touring pitches and 20no. tent pitches including associated landscaping (application reference 16/0625).

- 5.3 In 2017, an application for the variation of condition 2 of previously approved permission 16/0625 to revise location and details of package treatment plant was granted (application reference 17/0075).
- 5.4 Also in 2017, full planning permission was refused for variation of conditions 3 (the total number of permanent residential units to be stationed on the site at any one time shall not exceed 37no. plus 27no. touring caravan pitches and 20no. tent pitches) and condition 5 (the touring caravan pitches and tent pitches shall be used solely for holiday use and shall not be occupied as permanent accommodation) of previously approved planning permission 16/0625 (application reference 17/0094). A subsequent appeal was dismissed.
- 5.5 In 2018, advertisement consent was granted for a non-illuminated freestanding sign (application reference 18/0522).
- 5.6 Also in 2018, a variation of condition application was granted for reconfiguration of existing caravan park without compliance with conditions 2 & 3 imposed by planning permission 17/0075 to enable one of the approved holiday caravans to be occupied as a permanent residential unit following removal of unit 6 and the siting of a show holiday caravan (application reference 18/1139).
- 5.7 In 2019, a variation of condition application was granted for reconfiguration of existing caravan park without compliance with conditions 2 & 3 imposed by planning permission 18/1139 to secure flexibility regarding the size and position of the holiday caravans to be accommodated on the caravan park; to make modifications to the alignment of the northern extent of the eastern boundary of the site and to increase the approved number of holiday caravans from 21 units to 29 units (application reference 19/0360).

## **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 3rd May 2019 (application 19/0360);
  2. the submitted application form received 29th August 2019;
  3. the Explanatory Statement received 3rd May 2019 (application 19/0360);
  4. the Explanatory Statement received 29th August 2019;
  5. the infiltration results compiled by Robinson Drafting & Design received 29th August 2019 (ref: RDD-204/SR/29.07.19);
  6. the drainage details compiled by Robinson Drafting & Design received 29th August 2019 (ref: RDD-204/SR/21.08.19);

7. the supplementary drainage details supplied by Sam Greig received 11th December 2019;
8. the site layout received 1st July 2019 (Drawing No. GMCC/SITE LAYOUT 2 Rev D) (application 19/0360);
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.

2. The total number of static units to be stationed on the site at any one time shall not exceed 44no. inclusive of the 15no. permanent residential units and a show holiday caravan. The total number of tent pitches/touring pitches shall not exceed 20no. and 27no. respectively.

**Reason:** For the avoidance of doubt.

3. The static holiday units, touring caravan pitches and tent pitches shall be used solely for holiday use with the exception of 15no. permanent holiday units and shall not be occupied as permanent accommodation.

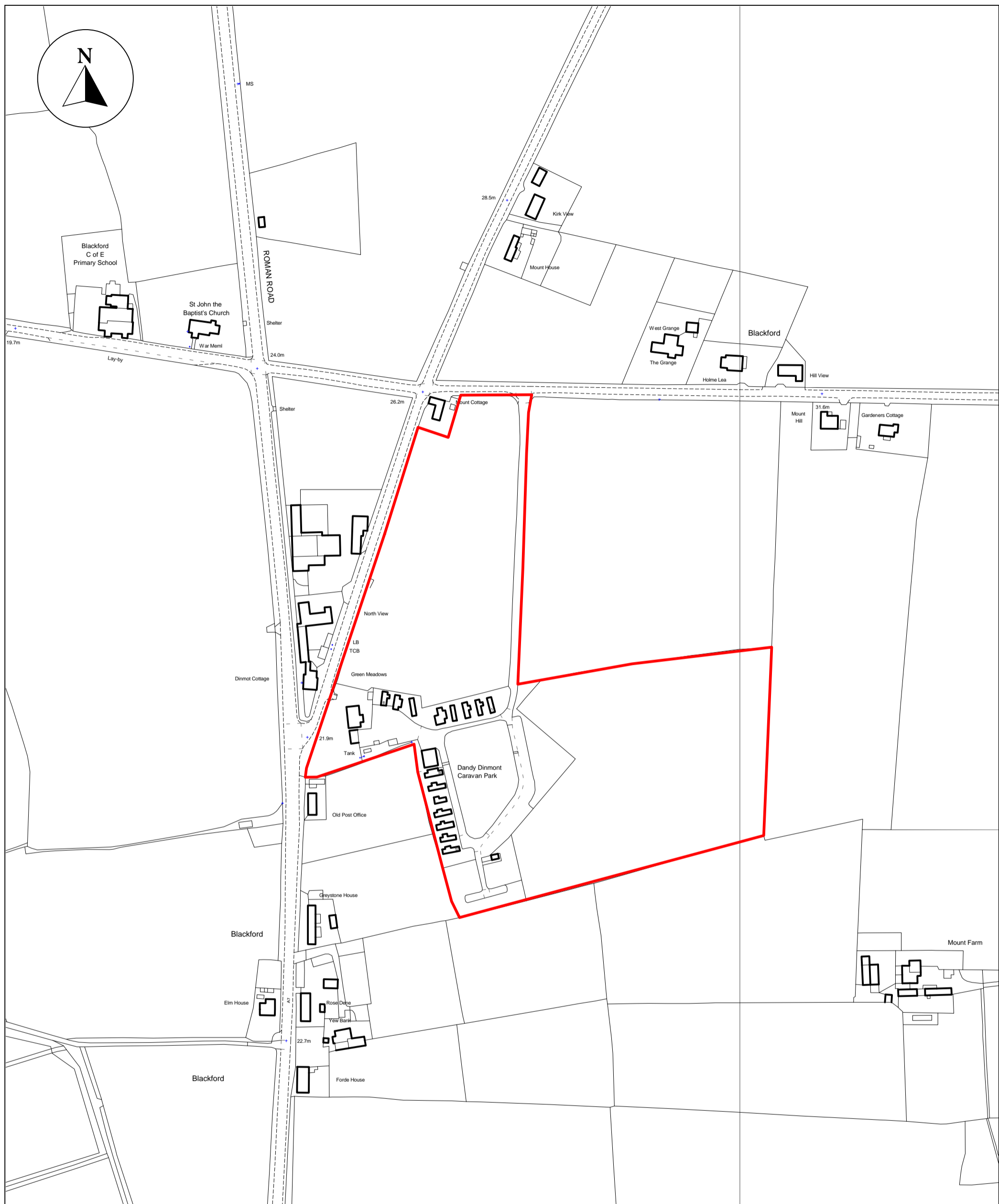
**Reason:** To ensure that the approved static units, touring caravans and tents are not used for unauthorised permanent residential occupation in accordance with the objectives of Policy EC15 of the Carlisle District Local Plan 2001-2016 and Policy EC10 of the Carlisle District Local Plan 2015-2030.

4. The static holiday units hereby approved shall not exceed 12.2 metres by 6.1 metres in size or be positioned closer than 6 metres from one another unless otherwise agreed in writing by the local planning authority.

**Reason:** For the avoidance of doubt.

5. The landscaping scheme hereby approved shall not be carried out otherwise than in complete accordance with the details as illustrated on drawing no. GMCC/SITE LAYOUT 2 Rev D received 1st July 2019 (application reference 19/0360). The landscaping works shall be carried out in the first planting and seeding season following the occupation of the first static holiday unit or the completion of the development, whichever is the sooner, and maintained thereafter to the satisfaction of the Council; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

**Reason:** To ensure that a satisfactory landscaping scheme is implemented in accordance with Policy GI6 of the Carlisle District Local Plan 2015-2030.



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# **Green Meadows Caravan Park, Blackford, Carlisle, CA6 4EA**



Scale 1 : 2500

Economic Development, Civic Centre,  
Rickergate, Carlisle, CA3 8QG

Date December 2019



## SCHEDULE A: Applications with Recommendation

19/0606

Item No: 07

Date of Committee: 10/01/2020

**Appn Ref No:**  
19/0606

**Applicant:**  
Mr D Herriott

**Parish:**  
Arthuret

**Agent:**

**Ward:**  
Longtown & the Border

**Location:** Old Methodist Church, Albert Street, Longtown, Carlisle, CA6 5SF

**Proposal:** Conversion Of Rear Of Church (Existing Extension) To 1no. Dwelling Including Provision Of External Roof Terrace

**Date of Receipt:**  
12/08/2019

**Statutory Expiry Date**  
07/10/2019

**26 Week Determination**  
13/01/2020

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### REPORT

**Case Officer:** Richard Maunsell

#### 1. Recommendation

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

#### 2. Main Issues

- 2.1 Whether The Principle Of Residential Development Is Acceptable
- 2.2 Whether The Scale And Design Is Appropriate
- 2.3 The Impact Of The Development On Heritage Assets
- 2.4 Effect On The Living Condition Of The Occupiers Of The Nearby Properties
- 2.5 Highway Matters
- 2.6 Biodiversity

#### 3. Application Details

##### The Site

- 3.1 The application site relates to the Old Methodist Church which is located on Albert Street, Longtown. The access is between the adjacent property to the east, 4a Albert Street, and the curtilage of properties 55 to 61 Carlisle Road to the west. To the rear of the site is Longtown Industrial Estate. The access is located approximately 30 metres east of the junction with Albert Street and

Carlisle Road.

- 3.2 The application site is located in Longtown which is also within the Longtown Conservation Area with listed buildings in the wider vicinity.

### **The Proposal**

- 3.3 This application is for full planning permission for the change of use of part of the building to a dwelling. The element to which this relates was formerly used as the church hall and whilst the church is within the applicant's ownership, does not form part of this application. The existing access would be retained within a parking area in front of the building.
- 3.4 The proposal involves the conversion of the ground floor together with the raising of the roof to allow for the construction of a first floor. An external first floor terrace would be formed on the west elevation that would be flanked by a 2.1 metre high brick wall and timber fence.

## **4. Summary of Representations**

- 4.1 This application has been advertised by means of a site notice, a press notice and direct notification to the occupiers of 14 of the neighbouring properties. In response, one letter of representation has been received which raises the following issues:
1. neighbours have not been spoken to about the development but its clearly visible from adjoining properties;
  2. the main concern is parking as Albert Street is currently heavily congested without anymore traffic adding to this;
  3. it is stated on the application form that work or change of use has not started but yet someone has been working and lodging there for the past 3 months;
  4. the foul sewage appears to come through neighbouring properties and are not connected to the church at all;
  5. the application form states that the site cannot be seen from the public road but it can be seen.
- 4.2 Following the receipt of amended details showing parking provision, visibility splays and a balcony wall, no further representations have been received.

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

**Highways England:** - no objection;

**Connect Roads:** - no response received;

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

It is appreciated that there is existing access and a proposed two off-street

parking spaces via Albert Street however this would seem quite narrow and with restricted visibility. The applicant should submit a plan that clearly shows the access to the proposed dwelling and the parking spaces. This plan should include 2.4x by 2.4m pedestrian visibility splays. Upon receipt of this plan final comments can be submitted on this application.

Any works within or near the Highway must be authorised by Cumbria County Council and no works shall be permitted or carried out on any part of the highway including verges, until you are in receipt of an appropriate permit (i.e. Section 184 Agreement) allowing such works.

The highway outside and or adjacent to the proposal must be kept clear and accessible at all times.

Following the receipt of additional drawings showing the visibility splays, the following response was received:

The splays shown go through the property 4a Albert Street, meaning that there is no visibility for even pedestrians when egressing this site. The parking provisions are inadequate as there would be no room for manoeuvring on site once both spaces are filled. In addition to this we have measured the access as being approximately 2.7 metres in width whereas the Cumbria Development Design Guide states that we look for a minimum of 3.2 metre in width for a access like this one. With this in mind the Highway Authority have no alternative but to recommend refusal for this proposal as it currently stands;

**Arthuret Parish Council:** - no response received.

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

### **Assessment**

- 6.1 Section 70(2) of the Town and Country Planning Act 1990/ Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.
- 6.2 At a national level, the relevant considerations include the National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG). The Development Plan for the purposes of the determination of this application comprise Policies SP2, SP6, SP7, HO2, IP2, IP3, IP4, IP6, CC5, CM5, HE7 and GI3 of the Carlisle District Local Plan 2015-2030 are of particular relevance. The City Council's Supplementary Planning Document 'Achieving Well Designed Housing' (SPD) is also a material planning consideration. Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) are also material planning considerations. The proposal raises the following planning issues.

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

- 6.3 The NPPF seeks to promote sustainable development and in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.
- 6.4 Paragraph 11 of the NPPF continues to support sustainable development stating that:
- “Plans and decisions should apply a presumption in favour of sustainable development.”*
- 6.5 This is reinforced in paragraph 11(c) which states that:
- “approving development proposals that accord with an up-to-date development plan without delay”*
- 6.6 Policy HO2 is equally transparent in its guidance relating to housing development and supports the principle of new housing in Longtown subject to consideration against five criteria.
- 6.7 The application site is located in the Longtown and is flanked by existing residential properties to the north, east and west with Longtown Industrial Estate to the south. The site is well-related to Longtown where there are a variety of services and facilities. In light of the foregoing, the principle of development is therefore considered to fully accord with both national and local planning policies and is acceptable and accordingly, the principle of housing on this site is deemed acceptable. The planning issues raised by the development are discussed in the following paragraphs.

## **2. Whether The Scale And Design Is Appropriate**

- 6.8 The NPPF promotes the use of good design with paragraph 127 outlining that:
- “Planning policies and decisions should ensure that developments:*
- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
  - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
  - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
  - d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
  - e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
  - f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and*

*future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”*

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

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

- 6.10 Policies seek to ensure that development is appropriate in terms of quality to that of the surrounding area and that development proposals incorporate high standards of design including siting, scale, use of materials and landscaping which respect and, where possible, enhance the distinctive character of townscape and landscape. This theme is identified in Policy SP6 of the local plan which requires that development proposals should also harmonise with the surrounding buildings respecting their form in relation to height, scale and massing and make use of appropriate materials and detailing.
- 6.11 The proposal involves the reconfiguration of the ground floor of the church hall to the rear together with the removal of the roof, formation of a new roof and construction of a first floor to provide additional domestic accommodation. An external terrace would be formed at first floor on the west elevation. In addition to the planning policies, the Council's Supplementary Planning Document "Achieving Well Designed Housing" advises that ordinarily extensions should not dominate the original building.
- 6.12 In the context of the proposal, the extensions would occur to the rear of the building with only glimpsed views through from the industrial estate to the rear and from the neighbouring properties to the west. As such, the proposal would not have an impact on the character and appearance of the street scene and the resulting building would be well-related in scale and appearance to the existing building. The materials would be appropriate to those of the existing building.
- 6.13 The proposed extension includes the use of appropriate materials and in the context of this location, would not adversely impact on the character of the area or the occupiers of the neighbouring properties.

### **3. The Impact Of The Development On Heritage Assets**

#### **3a. Listed Buildings**

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

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

- 6.15 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. 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).
- 6.16 Paragraph 195 of the NPPF states that local planning authorities should refuse consent for any development which would lead to substantial harm to or total loss of significance of designated heritage assets. However, in paragraph 196, the NPPF goes on to say that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 6.17 Criteria 7 of Policy SP7 seeks to ensure that development proposals safeguard and enhance conservation areas across the District. Policy HE3 of the local plan also indicates that new development which adversely affects a listed building or its setting will not be permitted. Any harm to the significance of a listed building will only be justified where the public benefits of the proposal clearly outweighs the significance.
- i) the significance of the heritage asset and the contribution made by its setting
- 6.18 Nook House is a Grade II listed building approximately 30 metres north of the application site and a milestone that is approximately 70 metres to the south-west of the application site.
- ii) the effect of the proposed development on the settings of the Grade II listed buildings
- 6.19 Historic England has produced a document entitled 'Historic Environment Good Practice Advice in Planning Note 3 - The Setting of Heritage Assets' (TSHA). The TSHA document and the NPPF make it clear that the setting of a heritage asset is the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive and negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
- 6.20 The NPPF reiterates the importance of a setting of a listed building by outlining that its setting should be taken into account when considering the impact of a proposal on a heritage asset (paragraph 194). However, in

paragraph 196, the NPPF goes on to say that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

- 6.21 Section 66 (1) requires that development proposals consider not only the potential impact of any proposal on a listed building but also on its setting. Considerable importance and weight needs to be given to the desirability of preserving the adjoining listed buildings and settings when assessing this application. If the harm is found to be less than substantial, then any assessment should not ignore the overarching statutory duty imposed by section 66(1).
- 6.22 The development would include an extension and alterations to an existing building to which there would be very limited views from outwith the site. The proposal would be of an appropriate scale and appearance and additionally the listed building and structure is separated by intervening buildings. In this context, it is considered that the proposal (in terms of its location, scale, materials and overall design) would not be detrimental to the immediate context or outlook of the aforementioned adjacent listed buildings.

### 3b. Impact Of The Proposal On The Longtown Conservation Area

- 6.23 The application site is located within the Longtown Conservation Area. Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990, the NPPF, PPG, Policy HE7 of the local plan are relevant.
- 6.24 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".*

- 6.25 The aim of the 1990 Act is reiterated in the NPPF, PPG and policies within the local plan. Policies HE6 and HE7 of the local plan advise that proposals should preserve or enhance their character and appearance, protecting important views into and out of conservation areas.
- 6.26 Under the requirements of the NPPF, a *"balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."* The proposal would involve an extension and alterations to the building that would be well-related in the context of the site with public views separated from the conservation area by intervening buildings. On this basis, the proposal would preserve the character and appearance of the conservation area and would not prejudice important views into or out of the conservation area and is acceptable.

## **4. Effect On The Living Condition Of The Occupiers Of The Nearby Properties**

- 6.27 Paragraph 127(f) of the NPPF highlights that developments and decisions should create high quality development and protect the amenity adjacent and future users. The city council's Supplementary Planning Document "Achieving Well Designed Housing", on the matter of privacy, states that:

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

- 6.28 Moreover, Policies SP6 and HO8 of the local plan requires that proposals ensure that there is no adverse effect on residential amenity or result in unacceptable conditions for future users and occupiers of the development and that development should not be inappropriate in scale or visually intrusive.
- 6.29 The proposal includes the provision of a first-floor terrace that would face west. Adjacent to the site at this point is a parking area that serves 55 to 61 Carlisle Road with windows in the rear of the properties beyond. As such, there is the potential for overlooking to occur from the terrace to these properties.
- 6.30 To address this, the applicant originally submitted plans which included a mesh screen and wire planters. Officers considered that such a screen was not sufficiently robust and as such, the plans have been amended and the scheme now includes the brickwork and timber fencing to an overall height of 2.1 metres. A condition is imposed requiring the formation and retention of this screen.
- 6.31 Given the orientation of the application site with the neighbouring properties, the development would form an extension to an existing building and would be well-related to such. Accordingly, the occupiers of these properties would not suffer from an unreasonable loss of daylight or sunlight. The siting, scale and design of the development will not adversely affect the living conditions of the occupiers of the neighbouring properties by virtue of over-dominance.

## **5. Highway Matters**

- 6.32 Planning policies generally require that development proposals do not lead to an increase in traffic levels beyond the capacity of the surrounding local highway and provide adequate parking facilities.
- 6.33 There is a narrow access between the gable and curtilage of the adjacent properties which then expands to a more open area adjacent to the church entrance. The applicant proposes that this would be the access and parking

areas and has submitted plans which show parking facilities for three vehicles.

- 6.34 In response, Cumbria County Council as the Highway Authority has submitted an objection that raises two issues. Firstly, there was concern that the access does not provide the appropriate pedestrian visibility splays of 2.4 metres by 2.4 metres. In this instance, the splay cannot be achieved due to the proximity of the adjacent gable to the access and it being on the boundary of the footpath. Whilst the pedestrian visibility splay is a recognised requirement for new development, in this instance, the access is existing, a point reinforced by the fact that there is a solid white line painted on the carriageway which is a mechanism used to keep accesses clear. The Highway Authority has confirmed that they are not aware of any road traffic collisions in the proximity of the site in the last 20 years. Therefore, in this instance, it would be unreasonable to refuse the application on this basis as the access is existing.
- 6.35 The second point refers to the intensification of the use of the site. The application proposes the conversion and extension of the rear portion of the building used as the church hall whilst the remaining element to the front, does not form part of the application site. The Highway Authority are concerned that this could potentially revert back to its religious use which, together with the dwelling to the rear, would result in an intensification of the use.
- 6.36 This scenario is recognised but the whole site is within the applicant's ownership and it is difficult to conceive that the church use would continue whilst attached to the applicant's property with parishioners walking through his access and curtilage. Whilst this application must be determined on its merits, the question has been asked as to the applicant's intended use of the church and an update should be available for members at the meeting.
- 6.37 Given the relatively narrow width of the access, parking in this area when the church was in use would limit the ability of parishioners with mobility issues to adequately pass the parked vehicles. Even if this scenario were to manifest itself, the three parking spaces within the site could not accommodate all of the parishioners' parking requirements. Therefore, a maximum of three vehicles would be displaced which could be accommodated in the surrounding on-street parking facilities. In any event, proportionately the amount of vehicles that would be displaced would be minimal in comparison to the amount of parishioners and potential vehicles to the church. Consequently, even if the church use continued in tandem with the residential use, the level of intensification and the consequential highway effects, are considered to be minimal and would be acceptable in this instance.

## **6. Biodiversity**

- 6.38 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.

- 6.39 The council's GIS layer has identified that the site has the potential for protected species to be present on or in the vicinity of the site. As the building would be within the curtilage of a domestic property on land previously developed, the building would not harm a protected species or their habitat; however, an Informative would have been included within the decision notice ensuring that if a protected species is found all work must cease immediately and the local planning authority informed.

## **Conclusion**

- 6.40 In overall terms the proposal is appropriate to the property in terms of scale and design and would not result in a discordant feature within the locality and would not be detrimental to the area. The development would not be detrimental to the character or setting of either listed buildings or the Longtown Conservation Area.
- 6.41 The building would be sufficiently well orientated in respect of the neighbouring properties such that the living conditions of the occupiers of these properties would not be adversely affected to such a degree as to constitute development contrary to planning policies. No biodiversity issues are raised by the application.
- 6.42 The Highway Authority has raised several issues that culminate in an objection to this application. In assessing these, the first issue which relates to the pedestrian visibility splays is largely irrelevant as the access is existing. The second issue relates to the intensification of the use of the site and the resulting increase in parking demand. If Members consider that this would occur as a result of the development, it is a matter of judgement as to whether this displacement would have a negative effect on the surrounding highway network and parking facilities. On balance, however, given the scale and nature of the development, it is considered acceptable in this instance. In all aspects the proposal is considered to be compliant with the objectives of the relevant local plan policies and is recommended for approval subject to the imposition of conditions.

## **7. Planning History**

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

## **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 Planning Application Form received 5th August 2019;
2. the Location Plan received 12th August 2019;
3. the Site Plan received 5th August 2019;
4. the Proposed Plans received 5th August 2019 (Drawing no. P100);
5. the Proposed Elevations received 21st October 2019 (Drawing no. P300 Rev A);
6. the Proposed Sections received 18th October 2019 (Drawing no. P200 Rev A);
7. the Location Plan Visibility Splays received 18th October 2019;
8. the Design and Access Statement received 5th August 2019;
9. the Heritage Statement received 12th August 2019;
10. the Parking Plan received 18th October 2019;
11. the Notice of Decision;
12. any such variation as may subsequently be approved in writing by the local planning authority.

**Reason:** To define the permission.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order) there shall be no enlargement or external alterations to the dwelling unit to be erected in accordance with this permission, within the meaning of Schedule 2 Part (1) Classes A, B, D and E of these Orders, without the written approval of the local planning authority.

**Reason:** To ensure that the character and attractive appearance of the buildings is not harmed by inappropriate alterations and/or extensions and that any additions which may subsequently be proposed satisfy the objectives of Policy SP2, HO2 and CM5 of the Carlisle District Local Plan 2015-2030.

4. The parking area shall be constructed in accordance with the approved plans before the building is 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 Policies IP3 and SP6 of the Carlisle District Local Plan 2015-2030.

5. The brick and timber boundary structure serving the terrace shown on the Proposed Elevations (Drawing no. P300 Rev A) and Proposed Sections

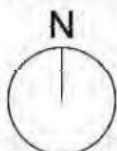
(Drawing no. P200 Rev A) received 21st October 2019 shall be completed prior to the terrace being brought into use and shall be retained in its approved form thereafter.

**Reason:** To protect the living conditions of the occupiers of neighbouring properties from overlooking and loss of privacy and to ensure an appropriate form of development in accordance with Policies SP6 and HO8 of the Carlisle District Local Plan 2015-2030.

6. The external walling materials to be used in the building works hereby permitted shall be identical to those in the existing building, including the manner in which any bricks are laid, where appropriate. If any other material is proposed no development relating to the use of external materials shall take place until such has been approved, in writing, by the local planning authority.

**Reason:** To ensure the works harmonise as closely as possible with the existing building and to ensure compliance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

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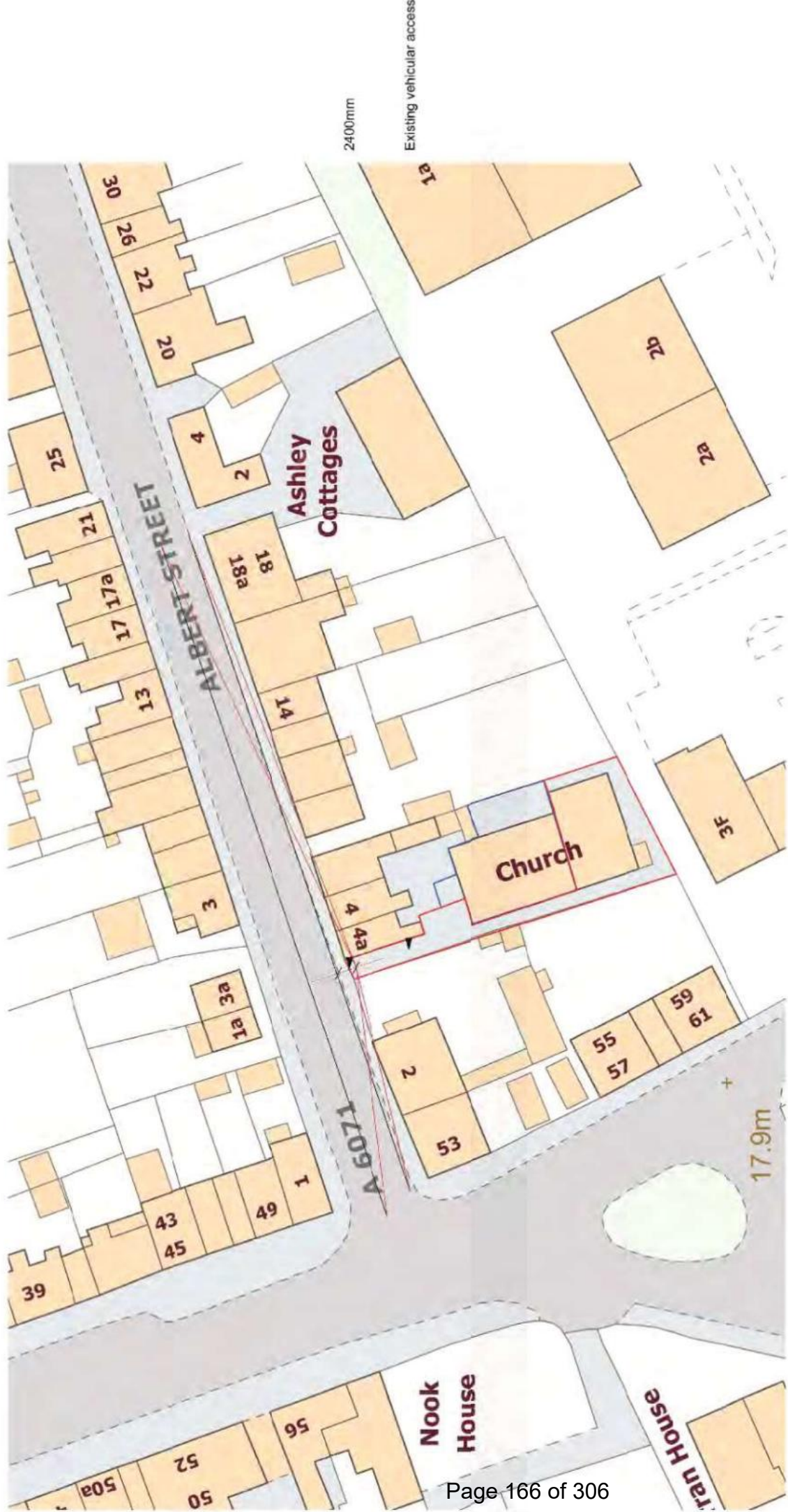


This drawing is for planning purposes only. All dimensions to be checked on site before any work commences.

- Proposed Site
- Site not part of this application

0m 10m 20m 40m 60m

**Location Plan**  
Scale 1:1250 at A4

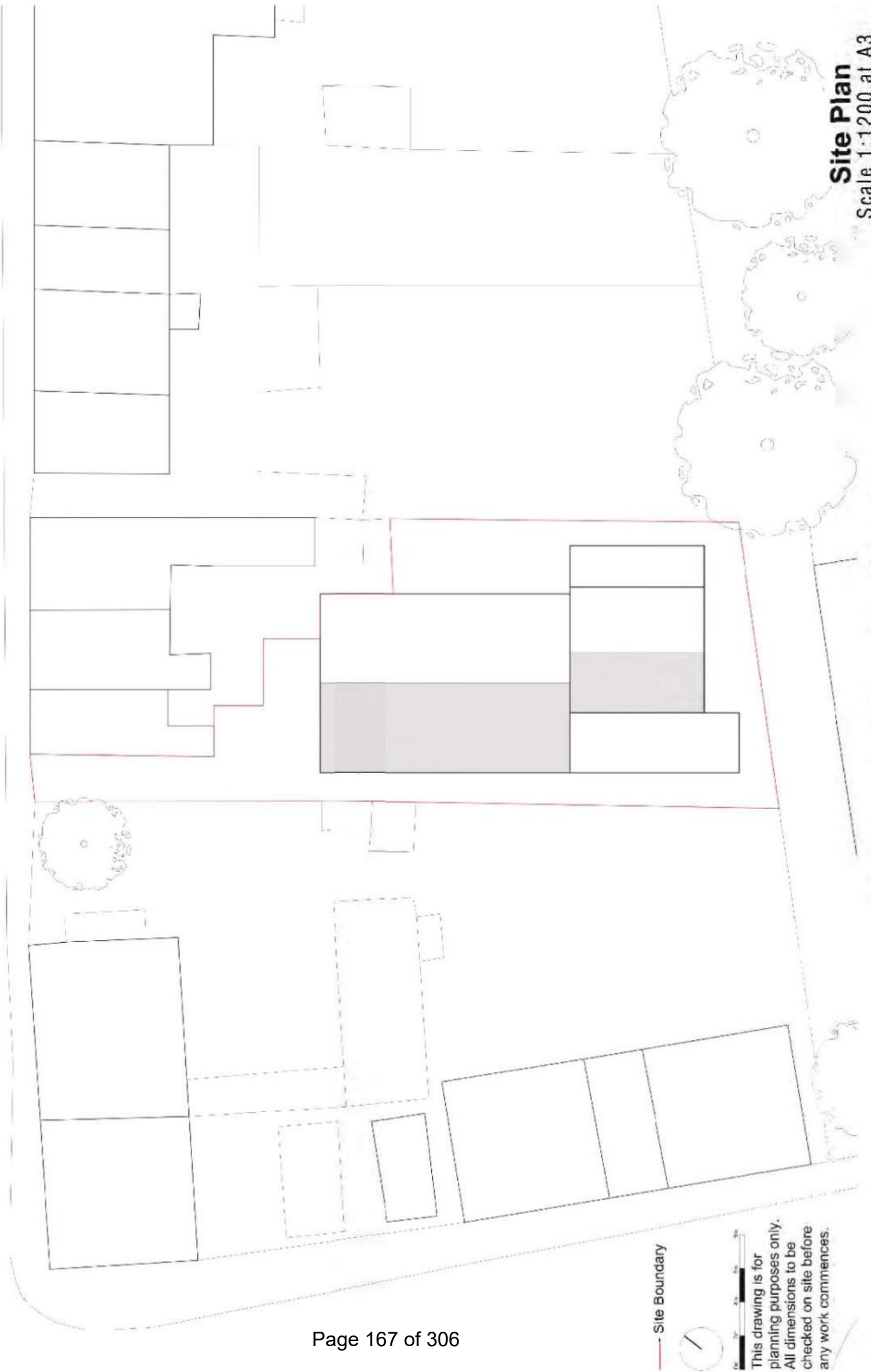


Proposed Site

Site not part of this application

This drawing is for planning purposes only. All dimensions to be checked on site before any work commences.

