

AGENDA

Development Control Committee

Friday, 16 May 2014 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

To approve and sign the Minutes of the meetings held on 29 January 2014, 31 January 2014, 5 March 2014 and 7 March 2014
[Copy Minutes in Minute Book Volume 40(6)]

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

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PART B

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

-NIL-

Members of the Development Control Committee

Conservative – Bloxham, Earp, Mrs Parsons, Mrs Prest, Bowman
S (sub), Collier (sub), Nedved (sub)

Labour – Mrs Bradley, McDevitt, Mrs Riddle, Scarborough
(Chairman), Mrs Warwick, Whalen (Vice Chairman), Bowditch
(sub), Ms Franklin (sub), Ms Patrick (sub)

Liberal Democrat - Mrs Luckley, Gee (sub)

Independent - Craig, Betton (sub)

**Enquiries, requests for reports, background papers,
etc to Committee Clerk: Sheila Norton - 817557**

Development Control Committee Main Schedule

Schedule of Applications for Planning Permission

16th May 2014

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. In common with applications contained in Schedule B, where a verbal recommendation is made to the Committee, Officer recommendations are made, and the Committee's decisions must be based upon, the provisions of the Development Plan in accordance with S54A of the Town and Country Planning Act 1990 unless material considerations indicate otherwise. To assist in reaching a decision on each planning proposal the Committee has regard to:-

- relevant planning policy advice contained in Government Circulars, National Planning Policy Guidance Notes, Development Control Policy Notes and other Statements of Ministerial Policy;
- the adopted provisions of the North West of England and Regional Spatial Strategy to 2021 and Cumbria and Lake District Joint Structure Plan;
- the City Council's own statement of approved local planning policies including the Carlisle District Local Plan;
- established case law and the decisions on comparable planning proposals
- including relevant Planning Appeals.

SCHEDULE B - comprises applications for which a full report and recommendation on the proposal is not able to be made when the Schedule is compiled due to the need for further details relating to the proposal or the absence of essential consultation responses or where revisions to the proposal are awaited from the applicant. As the outstanding information and/or amendment is expected to be received prior to the Committee meeting, Officers anticipate being able to make an additional verbal report and recommendations.

SCHEDULE C - 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.

SCHEDULE D - reports upon applications which have been previously deferred by the Development Control Committee with authority given to Officers to undertake specific action on the proposal, for example the attainment of a legal agreement or to await the completion of consultation responses prior to the issue of a Decision Notice. The Reports confirm these actions and formally record the decision taken by the City Council upon the relevant proposals. Copies of the Decision Notices follow reports, where applicable.

SCHEDULE E - is for information and provides details of those applications which have been determined under powers delegated by the City Council since the previous Committee meeting.

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 02/05/2014 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 07/05/2014.

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.

SCHEDULE A

SCHEDULE A

Applications Entered on Development Control Committee Schedule

Item No.	Application Number/ Schedule	Location	Case Officer	Page No.
01.	<u>14/0248</u> A	Skelton House, Wetheral, Carlisle, CA4 8JG	RJM	11 - 38
02.	<u>14/0124</u> A	Dalston Hall Caravan Park, Dalston, Carlisle, CA5 7JX	BP	39 - 102
03.	<u>14/0166</u> A	Land between Wood House & 1 Fellbeck View, Hallbankgate, Carlisle	SD	103 - 118
04.	<u>14/0135</u> A	L/A Peter Lane bounded by Dalston Road, Cummersdale, Carlisle, Cumbria	RJM	119 - 124
05.	<u>14/0190</u> A	Land adjacent Tholt Y Will, Aglionby, Carlisle, CA4 8AQ	ST	125 - 136
06.	<u>14/0212</u> A	Land Adjacent 337 Blackwell Road, Carlisle, CA2 4RU	SO	137 - 148
07.	<u>13/0728</u> D	Land to the rear of Hallcroft, Monkhill, Carlisle, CA5 6DB	RJM	152 - 157

Date of Committee: 16/05/2014

SCHEDULE A: Applications with Recommendation

14/0248

Item No: 01

Date of Committee: 16/05/2014

Appn Ref No:
14/0248

Applicant:
Citadel Estates Ltd

Parish:
Wetheral

Agent:
Holt Planning Consultancy
Ltd

Ward:
Wetheral

Location: Skelton House, Wetheral, Carlisle, CA4 8JG

Proposal: Variation Of Condition 2 (Approved Documents) Of Previously Approved
Permission 10/1066 (Revised Application)

Date of Receipt:
26/03/2014

Statutory Expiry Date
25/06/2014

26 Week Determination

REPORT

Case Officer: Richard Maunsell

1. Recommendation

- 1.1 It is recommended that this application is approved subject to legal agreement for a Deed of Variation to the S106 Agreement. If the variation is not completed within a reasonable time, then Authority to Issue is requested to the Director of Economic Development to refuse the application.

2. Main Issues

- 2.1 Principle Of Development
- 2.2 Scale, Layout And Design Of The Development
- 2.3 Highway And Parking Issues
- 2.4 The Impact Of The Proposal On The Living Conditions Of Neighbouring Residents
- 2.5 Affordable Housing
- 2.6 Landscaping
- 2.7 Waste Collection

3. Application Details

The Site

- 3.1 This application seeks consent for the variation of a planning condition on land previously occupied by Skelton House and its associated buildings, which are located at the northern extent of Pleasant View in Wetheral, to enable the erection of 15 apartments. The application site is situated within the Wetheral Conservation Area and a Grade II Listed Property, known as Acorn Bank, is located immediately to the east of the site. The surroundings to the site are wholly residential with the exception of the agricultural land that lies beyond the northern boundary.

Background

- 3.2 The site was vacant following the demolition of Skelton House, a former farmhouse, with an attached two storey barn, detached stables and two polytunnels, which were associated with its former use as a commercial nursery; however, building work has recently commenced.
- 3.3 Planning permission and conservation area consent were granted in 2012 and 2011 respectively for the demolition of the buildings together with the redevelopment of the site to provide a 3 storey building comprising of 15 apartments together with associated car parking.
- 3.4 An application for a Minor Material Amendment to vary condition 2 of the planning consent granted in 2012 and allow the substitution of the site layout and fenestration details was refused by Members of the Development Control Committee in 2013.
- 3.5 A further revised application for a Minor Material Amendment to vary condition 2 of the planning consent granted in 2012 and allow the substitution of the site layout and fenestration details was refused by Members of the Development Control Committee earlier this year for the following reasons:

“The proposal, by virtue of its scale, massing and position within the site, does not respond to the local context and form of surrounding building in relation to height, scale and massing. The siting of the proposed building would differ from the approved scheme and would be inappropriate to its prominent location in the Wetheral Conservation Area. The proposal is therefore contrary to criteria 1 of Policy CP5 (Design), criterion 2, 3 and 4 of Policy H1 (Location of New Housing Development) and criterion 1 and 2 of Policy LE19 (Conservation Areas) of the Carlisle District Local Plan 2001-2016.

The proposed building would be located adjacent to neighbouring residential properties. In this instance, by virtue of the number of proposed windows serving habitable rooms on the east and west elevations of the building, the development would result in overlooking and a significant loss of privacy to the occupiers of the neighbouring properties. The proposed windows would also conflict with the Council's required minimum distances. The proposal is therefore contrary to criteria 5 of Policy CP5 (Design) of the Carlisle District Local Plan 2001-2016 and the objectives of the Supplementary Planning

Document “Achieving Well Designed Housing”.

To the east of the application site is Acorn Bank which is a 2 storey Grade II listed building. Due to the proximity of the proposed building, together with its scale and mass, the development would fail to preserve the character or setting of the adjacent listed building. The proposal would be unsympathetic in scale and character and would adversely affect the appearance and setting of Acorn Bank, contrary to the Policy LE12 (Proposals Affecting Listed Buildings) of the Carlisle District Local Plan 2001-2016.”

The Proposal

3.6 When planning permission was granted in 2012 for the redevelopment of the site, the consent was subject to a number of planning conditions. Of relevance to this application is condition 2 which detailed the list of approved drawings. The current application seeks consent to vary this condition and effectively substitute these drawings with the current proposal and thereby introduce a series of changes to the scheme. In response to the reasons for refusal given by the Council to the previous applications for the variation of condition 2, the applicant has produced a summary of the changes as follows:

1. reduction in the overall footprint of the building;
2. a reduction in the number of storeys;
3. reduced height of the roof adjacent to Acorn Bank (roof spanning between the gables);
4. removal of balconies throughout;
5. an increase in the distance between the front street pavement and the building;
6. replacement of some windows to side elevations with windows with opaque glass and oblique windows;
7. omission of the ‘dummy’ front door and the introduction of 2 additional functioning doors to the front street elevation.

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 133 of the neighbouring properties. In response, 79 letters of objection have been received and the main issues raised are summarised as follows:

The Principle Of Development

1. this is a new proposal and should not be considered as a variation to the planning permission as the foundations laid exceed the size of the approved building by a third;
2. the plans shows an overlay of the proposed first floor on the approved ground floor which is misleading as this is smaller than the proposed ground floor;
3. the current proposal represents an increase in gross floor area of 20%

which can't be considered as amendment as previously confirmed by the Council;

4. the enlargement of the site means that it is not in keeping with the scale and character of the village or the impact on the conservation area;

Residential Amenity

5. the building is too close to Acorn Bank with an increase number of windows on both the east and west elevations which allows for overlooking and loss of amenity to the adjacent neighbours;
6. there are 11 windows proposed on the ground floor of the west elevation where the approved scheme provided only 4;
7. the approved scheme showed 9 windows plus 5 roof lights facing Acorn Bank and the current proposal shows 18 windows plus 4 roof lights;
8. the windows are less than the Council's required 21 metres to habitable rooms;
9. the provision of obscure glass is irrelevant as this could be changed at a later date and is an admission that the windows can't be properly accommodated within the building;
10. the stone barn which was to be retained adjacent to the western boundary afforded privacy to the occupiers of the neighbouring property. This building has been removed and is not proposed to be replaced;
11. the landscaping adjacent to the boundary with Caerluel will take at least 10 years to establish and develop and will not provide immediate privacy
12. the separation distances between the proposed windows and neighbouring properties are unacceptable;
13. the occupiers of the neighbouring properties will suffer an even greater loss of natural daylight;

Scale And Massing/ The Impact On The Character Of The Area

14. the revised application remains the same height and mass as the refused application and has significantly more height and mass compared to the approved scheme;
15. the proposal still fails to respond to the local context and the form of the surrounding building in height, scale, massing and position on the site;
16. whilst the plans show the flats removed from the top floor, the floor space remains and the flats will be added retrospectively if the current application is granted;
17. the bay window on Acorn Bank is exaggerated leading the Council to assume that the proposed forward position of the building is better than it actually is;
18. the eaves and ridge height on the south elevation are substantially higher and bear no relationship to Acorn Bank. This elevation serves to exacerbate the buildings monolithic nature and results in a more urban style of building;
19. the height of the building is substantially higher than the approved scheme despite the removal of the fourth floor accommodation;
20. the building is oversized, domineering and unsympathetic to the surrounding area;
21. the changes to the building are designed to optimise the value of the

- property;
22. the building is too close to the site boundaries;
 23. previously, there were entrances to the front and rear of the building, now there is only 1 on the west elevation;
 24. there is no provision within the building for emergency escape in the event of a fire;
 25. the scale and massing will adversely affect the setting of the adjacent listed building;
 26. the building will be the same as the refused scheme but without the penthouse;
 27. the size of the site has been increased to the north resulting in a loss of agricultural land and increased size of the building;
 28. much of the planting has been lost at the expense of the increased size of the building;

Highway/ Parking Issues

29. it is questionable whether refuse vehicles would be able to enter the site thus resulting in rubbish bins lining the street;
30. the access to the rear is of an insufficient size for emergency vehicles.
31. visitors to the properties will be forced to park on Scotby Road which will cause traffic problems, particularly for the local bus which passes the site;
32. the proposed building is much larger and would occupy land used for car parking provision;

Other Issues

33. given the increase size of the building, there is no indication where the additional surface water will go;
34. there is continued disregard to the main concerns of the size and positioning of the building as foundations have been laid;
35. the proposal has not addressed the reasons for refusal and is unacceptable and should itself be refused;
36. the developer has not adhered to conditions before starting work and needed to be served with a Stop Notice;
37. the foundations that have been dug appear to match those for the scheme refused under previous applications. If the current application is approved, this would be a thin disguise to circumvent the planning process resulting in a building similar to that which was refused;
38. the bin store within the building is inadequate in size and poorly located being adjacent to the bike store;
39. the proposal is still contrary to Policy H10 of the Local Plan;
40. there are still no valid planning reasons for increasing the size, volume or footprint of the approved scheme.

5. Summary of Consultation Responses

Cumbria County Council - (Econ. Dir. Highways & Transportation): - no response received;

Clerk to Wetheral PC, Downgate Community Centre: - the Parish Council was

disappointed to see the same mis-representative architectural drawings have once again been submitted. They wish their previous objections to still stand with the new variation of condition 2 submitted. Since the original plans were submitted in 2010 traffic has increased on this busy road, with parking remaining a problem. Members still feel this is overdevelopment of the site;

Cumbria Constabulary - North Area Community Safety Unit (formerly Crime Prevention): - no response received;

English Heritage - North West Region: - the application should be determined in accordance with national and local policy guidance;

Northern Gas Networks: - no objection;

Conservation Area Advisory Committee: - the following response has been received:

- the Committee retained the previous view that the development was excessive in massing, height and general form;
- they did not consider the secondary doors, inserted into the front elevation to be a suitable and asked for genuine 'active frontage' as per approved 10/1066 entrance arrangement;
- they did not consider the proposal to be an improvement of the present approved scheme, which in turn they are not enthusiastic about;
- the asymmetry of the approved scheme is replaced by an odd symmetry of forms with minimal relief which exaggerates its massing and 'bulk';
- the Committee recommends that the scheme be refused.

6. Officer's Report

Assessment

- 6.1 The relevant planning policies against which the application is required to be assessed are the National Planning Policy Framework (NPPF) and Policies CP3, CP5, CP17, H1, H2, H5, LE12, LE19, T1 and LC4 of the Carlisle District Local Plan 2001-2016. The proposal raises the following planning issues.

1. Principle Of Development

- 6.2 The application site lies within the settlement boundary of Wetheral and as such the principle of residential development is acceptable, subject to compliance with the criteria identified in Policy H1 and other relevant policies contained within the adopted Local Plan. In addition, planning permission has previously been granted for the redevelopment of the site.
- 6.3 Some of the objectors have questioned whether the proposed changes can be considered as a variation to the original planning permission. In 2010 the Government published "Greater flexibility for planning permissions Guidance." This document set the context and the framework for developers to apply for consent to amend existing planning permissions. The parameters of what Councils should accept as a minor material amendment was not defined and

left to the discretion of the Local Planning Authorities.

- 6.4 Great emphasis is placed on the percentage increase of the approved and proposed footprint and floor area by the objectors. As stated, there is no reference in the Government's document for any need for a comparative assessment of approved and proposed figures. In this instance, notwithstanding the decision of the earlier amendment applications, the Council nonetheless accepted that as a minor material amendment.
- 6.5 The issues regarding the amendments and the scale and nature of the proposal are discussed later in this report but it is clear principle and functionality of the building within the plot is unaffected and that this application procedure is legitimate. The process is transparent and all neighbours and interested parties have had the appropriate opportunity to comment as if it were any other planning application.

2. Scale, Layout And Design Of The Development

- 6.6 The building occupies a significant footprint with the floor area progressively reducing over the floors above, resulting in a staggered rear elevation.
- 6.7 The building will be set back from the pavement and the front elevation will be characterised by 3 gables including single storey projecting bays. The building retains many of the approved architectural features including traditional features such as chimney stacks, stone copings to the gables, stone archways and window surrounds. The front elevation has been designed to retain an asymmetrical frontage and staggered roof lines and also includes extensive use of natural stone mixed with render. Natural slate is to be used on the roof and all new windows and doors would be manufactured from timber.
- 6.8 The front of the site, where it abuts the pavement, is to be demarcated by a natural stone wall, supplemented with planting. Vehicular access is via the existing access point to the west of the site and will lead to the side and rear parking area, which comprises 24 spaces.
- 6.9 The Parish Council and several residents have objected to the scheme on the basis that the scale of the building is inappropriate to the site and that it will harm the setting of the Wetheral Conservation Area. The Conservation Area Advisory Committee (CAAC) has also commented that the scale and massing of the building is not appropriate to the site. The submitted drawings show a comparison between the approved scheme and the current proposal. Members are reminded that the principle of a building of similar height has already been approved under the previous application and based on Officers' assessment of the proposal, the scheme is not wholly contradictory to the approved scheme to relent on previous evaluations.
- 6.10 The perceived height of the building when viewed from the front elevation is broken up by the projecting gables and the attention to the architectural detail. As the rear elevation projects outwards towards the rear of the site it is reduced in both height and width thereby decreasing its physical mass. In

addition, the ridge of this element of the building is reduced from that of the previously approved scheme. The roadside frontage retains its natural stone boundary wall and landscaped backdrop. Although some parking is now proposed to the side of the building, additional landscaping is proposed between this and the junction with the County highway, thereby reducing its visual impact.

- 6.11 The approved scheme included some flat roofs within the building. These also feature in the proposed scheme; however, the flat roof areas would be to the rear of the building and would not be unduly prominent in the context of the building. Given the formation of pitched roofs, they would be appropriately screened from the wider public vantage points.
- 6.12 Notwithstanding the significant objections raised, it is the Officer's view that the scale, layout and design of the building are acceptable in relation to the site and do not detract from the character and appearance of the conservation area.
- 6.13 The scheme now includes the provision of 2 entrance doors on the front elevation in response to previous concerns that the development does not include an active frontage. Objectors have commented that this is not a true active frontage as the doors are secondary to the flats and serve a dining area, a view supported by CAAC. Whilst the entrances are not the sole point of entry to the units, both visually and practical viewpoint, they serve as entrances to the flats.
- 6.14 The proposal also safeguards the setting of the adjacent Listed Building, Acorn Bank. The objectors have raised concerns that the building would dominate and obliterate any views of Acorn Bank when approaching from the west due to its proximity to the frontage. The front elevation of the building would be broadly in line with the forward most projection of Acorn Bank but due to the curvature in the road and the position of the building there is no defined building line in the street scene. The position of the building will not have a significant visual impact on the setting of the adjacent property over and above that of the approved scheme. Following the decision of the previous application, the mass of the frontage has been reduced and the projecting bays have been omitted.
- 6.15 The building continues to propose the use of appropriate materials thus ensuring that the design is not compromised through the use of inappropriate external finishes and the proposed development introduces appropriate architectural features such as water tables. The scheme is of an appropriate architectural merit in its own right and the scale and use of appropriate materials is acceptable.

3. Highway And Parking Issues

- 6.16 One of the principal concerns raised by the local residents relates to their perception that there are insufficient parking spaces to serve the development. The number of parking spaces is reflective of the number of proposed apartments.

- 6.17 The approved scheme allowed for the provision of 24 spaces. The number of apartments and the number of bedrooms has not increased and it is therefore unreasonable to support any additional increase in parking spaces.
- 6.18 Previous applications considered the issue of the potential for additional on-street parking. At the time, the Highway Authority recognised that there was potential for increased parking on the highway but did not consider that these levels were such that any increase in on-street parking would be detrimental to highway safety or that the application should be refused on this basis. To ensure that parking does not occur on the bus stops adjacent to the site the Highway Authority requested that a financial contribution of £3500 is provided to enable an amendment to the Traffic Regulation Order to provide “bus clear way” markings. This agreement is unaffected by this application.

4. The Impact Of The Proposal On The Living Conditions Of Neighbouring Residents

- 6.19 The position of neighbouring properties and location of windows within those dwellings is such that the living conditions of surrounding residents are unlikely to be adversely affected by the proposal. Those properties on the opposite side of the road to the site, No.1 and No.20 Jennet Croft, are located 23m and 32m away from the building respectively. Acorn Bank to the west of the site has no openings in the side elevation of the dwelling, albeit the roof to the single storey rear projection of Acorn Bank is glazed.
- 6.20 The scheme has been amended to include the provision of obscurely glazed windows and oriel windows to prevent any direct overlooking of neighbouring properties and the latter style of windows form part of the approved development.
- 6.21 The neighbouring property, Caerluel, has the potential to be most affected; however, the position of windows in the apartment building is such that there would be no direct overlooking. Although they are less than 21 metres, there is an oblique relationship and the windows in Caerluel are not primary windows and therefore fall to be considered under the 12 metre requirement which is achievable.
- 6.22 The windows have been revised following the previous refusal to reduce the potential for overlooking of the neighbouring properties. One window in the development would be less than the Council's minimum distance and relates to a window serving a living room that would face the blank gable of Acorn Bank; however, this is a secondary window with the primary window being on the front elevation.
- 6.23 Any concern about obscure glazing being removed in the future can be addressed through the imposition of a condition which requires their retention in perpetuity unless granted through the submission and approval of an application to the Council.

- 6.24 The approved scheme included a condition to increase the height of the boundary wall between the application site and Caerluel. No variation to this condition is sought as part of this application which is particularly relevant given the omission of the detached barn and the condition requires the developer to undertake the improvements to the boundary.
- 6.25 On balance, there would be no significant adverse effect on the living conditions of neighbouring residents.

5. Affordable Housing

- 6.26 The approved scheme included the provision of 3 affordable properties to be made available by discounted sale and this was secured through a S106 agreement. This agreement is unaffected by this application.

6. Landscaping/Ecology

- 6.27 The Council's Landscape Architect has raised no objections to the proposed development.

7. Waste Collection

- 6.28 The objectors have made reference to the recycling/waste collection arrangements, with concerns being expressed that 15 individual bins/recycling boxes could litter the pavement on collections days. To address these concerns the applicant has confirmed that this waste will be collected by a private contractor. That arrangement, including the maintenance of the site/building, will be overseen by a management company which has been secured in perpetuity through the completion of a S106 agreement.

8. The Impact On Human Rights

- 6.29 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".

- 6.30 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.

- 6.31 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.

9. Other Matters

- 6.32 The objectors have also raised the issue that work has commenced on site prior to the pre-commencement conditions have being discharged and that the foundations laid do not refer to the consent granted for the site. Although work was commenced, the application to discharge the conditions has been granted. The application should be considered on its merits and any works not in accordance with the approved plans are at the developer's own risk.

Conclusion

- 6.33 In overall terms, the principle of the proposed redevelopment of the site to provide 15 flats has previously been accepted. Likewise, the procedure allowing the submission of an application to substitute the proposed drawings as minor material amendments has also been accepted by this Council.
- 6.34 The proposed apartment building could be accommodated on the site without detriment to the living conditions of the neighbouring properties or the character/setting of the Wetheral Conservation Area and adjacent listed building. The parking/ access arrangements and the anticipated level of traffic generated by the proposal would be the same as those of the extant permission and would not be materially affected by this proposal. In all aspects the proposals are considered to be compliant with the objectives of the relevant Local Plan policies.
- 6.35 There are a significant number of objections to the proposal from residents and the Save Wetheral Village action group. Many of the issues relate to the scale, design and visual impact on the character of the Wetheral Conservation Area. It is a material consideration that the applicant has the fall back position of the planning consent granted in 2012 for the erection of a 3 storey building providing 15 flats and 24 parking spaces on the site. It is accepted the proposed scheme is different; however, in comparison between the 2 schemes, the alterations are marginal. It is the opinion of Officers that the impact of the building on the character and appearance of the conservation area would not be significantly different from the approved scheme. On the basis of the approved scheme together with the amendments proposed, the proposal is acceptable and would not have a detrimental impact on the character of the conservation area.
- 6.36 Members are reminded that all other conditions of the approved scheme remain applicable. If Members are minded to grant consent, authority to issue approval is sought to vary the S106 agreement to substitute the current application reference for that of the extant permission.

7. Planning History

- 7.1 In 2011, conservation area consent was granted for the demolition of house, adjoining barn and outbuildings.
- 7.2 Planning permission was granted in 2012 for the demolition of the house, adjoining barn and outbuildings; redevelopment of site for the erection of single block comprising 15 two-bed apartments with dedicated access, off-street parking and private amenity spaces.
- 7.3 Planning permission was refused last year for the variation of condition 2 (approved documents) of previously approved permission 10/1066.
- 7.4 A Temporary Stop Notice was served on 14th January 2014 which required the cessation of any works on the land involved in the construction of the apartment blocks, access works, off street parking and private amenity areas subject to planning permission no. 10/1066 or any other works which do not have the benefit of planning permission.
- 7.5 Planning permission was refused earlier this year for the variation of condition 2 (approved documents) of previously approved permission 10/1066.

8. Recommendation: Grant Subject to S106 Agreement

- 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 approved documents for this Planning Permission comprise:
 - 1. the Planning Application Form received 21st March 2014;
 - 2. the Block Plan & Site Location Plan received 21st March 2014 (Drawing no. 03/2010/00revE);
 - 4. the Pre-Existing Buildings Overlay Plan received 21st March 2014 (Drawing no. 03/2010/206A);
 - 5. the Site Plan Comparison With Approved received 21st March 2014 (Drawing no. 03/2010/205B);
 - 6. the Ground Floor Plan received 21st March 2014 (Drawing no. 03/2010/202A);
 - 7. the First Floor Plan received 21st March 2014 (Drawing no. 03/2010/203A);
 - 8. the Second Floor Plan received 21st March 2014 (Drawing no. 03/2010/204A);
 - 9. the West & North Elevations received 21st March 2014;
 - 10. the South & East Elevations received 21st March 2014 (Drawing no. 03/2010/201RevB);

11. the Planning Statement received 21st March 2014;
12. the Notice of Decision.

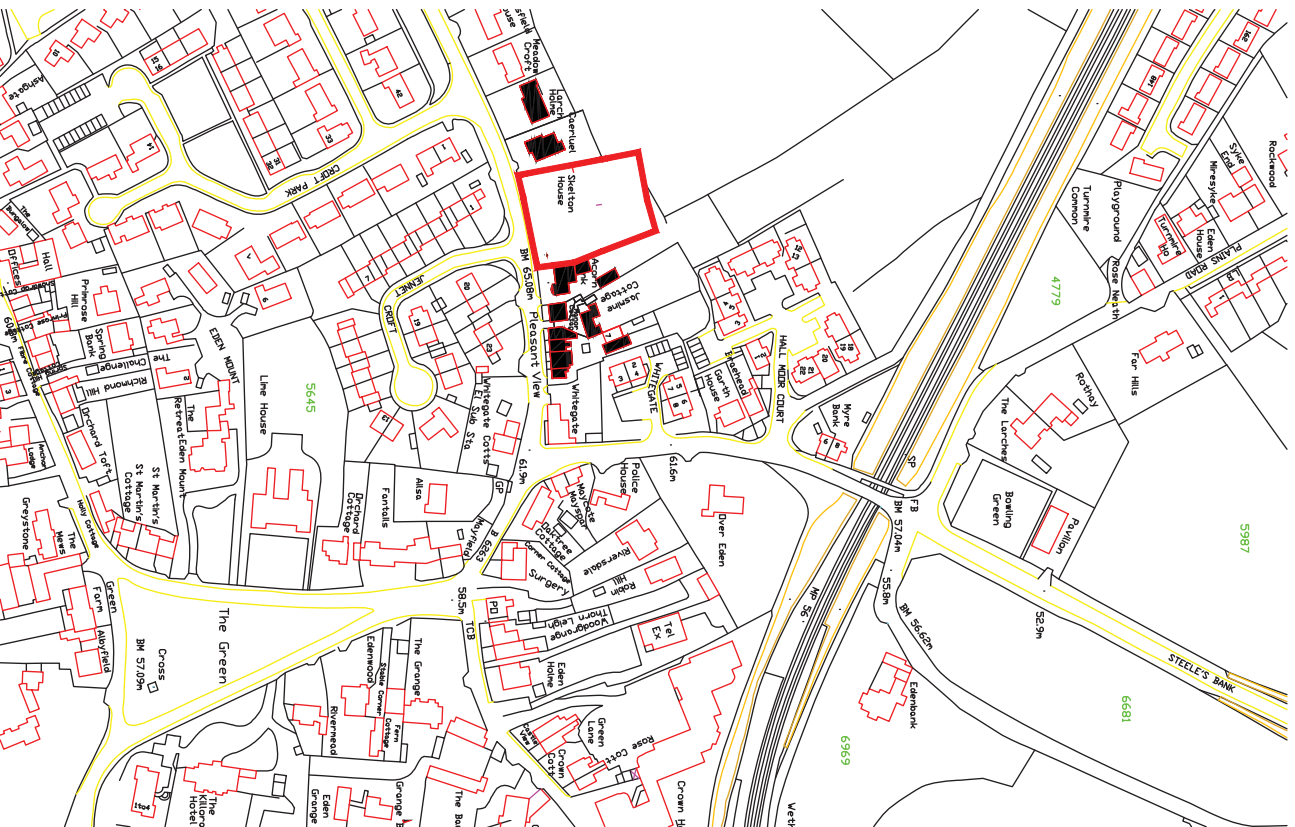
Reason: To define the permission.

3. The development shall be carried out in accordance with the remaining conditions attached to the "Full Planning" permission approved under application 10/1066.

Reason: For the avoidance of doubt.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any Order revoking and re-enacting that Order), the obscurely glazed windows shown on Drawing West & North Elevations and Drawing South & East Elevations (Drawing no. 03/2010/201B) shall be installed thereafter retained as such to the satisfaction of the Local Planning Authority.

Reason: In order to protect the privacy and amenities of residents in close proximity to the site in accordance with Policy H2 of the Carlisle District Local Plan 2001-2016.



existing sandstone walls vary in height but are generally to be increased in height to 2m high (and to infill/repair areas where there is no wall or it is in poor repair).