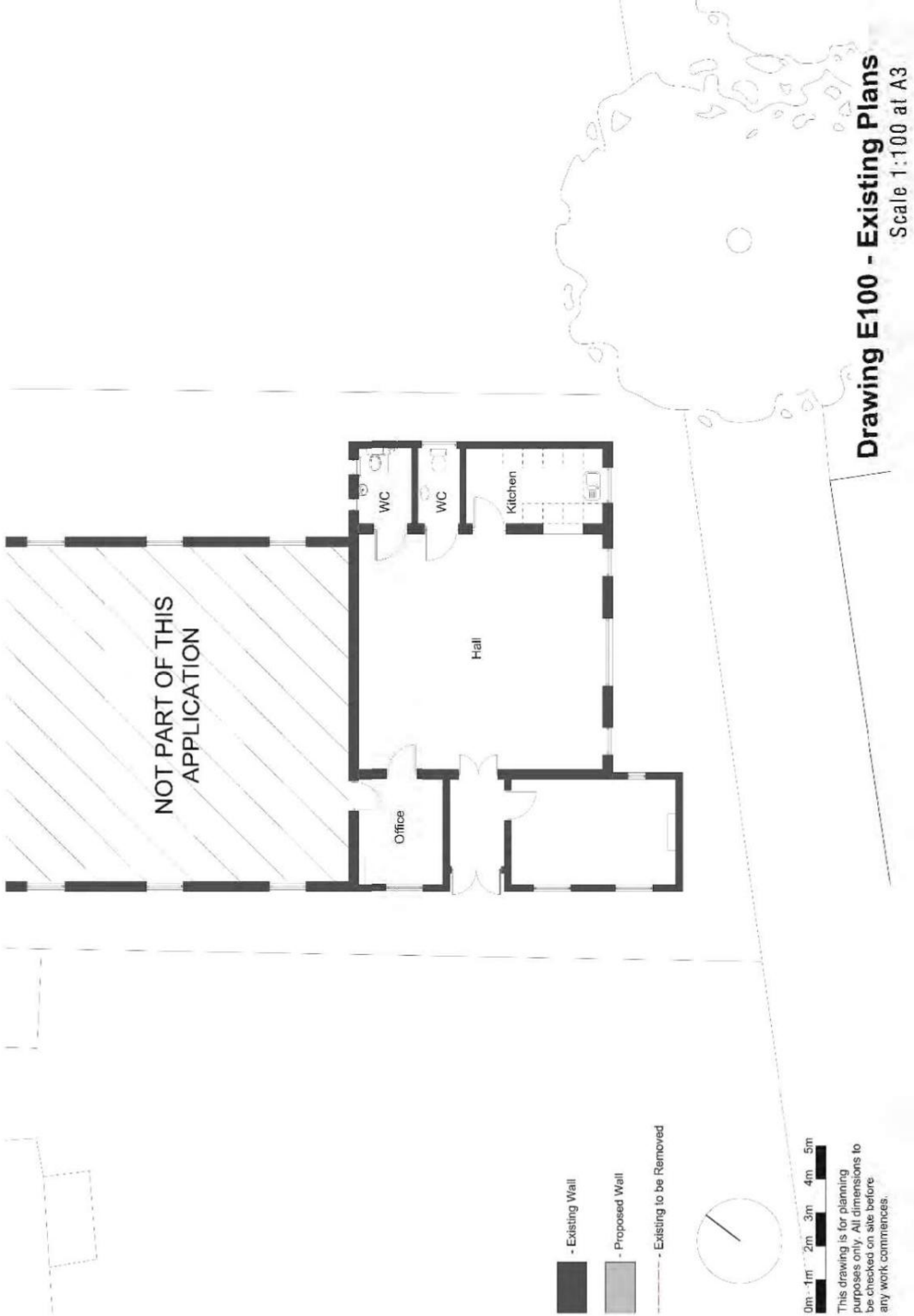
# Location Plan

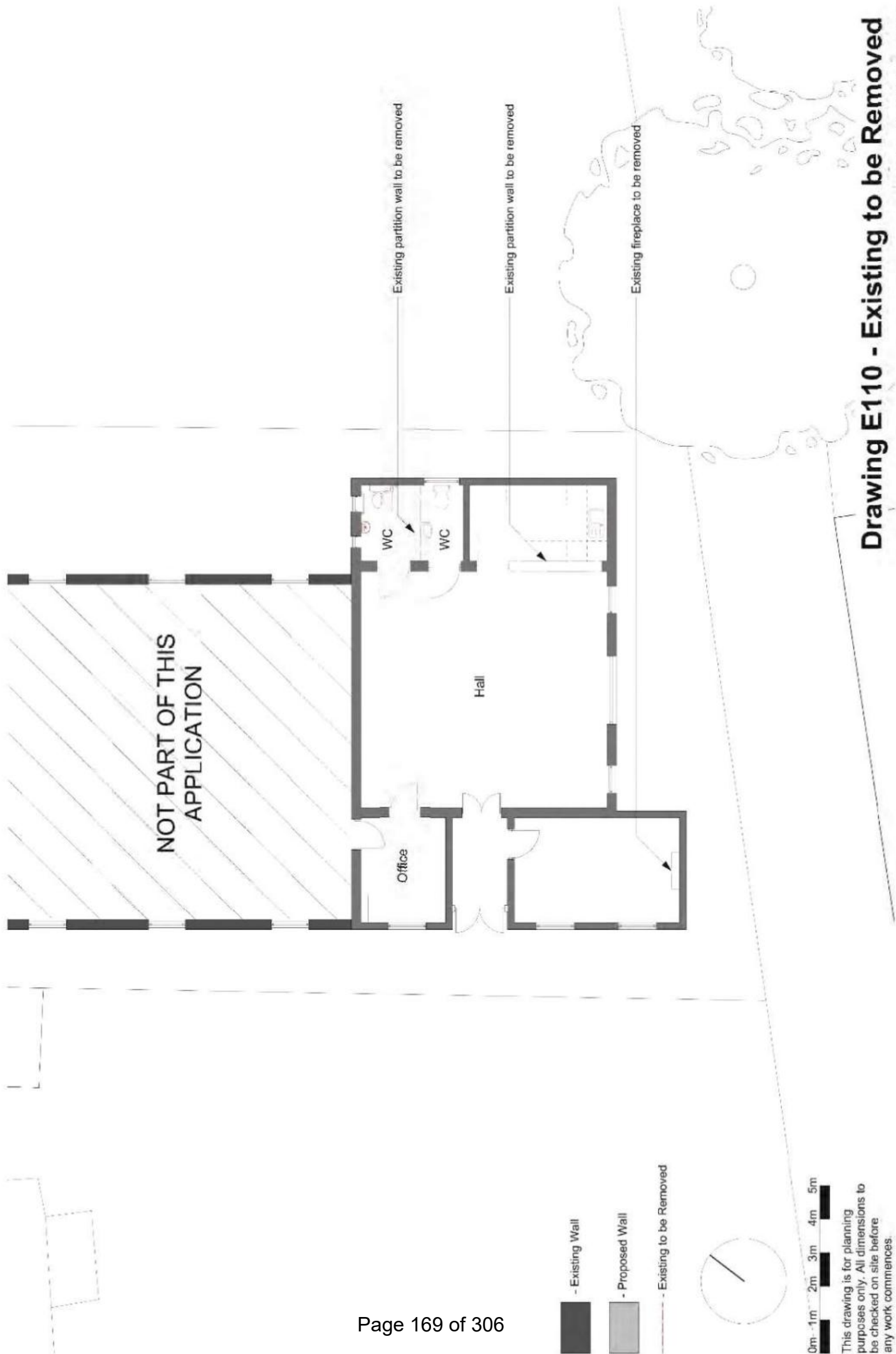


— Site Boundary



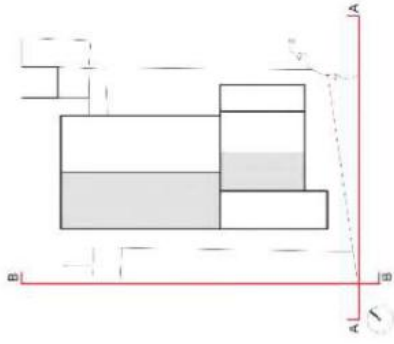
This drawing is for planning purposes only. All dimensions to be checked on site before any work commences.



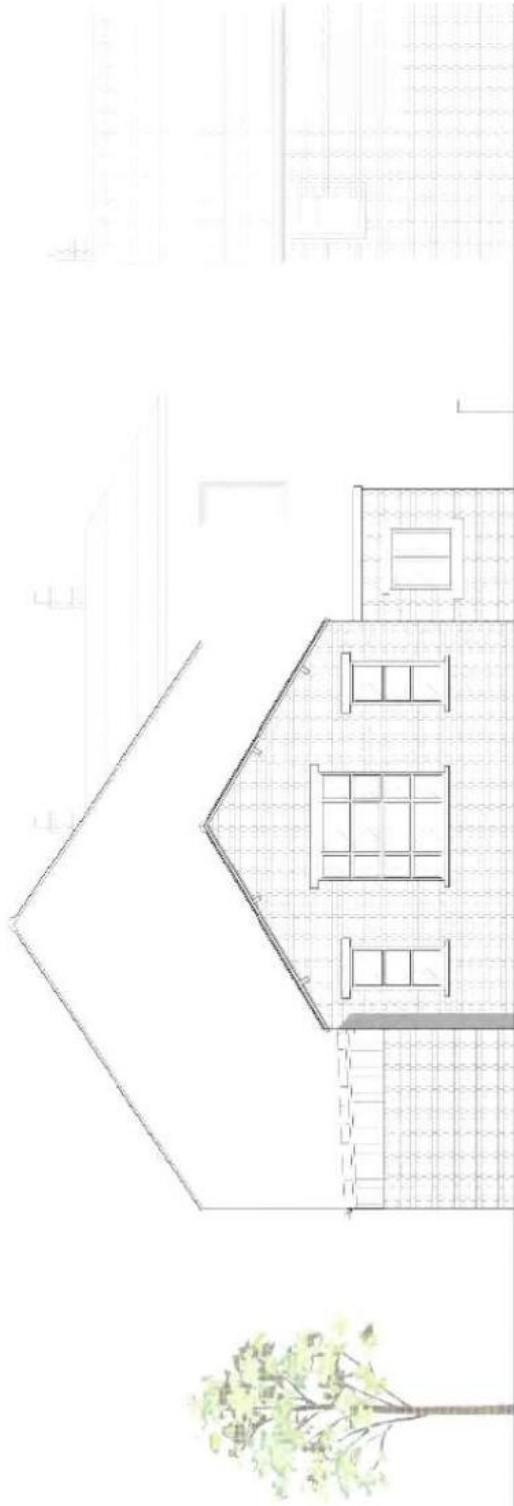


**Drawing E110 - Existing to be Removed**

Scale 1:100 at A3

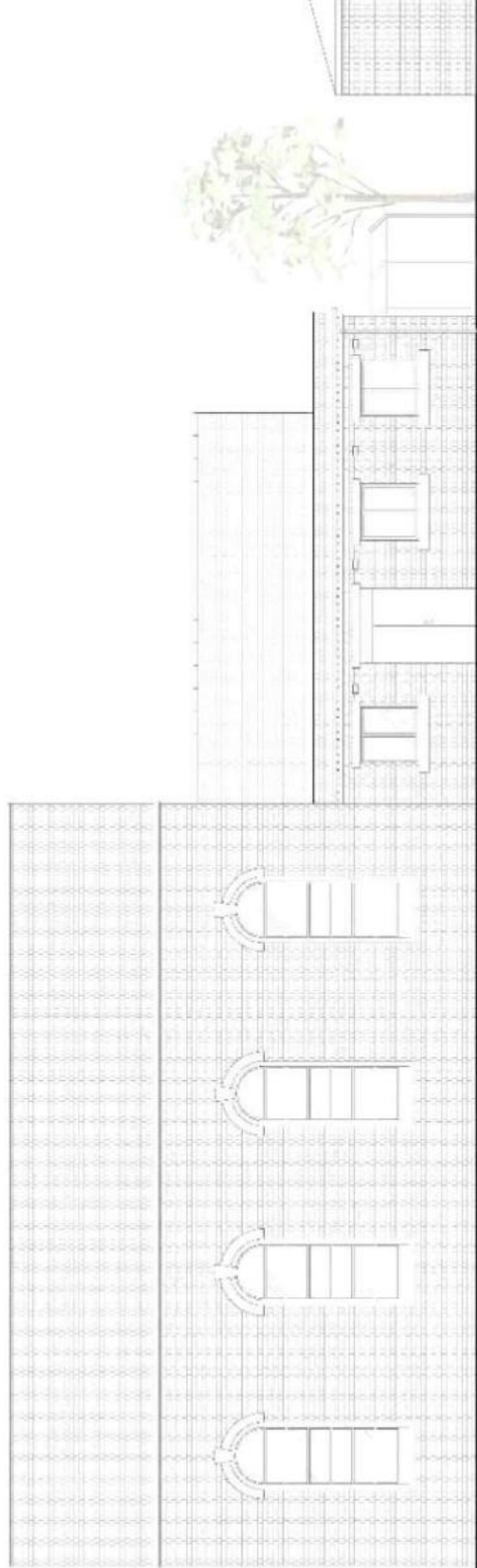


This drawing is for planning purposes only. All dimensions to be checked on site before any work commences.



Elevation AA

Scale 1:100



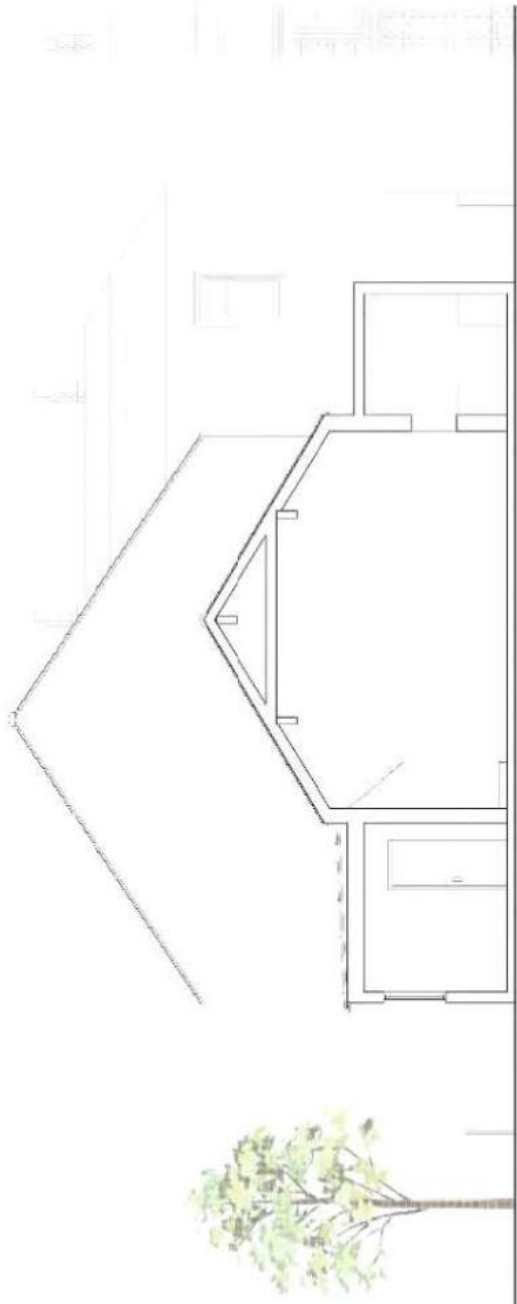
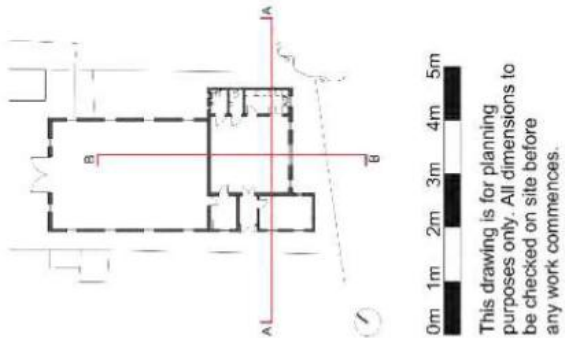
Elevation BB

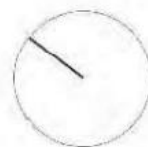
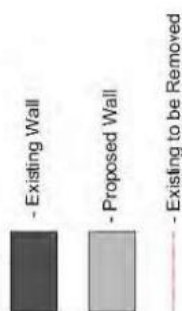
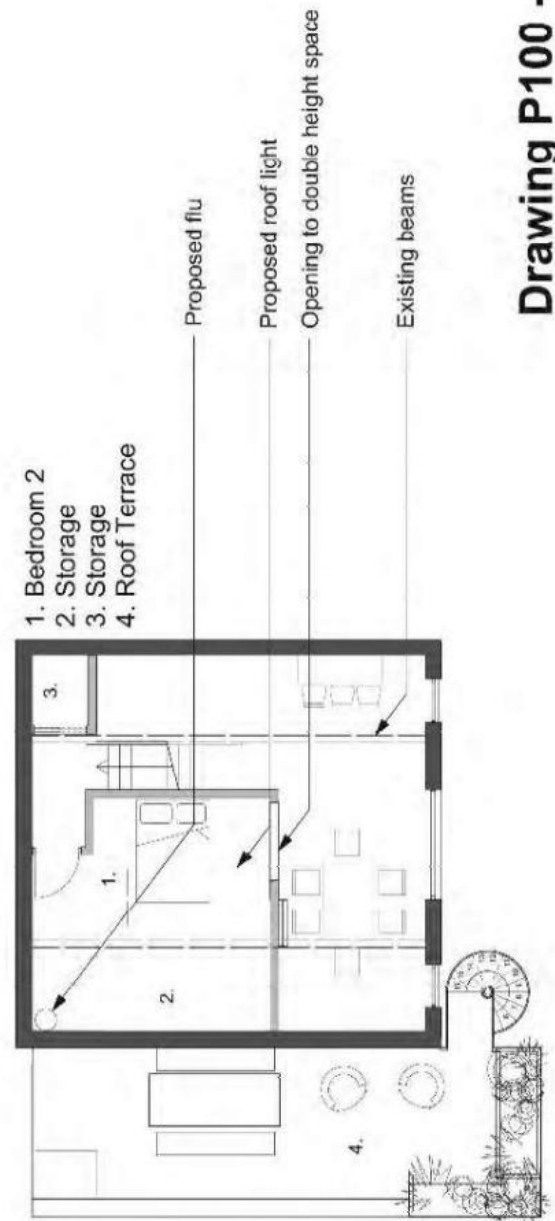
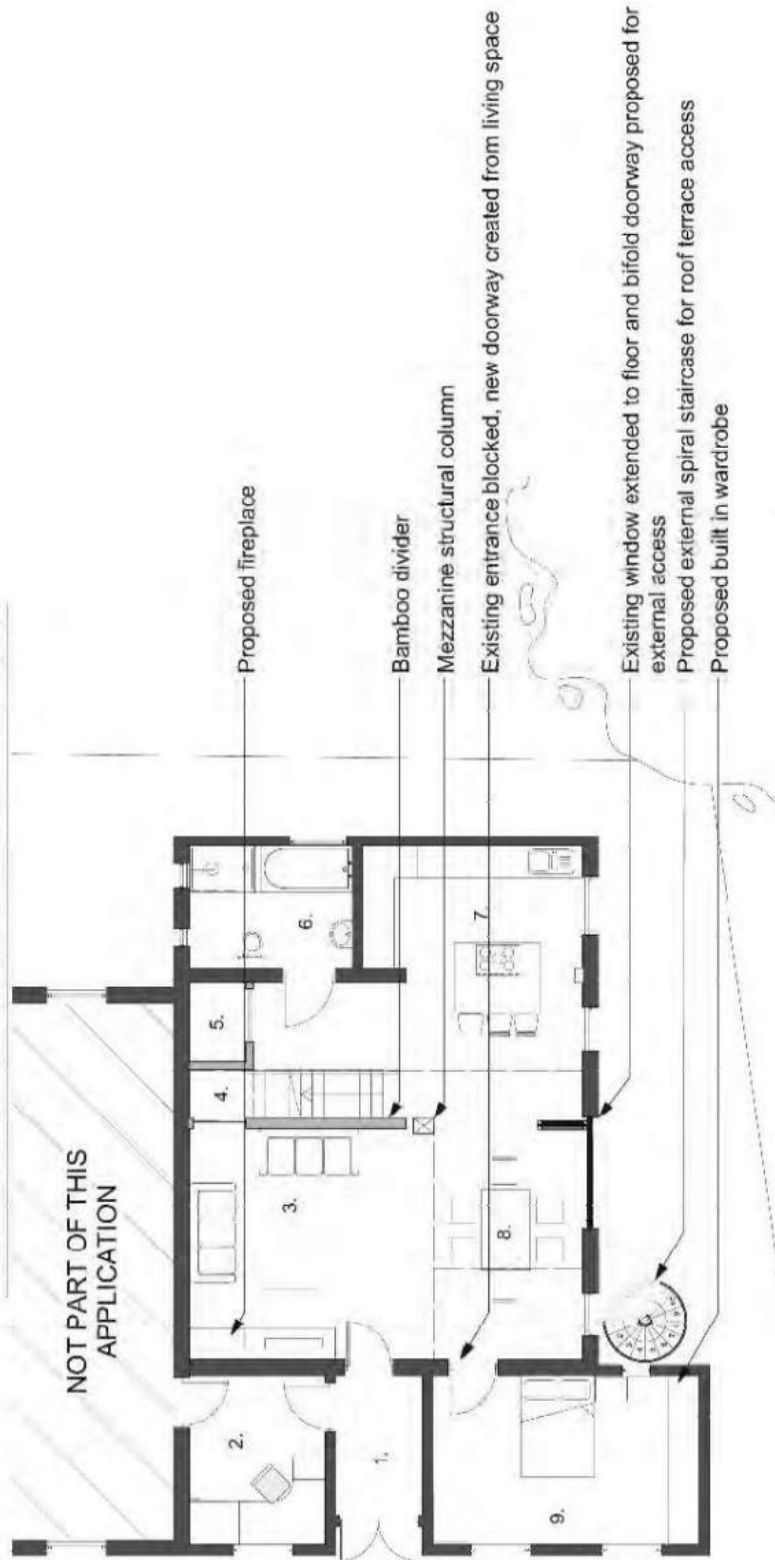
Scale 1:100



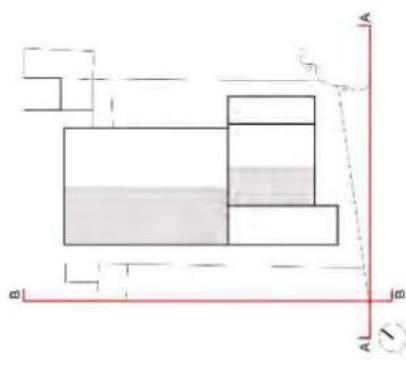
## Drawing E300 - Existing Elevations

Scale 1:100 at A3





This drawing is for planning purposes only. All dimensions to be checked on site before any work commences.



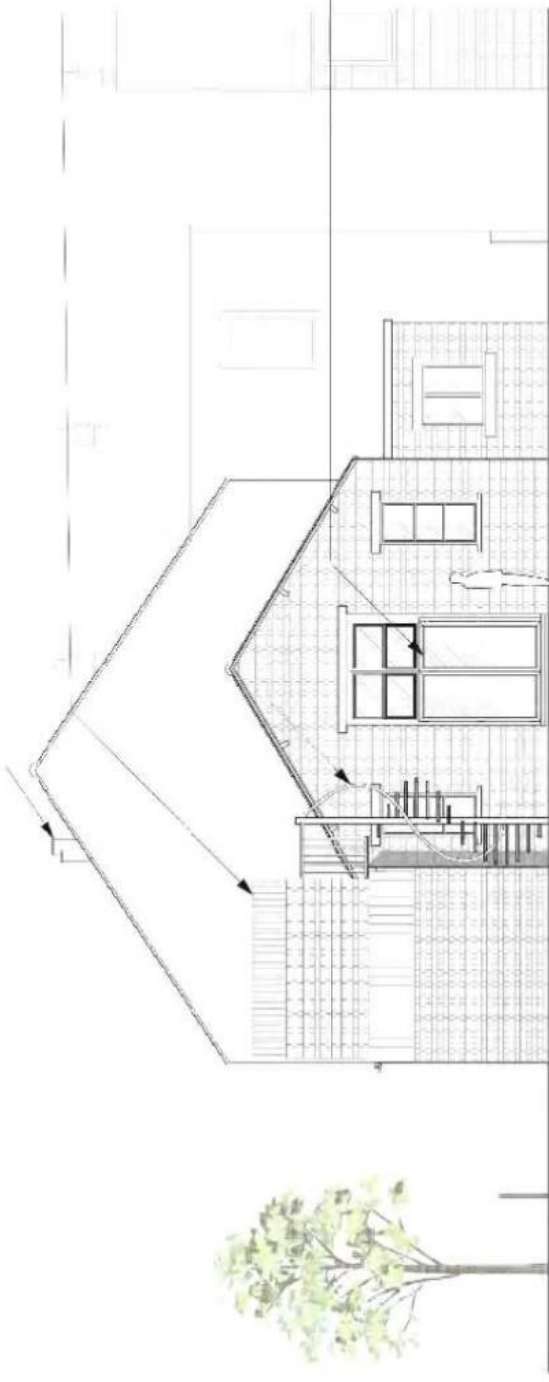
This drawing is for planning purposes only. All dimensions to be checked on site before any work commences.

**Proposed flu**

Proposed roof terrace with extended brickwork timber fencing for privacy. Proposed brickwork to match existing, fencing to be fixed to internal face of brickwork.

Proposed external spiral staircase for roof access

Existing window removed, opening extended and bi-fold doors proposed for external access



**Proposed Elevation AA**

Scale 1:100

Proposed roof terrace with extended brickwork timber fencing for privacy.  
Proposed brickwork to match existing, fencing to be fixed to internal face of brickwork.



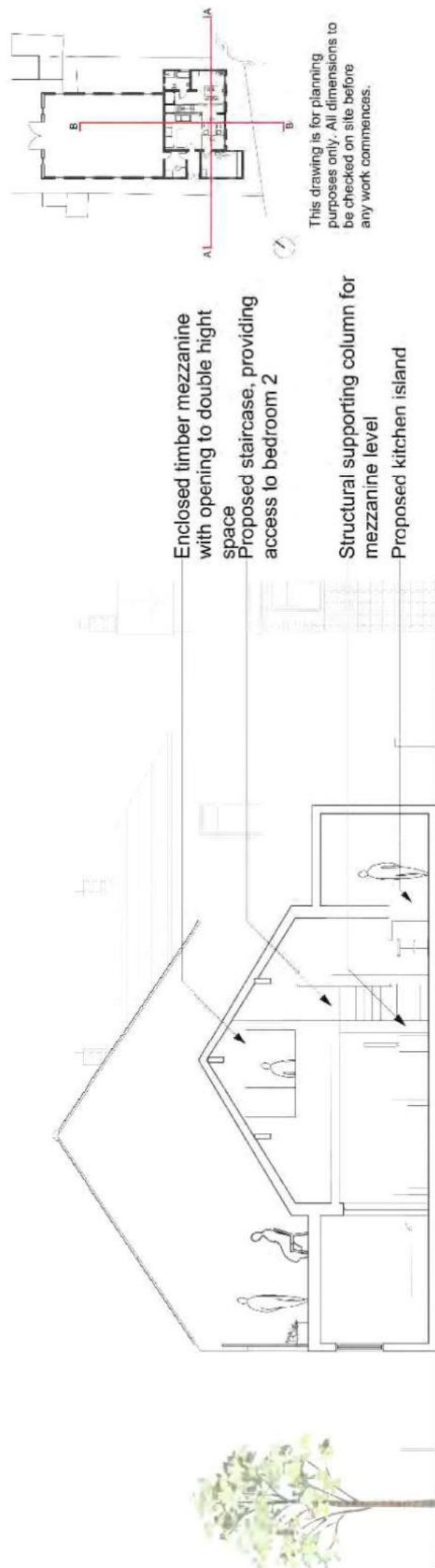
**Proposed Elevation BB**

Scale 1:100



Revision A

# Drawing P300 - Proposed Elevations

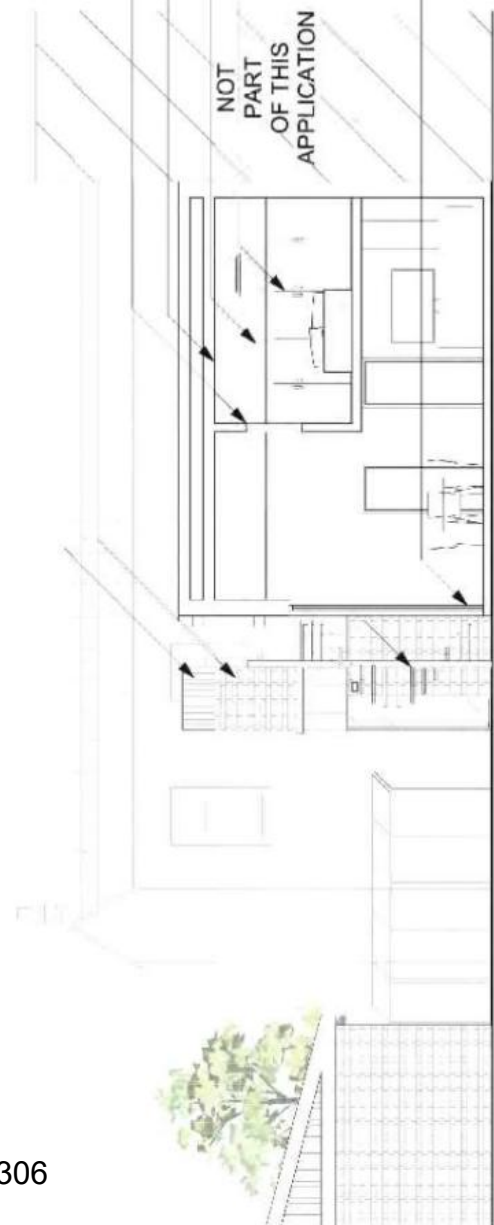


Enclosed timber mezzanine with opening to double height space  
 Proposed staircase, providing access to bedroom 2

Structural supporting column for mezzanine level  
 Proposed kitchen island

This drawing is for planning purposes only. All dimensions to be checked on site before any work commences.

**Section AA**  
 Scale 1:100



Privacy screen timber fencing: total height 2100mm  
 Proposed brickwork to match existing; 1500mm high  
 Internal opening with shutter  
 Proposed roof light  
 Existing I-Beam Storage  
 Proposed external spiral staircase for roof access  
 Existing window removed, opening extended and new bi-fold doors proposed

NOT PART OF THIS APPLICATION

**Section BB**  
 Scale 1:100



# Drawing P200 - Proposed Sections



Existing Vehicular Access

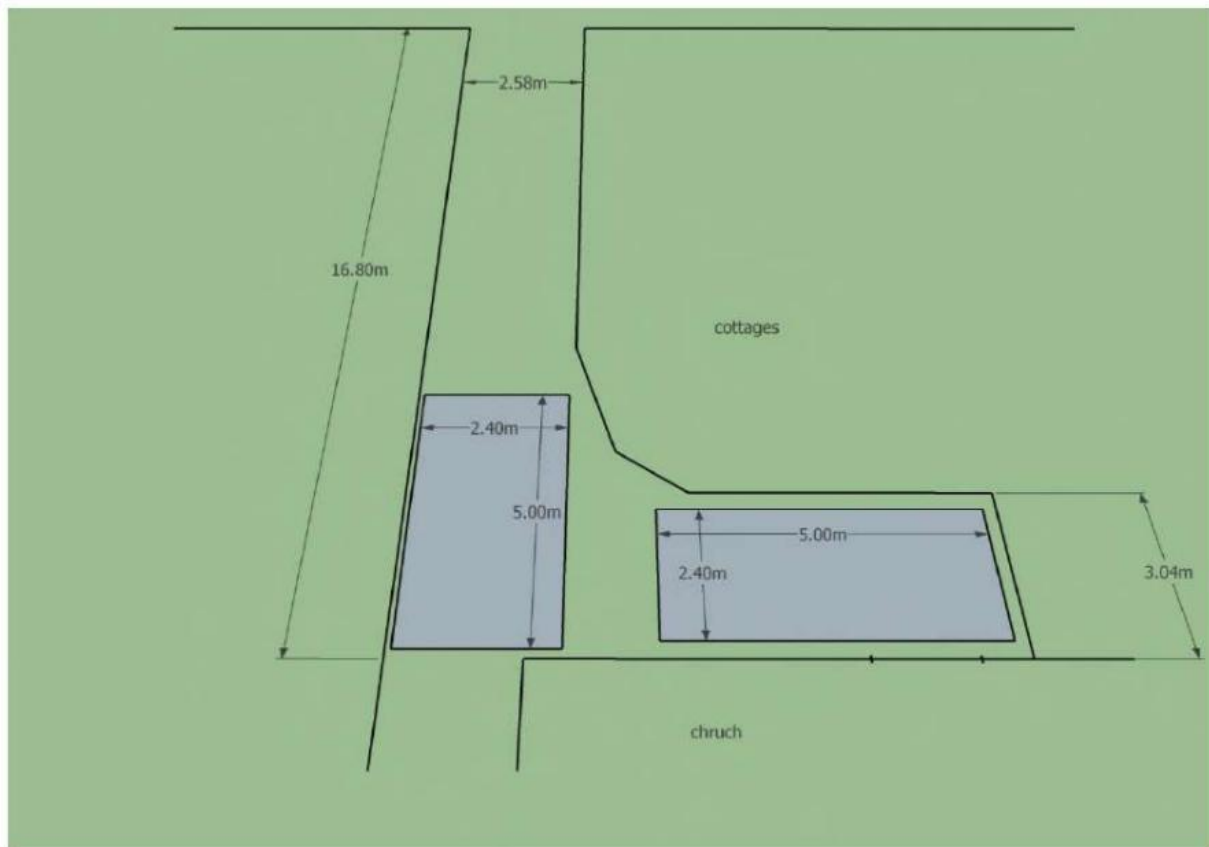


### Parking Plan

This application is for the current and existing site access/parking for the conversion of the church rear to access the Dwelling.

The proposed parking is for 1.5 parking spots, as required by regulations for a two bed dwelling.

- **Proposed Parking**



SketchUp Pro 2018

The two rectangles represent the 2.4x5m space required for vehicle parking. While noting the average width of a family car is between 1.8-2m.



There is room the full length of the drive (represented by the red area, however parking closes to the church will be carried out)



Area once gates have been removed



- **Access to parking**

The Highway Authority request pedestrian visibility splays. However since this is already an existing access route to the site and no new access is being requested, I have been advised that one is not required.

Access to the site is from Albert Street. Reverse parking will be required as no turning space is available. This will ensure safety in exiting the parking area when joining the road.



As you can see there is already a single white line stating parking should not be allowed and that access should be clear at all times.



- **Leaving Parking Area**

As explained above reverse parking on the site is essential, joining Albert Street will be front facing allowing for greater and safer visibility to other road users. In terms of pedestrian safety past the parking access I understand that a short horn blast is used locally as a warning to approaching pedestrians from either side.



White line continues up past the No.2 Albert Street off-street parking spot.



However due to numbers of vehicles owned by the immediate neighbours, often visibility is restricted when they use this area for additional parking. Till now the church never needed regular vehicle access, however this will change with a change in future use of the property.

- **Similar off-street parking access on Albert Street**

Along the length of Albert Street, most of the off-street parking is accessed via openings between the houses.



(Access for parking at the rear of numbers 8,10,12,14)



(Opposite side of road)



(Opposite side of road)

- **Possible Future plans**

This application is required to address the parking needs for a new Dwelling. Although street parking is available in the vicinity of the church, off street parking would reduce additional demand on local street parking for one dwelling in the immediate future. However, before future development of the main church building commences, we would need to revisit parking requirements. We are currently looking into alternative parking options both on and off site which would be more suitable for a larger numbers of vehicles.

## SCHEDULE A: Applications with Recommendation

19/0851

Item No: 08

Date of Committee: 10/01/2020

**Appn Ref No:**  
19/0851

**Applicant:**  
Genesis Homes

**Parish:**  
Burgh-by-Sands

**Agent:**  
Mr Blue

**Ward:**  
Dalston & Burgh

**Location:** Land Adjacent To King Edwards Fauld, Burgh By Sands, Carlisle, CA5 6AR

**Proposal:** Variation Of Condition 2 (Approved Documents) Of Previously Approved Application 18/1088 (Erection Of 24no. Dwellings And Associated Infrastructure) To Amend The Site Layout And Finished Floor Levels

**Date of Receipt:**  
05/11/2019 14:00:41

**Statutory Expiry Date**  
31/12/2019 14:00:41

**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 Proposed Amendments Would Be Acceptable

#### 3. Application Details

##### The Site

- 3.1 The site covers an area of approximately 1 hectare and dwellings are currently under construction on the site, in line with planing permission 18/1088.
- 3.2 The site is located on the edge of Burgh-by-Sands, immediately adjacent to the residential development of King Edwards Fauld and directly to the west of dwellings on Amberfield. Burgh-by-Sands Primary School lies approximately 40m to the south-east of the application site.

- 3.3 The site is allocated for housing in the adopted Local Plan. The site lies within the Hadrian's Wall World Heritage Site Buffer Zone and lies adjacent to the Burgh-by-Sands Conservation Area.

## **Background**

- 3.4 In June 2019, planning permission was granted for the erection of 24 dwellings and associated infrastructure (18/1088).

## **The Proposal**

- 3.5 This proposal is seeking to amend the previously approved scheme. A single detached garage would be omitted from the rear of Plot 24, with the two parking spaces being retained.

- 3.6 The finished floor levels of a number of the dwellings would be changed as follows:

Plot 1 - increased from 19.85 to 20.15 (+0.3m)  
Plot 6 - increased from 19.40 to 19.475 (+0.075m)  
Plot 7 - increased from 19.00 to 19.40 (+0.4m)  
Plot 8 - increased from 18.70 to 19.25 (+0.55m)  
Plot 9 - increased from 18.55 to 18.75 (+0.2m)  
Plots 10 and 11 - increased from 18.40 to 18.75 (+0.35m)  
Plots 12 and 13 - increased from 17.40 to 18.60 (+1.20m)  
Plot 14 - increased from 17.55 to 18.60 (+1.05m)  
Plot 15 - increased from 17.55 to 18.30 (+0.75m)  
Plot 16 - increased from 17.55 to 18.45 (+0.90m)

The finished floor levels of Plots 2 to 5 and 17 to 24 would remain unchanged.

- 3.7 The layout has also been amended to remove the garden paths around both sides of the properties (paths would be retained to one side).

## **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 thirty neighbouring properties. No verbal or written representations have been made during the consultation period.

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

**Cumbria County Council - (Highways & Lead Local Flood Authority):** - no objections, subject to conditions (construction details of road; provision of visibility splays; Construction Phase Traffic Management Plan; surface water drainage scheme);

**Burgh-by-Sands Parish Council:** - has concerns regarding the drainage of

the site because of the raising of the floor levels of some dwellings. 1.2m is a considerable height and are concerned on the impact to neighbouring properties both to their drainage and the amenity of their properties.

The Parish council would like that more information be shared with the Parish Council and ask that United Utilities are fully consulted about the impact to the drainage of these houses and neighbouring properties.

**United Utilities:** - no comments received.

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

### **Assessment**

- 6.1 Section 70(2) of the Town and Country Planning Act 1990/ Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission is determined in accordance with the provisions of the development plan, unless material considerations indicate otherwise.
- 6.2 The relevant planning policies against which the application is required to be assessed are Policies SP1, SP2, SP6, HO1, HO4, HO10, HE1, HE7, IP3, IP4, IP6, CC5, GI3, GI4, GI6, CM2 and CM4 of the Carlisle District Local Plan 2015-2030 and the council's Supplementary Planning Documents (SPD) "Achieving Well Designed Housing" and "Affordable and Specialist Housing" are also material considerations.
- 6.3 The proposal raises the following planning issues:
1. Whether The Proposed Amendments Would Be Acceptable
- 6.4 The proposal is seeking to amend the finished floor levels of a number of the dwellings. The main reason for the change in the finished floor levels is as a result of a request by United Utilities to remove the foul pumping station that was previously proposed.
- 6.5 An application to discharge the surface water drainage conditions was approved in July 2019 and the drainage plan showed the higher finished floor levels now proposed. The original application, however, showed different finished floor levels (which were approved) and this application is seeking to vary these so they are consistent with finished floor levels shown in the discharge of conditions application.
- 6.6 Plots 14 to 16, which are single-storey properties, lie to the rear of existing dwellings on King Edwards Fauld and the finished floor levels of these dwellings would be increased as follows:
- Plot 14 - increased from 17.55 to 18.60 (+1.05m)  
Plot 15 - increased from 17.55 to 18.30 (+0.75m)  
Plot 16 - increased from 17.55 to 18.45 (+0.90m)
- 6.6 Plot 14 would lie directly to the rear of 1 King Edwards Fauld but this

dwelling would be single-storey and would be over 34m away. Plot 15 would lie to the rear of 2 King Edwards Fauld and would have a side elevation over 22m away from the rear elevation of this dwelling. Plot 16 would also lie in close proximity to 2 King Edwards Fauld but would be located beyond the main rear elevation. Plot 16 would also lie to the rear of 3 Kings Edwards Fauld but this dwelling does not have any windows facing the site. The other dwellings that would have significant increases in finished floor levels all lie to the rear of the site.

- 6.7 The removal of the single detached garage to the rear of Plot 24 and the removal of some of the footpaths around the properties would be acceptable.
- 6.8 In light of the above, the proposed amendments would be acceptable and would not have an adverse impact on the living conditions of the occupiers of any neighbouring properties through loss of light, loss of privacy or over-dominance. The proposed changes would not impact on the Burgh-by-Sands Conservation Area, or on the Hadrian's Wall World Heritage Site Buffer Zone. In all aspects, the proposal is compliant with the relevant policies in the adopted Local Plan.

## **7. Planning History**

- 7.1 In June 2016, outline planning permission was approved for residential development on this site (15/0617).
- 7.2 In June 2019, planning permission as granted for the erection of 24 dwellings and associated infrastructure (18/1088).

## **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 forms received 7th December 2018 and 5th November 2019;
  - 2. the Site Location Plan (drawing ref P(100)001) received 7th December 2018;
  - 3. the Existing Site Plan (drawing ref P(000)002 Rev A) received 11th December 2018;
  - 4. the Proposed Site Plan (drawing ref P(100)001 Rev J) received 17th December 2019;
  - 5. the Proposed Site Sections & Elevations (drawing ref P(400)001) received 7th December 2018;
  - 6. the Esk Typical Elevations (drawing ref P(300)001 Rev A) received 7th December 2018;
  - 7. the Esk Typical Floors (drawing ref P(200)001) received 7th December 2018;
  - 8. the Dee Typical Elevations (drawing ref P(300)002 rev A) received 7th December 2018;

9. the Dee Typical Floor Plans (drawing ref P(200)002) received 7th December 2018;
10. the Eden Typical Elevations (drawing ref P(300)003 rev A) received 7th December 2018;
11. the Eden Typical Floor Plans (drawing ref P(200)003) received 7th December 2018;
12. the Gelt Typical Elevations (drawing ref P(300)004 rev A) received 7th December 2018;
13. the Gelt Typical Floor Plans (drawing ref P(200)004) received 7th December 2018;
14. the Whillan Typical Elevations (drawing ref P(300)006 rev B) received 7th March 2019;
15. the Whillan Typical Floor Plans (drawing ref P(200)006 rev A) received 7th March 2019;
16. the Caldew Typical Elevations (drawing ref P(300)010 rev A) received 7th December 2018;
17. the Caldew Typical Floor Plans (drawing ref P(200)010) received 7th December 2018;
18. the Petterill Typical Elevations (drawing ref P(300)012 rev A) received 7th December 2018;
19. the Petterill Typical Floor Plans (drawing ref P(200)012) received 7th December 2018;
20. the Lowther Typical Elevations (drawing ref P(300)018 rev C) received 11th March 2019;
21. the Lowther Typical Floor Plans (drawing ref P(200)018 rev A) received 11th March 2019;
22. the Derwent Typical Elevations (drawing ref P(300)019 rev A) received 7th December 2018;
23. the Derwent Typical Floor Plans (drawing ref P(200)019) received 7th December 2018;
24. the Ellen Typical Elevations (drawing ref P(300)022 rev A) received 7th December 2018;
25. the Ellen Typical Floor Plans (drawing ref P(200)022) received 7th December 2018;
26. the Garages Typical Floor Plans & Elevations (drawing ref P(2020)050 rev A) received 7th March 2019;
27. the Proposed Boundary Treatment Plan (drawing ref P(100)003 rev G) received 29th May 2019;
28. the Proposed Boundary Treatment Details (drawing ref P(500)001) received 7th December 2018;
29. the Drainage Strategy (drawing ref 01 Issue P9) received 17th December 2019;
30. the Planting Plan (drawing ref 01 rev A) received 7th December 2018;
31. the Plant Specification & Schedules (drawing ref 02) received 7th December 2018;
32. the Proposed Affordable Housing Plan (drawing ref P(100)002 rev F) received 29th May 2019;
33. the Proposed Materials Schedule received 7th December 2018;
34. the Update to Ecological Appraisal (Oct 2018) received 7th December 2018;
35. the Phase 2: Ground Investigation Report received 7th December

- 2018;
36. the Section 106 Draft Heads of Terms received 7th December 2018;
  37. the Traffic Survey from WYG received 7th December 2018;
  38. the Planning and Affordable Housing Statement received 7th December 2018;
  39. the Geo Environmental Engineering Report (GEO2018-3108) received 7th December 2018;
  40. the Design and Access Statement (November 2018) received 7th December 2018;
  41. the Flood Risk Assessment and Drainage Statement (1806-01) received 7th December 2018;
  42. the Archaeological Evaluation - Written Scheme of Investigation (October 2014) received 7th December 2018;
  43. the Notice of Decision; and
  44. any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason:** To define the permission.

2. The materials shall be in strict accordance with the details discharged under application 19/0457.

**Reason:** To ensure the works harmonise as closely as possible with dwellings in the vicinity and to ensure compliance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

3. The development shall be undertaken in strict accordance with the Planting Plan (Dwg No. 01 received, 7th December 2018, submitted under application 18/1088) and the Plant Specification and Schedule (Dwg No. 02 received 7th December 2018 submitted under application 18/1088). These works shall be carried out as approved prior to the occupation of any part of the development or in accordance with the programme agreed by the Local Planning Authority. Any trees or other plants which die or are removed within the first five years following the implementation of the landscaping scheme shall be replaced during the next planting season.

**Reason:** To ensure that a satisfactory landscaping scheme is prepared and to ensure compliance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

4. Foul and surface water drainage shall be drained on separate systems.

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

5. The surface water drainage shall be completed, maintained and managed in strict accordance with the details discharged under application 19/0457.

**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. A programme of archaeological post-excavation assessment and analysis, preparation of a site archive ready for deposition at a store, completion of an archive report, and publication of the results in a suitable journal as approved beforehand by the Local Planning Authority (LPA) shall be carried out within one year of the date of commencement of the hereby permitted development or otherwise agreed in writing by the LPA.

**Reason:** To ensure that a permanent and accessible record by the public is made of the archaeological remains that have been disturbed by the development.

7. The carriageway, footways, footpaths, cycleways etc shall be designed, constructed, drained and lit in accordance with the details approved under application 19/0457. Any works so approved shall constructed before the development is complete.

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

8. Visibility splays providing clear visibility of 36 metres measured 2.4 metres down the centre of the access road and the nearside channel line of the major road shall be provided at the junction of the access road with the county highway. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grow within the visibility splay which obstruct the visibility splays.

**Reason:** In the interests of highway safety and to support Local Transport Plan Policies LD7 & LD8.

9. The development shall be undertaken in strict accordance with the Construction Phase Traffic Management approved under application 19/0457.

**Reason:** In the interests of highway safety and to support Local Transport Plan Policies LD7 & LD8.

10. 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.

Site investigations should follow the guidance in BS10175.

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.

11. No clearance of vegetation shall take place during the bird breeding season from 1st March to 31st August unless the absence of nesting birds has been established through a survey and such survey has been agreed in writing beforehand by the Local Planning Authority.

**Reason:** To protect features of recognised nature conservation importance, in accordance with Policy GI3 of the Carlisle District Local Plan 2015-2030.

12. No construction work associated with the development hereby approved shall be carried out before 07.30 hours or after 18.00 hours Monday to Friday, before 07.30 hours or after 13.00 hours on Saturdays, nor at any times on Sundays or Bank Holidays.

**Reason:** To prevent disturbance to nearby occupants.

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

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

14. During construction works, a protective fence shall be retained around the existing hedgerows in accordance with the details approved under application 19/0457. Within the areas fenced off the existing ground level shall be neither raised nor lowered, except in accordance with the approved scheme, and no materials, temporary buildings or surplus soil of any kind shall be placed or stored thereon. The fences shall thereafter be retained at all times during construction works on the site.

**Reason:** In order to ensure that adequate protection is afforded to all hedges to be retained on site in support of Policy GI6 of the Carlisle District Local Plan 2015-2030.





**DETAILS SUBJECT TO CONFIRMATION OF  
APPROVAL BY CUMBRIA COUNTY COUNCIL  
AND UNITED UTILITIES**

[illegible]

## SCHEDULE A: Applications with Recommendation

19/0814

Item No: 09

Date of Committee: 10/01/2020

**Appn Ref No:**  
19/0814

**Applicant:**  
Mr S Harrison

**Parish:**  
Carlisle

**Agent:**  
PFK Land and  
Development

**Ward:**  
Cathedral & Castle

**Location:** Whitehorse Centre, Tyne Street, Carlisle, CA1 2NP

**Proposal:** Demolition Of Whitehorse Centre And Erection Of 5no. Employment Units And External Compound Area

**Date of Receipt:**  
25/10/2019

**Statutory Expiry Date**  
20/12/2019

**26 Week Determination**

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### REPORT

**Case Officer:** Richard Maunsell

#### 1. Recommendation

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

#### 2. Main Issues

- 2.1 Whether The Principle Of Development Is Acceptable
- 2.2 Scale And Design
- 2.3 Impact On Non-Designated And Designated Heritage Assets
- 2.4 The Effect on the Living Conditions of Occupiers of Neighbouring Premises
- 2.5 Highway Issues
- 2.6 Surface Water Drainage
- 2.7 Contamination
- 2.8 Biodiversity
- 2.9 Other Matters

#### 3. Application Details

##### The Site

3.1 The application site is located approximately 1.2 kilometres (0.74 miles) to

the south-east of the city centre. The site comprises a two storey detached brick building that is in a significant state of structural disrepair and is currently enclosed by temporary fencing for safety reasons.

- 3.2 The site is accessed via Tyne Street which is connected to London Road. Tree Road is unlit and unadopted and is to the rear of the building which then connects onto Tyne Street. Tyne Street is an adopted road, which varies in width, has a footway on its eastern side and contains street lighting. Tyne Street currently provides access to the rear of residential properties on Brookfield Gardens, Chertsey Mount and London Road Terrace, as well as a number of commercial premises in Berlin Street and Tyne Street and a United Utilities Depot. The northern end of Tyne Street, between London Road and Harraby Street, lies within the Settle-Carlisle Conservation Area.
- 3.3 The site currently comprises a detached two and single storey brick building partly covered with a slate roof and metal and fibre cement sheeting but also with large elements of the roof that are missing. The building is in a considerable state of disrepair and is enclosed by Heras fencing.
- 3.4 In the vicinity of the site is a car repair workshop directly opposite and to the south-east, Irthing Vale Foods Limited. To the rear of the site, beyond Tree Road and at much lower level, is land designated as a Primary Employment Area which accommodates a vehicle repair garage and other commercial uses.

## **The Proposal**

- 3.5 The proposal is seeking full planning permission for the demolition of the existing building and erection of a replacement building to provide five employment units together with parking to the frontage. An area would also be created to allow for the turning and storage of heavy goods vehicles.
- 3.6 The building would be constructed from facing bricks, using reclaimed bricks where possible. The frontage would incorporate horizontal cladding under a profile metal sheeted roof. The front of the building would incorporate a roller shutter door and pedestrian door and window with the remainder of the building having a solid façade. Internally, partition walls would divide the units but the scheme has been designed so that a section of the wall can easily be removed, referred to as “knock out sections” to allow the amalgamation of two or more units to allow flexibility for any future tenants.

## **4. Summary of Representations**

- 4.1 This application has been advertised by means of a site notice and direct notification to the occupiers of eight of the neighbouring properties. In response, one letter of objection has been received and the main issues raised are summarised as follows:
  - 1. this development has a direct implication on the residents of Brookfield Gardens so letters should be sent out to all the properties making them

- aware of the planning application;
  2. the development has a fundamental fault which is the restricted site access through the Tyne Street bottleneck to and from London Road. This will not only be used by cars but also a significant amount of light and heavy goods vehicle;
  3. it is understood that the developer has carried out a traffic survey for his original development of 30 houses in the area that will be using the bottleneck; however, since then there has been a new Costa Coffee and KFC built, adding to the already serious congestion in the area. Also, a new McDonalds drive-through restaurant has been approved, again the additional traffic problems this will create will dwarf the existing situation;
  4. adding the issue of additional heavy and light goods vehicles entering London Road through a bottleneck and then a “blind junction” is a recipe for disaster leading to significant congestion problems and potentially serious accidents;
  5. it is noted from the Highway Authority document lodged for the previous planning application that a delineated footpath will use on Tyne Street this is unsuitable due to both the high traffic volumes and use of goods vehicles, however the developer persists in going down this route and clearly has scant regard for public safety;
  6. the above documents also shows a one way system in Tyne Street this controlled by non-enforceable priority signage which relies on the courtesy of drivers. This is not a reliable way to control vehicles turning off of one Carlisle’s busiest roads. Also, on the plan there is only one small vehicle holding space allocated to vehicles turning off London Road into Tyne Street, it should be noted when driving towards Carlisle this is a blind corner. Multiple HGVs will be using this junction on a daily basis and this small holding bay is clearly inadequate.
- 4.2 In addition, two letters of support have been received and the main issues raised are summarised as follows:
1. the building has been severely dilapidated for the past 20 years or more and is now dangerous;
  2. the building is a haven for vermin and has been used for anti social behaviour;
  3. the proposed units will tidy up the site and greatly enhance and regenerate the area.
- 4.3 A further letter has been received and questions whether the development would provide an opportunity to provide a Jacobite memorial.

## 5. Summary of Consultation Responses

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

### Local Highway Authority

The access taken from Tyne Street to the private site, both Berlin Street and Tree Road are private. There would be a slight increase in usage over the

existing use.

The layout details shown on the submitted plan are considered satisfactory from a highway perspective and the Local Highway Authority has no objection to this application but would recommend the imposition of conditions in relation to prevention of surface water drainage run-off; and submission of a construction phase plan.

**Lead Local Flood Authority (LLFA)**

The LLFA has no record of surface water flooding to the site and the Environment Agency (EA) surface water maps do not indicate that the site is in an area of risk.

No drainage details have been provided, details of foul and surface water drainage should be submitted. The surface water drainage should not be greater than the already existing. If installing a soakaway it is advised that this is not to be positioned in close proximity to the highway and should be at least 5 metres away from the highway and property.

As the existing site is being demolished the applicant should go through the hierarchy of drainage, no soakaway tests have been provided and tests, results and locations should be carried out to rule out infiltration and show they have gone through the process. The applicant would need to provide calculations to determine if the site carried out to BRE 365 standards is suitable to undertake infiltration techniques and details showing that any proposed attenuation structure etc. has the adequate capacity to deal with the volume of water running off the additional impermeable areas. If infiltration is not suitable for the proposed development then the applicant would need to provide detailed assessment, to account for a 1 in 100 year plus 40% storm event, a discharge equivalent to greenfield runoff for the site, discharge location and exceedance routes for the drainage and as such, a condition should be imposed;

**United Utilities:** - no objection subject to the imposition of conditions;

**Network Rail:** - Network Rail Asset Protection and Carlisle MDU would support the demolition of the former Whitehorse building. Network Rail has both personnel as pedestrians passing this building which it is believed is in a dangerous condition of repair and appears to be beyond economic repair. Network Rail has in the past had to report issues to the owners that were endangering passers by which were kindly remediated but we believe this situation would only get worse. There are many visitors to the depot from all over the north west/ beyond and the visual impact the building gives in it's current condition is not a good reflection of the city for visitors.

Also, Network Rail are involved with the developer through a BAPA for planning application 16/0249 Cherstey Gardens and are in agreement with the construction of a new footpath that has started construction but believe the building in it's current state would mean this could not be utilised therefore meaning our pedestrians having to walk in the highway with no segregation

from the potential increase of the highway from the development. Finally, Network Rail understands from the developer that the intention would be following demolition to widen the highway corner as that also is potentially dangerous which would be further supported;

**Cumbria County Council - Historic Environment Officer:** - records indicate that the building complex proposed for demolition is an undesignated heritage asset of architectural and historical value. The buildings were originally a hide and skin works and are late Victorian in date. Constructed of brick with sandstone detailing, they comprise a former office block on the front, a covered yard in the middle and a warehouse to the rear. Despite being in a state of deterioration, the complex retains many original exterior architectural features of note. It is therefore considered that it meets the criteria for a locally important heritage asset, as defined by policy HE6. Not only do the buildings make a positive contribution to the distinctive character of the area, they are also a significant consideration in the setting of the adjacent Settle to Carlisle conservation area. The complex is associated in terms of its historic function, age and architecture with a substantial number of buildings and structures in the conservation area and it is understood that a draft conservation area appraisal recommends the complex is of sufficient merit to include it in a future extension to the conservation area. Policy HE7 states that developments should preserve or enhance the setting of a conservation area. It is considered that the proposed demolition of the heritage asset of architectural and historical value and the erection of five bland industrial units contravenes Policy HE7.

It is therefore considered that strong consideration is given to the retention of the complex of buildings. Policy HE6 and NPPF both state that permission for the loss of heritage assets should be weighed against the public benefits of the proposed scheme. The application documents do not state that the scheme will provide any benefits to the historic environment and so, as the proposed development does not deliver sufficient benefits to the historic environment that outweigh the harm to the setting of the designated heritage asset and the total loss of an undesignated heritage asset and an objection is made against the application.

The advice relates only to the public benefits or losses to the historic environment and there may well be other issues that need to be considered in the determination of the application. It is advised that any other benefits of the proposed development should be of sufficient value to offset the harm that would occur to the historic environment. In the event that planning consent is granted, it is recommended that the buildings are recorded prior to demolition and advice can be provided on a suitably worded condition to secure this recording.

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

### **Assessment**

- 6.1 Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004, require 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 SP1, SP2, SP6, SP7, IP2, IP3, IP5, IP6, CC5, CM4, CM5, HE3, HE6, HE7 and GI3 of The Carlisle District Local Plan 2015-2030. Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) are also material planning considerations. The proposal raises the following planning issues. The proposal raises the following planning issues.

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

- 6.3 Within the NPPF there is a presumption in favour of sustainable development. Paragraph 7 requires that:

*“The purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.”*

- 6.4 Paragraph 8 continues and identifies that to achieve sustainable development there are three overarching objectives. Paragraph 10 states *“so that sustainable development is pursued in a positive way, at the heart of the Framework is a **presumption in favour of sustainable development** (paragraph 11).”*

- 6.5 Policy SP2 of the local plan requires that development proposals will be assessed against their ability to promote sustainable development. Paragraph 83 of the NPPF states that:

*“Planning policies and decisions should enable:*

- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings;*
- b) the development and diversification of agricultural and other land-based rural businesses;*
- c) sustainable rural tourism and leisure developments which respect the character of the countryside; and*
- d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.”*

- 6.6 The Framework continues in paragraph 84 that:

*“Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that*

*development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.”*

- 6.7 The land is not designated within the local plan but is adjacent to land to the south which is designated as being a Primary Employment Area. When looking at the potential benefits, the building was previously used for commercial purposes as are the buildings to the east and south. It is therefore evident that whilst not formerly designated as a Primary Employment Area, the building and surrounding uses have and are being used for employment purposes and form a natural extension of the designated area whose boundary is to the south-west of Tree Road.
- 6.8 The redevelopment of the site would provide smaller units that would ideally be suited for start up businesses as well other businesses with smaller floor space requirements. Subject to the imposition of conditions restricting future uses within these use classes, the scheme will contribute to the development of the commercial units available its long-term employment contribution within the district. There would be no conflict with the NPPF or Policy SP2 of the local plan and the principle of development is therefore acceptable.

## **2. Scale and Design**

- 6.9 The NPPF promotes the use of good design with paragraph 127 outlining that:
- “Planning policies and decisions should ensure that developments:*
- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
  - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
  - c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
  - d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
  - e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
  - f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.”*
- 6.10 It is further appropriate to be mindful of the requirements in paragraph 130 of

the NPPF which states:

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

- 6.11 Policies seek to ensure that development is appropriate in terms of quality to that of the surrounding area and that development proposals incorporate high standards of design including siting, scale, use of materials and landscaping which respect and, where possible, enhance the distinctive character of townscape and landscape. This theme is identified in Policy SP6 of the local plan which requires that development proposals should also harmonise with the surrounding buildings respecting their form in relation to height, scale and massing and make use of appropriate materials and detailing. Development of this site will have an impact on the character of the area.
- 6.12 The development would comprise a detached building constructed from facing brickwork using reclaimed bricks where possible, horizontal cladding under a profile metal sheeted roof and would be modern in appearance. The buildings opposite are constructed from facing brick and stone under a slate roof. The building to the east occupied by Irthing Vale Quality Foods Ltd. has a concrete loading bay and large metal canopy facing the site. As such, in this context, the building would be of modern appearance but subject to the imposition of a condition, would utilise suitable materials, and would not result in a discordant feature.
- 6.13 Given the context of the neighbouring built environment and the location, it is considered that the proposal would neither be obtrusive nor disproportionate and is acceptable.

### **3. Impact On Non-Designated And Designated Heritage Assets**

#### **3a. Non-Designated Heritage Assets**

- 6.14 Where buildings may not listed in their own right, as is the case here, given the provisions of the NPPF, they may be viewed as non-designated heritage assets (NDHA) requiring an assessment of any proposal on the character and setting of the building. Given its age, historic significant and physical relationship with adjacent historic buildings and their association with the railway nearby, this building is considered to fall within the definition of an NDHA.

- 6.15 Concerning non-designated heritage assets, Section 16 Paragraph 197 of the NPPF states:

*“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”*

- 6.16 In respect of this application, the council's Conservation Officer has commented that the proposal will lead to the total loss of the heritage asset, which is ‘an irreplaceable resource’ that should be conserved in a ‘manner appropriate to their significance’.

- 6.17 Policy HE6 of the local plan contains 3 useful criteria against which to assess the application, namely:

*“Only in exceptional circumstances will the loss of a locally listed asset be permitted. Where this is the case the following may be required:*

- 1. an appropriate level of survey and recording which may also include archaeological excavation;*
- 2. provision of replacement buildings of comparable quality and design; and*
- 3. the salvage and reuse within the replacement development of special features.”*

- 6.18 Whilst it is proposed to demolish the building which, as previously highlighted, is considered to be a NDHA, the building has been vacant for a significant period of time which is reflected in the condition of the building. The roof has gaps which allow the elements into the building, the brickwork is cracked in places with plants growing through the wall, threatening its structure. The architectural details in the stonework have eroded over time and the building has been subject to several arson attacks.