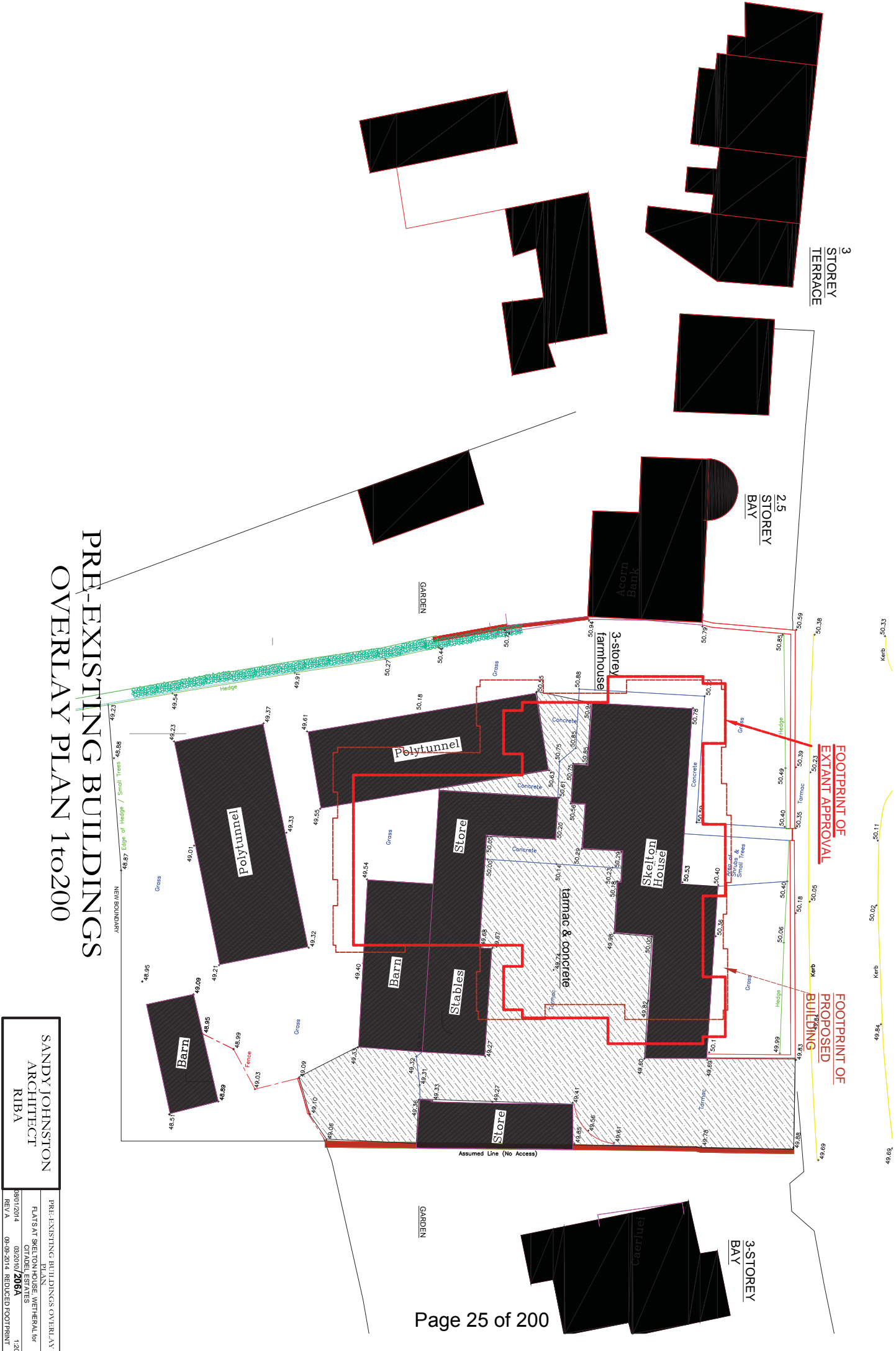
BLOCK PLAN & SITE LOCATION PLAN

SANDY JOHNSTON
ARCHITECT

BLOCK PLAN & SITE LOCATION PLAN

**FLATS AT SKELTON HOUSE, WETHERAL for
CITADEL ESTATES**

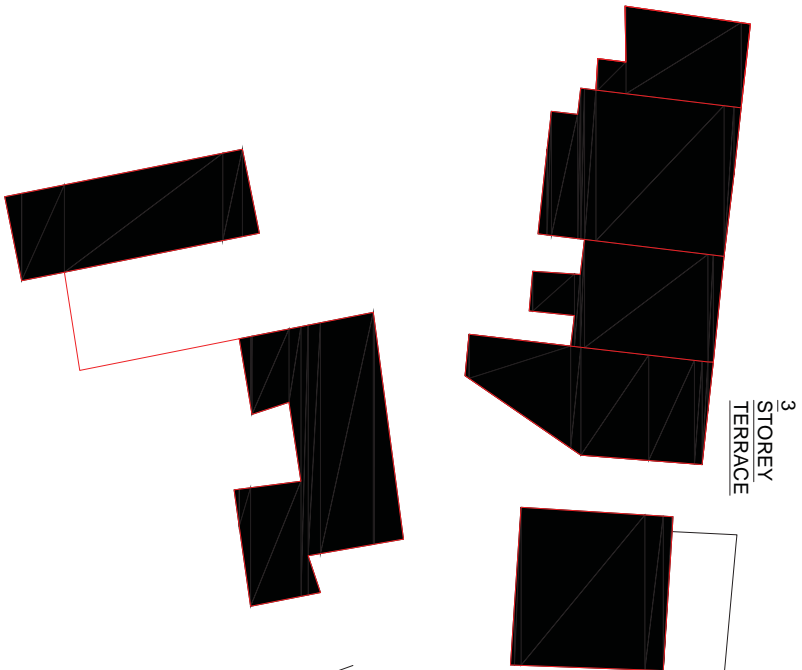
09-03-14 03/2010/000rev E 1:500/ 1:2500



PRE-EXISTING BUILDINGS
OVERLAY PLAN 1to200

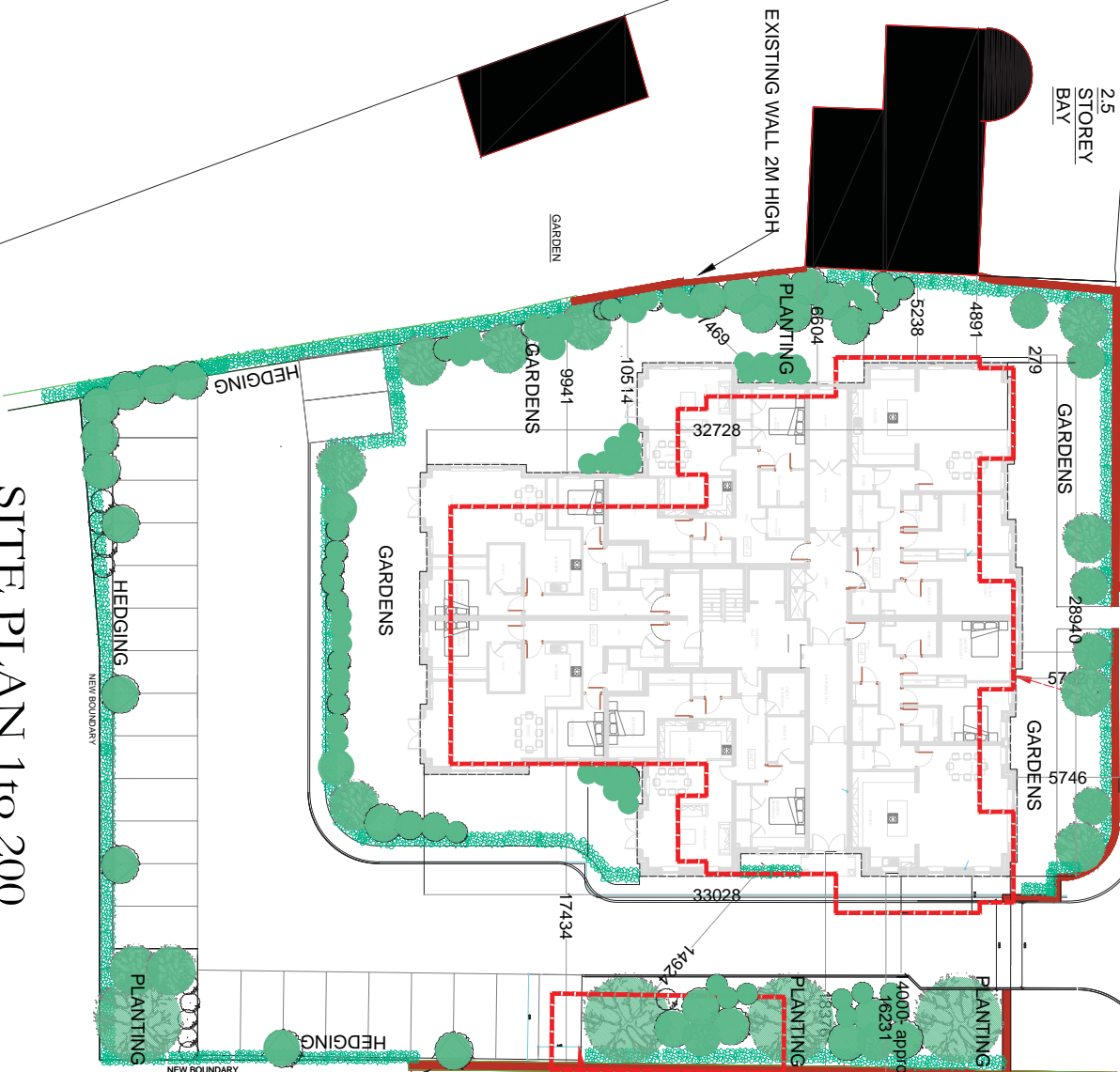
SANDY JOHNSTON
ARCHITECT
RIBA

PRE-EXISTING BUILDINGS OVERLAY
PLAN
FLATS AT SKELTON HOUSE, WETHERAL
CITADEL, ESSTATES
03/2010 / 206A
REV A 09-09-2014 REDUCED FOOTPRINT



3-STOREY
TERRACE

2.5-STOREY
BAY



5897- approved

FOOTPRINT OF
EXISTANT APPROVAL
1066

EXISTING WALL 2M HIGH:
existing sandstone walls vary in height but are
generally to be increased in height to 2m high
(and to infill/repair areas where there is no wall
or it is in poor repair)

FOOTPRINT OF EXISTANT
APPROVAL 1066 BICYCLE
STORE:
replace bin store with planting

EXISTING WALL 2M HIGH:
existing sandstone walls vary in height but are
generally to be increased in height to 2m high
(and to infill/repair areas where there is no wall
or it is in poor repair)



SITE PLAN 1 to 200

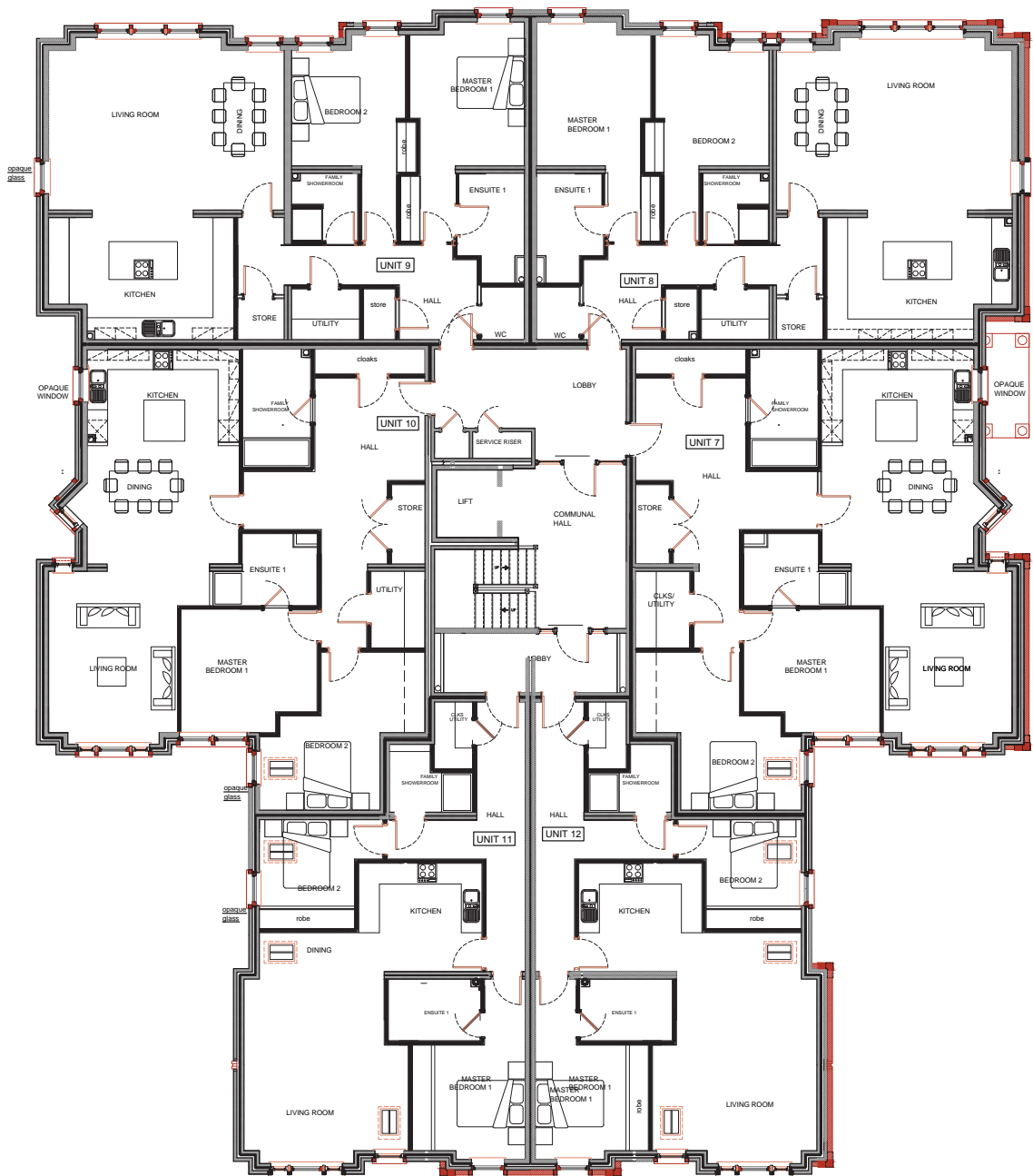


SANDY JOHNSTON
ARCHITECT
RIBA

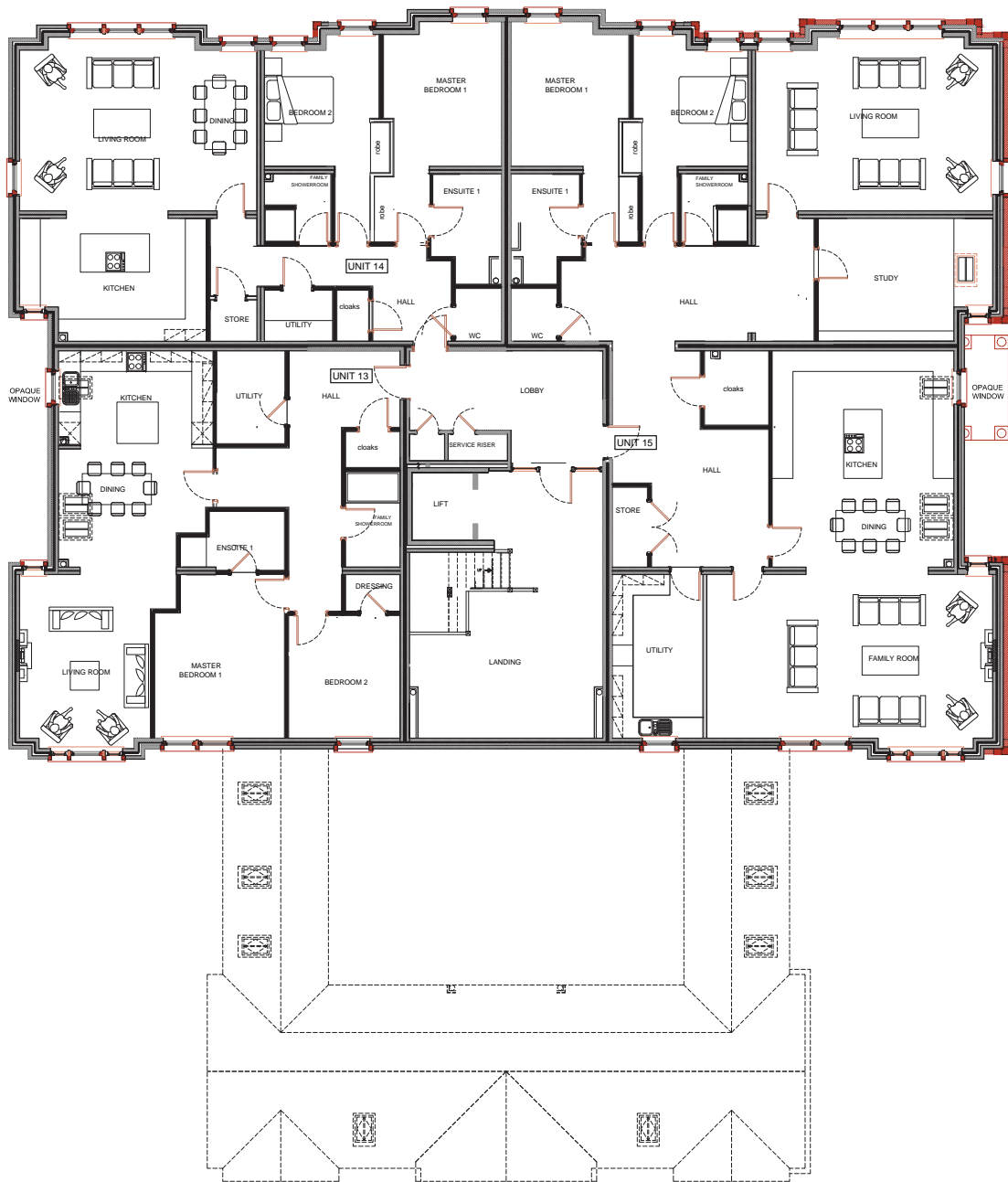
SITE PLAN: COMPARISON WITH	
APPROVED DEVELOPMENT	APPROVED DEVELOPMENT
PLATS AT SHERWOOD GARDENS	PLATS AT SHERWOOD GARDENS
09/03/2014	02/01/2018
Rev B: 09/03/14	Removal of bays



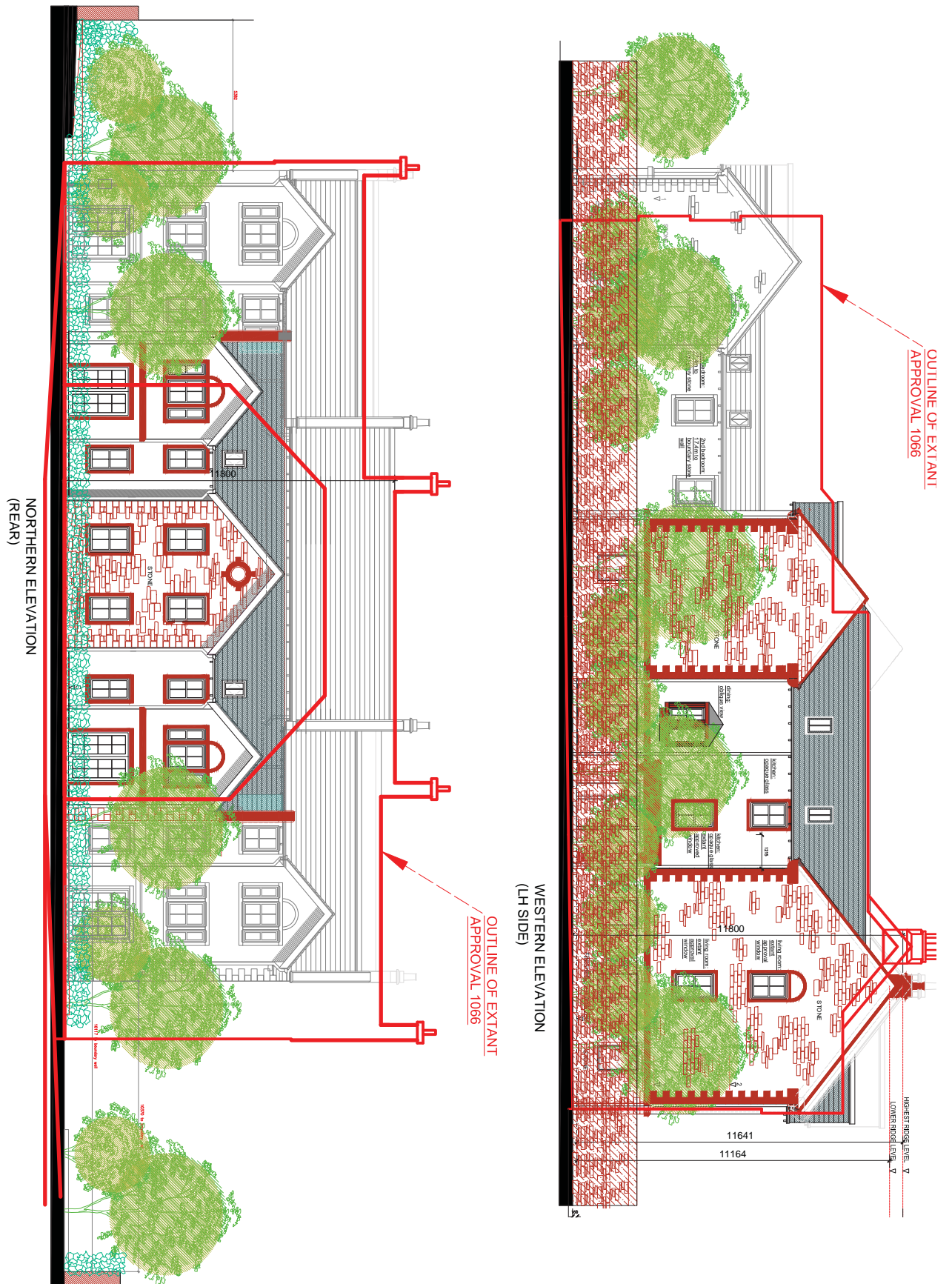
GROUND FLOOR PLAN 1:100



FIRST FLOOR PLAN 1:100



SECOND FLOOR PLAN 1:100

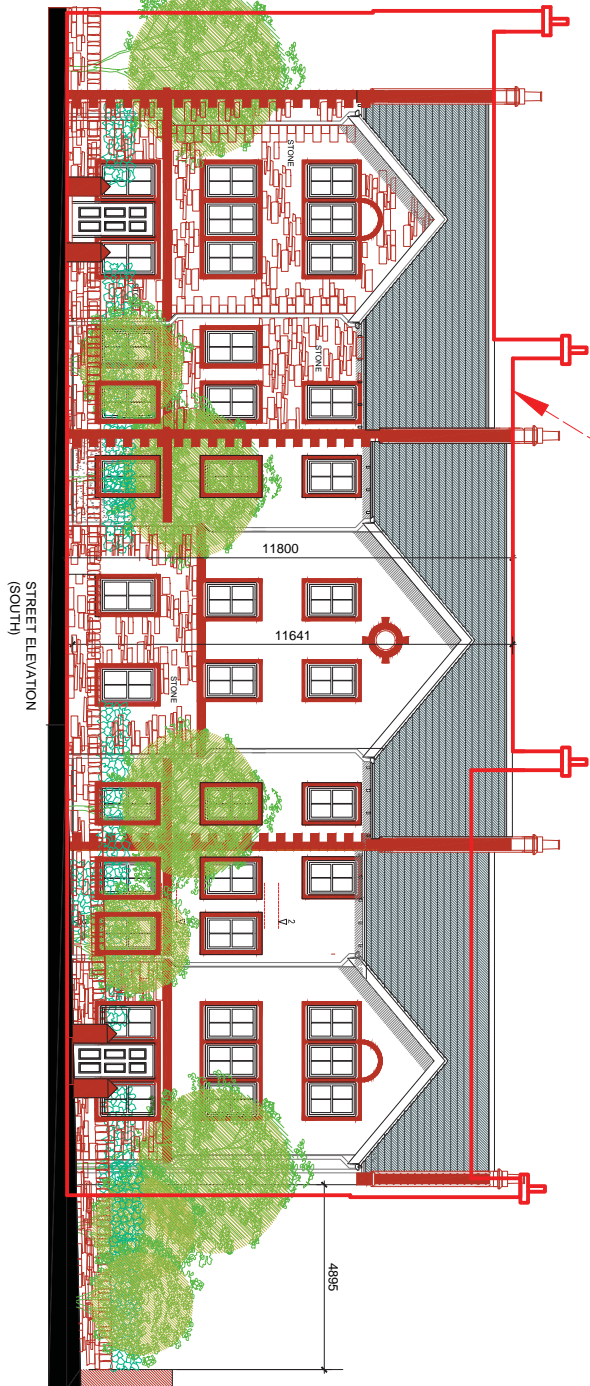




OUTLINE OF EXISTANT
APPROVAL 1066

EASTERN ELEVATION
(RH SIDE)

OUTLINE OF EXISTANT
APPROVAL 1066



STREET ELEVATION
(SOUTH)

PLANNING STATEMENT

s.73 – Application to vary Condition 2 attached to 10/1066 Land formerly Skelton House, Wetheral CITADEL ESTATES LTD.

SUMMARY

Please find herewith the 3rd application under s.73 to vary Condition 2 ('plans-list') of grant of full planning permission under 10/1066. This follows and logically responds to the recent refusals of the two previous s.73 applications (13/0521 & 14/0033). Again, the current application refers to CAD drawings using data from precise surveys, for the avoidance of doubt.

Ignorance of, or groundless dismissal of what the submitted precisely surveyed and prepared architectural plans actually show, both intrinsically and relative to previous applications including the baseline approval under 10/1066, would be tantamount to maladministration with a charge of unlawfulness against any consequential determination.

Turning to a fundamental issue upon which objectors previously applied significant weight: in contrast with objectors' view that previous s.73 refusals were irrelevant and that only the 10/1066 approval was material; previous s.73 decisions remain highly relevant and indeed place upon the applicant an obligation to address such in the context of 10/1066. This basic point was confirmed accordingly by both Officers, and Members of the Development Control Committee at the previous Meeting on the 7th March 2014.

Applications are made to the LPA, not to 3rd parties, and therefore it is the formal determinations made by the LPA and indeed the Secretary of State, having had regard to all relevant representations, that are material considerations, and subject to appeal/challenge. It is therefore perfectly proper and correct for applicants to not simply respond to previous decisions, but also critically appraise them as part of any such response, not only at Appeal but also, as encouraged by Central Government, "locally" upon resubmission.¹

Previously, the Applicant, via his Agent, took the opportunity at the previous 'Committee meeting (under 14/0033):

- A. to re-iterate the focussing influence of the 10/1066 fallback permission;
- B. to critically appraise the 13/0521 refusal reasons in the context of the common law relevance and application of baseline 'fallback permissions'; and,
- C. highlight the responsive differences achieved under 14/0033 relative to the previous refused scheme under 13/0521.

The Applicant sees no good reason to depart from this approach, and so reference is made hereunder to **APPENDIX 1** which explores again in greater detail these underpinning matters, the threads of which continue to run through this latest application.

Current Proposal

The current proposal marks a further refinement to the approved scheme under 10/1066, as well a response to the Reasons why 14/0033 and indeed 13/0521 were refused.

Broadly, **14/0033**:

- Removed the third floor accommodation, and proposed further truncations to 13/0521 notably in respect of the upper-floors front-projecting bays effecting a c.10% reduction to floorspace; and, a curtailment of visual impact into the main street-scene;
- Revised the fenestration to reduce any perceived undue overlooking, and maintain habitable conditions for new occupants in accord with the Council's adopted policies, whilst pointing out that previous objections (Reason 2 of 13/0521) related to 'secondary' windows not compelled by Policy.

Naturally it is becoming increasingly difficult to make further material refinements, but we believe this latest proposal marks a number of significant changes that we trust the LPA will appreciate fully and correctly both in relation to the preceding refusals, as well as of course the ever-present 10/1066 fallback permission.

Summarily, **THE CURRENT PROPOSAL** goes further, by:

- Removing the front projecting bays at GF as well as upper floors;
- Removing the 'dummy' front door whilst maintaining two active doors either side with amended front boundary wall access to suit;
- Removing the rearmost two-storey projection thereby reducing overall depth by c.2m;
- Revising internal steelwork to reduce main roof height across the 3-storey element nearest adjacent properties either side, more consistent with the 10/1066 'fallback'.

CONCLUSIVE FINDINGS

1. With regards the **overall scale, massing and siting/positional aspects** the current proposal achieves closer and even more compelling congruency with the baseline 10/1066 fallback permission – the overall physical urban design and townscape impact difference between the two schemes is negligible;
2. With regards proximity and overlooking of neighbours either side from habitable windows:
 - on the **West side toward 'Carluel'** there are no upper floor windows that conflict with the Council's own adopted detailed Supplementary Planning Guidance by reason of separation and/or orientation and/or obscuration, and/or internal room-layout;
 - on the **East side toward 'Acorn Bank'** all upper floor (FF) windows facing the neighbour's garden are not only acceptable against said 'Guidance, but are now obscured (supplemented by roof lights). In addition all windows facing the blank gable of 'Acorn Bank' are 'secondary' and/or obscured or re-orientated to restore new occupants' amenities.
3. With regards Reason 3 and the impact upon the adjacent listed 'Acorn Bank', the Applicant maintains that such objection, in the context of 10/1066 (and indeed 13/0521) is untenable.
4. Other: opportunity taken to provide substantial amenity landscaping alongside 'Carluel'.

APPENDIX 1.

A. FALLBACK PERMISSION – 10/1066

The 10/1066 planning permission represents the material fallback position or more precisely the ‘material fallback *permission*’ - ‘the baseline’.

Of all the different forms of ‘fallback position’, the ‘fallback *permission*’ is the most influential and compelling when determining a s.73 application for the simple reason that it was created by the same LPA (as opposed to i.e the Government - P.D. Fallback; or, the landowner - Lawful Breach Fallback).

In cases involving a Full (fallback) Permission, the LPA (that granted/created the ‘fallback’) must be fully accountable for its previous decision; it must pay due regard to every detail of such without reservation or revision, and likewise must assess with precision the difference(s) between such and the proposed variation thereon.

Previously, it was suggested to the ‘Committee that it approach and apply the ‘fallback’ as if it was already built, in-situ, and impacting upon the surroundings and its users, and that any proposed variation thereto be regarded as in effect an ‘alteration’ to an existing building. By doing so, one is surer to undertake the comparative analysis properly - **not** simply by identifying the differences *per se*, **but instead**:

- a. by identifying each and every instance of material/appreciable difference; and then,
- b. in each instance, ***objectively and precisely assessing the effect of the variation compared with the effect of the fallback.***

Illustration of Fallback Principle: an extant approved extension includes a side window of width 60cm. The proposed s.73 variation seeks the same extension but with the window widened to 80cm (an additional 10cm either side). Applying the fallback concept means the judgement on the variation application be focussed upon assessing **NOT** the impact of an 80cm window *per se*, **but the additional impact caused by the 10cm either side compared to the impact from the approved 60cm wide window (as if it were already built).**

This profoundly simple yet highly robust principle applies equally to the present case, which is precisely why the Applicant has gone to such great lengths employing **Overlays** to illustrate clearly where the instances of material difference occur, and thereafter to assist in quantifying the comparative impact across all related instances.

The bottom-line is that proper evaluation and assessment of any variation of 10/1066 requires focussed precision not vague and unqualified generalities. Moreover, singular isolated reliance upon % or sqm figures and differences is by itself meaningless – it is not how much, but *how such is applied and manifested*. Continued validation of the objectors’ dissuasion of proper, precise comparative analysis has resulted in decisions that are in at least some respects, fatally flawed² - as confirmed hereunder through critical appraisal of previous s.73 decisions.

B. PREVIOUS s.73 REFUSALS

The Applicant has already lodged the Appeal against the 1st variation refusal under 13/0521.

Attention here is therefore drawn naturally to the previous, 2nd variation under 14/0033.

However, and notwithstanding this, it remains important that successive decisions made by an LPA maintain reasonable consistency, and so any material differences between the decisions reached on 13/0521 and 14/0033 are worthy of further consideration here as part of the Applicant's entitlement to critically appraise the LPA's previous decisions.

13/0521

Omitted from
14/0033

1. Reason: The proposal, by virtue of its scale, massing and position within the site, does not respond to the local context and form of surrounding building in relation to height, scale and massing. The siting of the proposed building would differ from the approved scheme **and would not be located on or close to the site of the original dwelling.** The building is inappropriate to its prominent location in the Wetheral Conservation Area contrary to criteria 1 of Policy CP5 (Design), criterion 1 and 3 of Policy H10 (Replacement Dwellings in the Rural Area) and criterion 1 and 2 of Policy LE19 (Conservation Areas) of the Carlisle District Local Plan 2001-2016.

2. Reason: The proposed building would be located adjacent to neighbouring residential properties. In this instance, by virtue of the number of proposed windows serving habitable rooms on the east and west elevations of the building, the development would result in overlooking and a significant loss of privacy to the occupiers of the neighbouring properties. The proposed windows would also conflict with the Council's required minimum distances. The proposal is therefore contrary to criteria 5 of Policy CP5 (Design) of the Carlisle District Local Plan 2001-2016 and the objectives of the Supplementary Planning Document "Achieving Well Designed Housing"

Additional Reason for
Refusal – New Ground

14/0033

1. Reason: The proposal, by virtue of its scale, massing and position within the site, does not respond to the local context and form of surrounding building in relation to height, scale and massing. The siting of the proposed building would differ from the approved scheme and would be inappropriate to its prominent location in the Wetheral Conservation Area. The proposal is therefore contrary to criteria 1 of Policy CP5 (Design), criterion 2, 3 and 4 of Policy H1 (Location of New Housing Development) and criterion 1 and 2 of Policy LE19 (Conservation Areas) of the Carlisle District Local Plan 2001-2016.

2. Reason: The proposed building would be located adjacent to neighbouring residential properties. In this instance, by virtue of the number of proposed windows serving habitable rooms on the east and west elevations of the building, the development would result in overlooking and a significant loss of privacy to the occupiers of the neighbouring properties. The proposed windows would also conflict with the Council's required minimum distances. The proposal is therefore contrary to criteria 5 of Policy CP5 (Design) of the Carlisle District Local Plan 2001-2016 and the objectives of the Supplementary Planning Document "Achieving Well Designed Housing".