- 6.19 The application is accompanied by a Report Upon Completion which provides a commentary on the structural condition of the building. The report concludes:

*“4.1.1 The property is in an extensively dilapidated condition and is not suitable for modern industrial usage.*

*4.1.2 The building is beyond the end of its life and should be replaced.”*

- 6.20 The retention of the building and its redevelopment are commercially and financially unviable and there is no reasonable prospect of the building being brought back into use in its current form. Effectively, the retention would only result in the continued fencing enclosing a dangerous structure which may result in continued anti-social behaviour. Following the submission of the application, the condition of the building has deteriorated and the area of the protective fencing now needs to be enlarged.

- 6.21 Whilst the decision to demolish a non-designated heritage asset should not be taken lightly, the consideration of the application is a matter of judgement. A balanced assessment has to be made regarding the loss of the asset against the public benefit resulting from the redevelopment of the site. The continued viability of the reuse of the building either for commercial or residential use is limited in a location where there are significant constraints in terms of neighbouring premises and vehicular access/ parking facilities coupled with the development of a nearby site for 30 dwellings that would also use the same vehicular access. The proposed scheme seeks permission for a scheme that is sympathetic to the scale, mass and appearance of the character of the area whilst being notable as a new development in its own right. Additionally the building would reuse as many of the bricks where possible. In this respect, it would be appropriate to impose a condition requiring the submission and agreement of any external materials and on this basis, the principle of the development of the site is acceptable.

### 3b. Designated Heritage Assets

- 6.22 The Railway Inn and the London Road Goods Station are Grade II listed buildings and are located approximately 100 and 140 metres to the north of the site. Paragraph 7 of the NPPF states that:

*“The purpose of the planning system is to contribute to the achievement of sustainable development”.*

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

- 6.23 Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 highlights the statutory duties of Local Planning Authorities whilst exercising of their powers in respect of listed buildings. 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).
- 6.24 Paragraph 195 of the NPPF states that local planning authorities should refuse consent for any development which would lead to substantial harm to or total loss of significance of designated heritage assets. However, in paragraph 196, the NPPF goes on to say that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
- 6.25 Criteria 7 of Policy SP7 seeks to ensure that development proposals safeguard and enhance conservation areas across the District. Policy HE3 of the local plan also indicates that new development which adversely affects a listed building or its setting will not be permitted. Any harm to the significance of a listed building will only be justified where the public benefits of the proposal clearly outweighs the significance.

- i) the significance of the heritage asset and the contribution made by its setting
- 6.26 The Railway Inn and the Railway Goods Sheds are within the vicinity of the site and are structures of substantial scale that are prominent within the street scene.
- ii) the effect of the proposed development on the settings of the Grade II listed buildings
- 6.27 Historic England has produced a document entitled 'Historic Environment Good Practice Advice in Planning Note 3 - The Setting of Heritage Assets' (TSHA).
- 6.28 The TSHA document and the NPPF make it clear that the setting of a heritage asset is the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive and negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
- 6.29 The NPPF reiterates the importance of a setting of a listed building by outlining that its setting should be taken into account when considering the impact of a proposal on a heritage asset (paragraph 194). However, in paragraph 196, the NPPF goes on to say that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 6.30 Section 66 (1) requires that development proposals consider not only the potential impact of any proposal on a listed building but also on its setting. Considerable importance and weight needs to be given to the desirability of preserving the adjoining listed buildings and settings when assessing this application. If the harm is found to be less than substantial, then any assessment should not ignore the overarching statutory duty imposed by section 66(1).
- 6.31 Whilst the presence of the Grade II listed buildings and their significance within the city is noted, it is considered that by virtue of the nature of the development, the presence of intervening buildings or the distance from the site, that the proposal would not be detrimental to the immediate context or outlook of the aforementioned adjacent listed buildings.

### 3c. Impact Of The Proposal On The Settle To Carlisle Conservation Area

- 6.32 The application site is located approximately 50 metres south of the Settle to Carlisle Conservation Area. Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990, the NPPF, PPG, Policy HE7 of the local plan are relevant.
- 6.33 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".*

- 6.34 The aim of the 1990 Act is reiterated in the NPPF, PPG and policies within the local plan. Policies HE6 and HE7 of the local plan advise that proposals should preserve or enhance their character and appearance, protecting important views into and out of conservation areas.
- 6.35 Under the requirements of the NPPF, a *"balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."* In this instance, the site has the potential to make a greater contribution to the character and appearance of the conservation area.
- 6.36 The council's Conservation Officer raises significant concerns about the potential impact on the conservation area. In particular, there are aspirations that the conservation area boundary would be extended to encompass the application site which serves to intensify the conservation officers concerns about the development. Additionally the Historic Environment Officer also recommends that consideration is given to the retention of the buildings as the complex of buildings are associated in terms of its historic function, age and architecture with a substantial number of buildings and structures in the conservation area. Additionally, any perceived public benefit does not outweigh the loss of the heritage asset.
- 6.37 Further to the above, the application was considered by the Conservation Area Advisory Committee (CAAC) at its meeting in November and the draft minutes identify the following:
- it is beyond remit of this group to consider the demolition of the existing building – need to consider if the proposal would affect the character of the conservation area;
  - the site is not in a conservation area – its concealed from conservation area;
  - the development wont affect the character of the conservation area given the distance to London Road Terrace;
  - the building would have been assessed when the conservation area was designated and it was not included within it;
  - recommend building recording (Level 2).
- 6.38 The proposal would involve the demolition of the existing building and erection of a replacement building that is outwith the conservation area. The building would not be viewed in the context of the conservation area given the physical separation and intervening structures as identified in the deliberation by CAAC. On this basis, the proposal would preserve the character and appearance of the conservation area and would not prejudice important views into or out of the conservation area and is therefore acceptable. Although the Historic Environment Officer has objected to the application, he has stated that if the council is minded to approve the application, a condition should be

imposed requiring it to be recorded. This is considered to be appropriate and a suitable condition is included in the draft decision.

#### **4. The Effect on the Living Conditions of Occupiers of Neighbouring Premises**

- 6.39 Given the orientation of the property with the proposed development, the siting, scale and design of the arena is acceptable and would not adversely affect the living conditions of adjacent premises by poor design or unreasonable loss of daylight or sunlight. Members will note from the summary of representations that have been received that the application has generated a level of support, rather than objections, from what is stated to be a dangerous building and an eyesore. The use of the replacement buildings would be controlled through the imposition of an appropriate planning condition.

#### **5. Highway Issues**

- 6.40 The site is served by existing vehicular accesses and the development would incorporate parking provision and turning facilities within the site. Any additional vehicle movements could be accommodated within the existing highway network. The neighbouring housing development includes a requirement for a number of improvements would be made to Tyne Street, including the creation of a shared surface, the installation of priority signage, carriageway widening, footway improvements and the provision of lighting.
- 6.41 Although one letter of objection has been received, with the exception of the additional local development i.e. drive-though restaurants and coffee establishments, this objection repeats the highway concerns raised against housing development on the neighbouring land which have already been considered as part of that application.
- 6.42 Cumbria County Council as the Local Highway Authority has raised no objection to the application on the basis that although there would be a slight increase in usage of the access, the layout details are acceptable subject to the imposition of conditions. As such, the proposal does not raise any highway issues.

#### **6. Surface Water Drainage**

- 6.43 In order to protect against pollution, Policy CC5 of the local plan seeks to ensure that development proposals have adequate provision for the disposal of surface water. The application documents, submitted as part of the application, do not outline any surface water drainage strategy and as such it would be appropriate to impose a condition requiring the submission and agreement of such details. On this basis, the proposal does not raise any issues with regard to surface water drainage and is acceptable.

#### **7. Contamination**

- 6.44 Given the previous use of the land, there is the potential for contamination to

be on the site. It is therefore appropriate to impose a condition such that if any contamination is found, that a report and appropriate remediation strategy are submitted to the council for approval.

## **8. Biodiversity**

- 6.45 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.
- 6.46 The Councils GIS Layer has identified that the site has the potential for protected species to be present on or in the vicinity of the site. The application is accompanied by a Bat Survey which concludes that there is a low potential for the building to be used by bats either for roosting or foraging; however, as a precautionary measure in order to minimise the risk of individual bats being harmed during works, the following measures should be observed:
- this report should be made available to any contractor working on site;
  - if bats are discovered at any time prior to or during works, all work must stop and the acting consultant contacted immediately. If this unlikely event does occur a European Protected Species licence will be sought;
  - the work will be completed as quickly as possible once started. Any gaps created during the course of the works will be left open for the minimum possible period. Where possible gaps will not be left open over night to avoid the possibility of bats opportunistically roosting in gaps which will later be blocked;
  - the proposed work presents opportunities to enhance the site for bats. It is recommended that consideration be given to installing the following bat site enhancement features during the development. These are recommended as site enhancement options only and are not intended to represent mitigation or compensation features for which there is no legal requirement.
- 6.47 As the proposed development would involve development of brownfield land, it is not considered that the development would harm a protected species or their habitat subject to the inclusion of a condition requiring the development being undertaken in accordance with the above points. Additionally, 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.

## **9. Other Matters**

- 6.48 Members will note in the representations that have been received that a request has been made to secure a financial contribution from the development by way of a S106 agreement to provide a Jacobite memorial. The scheme is not of a sufficient scale or nature that a financial contribution is required. Furthermore, this issue was raised after the determination of a planning application for the erection of 30 dwellings on land between Tyne Street and Chertsey Mount. Both that site and that subject of this application are in the same ownership and would be development by the same company. Discussions are ongoing with the applicant and the third party to explore the possibility of placing a memorial on the land which in any event relates to the housing development rather than that subject of this application. As such, this issue will continue to be discussed out with the remit of this planning application.

## **Conclusion**

- 6.49 In overall terms, the development would expand the range of employment facilities on land which was previously used for commercial purposes and is well related to buildings that are currently in commercial use. As such, the principle of development is supported by the NPPF and local planning policies.
- 6.50 The design and appearance of the development would be modern and reflective of the proposed use of the building. The scale, design, appearance and use of materials would be appropriate and would preserve the character and appearance of the area. The site is outwith the conservation area and as such, the development would preserve the character and appearance of the conservation area.
- 6.51 The development would not adversely affect the occupiers of the neighbouring premises through poor design or unreasonable noise and disturbance.
- 6.52 The proposal does not raise any highway, biodiversity or drainage issues and in all aspects the proposals would be compliant with the objectives of the relevant local plan policies and is recommended for approval subject to the imposition of conditions.

## **7. Planning History**

- 7.1 Planning permission was granted in 1983 for the use of the vacant property as a vehicle repair workshop/ garage.
- 7.2 In 1984, planning permission was granted for the change of use from a warehouse to motor body repairs.
- 7.3 Planning permission was granted in 1997 for the change of use from a church building/ offices, day nursery/ education unit/ sports hall/ auditorium.

## **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 Planning Application Form received 18th October 2019;
2. the Location Plan received 18th October 2019 (Drawing no. 120-04);
3. the Block Plan received 18th October 2019 (Drawing no. 120-05);
4. the Proposed Site Plan received 18th October 2019 (Drawing no. 120-02);
5. the Plans Elevations received 6th December 2019 (Drawing no. 120-01 Rev A);
6. the Planning and Historic Statement received 18th October 2019;
7. the report Upon Condition Issue 1 received 11th November 2019;
8. the Bat Survey received 16th December 2019;
9. the Notice of Decision;
10. any such variation as may subsequently be approved in writing by the local planning authority.

**Reason:** To define the permission.

3. Prior to the carrying out of any demolition work the existing buildings affected by the proposed development shall be recorded in accordance with a Level 2 Survey as described by Historic England's document Understanding Historic Buildings A Guide to Good Recording Practice, 2016. Within 1 month of the commencement of construction works a digital copy of the resultant Level 2 Survey report shall be furnished to the local planning authority.

**Reason:** To ensure that a permanent record is made of the buildings of architectural and historic interest prior to their demolition as part of the proposed development in accordance with Policy HE6 of the Carlisle District Local Plan 2015-2030.

4. Development shall not commence until a Construction Phase Plan (CCP) has been submitted to and approved in writing by the local planning authority. The CPP shall include details of:
  - details of proposed crossings of the highway verge;
  - retained areas for vehicle parking, manoeuvring, loading and unloading for their specific purpose during the development;
  - cleaning of site entrances and the adjacent public highway;
  - details of proposed wheel washing facilities;
  - the sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials on the highway;
  - construction vehicle routing;

- the management of junctions to and crossings of the public highway and other public rights of way/footway;
- details of any proposed temporary access points (vehicular / pedestrian);
- surface water management details during the construction phase.

**Reason:** To ensure the undertaking of the development does not adversely impact upon the fabric or operation of the local highway network in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030 and in the interests of highway and pedestrian safety.

5. Other than the demolition of the building, prior to the commencement of any other development hereby approved, 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 drainage scheme shall also include details of all measures to be taken by the applicant/development to prevent surface water discharging onto or off the highway.

The surface water system shall demonstrate that no flooding will occur on any part of the site for a 1 in 30 year event unless designed to do so, flooding will not occur to any building in a 1 in 100 year event plus 40% to account for climate change, and where reasonably possible flows resulting from rainfall in excess of a 1 in 100 year 6 hour rainfall event are managed in conveyance routes (plans of flow routes etc). The scheme must also confirm the design of the surface water drainage system will mitigate any negative impact of surface water from the development on flood risk outside the development boundary.

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. In the event of surface water draining to the surface water public sewer, the pass forward flow rate to the surface water public sewer must be restricted to 5l/s for any storm event.

Any approved works shall be implemented prior to the development being occupied and shall be maintained operational thereafter.

**Reason:** To ensure a satisfactory means of surface water disposal in accordance with Policies SP6 and IP6 of the Carlisle District Local Plan 2015-2030 and to promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution in accordance with policies within the National Planning Policy Framework and National Planning Practice Guidance.

6. Prior to the building hereby approved being brought into use, details to minimise the potential for crime and disorder shall be submitted and approved in writing by the local planning authority. Such details shall include

(where applicable):

- security lighting scheme;
- pedal cycle parking - to be positioned in a prominent and active location with adequate choice of locking options and protected from weather without obstructing natural surveillance opportunities;
- buildings physical security - specification of exterior door, window, glazing and locking devices to resist forced entry;
- presence and configuration of intruder alarm system(s) (if police response is required, these must be compliant with National Police Chief Councils Security Systems Policy);
- secure storage for staff personal belongings;
- exterior waste bin management - to mitigate against exploitation as climbing aid
- and arson risks;
- presence and configuration of CCTV (image standard and Data Protection compliance issues).

These measures shall be implemented prior to the building being brought into use and shall be retained unaltered thereafter unless otherwise agreed in writing by the local planning authority.

**Reason:** In order to minimise the potential for crime and disorder and to reduce the potential for noise and disturbance from the site in accordance with Policies CM5 and SP6 of the Carlisle District Local Plan 2015-2030.

7. This permission relates to the use of the premises for purposes falling within Use Classes B1(b), B1(c), B2 and B8 of the Schedule of the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to the Classes in any Statutory Instrument revoking and re-enacting that Order.

**Reason:** To preclude the possibility of the use of the premises for purposes inappropriate in the locality occupiers in accordance with Policy SP2 of the Carlisle District Local Plan 2015-2030.

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.

Site investigations should follow the guidance in BS10175.

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

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

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

9. The use shall not be commenced until the access and parking requirements have been constructed in accordance with the approved plan. Any such access and or parking provision shall be retained and be capable of use when the development is completed and shall not be removed or altered without the prior written consent of the local planning authority.

**Reason:** To ensure a minimum standard of access provision when the development is brought into use in accordance with Policies SP6 and IP3 of the Carlisle District Local Plan 2015-2030 and to support Local Transport Plan Policies LD5 and LD7.

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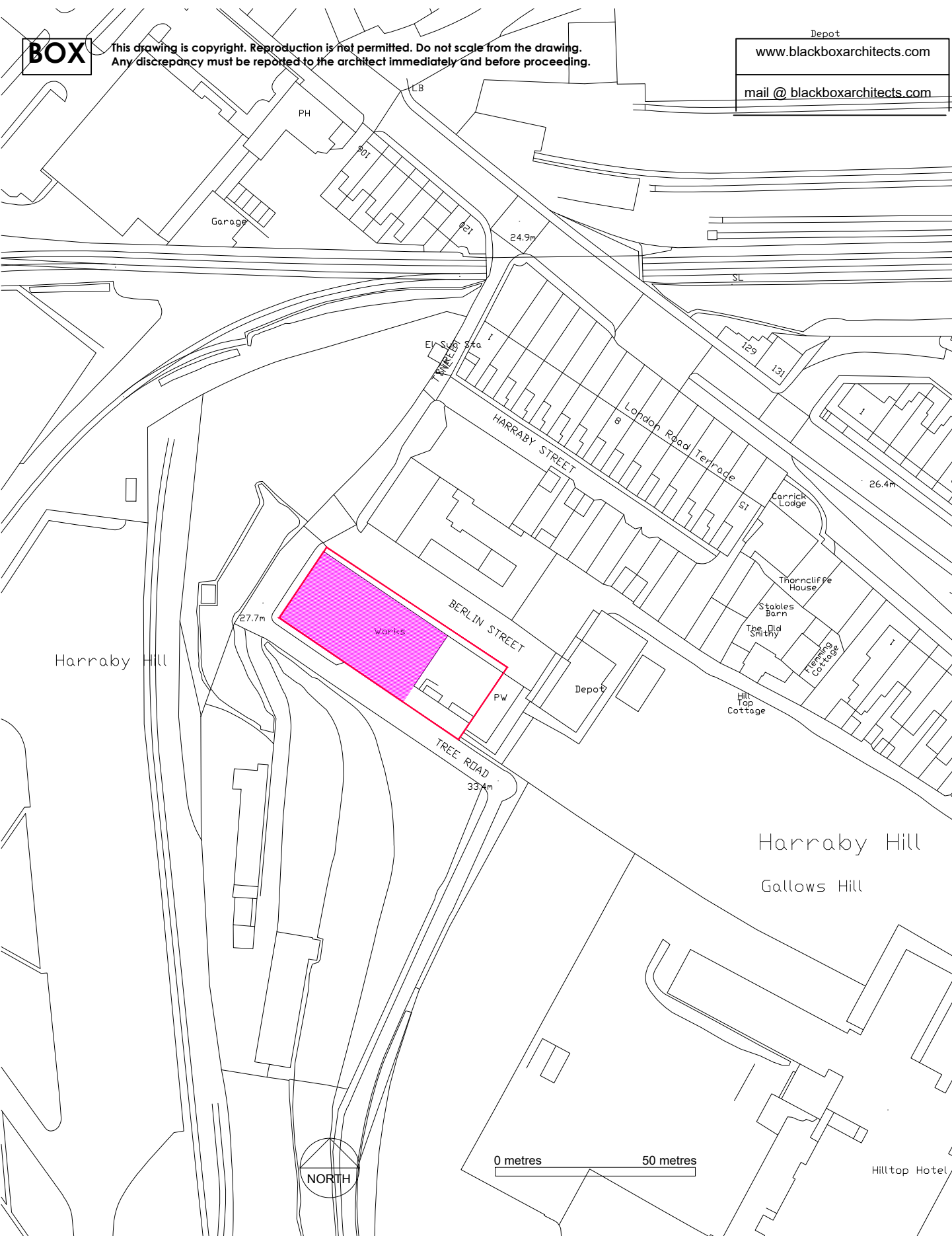
**BOX**

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Depot

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[mail@blackboxarchitects.com](mailto:mail@blackboxarchitects.com)



Project **White Horse Units. Hilltop**

Drawing

Detail **Location Plan**

Revision

Scale

**1:1250**

Job no.

**Page 212 of 306**

Date

**Sept-19**

Black Box Architects Limited.  
1 Devonshire Chambers  
8 Devonshire Street  
Carlisle, Cumbria. CA3 8AD

Tel: 01228 402 200



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27.7m

Works

BERLIN STREET

PW

TREE ROAD

33.4m



0 metres

25 metres

Project **White Horse Units Hilltop**

Drawing

Revision

Scale

**1:500**

Detail

**Block Plan**

Job.no.

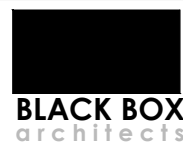
**Page 213 of 306**

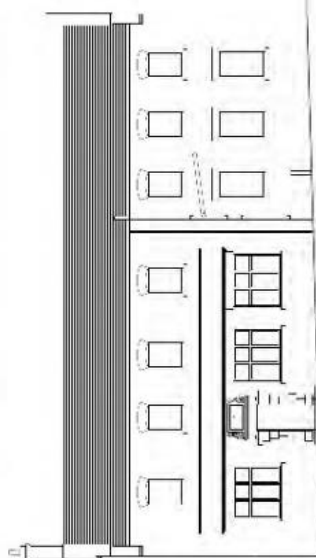
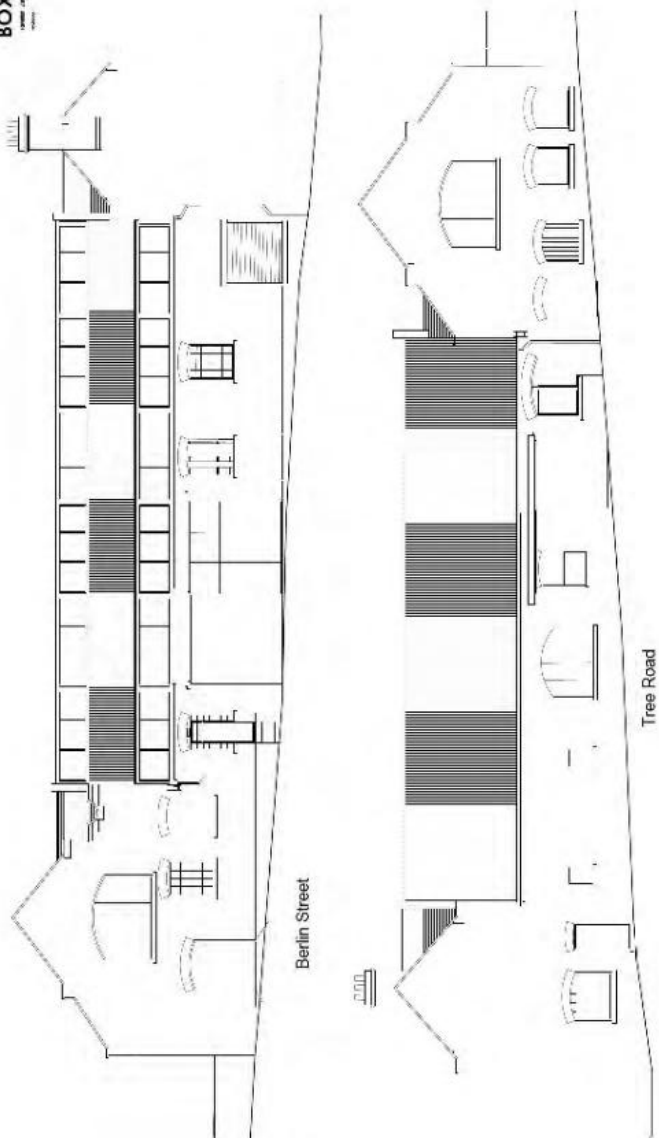
Date

**Sept-19**

Black Box Architects Limited.  
1 Devonshire Chambers  
8 Devonshire Street  
Carlisle, Cumbria. CA3 8AD

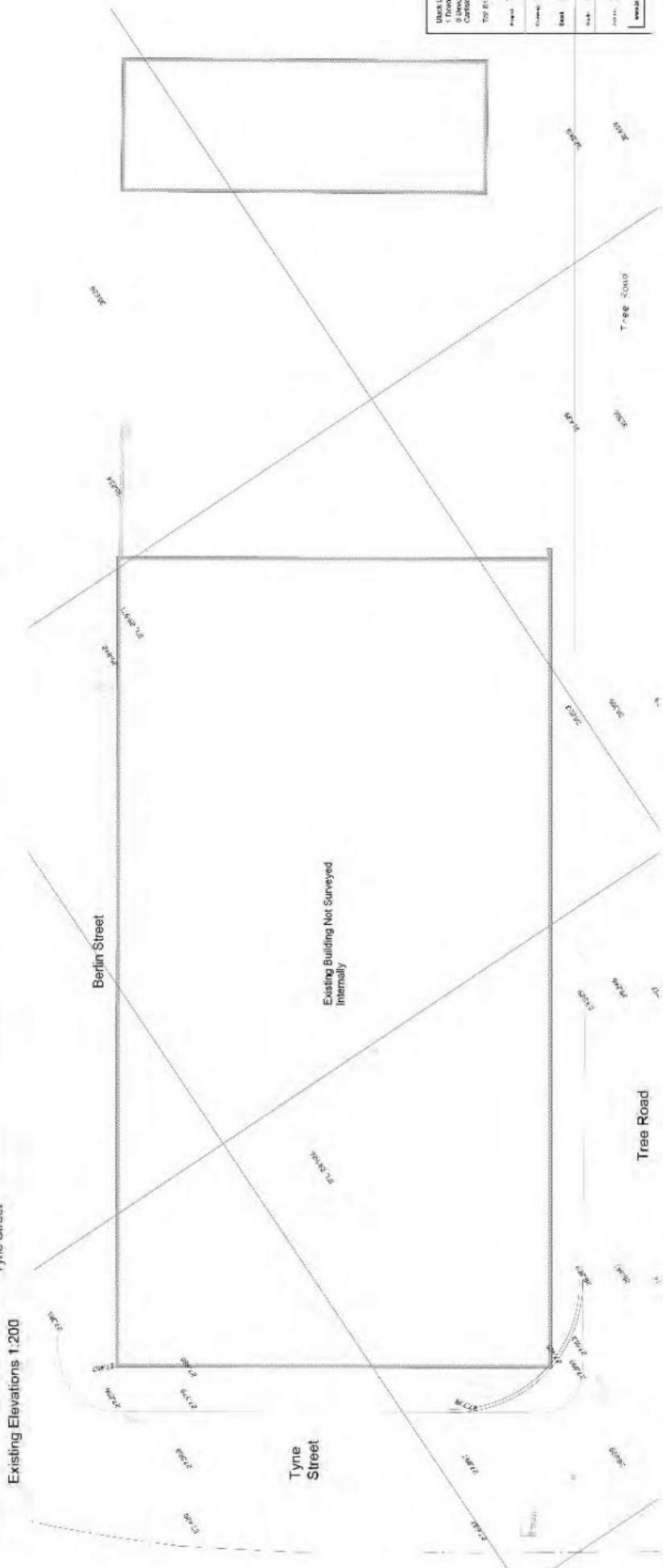
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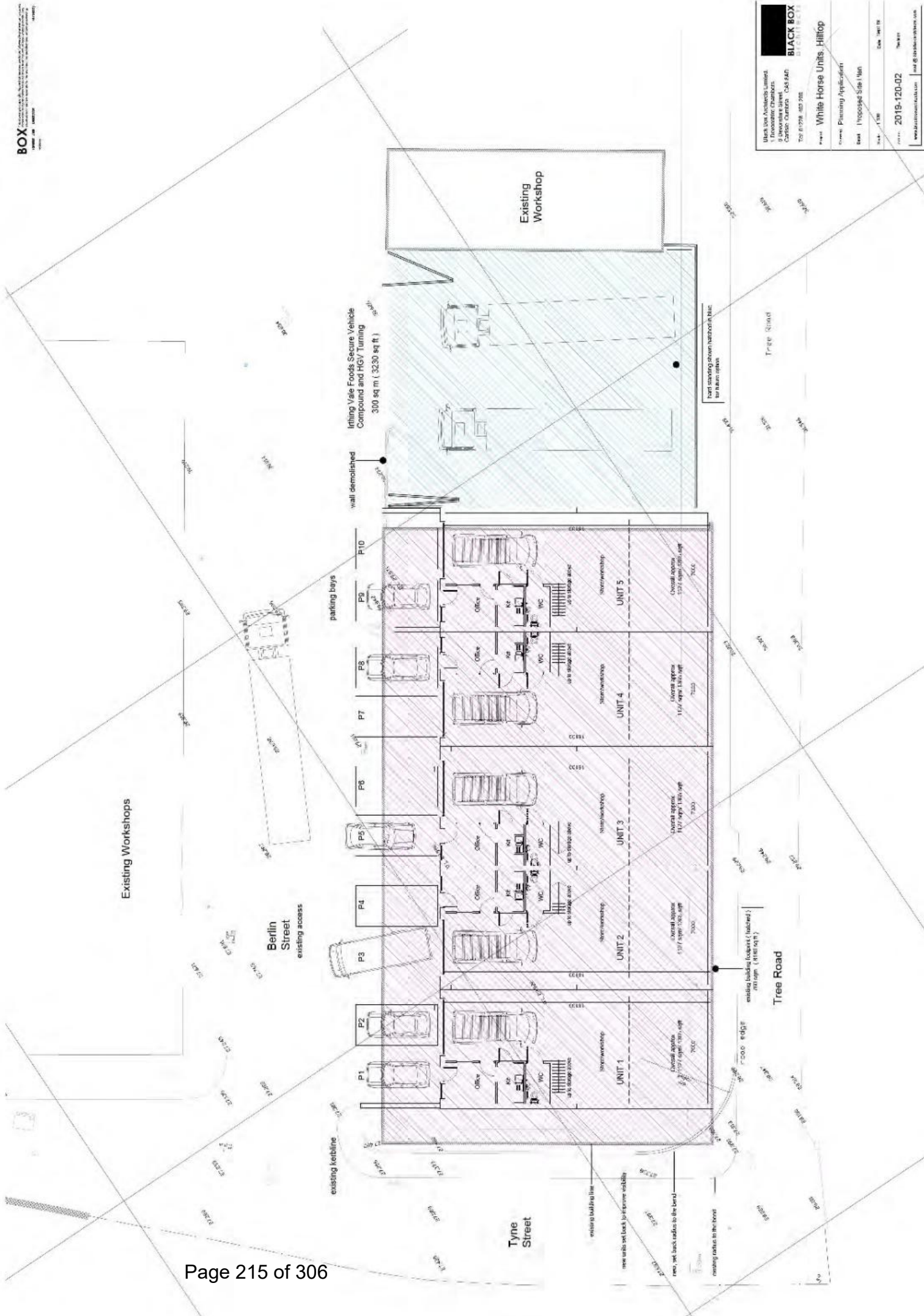


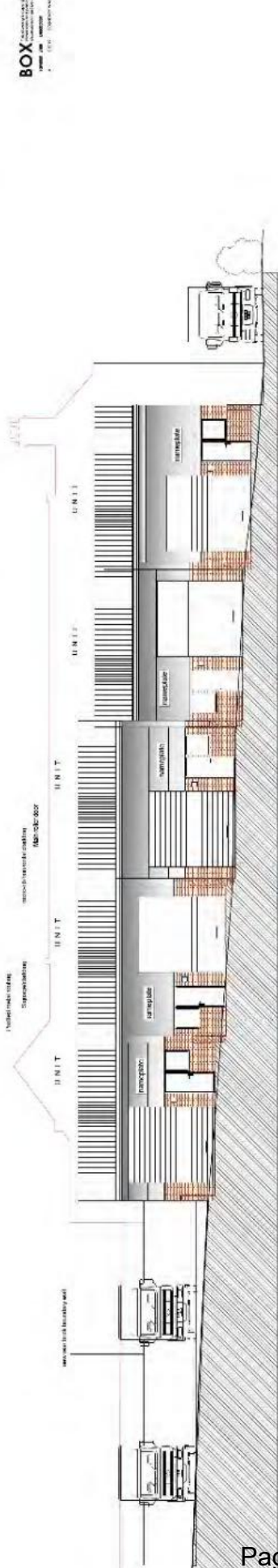
Top Elevation

Page 214 of 306



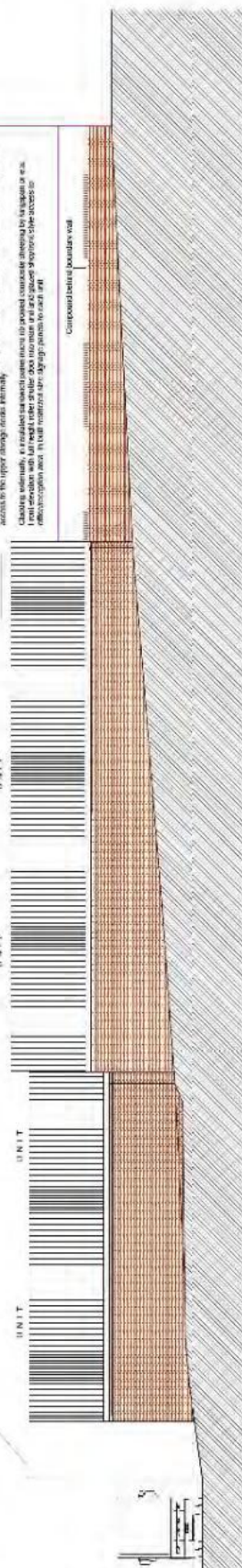
Existing Workshops



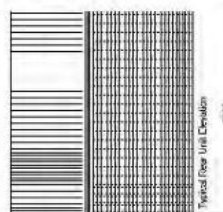
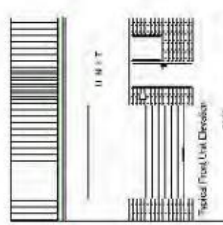
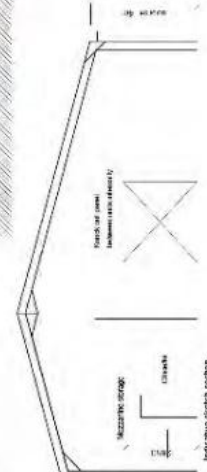
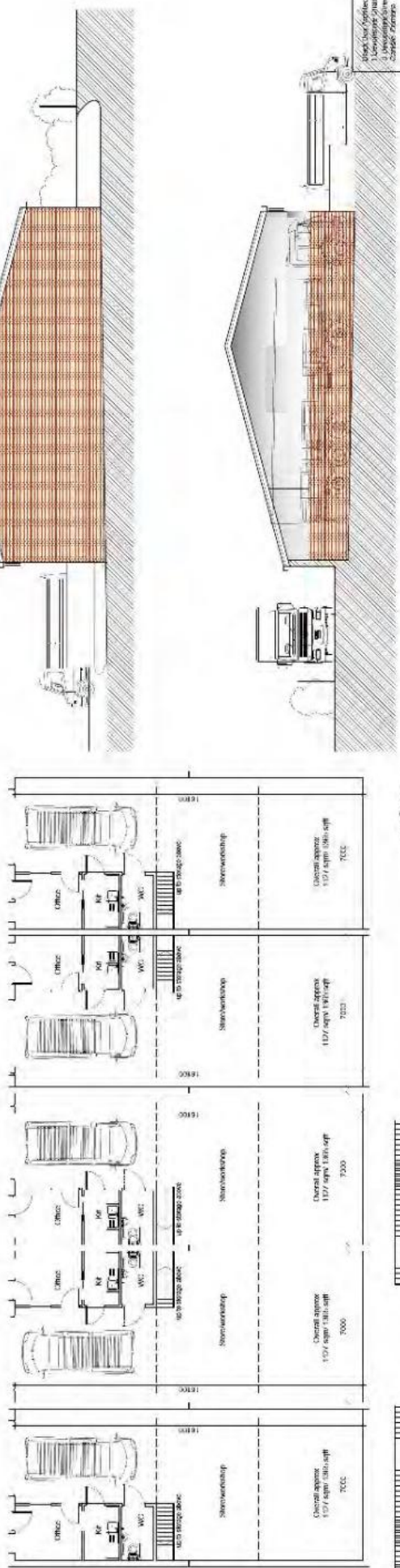


Berlin Street Elevation

**TURNSTILE EFFECT**  
The use of stop thresholds to support off of peak time management changes as the advantages of being able to stop the flow of traffic are only realized when the roads are required to be closed during the off-peak periods.