3. Reason: To the east of the application site is Acorn Bank which is a 2 storey Grade II listed building. Due to the proximity of the proposed building, together with its scale and mass, the development would fail to preserve the character or setting of the adjacent listed building. The proposal would be unsympathetic in scale and character and would adversely affect the appearance and setting of Acorn Bank, contrary to the Policy LE12 (Proposals Affecting Listed Buildings) of the Carlisle District Local Plan 2001-2016.

The straightforward comparison above between the refusals under **13/0521** and **14/0033** illustrates and highlights the differences.

The previous reliance upon the demolished Skelton House was correctly omitted from **14/0033**. This is a matter on principle and must be acknowledged again here, and indeed on any Appeal to the Secretary of State, current and future.

Unfortunately, the above admitted misconception regarding the former Skelton House is only now matched by the equally startling introduction of a new ground for refusal as expressed under **Reason 3**.

The following examines each of the three Reasons under 14/0033, whilst acknowledging the thread of critical failings stemming from 13/0521 both in terms of regrettable imprecision, and disregard for the common law principle evoked by the LPA's own creation of the 10/1066 fallback permission.

14/0033

Reason 1.

"The proposal, by virtue of its scale, massing and position within the site, does not respond to the local context and form of surrounding building in relation to height, scale and massing.....The siting of the proposed building [would differ from the approved scheme and] would be inappropriate to its prominent location in the Wetheral Conservation Area...."

The above serialised extracts from **Reason 1** are obviously related by their referencing of urban design criteria and characteristics and the impact upon the physical surroundings/the townscape.

However, on proper application of the 'fallback' principle, there is what can only be viewed as a flagrant disregard for such, and to justify otherwise requires detailed and precise comparative analysis between 14/0033 and 10/1066.

For obvious reasons, the Applicant maintains that no reasonable observer could maintain such a position. The Applicant, and the Officers both agree there is considerable and compelling evidential congruency across 10/1066 and 14/0033 in terms of ***"...scale, massing and position within the site"*** and of course the fact they fall on the same ***"....prominent location in the Wetheral Conservation Area..."***.

Otherwise, the statement that 14/0033 ***"..would differ from the approved scheme.."*** is otiose and merely compounds the general imprecision.

Reason 2.

Reason 2 remains consistent, and it is duly acknowledged that the issues raised regarding proximity and 'overlooking' are legitimate and subject to precise provisions within cited local Policy – the application of which nonetheless remains rooted and influenced by the fallback permission and its comparative effects in these regards (see earlier **illustration** of principle).

Reason 3.

For reasons both of procedural propriety, and Planning validity, this 'new' ground introduced for refusing 14/0033 is questionable as it is surprising, and to date its origin remains a mystery – it was not raised in debate by the Committee, nor did it figure when refusal was moved, seconded and voted-on by the 'Committee.

The adjacency of the listed Acorn Bank is not a new issue – Acorn Bank has always been there (!) but whether or not it was fully considered and appreciated under 10/1066 is now irrelevant – the 10/1066 approval was for a 3-storey block of equal proximity, and displaying very similar patterning, proportions, scale and massing to that proposed under 14/0033 (and indeed by 13/0521, but on that occasion no such Reason was cited).

As with Reason 1, **Reason 3** does not relate details with the required precision; it refers to: “**...proximity of the proposed building, together with its scale and mass...**” and cites its failure to “**...preserve the character or setting of the adjacent listed building**”; it is “**...unsympathetic in scale and character.**”

The lack of precision employed on a matter relating to the impact upon a distinct/unique designated townscape feature is only compounded by conspicuous disregard for the fallback permission created under 10/1066, which to any reasonable observer exhibits such compelling congruency to render this Reason untenable, as well as confounding by its inconsistency (with 13/0521).

Notwithstanding the apparently well-informed objection presented at the 7th March meeting, the CAAC's response to 14/0033 has yet to be reported by the LPA. Several requests have been made to the LPA for copies of such along with CAAC meeting minutes pursuant casting some light on a most intriguing *volte-face*.

Concluding Remarks: 10/1066 remains 'the baseline' for precise, objective comparative analysis. The LPA's Reasons for refusing 14/0033 are an important material consideration that warrant critical appraisal, individually and contextually with 10/1066 and 13/0521. Critical failings have been repeated and duly identified, and such frustrate the Applicant's *legitimate expectations* to have his proposals assessed appropriately in these particular circumstances, thus infringing human rights, contrary to natural justice. The LPA can refuse as well as approve any application, but must do so with adherence to acknowledged public interest principles of objectivity and fairness pursuant properly-reasoned consistency, exercised openly and transparently.

¹ *The reasons for refusal should be clear and comprehensive and if the elected members' decision differs from that recommended by their planning officers it is essential that their reasons for doing so are similarly clear and comprehensive. Clear reasons for refusal will help continued discussions and may mean that agreement can be reached. A new application may often be the best way forward.* [para.1.4.2 - Procedural Guide - Planning appeals and called-in planning applications – England – The Planning Inspectorate – 6th March 2004]

² The Local Government Association publication, *Probity in Planning*, explains under paras. 10.4-10.5 the need for why reasons must be given by Councillors for overturning officers' recommendations: if the planning committee makes a decision contrary to the officers' recommendation (whether for approval or refusal), a detailed minute of the committee's reasons should be made and a copy placed on the application file. Thus, members should be prepared to explain in full their reasons for not agreeing with the officer's recommendation. In so doing, members should observe the 'Wednesbury principle' (the case of *Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation* [1948] 1 K.B. 223) which, put simply, requires all relevant information (ie material considerations) to be taken into account and all irrelevant information (ie non-material matters) to be ignored. The officer should also be given an opportunity to explain the implications of the contrary decision; the courts have expressed the view that the committee's reasons should be clear and convincing.

SCHEDULE A: Applications with Recommendation

14/0124

Item No: 02

Date of Committee: 16/05/2014

Appn Ref No:
14/0124

Applicant:
Mr Paul Holder

Parish:
Dalston

Agent:

Ward:
Dalston

Location: Dalston Hall Caravan Park, Dalston, Carlisle, CA5 7JX

Proposal: Change Of Use Of Golf Practice Range/Course To Provide Extension To Existing Caravan Park To Form 16no. Additional Stances For Holiday Use (Revised Application)

Date of Receipt:
18/02/2014

Statutory Expiry Date
15/04/2014

26 Week Determination

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 principle of development is acceptable
- 2.2 Impact of the proposal on living conditions of neighbouring residents
- 2.3 Impact of the proposal on Grade II* Listed Building including landscape character.
- 2.4 Impact of the proposal on Ancient Monument
- 2.5 Method of disposal of foul water
- 2.6 Impact of the proposal on highway safety
- 2.7 Benefits of the application
- 2.8 Other Matters

3. Application Details

The Site

- 3.1 Dalston Hall Caravan Park is located 60-80 metres to the north-east of

Dalston Hall Hotel on the eastern side of the B5299 Carlisle to Dalston road, approximately 1.6 km south west of the entrance. The access road also serves Dalston Hall Hotel, Dalston Hall Golf Club (in the applicant's ownership) and Holly Lodge located at the entrance of the access road. A belt of sporadic trees runs along the north western boundary with an area of more extensive planting to the north east. Two further groups of trees lie to the south of the site. Immediately adjacent to the current application site there is a parcel of land the subject of an extant planning permission for the creation of 9no. static caravan pitches.

The Proposal

- 3.2 This application seeks Full Planning Permission for the change of use of part of a golf practice range/course to provide an additional 16no. stances/pitches for static caravans. The intention is for the access to the site to be via the existing drive which has its junction with the B5299 Carlisle to Dalston Road.
- 3.3 The submitted layout plan shows the intention for the existing trees (including Scots Pine, Douglas Fir, Larch and Spruce) to be augmented by additional planting.
- 3.4 The application is accompanied by a Design and Access Statement, and a Tree Survey.

4. Summary of Representations

- 4.1 This application has been advertised by the direct notification of three neighbouring properties and the posting of a Site Notice. In response, two representations of objection and twelve representations of support have been received together with a Petition of support containing sixteen signatories.
- 4.2 The representations of objection identifies the following issues:
 - 1. the access road is in urgent need of repair and should be repaired by the caravan site due to the increase in traffic which has developed over the last 10 years.
 - 2. increase in traffic past residential property.
 - 3. contrary to Policy EC15 and LE12 of the Local Plan.
 - 4. significant adverse impact on the adjacent Grade II* Listed Building and its setting.
 - 5. negative impact upon adjacent business.
 - 6. validity of petition in support.
 - 7. insufficient weight given to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 4.3 The representations of support outlines the following issues:
1. residents of the park use local shops and public houses.
 2. good for local businesses.
 3. additional caravans would bring additional revenue into the village and surrounding area.
 4. the occupiers of the caravans use existing veterinary services for their pets.
 5. caravan site provides 5 star facilities.
 6. since staying at Dalston Hall Caravan Park have purchased vehicles from local dealers.
- 4.4 The petition has been signed by local businesses in and around Dalston which accompanied the application and has been recorded as such. The comments include:
1. Good for the community and area.
 2. If this brings more people into the community. This is good all round.
 3. Superb and good for local businesses.
 4. Likely to be beneficial for local businesses.
 5. Generates valuable income for the local economy.
- 4.5 The Local Ward Councillor requested that the application be considered by the Development Control Committee. The issues cited in his letters centre on:
1. impact of the proposal on the Grade II* Listed Building.
 2. a plan which illustrates the growth of the caravan park and its relationship with Dalston Hall.

5. Summary of Consultation Responses

Cumbria County Council - (Econ. Dir. Highways & Transportation): - the proposal will not have a material affect on existing highway conditions, therefore, there are no objections to the proposal;

Dalston Parish Council: - no comments;

Environment Agency (N Area (+ Waste Disp & Planning Liaison Team): - site benefits from a sewage discharge permit issued by the Environment Agency

(EA), the applicant has provided data to the EA, based on current occupancy rates that the existing sewage treatment plant has sufficient capacity to remain within the discharge limits. The site will need to record daily water usage to ensure that daily discharge rates remain within permit limits;

Cumbria Constabulary - North Area Community Safety Unit: - no observations or comments to offer in respect of the proposal;

Cumbria County Council - (Archaeological Services): - no objections and do not wish to make any comments or recommendations;

English Heritage - North West Region: - our specialist staff have considered the information received and do not wish to offer any comments on this occasion.

6. Officer's Report

Assessment

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 6.2 The Development Plan for the purposes of the determination of this application is the Carlisle District Local Plan 2001-2016 from which Policies DP1, CP1, CP2, CP3, CP5, CP12, EC15, LE6, LE12 and T1 are of particular relevance.
- 6.3 The National Planning Policy Framework (NPPF), Planning Practice Guidance (March, 2014) and Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 (LBA) are also material planning considerations in the determination of this application. Paragraph 215 of the NPPF highlights that due weight should be given to the relevant policies in existing Plans according to their degree of consistency with the NPPF (the closer the policies in the Plan to the policies in the Framework, the greater the weight that may be given).
- 6.4 Section 66 of the LBA stipulates that special regard is given to the desirability of preserving listed structures or their settings or any features of special architectural or historic interest which they may possess.
- 6.5 Furthermore, English Heritage has produced a document entitled 'The Setting of Heritage Assets' which was intended to be read in conjunction the now cancelled Planning Policy Statement 5: Planning for the Historic Environment. Whilst some reference in the document is now out-of-date, English Heritage believes that this document still contains useful advice and case studies.
- 6.6 In the context of the foregoing it is considered that the proposal raises the following main planning issues regarding: the principle of development; the living conditions of neighbours; impact on a grade II* Listed Building; impact on an ancient monument; disposal of foul drainage; highway safety; and the

social/economic benefits.

1. Whether The Principle Of Development Is Acceptable

- 6.7 Paragraph 7 of the NPPF outlines that there are three dimensions to sustainable development: economic, social and environmental all of which give rise to the need for the planning system to perform a number of roles. The NPPF goes on to highlight that these roles should not be undertaken in isolation, because they are mutually dependent. Economic growth can secure higher social and environmental standards, and well-designed buildings and places can improve the lives of people and communities. Therefore, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. The planning system should play an active role in guiding development to sustainable solutions.
- 6.8 Paragraph 14 of the NPPF highlights that "*there is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking*". This is further reiterated in paragraphs 25 and 28 which go on to say that the sequential approach should not be applied to applications for small scale rural offices or other small scale rural development; and that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should: support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings; promote the development and diversification of agricultural and other land-based rural businesses; support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres.
- 6.9 The aforementioned advice is elaborated in Policies DP1 and EC15 of the Carlisle District Local Plan 2001-2016. Policy DP1 of the Local Plan seeks to promote sustainable development through concentrating development in the urban area then Key and Local Service Centres. Outside of these locations, proposals for new development are to be assessed against the need to be in the location specified or whether it is required to sustain existing businesses. Policy EC15 of the Local Plan recognises that proposals for the development of caravan sites are a valuable tourist facility; however, proposals have to demonstrate compliance with the criteria identified within the policy and are, likewise, not in conflict with any other relevant planning policies.
- 6.10 In light of the foregoing and in overall terms, the principle of an expansion to the existing caravan park is supported by policies both within the NPPF and the Local Plan; however, a more detailed analysis assessing whether the proposal complies with the policies of the NPPF together with the relevant policies of the Local Plan (2001-16) and the duty of Section 66 of the LBA will

be discussed below.

2. Impact Of The Proposal On The Living Conditions Of Neighbouring Residents

- 6.11 Holly Lodge is sited at the entrance of the access road which serves the existing caravan site, Dalston Hall Golf Course and Dalston Hall Hotel. The occupier of Holly Lodge has raised issues in respect of the surface of the driveway and increase in traffic. The applicant has subsequently repaired the road surface. In respect of the increase in traffic, it is inevitable that there will be some increase in traffic using the access road. However, in the overall context of the existing scale of use of the existing caravan park (and irrespective of any decrease in membership and paying golfers to the golf course that may or may not arise) this increase is not considered to be of such a nature as to warrant the refusal of permission.
- 6.12 In comparison to the existing uses and relationship to neighbouring properties, it is considered that the proposal will not exacerbate any problems associated with noise and disturbance.
- 6.13 The occupiers of Dalston Hall Hotel have also raised objections to the proposal. A planning consultant acting on behalf of the occupiers of Dalston Hall has raised objections to the proposal with regard to the potential negative impact on their hotel business together with visual impacts but with specific regard to the setting of Dalston Hall as a grade II* Listed Building (as opposed to the visual amenity of any residential properties) as well as maintaining that the proposal will have an adverse impact upon the landscape character of the surrounding area. The issues of the impact on the setting of a Listed Building and landscape character (i.e. the landscape impacts that relate to the characteristics of the landscape) will now be addressed.

3. Impact Of The Proposal On The Grade II* Listed Building

- 6.14 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".

- 6.15 Members, therefore, must give considerable importance and weight to the desirability of preserving the adjacent Dalston Hall Hotel, a Grade II* listed building and its setting 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 133 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 134, 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 Policy LE12 of the Carlisle District Local Plan 2001-2016 also indicates that new development which adversely affects a listed building or its setting will not be permitted.
- 6.18 The planning consultant acting on behalf of the operator of Dalston Hall Hotel has also made reference to a Judicial Review decision (dated 08/02/2013) involving East Northamptonshire District Council, and an appeal decision (ref. no. APP/G0908/A/13/2191503) relating to a site near Wigton, Cumbria – see attached copies. In the above Judicial Review decision the judge stated that:

“...in order to give effect to the statutory duty under Section 66(1), a decision-maker should accord considerable importance and weight to the desirability of preserving the setting of listed buildings when weighing this factor in the balance with other material considerations which have not been given this special statutory status.” (para. 39)

- 6.19 In light of the foregoing it is considered that Members need to have cognizance of: a) the significance of Dalston Hall Hotel and the contribution made to that significance by its setting; and then assess b) the effect of the proposal on the setting of Dalston Hall Hotel (inclusive of its significance and on the appreciation of that significance). In the case of the former, the more significant the heritage asset, the greater should be the presumption in favour of its conservation. For the latter, the Inspector involved in the Wigton appeal identified that different elements of the setting make different contributions to its significance as a heritage asset, namely: the building's immediate context; the area of countryside that can be seen from the building; and the landscape in which the building is set.

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

- 6.20 The application site is located approximately 70 metres north east of the north eastern corner of Dalston Hall Hotel. As previously outlined, Dalston Hall Hotel is a Grade II* Listed Building. 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, within which Dalston Hall Hotel falls, 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.
- 6.21 Dalston Hall Hotel was listed by English Heritage as a Grade II* Listed Building in 1984. The listing details are as follows:

"Fortified house now hotel. Mid or late C15, dated by inscription below parapet: JOHN DALLSTON ELSABET MI WYF MAD YS BYLDYNG. West wing c1556 for Sir John Dalston, with central block of c1620; late C17 alterations and further extensions, dated 1899 on lead rainwater heads, by C.J Ferguson for E.W Stead. Large blocks of red and calciferous sandstone. Flat lead roofs on towers; graduated greenslate roofs on wings, ashlar chimney stacks. 3-storey C15 tower to right; 4-storey C16 tower to left, linked together by C16 wings and C19 extension to rear. Early tower has extremely thick walls on chamfered plinth with string courses and battlemented parapet. Angel stair turret projecting above parapet has 4 C15 carved shields of arms of the Kirkbride and Dalston families. 2-light stone mullioned windows with rounded headed in round arch. Interior: stone vaulted basement, now library. Newel Staircase for full 3 storeys to roof. Ground floor inner yett of iron is C15. Bedroom above has mural recess: former fireplace cut through to form bathroom. Wing to left has plank door in roll-moulded architrave. 2- and 3-light stone mullioned windows in roll-moulded architraves. Roll-moulded cornice has cannon-like water spouts. Battlemented tower to left with similar 2- and 3-light windows. Side wall to right has corbelled-out semicircular stair turret from first floor to roof. C19 extensions have stone mullioned windows imitating the earlier work. C20 extension to extreme right is not of interest. Interior of C16 wing was extensively altered by C J Ferguson in Arts and Crafts style; banqueting hall inglenook with firehood of pewter dated 1900 with initials E.W.S. Ground floor room on extreme left has fireplace with William de Morgan tiles".

6.22 The importance of Dalston Hall as an example of an historic former fortified building is further referenced in "The Medieval Fortified Buildings of Cumbria" (Perriam and Robinson, 1998).

6.23 Dalston Hall is a visually impressive and historic Grade II* Listed Building that has part of its landscaped garden surviving but the re-alignment of the drive altered much of this. The Hall has a woodland setting although the topography of the surrounding land is undulating resulting in the Hall and associated gardens nestling into the landscape such that the ground and first floor views from the building are predominantly to the east and towards Dalston. The views from the fifteenth and sixteenth century towers are naturally more extensive although those towards the River Caldew are obscured by the existing trees and topography. When viewing the property there is an overriding sense that the contribution made by the setting has changed over the years from its origins as a fortified house, with the consequent need to view all surroundings, to the work carried out in the nineteenth century with the aspect of the landscaped garden achieving a greater significance.

b) the effect of the proposed development on the setting of Dalston Hall Hotel including landscape

6.24 Dalston Hall Hotel has an extant Full Planning Permission and Listed Building Consent for a first floor extension and ground floor conversion to form eight rooms in the east wing and the erection of a two storey lodge to the south of

the site (planning references 13/0400 and 13/0401 respectively). Although these permissions have not been implemented they are material planning consideration when determining this application. Ground works are currently ongoing in respect of a marquee to the south of Dalston Hall Hotel (application reference 14/0101).

- 6.25 As has already been explained, English Heritage has produced a document entitled 'The Setting of Heritage Assets' (TSHA) which, although out-of-date, they still believe includes useful advice and case studies.
- 6.26 The TSHA document provides a definition of the setting of a heritage asset as *"the surroundings in which [the 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"*.
- 6.27 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 132). However, in paragraph 134, 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.
- 6.28 Planning Practice Guidance (March, 2014) explains that when assessing any application for development which may affect the setting of a heritage asset, authorities may also need to consider the fact that developments which materially detract the asset's significance may also damage its economic viability now, or in the future, thereby threatening its ongoing conservation. In relation to assessing harm the Guidance confirms that such a judgement is for the decision taker having regard to the circumstances of the case and the policy in the NPPF. In general terms it is the degree of harm to the asset's significance rather than the scale of the development that needs to be assessed. The harm may arise from works to the asset or from development within its setting.
- 6.29 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 Dalston Hall Hotel and its setting 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).
- 6.30 When considering the immediate setting of Dalston Hall Hotel, the topography of the surrounding area is such that the property is located at a lower level than that of the application site. The agent acting on behalf of the proprietor of Dalston Hall Hotel has identified that, in particular, any assessment needs to include: the eastern end of the car park; within the proposed extension to the caravan park looking back towards the Hall itself; within the Hall; the planned extensions approved under applications 13/0400;

and from the roof of the Tower. During a site visit on the 2nd May, the proprietor of the Hall Hotel explained that the issue related more to the larger fifteenth century tower (as opposed to the smaller sixteenth century tower); was not necessarily an issue from within the Hall even at first floor level; and related more to the views experienced by the public using the golf course.

- 6.31 When within the grounds of Dalston Hall itself (excluding the eastern end of the car park) there are no views of the caravan park due to the lower ground level, the existing boundary treatments and mature landscaping. From the eastern end of the car park, which also provides an alternative route to the approved marquee, there are views of the caravan park and the site of the proposed extension. The proposal will therefore cause some harm on this aspect as a result but this is not considered to be substantial. Nonetheless, the area in question is already the subject of some planting and this can be readily enhanced and extended such that it carries on along the western boundary up to an existing timber playhouse/shed to mitigate any adverse impact such that it would be very limited and short term.
- 6.32 Room 6 (the current honeymoon suite) of the Hotel has two secondary windows facing the direction of the caravan park and adjoins the staircase leading to the fifteenth century tower. It is considered that the proposal will not harm the views from room 6 because of the depth of the walls, the size and position of the windows and the existing planting. In the case of the works approved under 13/0400 and 13/0401 the approved plans show a first floor bedroom with a window facing the caravan park, however, the view from such will be obscured by the existing trees. Otherwise the elevation facing the caravan park is a blank gable end. In respect of the views from the fifteenth and sixteenth century towers and their associated battlements, access and viewing by the public is restricted not only physically but also because the proprietor insists on a member of staff being present. However, it needs to be acknowledged that the significance of such a heritage asset is not necessarily dependent upon their being an ability to experience the setting in question. From both towers, to varying degrees, there are direct views of the existing caravan park and the site of the proposed extension with particular regard to the fifteenth century tower. The current proposal does not affect the existing wood, nor the remaining views such as the landscaped garden and views towards Dalston. In the backdrop of the existing and already approved extension to the caravan park, the current proposal is limited. However it is also recognised that any impact (particularly through the linear nature of the layout) can be further minimised by the undertaking of additional planting between particular stances/pitches such as at 16, 14/15, 8/9, and 7/8. On this basis it is considered that the proposal will cause some harm but at a level that is considered to be short term and relatively modest.
- 6.33 In respect of the wider context of the setting of Dalston Hall Hotel, although sections of the caravan park are visible from the B5299 when travelling from Carlisle towards Dalston, Dalston Hall Hotel and its grounds together with the application site are screened by mature trees and hedgerows. Public Footpath 114018 follows the railway line located approximately 280 metres to the east of Dalston Hall; however, any views of Dalston Hall are again

restricted due to the topography of the land and existing landscaping. Views from the golf course and the caravan park are already constrained by existing planting and a 2.8 metre high brick wall although the matters discussed and conclusions reached in paragraphs 6.31 and 6.32 above are pertinent.

- 6.34 In summary, Dalston Hall is a Grade II* Listed Building that has a woodland setting although the topography of the surrounding land is undulating resulting in the property with its associated gardens nestling into the landscape. There is an overriding sense that the contribution made by the setting has changed over the years from its origins as a fortified house, with the consequent need to view all surroundings, to the work carried out in the nineteenth century with the aspect of the landscaped garden and the views towards Dalston latterly appearing to have a greater significance. However, the importance of its setting throughout the history of the building should be given equal significance. When considering the degree to which the proposed changes enhance or detract from that significance, and the ability to appreciate that asset, the current proposal does neither alter the wood nor affect the views of the landscaped garden and towards Dalston. In the case of the eastern end of the car park, the two towers and from the golf course/caravan park the proposal will cause some harm but at a level that is considered to be short term and relatively modest based on the undertaking of additional landscaping.
- 6.35 Having considered the impact of the proposal on Dalston Hall's immediate context and the area of countryside that can be seen from the building, it is also necessary to consider the landscape in which the building is set.
- 6.36 The site falls within Type 5a Ridge and Valley and is neighboured by Type 5b Low Farmland (Insert 1 of the "Cumbria Landscape Character Guidance and Toolkit" 2011) (CLCG). The Ridge and Valley sub type is characterised by a series of ridges and valleys that rises gently towards the limestone fringes of the Lakeland Fells. The key characteristics include well managed regular shaped medium to large pasture fields; hedge bound fields interspersed with native woodland, tree clumps and plantations; scattered farms and linear villages; and that large scale structures are generally scarce.
- 6.37 In consideration of the proposal, the application has been submitted against the current denuded backdrop of the existing golf course and caravans mitigated by the existing belts of mature landscaping. In such a context it is evident that the proposal will not be detached from the existing caravan park and the location is not considered to be highly visible. Furthermore, the scheme proposes the retention of existing landscaping together with additional planting which, if Members consider appropriate, can be enhanced by further landscaping works. Accordingly, it is considered that any impact can be satisfactorily mitigated and enhanced through additional landscaping (which can be undertaken to reflect the existing characteristics of the Ridge and Valley sub type) together with the imposition of relevant conditions regarding the external colour of all new caravans, and external lighting.
- 6.38 English Heritage do not wish to offer any comments; however, recommends that the application should be determined in accordance with national and

local policy guidance, and on the basis of the City Council's specialist conservation advice.

- 6.39 The City Council's Conservation Officer has commented that the application would *"have less than significant harm on the Hall but this should be given weight ...a greater number of units on the site could be acceptable subject to adequate landscaping ... "*.

4. Impact Of The Proposal On The Ancient Monument

- 6.40 The remains of Bishop's Dyke, a medieval earthwork, is located to the north of the application site which is a legally protected as Scheduled Monument. The Design and Access Statement, submitted as part of the application, acknowledges the presence of the Ancient Monument and outlines that the Ancient Monument would not be affected by the development. Cumbria County Council's Historic Environment Officer has been consulted and has not raised any objections to the proposal.

5. Method Of Disposal Of Foul Water

- 6.41 Policy CP12 of the Local Plan seeks to protect the quality of ground and surface waters against the risk of pollution from the inadequate provision of foul water drainage systems. The submitted drawings and documents submitted as part of the application outline that foul drainage would go to an existing package sewage treatment plant serving the caravan site.
- 6.42 The Environment Agency has been consulted and has confirmed that it has no objections to the proposal as the relevant discharge licence has been obtained by the applicant. Furthermore, the Agency are satisfied that based on the current occupancy rates the existing treatment plant has sufficient treatment capacity to remain within discharge limits. Accordingly, the proposed method for the disposal of foul drainage is considered acceptable.

6. Impact Of The Proposal On Highway Safety

- 6.43 It is inevitable that there would be some increase in traffic to the caravan park as a result of the proposal. Based on the scale of the proposal, Cumbria County Council, as Highways Authority, has not raised any objections to the proposal. Accordingly, it is considered that the application would not have such an impact on highway safety as to warrant a refusal of permission.

7. Benefits Of The Application

- 6.44 The submitted application form identifies that the site currently provides employment to four full time workers and a single part-time worker. The comments from interested parties have also highlighted the wider benefits to the local community in having such a facility.

8. Other Matters

- 6.45 Objections had been raised by the occupier of a neighbouring property as to the poor condition of the access track serving both Dalston Hall Caravan Park and Dalston Hall. Although a civil matter, the applicant has subsequently confirmed that the access driveway has been repaired at his expense.

Conclusion

- 6.46 In overall terms, the principle of development is considered to be acceptable. It is considered that the proposal will not have a detrimental impact on the Bishop's Dyke Ancient Monument; and not lead to any demonstrable harm to the living conditions of the occupiers of any neighbouring properties, nor have a detrimental impact on highway safety. The proposed method for the disposal of foul water is acceptable.
- 6.47 When considering the impact of the proposal on Dalston Hall it is appreciated that it is a Grade II* Listed Building within an undulating woodland setting resulting in the property with its associated gardens nestling into the landscape. There is an overriding sense that the contribution made by the setting has changed over the years from its origins as a fortified house, with the consequent need to view all surroundings, to the work carried out in the nineteenth century with the aspect of the landscaped garden and the views towards Dalston latterly appearing now to have a greater significance. However, the importance of its setting throughout the history of the building should be given equal significance. When considering the degree to which the proposed changes enhance or detract from that significance, and the ability to appreciate that asset, the current proposal does neither alter the wood nor affect the views of the landscaped garden and towards Dalston. In the case of the eastern end of the car park, the two towers and from the golf course the proposal will cause some harm but at a level that is considered to be short term and relatively modest based on the undertaking of additional landscaping. Additionally, it is considered that any impact on the landscape character can be satisfactorily mitigated and enhanced through additional landscaping (which can be undertaken to reflect the existing characteristics of the Ridge and Valley sub type) together with the imposition of relevant conditions regarding the external colour of all new caravans, and external lighting.
- 6.48 It is recognised and understood that under Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 considerable importance and weight still needs to be given to the desirability of preserving Dalston Hall Hotel and its setting even if the harm is found to be less than substantial. On balance, and having attributed special weight to the desirability of preserving the setting of Dalston Hall, the recommendation is for approval subject to the imposition of relevant conditions.

7. Planning History

- 7.1 The site and adjacent fields have a long and varied history through its use as

a caravan site and golf course.

- 7.2 In 2013, under application numbers 13/0440 and 13/0401, planning permission and Listed Building Consent were renewed for a first floor extension and ground floor conversion to form 8 rooms in the east wing and erection of a two storey lodge comprising 12 rooms at Dalston Hall.
- 7.3 Dalston Hall is also the subject of a current application, reference number 14/0101, for the erection of a marquee.

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 approved documents for this Planning Permission comprise:

1. the submitted planning application form received 18th February 2014;
2. the Design and Access Statement received 18th February 2014;
3. the Tree Survey received 27th February 2014;
4. the site and block plan (drg. no. GP.3);
5. the Notice of Decision; and
6. any such variation as may subsequently be approved in writing by the Local Planning Authority.

Reason: To define the permission.

3. The static caravans shall only be occupied between the 1st March and the 31st January the following year.

Reason: To ensure that the approved caravans are not used for unauthorised permanent residential occupation in accordance with the objectives of Policy EC15 of the Carlisle District Local Plan 2001-2016.

4. The static caravans shall be used solely for holiday use and shall not be occupied as permanent accommodation.

Reason: To ensure that the approved caravans are not used for unauthorised permanent residential occupation in accordance with the objectives of Policy EC15 of the Carlisle District Local Plan 2001-2016.

5. The static caravans which occupy the stances hereby approved shall be finished in Acadia Green or Cedar Brown and remain so unless agreed in

writing by the Local Planning Authority.

Reason: To safeguard the landscape character of the area in accordance with Policy CP1 of the Carlisle District Local Plan 2001-2016.

6. No caravan shall be occupied until the foul drainage system for each caravans occupying the stances hereby approved is connected to the package sewage treatment plant as indicated on Drawing Number GP.3.

Reason: To ensure that adequate foul drainage facilities are available in accordance with Policy CP12 of the Carlisle District Local Plan 2001-2016.

7. Notwithstanding any description of landscaping details in the application trees and shrubs shall be planted in accordance with a scheme to be agreed with the Local Planning Authority before work commences. The scheme shall include the use of native species and shall include particulars of the proposed heights and planting densities and shall be retained and maintained thereafter.

Reason: To ensure that a satisfactory landscaping scheme in prepared in accordance with Policy CP5 of the Carlisle District Local Plan 2001-2016.

8. 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 site or the completion of the development, whichever is the sooner, and maintained thereafter; and any trees or plants which 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 CP5 of the Carlisle District Local Plan 2001-2016.

9. 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.

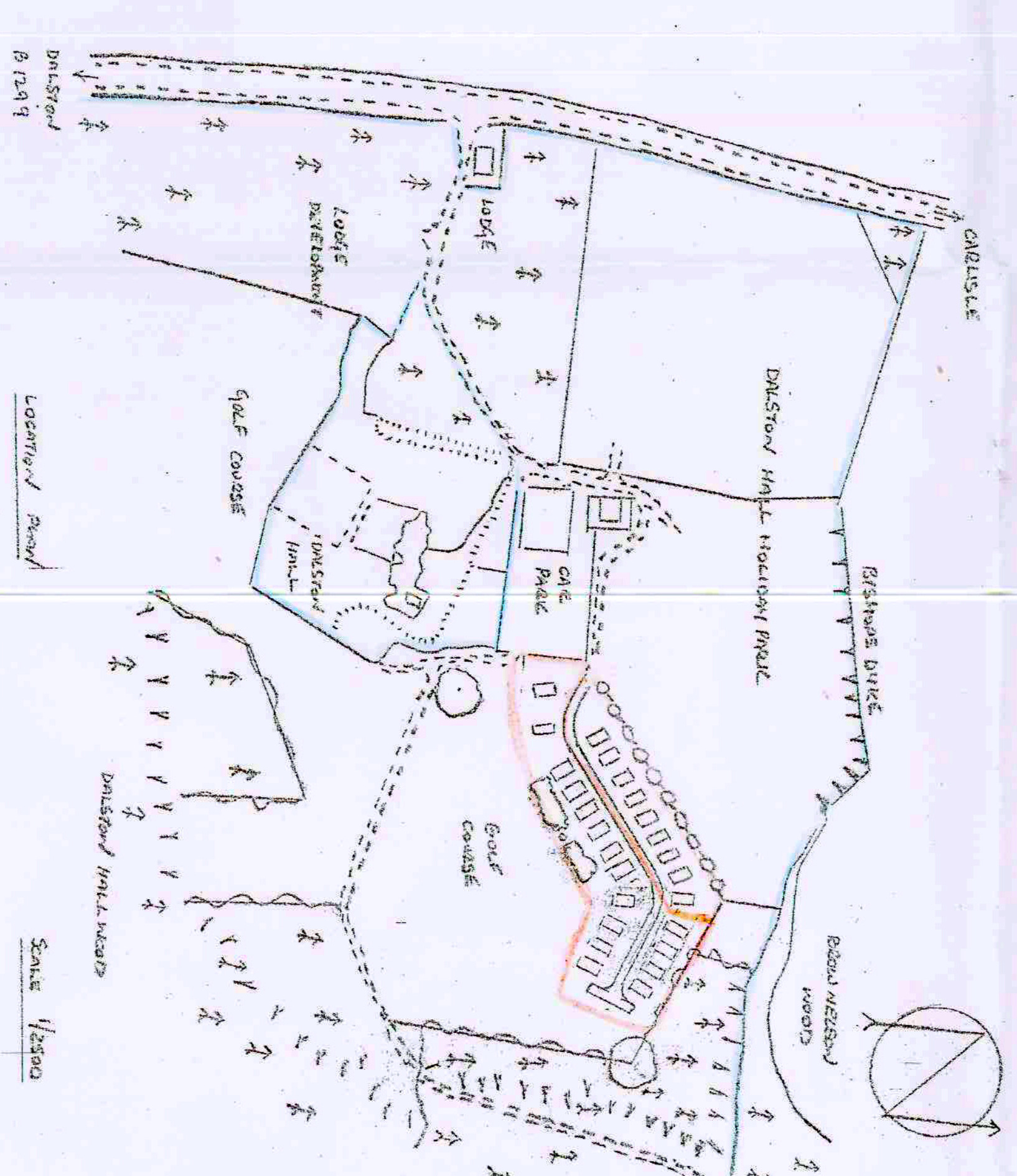
Reason: In order to ensure that adequate protection is afforded to all trees/hedges to be retained on site in support of Policies CP3 and CP5 of the Carlisle District Local Plan 2001-2016.

10. Prior to installation details of any proposed means of external lighting to serve the extension to the existing caravan park hereby permitted shall be submitted to and approved in writing beforehand by the Local Planning Authority.

Reason: To safeguard the character of the area.



- EXISTING TOWNPLANNING PLAN - VOLUME B10/F12K VES 12
- 101 REFUSE BINS
- FIRE POINTS - 3 OFF
- LOW LEVEL LIGHTING - 3 OFF
- DISPOSED TREES OF VETTERED BOUNDARY TO BE REMOVED ONCE.
- EXISTING SHEDS - 9 OFF PLANNING PERMISSION NO 11/0176 GRANTED 31.03.11
- PROPOSED NEW MODULAR SHEDS - 16 OFF
- OCCUPIED FROM 1960S TO 1970S FOLLOWING WARE
- EXIST WITH OFF ROAD ONE WAREHOUSE
- BRIE DETAILS - CONCRETE ROOF - 150mm INSULATED BRICK WALLS CONSTRUCTED AND TYPED WITH 150mm CONCRETE MIX (95.5328 PT 102.194) WITH STEEL REINFORCEMENT AND 200mm x 600mm EDGE AND CORNER THICKENING BRICKS, CONNECTED TO MAINS ELECTRICITY, WATER AND SEWERS.
- SEWERAGE CONNECTED TO EXISTING TOWNPLANNING PLAN.
- ROADS - 5m WIDE - 150 YRS OLD AND TYPED WITH BRICK COTY TYPED.
- EXIST. PAVING - OFF ROAD ONE TYPED TO EXIST. PAVING - 150mm x 600mm TYPED WITH CURBS.
- PROPOSED LANDSCAPING AND TREE PLANTING, SCHEME.
- NO TYPED TREES REMOVED FOR NEW TREE PLANTING PROPOSED AT NO TREES ARE TO BE REMOVED OFF PAVING AND TYPED TREES.
- SOUTH EAST AND SOUTH WEST FIELDS BOUNDARIES: SOUTH FINE, DASHES FINE, WOOD AND STONE
- BANDS ARE TYPED AT 10m WIDE, THEY ARE SELECTED SHEDS SIDE PAVING, BEING 10-12cm in GUTTER AND 300-350cm in HEIGHT, SEPARATED WITH A SINGLE STONE AND TYPED WITH A RUBBLE BLOCK AT 90cm UP THE STONE. ROAD TO ONLY NEW PLANNING ALL AREAS TO BE SPANNED OFF TO PREVENT CONSTRUCTION TO NEW PLANNING.
- EXISTING TREES - WHITE SOFTWOOD TREES, SCOTTS PINE, DOUGLAS FINE, WILLOW, SPRUCE.



This drawing is the property of Ground Beams Limited & may not be used for any purpose or shown to any third party without their permission.

It is essential that all detail sockets are prepared to the dimensions shown on this drawing.

Proposal		Client		Drawn		dtg no		Ground Beams Limited	
CHANGING OF USE OF GOLF PRACTICE AREA TO PROVIDE EXTENSION TO EXISTING CARAVAN PARK		ETIM ENTERPRISES LTD		P. S. H		G. P. 3		Ripon, North Yorkshire.	
TO FORM 16 ADDITIONAL SITES FOR HOLIDAY USE.		LYNWOOD LODGE, DALSTON HALL		Date					
		DALSTON, CHELSEA, S.W. 15		Enquiry					
				Scale		1/500			



Neutral Citation Number: [2014] EWCA Civ 137

Case No: C1/2013/0843

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT
THE HON. MRS JUSTICE LANG
CO/4231/2012

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 18/02/2014

Before:

LORD JUSTICE MAURICE KAY
VICE PRESIDENT OF THE COURT OF APPEAL, CIVIL DIVISION
LORD JUSTICE SULLIVAN
and
LADY JUSTICE RAFFERTY

Between:

BARNWELL MANOR WIND ENERGY LIMITED	<u>Appellant</u>
- and -	
(1) EAST NORTHAMPTONSHIRE DISTRICT COUNCIL	<u>Respondents</u>
(2) ENGLISH HERITAGE	
(3) NATIONAL TRUST	
(4) THE SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT	

Gordon Nardell QC and Justine Thornton (instructed by **Eversheds LLP**) for the **Appellant**
Morag Ellis QC and Robin Green (instructed by **Sharpe Pritchard**) for the **First, Second and Third Respondents**

The Fourth Respondent did not appear and was not represented

Hearing date: 23rd January 2014

Approved Judgment

Lord Justice Sullivan:

Introduction

1. This is an appeal against the order dated 11th March 2013 of Lang J quashing the decision dated 12th March 2012 of a Planning Inspector appointed by the Secretary of State granting planning permission for a four-turbine wind farm on land north of Catshead Woods, Sudborough, Northamptonshire. The background to the appeal is set out in Lang J’s judgment: [2013] EWHC 473 (Admin).

Section 66

2. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the Listed Buildings Act”) imposes a “General duty as respects listed buildings in exercise of planning functions.” Subsection (1) provides:

“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.”

Planning Policy

3. When the permission was granted the Government’s planning policies on the conservation of the historic environment were contained in Planning Policy Statement 5 (PPS5). In PPS5 those parts of the historic environment that have significance because of their historic, archaeological, architectural or artistic interest are called heritage assets. Listed buildings, Scheduled Ancient Monuments and Registered Parks and Gardens are called “designated heritage assets.” Guidance to help practitioners implement the policies in PPS5 was contained in “PPS5 Planning for the Historic Environment: Historic Environment Planning Practice Guide” (“the Practice Guide”). For present purposes, Policies HE9 and HE10 in PPS5 are of particular relevance. Policy HE9.1 advised that:

“There should be a presumption in favour of the conservation of designated heritage assets and the more significant the designated heritage asset, the greater the presumption in favour of its conservation should be.... Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, including scheduled monumentsgrade I and II* listed buildings and grade I and II* registered parks and gardens....should be wholly exceptional.”

Policy HE9.4 advised that:

“Where a proposal has a harmful impact on the significance of a designated heritage asset which is less than substantial harm, in all cases local planning authorities should:

- (i) weigh the public benefit of the proposal (for example, that it helps to secure the optimum viable use of the heritage asset in the interests of its long-term conservation) against the harm; and
- (ii) recognise that the greater the harm to the significance of the heritage asset the greater the justification will be needed for any loss.”

Policy HE10.1 advised decision-makers that when considering applications for development that do not preserve those elements of the setting of a heritage asset, they:

“should weigh any such harm against the wider benefits of the application. The greater the negative impact on the significance of the heritage asset, the greater the benefits that will be needed to justify approval.”

The Inspector’s decision

- 4. The Inspector concluded that the wind farm would fall within and affect the setting of a wide range of heritage assets [22]¹. For the purposes of this appeal the parties’ submissions largely focussed on one of the most significant of those assets: a site owned by the National Trust, Lyveden New Bield. Lyveden New Bield is covered by a range of heritage designations: Grade I listed building, inclusion in the Register of Parks and Gardens of Special Historic Interest at Grade I, and Scheduled Ancient Monument [44].
- 5. It was common ground between the parties at the inquiry that the group of designated heritage assets at Lyveden New Bield was probably the finest surviving example of an Elizabethan Garden, and that as a group the heritage asset at Lyveden New Bield had a cultural value of national, if not international significance. The Inspector agreed, and found that:

“...this group of designated heritage assets has archaeological, architectural, artistic and historic significance of the highest magnitude.” [45]

- 6. The closest turbine in the wind farm site (following the deletion of one turbine) to Lyveden New Bield was around 1.3 km from the boundary of the Registered Park and 1.7 km from the New Bield itself. The Inspector found that:

“The wind turbines proposed would be visible from all around the site, to varying degrees, because of the presence of trees. Their visible presence would have a clear influence on the surroundings in which the heritage assets are experienced and

¹ [] refers to paragraph numbers in the Inspector’s decision.

as such they would fall within, and affect, the setting of the group.” [46]

This conclusion led the Inspector to identify the central question, as follows:

“Bearing in mind PPS5 Policy HE7, the central question is the extent to which that visible presence would affect the significance of the heritage assets concerned.” [46]

7. The Inspector answered that question in relation to Lyveden New Bield in paragraphs 47-51 of his decision letter.

“47. While records of Sir Thomas Tresham’s intentions for the site are relatively, and unusually, copious, it is not altogether clear to what extent the gardens and the garden lodge were completed and whether the designer considered views out of the garden to be of any particular significance. As a consequence, notwithstanding planting programmes that the National Trust have undertaken in recent times, the experience of Lyveden New Bield as a place, and as a planned landscape, with earthworks, moats and buildings within it, today, requires imagination and interpretation.

48. At the times of my visits, there were limited numbers of visitors and few vehicles entering and leaving the site. I can imagine that at busy times, the situation might be somewhat different but the relative absence of man-made features in views across and out of the gardens compartments, from the prospect mounds especially, and from within the garden lodge, give the place a sense of isolation that makes the use of one’s imagination to interpret Sir Thomas Tresham’s design intentions somewhat easier.

49. The visible, and sometimes moving, presence of the proposed wind turbine array would introduce a man-made feature, of significant scale, into the experience of the place. The array would act as a distraction that would make it more difficult to understand the place, and the intentions underpinning its design. That would cause harm to the setting of the group of designated heritage assets within it.

50. However, while the array would be readily visible as a backdrop to the garden lodge in some directional views, from the garden lodge itself in views towards it, and from the prospect mounds, from within the moated orchard, and various other places around the site, at a separation distance of between 1 and 2 kilometres, the turbines would not be so close, or fill the field of view to the extent, that they would dominate the

outlook from the site. Moreover, the turbine array would not intrude on any obviously intended, planned view out of the garden, or from the garden lodge (which has windows all around its cruciform perimeter). Any reasonable observer would know that the turbine array was a modern addition to the landscape, separate from the planned historic landscape, or building they were within, or considering, or interpreting.

51. On that basis, the presence of the wind turbine array would not be so distracting that it would prevent or make unduly difficult, an understanding, appreciation or interpretation of the significance of the elements that make up Lyveden New Bield and Lyveden Old Bield, or their relationship to each other. As a consequence, the effect on the setting of these designated heritage assets, while clearly detrimental, would not reach the level of substantial harm.”

8. The Inspector carried out “The Balancing Exercise” in paragraphs 85 and 86 of his decision letter.

“85. The proposal would harm the setting of a number of designated heritage assets. However, the harm would in all cases be less than substantial and reduced by its temporary nature and reversibility. The proposal would also cause harm to the landscape but this would be ameliorated by a number of factors. Read in isolation though, all this means that the proposal would fail to accord with [conservation policies in the East Midlands Regional Plan (EMRP)]. On the other hand, having regard to advice in PPS22, the benefits that would accrue from the wind farm in the 25 year period of its operation attract significant weight in favour of the proposal. The 10 MW that it could provide would contribute towards the 2020 regional target for renewable energy, as required by EMRP Policy 40 and Appendix 5, and the wider UK national requirement.

86. PPS5 Policies HE9.4 and HE10.1 require the identified harm to the setting of designated heritage assets to be balanced against the benefits that the proposal would provide. Application of the development plan as a whole would also require that harm, and the harm to the landscape, to be weighed against the benefits. Key principle (i) of PPS22 says that renewable energy developments should be capable of being accommodated throughout England in locations where the technology is viable and environmental, economic, and social impacts can be addressed satisfactorily. I take that as a clear expression that the threshold of acceptability for a proposal like

the one at issue in this appeal is not such that all harm must be avoided. In my view, the significant benefits of the proposal in terms of the energy it would produce from a renewable source outweigh the less than substantial harm it would cause to the setting of designated heritage assets and the wider landscape.”

Lang J’s Judgment

9. Before Lang J the First, Second and Third Respondents (“the Respondents”) challenged the Inspector’s decision on three grounds. In summary, they submitted that the Inspector had failed to:

- (1) have special regard to the desirability of preserving the settings of listed buildings, including Lyveden New Bield;
- (2) correctly interpret and apply the policies in PPS5; and
- (3) give adequate reasons for his decision.

The Secretary of State, the Fourth Respondent, had conceded prior to the hearing that the Inspector’s decision should be quashed on ground (3), and took no part in the proceedings before Lang J and in this Court.

10. Lang J concluded that all three grounds of challenge were made out. [72]² In respect of ground (1) she concluded that:

“In order to give effect to the statutory duty under section 66(1), a decision-maker should accord considerable importance and weight to the “desirability of preserving... the setting” of listed buildings when weighing this factor in the balance with other ‘material considerations’ which have not been given this special statutory status. Thus, where the section 66(1) duty is in play, it is necessary to qualify Lord Hoffmann’s statement in *Tesco Stores v Secretary of State for the Environment & Ors* [1995] 1 WLR 759, at 780F-H that the weight to be given to a material consideration was a question of planning judgment for the planning authority” [39]

Applying that interpretation of section 66(1) she concluded that:

“....the Inspector did not at any stage in the balancing exercise accord “special weight”, or considerable importance to “the desirability of preserving the setting”. He treated the “harm” to the setting and the wider benefit of the wind farm proposal as if those two factors were of equal importance. Indeed, he downplayed “the desirability of preserving the setting” by

² [] refers to paragraph numbers in the judgment.

adopting key principle (i) of PPS22, as a “clear indication that the threshold of acceptability for a proposal like the one at issue in this appeal is not such that all harm must be avoided” (paragraph 86). In so doing, he applied the policy without giving effect to the section 66(1) duty, which applies to all listed buildings, whether the “harm” has been assessed as substantial or less than substantial.” [46]

11. In respect of ground (2) Lang J concluded that the policy guidance in PPS5 and the Practice Guide required the Inspector to assess the contribution that the setting made to the significance of the heritage assets, including Lyveden New Bield, and the effect of the proposed wind turbines on both the significance of the heritage asset and the ability to appreciate that significance. Having analysed the Inspector’s decision, she found that the Inspector’s assessment had been too narrow. He had failed to assess the contribution that the setting of Lyveden New Bield made to its significance as a heritage asset and the extent to which the wind turbines would enhance or detract from that significance, and had wrongly limited his assessment to one factor: the ability of the public to understand the asset based on the ability of “the reasonable observer” to distinguish between the “modern addition” to the landscape and the “historic landscape.” [55] - [65]
12. In respect of ground (3) Lang J found that the question whether Sir Thomas Tresham intended that the views from the garden and the garden lodge should be of significance was a controversial and important issue at the inquiry which the Inspector should have resolved before proceeding to assess the level of harm.[68] However, the Inspector’s reasoning on this issue was unclear. Having said in paragraph 47 of his decision that it was “not altogether clear ...whether the designer considered views out of the garden to be of any significance”, he had concluded in paragraph 50 that “the turbine array would not intrude on any obviously intended, planned view out of the garden, or from the garden lodge (which has windows all around its cruciform perimeter).” It was not clear whether this was a conclusion that there were no planned views (as submitted by the Appellant) or a conclusion that there were such views but the turbine array would not intrude into them. [70] – [71].

The Grounds of Appeal

13. On behalf of the Appellant, Mr. Nardell QC challenged Lang J’s conclusions in respect of all three grounds. At the forefront of his appeal was the submission that Lang J had erred in concluding that section 66(1) required the Inspector, when carrying out the balancing exercise, to give “considerable weight” to the desirability of preserving the settings of the many listed buildings, including Lyveden New Bield. He submitted that section 66(1) did not require the decision-maker to give any particular weight to that factor. It required the decision-maker to ask the right question – would there be some harm to the setting of the listed building – and if the answer to that question was “yes” – to refuse planning permission unless that harm was outweighed by the advantages of the proposed development. When carrying out that balancing exercise the weight to be given to the harm to the setting of the listed

building on the one hand and the advantages of the proposal on the other was entirely a matter of planning judgment for the decision-maker.

14. Turning to the policy ground, he submitted that Lang J had erred by taking an over-rigid approach to PPS5 and the Practice Guide which were not intended to be prescriptive. Given the way in which those objecting to the proposed wind farm had put their case at the inquiry, the Inspector had been entitled to focus on the extent to which the presence of the turbines in views to and from the listed buildings, including Lyveden New Bield, would affect the ability of the public to appreciate the heritage assets.
15. In response to the reasons ground, he submitted that the question whether any significant view from the lodge or garden at Lyveden New Bield was planned or intended was a subsidiary, and not a “principal important controversial”, issue. In any event, he submitted that on a natural reading of paragraph 50 of the decision letter the Inspector had simply found that the turbines would not intrude into such significant views, if any, as were obviously planned or intended, so it had been unnecessary for him to resolve the issue that he had left open in paragraph 47 of the decision.

Discussion

Ground 1

16. What was Parliament’s intention in imposing both the section 66 duty and the parallel duty under section 72(1) of the Listed Buildings Act to pay “special attention to the desirability of preserving or enhancing the character or appearance” of conservation areas? It is common ground that, despite the slight difference in wording, the nature of the duty is the same under both enactments. It is also common ground that “preserving” in both enactments means doing no harm: see South Lakeland District Council v Secretary of State for the Environment [1992] 2 AC 141, per Lord Bridge at page 150.
17. Was it Parliament’s intention that the decision-maker should consider very carefully whether a proposed development would harm the setting of the listed building (or the character or appearance of the conservation area), and if the conclusion was that there would be some harm, then consider whether that harm was outweighed by the advantages of the proposal, giving that harm such weight as the decision-maker thought appropriate; or was it Parliament’s intention that when deciding whether the harm to the setting of the listed building was outweighed by the advantages of the proposal, the decision-maker should give particular weight to the desirability of avoiding such harm?
18. Lang J analysed the authorities in paragraphs [34] – [39] of her judgment. In chronological order they are: The Bath Society v Secretary of State for the Environment [1991] 1 WLR 1303; South Lakeland (see paragraph 16 above); Heatherington (UK) Ltd. v Secretary of State for the Environment (1995) 69 P & CR 374; and Tesco Stores Ltd. v Secretary of State for the Environment [1995] 1 WLR 759. Bath and South Lakeland were concerned with (what is now) the duty under

section 72. Heatherington is the only case in which the section 66 duty was considered. Tesco was not a section 66 or section 72 case, it was concerned with the duty to have regard to “other material considerations” under section 70(2) of the Town and Country Planning Act 1990 (“the Planning Act”).

19. When summarising his conclusions in Bath about the proper approach which should be adopted to an application for planning permission in a conservation area, Glidewell LJ distinguished between the general duty under (what is now) section 70(2) of the Planning Act, and the duty under (what is now) section 72(1) of the Listed Buildings Act. Within a conservation area the decision-maker has two statutory duties to perform, but the requirement in section 72(1) to pay “special attention” should be the first consideration for the decision-maker (p. 1318 F-H). Glidewell LJ continued:

“Since, however, it is a consideration to which special attention is to be paid as a matter of statutory duty, it must be regarded as having considerable importance and weight..... As I have said, the conclusion that the development will neither enhance nor preserve will be a consideration of considerable importance and weight. This does not necessarily mean that the application for permission must be refused, but it does in my view mean that the development should only be permitted if the decision-maker concludes that it carries some advantage or benefit which outweighs the failure to satisfy the section [72(1)] test and such detriment as may inevitably follow from that.”

20. In South Lakeland the issue was whether the concept of “preserving” in what is now section 72(1) meant “positively preserving” or merely doing no harm. The House of Lords concluded that the latter interpretation was correct, but at page 146E-G of his speech (with which the other members of the House agreed) Lord Bridge described the statutory intention in these terms:

“There is no dispute that the intention of section [72(1)] is that planning decisions in respect of development proposed to be carried out in a conservation area must give a high priority to the objective of preserving or enhancing the character or appearance of the area. If any proposed development would conflict with that objective, there will be a strong presumption against the grant of planning permission, though, no doubt, in exceptional cases the presumption may be overridden in favour of development which is desirable on the ground of some other public interest. But if a development would not conflict with that objective, the special attention required to be paid to that objective will no longer stand in its way and the development will be permitted or refused in the application of ordinary planning criteria.”

21. In Heatherington, the principal issue was the interrelationship between the duty imposed by section 66(1) and the newly imposed duty under section 54A of the Planning Act (since repealed and replaced by the duty under section 38(6) of the Planning and Compulsory Purchase Act 2004). However, Mr. David Keene QC (as he then was), when referring to the section 66(1) duty, applied Glidewell LJ's dicta in the Bath case (above), and said that the statutory objective "remains one to which considerable weight should be attached" (p. 383).
22. Mr. Nardell submitted, correctly, that the Inspector's error in the Bath case was that he had failed to carry out the necessary balancing exercise. In the present case the Inspector had expressly carried out the balancing exercise, and decided that the advantages of the proposed wind farm outweighed the less than substantial harm to the setting of the heritage assets. Mr. Nardell submitted that there was nothing in Glidewell LJ's judgment which supported the proposition that the Court could go behind the Inspector's conclusion. I accept that (subject to grounds 2 and 3, see paragraph 29 et seq below) the Inspector's assessment of the degree of harm to the setting of the listed building was a matter for his planning judgment, but I do not accept that he was then free to give that harm such weight as he chose when carrying out the balancing exercise. In my view, Glidewell LJ's judgment is authority for the proposition that a finding of harm to the setting of a listed building is a consideration to which the decision-maker must give "considerable importance and weight."
23. That conclusion is reinforced by the passage in the speech of Lord Bridge in South Lakeland to which I have referred (paragraph 20 above). It is true, as Mr. Nardell submits, that the ratio of that decision is that "preserve" means "do no harm". However, Lord Bridge's explanation of the statutory purpose is highly persuasive, and his observation that there will be a "strong presumption" against granting permission for development that would harm the character or appearance of a conservation area is consistent with Glidewell LJ's conclusion in Bath. There is a "strong presumption" against granting planning permission for development which would harm the character or appearance of a conservation area precisely because the desirability of preserving the character or appearance of the area is a consideration of "considerable importance and weight."
24. While I would accept Mr. Nardell's submission that Heatherington does not take the matter any further, it does not cast any doubt on the proposition that emerges from the Bath and South Lakeland cases: that Parliament in enacting section 66(1) did intend that the desirability of preserving the settings of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given "considerable importance and weight" when the decision-maker carries out the balancing exercise.
25. In support of his submission that, provided he asked the right question – was the harm to the settings of the listed buildings outweighed by the advantages of the proposed development – the Inspector was free to give what weight he chose to that harm, Mr. Nardell relied on the statement in the speech of Lord Hoffmann in Tesco that the

weight to be given to a material consideration is entirely a matter for the local planning authority (or in this case, the Inspector):

“If there is one principle of planning law more firmly settled than any other, it is that matters of planning judgment are within the exclusive province of the local planning authority or the Secretary of State.” (p.780H).

26. As a general proposition, the principle is not in doubt, but Tesco was concerned with the application of section 70(2) of the Planning Act. It was not a case under section 66(1) or 72(1) of the Listed Buildings Act. The proposition that decision-makers may be required by either statute or planning policy to give particular weight to certain material considerations was not disputed by Mr. Nardell. There are many examples of planning policies, both national and local, which require decision-makers when exercising their planning judgment to give particular weight to certain material considerations. No such policies were in issue in the Tesco case, but an example can be seen in this case. In paragraph 16 of his decision letter the Inspector referred to Planning Policy Statement 22 Renewable Energy (PPS22) which says that the wider environmental and economic benefits of all proposals for renewable energy, whatever their scale, are material considerations which should be given “significant weight”. In this case, the requirement to give “considerable importance and weight” to the policy objective of preserving the setting of listed buildings has been imposed by Parliament. Section 70(3) of the Planning Act provides that section 70(1), which confers the power to grant planning permission, has effect subject to, inter alia, sections 66 and 72 of the Listed Buildings Act. Section 70(2) requires the decision-maker to have regard to “material considerations” when granting planning permission, but Parliament has made the power to grant permission having regard to material considerations expressly subject to the section 66(1) duty.
27. Mr. Nardell also referred us to the decisions of Ouseley J and this Court in Garner v Elmbridge Borough Council [2011] EWCA Civ 891, but the issue in that case was whether the local planning authority had been entitled to conclude that no harm would be caused to the setting of another heritage asset of the highest significance, Hampton Court Palace. Such was the weight given to the desirability of preserving the setting of the Palace that it was common ground that it would not be acceptable to grant planning permission for a redevelopment scheme which would have harmed the setting of the Palace on the basis that such harm would be outweighed by some other planning advantage: see paragraph 14 of my judgment. Far from assisting Mr. Nardell’s case, Garner is an example of the practical application of the advice in policy HE9.1: that substantial harm to designated heritage assets of the highest significance should not merely be exceptional, but “wholly exceptional”.
28. It does not follow that if the harm to such heritage assets is found to be less than substantial, the balancing exercise referred to in policies HE9.4 and HE 10.1 should ignore the overarching statutory duty imposed by section 66(1), which properly understood (see Bath, South Somerset and Heatherington) requires considerable weight to be given by decision-makers to the desirability of preserving the setting of

all listed buildings, including Grade II listed buildings. That general duty applies with particular force if harm would be caused to the setting of a Grade I listed building, a designated heritage asset of the highest significance. If the harm to the setting of a Grade I listed building would be less than substantial that will plainly lessen the strength of the presumption against the grant of planning permission (so that a grant of permission would no longer have to be “wholly exceptional”), but it does not follow that the “strong presumption” against the grant of planning permission has been entirely removed.

29. For these reasons, I agree with Lang J’s conclusion that Parliament’s intention in enacting section 66(1) was that decision-makers should give “considerable importance and weight” to the desirability of preserving the setting of listed buildings when carrying out the balancing exercise. I also agree with her conclusion that the Inspector did not give considerable importance and weight to this factor when carrying out the balancing exercise in this decision. He appears to have treated the less than substantial harm to the setting of the listed buildings, including Lyveden New Bield, as a less than substantial objection to the grant of planning permission. The Appellant’s Skeleton Argument effectively conceded as much in contending that the weight to be given to this factor was, subject only to irrationality, entirely a matter for the Inspector’s planning judgment. In his oral submissions Mr. Nardell contended that the Inspector had given considerable weight to this factor, but he was unable to point to any particular passage in the decision letter which supported this contention, and there is a marked contrast between the “significant weight” which the Inspector expressly gave in paragraph 85 of the decision letter to the renewable energy considerations in favour of the proposal having regard to the policy advice in PPS22, and the manner in which he approached the section 66(1) duty. It is true that the Inspector set out the duty in paragraph 17 of the decision letter, but at no stage in the decision letter did he expressly acknowledge the need, if he found that there would be harm to the setting of the many listed buildings, to give considerable weight to the desirability of preserving the setting of those buildings. This is a fatal flaw in the decision even if grounds 2 and 3 are not made out.

Ground 2

30. Grounds 2 and 3 are interlinked. The Respondents contend that the Inspector either misapplied the relevant policy guidance, or if he correctly applied it, failed to give adequate reasons for his conclusion that the harm to the setting of the listed buildings, including Lyveden New Bield, would in all cases be less than substantial. I begin with the policy challenge in ground 2. Lang J set out the policy guidance relating to setting in PPS5 and the Practice Guide in paragraphs 62-64 of her judgment. The contribution made by the setting of Lyveden New Bield to its significance as a heritage asset was undoubtedly a “principal controversial” issue at the inquiry. In paragraph 4.5.1 of his Proof of Evidence on behalf of the Local Planning Authority Mr. Mills, its Senior Conservation Officer, said:

“To make an assessment of the indirect impact of development or change upon an asset it is first necessary to make a judgment about the contribution made by its setting.”

Having carried out a detailed assessment of that contribution he concluded in paragraph 4.5.17:

“In summary, what Tresham created at the site was a designed experience that was intimately linked to the surrounding landscape. The presence of the four prospect mounts along with the raised terrace provide a clear indication of the relationship of the site with the surrounding landscape.”

Only then did he assess the impact of the proposed development on the setting by way of “a discussion as to the impact of the proposal on how the site is accessed and experienced by visitors.”

31. In its written representations to the inquiry English Heritage said of the significance and setting of Lyveden New Bield:

“The aesthetic value of the Lyveden Heritage Assets partly derives from the extraordinary symbolism and quality of the New Bield and the theatrical design of the park and garden. However, it also derives from their visual association with each other and with their setting. The New Bield is a striking presence when viewed on the skyline from a distance. The New Bield and Lyveden park and garden are wonderfully complemented by their undeveloped setting of woodland, pasture and arable land.”

In paragraph 8.23 English Heritage said:

“The New Bield and Lyveden park and garden were designed to be prominent and admired in their rural setting, isolated from competing structures. The character and setting of the Lyveden Heritage Assets makes a crucial contribution to their significance individually and as a group.”