Tree Road Elevation



## SCHEDULE A: Applications with Recommendation

19/0852

Item No: 10

Date of Committee: 10/01/2020

**Appn Ref No:**  
19/0852

**Applicant:**  
Gleeson Homes

**Parish:**  
St Cuthbert Without

**Agent:**  
SRE Associates

**Ward:**  
Harraby South & Parklands

**Location:** Land adjacent to Hunters Crescent, Garlands Road, Carlisle

**Proposal:** Display Of Freestanding Sign

**Date of Receipt:**  
06/11/2019

**Statutory Expiry Date**  
01/01/2020

**26 Week Determination**

---

### REPORT

**Case Officer:** Alanzon Chan

#### 1. Recommendation

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

#### 2. Main Issues

- 2.1 Impact Upon Visual Amenity
- 2.2 Impact Upon Public Safety
- 2.3 Other Matters

#### 3. Application Details

##### The Site And The Proposal

- 3.1 In 2015, outline planning permission was granted for residential development on land to the north of Moorside Drive & Valley Drive (15/0161). In 2017, planning permission was granted for the reserved matters application to erect 166no. dwellings and associated infrastructure on the aforementioned site (17/0038). These dwellings are currently under construction.
- 3.2 This applicant seeks advertisement consent to display a non-illuminated, freestanding sign in association with the aforementioned approved residential development. The freestanding sign will be a directional sign to

direct both construction traffic, potential house buyers and other visitors to Moorside Place, where the new residential development is taking place.

- 3.3 The applicant proposes to locate the freestanding directional sign on a parcel of land at the junction where Hunters Crescent meets Garlands Road. The application site lies within a residential area as identified within the Local Plan Policies Map (2015-2030).
- 3.4 The proposed freestanding sign would measure 1.22m in height by 2.44m in width, with the bottom of the sign being 1.22m above ground level. The sign would be single-sided and would contain details of the developer including a logo and contact details, and an arrow indicating the direction towards Moorside Place, which is the name of the development at land to the north of Moorside Drive & Valley Drive. The sign will be constructed of aluminium composite with the background being predominately green and the lettering being predominantly white.

#### **4. Summary of Representations**

- 4.1 This application has been advertised by means of a site notice. No verbal or written representations have been made during the advertisement period.

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

**Cumbria County Council - (Highways & Lead Local Flood Authority):** No objection

**St Cuthberts Without Parish Council:** Considers that this large directional sign in a residential area is an unneighbourly development and is unnecessary as there is already existing signage.

#### **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 local planning policies against which the application is required to be assessed is Policy SP6 of the Carlisle District Local Plan (2015-2030). The National Planning Policy Framework (NPPF), the Planning Practice Guidance (PPG) and the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended) are also material considerations in the determination of this application.
- 6.3 Applications for advertisement consent are assessed on grounds of 'amenity' and 'public safety'.

##### **1. The Impact Upon Amenity**

- 6.4 Paragraph 132 of the NPPF requires that advertisement proposals are appropriate to the character of the surrounding area and that the amenity of the surrounding area is protected. Whilst "amenity" is not defined exhaustively in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, according to the Planning Practice Guidance, "amenity" is usually understood to mean the effect on visual and aural amenity in the immediate neighbourhood of an advertisement or site for the display of advertisements, where residents or passers-by will be aware of the advertisement.
- 6.5 The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 also requires the local planning authority to take into account the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest, and to consider whether the proposed advertisement is in scale and in keeping with the local features, when determining an application for consent for the display of advertisements.
- 6.6 Policy SP6 reiterates the NPPG confirming that proposals should respond to local context in terms of height, scale and massing.
- 6.7 The proposed freestanding directional sign would be located at the junction where Hunters Crescent meets Garlands Road, as such, it will be visible from the adjacent highway. The scale and design of the proposed directional sign, which is only temporary whilst the dwellings are under construction and for sale, is considered to be acceptable. It is not considered that the proposal would form a discordant feature within its immediate surroundings.
- 6.8 St Cuthberts Without Parish Council have objected to the application and consider that this large directional sign in a residential area being an unneighbourly development. They also consider that the proposed sign is unnecessary as there is already existing signage in the locality.
- 6.9 In response to the first concern raised by the Parish Council, it is noted that free-standing signs to advertise a new housing development is common practice amongst house builders. The scale and design of the sign is considered acceptable in this instance, and given that there is no other permanent signage in the immediate locality other than the necessary highway signs and furniture, the proposal will not lead to advertisement clutter.
- 6.10 The proposed freestanding directional sign would be removed after five years or once the last dwelling is sold, and this would be ensured by condition. In light of this, there would be no permanent detrimental impact upon the character/appearance of the surrounding area.
- 6.11 With regard to the second concern raised by the Parish Council, it is noted that the applicant had also erected two additional signs in the locality; one within the Moorside Place development and one at the junction where Garlands Road meets Cumwhinton Road. That being said, it is noted that the

two previously erected signs are standard house-builder signs, rather than directional signs, to advertise the new housing development. According to the applicant, the purpose of this proposed directional sign is to direct construction traffic, potential house buyers and other visitors to Moorside Place, so that they do not make wrong turns when travelling through the existing residential estate. This is considered reasonable and acceptable in principle.

- 6.12 In light of the above, the proposed sign is considered to be acceptable and appropriate in scale and design. Given that the proposed sign will not be a permanent sign, it is not considered that the proposal will have an adverse impact upon the amenity of the surrounding area.

## 2. The Impact Upon Public Safety

- 6.13 Applications for advertisement consent must be considered in respect of their impact on users of adjacent highways, including both pedestrians and vehicle users. Whilst the proposed sign may attract attention, it will not affect any pedestrians, nor will it be sufficient to represent a distraction to highway users. As such, it is not considered that the proposal will have a detrimental impact upon public safety. The Highway Authority has also confirmed that they have no objections to the proposal.

## 3. Other Matters

- 6.14 According to the details submitted within the application form, the applicant has declared that although they do not own the land where the proposed sign is to be placed, they have obtained permission from either the owner or any other person entitled to give permission for the display of this proposed freestanding sign at this location. Whilst this is not a planning matter, for the avoidance of doubt, an advisory note is recommended to be attached to the decision notice to advise the applicant to seek permission from the land owner prior to the erection of the freestanding sign.

## Conclusion

- 6.15 In overall terms, the proposal is in accordance with the relevant Development Plan Policies and will not have a detrimental impact upon the amenity of the surrounding area or public safety. In all aspects, the proposed freestanding directional sign would be in compliance with the objectives of the relevant policies.

## 7. Planning History

Planning applications that are relevant to the Gleeson Homes development on land to the north of Moorside Drive and Valley Drive:

- 7.1 (15/0161) Outline application for residential development. This application was approved on 13/05/2016.

- 7.2 (17/0038) Reserved matters application for the erection of 166no. dwellings and associated infrastructure. This application was approved on 12/09/2019.
- 7.3 (19/0746) Discharge Of Conditions 5 (Hard & Soft Landscape Works); 7 (Foul & Surface Water); 8 (Scheme For Surface Water & Foul Water Drainage); 9 (Surface Water System); 10 (Surface Water Drainage System); 11 (Details Of Future Maintenance & Operation); 14 (Programme Of Archaeological Work); 15 (Construction Surface Water Management Plan); 17 (Construction Traffic Management Plan); 19 (Carriageway, Footways, Footpaths, Cycleways); 20 (Prevention Of Surface Water Discharging Onto Or Off The Highway); 21 (Wildlife Enhancement Measures); 23 (Scheme Of Tree & Hedgerow Protection) & 28 (Phasing Plan) Of Previously Approved Permission 15/0161. This is an ongoing application.

Planning applications that are relevant to signage that is in association with the aforementioned development:

- 7.4 (18/0327) Continued Display Of Free Standing Sign. This is an ongoing application, and the sign is located at the junction where Garlands Road meets Cumwhinton Road.
- 7.5 (19/0639) Continued Display Of Non Illuminated Free Standing Sign. This application was approved on 30/09/2019, and the sign is located within the development site at Moorside Drive.

## 8. Recommendation: Grant Permission

1. The signage shall be removed within 21 days of the sale of the last property within the residential development by Gleeson Homes on land to the north of Moorside Drive & Valley Drive, or by the 10th January 2025 whichever is the sooner.

**Reason:** The consent relates solely to the display of the signage during construction and marketing of the housing development to which it relates and when that development is completed and all dwellings are sold, the local planning authority requires that all the advertisements are removed in the interests of the visual amenity of the area to support the objectives of paragraph 132 of the National Planning Policy Framework and Policy SP6 of the Carlisle District Local Plan 2015-2030.

2. The development shall be undertaken in strict accordance with the approved documents for this Advertisement Consent which comprise:
  1. Submitted Planning Application Form, received 5 November 2019;
  2. Site Location Plan, received 5 November 2019;
  3. Proposed Freestanding Directional Sign Drawing, received 5 November 2019;
  4. Email Correspondence regarding details of the proposed directional sign, received 17 December 2019;

5. the Notice of Decision.

**Reason:** To define the permission.

3. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

**Reason:** To accord with Schedule 2 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

4. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

**Reason:** To accord with Schedule 2 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

5. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

**Reason:** To accord with Schedule 2 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

6. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

**Reason:** To accord with Schedule 2 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

7. No advertisement shall be sited or displayed so as to

(a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);  
(b) obscure, or hinder the ready interpretation of, any traffic sign railway signal or aid to navigation by water or air; or  
(c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

**Reason:** To accord with Schedule 2 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

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## Land adjacent to Hunters Crescent, Garlands Road, Carlisle



0 50  
Metres

— Location of proposed sign

Plan Produced for: SRE Associates  
Date Produced: 06 Nov 2019  
Plan Number/Project ID: TQRQM19310140813249  
Scale: 1:1250 @ A4





## SCHEDULE A: Applications with Recommendation

19/0879

Item No: 11

Date of Committee: 10/01/2020

**Appn Ref No:**  
19/0879

**Applicant:**  
Mrs McCartney

**Parish:**  
Dalston

**Agent:**  
CAD Connections

**Ward:**  
Dalston & Burgh

**Location:** 25 Caldew Drive, Dalston, Carlisle, CA5 7NS

**Proposal:** Demolition Of Garage And Erection Of Two Storey Side Extension To  
Provide Garage/Utility On Ground Floor With En-Suite Bedroom Above

**Date of Receipt:**  
20/11/2019

**Statutory Expiry Date**  
15/01/2020

**26 Week Determination**

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### REPORT

**Case Officer:** Leigh Thompson

#### 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 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 Number 25 Caldew Drive is a two storey detached property located on the Northern edge of Dalston village. The property is constructed from brown/pink brickwork, a pitched concrete interlocking tiled roof, white UPVC

windows and doors. The dwelling is located within a cul de sac made up of a mix of two storey detached and single storey semi detached properties.

## **The Proposal**

- 3.5 The application seeks full planning permission for the demolition of garage and erection of two storey side extension to provide garage/utility on ground floor with en-suite bedroom above, attached to the south-western side elevation of the property. The submitted plans illustrate that the proposed extension will be constructed from materials to match those of the existing dwelling.

## **4. Summary of Representations**

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

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

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

**Dalston Parish Council:** - no observations; and

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

## **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 The proposals would be for the demolition of existing garage and replacement with a two storey side extension to the South Western side elevation of the dwelling. There would be no proposed windows upon the side elevation of the

extension. A garage door and en-suite window would be placed upon the front elevation. One window would be placed upon the rear and one upon North Eastern side elevation. Given the position of the proposed extensions 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**

- 6.5 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.
- 6.6 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.
- 6.7 Policy H08 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 H08 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.
- 6.8 The ground floor garage/utility would measure 11.4m in depth by 3.7m in width. The first floor bedroom & en-suite would measure 6.4m in depth by 3.7m in width, and would sit in line with the existing first floor of the dwelling. The roof of the first floor extension corresponds with the original dwelling as it has the same roof profile. The scale and height of the proposals are comparable to the existing property. The extensions would be constructed from materials which will match the existing dwelling, and would employ similar detailing. Accordingly, the proposals would complement the existing dwelling in terms of design and materials to be used. The scale and height of the proposed extension is comparable to the existing dwelling.
- 6.9 From the Officer site visit it was evident that other properties such as 3 Nine Rigg have undertaken similar side extensions, as such the proposal would not form a discordant feature within the existing street scene.

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

- 6.10 The submitted plans illustrate the provision of 3no. 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**

- 6.11 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. 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**

- 6.12 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".

- 6.13 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.

- 6.14 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**

- 6.15 The proposed extension is appropriate in terms of scale and design to the existing dwelling and will not have a detrimental impact upon the character/appearance of the surrounding area or the living conditions of the occupiers of any residential properties. The development will also not have an adverse impact upon highway safety or biodiversity. Overall, the proposal is compliant with the objectives of the relevant Development Plan Policies and approval is recommended.

## **7. Planning History**

- 7.1 There is no relevant planning history for this site.

## **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.

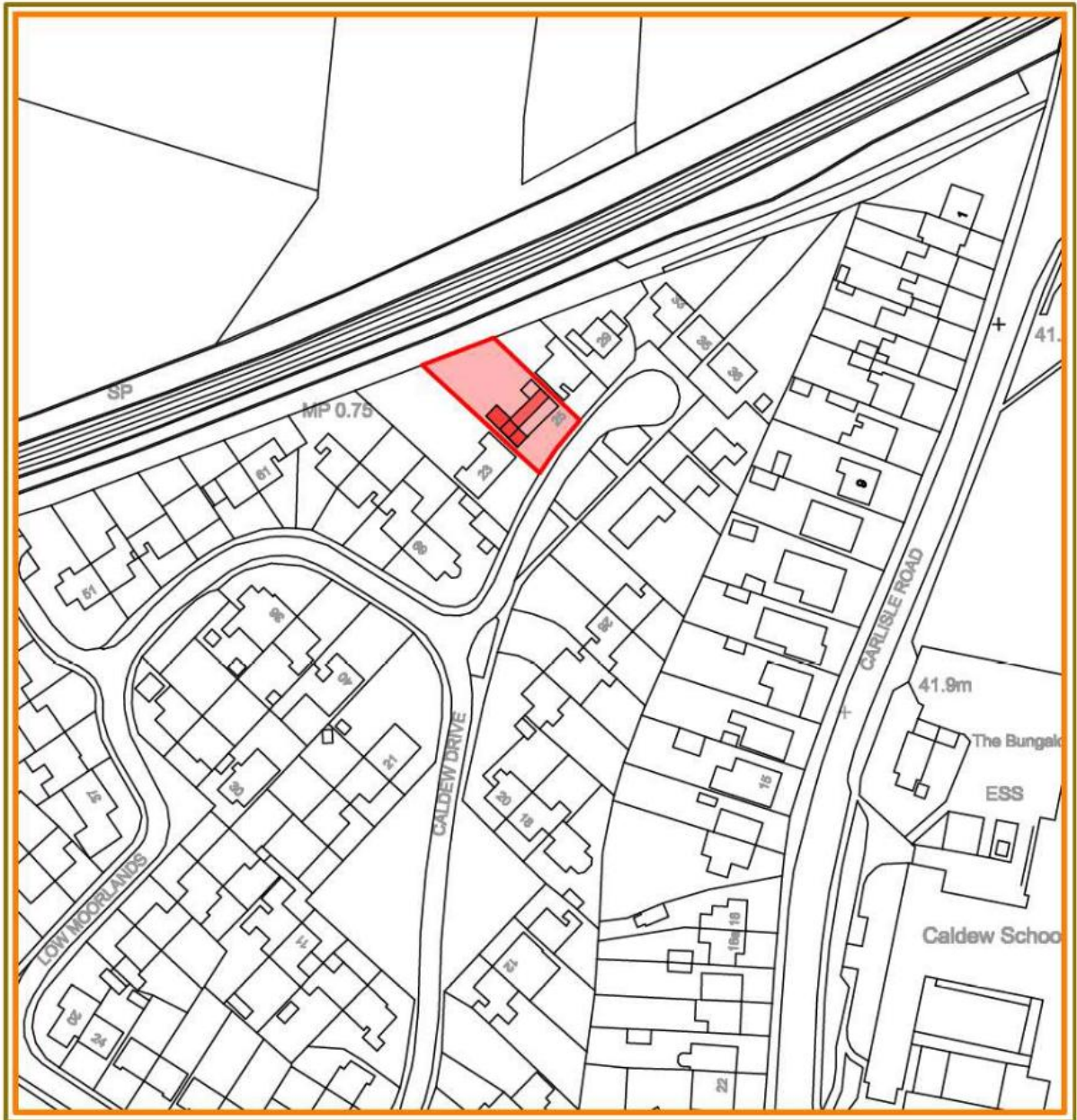
**Reason:** In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 ( as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

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 19th November 2019;
2. the site location plan received 20th November 2019 (Drawing No.CC19/152/05);
3. the block plan received 20th November 2019 (Drawing No.CC19/146/03);
4. the proposed floor plans and elevations received 19th November 2019 (Drawing No.CC19/152/03A & CC19/152/02A);
5. the plans received 19th November 2019 stating the colour of render and materials to be used (Drawing No.CC19/152/03A);
6. the Notice of Decision; and
7. any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason:** To define the permission.

---



□ Location Plan 1:1250

Planning



**CONNECTIONS**

07984 984833  
ENQUIRIES@CADCONNECTIONS.CO.UK

**CLIENT:**

Amanda McCartney  
Palmer Road,  
Carlisle  
CA2 5NE

**REVISIONS:**

**PROJECT:**

25 Caldew Drive, Dalston  
Proposed Extension  
Location Plan

**DRAWN:**

JDK

**DATE:**

Nov 19

**SCALE:**

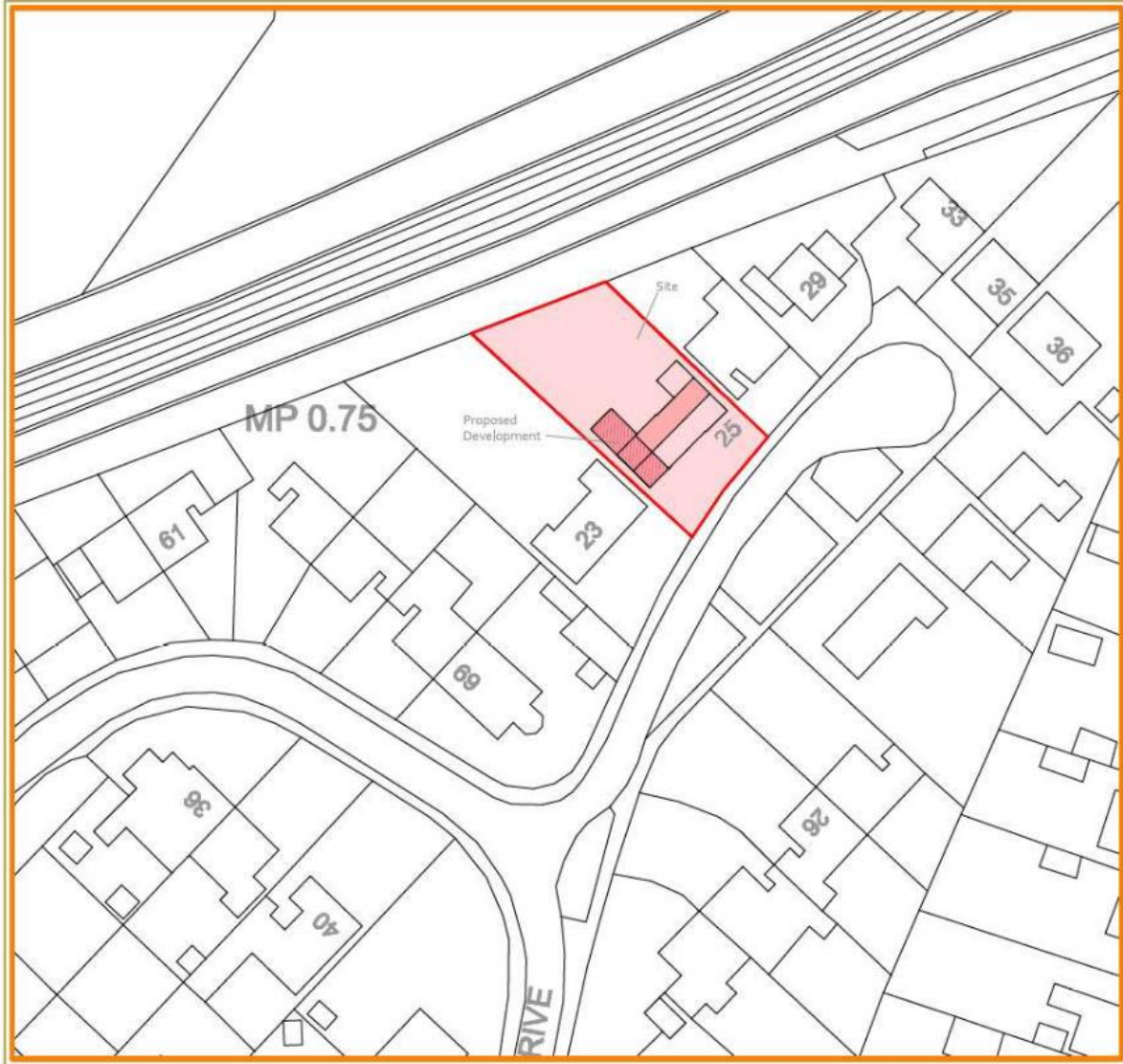
1:1250

**SIZE:**

A3

**NUMBER:**

CC19/152/05



© Crown copyright and database rights, 2019. Ordnance Survey 100031573

 Block Plan 1:500

Planning



**CONNECTIONS**

**CLIENT:**

Amanda McCartney  
Palmer Road,  
Carlisle  
CA2 5NE

**REVISIONS:**

**PROJECT:**

25 Caldew Drive, Dalston  
Proposed Extension  
Block Plan

**DRAWN:**

JDK

**DATE:**

Oct 19

**SCALE:**

1: 500

**SIZE:**

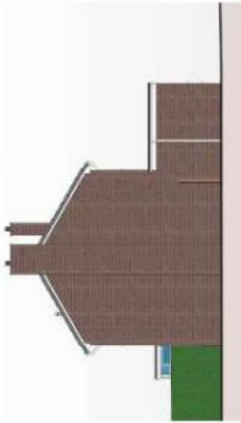
A2

**NUMBER:**

CC19/146/03



1:1500 South Elevation



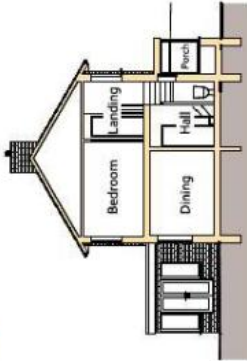
1:1500 East Elevation



1:1500 North Elevation



1:1500 West Elevation



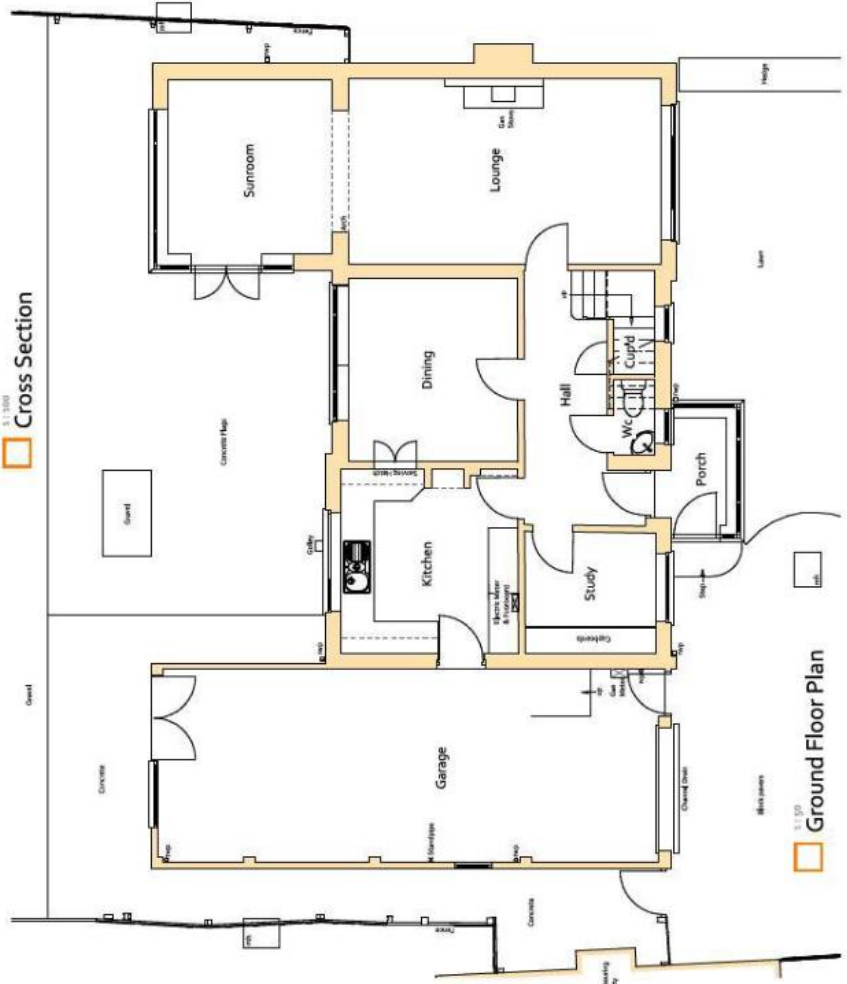
1:1500 Cross Section



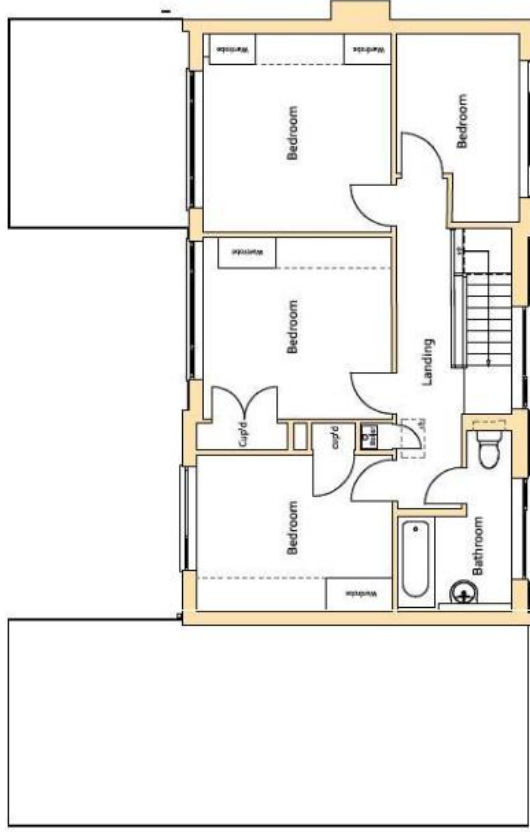
3D View 1



3D View 2



1:150 Ground Floor Plan



1:150 First Floor Plan

CLIENT:		REVISIONS:	
Palmer Road, Caldew, CA5 3YE			
PROJECT:		DATE:	
25 Caldew Drive, Dalton Proposed Extension & Internal Alterations Property As Existing		03/01/19	
SCALE:		DRAWN:	
3:50000		JDK	
SIZE:		NUMBER:	
A3		CC09 32	
07954 984933 enquiries@connections-uk.co.uk		03	

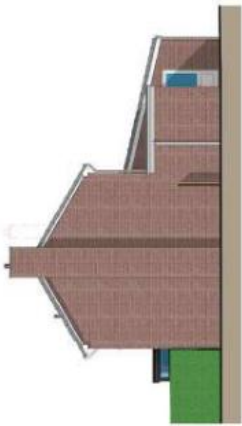


CONNECTIONS





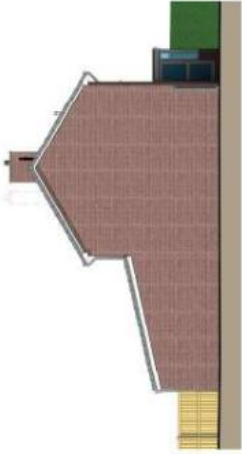
1:1500  
South Elevation As Proposed



1:1500  
East Elevation As Proposed



1:1500  
North Elevation As Proposed



1:1500  
West Elevation As Proposed



1:1500  
3D View 1 As Proposed



1:1500  
3D View 2 As Proposed



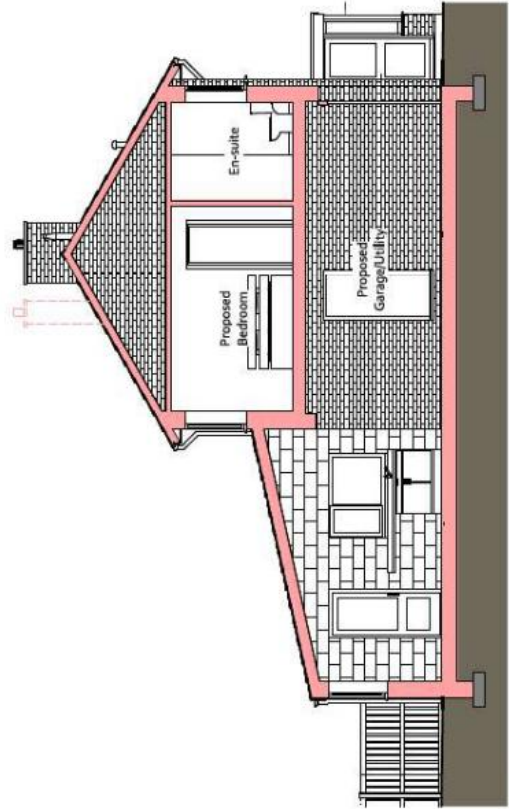
1:1500  
3D View 3 As Proposed



1:1500  
3D View 4 As Proposed



1:1500  
Garage Side Elevation



1:150  
Section Through Extension

### External Materials

- Roof**  
Colour: Interlocking tiles to match existing
- Skiffs**  
White upvc
- Rainwater Goods**  
White upvc to match
- Walls**  
Painted brickwork to match
- Windows & Doors**  
White upvc double glazed to match



07954 984833  
enquiries@connectionsplanning.co.uk

**CLIENT:**  
Amanda McCartney  
Palmer Road,  
Culverham,  
CV4 5YE

**PROJECT:**  
55 Caldw Drive, Dalton  
Proposed Extension & Internal Alterations  
Elevations & Section As Proposed

**SCALE:**  
1:50000

**SIZE:**  
A3

**NUMBER:**  
CC09 352

**DATE:**  
09/03/19

**DRAWN:**  
JOK

**REVISIONS:**  
No 4 - final review

09A

# SCHEDULE B

# SCHEDULE B

## SCHEDULE B: Applications Determined by Other Authorities

---

**Item No: 12**

Between 07/11/2019 and 18/12/2019

**Appn Ref No:**  
19/9004

**Applicant:**  
Mrs Rebecca Oliver

**Parish:**  
Kingmoor

**Date of Receipt:**  
05/06/2019

**Agent:**  
Cumbria County Council -  
Economy & Planning

**Ward:**  
Belah & Kingmoor

**Location:**  
Cargo Hill Farm, Cargo, Carlisle, CA6 4AL

**Grid Reference:**  
336617 560158

**Proposal:** Importing Waste Soils And Inert Materials Under The Provisions Of A Recovery Permit, Issued By The Environment Agency In Order To Extend An Embankment Supporting A Residential Property (Initial Planning Consent Approved 09/09/2013)

**Amendment:**

### REPORT

**Case Officer:** Stephen Daniel

#### City Council Observations on the Proposal:

**Decision:** City Council Observation - Observations

**Date:** 25/06/2019

**Decision of:** Cumbria County Council

**Decision Type:** Grant Permission

**Date:** 13/12/2019

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

---



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

**NOTICE OF PLANNING PERMISSION**

To: North West Recycling Ltd  
Unit A  
Rockcliffe Est  
Rockcliffe  
CA6 4RW

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 4 June 2019.

**viz: Importing waste soils and inert material under the provisions of a Recovery Permit, issued by the Environment Agency, in order to extend an embankment supporting a residential property. Initial Planning consent approved 09/09/2013.**

**Cargo Hill Farm, road leading from Kingmoor Road junction to bridge south of Rockcliffe Estate, Cargo, Carlisle, CA6 4AL**

Subject to due compliance with the following conditions:

**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 in accordance with the following:
  - a. The submitted Application Form – dated 18 March 2019
  - b. Waste Recovery plan – dated 2/16/2016
  - c. Flood Risk Assessment – dated 29 /1/2019
  - d. Pre-development Arboricultural report – dated 8/11/2018
  - e. RA Construction Management System – dated July 2016
  - f. Plans named and numbered:
    - i) Site Location Plan – 3731/634/06
    - ii) Topographical Survey – NWR-001-001
    - iii) Proposed Bank Stabilisation – NWR-001-002
    - iv) Concept Plan Version 2 November 17 (prepared by Buzy Lizzie)

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

3. No site construction work, delivery or removal of materials shall take place on the site outside the hours of:

07:00 to 18:00 Monday to Fridays  
08:00 to 13:00 Saturday

No site construction work, delivery or removal of materials shall take place on Sundays; Bank Holidays and/or other Public Holidays.

*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 in compliance with Policy DC2 of the Cumbria Minerals and Waste Local Plan (2015 — 2030).*

4. The access road from the site to the public highway shall be kept clean and free of potholes for the life of this permission. Any mud or debris carried onto the highway shall be cleaned up at the end of the day.

*Reason: In the interests of highway safety, in accordance with Policy DC1 of the Cumbria Minerals and Waste Local Plan (2015 — 2030)*

5. All vehicles, plant and machinery operated within the site shall be maintained in accordance with the manufacturer's specification at all times and shall be fitted with and use silencers

*Reason: To protect the amenities of local residents in accordance with Policies DC2 and DC3 of the Cumbria Minerals and Waste Local Plan (2015 — 2030).*

6. Any audible reversing warning system used on mobile plant including that hired or otherwise contracted in, shall be a white noise type only.

*Reason: To protect the amenities of local residents in accordance with Policies DC2 and DC3 of the Cumbria Minerals and Waste Local Plan (2015 — 2030).*

7. If within a period of 5 years from the date of planting of any tree, that tree or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, another tree of the same species and size as that originally planted shall be planted at the same place. Any minor variation to the species planted shall be submitted for approval in writing by the Mineral Planning Authority and once approved, implemented in full.

*Reason: To secure the satisfactory establishment of the tree planting in the interests of visual amenity, in accordance with Policy DC18 of the Cumbria Minerals and Waste Local Plan (2015 — 2030).*

8. Upon completion of the final spreading of soils, but prior to sowing seed, a topographic survey of the site shall be undertaken to demonstrate compliance with the approved levels. This survey shall be submitted to the Local Planning

Authority within 2 weeks of completion. Any areas that are above the contours shown on drawing NWR-001-002 shall have soils stripped back and surplus material removed from site within 8 weeks of the completion of survey, the soils replaced and grass seed sown

*Reason: To enable the County Planning Authority to monitor the restoration of the site to ensure compliance with the planning permission.*

Dated 13 December 2019

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/1/19/9004>
  - 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://www.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.



**KEY:**

- Application boundary
- Land under the control of the Applicant

Scale Bar (1:2,500)

0 m 100 m 200 m



**Oaktree Environmental Ltd**  
**Waste Management and Environmental Consultants**  
Lime House, 2 Road Two,  
Winstan Industrial Estate  
Winstan, Cheshire CW7 3QZ  
Tel: 01606 558833  
E-mail: sales@oaktree-environmental.co.uk

Client: Rick Allan  
Site: Cargo Hill Farm, Cargo, Carlisle  
NGR: NY 36605 60142  
Date: 21 May 2019  
Printed At: A3

**Notes:**

- (1) Boundaries are shown indicatively.

**Revision Details:**

Rev:	Description:	Date:
-	Initial drawing	31/01/19
A	Minor amendment	31/01/19
B	Scale changed to 1:2,500	29/03/19
C	Blue line amendment	21/05/19

Title: Site Location Map

Drawing No: 3731/634/06

Scale: 1:2,500

Client No: 634

Revision: C

Job No: 3753

Drawn By:

Checked:

## SCHEDULE B: Applications Determined by Other Authorities

---

**Item No: 13**

Between 07/11/2019 and 18/12/2019

**Appn Ref No:**  
19/9013

**Applicant:**  
Hanson Quarry Products  
Europe Limited

**Parish:**  
Hayton

**Date of Receipt:**  
07/10/2019

**Agent:**  
Cumbria County Council -  
Economy & Planning

**Ward:**  
Brampton & Fellside

**Location:**  
Low Gelt Quarry, Low Gelt Bridge, Brampton,  
Carlisle CA8 1SY

**Grid Reference:**  
352135 558553

**Proposal:** Variation Of Conditions 1,2,30 And 32 Of Planning Permission  
09/9033/CTY To Extend The Time Period Permitted For Mineral  
Extraction And Restoration And To Amend The Restoration Scheme

**Amendment:**

### REPORT

**Case Officer:** Barbara Percival

#### City Council Observations on the Proposal:

**Decision:** City Council Observation - Observations

**Date:** 17/10/2019

**Decision of:** Cumbria County Council

**Decision Type:** Grant Permission

**Date:** 15/11/2019

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

---



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

**NOTICE OF PLANNING PERMISSION**

To: Hanson UK  
3 Deighton Close  
Wetherby  
West Yorkshire  
LS22 7GZ

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 2019.

**viz: Variation of Conditions 1, 2, 30 and 32 of Planning Permission 1/09/9033 to extend the time period permitted for mineral extraction and restoration and to amend the restoration scheme.**

**Low Gelt Quarry, Brampton, Cumbria, CA8 1SY**

Subject to due compliance with the following conditions:

**Time Limit**

1. This permission shall be for a limited period only expiring on 31 December 2026, by which date the mineral extraction operations hereby permitted shall have ceased. All buildings, plant and machinery, including foundations and hardstandings shall have been removed from the site, and the site shall have been restored in accordance with the approved scheme by 31 December 2027.

*Reason: To limit the operational period as mineral working is a temporary use of the land and to secure the proper and timely restoration of the site following the approved operational period in accordance with Policies SP16 and DC22 of the Cumbria Minerals and Waste Local Plan 2015-2030 (CMWLP).*

**Approved Scheme**

2. The development hereby permitted shall be carried out in accordance with the following:
  - a. The Minerals Planning Application form dated 6 July 2009;
  - b. The Environmental Statement including Appendices dated June 2009;
  - c. The Supporting Statement dated June 2009;
  - d. The Planning Statement dated September 2019;
  - e. The Plans/Drawings numbered, named and dated:
    - i) D118070.SS.002 – Site Layout Plan - 9 June 2009;
    - ii) D118070.ES.005 – Extraction Phase 1A - 9 June 2009;
    - iii) D118070.ES.006 – Extraction Phase 1B - 9 June 2009;
    - iv) D118070.ES.007 – Extraction Phase 2A - 9 June 2009;

- v) D118070.ES.008 – Extraction Phase 2B - 9 June 2009;
- vi) 009-12-d5-Rev.E - Alternative Restoration Masterplan - 21 Sept 2018;
- vii) 009-12-d9-Rev.A – Site Sections – 24 January 2019;
- viii) 009-12-d8-Rev.A – Final Restoration Scheme Reinstated footpath typical sections – 24 January 2019;
- ix) 009-12-02-Rev.G – Restoration Planting Proposals to Discharge Condition 30 of PP 1/09/9033 – 24 January 2019;
- x) S3 Fencing Specification – Stock Proof Fencing – Mild steel;
- f. Phase 1 Ecology Survey – dated May 2018;
- g. Reptile Survey - dated July 2019;
- h. Invertebrate Habitat Assessment - dated August 2019;
- i. Aftercare Strategy – dated September 2019;
- j. The details or schemes approved in accordance with the conditions attached to this permission.

*Reason: To ensure the site is worked and restored in accordance with the approved scheme and to avoid confusion as to what comprises the approved scheme.*

### **Approved Scheme Availability**

3. A copy of the approved scheme, and any other documents subsequently approved in accordance with this permission, shall always be available on site for inspection during normal working hours until the satisfactory completion of restoration operations. Their existence and content shall be made known to all operatives likely to be affected by matters covered by them.

*Reason: To ensure that those operating the site are conversant with the approved scheme and are aware of the requirements of the planning permission.*

### **Removal/Restriction of Permitted Development Rights**

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any other order revoking and re-enacting that Order), planning permission shall be sought and obtained from the Local Planning Authority, before any buildings, structures or erections, plant or machinery (other than those shown on the approved drawings) are erected on the site or on any ancillary mining land.

*Reason: To maintain control over additional built development on the site in the interest of minimising the sites landscape and visual impact in accordance with policies DC2 & DC18 of the CMWLP.*

### **Permanent Cessation of Mineral Working**

5. In the event that mineral working permanently ceases prior to the full implementation of the approved scheme, a revised scheme to include details of the restoration, aftercare and a timescale for the completion of the restoration works shall be submitted for approval to the Mineral Planning Authority, within 6 months of the permanent cessation of working. Once approved, such a revised scheme shall be fully implemented unless otherwise agreed in writing by the Mineral Planning Authority.

*Reason: To secure the proper restoration of the site in the event that operations cease prior to the full implementation of the scheme, in accordance with policies SP16 and DC22 of the CMWLP.*

### **Temporary Suspension of Mineral Working**

6. In the event that mineral extraction is temporarily suspended for a period of exceeding one year, then within 14 months of the suspension of mineral extraction an interim restoration scheme and timetable for its completion shall be submitted to the Mineral Planning Authority for written approval. The approved interim restoration scheme shall then be implemented in its entirety.

*Reason: To secure the satisfactory interim restoration of the site in the event of the temporary cessation of mineral working in the interests of local and visual amenity in accordance with policies SP16, DC2, DC18 & DC22 of the CMWLP.*

### **Notification of Temporary Suspension**

7. If the operations hereby permitted are suspended for a period of three months or more, then the operator shall give written notification to the Mineral Planning Authority of the date on which the operations were suspended. Written notification shall also be given to the Mineral Planning Authority prior to the resumption of operations following a temporary suspension.

*Reason: To enable the Mineral Planning Authority to determine the extent of any periods when the development hereby permitted is suspended and to seek the interim restoration of the site where appropriate.*

### **Extraction Depth Limit**

8. No winning or working of minerals shall take place below 82m AOD.

*Reason: To protect groundwaters from adverse impact as a result of potentially artificially modified groundwater flow caused by the quarry, in accordance with Policy DC20 of the CMWLP.*

### **Groundwater Level Monitoring**

9. Groundwater levels shall be monitored monthly at the existing piezometers and the results of such monitoring made available within 14 days of a written request for from the Mineral Planning Authority. Should a piezometer be lost or damaged it shall be replaced at a location and on a timescale agreed in writing by the Mineral Planning Authority.

*Reason: To protect groundwaters from adverse impact as a result of potentially artificially modified groundwater flow caused by the quarry, in accordance with Policy DC20 of the CMWLP.*

### **Operation Hours**

10. No operations, including the loading or transportation of minerals or operation of quarry plant, shall take place on site outside the 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.

However 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, in accordance with Policy DC 2 of the CMWLP.*

#### **Traffic Impact – Production Export Limit**

11. No more than 150,000 tonnes of mineral shall be transported from the site in any calendar year.

*Reason: To ensure traffic movements do not exceed current levels in the interest of highway safety in accordance with Policy DC1 of the CMWLP.*

#### **Approved Access**

12. Access to the site shall be via the existing access and no other access shall be used except as may be required in an emergency.

*Reason: In the interests of local amenity and highway safety in accordance with Policies DC1 and DC2 of the CMWLP.*

#### **Direction of Travel of Egressing Traffic**

13. All traffic leaving the site shall turn right onto the County Road U1107 and the notice erected upon the site access road instructing all drivers of heavy goods vehicles to turn right when leaving the site shall be maintained for the duration of quarrying operations.

*Reason: To ensure that HGV drivers are aware of the agreed vehicle route from the site in the interest of highway safety and amenity, in accordance with Policy DC 1 of the CMWLP.*

#### **Diverted Public Footpath**

14. The fence constructed along either side of the diverted route of the footpath (no 117003) shall be maintained and the route kept clear of all obstructions to allow unimpeded access along it for the duration of the quarrying and restoration operations.

*Reason: To protect the integrity of the diverted public right of way in accordance with Policy DC2 of the CMWLP.*

#### **Noise Limit**

15. Except in the circumstances allowed under Condition 16 of this permission, noise levels attributable to the approved quarrying and any ancillary operations carried out under the terms of these conditions, shall not exceed 55dB(A) (LAeq, 1 hour free field) as measured at any noise sensitive property.

*Reason: To safeguard the amenity of local residents by ensuring that noise generated by the operations hereby permitted does not cause a nuisance outside the boundaries of the site in accordance with Policies DC2 and DC3 of the CMWLP.*

#### **Noise Limit for Temporary Operations**

16. Notwithstanding the requirements of Condition 15 of this permission and only when given prior written approval by the Mineral Planning Authority, the noise levels arising from any temporary activities required for the implementation of

this permission; for example, soil/overburden stripping and the construction of screening mounds, shall not be permitted to exceed 70 dB(A) (LAeq, 1 hour free field) as measured at any noise sensitive property, and any such temporary operations that may give rise to this level of noise shall not be carried out so as to exceed a cumulative period of 8 week in any 52 week period. No such temporary activities shall be carried out outside of permitted working hours.

*Reason: To limit the periods within which these noisier operations may take place to protect the amenity of local residents in accordance with Policies DC2 and DC3 of the CMWLP.*

### **Safeguarding of the Water Environment from chemicals and fuels**

17. Any chemical, oil or diesel storage tanks on the site shall be sited on impervious bases and surrounded by impervious bund walls; the bunded areas shall be capable of containing 110% of the largest tank's volume and should enclose all fill and drawpipes. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall discharge downwards into the bund.

*Reason: To avoid the pollution of any watercourse or groundwater resource in accordance with Policy DC20 of the CMWLP.*

### **Control of Dust**

18. The operator shall maintain on site at all times a water bowser or other dust suppression system, together with an adequate supply of water and during periods of dry weather shall spray the access road, haul roads, working areas, plant area and stockpiling areas with water to satisfactorily suppress dust to ensure 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 boundaries of the site, in accordance with Policy DC2 of the CMWLP.*

### **Sheeting of Vehicles**

19. All vehicles used to transport mineral from the site onto the public highway shall be sheeted so as to not deposit any material 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, in accordance with Policies DC1 and DC2 of the CMWLP.*

### **Avoiding Tracking-Out of Material**

20. Efficient means shall be utilised to ensure that no slurry, mud or other material from the site is deposited upon the public highway by vehicles leaving the site.

*Reason: To prevent vehicles carrying material on to the public highway in the interests of highway safety in accordance with Policy DC1 of the CMWLP.*

### **Care of Boundaries, Hedges and Walls**

21. The developer shall maintain and make stockproof, until the restoration is

completed, all the existing perimeter hedges, walls and fences within his control and protect the same from damage. Where the site boundary does not coincide with the existing hedge or fence, then the developer shall provide and maintain, until the restoration is completed, stockproof fencing with gates or cattle grids at every opening. Undisturbed hedgerows within or bounding the site shall be carefully maintained and trimmed at the proper season throughout the period of working and restoration of the site.

*Reason: To secure the proper management of undisturbed enclosures on the site and to ensure that stock do not enter the working areas, in accordance with Policy DC2 of the CMWLP.*

### **Soil Retention and Survey**

22. All topsoil and subsoil shall be retained on the site. After the formation of any soil storage mound the quantity of soil shall be surveyed by the operator and details of the volume and location shall be provided to the Mineral Planning Authority within 14 days of written request for such.

*Reason: To ensure that all the available soils are kept for use in the restoration of the site in accordance with Policies DC21 and DC22 of the CMWLP.*

### **Soil Handling**

23. All soil stripping, excavation from store, storage, movement and placement activity shall be undertaken in accordance with provisions sets out in paragraphs 3.1.1 and 3.1.2 of the Aftercare Strategy dated September 2019 and 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.

*Reason: To prevent any avoidable damage to the structure of the site soils so as to ensure that the soil resource at the site is maintained in a viable condition so to aid the successful restoration of the site in accordance with Policy DC21 of the CMWLP.*

### **Separate Stacking**

24. All topsoil, subsoil, soil-making material and other overburden which has been stripped or removed shall be stacked separately in accordance with the approved scheme.

*Reason: To secure the satisfactory storage and retention of overburden and soils for restoration in accordance with Policies DC21 and DC22 of the CMWLP.*

### **Management of Soil and Overburden Stacks**

25. All non-operational areas of the site and all topsoil, subsoil and overburden stacks visible from the road or the diverted footpath shall be sown to grass in the first available planting season and shall be kept free from noxious agricultural weeds – with steps taken to destroy such weeds at early stages of growth to prevent seeding.

*Reason: In the interests of visual amenity and to prevent the spread of noxious weeds on to the restored areas of the site and surrounding farm land in accordance with Policy DC2 of the CMWLP.*

### **Ongoing Ecological Avoidance and Mitigation Measures**

26. The recommended ecological avoidance and mitigation measures contained within the specified sections of the following documents set out below shall be applied during the working and restoration of the site:
- a. Section 5.3 of the Phase 1 Ecology Survey dated May 2018 in respect of Breeding Birds, Bats and Badgers;
  - b. Section 5 of the Reptile Survey dated July 2019;
  - c. Section 5 of the Invertebrate Habitat Assessment dated August 2019;
  - d. Paragraph 4.25 of the Planning Statement dated September 2019 in respect of Sand Martins.

*Reason: To protect habitats and species and maintain biodiversity in accordance with Policy DC16 of the CMWLP and ensure compliance with The Conservation of habitats and Species Regulations 2017 (as amended) and The Wildlife and Countryside Act 1981 (as amended).*

### **Maintenance of Tree, Hedgerow and Shrub Planting**

27. All trees, hedgerows and shrubs planted in accordance with the requirements of this permission shall be protected, managed and maintained until the expiry of this permission. Any trees, hedgerows and shrubs which die or become seriously damaged or diseased shall be replaced with plants of the same species or such species as may otherwise be agreed with the Mineral Planning Authority.

*Reason: To secure the satisfactory management and maintenance of tree, hedgerow and shrub planting in the interests of visual and landscape amenity.*

### **Aftercare**

28. The restored site shall be subject to aftercare under the provisions of Section 72(5) of the Town and Country Planning Act 1990. Aftercare shall be undertaken in line with the Aftercare Strategy dated September 2019. For the avoidance of doubt, the aftercare requirements shall be carried out for a period of five years from the certified completion of restoration operations.

*Reason: To secure the proper aftercare of the restored land in accordance with Policy DC22 of the CMWLP.*

### **Aftercare Period Reviews**

29. Before 30 September of each year during the aftercare period there shall be a formal review, under the provisions of Section 72(5) of the Town and Country Planning Act 1990, to consider the operations which have taken place on the restored site and to agree a programme of management for the coming year which shall be adhered to by the operator. The parties to be invited to attend this review shall include the mineral operator, the Mineral Planning Authority, owners and occupiers of the land and Natural England. At least 2 weeks before the date of each review the operator shall provide all people attending the meeting with a record of the management and operations carried out on each phase during the period covered by the review and a proposed programme of management for the coming year.

*Reason: To secure the proper aftercare of the restored land and to allow its return to as high a quality as possible in accordance with Policy DC22 of the*

CMWLP.

Dated 15 November 2019

Signed: Angela Jones  
Acting 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/1/19/9013>
- The conditions attached to this permission may override details shown on the application form, accompanying statements and plans.

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## 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.

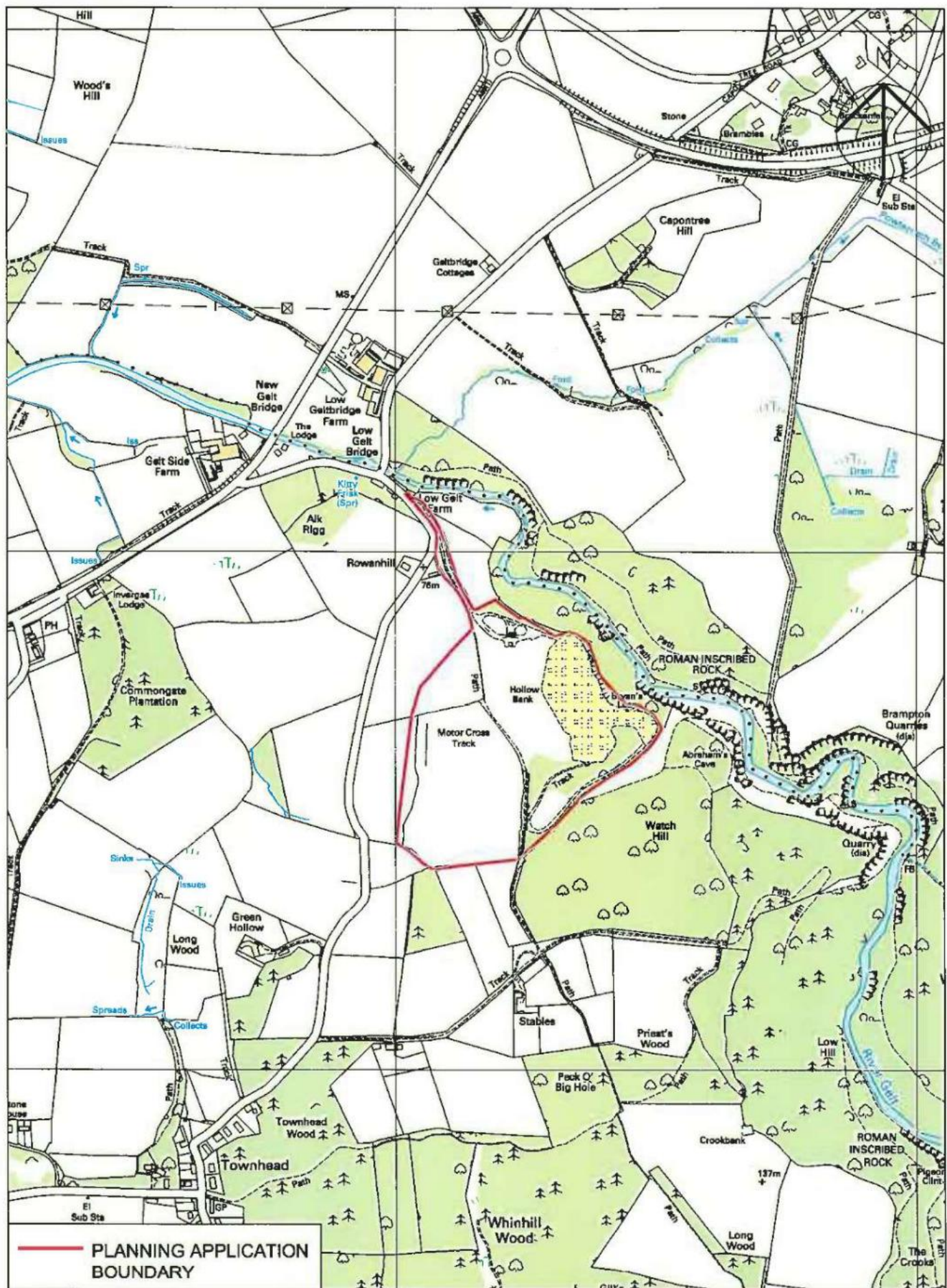
1. This grant of planning permission does not exempt you from regulation under Environmental Protection regimes. The County Council regularly shares information with other authorities. Failure to comply with other regulatory regimes may result in prosecution.
2. Any grant of planning permission does 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. 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://www.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.



Drawing Title

# **HANSON AGGREGATES LOW GELT QUARRY SITE LAYOUT PLAN**

**D118070.SS.002**

Scale at A4 : 1:10,000

Drw RM

App CN

Rev

Chk CN

Date JUNE 09

Date



www.scottwilson.com

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**Item No: 14** Between 07/11/2019 and 18/12/2019

<b>Appn Ref No:</b> 18/0388	<b>Applicant:</b> Mr Ian Murray	<b>Parish:</b> Carlisle
<b>Date of Receipt:</b> 30/04/2018	<b>Agent:</b> Tyler Design Services	<b>Ward:</b> Botcherby & Harraby North
<b>Location:</b> Land adjacent Geltsdale Avenue, Durranhill, Carlisle, CA1 2RL	<b>Grid Reference:</b> 342746 555199	

**Proposal:** Proposed New Vehicle and Pedestrian Entrance  
**Amendment:**

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**REPORT****Case Officer:** Richard Maunsell**Decision on Appeals:****Appeal Against:** Appeal against refusal of planning perm.**Type of Appeal:** Written Representations**Report:****Appeal Decision:** Appeal Allowed with Conditions      **Date:** 12/12/2019

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

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## Appeal Decision

Site visit made on 3 October 2019

**by Mr M Brooker DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 December 2019

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

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

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Ian Murray against the decision of Carlisle City Council.
  - The application Ref 18/0388, dated 12 April 2018, was refused by notice dated 11 January 2019.
  - The development proposed is described as "new vehicle and pedestrian entrance".
- 

### Decision

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

### Application for costs

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

### Main Issues

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

### Reasons

#### *Highway Safety*

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

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

#### *Trees*

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

#### **Other Matters**

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

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

### **Conditions**

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

### **Conclusion**

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

*Mark Brooker*

INSPECTOR

### **Conditions Schedule**

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

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

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

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

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

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

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

SITE LOCATION PLAN  
AREA 2 HA  
SCALE: 1:1250 on A4  
CENTRE COORDINATES: 342748 , 555206



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LAND ADJACENT TO  
GELTS DALE AVENUE  
IN/DURRANT HILL/SLP

# Development Control Committee

Agenda  
Item:  
**A.2**

Meeting Date: 10<sup>th</sup> January 2020  
Portfolio: Economy, Enterprise and Housing

Key Decision:  
Within Policy and  
Budget Framework

Public / Private Public

Title: Consultation on application 19/9012/CTY –  
Carlisle Southern Link Road  
Report of: Corporate Director of Economic Development  
Report Number: ED.01/20

## Purpose / Summary:

This report sets out the proposed response of the City Council as Local Planning Authority to a consultation on a planning application submitted to Cumbria County Council for the construction of the Carlisle Southern Link Road.

## Recommendations:

It is recommended that the observations set out in paragraph 5.1 are sent to the County Council as the City Council's response.

## Tracking

Executive:	
Scrutiny:	
Council:	

## **1. BACKGROUND**

- 1.1 In undertaking the assessment of this application Members must be aware that this is the City Council's response as a consultee, and we do not have the benefit of all the usual consultees considerations and responses as they report directly to the County Council.
- 1.2 When considering this application, it is important to note the overarching principles in the National Planning Policy Framework (NPPF). There are key core planning principles which underpin decision taking. The NPPF states that planning should not simply be about scrutiny but should find ways to improve the places in which people live their lives; it should proactively drive and support sustainable economic development to deliver business and thriving local places that the country needs and take account of the needs of communities; planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupiers of land and buildings.

### **The Site**

- 1.3 The broad geographic corridor for the CSLR Scheme lies on predominantly agricultural land to the south of Carlisle, Cumbria. To the east, the M6 provides a national north-south link and to the west the A595 provides connections to towns on the Cumbrian west coast. Connectivity 'east to west' between the M6 and A595 is limited with traffic utilising minor roads through the villages of Durdar and Dalston, congested routes through Carlisle City centre, or long diversions via Junction 44 to the north of Carlisle.
- 1.4 The C1014 (Newbiggin Road) is currently the main route to the south of Carlisle providing 'east to west' connectivity. This road runs from Junction 42 of the M6 in an easterly direction to the village of Durdar before heading in a south westerly direction to a crossing point of the River Caldew at Dalston. Key features in the landscape which would need to be crossed by any new link include the River Petteril, the River Caldew, the West Coast Main Line and Cumbrian Coast Line railways. The River Caldew is designated as part of the River Eden Special Area of Conservation (SAC) and River Eden and Tributaries Site of Special Scientific Interest (SSSI). The proposed route would not be in close proximity to any existing built-up settlements but would pass closely to a small number of residential dwellings, which will be influenced the design of the scheme.
- 1.5 Other key features/designations in close proximity of the site include:
- Heritage assets including a number of Grade II Listed Buildings

- Multiple areas of archaeological potential and various historic landscape features;
- A variety of habitats, including grasslands, woodland, farmland, scrub, water/watercourses and trees;
- A variety of protected species including Badgers, Bats, Breeding & Wintering Birds, Great Crested Newts and Otters;
- A variety of other species including deer and invertebrates;
- Recorded areas of Himalayan Balsam and Japanese Knotweed;
- High pressure gas mains and high voltage power lines.
- Other technical apparatus including the undertakings of United Utilities, Northern Gas Networks, National Grid, UK Power Networks and telecommunications companies (i.e. BT Openreach, Vodafone and Virgin Media).