32. In its written representations to the inquiry the National Trust said that each arm of the cruciform New Bield “was intended to offer extensive views in *all directions* over the surrounding parks and the Tresham estate beyond” (paragraph 11). The National Trust’s evidence was that “one if not *the Principal designed view from* within the lodge was from the withdrawing rooms which linked to the important Great Chamber and Great Hall on the upper two levels of the west arm of the lodge” (paragraph 12). The Trust contended that this vista survived today, and was directly aligned with the proposed wind farm site (emphasis in both paragraphs as in the original).

33. In his proof of evidence, the planning witness for the Stop Barnwell Manor Wind Farm Group said that:
- “....the views of Lyveden New Bield from the east, south-east and south, both as an individual structure and as a group with its adjoining historic garden and listed cottage, are views of a very high order. The proposed turbines, by virtue of their monumental scale, modern mechanical appearance, and motion of the blades, would be wholly alien in this scene and would draw the eye away from the New Bield, destroying its dominating presence in the landscape.”
34. This evidence was disputed by the Appellant’s conservation witness, and the Appellant rightly contends that a section 288 appeal is not an opportunity to re-argue the planning merits. I have set out these extracts from the objectors’ evidence at the inquiry because they demonstrate that the objectors were contending that the undeveloped setting of Lyveden New Bield made a crucial contribution to its significance as a heritage asset; that the New Bield (the lodge) had been designed to be a striking and dominant presence when viewed in its rural setting; and that the lodge had been designed so as to afford extensive views in all directions over that rural setting. Did the Inspector resolve these issues in his decision, and if so, how?
35. I endorse Lang J’s conclusion that the Inspector did not assess the contribution made by the setting of Lyveden New Bield, by virtue of its being undeveloped, to the significance of Lyveden New Bield as a heritage asset. The Inspector did not grapple with (or if he did consider it, gave no reasons for rejecting) the objectors’ case that the setting of Lyveden New Bield was of crucial importance to its significance as a heritage asset because Lyveden New Bield was designed to have a dominating presence in the surrounding rural landscape, and to afford extensive views in all directions over that landscape; and that these qualities would be seriously harmed by the visual impact of a modern man-made feature of significant scale in that setting.
36. The Inspector’s reason for concluding in paragraph 51 of the decision that the presence of the wind turbine array, while clearly having a detrimental effect on the setting of Lyveden New Bield, would not reach the level of substantial harm, was that it would not be so distracting that it would not prevent, or make unduly difficult, an understanding, appreciation or interpretation of the significance of the elements that make up Lyveden New Bield or Lyveden Old Bield or their relationship to each other.
37. That is, at best, only a partial answer to the objectors’ case. As the Practice Guide makes clear, the ability of the public to appreciate a heritage asset is one, but by no means the only, factor to be considered when assessing the contribution that setting makes to the significance of a heritage asset. The contribution that setting makes does not depend on there being an ability to access or experience the setting: see in particular paragraphs 117 and 122 of the Practice Guide, cited in paragraph 64 of Lang J’s judgment.

Ground 3

38. The Inspector said that his conclusion in paragraph 51 of the decision letter that the presence of the wind turbine array would not be so distracting that it would prevent or make unduly difficult, an understanding, appreciation or interpretation of the significance of the elements that make up Lyveden New Bield had been reached on the basis of his conclusions in paragraph 50. In that paragraph, having said that the wind turbine array “would be readily visible as a backdrop to the garden lodge in some directional views, from the garden lodge itself in views towards it, and from the prospect mounds, from within the orchard, and various other places around the site, at a separation distance of between 1 and 2 kilometres”, the Inspector gave three reasons which formed the basis of his conclusion in paragraph 51.
39. Those three reasons were:
- (a) The turbines would not be so close, or fill the field of view to the extent, that they would dominate the outlook from the site.
 - (b) The turbine array would not intrude on any obviously intended, planned view out of the garden or the garden lodge (which has windows all around its cruciform perimeter).
 - (c) Any reasonable observer would know that the turbine array was a modern addition to the landscape, separate from the planned historic landscape, or building they were within, or considering, or interpreting.
40. Taking those reasons in turn, reason (a) does not engage with the objectors’ contention that the setting of Lyveden New Bield made a crucial contribution to its significance as a heritage asset because Lyveden New Bield was designed to be the dominant feature in the surrounding rural landscape. A finding that the “readily visible” turbine array would not dominate the outlook from the site puts the boot on the wrong foot. If this aspect of the objectors’ case was not rejected (and there is no reasoned conclusion to that effect) the question was not whether the turbine array would dominate the outlook from Lyveden New Bield, but whether Lyveden New Bield would continue to be dominant within its rural setting.
41. Mr. Nardell’s submission to this Court was not that the Inspector had found that there were no planned views (cf. the submission recorded in paragraph 70 of Lang J’s judgment), but that the Inspector had concluded that the turbine array would not intrude into obviously intended or planned views if any. That submission is difficult to understand given the Inspector’s conclusion that the turbine array would be “readily visible” from the garden lodge, from the prospect mounds, and from various other places around the site. Unless the Inspector had concluded that there were no intended or planned views from the garden or the garden lodge, and he did not reach that conclusion (see paragraph 47 of the decision letter), it is difficult to see how he could have reached the conclusion that the “readily visible” turbine array would not “intrude” on any obviously intended or planned views from the garden lodge. I am inclined to agree with Mr. Nardell’s alternative submission that the Inspector’s conclusion that while “readily visible” from the garden lodge, the turbine array would not “intrude” on any obviously intended or planned view from it, is best understood

by reference to his third conclusion in paragraph 50. While visible in views from the garden lodge the turbine array would not intrude upon, in the sense of doing substantial harm to, those views, for the reasons given in the last sentence of paragraph 50.

42. I confess that, notwithstanding Mr. Nardell's assistance, I found some difficulty, not in understanding the final sentence of paragraph 50 – plainly any reasonable observer would know that the turbine array was a modern addition to the landscape and was separate from the planned historic landscape at Lyveden New Bield – but in understanding how it could rationally justify the conclusion that the detrimental effect of the turbine array on the setting of Lyveden New Bield would not reach the level of substantial harm. The Inspector's application of the "reasonable observer" test was not confined to the effect of the turbine array on the setting of Lyveden New Bield. As Lang J pointed out in paragraph 57 of her judgment, in other paragraphs of his decision letter the Inspector emphasised one particular factor, namely the ability of members of the public to understand and distinguish between a modern wind turbine array and a heritage asset, as his reason for concluding either that the proposed wind turbines would have no impact on the settings of other heritage assets of national significance [28] – [31]; or a harmful impact that was "much less than substantial" on the setting of a Grade 1 listed church in a conservation area [36].
43. Matters of planning judgment are, of course, for the Inspector. No one would quarrel with his conclusion that "any reasonable observer" would understand the differing functions of a wind turbine and a church and a country house or a settlement [30]; would not be confused about the origins or purpose of a settlement and a church and a wind turbine array [36]; and would know that a wind turbine array was a modern addition to the landscape [50]; but no matter how non-prescriptive the approach to the policy guidance in PPS5 and the Practice Guide, that guidance nowhere suggests that the question whether the harm to the setting of a designated heritage asset is substantial can be answered simply by applying the "reasonable observer" test adopted by the Inspector in this decision.
44. If that test was to be the principal basis for deciding whether harm to the setting of a designated heritage asset was substantial, it is difficult to envisage any circumstances, other than those cases where the proposed turbine array would be in the immediate vicinity of the heritage asset, in which it could be said that any harm to the setting of a heritage asset would be substantial: the reasonable observer would always be able to understand the differing functions of the heritage asset and the turbine array, and would always know that the latter was a modern addition to the landscape. Indeed, applying the Inspector's approach, the more obviously modern, large scale and functional the imposition on the landscape forming part of the setting of a heritage asset, the less harm there would be to that setting because the "reasonable observer" would be less likely to be confused about the origins and purpose of the new and the old. If the "reasonable observer" test was the decisive factor in the Inspector's reasoning, as it appears to have been, he was not properly applying the policy approach set out in PPS5 and the Practice Guide. If it was not the decisive factor in the Inspector's reasoning, then he did not give adequate reasons for his conclusion

that the harm to the setting of Lyveden New Bield would not be substantial. Since his conclusion that the harm to the setting of the designated heritage assets would in all cases be less than substantial was fed into the balancing exercise in paragraphs 85 and 86, the decision letter would have been fatally flawed on grounds 2 and 3 even if the Inspector had given proper effect to the section 66(1) duty.

Conclusion

45. For the reasons set out above, which largely echo those given by Lang J in her judgment, I would dismiss this appeal.

Lady Justice Rafferty:

46. I agree.

The Vice President:

47. I also agree.



Department for Communities and Local Government

Jim Hartley
1 Melmount Park
Strabane
County Tyrone
BT82 9SU

Our Ref: APP/G0908/A/13/2191503
Your ref: Lane Head Farm

16 April 2014

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, J P Watson BSc MICE FCIHT MCMI, who undertook a site visit on 10 September 2013 as part of his consideration of your client's appeal under Section 78 of the Town and Country Planning Act 1990 against the decision of Allerdale Borough Council ("the Council") to refuse planning permission for the erection of a single turbine 61 metres to blade tip and associated metering units, dated 22 June 2012, in accordance with application ref: 2/2012/0498.
2. The appeal was recovered for the Secretary of State's determination on 11 October 2013, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, following the Secretary of State's announcement on 10 October 2013 of his intention to consider for recovery appeals for renewable energy developments to enable him to consider the extent to which the new practice guidance (referred to in paragraph 7 below) is meeting the Government's intentions.

Inspector's recommendation

3. The Inspector recommended that the appeal be allowed and planning permission granted, subject to conditions. For the reasons given below, the Secretary of State disagrees with the Inspector's conclusions and recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Matters following receipt of the IR by the Secretary of State

4. Following receipt of the IR, the Secretary of State wrote to the main parties on 5 March 2014 seeking their views on the implications, if any, of the judgment handed down by the Court of Appeal on 18 February 2014 in the case of *Barnwell Manor Wind Energy Limited v East Northamptonshire District Council, English Heritage, the National Trust and the Secretary of State for Communities and Local Government* ("the Barnwell Manor case") for his consideration of the impact of the

appeal scheme on the Grade 1 listed Church of All Saints, Boltongate. He then wrote again to the parties on 17 March 2014 seeking views on the planning guidance published on 6 March 2014. On 25 March 2014, the Secretary of State circulated the responses to these two letters, inviting final comments. He has carefully considered all these representations in his determination of this appeal. They are listed at Annex A to this letter, and copies may be obtained on written request to the address at the foot of the first page of this letter.

Policy Considerations

5. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan currently consists of the saved policies of the Allerdale Local Plan (LP), adopted in 1999; and the Secretary of State agrees with the Inspector (IR5) that the most relevant policy is LP Policy CO18.
6. In accordance with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ("section 66 of the LBA"), the Secretary of State has paid special regard to the desirability of preserving listed structures or their settings or any features of special architectural or historic interest which they may possess.
7. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ("the Framework" – March 2012) and the associated planning guidance (March 2014); the National Policy Statement (NPS) for Renewable Energy Infrastructure (EN-3); the Overarching NPS for Energy (EN-1); and the Written Ministerial Statements on 'Local Planning and onshore wind' (DCLG) and 'Onshore wind' (DECC).
8. In December 2013, Renewable UK published new research and a proposed planning condition covering the regulation of Other Amplitude Modulation, with accompanying guidance notes. However, this has not yet been reflected in an update to the current good practice guidance that accompanies ETSU-R-97 and, as it has not been endorsed by Government, the Secretary of State gives it very little weight and has not considered it necessary to seek the views of parties on it.

Main issues

9. The Secretary of State agrees with the Inspector that the main considerations are those set out at IR8.

The setting of the Church of All Saints, Boltongate

10. The Secretary of State has carefully considered the Inspector's assessment of the potential impact of the appeal scheme on the setting of the Church of All Saints, Boltongate (IR9-22) in the context of the terms of section 66 of the LBA and the Barnwell Manor case, and having regard to the comments received from parties in response to his letter of 5 March (see paragraph 4 above). He has had particular regard to the Inspector's appraisal of the extent to which the appeal proposal would alter the setting of the church (IR19) and acknowledges that the Inspector concludes that such change would be no more than modest (IR20). However, he also notes the Inspector's conclusion that LP policy CO18(ii) would not be engaged

because the appeal development would not be sympathetic to the church in scale, character, materials or detailing, and has gone on to consider his own statutory duty in respect of section 66 of the LBA.

11. Having regard to the judgment in the Barnwell Manor case, the Secretary of State takes the view that it does not follow that if the harm to heritage assets is found to be less than substantial, then the subsequent balancing exercise undertaken by the decision taker should ignore the overarching statutory duty imposed by section 66(1). He therefore sees a need to give considerable weight to the desirability of preserving the setting of all listed buildings. Accordingly, and also taking account of the fact that English Heritage maintain their objection to the appeal proposal on grounds of its adverse impact on the setting of the church, the Secretary of State gives substantial weight to his statutory duty to protect the setting of the Grade 1 listed building in the overall planning balance.

The effect on the character and appearance of the landscape

12. For the reasons given at IR23-35, the Secretary of State agrees with the Inspector at IR36(a) that the appeal turbine would be significantly harmful to the landscape at most locations within 2km, and that this would be contrary to LP Policy EN19 and to paragraph 17 of the Framework; and he gives significant weight to that. He also agrees with the Inspector (IR36(c) & (d)), that the harm to the landscape at distances greater than 2km would not be significant and that the scheme would have no significant effect on the landscape of the National Park. Like the Inspector, he attributes limited weight to the additional harm which would be caused to the character and appearance of the locally listed parkland at Quarry Hill (IR33, IR34 and IR36(b)); and he also agrees with the Inspector (IR36(e)) that no evidence of harmful cumulative visual effect has been cited to which weight ought to be given.

The effect on visual amenity at residential properties in the area

13. The Secretary of State has also carefully considered the effect of the appeal proposal on visual amenity as set out by the Inspector at IR37-48. He agrees with the Inspector (IR39) that it is not a function of the planning system to protect the view from an individual property for its own sake, but to avoid serious harm to living conditions which might otherwise lead to refusal of planning permission in the public interest. Consequently, he also agrees with the Inspector's conclusion at IR48 that there would be no property at which the appeal turbine would prevent the achievement of a good standard of residential amenity as required by paragraph 17 of the Framework.

Tourism

14. The Secretary of State agrees with the Inspector (IR52) that little weight should be attributed to the appeal scheme's potential effect on tourism.

Planning balance

15. The Secretary of State gives substantial weight to the generating capacity of the proposed turbine and the environmental benefits thereby offered as a contribution to the Government's priority for the need to support the delivery of renewable and low carbon energy (IR53 and IR55-58). However, against that, the Secretary of State also gives substantial weight to his statutory duty under section 66 of the

LBA with regard to preserving the setting of the Grade 1 listed Church of All Saints, Boltongate, as well as significant weight to the harm which the appeal proposal would cause to the landscape at most locations within 2km and limited weight to the harm caused to the character and appearance of the locally listed parkland at Quarry Hill. Taken together, he considers that these harms, which are also contrary to the provisions of the development plan, outweigh the acknowledged environmental benefits which the appeal scheme would provide.

Conditions (including those relating to the regulation of noise)

16. The Secretary of State has considered the Inspector's reasoning and conclusions on the need for a noise condition (IR49-51& IR59), as well as his recommended conditions as set out in the Annexe to his report (pages 13-22). The Secretary of State is satisfied that the proposed conditions are reasonable and necessary and would meet the tests of paragraph 206 of the Framework. However, he does not consider that they overcome his reasons for dismissing the appeal.

Overall conclusions

17. Having given careful consideration to the Inspector's advice and the comments received in response to his letters of 5 and 17 March, the Secretary of State concludes that factors weighing against the appeal proposal outweigh those in its favour so that there are insufficient material considerations to justify going against the development plan provisions relevant to this scheme.

Formal Decision

18. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for the erection of a single turbine 61 metres to blade tip and associated metering units, dated 22 June 2012, in accordance with application ref: 2/2012/0498.

Right to challenge the decision

19. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
20. A copy of this letter has been sent to Allerdale Council and to those who responded to the Secretary of State's letters of 5 and 17 March 2014. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Jean Nowak

Authorised by the Secretary of State to sign in that behalf

ANNEX A

Correspondence received following the Secretary of State's letters of 5, 17 and 25 March 2014 (paragraph 4 above refers)

Name / Organisation	Date
Allerdale Borough Council	19 March 2014
	31 March 2014
J Harley (agent for appellant)	10 March 2014
	18 March 2014
	26 March 2014
David Colborn (Friends of Cumbria's Environment)	18 March 2014
	31 March 2014
Cllr John Havelock (Boltons Parish Council)	25 March 2014
	28 March 2014
Charles Woodhouse	18 March 2014
	28 March 2014
Susan Ross	30 March 2014



Report to the Secretary of State for Communities and Local Government

by **J.P. Watson BSc MICE FCIHT MCMI**

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

Date: **27 January 2014**

Town and Country Planning Act 1990

Allerdale Borough Council

Appeal by Ms Mary Ruth Harker

Site visit made on 10 September 2013

Lane Head Farm, Boltongate, Wigton CA7 1DH

File Ref(s): APP/G0908/A/13/2191503

File Ref: APP/G0908/A/13/2191503

Lane Head Farm, Boltongate, Wigton CA7 1DH

- 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 Ms Mary Ruth Harker against the decision of Allerdale Borough Council.
- The application Ref 2/2012/0498, dated 22 June 2012, was refused by notice dated 15 November 2012.
- The development proposed is erection of a single wind turbine 61 metres to blade tip and associated metering units.

Summary of Recommendation: That the appeal be allowed and planning permission granted, subject to conditions.

The Site and Surroundings

1. This is a rural area. The appeal site is in a pastoral field at Lane Head Farm, 0.5km north of the village of Boltongate.¹ The field is at the top of a ridge and the appeal site is a little way to the north of the ridge with an extensive view to the west and to the north, across the Solway Firth and into Scotland. The countryside at the site is gently hilly; to the north lies the coastal plain and to the south is the Lake District. Boltongate is lower than the site and the land continues to fall through the village to a watercourse, Gill Beck. The ground cover is largely grassland punctuated by mature hedges with trees and with stands of trees here and there.
2. There are tall artificial features in the landscape: a television mast east of Sandale (the mast is some 3 or 4km to the east of Boltongate); another television mast near Brocklebank (somewhat further from Boltongate, and to the north-east of the Sandale mast) and three wind turbines (95 metres to the blade tip) at High Pow, about 2 km north-east of the appeal site.
3. Application drawing no. T7-PLAN-LOC-2 illustrates some of the surroundings of the area. The northern edge of Boltongate village can be seen on the southern edge of the drawing, and the text "Quarry Hill House" can be discerned at the drawing's western edge.

Planning Policy

4. The development plan consists of saved policies of the Allerdale Local Plan, adopted 1999 ("the LP").
5. Attention is drawn to LP Policy CO18, which says that:

Development proposals which affect the setting of a Listed Building will only be permitted where:-

- (i) *it does not have a seriously adverse effect on the character of the setting of the Listed Building; and*
- (ii) *the development is sympathetic in scale, character, materials and detailing.*

¹ GoA page 1

Subject to other policies of this Local Plan.

6. The Council's decision notice relies on three formerly saved policies of the former Cumbria and Lake District Joint Structure Plan 2001-2016, and on LP Policy CO18. An Order to revoke the North West Regional Strategy came into force on 20 May 2013, and all Directions preserving policies in structure plans in that area have also been revoked.
7. The Council and the Appellant refer to the Cumbria Wind Energy Supplementary Planning Document ("the SPD"). With the revocation of the saved policies of the Cumbria Joint Structure Plan 2005-2016, the SPD's connection to the development plan was severed. Nevertheless, I attribute weight to technical guidance, specific to the area, that is taken from the SPD.

Appraisal

Main Issues

8. It seems to me that the main issues in this case are:
 - a) The effect the appeal scheme would have on the setting of the Church of All Saints, Boltongate;
 - b) The effect the appeal scheme would have on the character and appearance of the landscape;
 - c) The effect the appeal scheme would have on visual amenity at residential properties in the area;
 - d) Whether any other consideration is such as to outweigh harm associated with the appeal scheme so as to make its impacts acceptable.

The Setting of the Church of All Saints, Boltongate

9. The church is a Grade I listed building. It is a listed building by virtue of its characteristics identified in the Listing Description. It stands in a churchyard in the village and there are buildings and vegetation between the church and the northern fringe of the village. There are two Grade II listed buildings in the village but there was no contention that the setting of either would be harmed, and it seems to me that they would not.
10. The Listing Description is on the case file. It describes the interior and exterior built form of the church but makes no reference to the setting of the building. The evidence of English Heritage in respect of the appeal scheme (given by letter dated 12 September 2012) is that "it is clear that the turbine has (sic) an adverse impact on the setting of the Grade I listed church. We therefore advise refusal of the application." English Heritage's representation does not describe how the appeal proposal would harm the setting of the church. The Council relies on English Heritage in this matter. There is no statement from any party regarding the significance or extent of the setting of the church, or of the harm that some contend would be caused.
11. The National Planning Policy Framework defines the setting of a heritage asset as the surroundings in which a heritage asset is experienced; and explains that elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or

may be neutral. It seems to me that the setting of the church has a number of elements relevant to this appeal, and that different elements of the setting make different contributions to its significance as a heritage asset. The elements of the setting to which attention is drawn in this appeal are the church's immediate context in the churchyard and village, the landscape in which the church is set when viewed from the north (near the appeal site), the landscape in which the church is set when viewed from the south (on the opposite side of the valley), and the area of countryside that can be seen from the church. There was no contention that any other part of the setting of the church would be affected by the appeal scheme, and it seems to me that the list is exhaustive in that respect.

12. I consider first the immediate setting of the church in the churchyard and village. Photomontages A to F look toward the appeal turbine from various locations in the churchyard. Photomontages A to D look away from the church and show various views from the path between the church door and the gate near the north-eastern corner of the churchyard. They show, in this series of views, that the turbine rotor would be concealed from view from those locations by buildings and vegetation. Photomontage E looks away from the church, north from the churchyard, through a gap between village buildings and shows the rotor to be screened by vegetation so that only a filtered view of the passing tips of the turning rotor would be visible. There would be harm in that insofar as the glimpsed rotor tips would, when experienced in the context of the medieval church and the other buildings of the village (which are more recent but traditional forms), be of a very different built form; but the harm would be very limited by virtue of the size and distance of the rotor tips, and the partial screening.
13. Photomontage F was taken from a point to the southwest of the church and is the only view that includes the listed building. From this viewpoint, the turbine would be concealed by a building and by vegetation. In the appellant's cultural heritage assessment further photomontages are presented in figures 14 and 16; they too show that views from the churchyard toward the turbine would be blocked by buildings. And as I walked around the village I found no part of the setting of the church within which the appeal turbine would be apparent.
14. It is clear to me that those parts of the setting of the church from which the significant features of the building (as identified in the Listing Description) are experienced and can be appreciated would not be affected by the appeal scheme, save as I have described. The parts of the setting to which I refer here are the churchyard and nearby public places in the village.
15. My attention was drawn to two viewpoints outside the village from which the church can be seen. The first was to the north, near the appeal site, on private land owned by the appellant between the appeal site and the church. Because of both the lack of public access and the impossibility of seeing the church from this viewpoint in the direct context of the appeal turbine I do not consider the setting of the church as experienced at the first viewpoint as likely to be changed by the appeal scheme in a way that would be perceptible to the public. The second viewpoint was from the lane to Prior Hall, south of the village and on the opposite side of the valley. The turbine would be visible from here, projecting above the ridge, as would the village buildings clustered around the church on the hillside below. The visual effect would be comparable to that shown in photomontage 4. The immediate setting of the church would be unaffected because the village and

the village's immediate environs would not change, but there would be a slight change in the character of the wider countryside in which the village is set.

16. My attention was also drawn to the church's parapet walk, to which the Listing Description refers. And the Council officer report draws attention to Pevsner's "The Buildings of England: Cumberland and Westmoreland (1967)" (the relevance of which has not been disputed) which goes beyond the National Heritage List in that he refers to "the suggestion of a pele tower in the treatment of the embattled parapet, within which much of the church sits, is characteristic of the fortified churches of the Border, such as are found at Newton Arlosh, and are a significant feature of ecclesiastical architecture of Cumbria and for an important part of its local distinctiveness". The parapet walkway is a popular viewing area with visitors.² It seems to me that views out from the parapet walk could be held to be views of part of the setting of the church.
17. By virtue of the elevated viewpoint and the rising land to the north of the village, there is visibility from the parapet walk over the village roofs and trees and up towards the turbine site. The parapet walk is a defensive part of the building, designed as a platform from which one may look out into the surrounding country. The country that is visible from the parapet walk is therefore part of the setting of the church.
18. I saw that the view north from the parapet walk toward the appeal site currently reaches to a group of trees on the skyline. From consideration of the site location plan (drawing T7-PLAN-LOC-2) and the longitudinal section submitted by an interested party (which is based on Ordnance Survey mapping and so has a degree of reliability) it is apparent that part of the turbine rotor and its hub would be visible in the distance from the church parapet walkway (the Council's officer report gives the distance from the turbine site to the church as 678 metres). It would form part of the setting of the church. Because of the panoramic nature of the view in question, the fact that there is no evidence that this is a designed view, the size of the appeal turbine rotor, its distance from the church and the proposed finite life of the appeal turbine, the harm to the setting of the church that would be associated with the changed outlook from the parapet walkway would be no more than localised and modest.
19. Where development would affect the setting of a listed building, special regard should be had to the desirability of preserving the setting of the listed building. I therefore summarise the extent to which the appeal proposal would alter the setting of the church:
 - i) Those parts of the setting of the church from which the significant features of the building (as identified in the Listing Description) are experienced and can be appreciated would not be affected by the appeal scheme; save that when looking away from the church from one of the several viewpoints in the churchyard, a filtered view of the passing tips of the turning rotor would be visible through intervening vegetation;
 - ii) There would be a slight change in the character of the wider countryside in which the village (including the church) is set; and,

² Representation of Cllr Havelock, 25/9/13

- iii) There would be localised, modest harm associated with the changed outlook from the parapet walk.
20. I conclude that the change to the setting of the church would be no more than modest. There would not be a seriously adverse effect on the character of the setting of the listed building, and so LP Policy CO18(i) would not be engaged. Policy CO18(ii) would not be satisfied, because the appeal development would not be sympathetic to the church in scale, character, materials or detailing.
21. The National Planning Policy Framework ("the Framework") considers at paragraphs 132 to 134 the circumstances in which development might be allowed even if it would harm the significance of a listed building:
- i) Significance can be harmed through development within its setting;
 - ii) Consent should be refused where a proposed development would lead to substantial harm to or total loss of significance of a listed building (save in the circumstances identified in paragraph 133, which do not apply here);
 - iii) Where a proposed development would cause less than substantial harm to the significance of a listed building, this harm should be weighed against the public benefits of the proposal.
22. It is therefore necessary to consider whether the appeal proposal should be regarded as likely to cause less than substantial harm to the significance of the listed building. It seems to me that, for harm to be substantial, the impact on significance would need to be so serious that very much, if not all, of the significance of the heritage asset would be drained away. That would not be the case here, since every characteristic of the listed building as identified by the Listing Description would remain unchanged. The harm to the significance of the listed building caused by the appeal proposal would therefore be less than substantial. The approach set out in Framework paragraph 134 should therefore be followed, and any other harm should be included in the balance.

The Effect On The Character And Appearance Of The Landscape

23. The Council's second reason for refusal is:

"The proposal, by reason of its siting, design and elevated level, would constitute a prominent and incongruous feature within the landscape, and would cause unacceptable individual and cumulative harm to the landscape character and appearance of the locality. The proposal is therefore considered to be contrary to Policy R44 of the Cumbria and Lake District Joint Structure Plan 2001-2016 (Saved)."

24. My paragraph 6 has explained that the Structure Plan is now revoked. Framework paragraph 17 requires that planning should recognise the intrinsic character and beauty of the countryside. The Friends of the Lake District draw attention³ to saved LP Policy EN19, which seeks to conserve and enhance the landscape.

³ Letter, 22/12/11

25. The site is in an area whose landscape character type is described as “Lowland Settled Plains”
26. The site is located in Landscape Character Type 12b “Rolling Fringe” as identified in the Cumbria Landscape Character Guidance and Toolkit. Such landscape was identified in the Cumbria Wind Energy SPD as having a low/moderate capacity to accommodate up to a small group of turbines (3 to 5 turbines, at least 95m high to the tip) and in exceptional cases a larger group of turbines. This landscape character type reflects a moderate/high sensitivity overall and moderate/high value as a largely undesignated landscape.⁴
27. The Council officers’ report contends, among other things, that:
- a) The design of the appeal turbine with its hub height of 35m and rotor diameter of 52m would give the turbine a squat appearance;
 - b) The three existing turbines at High Pow are at a level of approximately 155m AOD whereas the appeal turbine would be at 185m AOD, 2km away from the High Pow group and of different proportions; the High Pow turbines would therefore be visually disconnected from the appeal turbine. The proportions of the appeal turbine would add to the disjointed nature of its visual relationship with the High Pow turbines;
 - c) The appeal development would detract from the Rolling Fringe landscape and that of the Lake District fells to the south of the site, and when viewed from within the Lake District fells themselves;
 - d) The appeal scheme has potential to add to the effects of turbine groups at High Pow and Wharrels Hill, (but no such cumulative effect is identified by the Council).
28. The Council’s appeal statement contends that:
- a) Although the appeal scheme would be perceived as a stand-alone turbine, that would not mean that there would be no cumulative impacts with High Pow or Wharrels Hill;
 - b) Although the National Park Authority have not commented on the planning application, there could still be harm to the setting of the National Park;
 - c) There might be combined or sequential views of the appeal turbine from the A595 road, or from the A596 road which is 5.5km to the north.
29. The appellant’s landscape and visual impact assessment (“the LVIA”) contends, among other things, that:
- a) There would be no loss of key landscape features or elements. The landscape would be altered to a degree by the installation of the turbine but the landscape’s characteristics would not be significantly altered⁵;

⁴ LVIA, page 13

⁵ LVIA page 20

- b) Appendix 4 (of the LVIA), a map of the zone of visual influence of the turbine, shows that the turbine would be widely visible to the north and west across Lowland landscape character areas 5a and 5b, and more limited visibility to the south. Visibility to the east is restricted by the rising land form. The turbine would be clearly visible from many viewpoints, particularly from receptors on higher ground.
 - c) The landscape magnitude of change will be moderate/high for some viewpoints within 1km, and there would be lesser changes further away. Potential significant visual effects would be within approximately 2km of the proposed turbine and most likely within 1km.
 - d) The ZVI map shows the zone of visual influence of the turbine to extend into the National Park, the northern boundary of which is some 3km south of the appeal site.
30. The ZVI map was generated using a "bare earth" representation of land form and therefore does not account for the effects of screening and filtering of views as a result of intervening features such as buildings, trees and hedgerows.⁶ And it is clear from comparison of the ZVI map with my observations that the ZVI map records locations from which all or part of the appeal turbine would be visible.
31. I am not persuaded that the mere sight of the turbine or a small part of it, glimpsed at a distance, would give rise to significantly harmful visual effects or to harm to the landscape. Rather, for such harm to occur it is necessary for the turbine to occupy a large enough part of the view. That will depend on the proximity of the turbine to the landscape element in question, and the proportion of the whole turbine that is in view.
32. My observations in the field and the evidence of the photomontages together satisfy me that the LVIA's finding, that potential significant visual effects would occur only within approximately 2km of the proposed turbine, could reasonably form the basis of an assessment of the change to the landscape that the turbine would cause. Within that distance, the potential for significant changes to the landscape would be realised only where enough of the turbine to have such an effect would be in view. For example, I have identified in my paragraph 12 that the turbine would not be visible at all to an observer in the churchyard at Boltongate, which is within less than 1km of the appeal site; hence, that part of the landscape would not be affected by the turbine. It may be that there are other places within 2km of the site from which the turbine would not be visible, or would be visible to such a limited extent that there would be no significant harm to the landscape; but the evidence before me does not identify such places and so there is no rational basis from which I can conclude other than that they do not exist.
33. Attention is drawn to the historic parkland at Quarry Hill (see also my paragraph 44). Although not Registered, this site was identified in the text of the Allerdale Local Plan as being of local importance. Saved LP policy EN24 is intended to protect such landscapes, "particularly ... those included in the National Register of Parks and Gardens". Policy EN24 forbids development which would detract from the setting of such sites, and development which would adversely affect

⁶ LVIA para 1.2.6

their special character and appearance. The owner of Quarry Hill House reports the appeal site to be included in this local designation⁷, and the point is neither accepted nor disputed⁸. A public road crosses the designated parkland between the appeal site (to the east) and Quarry Hill (to the west); the designated parkland to the east has the character of farmland, whereas that to the west of the road is contiguous with the extensive gardens at Quarry Hill and seemed to me to be more carefully "landscaped" than that to the east. Here I consider the extra weight to be attributed to visual harm to the parkland by virtue of its designation and policy EN24.