## **Context**

- 1.6 The CSLR Scheme is also designed to facilitate and support the delivery of a major mixed use residential led development proposed to the south of Carlisle, referred to as 'St Cuthbert's Garden Village'. When complete, St Cuthbert's will deliver up to 10,000 new homes together with community, employment, retail, and education facilities. Development of this scale will require significant improvements to the surrounding transport infrastructure.
- 1.7 There is a critical dependency between the delivery of the CSLR Scheme and the delivery of much needed new homes via St Cuthbert's Garden Village. This dependency is explicitly acknowledged within the adopted Carlisle District Local Plan (adopted November 2016), which provides a spatial framework for St Cuthbert's Garden Village, with Policy SP3 identifying that the Carlisle Southern Link Road "will be an integral part of the masterplan for the location". The need for the CSLR Scheme was also set out within the successful application for the designation of St Cuthbert's as a Garden Village, announced in January 2017.
- 1.8 Through the development of the Carlisle District Local Plan it was concluded that the only sustainable area for the longer-term growth of Carlisle was to the south of the city, but for growth to be achieved in the location a number of strategic transport constraints would need to be overcome. Routes from the south of Carlisle to the city centre and major employment sites at Kingmoor Park, Kingstown and Durranshill are severely constrained and characterised by limited junction and link capacity. Traffic modelling to support the development of the Local Plan demonstrated that with St

Cuthbert's Garden Village and without improvement, these issues would be severely exacerbated; this makes it clear that infrastructure enhancements are required to support future growth.

- 1.9 In response, working closely with Carlisle City Council, Cumbria County Council undertook an assessment of what strategic infrastructure solutions would be required to unlock St Cuthbert's Garden Village in line with the Transport Analysis Guidance (TAG) published by the Department for Transport.
- 1.10 Stage 1 – Option Development involved identifying the need for intervention and developing options to address a clear set of locally developed objectives which express desired outcomes. These are then sifted for the better performing options to be taken on to further detailed appraisal in Stage 2.
- 1.11 A range of alternative interventions including the potential for improving existing routes, rail infrastructure, park and ride, and public transport led solutions were considered. The work concluded that a new road in the form of the CSLR Scheme was the preferred option capable of creating the capacity needed to unlock the development potential to the south of the city.
- 1.12 Stage 2 – Further Appraisal involved further development of a small number of better performing options in order to obtain sufficient information to enable decision-makers to make a rational and auditable decision about whether or not to proceed with intervention. In supporting the development of this work, the Carlisle Transport Model was updated in 2017 in order to appraise the impacts of the scheme.
- 1.13 The Stage 2 process led to the identification and announcement of the preferred route on 22 June 2018. In arriving at this preferred route, weight was given within the decision-making process to how the route would support the emerging vision for St Cuthbert's Garden Village from a place making and hence qualitative perspective. This was supported by an independent assessment of the options prepared by consultants leading the masterplanning for St Cuthbert's Garden Village.
- 1.14 The dependent development appraisal demonstrated that with the delivery of the improvements identified through the Carlisle District Local Plan, the existing transport network has the potential to accommodate around 1,000 new homes at the south of the city (less than 10 per cent of the potential of St Cuthbert's Garden Village) before the associated congestion and delay from new development would become unacceptable.

- 1.15 It is pertinent to note that the preferred concept option for St Cuthbert's Garden Village is focussed on the creation of a series of connected settlements. The CSLR Scheme can be seen to directly support this concept approach. The CSLR Scheme would provide direct access and support accelerated delivery through affording opportunities for multiple start points.
- 1.16 Access and connectivity to higher order services within a district centre is imperative to the sustainability of all new settlements and hence development within the area. In providing the necessary vehicular, walking and cycling connections the CSLR Scheme can therefore be seen to be critical in supporting the advancement and ultimately delivery of the emerging concept for St Cuthbert's Garden Village.
- 1.17 Finally, and notwithstanding that Carlisle housing market has performed strongly over recent years, evidence supports that early delivery of the CSLR Scheme will act to significantly bolster market confidence, in turn helping to attract a greater number, quality and diversity of delivery outlets. This conclusion has also been reaffirmed directly by the development industry, evident from the letters of support from well-established developers within Carlisle.
- 1.18 At an early stage, a need was identified in the plan making process by both Carlisle City Council and Cumbria County Council to enable the continued economic growth of Carlisle into the future. It was considered that improvements to both the road and rail network around the city and within Cumbria were options for investment, to improve access to, and reduce pressure on, the local road networks in and around Carlisle.
- 1.19 The CSLR was identified as most appropriate for the developing needs of the city and surrounding area, due to the projected increase in population and subsequent requirement for new homes and jobs. A new highway would allow access to new housing and mixed-use developments such as the SCGV and provide opportunity for further development in the future.
- 1.20 The proposal for a link road/bypass to the south of Carlisle has a long history of feasibility considerations. The work of the early feasibility studies was in part, to respond to details of an emerging Local Plan for Carlisle District, which identified a major mixed-use urban extension to the south of the city. It was recognised in the plan making process that to accommodate the levels of traffic generation from 'Carlisle South' (now referred to as SCGV) as well as improving strategic east-to-

west connectivity, a new link road connecting Junction 42 of the M6 to the A595 offered a potential solution.

- 1.21 The Council originally explored seven potential routes within a broad geographical area to the south of Carlisle, three of which were shortlisted for further appraisal as part of a Stage 1 assessment. The Stage 1 assessment was subsequently reviewed in 2017 taking into account revised objectives for the Scheme. The options to be taken forward to Stage 2 were updated to include; Option A (Blue), Option B (Orange) and Option C (Green).
- 1.22 On 5 December 2017 Cumbria County Council Lead Members passed a recommendation not to progress further development of Option A (Blue) due to the level of departures from highway standard and the associated costs and requirements of the concept design. Option A (Blue) had aimed to maximise the reuse of existing infrastructure, following the alignment of Newbiggin Road and Peter Lane where possible.
- 1.23 Designs for the remaining two Options; Option B (Orange) and Option C (Green), were progressed and assessed in full during Stage 2. The findings of the EIA (Capita, 2017) were then used alongside other technical assessments and feedback from a public consultation exercise, to inform the selection of a preferred route. On 23 June 2018 Cumbria County Council announced that the preferred route for the Scheme was Option C (the 'Green Route'). The selection of the preferred CSLR route followed extensive technical assessments as well as detailed public and stakeholder engagement. The decision was also heavily influenced by the vision, objectives and ambitions for SCGV.

## **2. PROPOSALS**

- 2.1 The proposal is for the creation of Carlisle Southern Link Road (CSLR) comprising construction of 8.1km of new two-way single carriageway road (with 2.2km of climbing lanes) incorporating 3no. new road bridges; a combined cycleway/footway on the northern side of the road with 4no. shared-use overbridges; 7no. new or modified road junctions; 2no. overbridges; 1no. underpass; related links & modifications to existing highway, cycleway, footpaths & agricultural access tracks; creation of drainage infrastructure (including balancing ponds), landscaping & lighting; associated engineering & ancillary operations (including the associated demolition of 2no. dwelling houses - Station House & Newbiggin View)

- 2.2 The size and layout of the road has been designed in accordance with Design Manual for Roads and Bridges (DMRB) as well as being driven by functional and practical requirements. The Scheme has also been designed around minimising the impact upon heritage assets, existing houses and settlements and biodiversity.
- 2.3 Relative to ground level, the road itself would vary from being in a low cutting to being on an embankment. It would be 10.5 m below ground level to the east of the River Caldw and 1 - 3 m below ground level near the A595 in the west and in places south of Durdar to Brisco. Generally, where the road is on an embankment, it would be up to 3 m above ground level, such as in places between Durdar and Brisco and approaching the West Coast Main Line.
- 2.4 The road would be higher in the Caldw Valley (embankment section 10 – 12.5 m above ground level) and east of the River Petteril approaching the M6 (6 – 12.5 m), owing to the existing topography. Other parts of the Scheme would rise above ground level, such as cycle bridges (up to 9 m above ground level), Durdar Bridge (7 m) and other earthworks, including noise and visual screening.
- 2.5 The road width would vary from 9.3 to 16.5 m, with an additional 10 m for verges and the multi-user path. Roundabouts would obviously be wider within the corridor, generally being approximately 150 m wide.
- 2.6 The Scheme includes five new roundabouts where it interacts with the existing north-south road network, enlargement of the Newby West roundabout, four road bridges, an accommodation overbridge, and four shared use bridges which facilitate the multi-user pathway.
- 2.7 The roundabouts are;
- Newby West Roundabout (existing) – CSLR junction with the A595 Wigton Road and A689 (CNDP);
  - Cummersdale Roundabout (new) – CSLR junction with the B5299 Dalston Road;
  - Durdar Roundabout (new) – CSLR junction with Buckabank Road, with addition of a new spur that will support a part of the future St. Cuthbert's Garden Village development, linking the CSLR with Durdar Road;
  - Redcat (Scalegate) Roundabout (new) – CSLR junction with Burthwaite Road; and
  - Brisco Roundabout (new) – CSLR junction with Brisco Road / Wreay Road.
- 2.8 The road bridges comprise, from west to east;

- Multi-span bridge that crosses the Cumbrian Coast Line Railway and the River Caldew towards the western side of the Scheme;
- Single-span bridge allowing Durdar Road, with pedestrian and cyclist provision, to cross over the Scheme;
- Single-span bridge crossing the West Coast Main Line; and
- Single-span bridge carrying the Scheme over the River Petteril towards the eastern side of the Scheme.

2.9 The other bridges comprise:

- Three pedestrian and cyclist 'shared use' bridges running east-west, parallel to the Scheme that cross over:
  - the A595 Wigton Road;
  - the B5299 Dalston Road; and
  - the new Durdar Link Road.
- One pedestrian and cyclist 'shared use' bridge running north-south, crossing the Scheme at Brisco Road / Wreay Road; and
- An accommodation overbridge between the River Caldew and Durdar Roundabout to provide access for agricultural activity at Peastree Farm.

2.10 The road is proposed to be surfaced in asphalt concrete. This material is considered to have a long lifespan and is the most cost-effective option for the Scheme. Other materials needed for construction will be those typical for a road project, including concrete, stone, timber, and steel.

2.11 The Scheme will not have any gantries along its length. Each roundabout (Newby West, Cummersdale, Durdar, Redcat, Brisco and Golden Fleece), will have a direction sign on each approach. These are generally 5 m by 5 m, but up to 7 m by 7 m. Areas of these signs will be between 13.88 m<sup>2</sup> and 55.95 m<sup>2</sup>. On the roundabouts themselves will be four warning chevron directional signs, with a turn left blue sign giving orders above facing each approach. There will also be the relevant merging signs on some arms of the roundabouts. Speed limit signs will be placed where required, generally on the entrance or exit from roundabouts.

2.12 Additionally, works will be undertaken on Peter Lane, at the western extent of the Scheme, and Newbiggin Road, to which the Scheme runs parallel for a significant length, to improve cycle infrastructure and reduce vehicle speeds (due to the improved infrastructure). Tracks from the Scheme will also be provided to access farmland and buildings.

- 2.13 The application is accompanied by a series of general arrangement drawings, a Planning Statement, a Design and Access Statement and a Public Rights Of Way Statement. The application is also accompanied by an Environmental Statement (including topics relating to Air Quality, Archaeology, Nature Conservation, Landscape, Visual impacts, Agricultural Land Use, Noise and Vibration, Outdoor Access and Recreation, Water Resources and Flood Risk, and Geology and Soils) with accompanied plans and appendices.

### **3. ASSESSMENT**

- 3.1 Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 require that an application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. In this instance the NPPF is also a material consideration.

#### **The Principle of Development**

- 3.2 Policy SP3 – Broad Location for Growth: Carlisle South of Carlisle District Local Plan 2015-2030 sets out the policy background for strategic growth to the south of the existing urban area. Members will be aware that work has commenced on masterplanning for the area with consultation having already taken place.
- 3.3 Policy SP3 states that:  
*“The potential for the future development of a southern link road linking Junction 42 of the M6 with the southern end of the A689 will be an integral part of the masterplan.”*
- 3.4 This proposal has been developed alongside the masterplanning work and consultation events have jointly been held prior to the application being submitted. The proposed scheme is as a result of public consultation on a number of options which were considered as part of the design of the road and how St Cuthbert’s Garden Village area will evolve.
- 3.5 This clear policy direction in the adopted Local Plan means that the principle of development is therefore acceptable. Whilst the design of the road has been based on the principles of the Design Manual for Roads and Bridges (DMRB) there are a number of issues to be considered in relation to its location and potential impacts.

## Drainage Details

- 3.6 Prior to the commencement of works a temporary drainage strategy will be implemented to mitigate flood risk and sediment loading. Surface water from the Scheme's construction will be collected either by gullies, combined kerb drains and carrier drains or filter drains. These will flow to either the proposed attenuation pipes or the proposed attenuation ponds. The runoff will then be released at a reduced flow rate into the nearby watercourses. While new connections are proposed at the existing drainage around the junctions, no new drainage outfalls have been proposed in the watercourses.
- 3.7 It is assumed that the temporary drainage strategy (for the construction phase) will include measures to remove silt, sediment, oil and grease, debris and to attenuate surface water runoff prior to controlled discharge. The measures will include Sustainable Drainage Systems (SuDS), and surface water will discharge into existing watercourses onsite at the existing greenfield runoff rate. Where permanent drainage components are used during the construction phase, all silt and debris build-up is assumed to be removed regularly and the permanent components fully reinstated on completion of construction activities.
- 3.8 The Scheme is divided into a number of catchments based on topography and the proposed vertical alignment of the carriageway. The basic drainage and water management strategy for each catchment will be the same.
- 3.9 For most of its length the Scheme will feature over the edge drainage to under-drained grass channels located in both verges. The resulting filtration will provide the first level of Sustainable Drainage System (SuDS) treatment and the channels and filter trench volume will provide additional capacity to manage exceedance.
- 3.10 Where grass channels cannot be accommodated (primarily at roundabouts and bridges although there may be other localised areas) the drainage will be via gullies or kerb/deck drainage units which will then discharge to the filter drainage system. Access chambers will be specified as catchpits to provide additional silt removal throughout the system. From the filter drains the flows will discharge to eight detention ponds within each catchment. These will incorporate permanent water storage and boundary reed planting to provide a secondary level of SuDS treatment via a mix of settlement and absorption.
- 3.11 Ponds will also incorporate flow controls (vortex or similar) to provide attenuation and limit discharge to greenfield equivalent rates. The ponds will be from 60 metres

to 160 metres in length and will discharge into existing watercourses with permanent water for ecological benefits.

- 3.12 Given the scale of this development and the fact that it will cross several watercourses it is essential that these water courses are not compromised during construction or operation of the new road. The use of a temporary drainage strategy is welcomed during the construction period however it would be advisable to make the following observations to the County Council:
- The design of the drainage strategy based on SUDs principles is welcomed in order to slow down water flow and enhance the ecological environment to counter the loss of greenfield land.
  - In considering drainage it should be clear that any temporary drainage strategy includes a phased programme of works to minimise the impacts of surface water flooding as a result of soil stripping on the adjoining land.
  - Consideration should be given to natural contours and ensure that the drainage scheme is designed to take not only surface water from the development but also accommodate flows from adjacent land that were previously entering the site area.
  - In order to ensure that climate change impacts are considered the drainage strategy should be designed to accommodate a 1:100 plus 40% flood event.

### **Landscaping**

- 3.13 The Scheme seeks to achieve a net materials balance, whereby the material generated from cuttings would supply the material required to create embankments, landscape bunds and any other earthworks required. This will avoid the need to import or export any new material, thus minimising construction transport to the site, as well as avoiding the need for bulk offsite disposal.
- 3.14 The cuttings will generally be constructed with a 1:3 gradient, which would be slackened to 1:10 where the land will be handed back for agricultural use. (The location of these features are shown on the general arrangement plans). The embankments and bunds will generally be constructed with 1:2.5 slopes, which would again be slackened to 1:10 where the land will be handed back for agricultural use.
- 3.15 The above-mentioned cuttings, embankments and bunds will be supported with soft landscaping include a mixture of shrubs and trees to reduce any visual impact. Landscaping will be maintained and monitored to ensure that it is serving the function that was committed through the proposed design. If any damage or failure

is present, this must be replaced as soon as possible. This responsibility will be with the contractor for a five-year period after opening of the scheme to ensure the mitigation is established. Any loss of plants will be replaced within this period. Following this establishment period, responsibility for maintenance will transfer to Cumbria County Council as the Highways Authority.

- 3.16 The highway boundary fencing will run the full length of the route and will generally be post and wire, stockproof where necessary and approximately 1.4 m high. There will be sections of badger and otter fencing as required.
- 3.17 The vehicle restraint barriers will generally be standard highway type steel beam and posts. The barriers will be approximately 0.7m in height and each section is approximately 4.0m
- 3.18 Over the proposed bridges of the scheme the road restraint/safety barriers will be metal up to about 1.5 m high with solid infill panels over the railways.
- 3.19 Throughout the scheme, the landscape design was informed by the findings of the Environmental Statement and has been developed in response to the existing landscape character and ecological strengths of the site and the local environment. General design principles have been applied in accordance with Design Manual for Roads and Bridges (DMRB) HA56/92 The Good Roads Guide New Roads Planting, Vegetation and Soils.
- 3.20 The proposed Landscaping Strategy includes a mix of five different species rich grassland mixes for different areas and microclimates, including Ornamental Shrub, Grass and Perennial planting. In addition, the scheme provides both Native Woodlands and Shrubs, this ensures that the species and percentage mixes provide good species diversity and wildlife value.
- 3.21 Within visibility splays, the landscape design ensures that there will be no obstructions. Predominantly, in vegetated areas, an amenity grass seed mix has been specified (LE1.1) due to its suitability for roadside verges. This mix will be tolerant of road salts and aid with the prevention of soil erosion as it establishes quickly and helps to bind soils. It will also tolerate the high frequency cutting regime that will be required within the visibility splays. These areas will also need to be maintained to a sward height of 75mm to 150mm.
- 3.22 Where tree planting is proposed along the edge of the carriageway (i.e. at junctions and roundabouts), this has been offset by a minimum of 5m for standard tree sizes

and 7.5m for semi-mature tree planting. This is in accordance with Design Manual for Roads and Bridges (DMRB) HA56/92 The Good Roads Guide New Roads Planting, Vegetation and Soils. Where possible, slopes have been graded out to a 1:10 gradient and the hedgerows have been proposed as close to the carriageway as is practical. This was designed:

- to minimise the impacts of the road corridor on a landscape where narrow, rural roads are an important landscape characteristic;
- to return more land back to agricultural use; and
- to design the earthworks sensitively within the natural topography.

- 3.23 Tree planting has been avoided within a 30m offset from overhead cables to avoid conflicts and ongoing maintenance issues.
- 3.24 Wherever practical, a 3m width area has been left clear to enable access around hedgerows for trimming and maintenance of planting.
- 3.25 The Newby West drainage pond (Pond A) has been designed to increase amenity value and biodiversity due the proximity of residential development and land allocations. A circular, informal resin bonded path has been designed around this pond with durable timber seating, timber information boards and an area of timber terraced seating overlooking the drainage pond. Felled timber could be used to create some of the timber seating as well as informal natural play interventions, such as stepping logs. Timber cycle stands have also been proposed to cater for passing cyclists using both existing routes and the new multiuser paths along the link road. The proposed furniture will be chosen to complement the natural surroundings and create a sense of identity through a limited palette of materials.
- 3.26 Pond B, at Dalston Road pond has been designed to echo the materials and style of Pond A and also retain amenity value.
- 3.27 Access to the Caldew Valley northern drainage pond (Pond C) has been provided by an informal path and timber seating provided to increase amenity value. Information boards relating to the wildlife in the valley as well as the history of adjacent Cummersdale Station, its links with Cummersdale's mills and industrial past, as well as the old mill pond and mill race itself would be provided.
- 3.28 Caldew Valley southern drainage pond (Pond D) – the PROW on the east of the River Caldew is less frequently used than the PROW on the west, however, the existing PROW will be diverted around the bridge pier and embankment as part of this scheme.

- 3.29 In addition, the areas to the west of the River Petteril and SuDS Pond G have been designed to increase amenity value and biodiversity, due the proximity of the riverside Public Right Of Way along the River Petteril and the introduction of a small car park on Newbiggin Road. A circular informal path has been designed around this pond with seating and information boards. The pond has been designed with slackened slopes (maximum 1:3) and varied depths to enable a range of planting and habitat types. Felled timber could be used to create some of the timber seating as well as informal natural play interventions, such as stepping logs. Timber cycle stands have also been proposed to cater for passing cyclists using both existing routes and the new multiuser paths along the link road.
- 3.30 The design of the most easterly SuDS pond within the scheme, Pond H, in this area focuses on creating an area to support a diverse range of wildlife, rather than the public, due to its location away from rights of way and residential areas. A combination of broadleaf woodland planting, aquatic planting, species rich grassland, native shrub and individual trees has been proposed here to provide a variety of habitats.
- 3.31 The resulting character of the site will be a road with landscaped edges which will sit comfortably in the surrounding context and provides benefits for wildlife and biodiversity.
- 3.32 In consideration of the landscaping elements of the scheme:
- Landscape proposals should ensure that there is a biodiversity net gain for such a large scheme of major infrastructure and the approach taken is welcomed
  - The design of SuDS areas which incorporate added value as public amenity space and environmental enhancement is welcomed
  - Whilst recognising that hedgerows and trees will be lost as part of the route development and there will be impacts on local wildlife as a result of the works, methods of best practice should be used in the planning and execution of works during the construction process to minimise impact on biodiversity
  - Planting alongside pedestrian routes and cycle routes should ensure that it is user friendly where encroachment onto those routes may occur

## Construction Access

- 3.33 The locations of the construction compounds were assessed with contractor input, with the following considerations taken:
- Appropriate access points to minimise traffic disruption;
  - Safe area for storage of plant and materials;
  - Sufficient working area to ensure good people to plant interface;
  - Topography;
  - Existing vegetation – selecting areas that require minimum clearance; and
  - Minimising land take.
- 3.34 There are likely to be eight construction compounds along the Scheme, covering a total area of 10.8 ha. These are as follows:
- Newby West roundabout, 20,000 m<sup>2</sup> set up for approximately six personnel, welfare and stores etc. Generator prior to permanent power connection;
  - Dalston roundabout, 15,000 m<sup>2</sup>, welfare facilities, storage, generator;
  - Construction of west pier and span 1 of the River Caldew bridge, 5,000 m<sup>2</sup>, small office set up, welfare, generator;
  - Construction of east pier and spans 2 and 3 of River Caldew bridge, 10,000 m<sup>2</sup>, small office set up, welfare, stores, lay down, generator;
  - Middle compound at Durdar roundabout, 3,000 m<sup>2</sup>, small office set up, welfare, stores, lay down, generator;
  - Main compound, east of Brisco roundabout, 50,000 m<sup>2</sup>. Office set up for 40-50 personnel, main canteen and welfare facilities, briefing room, first aid etc. Temporary generator until permanent supply established. Tarmacked hardstand throughout;
  - Construction of WCML bridge, 2,500 m<sup>2</sup>, combined office and welfare facilities and stores; and
  - Construction of River Petteril bridge, 2,500 m<sup>2</sup>, combined office and welfare facilities and stores.
- 3.35 The location of haulage routes is dependent on the construction start date. If construction commences in Spring, there is a full season for earthworks, and therefore the main haul routes will be on existing routes. If construction commences at a time of year when a full earthworks season cannot be utilised, then haulage routes will be required for construction of the structures, and general access to the roundabouts. Therefore, the precise routes are currently unknown. However, haulage routes will primarily be on existing roads, however a 4m wide haulage route may be required along the length of the main line between River Caldew and Dalston Road and Buckabank and River Caldew.

- 3.36 It is anticipated that construction traffic will access the Scheme at different locations dependent on the location of construction works. There are anticipated to be up to 200 HGV movements per day during the peak period to move 30,000 m<sup>3</sup> of soil to fill areas at the eastern end of the Scheme. The HGVs will need to use Newbiggin Road, and this activity is anticipated to occur between June and November 2021, with a small amount of movement in early 2022 near the Junction 42 Golden Fleece roundabout.
- 3.37 During the construction phase, key well-used walking and cycling routes through the Caldew valley (i.e. the Cumbria Way, NCN7, C2C and NCN10) will require temporary closures to enable the bridge structure to be safely built with the Miller's Way walking route also severed by the construction of the River Petteril Bridge. In addition, five Public Rights Of Way with a limited number of users between the River Caldew and Durdar Road will also be severed by the footprint of the scheme.
- 3.38 It is acknowledged that despite mitigation (i.e. reducing closure periods, diversions and signage), journey lengths and times are likely to increase for users, with potential alternative routes also subject to disruption. It is likely to be a moderate impact on users of these routes during construction. Cyclists using minor roads will also be disrupted by construction works where the scheme intersects these routes with increased journey times due to diversions, however access to Durdar Road will be retained throughout construction.
- 3.39 It is noted that during construction of such a major infrastructure project there will be inevitable disruption to users of all routes and the following observations should be made:
- That disruption to road users is minimised and works should be co-ordinated not only within the vicinity of the scheme but also the knock on consequences of other utility companies undertaking works throughout Carlisle (e.g. United Utilities or the Environment Agency flood defence works)
  - Impacts on cyclists and pedestrians should ensure that alternative safe routes are utilised where possible to avoid conflicts between users although acknowledging that these may be slightly longer

### **Pedestrian and Cycle Access – Operational Phase**

- 3.40 A 3 m-wide pedestrian and cyclist 'shared use' path will run along the northern edge of the Scheme. There will be east-west overbridges provided that create a continuous link without crossings for most of this length, from Scalegate

Roundabout south-east of Durdar to the A689, linking up to an existing multi-user path that parallels the A689 up to the M6. The multi-user path will cross Brisco Road and Burthwaite Road at-grade.

- 3.41 The multi-user path will also include a new connection along the A6 to the north, up to the petrol station approximately 600 m north of Junction 42. It will also connect to a north-south pedestrian / cyclist overbridge over the CSLR at Brisco Road and include a 500 m long shared use path to connect with the Cumbria Way / National Cycle Route 7 at a point to the north of the road, in the Caldew Valley.
- 3.42 Observations to the County Council on this element of the scheme should include:
- Welcome the continuous link for a multi-use path on the northern side of the scheme which can be utilised by cyclists as well as those who wish to jog/run although it should be ensured that, particularly at junction interchanges the individual users are clear about priorities for use to avoid conflicts.

### **Light Strategy**

- 3.43 Artificial lighting sources will be required during the construction phase and it is anticipated that these will be shown on the submitted Construction Management Plans and secured by planning condition. This will include:
- Flood and security lighting to illuminate construction compounds, including temporary car parking areas and site offices. This will be primarily for health and safety purposes; and
  - Lighting for working areas, where required, for example where equipment is stored and any safety hazards present.
- 3.44 The Scheme will be lit from the A595 Newby West roundabout up to and including 150 m beyond Dalston roundabout. Additionally, it will be lit for 150 m prior to Durdar roundabout to Junction 42 of the M6. The lighting columns will be approximately 10 m in height on the main route, with approximately 35 m spacing in a nominally single sided arrangement. There will be additional lighting where the cycle route diverts from the CSLR, however, the columns will be 6 m in height and have a much lower lumen output.
- 3.45 To minimise light spill and the impact on protected species, adjacent properties and the landscape the street lighting will comply with the current design standard BS 5489-1:2013 '*Code of practice for the design of road lighting. Lighting of roads and public amenity areas*', the performance standard EN 13201-2:2015 '*Road lighting. Performance requirements*', and the use of full cut-off lanterns mounted horizontally

with a 0° bracket arm inclination will be installed. The specification of LED light sources will also help reduce energy consumption, carbon dioxide emissions and maintenance visits. At the Scheme's junctions a higher level of illuminance is required to improve the visual task for road users negotiating the 'conflict areas', as defined in the British Standard.

- 3.46 The proposed luminaire is the Thorn R2I2-M LED model, which offers low energy lighting only requiring planned maintenance every six years for electrical testing, in line with the manufacturer's specification. The LEDs will be warm white, 3000°K colour temperature with no UV and a lower blue light content which has less impact on species such as bats. LED light source and flat lens ensures that light is directed towards the carriageway and shared use pathway with no light spill above the horizontal.
- 3.47 While traditional street lighting operates from dusk until dawn, the proposed lighting scheme will operate at 100% from dusk until 21:00 and then dimmed by 50% until 06:00 hours, reducing environmental impact, carbon emissions and energy consumption. If considered necessary by the LPA, rear shield may be specified to minimise the backspill of light in sensitive areas, this can be secured by means of planning condition.
- 3.48 Observations on the lighting strategy are that:
- The design to minimise light spillage is welcomed in order to reduce impacts on biodiversity and those living in the area.

### **Impact on Neighbouring Properties**

- 3.49 Whilst it is noted that in general the route appears to be going across open countryside there are a number of residential properties around the route many of which are operational farms and the proposal crosses operational farmland. The scheme will include a Construction Management Plan in order to phase and programme construction from commencement through final operational stage of the scheme.
- 3.50 Whilst the end operational phase will ensure that the scheme design minimises overall impacts it should be ensured that during construction, issues such as noise and dust pollution are the subject of a Construction Environmental Management Plan for all receptors.

- 3.51 It will also be important to ensure that diversionary routes and work programmes take into account the local business operations which will need to continue across this large area and that the County Council in undertaking this programme of work, work with local business and residents directly affected by the route.

## **Other matters**

- 3.52 Two letters raising concerns about the proposals have been received. They raise the following points:

- There is no justification for the road
- Most traffic is heading into the City so will not use this bypass
- Disruption to the River Caldew leisure corridor
- Land required for the replacement wild areas if the scheme happens
- The cycle path at High Brow Nelson and the deceleration lane at Newby West need to be re-considered

- 3.53 The issues raised concern the principal of the scheme and site-specific elements and have therefore been forwarded to the County Council for consideration.

## **4. CONSULTATION**

- 4.1 The City Council is a consultee in this process and is required to respond to Cumbria County Council.

## **5. CONCLUSION AND REASONS FOR RECOMMENDATIONS**

- 5.1 In consideration of the proposed scheme and the policies of the City Council's Development Plan it is recommended that the following observations are made in response to the County Council's consultation:

- The principle of development is acceptable.
- The design of the drainage strategy based on SUDs principles is welcomed in order to slow down water flow and enhance the ecological environment to counter the loss of greenfield land.
- In considering drainage it should be clear that any temporary drainage strategy includes a phased programme of works to minimise the impacts of surface water flooding as a result of soil stripping on the adjoining land.
- Consideration should be given to natural contours and ensure that the drainage scheme is designed to take not only surface water from the

development but also accommodate flows from adjacent land that were previously entering the site area.

- In order to ensure that climate change impacts are considered the drainage strategy should be designed to accommodate a 1:100 plus 40% flood event.
- Landscape proposals should ensure that there is a biodiversity net gain for such a large scheme of major infrastructure and the approach taken is welcomed.
- The design of SuDS areas which incorporate added value as public amenity space and environmental enhancement is welcomed.
- Whilst recognising that hedgerows and trees will be lost as part of the route development and there will be impacts on local wildlife as a result of the works, methods of best practice should be used in the planning and execution of works during the construction process to minimise impact on biodiversity.
- Planting alongside pedestrian routes and cycle routes should ensure that it is user friendly where encroachment onto those routes may occur.
- That disruption to road users is minimised and works should be co-ordinated not only within the vicinity of the scheme but also the knock of consequences of other utility companies undertaking works throughout Carlisle (e.g. United Utilities or the Environment Agency flood defence works).
- Impacts on cyclists and pedestrians should ensure that alternative safe routes are utilised where possible to avoid conflicts between users although acknowledging that these may be slightly longer.
- Welcome the continuous link for a multi-use path on the northern side of the scheme which can be utilised by cyclists as well as those who wish to jog/run although it should be ensured that, particularly at junction interchanges the individual users are clear about priorities for use to avoid conflicts.
- The design to minimise light spillage is welcomed in order to reduce impacts on biodiversity and those living in the area.
- It should be ensured that during construction, issues such as noise and dust pollution are the subject of a Construction Environmental Management Plan for all receptors.
- Ensure that diversionary routes and work programmes take into account the local business operations which will need to continue across this large area and that the County Council in undertaking this programme of work, work with local business and residents directly affected by the route.