34. During my visit I was able to view the parkland from a small mound in the garden, between the House and the turbine site, which acts as a viewpoint. The appeal turbine would stand on rising ground to the east of the viewpoint. Two TV masts can be seen to the east of the park in the same view, taller than the turbine would be but much further from the viewpoint so that their visual effect when viewed from there would approach that of the turbine. Nevertheless there would be harm to the character and appearance of the park by virtue of the incongruous form of the turbine and its motion of the turbine. Because the park is not on the National Register, and because of the presence of the TV masts, I attribute only limited weight to the effect the turbine would have on the park, in addition to that which I have identified in my paragraph 32.
35. The Council considers that wind turbine development in parts of the Borough has "reached a saturation point to the detriment of the visual amenity of the surrounding landscape and local communities", and draws attention to recent appeals at Great Orton (APP/G0908/A/12/2187146) and Flimby (APP/G0908/A/12/2187146), both of which it reports to have been dismissed on cumulative grounds. No evidence is brought to support the view that such a limit has been reached in the vicinity of the appeal site.
36. In respect of the appeal turbine's effect on the landscape I therefore find as follows:
 - a) By virtue of its form and incongruity in the landscape, the appeal turbine would be significantly harmful to the landscape at most locations within 2km of the appeal turbine. This would be contrary to LP Policy EN19 and to paragraph 17 of the Framework.
 - b) The character and appearance of the locally listed parkland at Quarry Hill would be harmed, contrary to LP Policy EN24. For the reasons given I attribute limited weight to that additional harm.
 - c) Such harm to the landscape as would accrue at distances greater than 2km would not be significant.
 - d) By virtue of item b) above, and the distance to the National Park boundary, the appeal scheme would have no significant effect on the landscape of the National Park.

⁷ Mr Woodhouse's letter, 14/9/12

⁸ Grounds of Appeal, 3.12

- e) No specific instance has been cited of a harmful cumulative visual effect that would arise from the juxtaposition of the appeal turbine and other existing or consented development.

The Effect On Visual Amenity At Residential Properties In The Area

37. The decision notice draws attention to visual amenity at the following residential properties:

Well Head, Mealsgate;

The Close, Mealsgate;

Properties at Quarry Hill, Mealsgate; and

Properties in Boltongate.

38. The Council's representations, and the officer report, explain that in the Council's view insufficient information was provided with the planning application to allow proper evaluation of the proposal's effects on visual amenity at those properties. The Council does not say which effects relating to visual amenity at those properties it considers might be unsatisfactory, nor does it describe standards of visual amenity that it considers would distinguish acceptable from unacceptable conditions. The appellant provides a Landscape and Visual Impact Assessment, indicates (in the Grounds of Appeal) that the visual amenity at a dwelling is related to the magnitude of visual change there and contends (in the Planning Statement) that there would be no overbearing effects on residential amenity.
39. Framework paragraph 17 establishes the core planning principle that planning should seek to secure a good standard of amenity for all existing occupants of land and buildings. But it is not a function of the planning system to protect the view from an individual property for its own sake. With regard to residential amenity, the purpose is to avoid serious harm to living conditions which might otherwise lead to refusal of planning permission in the public interest. This is a more stringent test than simply measuring the visual change and can be expressed through such a question as "Would the proposal affect the outlook of these residents so as to become so unpleasant, overwhelming and oppressive that this would become an unattractive place to live?"
40. My accompanied site visit included residential properties at Well Head, The Close, the grounds of properties at Quarry Hill, Pattenfoot Cottage (some 1.8km north of the appeal site, and visited at the request of an interested party), The Brooms and Avalon (properties on the north side of Boltongate) and the Old Rectory (a guest house toward the southern end of the village). On the basis of observations made and representations received my assessments of the effects the appeal scheme would have on visual amenity are as follows.
41. Well Head is a former farm house agreed to be 446 metres from the turbine site and to its north and east. There would be a direct view of the turbine, which would stand on land higher than that at the house. No photomontage was provided by the appellant, but the resident of Well Head provided photographs of the outlook from her home toward the appeal site⁹ from windows serving rooms

⁹ Ms Luckett's e-mail 20/9/12

described at the site visit as a kitchen, a bedroom, a dining room and a study. In response the appellant points out that, in the opposite direction, Well Head looks directly at the High Pow wind turbines to the northeast¹⁰. There would clearly be a marked change in the outlook here but I am not satisfied that the turbine would be so overwhelming and oppressive as to change this to an unattractive place to live – even when the presence of the three turbines at High Pow is taken into account.

42. The Close is a working farm. Its house is reportedly 549 metres from the turbine and on lower ground. Habitable rooms in the house face south and the line of sight to the turbine would be to the south west. The turbine would be visible above intervening trees. The view would change but living conditions here would be little changed; this would remain a pleasant place to live.
43. Pattenfoot Cottage stands by the A595 some 1.8 km from the site and faces east of south, toward it. I looked out from a first floor bedroom and from a ground floor living room. The turbine would be in plain sight from both, on a hill and framed by the windows. The view would change but living conditions here would be little changed; this would remain a pleasant place to live.
44. Quarry Hill has three domestic properties: Quarry Hill House, Quarry Hill Cottage and Quarry Hill Courtyard Flat, all almost due west of the turbine site and less elevated. The resident of the House provided a drawing showing the appeal turbine site to be 808 metres from the House, 739 metres from the Cottage and 740 metres from the Courtyard Flat. There are extensive gardens, parkland, and tree planting at Quarry Hill east of the House and Cottage (and an orchard to the north, off the line of sight to the turbine). These would filter the views of the turbine, particularly when in leaf. The turbine would otherwise be in plain sight from the House, the Flat and the Cottage, as it would be from the parkland and from a meadow to the east. The turbine would change the view but living conditions here would be little changed; this would remain a pleasant place to live.
45. The Brooms is a house on the northern edge of the village of Boltongate. It has habitable rooms that face north across a lane towards the site, which is several hundred metres away. Views toward the turbine would be filtered to an extent by intervening vegetation. The outlook would change but it would remain neither overwhelming nor oppressive. This would remain a pleasant place to live.
46. Avalon is a bungalow at the man entrance to the village from the west, some 600 metres from the turbine site. The outlook would change but it would remain neither overwhelming nor oppressive. This would remain a pleasant place to live.
47. The Old Rectory is a short distance due south of the church, lower down the hillside, screened from the turbine site by the church and intervening vegetation, and in my view unlikely to be affected by the appeal scheme.
48. In summary, having visited all locations to which my attention was drawn in this context, I found no property at which the appeal turbine would prevent the achieving of a good standard of residential amenity. Framework paragraph 17 would therefore be satisfied.

¹⁰ Grounds of appeal, page 11

Other Matters: Noise

49. Although the Council is satisfied that noise associated with the appeal scheme could be controlled by a planning condition, some interested parties remain concerned.
50. Footnote 17 of the Framework draws attention to the National Policy Statement for Renewable Energy Infrastructure ("EN-3"), which recommends the use of ETSU-R-97 *The Assessment and Rating of Noise from Wind Farms* in cases such as this. The appellant has undertaken no field measurements of noise but provides (in Table 3 of the Planning Statement and Environmental Report, and its Appendix D) an assessment of the noise immissions that would be caused by the turbine at various noise sensitive receptors. Apart from at the appellant's house, the assessment shows that none of those receptors would experience immissions from the appeal turbine greater than 34 dB $L_{A90,10min}$. Well Head is modelled to experience that noise level, and Well Head is also modelled by the appellant to experience noise from the High Pow wind farm. Because Well Head is located between the appeal turbine site and High Pow and because of the effect of wind direction on noise propagation, the cumulative turbine noise level at Well Head would not exceed 35 dB $L_{A90,10min}$. A planning condition limiting noise from the appeal turbine to an $L_{A90,10min}$ of 35dB(A) up to wind speeds of 10 metres per second at 10m height based on the simplified procedure can therefore reasonably be imposed and, as described on page 66 of ETSU-R-97, would offer sufficient necessary protection of daytime amenity. A comparable night-time limit of 43 dB $L_{A90,10min}$ would offer sufficient necessary protection of night-time amenity. ETSU-R-97 further recommends that both day- and night-time lower fixed limits may be increased to 45 dB(A) for properties where the occupier has some financial involvement in the wind turbine, as is the case at Lane Head Farm.
51. I am therefore satisfied that noise associated with the development could adequately be regulated by condition. I propose a condition of the form set out in Annex B of the Institute of Acoustics' *Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise*.

Other Matters: Tourism

52. Cumbria Tourism¹¹ says that the unspoilt landscape and unique cultural heritage underpin the area's attractiveness for visitors; that the expansion of tourism in Allerdale is an important part of the economic development plan for the area, and that development which potentially threatens the viability of existing and future potential tourism businesses is of great concern to Cumbria Tourism and the West Cumbria Tourism Initiative. No example is given of a business that would be threatened by the appeal turbine, and there is no evidence of direct or inverse correlation between wind turbines and tourism. I attribute little weight to the scheme's effect on tourism.

Other Matters: Renewable Energy

53. Attention is drawn to the 500 kW generating capacity of the proposed turbine. Using Ofcom's medium sized house usage, and DEFRA's factor for the carbon dioxide creation per kilowatt-hour, the appellant estimates the annual reduction

¹¹ Letter, 24/8/12

in carbon dioxide emissions associated with the scheme to be just under 800 tonnes. The power generated is estimated to be enough for 400 medium-sized houses.

Whether Any Other Consideration Is Such As To Outweigh Harm Associated With The Appeal Scheme So As To Make Its Impacts Acceptable

54. In this appeal, I have found that the proposal would not comply with those parts of the development plan set out in LP Policy CO18(ii) [my paragraph 20] and LP Policies EN19 and EN24 [my paragraph 35]. The development would cause slight and modest harm to the setting of the church, a Grade I listed building. It would be significantly harmful to the undesignated landscape at most locations within 2km of the appeal turbine, and there would be harm to the character and appearance of the locally listed parkland at Quarry Hill; to which additional harm I attribute limited additional weight.
55. That harm falls to be weighed against the priority which is placed by Government on the need to support the delivery of renewable and low carbon energy.
56. Paragraph 93 of the Framework says that planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, and in supporting the delivery of renewable energy. This is central to the economic, social and environmental dimensions of sustainable development. There is a presumption in favour of sustainable development set out in the Framework, although this would not apply where any adverse impacts of a development would outweigh the benefits.
57. The Framework's paragraph 98 points out that those who make development control decisions should not require applicants for energy development to demonstrate the overall need for renewable energy. They should recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.
58. Having regard to the importance of providing renewable energy as a dimension of sustainable development, I find that significant weight must be attributed to the need for renewable and low carbon energy development. I consider that the harm the appeal turbine would cause is outweighed by its wider environmental benefits. The appeal should therefore be allowed and planning permission granted, subject to conditions.

Conditions

59. I have described the need for a noise condition. The Council has suggested further conditions, should permission be granted. The conditions that I recommend are set out in the annexe to this report.

Recommendation

60. That the appeal be allowed and planning permission granted, subject to conditions.

J.P. Watson

INSPECTOR

Annexe: Conditions

Should the Secretary of State be minded to allow the appeal and grant planning permission, the following conditions are suggested:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
T7-PLAN-LOC-1 : Site Location (1 of 2)
T7-PLAN-LOC-2 : Site Location (2 of 2)
T7-PLAN-LAY – Site Layout
T-SPEC-DETAIL1 – Switch room and HV metering unit detail
1000913 – Proposed Turbine Details.
Reason: to define the permission.
- 3) This permission shall remain valid for a period of 25 years from the date on which electricity from the development is first connected to the grid. That date shall be notified in writing to the local planning authority within seven days of the event. Within 12 months of the cessation of electricity generation at the site or the expiration of this permission, whichever is the sooner, all development shall be removed and the land restored in accordance with a scheme to be submitted to and approved in writing by the local planning authority prior to any development commencing.
Reason: To ensure the satisfactory long-term restoration of the site and to secure the removal of redundant development from the countryside.
- 4) No development shall take place until a scheme for the reinstatement of temporary working areas on the site has been approved in writing by the local planning authority. Within 6 months of the date on which electricity from the development is first connected to the grid the temporary working areas on the site shall be reinstated in accordance with the approved scheme.
Reason: To safeguard the appearance of the site in the open countryside.
- 5) Unless agreed in writing by the local planning authority, if the turbine ceases to be operational for a continuous period of 6 months the development hereby permitted shall, within a period of 3 months from the end of the 6-month period (or within such longer period as may be agreed in writing by the local planning authority), be removed in its entirety from the site and the site shall either be restored to its condition before the development took place, or otherwise in accordance with a scheme that shall previously have been submitted to and approved in writing by the local planning authority.
Reason: To safeguard the appearance of the site and to secure the removal of redundant development from the countryside.

- 6) No development shall take place until a construction method statement (including details of all on-site construction works, post-construction reinstatement, drainage, mitigation, and other restoration, together with details of their timetabling) has been submitted to and approved in writing by the local planning authority. Development shall take place only in accordance with the approved construction method statement. The construction method statement shall include measures to secure:
- a) Formation of the construction compound and access tracks and any areas of hardstanding, earthworks and re-grading associated with the access tracks, storage and handling of topsoils and soils;
 - b) Cleaning of site entrances and the adjacent public highway and measures to prevent mud and debris from the site extending on to the public highway;
 - c) Temporary site illumination measures;
 - d) Disposal of surplus materials;
 - e) The sheeting of all trucks taking spoil to/from the site to prevent spillage or deposition of any materials on the highway;
 - f) Temporary and permanent parking areas for construction vehicles, maintenance vehicles, equipment and component storage associated with the development.

Reason: In the interests of visual amenity and road safety, and to prevent pollution of the environment.

- 7) No development shall take place until a written haul route plan and scheme for temporary works signage has been submitted to and approved in writing by the local planning authority. Vehicles travelling to or from the site while development is taking place shall do so only in accordance with the approved haul route plan. Approved signage shall be provided prior to works commencing on site and shall be retained until the construction phase of development has been completed.

Reason: In the interest of highway safety.

- 8) Construction of any permanent areas of hardstanding shall not commence until the colour finishes of the surface materials to be used have been submitted to and approved in writing by the local planning authority. Development shall take place only in accordance with the approved details.

Reason: To ensure that the development has a satisfactory appearance.

- 9) No development shall take place until details of the external finishes of the turbine, switch room and HV metering unit have been submitted to and approved in writing by the local planning authority. Development shall be carried out only in accordance with the approved details.

Reason: To ensure that the development has a satisfactory appearance.

- 10) No development shall take place until a written scheme has been submitted to and approved in writing by the local planning authority setting out a protocol and methodology for dealing with the assessment of shadow flicker in the event of any complaint. The protocol and methodology shall include remedial measures to be taken to alleviate any identified occurrence of

shadow flicker associated with the development. The turbine shall be operated in accordance with the agreed protocol and methodology.

Reason: To maintain residential amenity, with regard to shadow flicker.

- 11) No development shall take place until a written scheme has been submitted to and approved in writing by the local planning authority setting out a protocol and methodology for dealing with the assessment of electromagnetic interference in the event of any complaint. The protocol and methodology shall include remedial measures to be taken to alleviate any identified occurrence of electromagnetic interference associated with the development. The turbine shall be operated in accordance with the agreed protocol and methodology.

Reason: To maintain residential amenity, with regard to electromagnetic signals.

- 12) No development shall take place until a scheme for the replanting of any hedgerows or boundary planting removed for the proposed access during construction has been submitted to and approved in writing by the local planning authority. The scheme shall include provision for the replacement of diseased or dead hedgerow or boundary planting, and a programme. Development shall be carried out only in accordance with the approved details.

Reason: to safeguard and enhance the appearance and landscape of the site.

- 13) No development shall take place until a surface water management plan covering water treatment and the means of drainage from all hard surfaces and structures within the site (including access tracks, buildings, turbine base, assembly platform and crane platform) has been submitted to and approved in writing by the local planning authority. The details to be submitted shall indicate the means of protecting groundwater, including private water supplies, and diverting surface water runoff. Development shall be carried out in accordance with the approved details.

Reason: To protect the local water environment from pollution.

- 14) No development shall take place until a scheme of aviation obstruction lighting has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme.

Reason: In the interest of air safety.

- 15) The rating level of noise immissions from the combined effects of the wind turbines (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes (to this condition), shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to these conditions at any dwelling which is lawfully existing or has planning permission at the date of this permission and:

a) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d). These data shall be retained for a period of not less than 24 months. The wind

farm operator shall provide this information in the format set out in Guidance Note 1(e) to the Local Planning Authority on its request, within 14 days of receipt in writing of such a request.

b) No electricity shall be exported until the wind farm operator has submitted to the Local Planning Authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Local Planning Authority.

c) Within 21 days from receipt of a written request from the Local Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind farm operator shall, at its expense, employ a consultant approved by the Local Planning Authority to assess the level of noise immissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Local Planning Authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Local Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.

d) The assessment of the rating level of noise immissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the Local Planning Authority. The protocol shall include the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Local Planning Authority under paragraph (c), and such others as the independent consultant considers likely to result in a breach of the noise limits.

e) Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the wind farm operator shall submit to the Local Planning Authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits

approved in writing by the Local Planning Authority for the complainant's dwelling.

f) The wind farm operator shall provide to the Local Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Local Planning Authority for compliance measurements to be made under paragraph (c), unless the time limit is extended in writing by the Local Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Local Planning Authority with the independent consultant's assessment of the rating level of noise immissions.

g) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c), the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (d) above unless the time limit has been extended in writing by the Local Planning Authority.

Table 1 – Between 07:00 and 23:00 – Noise limits expressed in dB $L_{A90,10 \text{ minute}}$ as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

Location	Standardised wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
Lane Head Farm	45	45	45	45	45	45	45	45	45	45		
Well Head	35	35	35	35	35	35	35	35	35	35		

Table 2 – Between 23:00 and 07:00 – Noise limits expressed in dB $L_{A90,10 \text{ minute}}$ as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

Location	Standardised wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
Lane Head Farm	45	45	45	45	45	45	45	45	45	45		
Well Head	43	43	43	43	43	43	43	43	43	43		

Table 3: Coordinate locations of the properties listed in Tables 1 and 2.

Property	Easting	Northing
Lane Head Farm	322905	541674
Well Head	323463	541747

Note to Table 3: The geographical coordinate references are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies.

Guidance Notes for Noise Conditions

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Guidance Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Guidance Note 3. Reference to ETSU-R-97 refers to the publication entitled "The Assessment and Rating of Noise from Wind Farms" (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).

Guidance Note 1

(a) Values of the $L_{A90,10 \text{ minute}}$ noise statistic should be measured at the complainant's property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

(b) The microphone should be mounted at 1.2 – 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Local Planning Authority, and placed outside the complainant's dwelling. Measurements should be made in "free field" conditions. To achieve this, the microphone should be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall submit for the written approval of the Local Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.

(c) The $L_{A90,10 \text{ minute}}$ measurements should be synchronised with measurements of the 10-minute arithmetic mean wind and operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind farm.

(d) To enable compliance with the conditions to be evaluated, the wind turbine operator shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north at hub height for the turbine and arithmetic mean power generated by the turbine, all in successive 10-minute periods. Unless an alternative procedure is previously agreed in writing with the Planning Authority, this hub height wind speed, averaged across all operating wind turbines, shall be used as the basis for the analysis. All 10 minute arithmetic average mean wind speed data measured at hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data, which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2, such correlation to be undertaken in the manner described in Guidance Note 2. All 10-minute periods shall commence on the hour and in 10-minute increments thereafter.

(e) Data provided to the Local Planning Authority in accordance with the noise condition shall be provided in comma separated values in electronic format.

(f) A data logging rain gauge shall be installed in the course of the assessment of the levels of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

Guidance Note 2

(a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Guidance Note 2 (b).

(b) Valid data points are those measured in the conditions specified in the agreed written protocol under paragraph (d) of the noise condition, but excluding any periods of rainfall measured in the vicinity of the sound level meter. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10 minute period concurrent with the measurement periods set out in Guidance Note 1. In specifying such conditions the Local Planning Authority shall have regard to those conditions which prevailed during times when the complainant alleges there was disturbance due to noise or which are considered likely to result in a breach of the limits.

(c) For those data points considered valid in accordance with Guidance Note 2(b), values of the $L_{A90,10 \text{ minute}}$ noise measurements and corresponding values of the 10- minute wind speed, as derived from the standardised ten metre height wind speed averaged across all operating

wind turbines using the procedure specified in Guidance Note 1(d), shall be plotted on an XY chart with noise level on the Y-axis and the standardised mean wind speed on the X-axis. A least squares, "best fit" curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) should be fitted to the data points and define the wind farm noise level at each integer speed.

Guidance Note 3

(a) Where, in accordance with the approved assessment protocol under paragraph (d) of the noise condition, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty is to be calculated and applied using the following rating procedure.

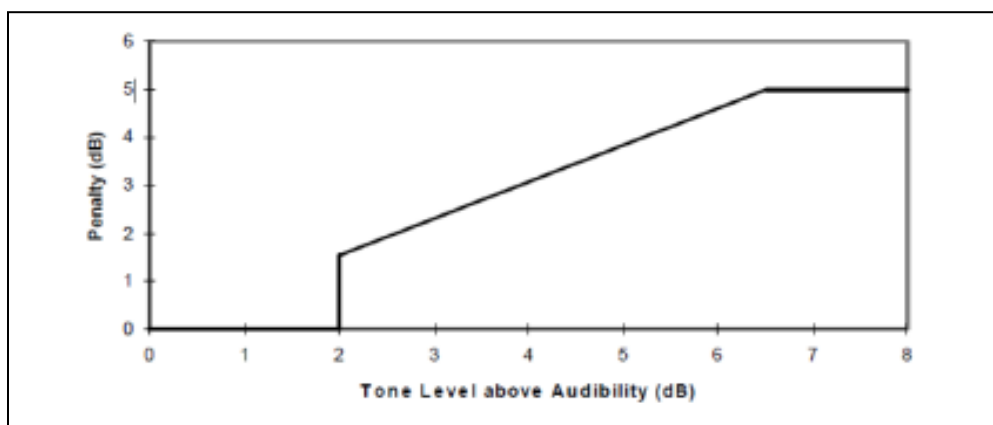
(b) For each 10 minute interval for which $L_{A90,10 \text{ minute}}$ data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during 2 minutes of each 10 minute period. The 2 minute periods should be spaced at 10 minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from the standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.

(c) For each of the 2 minute samples the tone level above or below audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104-109 of ETSU-R-97.

(d) The tone level above audibility shall be plotted against wind speed for each of the 2 minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be used.

(e) A least squares "best fit" linear regression line shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the "best fit" line at each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Guidance Note 2.

(f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below.



Guidance Note 4

(a) If a tonal penalty is to be applied in accordance with Guidance Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed within the range specified by the Local Planning Authority in its written protocol under paragraph (d) of the noise condition.

(b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Guidance Note 2.

(c) In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant's dwelling approved in accordance with paragraph (e) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.

(d) The wind turbine operator shall ensure that the wind turbine is turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:

(e). Repeating the steps in Guidance Note 2, with the wind turbine switched off, and determining the background noise (L3) at each integer wind speed within the range requested by the Local Planning Authority in its written request under paragraph (c) and the approved protocol under paragraph (d) of the noise condition.

(f) The wind farm noise (L1) at this speed shall then be calculated as follows where L2 is the measured level with turbines running but without the addition of any tonal penalty:

$$L1 = 10\log[10^{L2/10} - 10^{L3/10}]$$

(g) The rating level shall be re-calculated by adding arithmetically the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L1 at that integer wind speed.

(h) If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note 3 above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the conditions or the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then the development fails to comply with the conditions.

Reason: to ensure an acceptable level of residential amenity.



Department for Communities and Local Government

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

<https://www.gov.uk/government/organisations/department-for-communities-and-local-government>

SCHEDULE A: Applications with Recommendation

14/0166

Item No: 03

Date of Committee: 16/05/2014

Appn Ref No:
14/0166

Applicant:
Mr Thompson

Parish:
Farlam

Agent:
AA Design Services

Ward:
Irthing

Location: Land between Wood House & 1 Fellbeck View, Hallbankgate, Carlisle

Proposal: Erection Of 1no. Dormer Bungalow

Date of Receipt:
28/02/2014 11:00:19

Statutory Expiry Date
25/04/2014 11:00:19

26 Week Determination

REPORT

Case Officer: Stephen Daniel

1. Recommendation

- 1.1 It is recommended that this application is approved subject to conditions.

2. Main Issues

- 2.1 Whether The Proposal Is Acceptable In Principle
- 2.2 Whether The Scale And Design Of The Dwelling Would Be Acceptable
- 2.3 The Impact Of The Proposal On The Living Conditions Of The Occupiers Of Any Neighbouring Properties
- 2.4 Drainage/ Flooding Issues
- 2.5 Other Matters

3. Application Details

The Site

- 3.1 The application site is located between Wood House and 1 Fellbeck View, Hallbankgate.
- 3.2 The site is currently an unused agricultural field. It is bounded to the north by the road leading from Hallbankgate to the Tindale Fells, to the east by the residential property 1 Fell Beck View, to the west by the access track to

Clement Leazes Farm and to the south by more agricultural land, planted with trees and saplings. A small watercourse runs through the southern and western sections of the site and this sits at a lower level than the main section of the site.

Background

- 3.3 In August 2013, outline planning permission was granted for the erection of a dwelling on this site (13/0458). The information which accompanied this application indicated that the dwelling would be a dormer bungalow.
- 3.4 When the outline application was determined by committee, Members requested that any Reserved Matters application should also be determined by committee, so that they could assess the impact of any proposal on flood risk.

The Proposal

- 3.5 The proposal is seeking planning permission to erect a dormer bungalow on this site. The front elevation of the dwelling would be set back 8m into the site, to the rear of the stone wall that lies adjacent to the highway verge. The front elevation would measure 17m in length and would have an eaves height of 2.8m and a ridge height of 6.6m. It would contain an open pitched roof porch, which would project out 1.6m from the main front elevation and which would be constructed of stone pillars, under a slate roof and a stone chimney would be added to east elevation of the dwelling. Three rooflights would be added to the front roofslope. A pitched roof dormer window would be added to the rear roofslope and a garage would be attached to the rear of the property and this would project out 6m from the main rear elevation. The ground floor of the dwelling would contain a living room, a lounge, a kitchen/ dining area, a utility room, two bedrooms (one en-suite), a bathroom and w.c., with an en-suite bedroom being provided in the roofspace. The dwelling would be finished in render, with a brick plinth, stone quoins and stone heads and sills, under a slate roof. The side elevation of the garage would be brick.
- 3.6 An oil tank and four dog kennels would be provided adjacent to the garage, with an underground rainwater storage tank being provided under part of the garden.
- 3.7 The dwelling would be accessed via the existing farm track that runs to the west of the site. A new bridge would be created over the watercourse and this would be constructed of precast concrete planks to form a road base, which would be supported on brick support walls. This would link into the garage and a parking/ turning area that would be located to the front of the garage.
- 3.8 The watercourse would be diverted to the south west by up to 5m so that it is further away from the dwelling, with the land to the east being graded down to the watercourse. The current watercourse within the site ranges in width from 0.3m to 0.9m, with the gradient varying from 1:50 to being practically

level before the existing culvert under the road. The new channel would have a uniform width of 0.7m and a constant gradient of 1:100, which would increase its flow capacity and carry water to the culvert more effectively. The watercourse has also been cleaned out and increased in size on the downstream size of the culvert, which has increased its flow capacity and reduced the risk of flows being constricted and backing up through the culvert.

- 3.9 A soakaway would be constructed to the west of the watercourse and this would assist in the removal of water from any overspill that may happen in extreme weather conditions.

4. Summary of Representations

- 4.1 This application has been advertised by means of a site notice and notification letters sent to seven neighbouring properties. In response one letter of objection and three letters of comment have been received. The points raised in the letters are summarised below;

1. no objections to the bungalow being built - significant concerns about flooding;
2. the beck that flows through the site regularly backs up and floods the gardens on Fellbeck View and the woodland behind the house;
3. the volume of water that flows through the site hasn't been appreciated and measures to reduce the risk may be inadequate;
4. the stream has, prior to dredging and clearing work recently carried out, flooded regularly following heavy rain, most recently in May 2013. Concerned as to the continuing flood risks to the area following heavy rain should regular clearing and maintenance work not be undertaken. Request a condition that requires the regular maintenance of the stream at the owner's cost to preserve the rate of water flow now achieved or a condition that requires further preventative work, prior to any house building, which would ensure flooding does not take place in the future, even in the context of climate change and the likelihood of increased rainfall;
5. the road and lane are both busy and this level of usage is likely to give rise to frequent barking from the dogs in the proposed kennels - request that a condition is added to require landscaping of the site to try and ensure the dogs aren't disturbed;
6. the letter from A.L.Daines & Partners does not inspire confidence and makes no guarantee of alleviating any problems with potential flooding to neighbouring properties;
7. the beck in the field opposite the proposed site was altered by persons not qualified and without the permission of the landowner;
8. the beck in the proposed site has remained virtually unchanged and as a result the water flow remains unchanged but modifications downstream have created problems;
9. since the ditch modifications rainfall has been very infrequent - the only period of heavy rain resulted in severe ponding in the field to the rear of The Via - this was severe and the water level reached the boundary wall

- of The Via and the beck began backing up at the culvert, raising the water level in the beck within the site;
10. a full and detailed flood water survey of the beck in the site and the downstream modifications needs to be conducted before permission is granted, to establish what effects this may have on the site and local properties;
 11. need to consider overlooking and privacy of The Via, which lies directly in front of the site - required distance between properties is 21m or more;
 12. the proposed development is not a similar scale to any of the properties in the immediate vicinity and the visual aesthetics are not in keeping with properties in the local vicinity or any properties within the village.

5. Summary of Consultation Responses

Cumbria County Council - (Highway Authority - Footpaths): - Public Footpath 115019 runs adjacent to the proposed development and will form the access to the development. This must not be obstructed or altered during or after the development has been completed;

Cumbria County Council - (Econ. Dir. Highways & Transportation): - no objections, subject to conditions;

Farlam Parish Council: - comments awaited;

Carlisle Airport: - no objections;

North Pennines AONB Partnership: - comments awaited;

Local Environment - Environmental Protection: - no objections, subject to conditions;

United Utilities: - only foul water should drain to the public sewer, with surface water draining in the most sustainable way. To reduce the volume of water draining from the site permeable paving should be used on all driveways and other areas of hardstanding including footpaths and parking areas;

Cumbria County Council - Drainage: - no objections following receipt of amended plans. The north east corner of the site is at risk from surface water flooding from the 1 in 100 year event and the applicant should ensure that the development is protected from this flood risk and does not increase the risk to neighbouring properties;

Environment Agency: - no objections in principle to the proposed development. The prior written Ordinary Watercourse Flood Defence Consent (OWFDC) of the Lead Local Flood Authority is required.

6. Officer's Report

Assessment

- 6.1 The relevant planning policies against which the application is required to be assessed are Policies DP1, DP9, LC8, H1, H3, H9, CP3, CP5, CP6, CP12 and T1 of the Carlisle District Local Plan 2001-2016.

The proposal raises the following issues:

1. Whether The Proposal Is Acceptable In Principle

6.2 In August 2013, outline planning permission was granted for the erection of a dwelling on this site. The proposal is, therefore, acceptable in principle.

2. Whether The Scale And Design Of The Dwelling Would Be Acceptable

6.3 The front elevation of the dwelling would be set back 8m into the site, to the rear of the stone wall that lies adjacent to the highway verge. The front elevation would measure 17m in length and would have an eaves height of 2.8m and a ridge height of 6.6m. It would contain an open pitched roof porch, which would project out 1.6m from the main front elevation and which would be constructed of stone pillars, under a slate roof and a stone chimney would be added to east elevation of the dwelling. Three rooflights would be added to the front roofslope. A pitched roof dormer window would be added to the rear roofslope and a garage would be attached to the rear of the property and this would project out 6m from the main rear elevation. The dwelling would be finished in render, with a brick plinth, stone quoins and stone heads and sills, under a slate roof. The side elevation of the garage would be brick.

6.4 An oil tank and four dog kennels would be provided adjacent to the garage but these would be small in scale and would not be readily visible from the adjacent road.

6.5 The dwelling would be accessed via the existing farm track that runs to the east of the site. A new bridge would be created over the watercourse and this would be constructed of precast concrete planks to form a road base, which would be supported on brick support walls. This would link into the garage and a parking/ turning area that would be located to the front of the garage.

6.6 The letter of objection that has been received states that the proposed dwelling is not a similar scale to any of the properties in the immediate vicinity and the visual aesthetics are not in keeping with properties in the local vicinity or any properties within the village. There are, however, rendered properties, with stone quoins and slate roofs, and bungalows immediately adjacent to the site.

6.7 In light of the above, the scale and design of the proposal would be acceptable.

3. The Impact Of The Proposal On The Living Conditions Of The Occupiers Of Any Neighbouring Properties

6.8 No. 2 The Via lies directly across the road from the application site. This property would have a front elevation 19.5m away from the front elevation of the new dwelling. This distance is considered to be acceptable, given that the new dwelling only has windows at ground floor level and the road that runs to the front The Via allows overlooking of the ground floor windows at this property.

6.9 The dwelling to the south-east of the site (1 Fellbeck View), which is a

single-storey property, would have a side elevation 11m away from the side elevation of the new dwelling and this can be ensured by condition. This contains a window which serves a lounge/ dining area, with this room also being served by a larger window in the rear elevation. The new dwelling would have a secondary living room window in the elevation facing 1 Fellbeck View and a bathroom window at first floor level. The provision of suitable boundary treatment would ensure that there is no loss of privacy to the occupiers of this dwelling. The dwelling to the north-west (Wood House), would be over 35m away from the side elevation of the proposed dwelling.

- 6.10 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. Drainage/ Flooding Issues

- 6.11 A number of local residents have raised concerns about the impact that the proposal might have on flooding in the area. The application is accompanied by a letter from A.L.Daines who have reviewed the application and this, and the Site Plan, set out a number of measures that would be implemented to ensure that the proposal does not increase flood risk in the area.
- 6.12 Part of the watercourse would be diverted and the new channel would have a uniform width of 0.7m and a constant gradient of 1:100, which would increase its flow capacity and carry water to the culvert more effectively. The watercourse has also been cleaned out and increased in size on the downstream side of the culvert, which has increased its flow capacity and reduced the risk of flows being constricted and backing up through the culvert. An underground rainwater storage tank would be provided under part of the garden for rainwater harvesting and this would have an attenuated flow into the watercourse. A soakaway would be constructed to the west of the watercourse and this would assist in the removal of water from any overspill that may happen in extreme weather conditions.
- 6.13 United Utilities, the Environment Agency, the Local Flood Risk Management Officer (LFRMO) at the County Council and Building Control have all been consulted on the application. United Utilities has no objections to the proposals but has requested that surface water is dealt with in the most sustainable way and to reduce the volume of surface water draining from the site all driveways and other hardstanding areas should use permeable paving. The Environment Agency has no objections to the proposal but notes that Ordinary Watercourse Flood Defence Consent (OWFDC) is required from them for the diversion of the watercourse. The LFRMO objected to the original plans which showed a culvert under the road and the new watercourse being constructed of precast concrete panels. Following receipt of amended plans which show a bridge over the watercourse and the diverted watercourse having a natural bed channel, they have confirmed that they have no objections to the proposal providing that the proposal would not increase flood risk to neighbouring properties. Building Control has confirmed that the use of an underground rainwater storage tank and improving the flow capacity of the watercourse would ensure that the proposal does not increase

flood risk elsewhere. Conditions have been added to the permission to require details of surface water drainage and hard surface details to be submitted for approval by the Local Planning Authority.

5. Other Matters

- 6.14 County Highways has been consulted on the application and has no objections to the proposal, which shows sufficient parking and turning within the site.
- 6.15 A neighbour has requested that the site should be landscaped to prevent dogs in the kennels being disturbed by people using the lane that runs to the side of the dwelling. There would be some landscaping of the site but this would not primarily be to prevent the dogs from barking and if this becomes a noise nuisance it would be a matter for Environmental Health.

Conclusion

- 6.16 In overall terms, the principle of the proposed development is acceptable. The scale and design of the dwelling would be acceptable and it 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 proposal would not increase flood risk in the area and the proposed access and parking would be acceptable. In all aspects, the proposal is compliant with the objectives of the Local Plan policies and the proposal is recommended for approval.

7. Planning History

- 7.1 In August 2013, outline planning permission was granted for the erection of a dwelling (13/0458).

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 approved documents for this Planning Permission comprise:
1. the submitted planning application form, received 28 February 2014;
 2. Design & Access Statement, received 28 February 2014
 3. Drainage Report (A.L.Daines letter, dated 19 February 2014, received 28 February 2014);
 4. Location Plan, received 28 February 2014 (Dwg No. 2013/10/1/006);
 5. Site Plan & Site Sections as Existing, received 28 February 2014 (Dwg

- No. 2013/10/1/004);
6. Site Plan & Site Sections as Proposed, received 1 April 2014 (Dwg No. 2013/10/1/005);
 7. Ground Floor Plan & Sections, received 28 February 2014 (Dwg No. 2013/10/1/001);
 8. First Floor Plan & Elevations, received 28 February 2014 (Dwg No. 2013/10/1/002);
 9. Roof Plan, received 28 February 2014 (Dwg No. 2013/10/1/003);
 10. the Notice of Decision; and
 11. any such variation as may subsequently be approved in writing by the Local Planning Authority.

Reason: To define the permission.

3. No development hereby approved by this permission shall commence until samples or full details of all materials to be used on the exterior of the dwelling have 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 ensure the works harmonise as closely as possible with the existing building and to ensure compliance with Policy CP5 of the Carlisle District Local Plan 2001 - 2016.

4. No development shall take place until full details of hard and soft landscape works, including a phased programme of works, have been 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 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 that areas of hardstanding are permeable, in accordance with Policies CP5 of the Carlisle District Local Plan 2001-2016.

5. 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 CP5 of the Carlisle District Local Plan 2001-2016.

6. No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been approved in writing by the Local Planning Authority. Such a scheme shall be constructed and completed in accordance with the approved plans.

Reason: To ensure a satisfactory means of surface water and foul drainage disposal and in accord with Policy CP12 of the Carlisle District Local Plan 2001-2016.

7. No tree or hedgerow existing on the site shall be felled, lopped, uprooted or layered without the prior consent in writing of the Local Planning Authority and the protection of all such trees and hedgerows during construction shall be ensured by a detailed scheme to be agreed with the Local Planning Authority.

Reason: The Local Planning Authority wishes to see existing hedgerows/trees incorporated into the new development where possible and to ensure compliance with Policy CP3 of the Carlisle District Local Plan 2001-2016.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (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 buildings is not harmed by inappropriate alterations and/or extensions and that any additions which may subsequently be proposed satisfy the objectives of Policies CP5 and CP6 of the Carlisle District Local Plan 2001-2016.

9. 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.

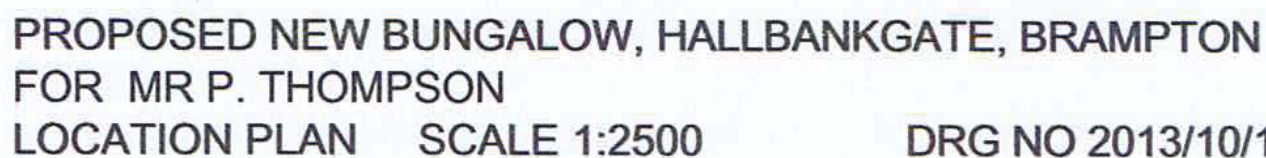
10. The dwelling shall not be occupied until the vehicular access and turning requirements have been constructed in accordance with the approved plan

and have 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.

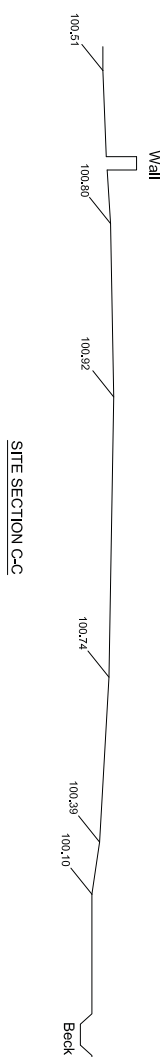
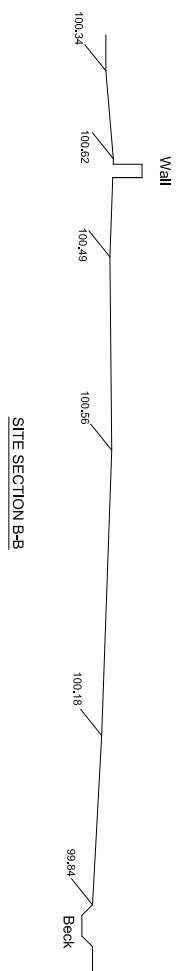
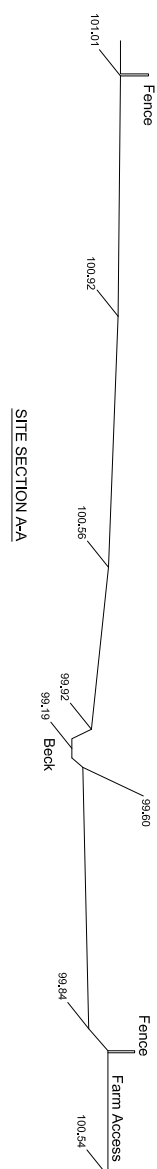
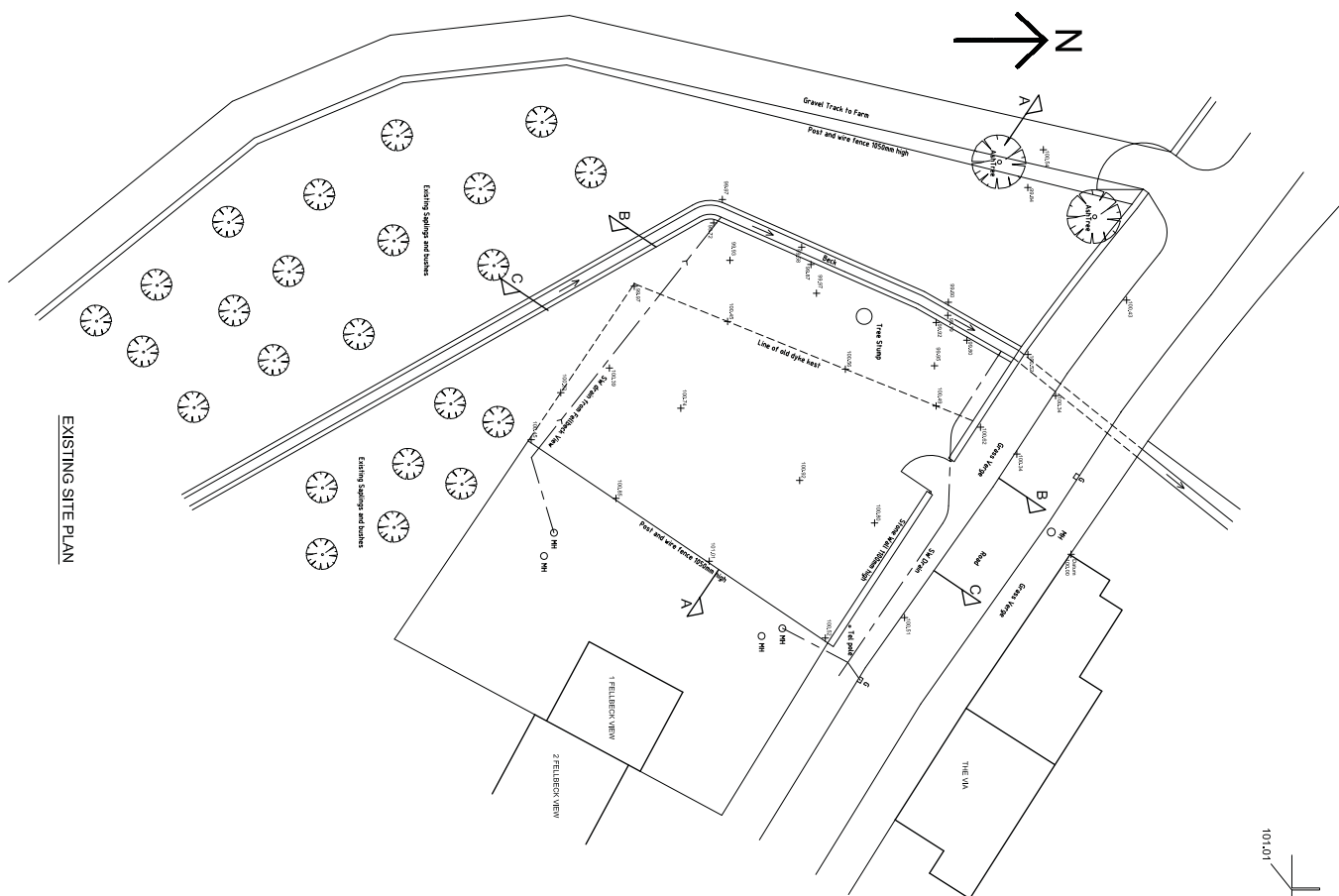
Reason: To ensure a minimum standard of access provision when the development is brought into use and to support Local Transport Plan Policies LD5, LD7 & LD8.

11. The whole of the access area bounded by the carriageway edge, entrance gates and the splays shall be constructed and drained to the specification of the Local Planning Authority in consultation with the Highway Authority.

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

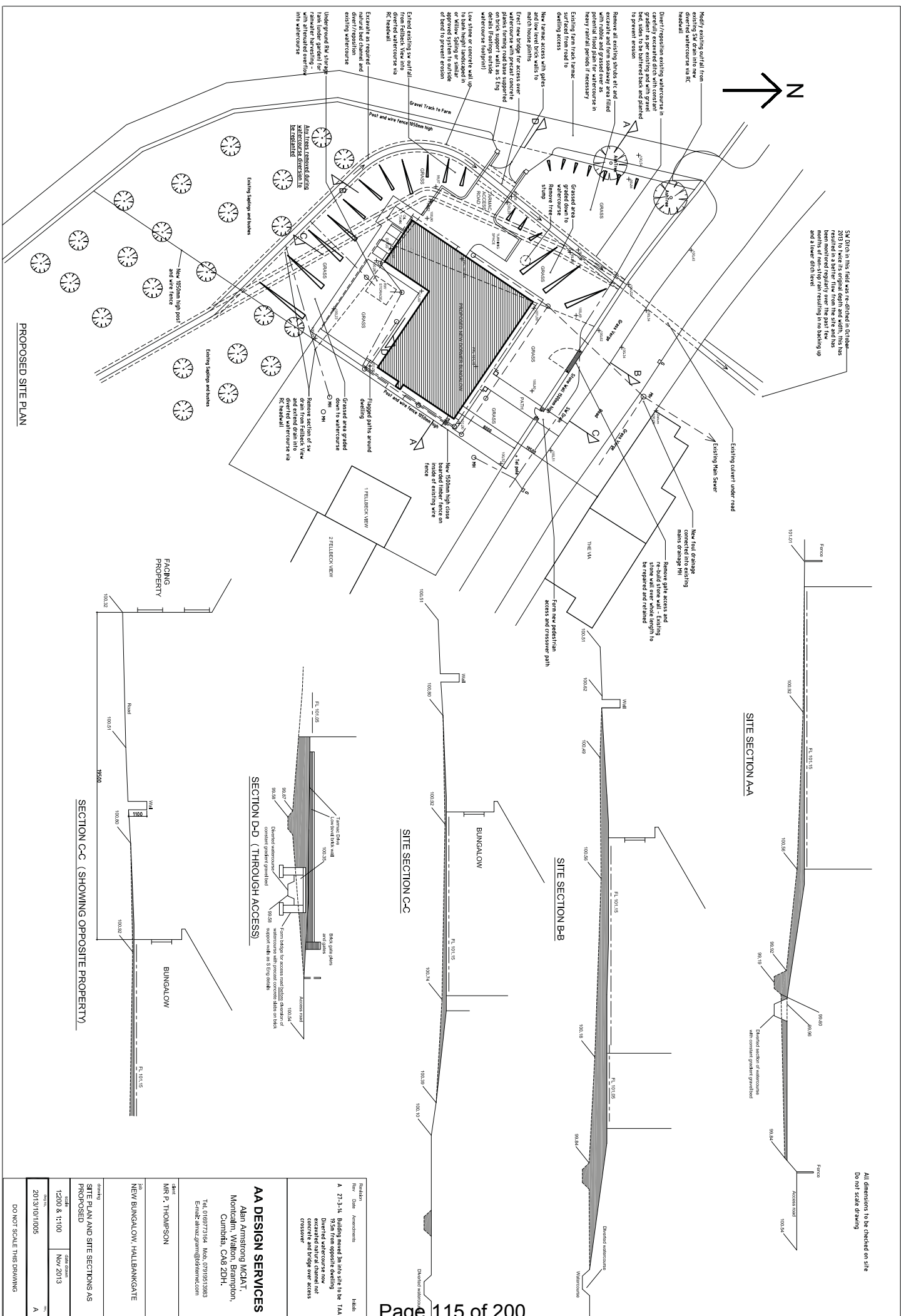


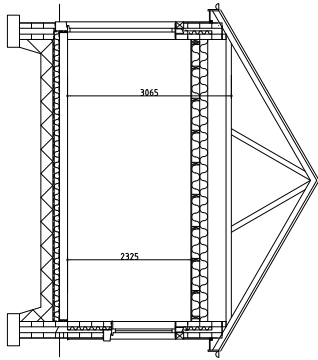
Page 113 of 200



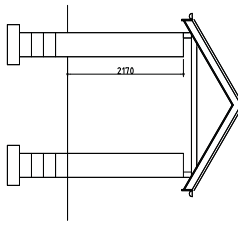
**All dimensions to be checked on site
Do not scale drawing**

Project No.	Rev.	Date	Amendments	Notes
<p>AA DESIGN SERVICES</p> <p>Alan Armstrong MCAIT, Mortcain, Walton, Brampton, Cumbria, CA5 2DH.</p> <p>Tel. 01977771164, Mob. 07910519983 E-mail: alnuc2g@aol.com@btinternet.com</p>				
<p>Drawn by: MR P. THOMPSON</p> <p>Check by: MR NEW BUDGALOV, I HALLBARNGATE</p>				
<p>Drawing of: EXISTING</p> <p>SITE PLAN AND SITE SECTIONS AS EXISTING</p>				
Scale	Date drawn	<p>1:200 & 1:100</p> <p>Nov 2013</p>		
Drawn by	Check by	<p>0</p>		
<p>2013/10/1/1004</p> <p>DO NOT SCALE THIS DRAWING</p>				

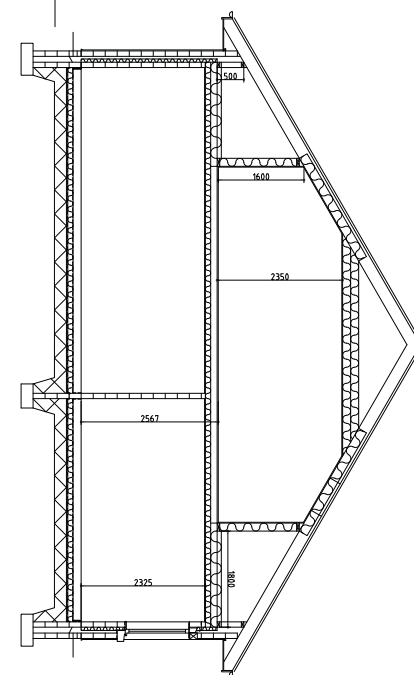




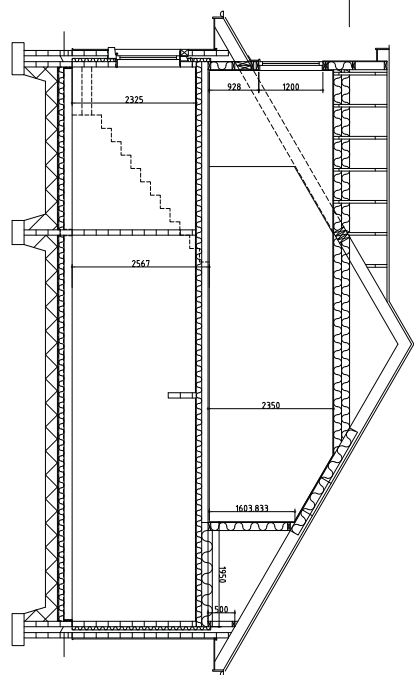
SECTION C-C



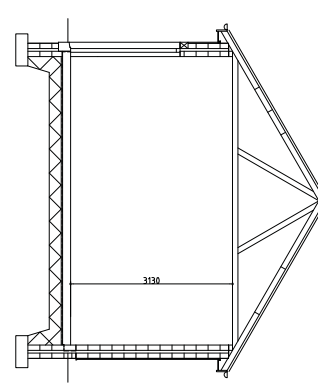
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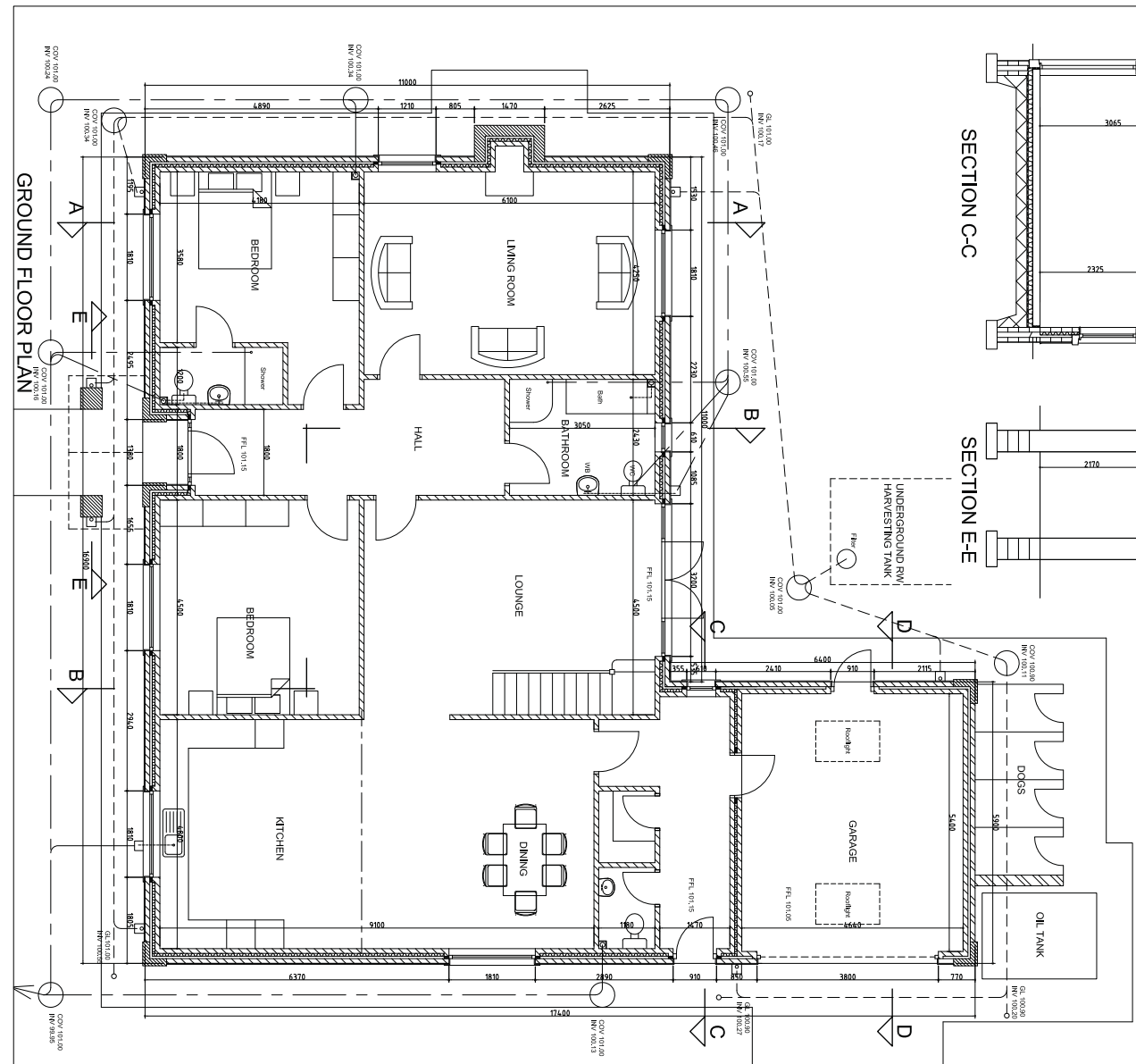
SECTION A-A



SECTION B-B

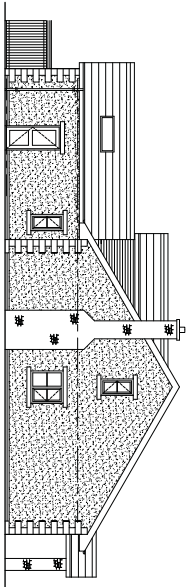


SECTION D-D

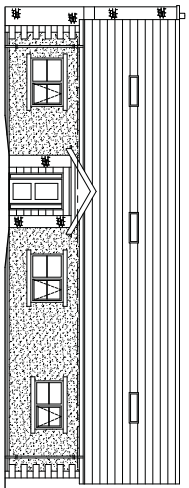


GROUND FLOOR PLAN

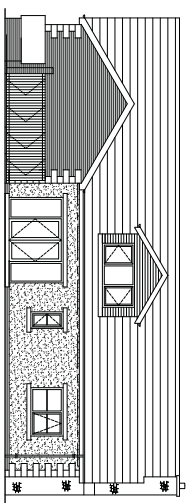
AA DESIGN SERVICES	
Alan Armstrong NCAT, Montclair, Victoria 3125, Australia Tel: 03 9577 7164 Mob: 03 9577 1383 Email: alan@aa-design.com	
Client:	Mrs P. THOMPSON
Job:	PROPOSED NEW BUNGALOW HALLBANKGATE, BRAMPTON
Drawn by:	AA DESIGN SERVICES
Scale:	1:50
Date:	OCT 2013
DO NOT SCALE THIS DRAWING	



SIDE ELEVATION



FRONT ELEVATION



REAR ELEVATION

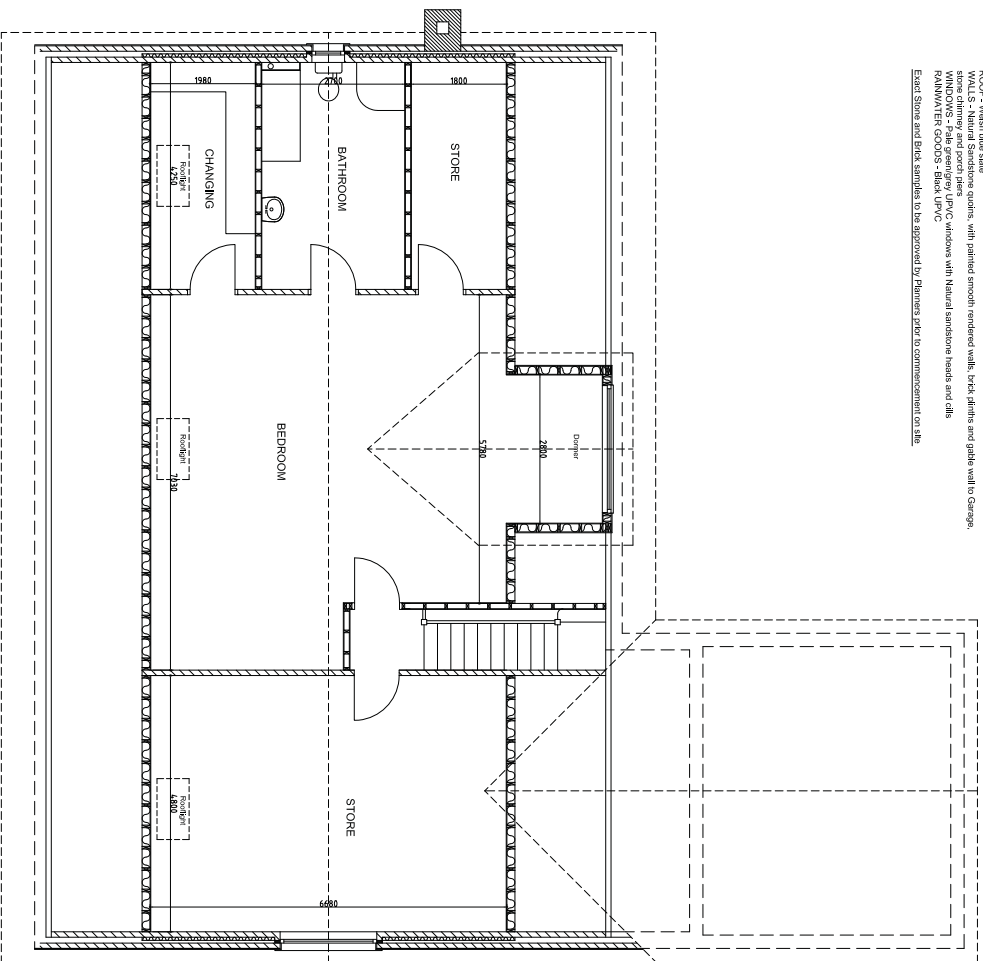
EXTERNAL FINISHES
ROOF - Welsh blue slate

WALLS - Natural Sandstone quoins, with painted smooth rendered walls, brick plinths and gable wall to Garage, stone chimney and porch piers

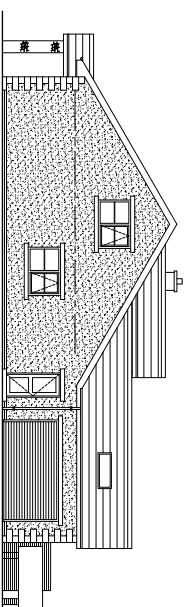
stone chimney and porch piers
WINDOWS - Pale green/grey UPVC windows with Natural sandstone heads and cills
CALCULATED GOOD - 31.1 m²

RAINWATER GOODS - Black UPVC

Exact Stone and Brick samples to be approved by Planners prior to commencement on site



FIRST FLOOR PLAN



SIDE ELEVATION

BRIEF SPECIFICATION

External Walls

Generally to be 100mm solid concrete blockwork external leaf, smooth render finish, 110mm cavity with 60mm Celotex CW4000 insulation, 100mm solid concrete blockwork inner leaf, plaster finish.

Below DPC external leaf to be brickwork and gable wall to garage to be brickwork.

Natural sandstone quoins, chimney, porch piers and window heads and cills.

Internal Wall

Generally, to be 100mm concrete blockwork, plaster finish, some First Floor partitions to be timber studs with 100 x 50mm treated timbers at 400mm c/c, gutt insulation between timbers and finished both sides with 12.5mm foil backed plasterboard and skim.