## **6. CONTRIBUTION TO THE CARLISLE PLAN PRIORITIES**

- 6.1 The proposed application makes a significant contribution to the future economic and housing priorities for the City Council.

**Contact Officer:** Christopher Hardman

**Ext:** 7502

**Appendices attached to report:** Extract of submitted application drawings

### **CORPORATE IMPLICATIONS:**

**LEGAL** - The County Council is required to consult the City Council on applications within its area under the The Town and Country Planning (Development Management Procedure) (England) Order 2015. Consultation periods are for 21 days or such time as agreed between the authorities.

**FINANCE** – This report relates to the City Council's role as local planning authority and response to a consultation on a planning application. Financial implications of construction of the route and funding should therefore not form part of this consideration.

**EQUALITY** – n/a

**INFORMATION GOVERNANCE** – n/a

### **PLEASE NOTE:**

**The Appendix of drawings attached to this report will follow under separate cover in A3 format**



# Report to Development Control Committee

Agenda  
Item:  
**A3**

Meeting Date: 10<sup>th</sup> January 2020  
Portfolio: Economy, Enterprise and Housing  
Key Decision: Not Applicable:  
Within Policy and Budget Framework  
Public / Private Public

Title: TPO 303 LAND AT HAYTON, BRAMPTON  
Report of: CORPORATE DIRECTOR OF ECONOMIC DEVELOPMENT  
Report Number: ED.02/20

## Purpose / Summary:

This report considers the confirmation of Tree Preservation Order 303, land at Hayton, Brampton considering representations to the making of the order.

## Recommendations:

It is recommended that Members modify the Order to remove trees T1 and T5 and update the remaining grid references.

## Tracking

Executive:	
Scrutiny:	
Council:	

## **1. BACKGROUND**

- 1.1 In May 2019 a request was made by residents to protect certain trees within and around the village of Hayton. This request is attached at Appendix 1. The request was accompanied by a plan and a petition signed by 140 residents. This was in response to 3 mature sycamore trees being felled on land adjacent to Briar Lonning in December 2018. These were not protected trees and the land owner was able to execute this work without any permission required from the Local Authority.
- 1.2 An assessment of the trees was undertaken using the Forbes-Laird Tree Evaluation Method for Preservation Orders (TEMPO). Out of the 9 trees and 2 group of trees, 5 trees were worthy of protection and 1 group.
- 1.3 A copy of the plan relating to Tree Preservation Order 303 and the statement of reasons are attached hereto at Appendix 2.
- 1.4 Tree Preservation Orders are a planning tool to assist in the protection of trees where there may be a threat from development. They should be used as a last resort as good development will not require any damage or loss of trees however it can often be the case that proposed development will seek the removal of trees or impact on future residential amenity that continues to threaten a tree's survival.

## **2. CONSULTATION**

- 2.1 The Parish Council, owners of affected properties, and all those who were known to have an interest in the land were consulted on the proposed Tree Preservation Order, in accordance with the requirements of The Town and Country Planning (Tree Preservation) (England) Regulations 2012.
- 2.2 2 letters of objection to the inclusion of T1 and T5 within the Order have been received. These are contained within the Appendix 3.
- 2.3 The objections are summarised below:
  - *Inclusion of T1 Walnut tree. Government guidance states that Local Planning Authorities can make an Order if it is 'expedient' to do so. In the case of T1, this tree is managed by the Parish Council to the 'highest standards'*

- *It is the Parish Council's policy to instruct an arboricultural consultant on a regular basis to inspect and report any change or work that is necessary to the tree.*
- *T1 is situated on land that will never be sold, therefore there is no risk to the tree.*
- *A TPO is an un-necessary bureaucratic and financial burden on both the owner and the Local Authority*
- *Inclusion of T5 which is a healthy tree of no special significance and not under threat.*
- *A TPO creates unnecessary paperwork for the Local Authority and Parish Council, when more important issues need attending to.*

### **3. CONCLUSION AND REASONS FOR RECOMMENDATIONS**

- 3.1 Government guidance does state that although some trees and woodland may merit protection on amenity grounds, it may not be expedient to make them subject to an Order, if the trees are under good arboricultural or silvicultural management. However, if the authority believe that certain trees are at risk as a result of development pressures, an order may be expedient.
- 3.2 It is clear from the Parish Council's response that the trees referenced T1 and T5 are well managed by a public body. It is noted that where public bodies are responsible for tree management, they should do so in the wider public interest. The imposition of a TPO on those trees would therefore be a duplication of effort.
- 3.3 Whilst the objection to the draft Tree Preservation Order only refers to T1 and T5, it is relevant to note the situation of the remaining trees, T2, T3, T4 and group 1, which have no known development applications pending, are not on allocated development land and do not have any known perceived threats to their existence.
- 3.4 Should any land owner wish to remove any of these trees, they would be required to apply to the Forestry Commission for a 'Felling Licence', which is a 3-month application process and is necessary for the felling of over 5 cubic metres of timber.
- 3.5 Since the draft Order has been served minor revisions are required to the grid references to ensure there is no doubt which trees are protected. Should the order be confirmed in its entirety Members should modify the Order to allow for these minor changes.
- 3.6 In light of the above there are three options available to Members of the Committee.

- To confirm the Order with modifications regarding grid references
- To confirm the Order with modification to remove T1 and T5
- Not to confirm the Order.

#### **4. RECOMMENDATIONS**

It is recommended that Members modify the Order to remove trees T1 and T5 and update the remaining grid references.

**Contact Officer: Sue Stashkiw Ext: 7175**

**Appendices attached to report:**  
**Appendix 1 – Request for TPO 303**  
**Appendix 2 – Draft Order, Location Plan and Statement of reasons**  
**Appendix 3 – Third Party letters**

**Note: in compliance with section 100d of the Local Government Act 1972 the report has been prepared in part from the following papers:**

- None

#### **CORPORATE IMPLICATIONS:**

**LEGAL -** The validity of the tree preservation order cannot be challenged in any legal proceedings except by way of application to the High Court. An application must be made within six weeks from the date of the confirmation of the tree preservation order.

This tree preservation order needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the third parties, including residents, who have made representations, have the right to a fair hearing and to this end the Committee must consider their comments.

Article 8 and Protocol 1 Article 1 confer(s) a right of respect for a person's home and a right to peaceful enjoyment of one's possessions, which could include a person's home, other land and business assets. In taking account of all material considerations, including Council policy it is considered that some rights conferred by these Articles on the residents/objectors and other occupiers and owners of nearby land that might be affected may be interfered with but that interference is in accordance with the law and justified by being in the public interest and on

the basis of the restriction on these rights posed by confirmation of the tree preservation order is proportionate to the wider benefits of approval and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

**FINANCE – n/a**

**EQUALITY – n/a**

**INFORMATION GOVERNANCE – n/a**

## **REQUEST FOR TREE PRESERVATION ORDERS HAYTON VILLAGE, BRAMPTON, CUMBRIA**

This is a request on behalf of the residents of Hayton village for Tree Preservation Orders to be placed on a number of significant trees, single and group, within the village.

### **Vulnerability of Historic Landscape**

The catalyst for this request was the felling of three majestic sycamore trees in December 2018, which took less than 3 hours to execute. Villagers are now aware how easily our much-loved, historic landscape can irrevocably be changed in a very short time, leaving us feeling powerless to prevent it. The village has also recently lost an old yew tree which was in the garden of West Field, highlighting the need for action to protect the village trees. In recent times this village has also had a SSSI severely damaged in Hayton Townhead woods. All of this has made the village residents aware that they need to become the guardians of the historic landscape and nature. Experience has taught us that our trees are particularly vulnerable when property and land ownership changes take place, this being the time that trees are most under threat from felling prior to making changes, for example, a planning application. We are looking to Carlisle City Council and the Planning/Landscapes Compliance and Enforcement Officer to support and help us in this endeavour. Carlisle City Council will be aware of the revised National Planning Policy Framework (NPPF) (July 2018) placing protection of ancient woodland and ancient and veteran trees in England on a par with the best of our built heritage for the first time.

The majority of people that live in the village are behind this proposal, see below Resident Support, being concerned that the remaining trees within the village that are of significant maturity and visibility in our village landscape are protected and conserved into the future. They wish to preserve the character of the village.

The sycamore trees that were felled were possibly the remains of an old hedge as a boundary is marked at that location on a 1710 map of the village where there is no boundary today. Much of the historic land use of Hayton is visible from its landscape, the remains of old boundaries being marked by mature trees. There is still visible evidence of the strip system of land allocation in operation as shown on the Tithe map of 1841. The village sits among long, narrow fields separated by old hedges. In these hedges, which would have been laid every three or four years by hand, specimen trees have been left to grow

into majestic, old trees. Some of the mature tree specimens which we would like to preserve with TPOs fall into this category. We would like to afford them the opportunity to survive and become ancient specimens.

## **Nature Matters**

The benefits of living, or spending time, in a leafy environment are well documented and supported by science.

Trees provide food, shelter and habitat for many insects thus increasing biodiversity by providing food, shelter, nest and roost sites for birds and bats. Thirty different species of bird were recently observed in one village garden, including woodpecker. Owls and bats can also be seen in the vicinity. Even our dead trees and branches support insects, fungi and lichens. Our native Oak is the most important tree for biodiversity supporting generally around 2,200 species, [www.actionoak.org](http://www.actionoak.org). One ancient oak can support more biodiversity than a thousand 100 year old oaks ([www.nationaltrust.org.uk](http://www.nationaltrust.org.uk)). Our mature trees, if protected, will become the successors, the next generation of veteran and ancient trees, supporting all these species, many of which are in serious decline, in part due to loss of habitat.

With regard to the Ash trees we wish to protect, who knows, one of these trees could be the resistant specimen to the deadly ash die back disease that could be propagated and save the nation's ash trees. This happened in Essex with Dutch elm disease and from a few resistant English elm trees discovered, thousands of disease resistant trees have now been propagated!

Trees provide benefits for human health and well being too, both mental and physical, filtering air pollution and providing green space for relaxation and stress reduction. The importance of trees in future urban planning and development are now recognised. Within the past week the independent Committee on Climate Change has advised the Government that almost 3 billion trees must be planted by 2050 and 200,000 miles of hedgerows will need to be grown, stressing the importance of trees in reducing carbon emissions and the effects of climate change. The people of Hayton wish to preserve their trees for the biodiversity of our countryside and wildlife as well as our own well-being and that of our children, grandchildren and generations to come.

## Resident Support

The community of Hayton village has been fully involved in the work that has been undertaken so far with regard to this request. The matter of Tree Preservation Orders was discussed under public participation in January with the Hayton Parish Council. The Parish Council requested a list of trees. A list was drawn up of significant trees within the 30 mph zone of the village. All trees on the list are visible from public access areas such as roads, footpaths and the play area. All can easily be seen and enjoyed from a short stroll through the village.

All properties in the village were notified by flyer of the proposal and a list of trees included. Residents were asked for their observations and comments and as a result some trees were removed and some were added. In particular the views of villagers with significant trees in their gardens were sought. This request has involved the whole community and reflects the wishes of the majority of the village.

At the Parish Council Meeting, February 2019, the Clerk to the Parish Council informed the village and Councillors that for legal reasons the Parish Council could not take this matter forward and that the village residents would need to do this, the Parish Council being involved at a later stage when they would be asked for their observations as part of the planning process.

The majority of village residents are concerned about the future of our trees and wish to preserve them because they enjoy them, appreciate them, understand that they make Hayton a good place to live for humans and wildlife, are part of the history of the village and without them Hayton would lose an important part of its character; they wish to preserve these amenities for future generations.

Village residents were asked to 'sign up' if they supported the proposal to request Tree Preservation Orders on the trees.

There are 174 houses in Hayton and Hayton Townhead; 17 of these are still being built, are empty or are holiday lets. Of the 157 remaining, 139 households were visited. Of these 139 households, just less than 25% did not 'sign up', the majority of these declaring a 'neutral' stance.

However, a large majority of over 75% (105 households) did 'sign up' and do support this request for Tree Preservation Orders on the trees detailed below.

This document can be made available for inspection and demonstrates the 'public amenity value' residents place upon these trees.

### **Location of trees and individual reasons for request**

Each tree or group of trees has been given a number which corresponds with the location of the tree(s) on the enclosed map.

#### **1 The Hayton Walnut Tree**

- Ancient tree, girth 5.52m and height 17.43m
- One of the top ten of its species in the UK
- One of the top 50 trees in Cumbria, [www.cumbriastop50trees.org.uk](http://www.cumbriastop50trees.org.uk)
- Largest ever walnut tree recorded in Cumbria and this far north
- May date back to reign of Henry VIII (1491-1547)
- Gives its name to The Walnut Field, in the centre of the village on land given 'for the benefit of the village as an open space for all time'
- The Walnut Field has been the centre of village activities for many years, with carol singing, May Day celebrations, the Queen's Jubilee party and the annual Scarecrow Festival being held beneath the tree
- A community meeting point with definite amenity value.

The village wishes to give this deserving tree the added protection of a TPO.

#### **2 The Giant Redwood**

This *Wellingtonia Sequoiadendron Giganteum* is growing in the grounds of 1 Westgarth.

- Girth 10.5 metres, height 24.54 metres
- Researched by current owners and believed to be about 160 years old
- The tree in Westgarth garden on OS map of 1861 is possibly this tree
- The current owners have a photo of the tree taken in 1910, already towering above the house roof
- It is probably one of first of this species planted in Great Britain as this species was first discovered, named and introduced by William Lobb in 1853
- There are only 20 of this species recorded in Cumbria, the nearest being in Carlisle Cemetery and St Kentigern's church, Caldbeck (one of Cumbria's top 50 trees)

- The wildlife in the tree observed by the current owners includes owls, tree sparrows, coal tits, tree creepers, a nightjar, bats, red and grey squirrels and a weasel amongst the roots
- The current owners understood when they purchased this property that there was a TPO on this tree and are keen for it to have TPO protection
- It is the only remaining specimen in the village, the other being felled due to the effects of development
- This tree is believed to be on RAF maps as a reference point for pilot training.

The village and the current owners wish to protect this magnificent tree, clearly visible above the village roof tops. This tree is still in its youth and with protection could live to an age where it produced cones and seeds or become a tourist attraction as those trees in the Sequoia National Park in Sierra Nevada, where this tree originates.

### **3 The group of trees on Castle Hill (deciduous and conifer)**

- This wood creates a visual backdrop to the village, visible from the whole village, standing on a raised area, mote, Castle Hill
- The 13 trees on the ridge leading to Castle Hill already have TPO protection, as do some trees in the grounds of the residence called Castle Hill
- The OS map of 1863-4 shows trees as a feature on Castle Hill
- The wood on the mote, locally known as Crow Wood, has been a roost and nest site for the local rooks as long as living memory. (Hayton a Cumbrian village, 1999 Muriel Lefley)

### **4 Group of trees surrounding Old Vicarage**

- A beautiful grove of predominantly lofty beech trees
- There are a number of listed buildings in the area, including the Old Vicarage, in the historic heart of Hayton
- There are trees on this site on OS map 1863-4
- These trees are visible and appreciated from the Church trod across the fields from How Mill, the village playground, public buildings such as the village school and playing fields, St Mary Magdalene Church and cemetery
- The current owners of this property are of the view we are custodians of our environment for future generations and would welcome TPOs or conservation status being placed on their trees.

## **5 Large Copper beech, the Cedars**

- Girth 1 metre above ground is 3.7m
- Stands outside the churchyard and belongs to the house nearby, The Cedars
- This tree is a majestic, beautiful and elegant part of this important historic, public area
- It is greatly valued and appreciated by residents attending church for funerals and weddings, those visiting the cemetery, those attending events such as May Day on the school field, families using the playground and walkers on the footpath.

## **6 Ash tree, garden of Stonechats**

- Girth at 1 metre above ground 3.3 metres

## **7 Sycamore, entrance to the Goldings**

- Girth a 1 metre above ground 7.7 metres

## **8 Oak tree near the Goldings, belonging to The Milleon**

- Girth at 1 metre above ground 5.8 metres

These three mature trees are visible on the left hand side from the public highway on entry to Hayton village from the Lane End pub, A69.

- All these trees are loved by their respective owners who would like them to be protected by TPOs
- These trees are important to the village for the reasons given above in Vulnerability of the Historic Landscape and Nature Matters
- They mark historic boundaries and hedges
- These trees at this boundary are marked on OS map 1863-4
- These mature trees support biodiversity, which will increase as they age.
- If protected they could become the veteran and ancient trees of the future.

## **9 Oak tree in field beside the Reading Rooms, on the right hand side leaving the village towards Hayton Townhead**

- A striking sentinel when approaching or leaving the village, and next to the Reading Room, village hall
- This oak tree is also important for the reasons given under Nature Matters
- This tree is marked on OS map 1863-4
- If protected this tree could become a veteran or ancient tree supporting even more biodiversity.

## **10 & 11 Two mature trees in hedgerow, field off Brier Lonning**

### **10 Ash tree, grid reference NY 5069 5797**

- Girth at 1 metre above ground 4.3 metres
- This tree should be protected for the reasons given in Vulnerability of Historic Landscape, the tree indicates a historic hedgerow and boundary
- Trees are marked in the hedgerow of this field on OS map 1863-4
- This tree should be protected for the reasons given in Nature Matters, to support biodiversity and protect our ash trees.

### **11 Sycamore tree, grid reference NY5064 5797**

- Girth at 1 metre above ground 4.12 metres
- This tree should be protected for the reasons given in Vulnerability of Historic Landscape, the tree indicates a historic hedgerow and boundary
- Trees are marked in the hedgerow of this field on OS map 1863-4
- This tree should be protected for the reasons given in Nature Matters, to support biodiversity in our landscape.

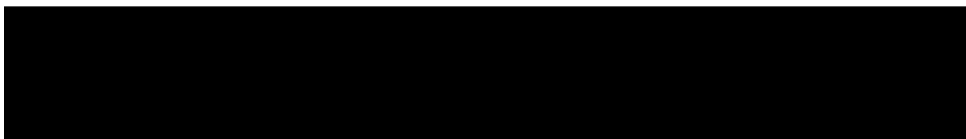
These two trees are visible on entry to the village from the public road but also to residents of Castle View who have requested that these magnificent trees be included as they form an important contribution to the enjoyment of their landscape.

## **Conclusion**

The majority of people living in Hayton, over 75% (105 households) want to protect the remaining trees in the village. TPOs would help us to achieve this aim.

On behalf of the residents of Hayton village

8 May 2019



## **TOWN AND COUNTRY PLANNING (TREE PRESERVATION) (ENGLAND) REGULATIONS 2012**

### **Town and Country Planning Act 1990**

#### **The City Council of Carlisle**

#### **Land at Hayton Village, Carlisle— Tree Preservation Order 2019 (No.303)**

The City Council of Carlisle in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

#### **Citation**

1. This Order may be cited as the Land at Hayton Village, Carlisle – Tree Preservation Order 2019 (No.303).

#### **Interpretation**

2.— (1) In this Order “the authority” means The City Council of Carlisle

(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

#### **Effect**

3.— (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—

(a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,


any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

#### **Application to trees to be planted pursuant to a condition**

4. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197

78986.

as affixed to this Order in the presence of



.....

This Order was confirmed by The City Council of Carlisle without modification on the      day of

OR

This Order was confirmed by The City Council of Carlisle, subject to the modifications indicated by \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_

Signed on behalf of The City Council of Carlisle

.....  
 Authorised by the Council to sign in that behalf

### DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by The City Council of Carlisle  
on the      day of

Signed on behalf of The City Council of Carlisle

.....  
 Authorised by the Council to sign in that behalf]

### **VARIATION OF ORDER**

This Order was varied by The City Council of Carlisle on the  
variation order under reference number

day of by a  
a copy of which is attached

Signed on behalf of The City Council of Carlisle

.....  
Authorised by the Council to sign in that behalf

### **REVOCATION OF ORDER**

This Order was revoked by The City Council of Carlisle on the day of

Signed on behalf of The City Council of Carlisle

.....  
Authorised by the Council to sign in that behalf

**SCHEDULE**  
**Specification of trees**

**Trees specified individually**

(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Walnut	OS Grid Ref. 350776 557754 Land adjacent to Bunkers Hill, Hayton CA8 9HR
T2	Wellingtonia/Giant Redwood	OS Grid Ref. 350617 557751 1 Westgarth, Hayton CA8 9HL
T3	Copper Beech	OS grid Ref. 350787 557661 Land South of Church of St.Mary Magdelene, Hayton CA8 9HR
T4	Ash	OS Grid Ref. 351052 557752 Land adjacent to Reading Room, Hayton CA8 9HT
T5	Oak	OS Grid Ref: 350685 557841 Mote at Castle Hill, Hayton

**Trees specified by reference to an area**

(within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
[A1]	None	

**Groups of trees**

(within a broken black line on the map)

<i>Reference on map</i>	<i>Description (including number of trees of each species in the group)</i>	<i>Situation</i>
[G1]	None	

**Woodlands**

(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
W1	Woodland	OS Grid Ref. 350685 557841 Mote at Castle Hill, Hayton

## STATEMENT OF REASONS

### TREE PRESERVATION ORDER NO. 303

#### HAYTON VILLAGE

Section 197 of the Town and Country Planning Act 1990 places a duty on local planning authorities to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made for the preservation of trees. The local authority may make a tree preservation order where it appears to the authority that it is expedient in the interests of amenity.

The 5 trees and 1 woodland are protected by this tree preservation order are large prominent trees clearly visible to the public.

T1 is a Mature Walnut Tree situated on the village green, which is a focal point of the village. The age is unknown, but it may have been in situ for well over 300 years and is of veteran status.

T2 is a Mature Wellingtonia situated within the grounds of 1 West Garth. This tree may be in the region of 150-200 years old and is in good health.

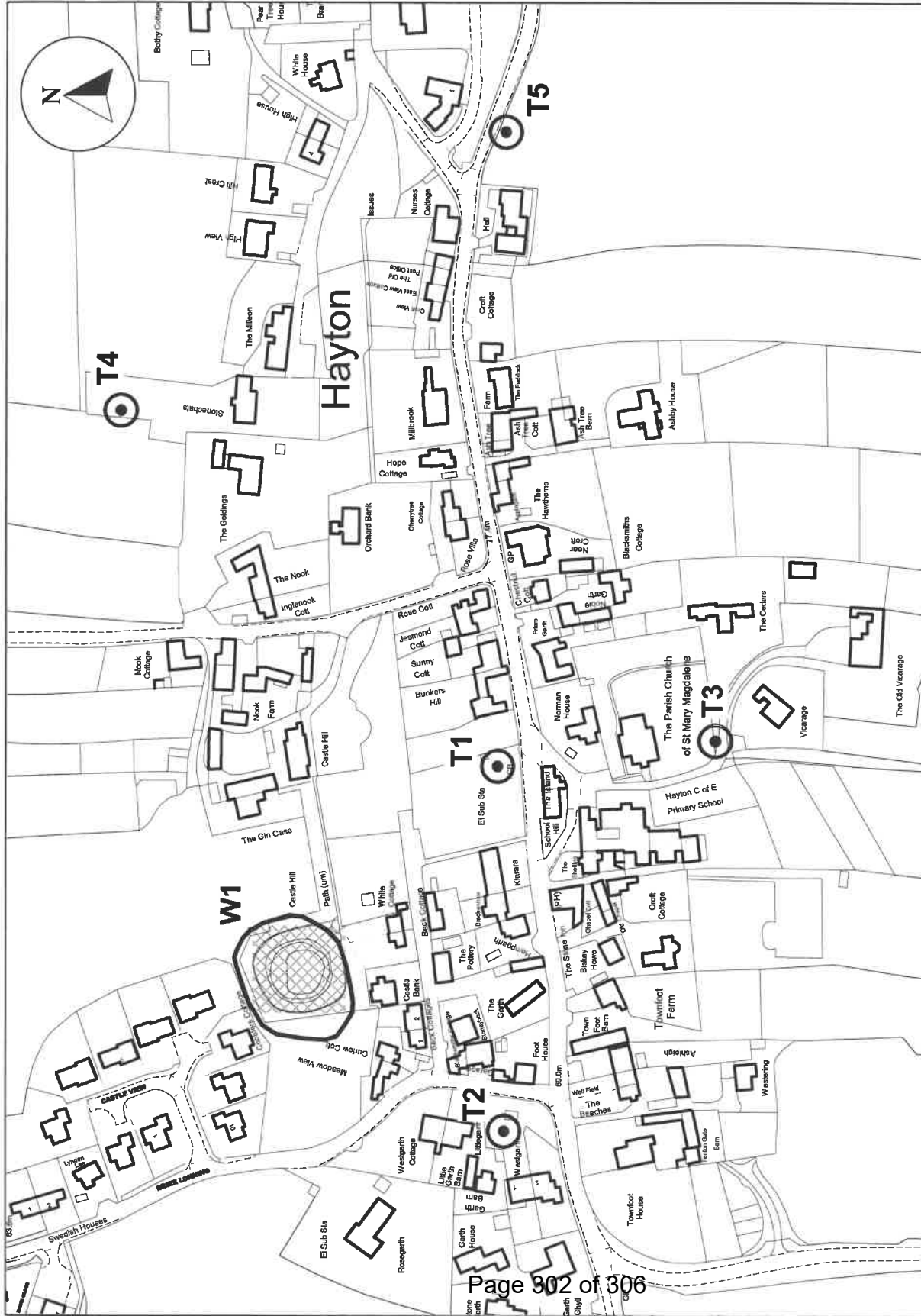
T3 is a Mature Copper Beech Tree situated outside The Vicarage in Hayton and is in good health. It positively contributes to the Hayton Parish Church yard and can be seen from the public realm.

T4 is a Mature Ash Tree situated south of Hayton Lane, visible on entry to the village from the public road (U1201)

T5 is a Medium Oak Tree positioned within the hedgerow East of the Village Reading Rooms heading towards Townhead (U1199) and shows good vitality.

W1 is a small woodland of deciduous trees of mixed variety sitting on a raised mote called 'Castle Hill. This group provide a visual backdrop to the village and gives high amenity value.

All trees make a substantial positive contribution and visual amenity of the village and it is considered that the most appropriate way to protect these trees for the future is by means of a tree preservation order.



**Schedule of Trees**

T1 Walnut  
T2 Wellingtonia / Giant Redwood  
T3 Copper Beech  
T4 Ash  
T5 Oak

W1 Woodland

All trees of all species

Date: July 2019

Scale: 1 : 2500

Act 1990 Section 198(1)

**Tree Preservation Order Number 303**

**Hayton Village**

# Treescaping Consultancy Ltd.

Melbourne  
17 Millans Park  
Ambleside  
Cumbria  
LA22 9AG

21 November 2019

To: Mark Lambert  
Corporate Director of Governance and Regulatory Services  
Carlisle City Council  
Civic Centre  
Carlisle  
CA3 8QG

Dear Mr Lambert

## **CARLISLE CITY COUNCIL TREE PRESERVATION ORDER 303 – HAYTON VILLAGE**

I am writing on behalf of Hayton Parish Council. Hayton Parish Council object to the inclusion of the T1 in TPO 303. T1 is the walnut tree growing in Walnut Field, Hayton Village Green. The walnut is a very old and according to the Tree Register of the British Isles (TROBI) database it may be the seventh largest girthed walnut in the UK.

Relevant Government guidance is copied below.

*Local planning authorities can make a Tree Preservation Order if it appears to them to be 'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'.*

*Authorities can either initiate this process themselves or in response to a request made by any other party. When deciding whether an Order is appropriate, authorities are advised to take into consideration what 'amenity' means in practice, what to take into account when assessing amenity value, what 'expedient' means in practice, what trees can be protected and how they can be identified...*

*'Amenity' is not defined in law, so authorities need to exercise judgment when deciding whether it is within their powers to make an Order.*

*Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future...*

*Although some trees or woodlands may merit protection on amenity grounds it may not be expedient to make them the subject of an Order. For example, it is unlikely to be necessary to make an Order in respect of trees which are under good arboricultural or silvicultural management.*

Hayton Walnut is growing on land managed by Hayton Parish Council, an elected body.

Hayton Parish Council first instructed me to inspect the tree in 2004 and I prepared a report dated 23 December 2004. Since then Hayton Parish Council have instructed me to inspect the tree on a number of occasions.

In 2004 Hayton Parish Council were prompted to acquire a report by a qualified arboriculturist because there were assertions that the tree was dangerous. At that time Hayton Parish Council considered that Hayton Walnut was a very special part of Hayton and they did not want to do any work to the tree that was not warranted. Moreover, they were aware that residents of the parish and further afield share their view that Hayton Walnut is a very special tree and they wanted to look after the tree to the highest standard on behalf of those people.

The Statement of Reasons states that: *'All the trees make a substantial positive contribution and visual amenity of the village and it is considered that the most appropriate way to protect these trees for the future is by means of a tree preservation order.'*

Hayton Parish Council agree that Hayton Walnut makes a significant visual contribution to the village and wider area. They consider that the walnut is one of the most special trees not only in Hayton but the whole of the UK.

Before work is carried out to Hayton Walnut it is the policy of Hayton Parish Council to first obtain advice from an arboricultural consultant who has experience of managing ancient trees. Once they receive written advice from such an arboriculturist it will be discussed at an open meeting of the parish council where members of the public can make comments. Decisions about the management of the tree have to be voted on and passed by a majority of parish councillors, all elected to serve. A decision about the management of the tree will never be made by an individual.

It is clear that Hayton Parish Council have been looking after the tree to the highest standard. For this reason, Hayton Parish Council consider that a Tree Preservation Order is not required to protect Hayton Walnut because it is not at risk. Moreover, Hayton Walnut is growing on land that will not be sold so there is no foreseeable future risk to the tree.

A Tree Preservation Order is a bureaucratic and financial burden on both the owner of a protected tree and the Local Planning Authority, in this case both publicly funded bodies. Is it appropriate to place this additional burden on these public bodies, especially as there is no risk to the tree? For this reason, Hayton Parish Council considers that Hayton Walnut should not be included in the Tree Preservation Order.

Please contact me if you would like to discuss this objection to the inclusion of Hayton Walnut in Carlisle City Council Tree Preservation Order 303, 2019.

Yours sincerely

Luke Steer  
Chartered Arboricultural Consultant  
Email: [luke.steer@treescapconsultancy.co.uk](mailto:luke.steer@treescapconsultancy.co.uk)



PLANNING & HOUSING SERVICES	
REF	
6 NOV 2019	
PROCESSED	
EXAMINED	
PASSED TO	
ACTION	

2 November 2019

MD Lambert  
Corporate Director of Governance and Regulatory Services  
Carlisle City Council  
Civic Centre  
CARLISLE  
CA3 8QG

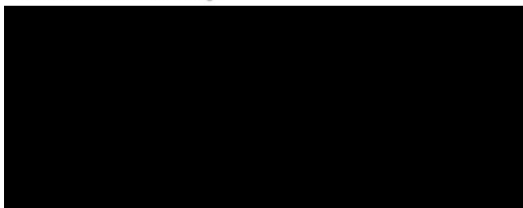
Dear Sir

Reference Tree Preservation Order 2019 Number 303

With regards to the above formal notice sent to me on 10 October 2019, I wish to object to the inclusion of T5 (which is on my land) on the schedule of trees. I cannot see any specific reason for including this tree as it is of no special significance compared to other trees in the parish. By including this tree, which is healthy and not under threat, you are creating unnecessary paperwork etc for yourselves and the Parish Council, both of which have more important issues to be attending to.



Yours faithfully



LEGAL & DEMOCRATIC SERVICES	
P.F.E.	
05 NOV 2019	
PASSED TO	