Windows an

To be light green/grey UPVC with Natural sandstone heads and cills

F100

Generally to be 150mm concrete floor slab on 500g polythene vapour barrier on 100mm celotex insulation on 1200g polythene DPM on 25mm sand blinding on mild 150mm hardcore

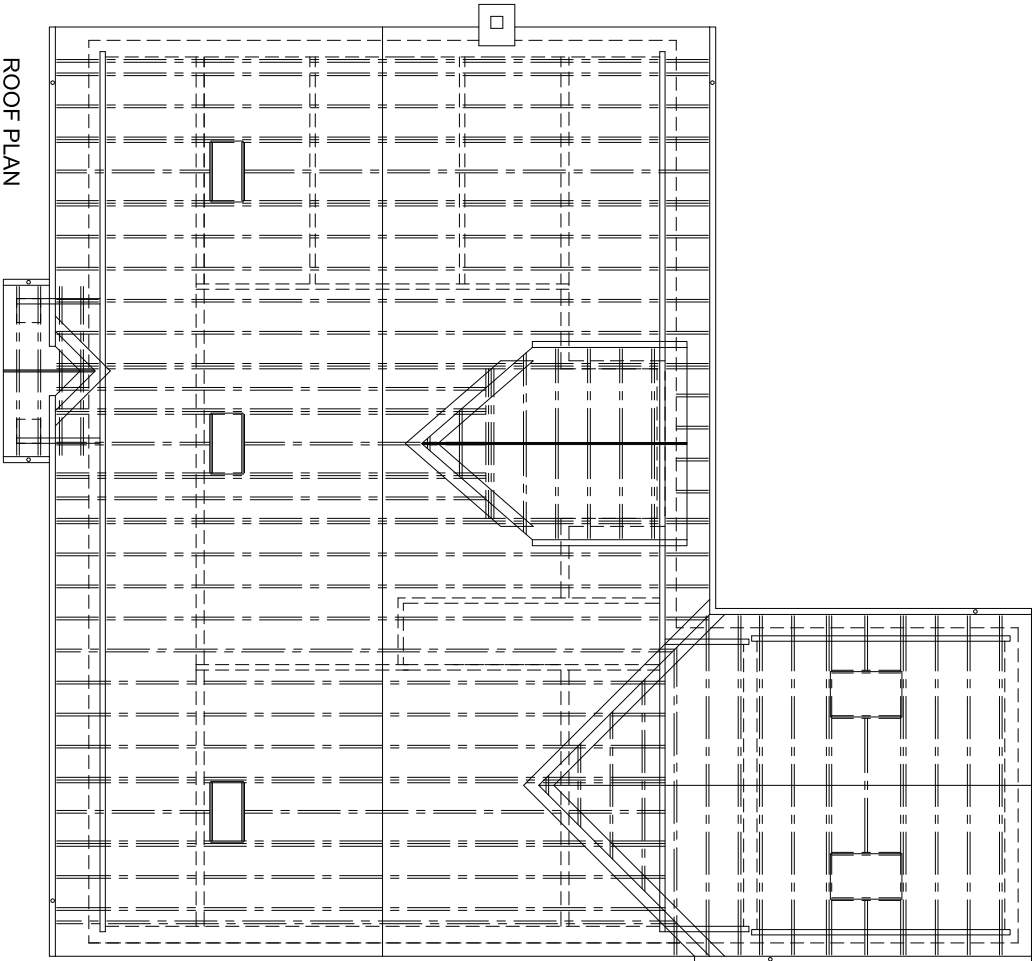
Roof

To be blue Welsh slates on 50 x 25mm treated battens on breathable roofing felt or timber arched/ruled rafters at 600mm c/c. Ceiling to be 12.5mm plasterboard and skim with 300mm quilt insulation above.

Drainage

Surface water to be to new rainwater harvesting tank located under garden, water to be re-used for WC flushing,garden irrigation,laundry and car washing, with attenuated overflow to existing watercourse.

Position	Date	Amount	Initials
<p>AA DESIGN SERVICES</p> <p>Alan Armstrong MCAT, Montcalm, Welton, Brampton, Cumtaha, CAB 20H.</p> <p>Tel. 0188773164 Mob. 07938513963 E-mail: alan.a.armstrong@btinternet.com</p>			
<p>1st fl MIR P. THOMPSON</p>			
<p>1st fl PROPOSED NEW BUNGALOW HALLBANKGATE, BRAMPTON</p>			
<p>2nd fl FIRST FLOOR PLAN AND ELEVATIONS</p>			
scale	date drawn		
1:250 & 1:100	OCT 2013		
1:100	_____	REV	
<p>01/10/2012</p>			
<p>DO NOT SCALE THIS DRAWING</p>			



Revision	Date	Amended by	Initial
Rev	Date	Amended by	Initial
AA DESIGN SERVICES			
Alan Armstrong NCAT, Montclair, Walton, Brampton, Cumbria, CA8 2DH.			
Tel: 0163773164 Mob: 07919513863 E-mail: ams@aa-design.com			
Client			
MR P. THOMPSON			
Job			
PROPOSED NEW BUNGALOW HALLBANKGATE, BRAMPTON			
Drawing			
ROOF PLAN			
Scale		Date drawn	
1:50		OCT 2013	
2013/10/10/03		Rev	
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SCHEDULE A: Applications with Recommendation

14/0135

Item No: 04

Date of Committee: 16/05/2014

Appn Ref No:
14/0135

Applicant:
Persimmon Homes
Lancashire

Parish:
Cummersdale

Agent:

Ward:
Dalston

Location: L/A Peter Lane bounded by Dalston Road, Cummersdale, Carlisle, Cumbria

Proposal: Variation Of Condition 28 (Highway Improvement Scheme) Of Previously Approved Permission 00/0439

Date of Receipt:
27/02/2014

Statutory Expiry Date
23/04/2014

26 Week Determination

REPORT

Case Officer: Richard Maunsell

1. Recommendation

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

2. Main Issues

- 2.1 The Principle Of The Variation Of The Condition And The Impact On Highway Issues

3. Application Details

The Site

- 3.1 This application seeks consent for the variation of a planning condition on land bounded by Peter Lane and Dalston Road, Carlisle. This land is situated to the north west of the junction of Dalston Road with Peter Lane, at the western periphery of Carlisle and measures 4.73 hectares in area.
- 3.2 The site, which is broadly square in shape, extends 240 metres along its frontage with Dalston Road and 210 metres along Peter Lane. The land

forms part of a larger site that is allocated for residential development in the Carlisle District Local Plan (CDLP). It is situated approximately 3 kilometres to the west of the city centre on the fringe of the urban area.

- 3.3 The site was undeveloped 'greenfield' land and comprises two fields that were in agricultural use but currently being developed as a housing site. Its defining features are the mature hedgerows that align the road frontages and a stream that runs through the north eastern portion of the site. There are two residential properties that are situated immediately adjacent to the site at its eastern and western corners. The surroundings to the site are predominantly rural in character.

Background

- 3.4 Outline planning consent was granted in 2012 for residential development. This permission was subject to several planning conditions including number 28 which reads:

"Before the commencement of development the applicant/ developer shall enter into and complete an agreement with the Highway Authority under Section 278 of the Highways Act 1980 (as amended) which shall make provision for the completion of a highway improvement scheme along Dalston Road and Peter Lane in accordance with details to be agreed beforehand by the Local Planning Authority. The aforementioned scheme (which will include the provision of footways, road lighting, and, the widening and strengthening of the existing carriageways) shall be completed before any development work starts on site."

The Proposal

- 3.5 The current application seeks consent to vary this condition and substitute its wording with the following:

"Before the commencement of development the applicant/ developer shall enter into an agreement with the Highway Authority under Section 278 of the Highways Act 1980 (as amended) which shall make provision for the completion of a highway improvement scheme along Dalston Road and Peter Lane in accordance with details to be agreed beforehand by the Local Planning Authority. The aforementioned scheme (which will include the provision of footways, road lighting, and, the widening and strengthening of the existing carriageways) shall be completed before any unit on the site is occupied."

4. Summary of Representations

- 4.1 This application has been advertised by means of a site notice and direct notification to the occupiers of 4 of the neighbouring properties. No representations have been received.

5. Summary of Consultation Responses

Cumbria County Council - (Econ. Dir. Highways & Transportation): - no objection but there is a minor alteration suggested to the wording of the condition;

Cummersdale Parish Council: - the Council wishes to re-iterate it's previous concerns primarily due to the increased traffic generated from this development and requests that the highway improvement scheme along Dalston Road and Peter Lane is completed before the commencement of the development.

It has always been understood that an adequate infrastructure would be in place to cope with the extra traffic flows and population using the surrounding roads, foot paths, cycle ways. The removal of the condition, delaying the highway improvements would be detrimental to the area;

Northern Gas Networks: - no objection.

6. Officer's Report

Assessment

- 6.1 The relevant planning policies against which the application is required to be assessed are the National Planning Policy Framework (NPPF) and Policies CP5 and T1 of the Carlisle District Local Plan 2001-2016. The proposal raises the following planning issue.

1. The Principle Of The Variation Of The Condition And The Impact On Highway Issues

- 6.2 Members will be aware outline planning permission exists for the development of the site for housing and the principle of development is not under consideration as part of this application. The sole issue for Members is whether the proposal would have any adverse impact on highway issues and therefore whether the principle of the variation of the condition is acceptable.

- 6.3 To assist Members, the original condition is reproduced with the omitted text lined through and the proposed replacement text highlighted in bold:

“Before the commencement of development the applicant/ developer shall enter into ~~and complete~~ an agreement with the Highway Authority under Section 278 of the Highways Act 1980 (as amended) which shall make provision for the completion of a highway improvement scheme along Dalston Road and Peter Lane in accordance with details to be agreed beforehand by the Local Planning Authority. The aforementioned scheme (which will include the provision of footways, road lighting, and, the widening and strengthening of the existing carriageways) shall be completed before any ~~development work starts on site~~ **unit on the site is occupied.**”

- 6.4 The Parish Council has raised objections to the application and reaffirms its view about the increased traffic that the development would generate and

that the infrastructure improvement works should be completed before development is commenced. Moreover, it is stated, the removal of the condition would be detrimental to the area.

- 6.5 This application is solely for the variation of the condition and does not seek its removal. The proposed rewording would allow work to commence on site without the additional highway improvement works being completed; however, it still would require the developer to enter into the relevant agreement with the Highway Authority and would further require the works to be completed before any property is occupied. This would still provide the necessary improvements to the highway network for residents of the scheme and users of the highway.
- 6.6 It is key for Members to note that the Highway Authority who are the party involved in the S278 agreement with the developer, has raised no objection to the proposal. The Highway Authority has suggested that the wording of the condition is amended slightly to require the works to be completed “to the satisfaction of the LPA”. In this instance, this phraseology would be too ambiguous and the proposed wording of the condition by the developer remains reasonable and enforcement and otherwise meets the relevant tests required in Circular 11/95: Use Of Conditions In Planning Permission.
- 6.7 In summary, this current application seeks approval to vary the wording of Condition 28 of the outline approval, which relates to the developer entering into an agreement with the Highway Authority and the subsequent timing of the completion of the highway improvement works. The proposal does not seek to remove but moreover vary the condition. The revised condition would still require the developer to enter into an agreement with the Highway Authority and would also require the provision and completion of the works prior to the occupation of any property. The minor change is acceptable and the Highway Authority has raised no objection. In all aspects the proposal would be compliant Circular 11/95: Use of Condition in Planning Permission and with the objectives of the relevant Local Plan policies.

7. Planning History

- 7.1 Outline planning permission was granted in 2012 for residential development.
- 7.2 An application for reserved matters approval for 103 dwellings is currently being considered.

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 approved documents for this Planning Permission comprise:

1. the Planning Application Form received 20th February 2014;
2. the Site Location Plan received 27th February 2014;
3. the Notice of Decision.

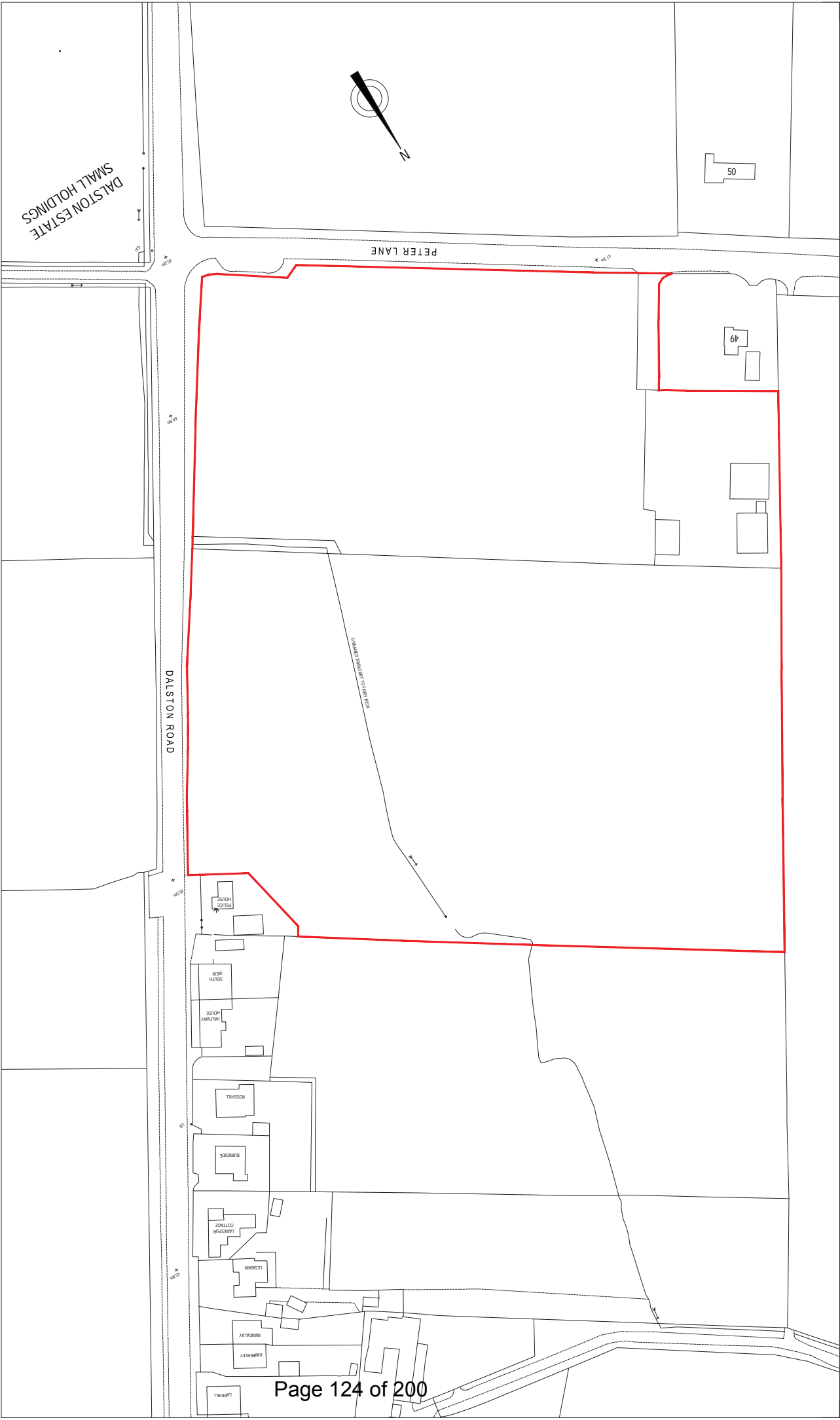
Reason: To define the permission.

3. With the exception of condition 28, the development shall be carried out in accordance with the remaining conditions attached to the "Outline" permission approved under application 00/0439.

Reason: For the avoidance of doubt.

4. Before the commencement of development the applicant/ developer shall enter into an agreement with the Highway Authority under Section 278 of the Highways Act 1980 (as amended) which shall make provision for the completion of a highway improvement scheme along Dalston Road and Peter Lane in accordance with details to be agreed beforehand by the Local Planning Authority. The aforementioned scheme (which will include the provision of footways, road lighting, and, the widening and strengthening of the existing carriageways) shall be completed before any unit on the site is occupied.

Reason: To ensure that the surrounding highway network is capable of carrying the volumes of vehicular and pedestrian traffic likely to be generated by the proposed development.



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CHARLES CHURCH
THE NAME ON THE FINEST HOMES



RESIDENTIAL DEVELOPMENT AT PETER LANE, MORTON, CARLISLE			
DRWG TITLE:	SITE LOCATION PLAN	PROJECT NUMBER	CPT-171
DRAWN BY:	G. RAYNE	DRAWING NUMBER	PL01
DATE:	23/05/2012	SHEET SIZE:	A3
		SCALE:	1:1250
		REVISION:	

SCHEDULE A: Applications with Recommendation

14/0190

Item No: 05

Date of Committee: 16/05/2014

Appn Ref No:
14/0190

Applicant:
Mr J Little

Parish:
Wetheral

Agent:

Ward:
Wetheral

Location: Land adjacent Tholt Y Will, Aglionby, Carlisle, CA4 8AQ

Proposal: Demolition Of Residential Building And Erection Of 1no. Dwelling

Date of Receipt:
10/03/2014

Statutory Expiry Date
05/05/2014

26 Week Determination

REPORT

Case Officer: Shona Taylor

1. Recommendation

1.1 It is recommended that this application is granted subject to conditions.

2. Main Issues

- 2.1 Whether The Principle of Development Is Acceptable
- 2.2 Whether The Scale And Design Of The Dwelling Is Acceptable
- 2.3 The Impact Of The Proposal On The Living Conditions Of Neighbouring Residents
- 2.4 Impact Of The Proposal On Highway Safety

3. Application Details

The Site

- 3.1 The application site is to the north of the village of Aglionby, within the residential curtilage of Tholt-y-Will.
- 3.2 It is proposed to demolish the existing garage building. The site is accessed from the east by the road which runs through the centre of Aglionby. The boundaries of the site are stock proof fencing.

Background Information

- 3.3 This application is brought before the Development Control Committee due to the receipt of an objection from the Parish Council.

The Proposal

- 3.4 The application is seeking Planning Permission for the erection of a one and a half storey two bed dwelling. The layout plan shows a large open plan living/dining/kitchen area to ground floor, along with an en-suite bedroom, utility, shower and lounge, with a lounge and en-suite bedroom at first floor. The property will also feature an attached garage.

4. Summary of Representations

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

5. Summary of Consultation Responses

Cumbria County Council - Highways & Transport: - the slight increase in vehicular use of the existing access is unlikely to have a significant material effect on existing highway conditions. As such, the Highway Authority has no objection to the proposal;

Wetheral Parish Council: - Object to the proposal on the grounds that it is overdevelopment of the site. In this location, they consider that the proposal represents an inappropriate development that would result in a discordant feature within the rural area and would be detrimental to the character of the local landscape, adjacent to the local village green amenity, contrary to CP5 and H11 of the Local Plan;

English Heritage - North West Region: - no observations;

United Utilities: - no observations.

6. Officer's Report

Assessment

- 6.1 The relevant planning policies against which the application is required to be assessed are Policies DP1, H1, H9, CP3, CP5, CP6, CP11 and T1 of the Carlisle District Local Plan 2001-2016.

The proposals raise the following issues:

1. Whether The Principle of Development Is Acceptable

- 6.2 Since the adoption of the Local Plan, the National Planning Policy Framework

(NPPF) has been published by the Government and is a material consideration in the determination of this application. Policy considerations in relation to this application state that whilst development should be considered against Local Plan policies, the Council's Local Plan (in respect of the issue of housing) cannot be considered up to date under the NPPF. The Framework seeks to promote sustainable development and in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.

- 6.3 The application site is located to adjacent to the small village road which leads to Holme Gate from the A69 Carlisle to Newcastle road. The application site is located within part of the curtilage of an existing property, which extends along the north of Aglionby. To the immediate south and west of the site are several large detached properties.
- 6.4 When assessing the application site it is evident that this site is well related to Aglionby and would form a natural 'stop' to the built form of Aglionby given that it is adjacent to other residential properties and their domestic curtilages. Furthermore, Aglionby is close to Carlisle and the Key Service Centre of Scotby. In light of the foregoing, the site for housing is consistent with the policies in the NPPF and the principle of development is acceptable.

2. Whether The Scale And Design Of The Dwelling Is Acceptable

- 6.5 The proposed dwelling is a reasonably large detached dwelling, however it is noted that the it would be well related to the plot and proportionate to the neighbouring buildings. It is therefore not considered that the proposed dwelling would form a discordant feature within the character of the area.
- 6.6 The dwelling will incorporate a render finish, with a tiled roof, to match the surrounding properties, it is not considered that it would appear incongruous within the character of the area.
- 6.7 As such, taking into account the above, it is considered that the scale and design of the dwelling is acceptable.

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

- 6.8 Taking into consideration the scale and position of the proposed dwelling in relation to neighbouring properties, it is not considered that the impact that the proposal would have, as a result of loss of light or overdominance, is significant to the extent that it would be harmful to the amenity of neighbouring properties.

4. Impact Of The Proposal On Highway Safety

- 6.9 The proposal seeks approval to use the existing access from the Highway, and illustrates parking and turning space for the dwelling within the curtilage. The Highway Authority have not raised any objections to the proposal.

5. Other Matters

- 6.10 It is noted that the Parish Council have objected to the proposal on grounds of overdevelopment, however, for the reasons discussed above, particularly paragraph 6.5, relating to the scale of the plot and neighbouring properties, it is not considered that this would constitute a reason for refusal.

Conclusion

- 6.11 In overall terms, the principle of the proposed development is acceptable. The scale, siting and massing of the proposed dwelling is acceptable in relation to the site and the surrounding properties. The living conditions of neighbouring properties would not be compromised through unreasonable overlooking or overdominance, adequate car parking, access and amenity space would be able to be provided to serve the dwellings. In all aspects the proposal is compliant with the objectives of the Local Plan policies and the proposal is recommended for approval.

7. Planning History

- 7.1 In 1998 Planning permission was granted for the erection of garage/store (application reference 98/0586).

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 approved documents for this Planning Permission comprise:

1. the submitted planning application form;
2. the Location Plan received 10th March 2014;
3. the block plan received 10th March 2014;
4. the existing plans received 10th March 2014;
6. the proposed elevations received 10th March 2014;
7. the proposed ground floor plan received 10th March 2014;
8. the proposed first floor plan received 10th March 2014;
9. the design and access statement received 10th March 2014;

10. the Notice of Decision; and
11. 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 CP5 of the Carlisle District Local Plan 2001-2016 are met and to ensure a satisfactory external appearance for the completed development.

4. No development shall take place until full details of hard and soft landscape works, including a phased programme of works, have been 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 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 CP5 of the Carlisle District Local Plan 2001-2016.

5. 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 suitable boundary treatment is erected in accordance with Policy CP5 of the Carlisle District Local Plan 2001-2016.

6. No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been approved in writing by the Local Planning Authority. Such a scheme shall be constructed and completed in accordance with the approved plans.

Reason: To ensure a satisfactory means of surface water disposal and in accord with Policy CP12 of the Carlisle District Local Plan 2001-2016.

7. The whole of the vehicular access area bounded by the carriageway edge and the highway boundary shall be constructed and drained to the specification of the Local Highways Authority.

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

8. Neither dwelling shall be occupied until its vehicular access and parking requirements have been constructed in accordance with the approved plan and brought into use. These facilities 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.

[illegible]Department of Environment & Development :
Planning Services

10 MAR 2014

$$14 \overline{) 0190}$$

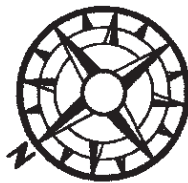
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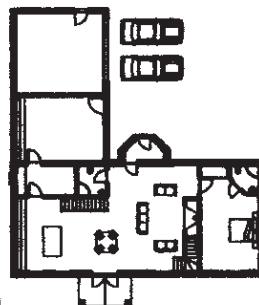
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12/1/2004

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AGLIONBY



Tholt-y-will

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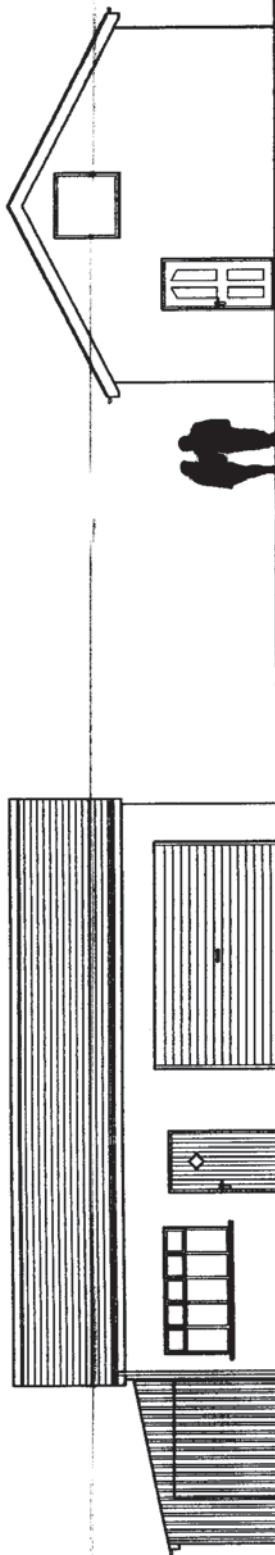
14/0190

Dwelling on land adjoining "Tholt - y - Will "
Aglionby, Carlisle, Cumbria CA4 8AQ for Mr & Mrs J. Little

Drawn By	G. Tyler
Scale	1:500
Date	1st February 2014
Drawing No	JL / DWELL / SBP
Rev	Rev A

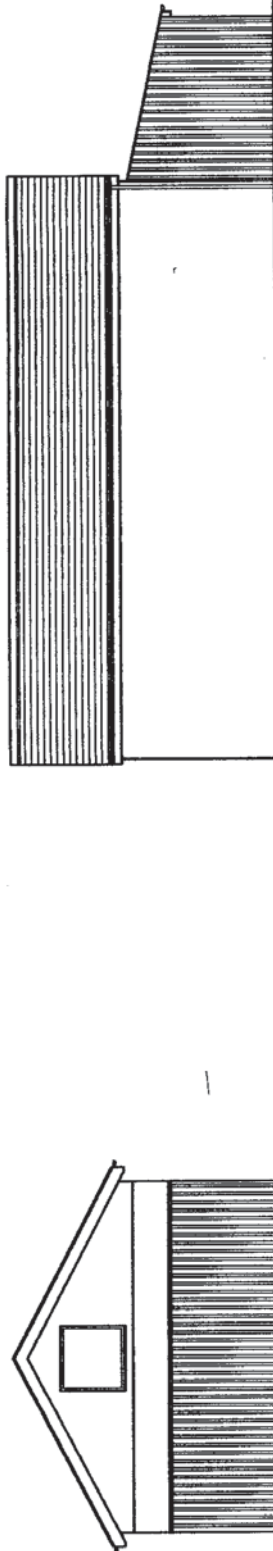
Rev.	Date	Description
A	01/02/14	Original Issue

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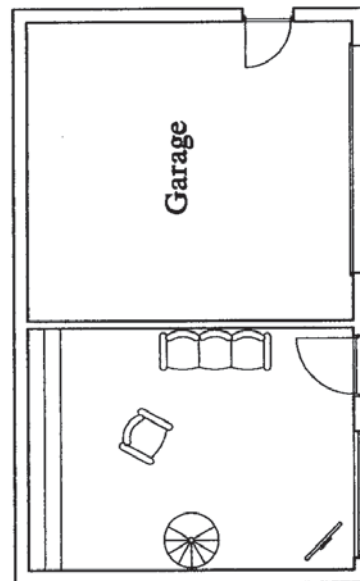


Existing West Elevation

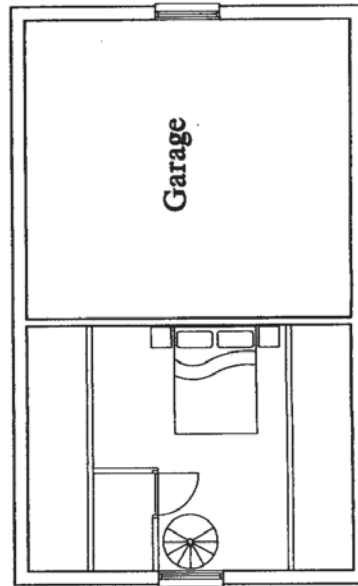
Existing South Elevation



Existing East Elevation



Existing Ground Floor Plan



Existing First Floor Plan

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10 MAR 2014

14/01/14

Dwelling on land adjoining "Tholt - y - Will"		G.Tyler	
Aglionby, Carlisle, Cumbria CA4 8AQ for Mr & Mrs J. Little		1:100	
		1st February 2014	
		JL/DWELL/ELEV1 Rev A	
Rev.	Date	Drawing No	Drawn By
A	01/02/14		G.Tyler
			Scale
			Date
			1st February 2014
			JL/DWELL/ELEV1 Rev A

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14/01/10

Proposed Ground Floor Plan

Dwelling on land adjoining "Tholt - y - Will"
Aglionby, Carlisle, Cumbria CA4 8AQ for Mr & Mrs J. Little

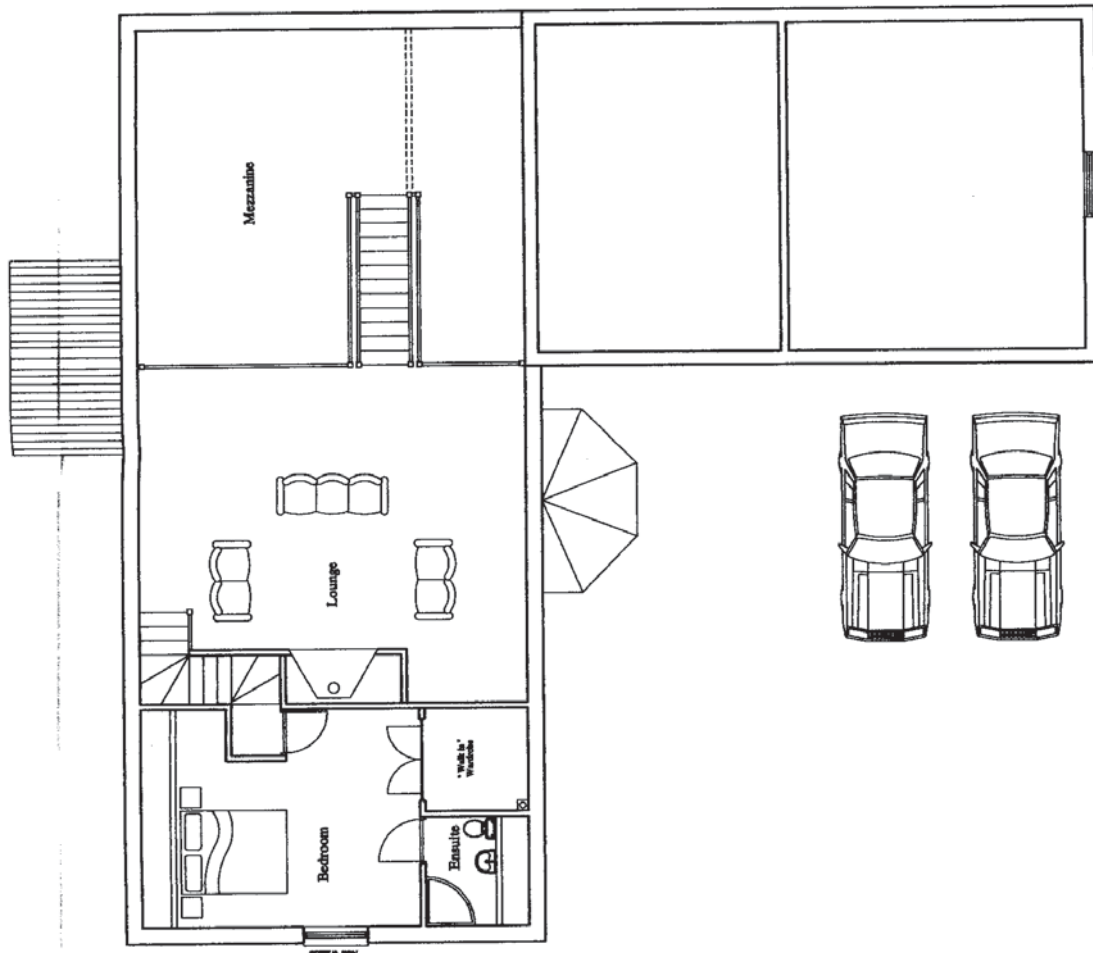
Drawn By	G.Tyler
Scale	1:100
Date	1st February 2014
Drawing No	JL / DWELL / GFP1 Rev A

Rev.	Date	Description
A	01/02/14	Original Issue

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Proposed First Floor Plan



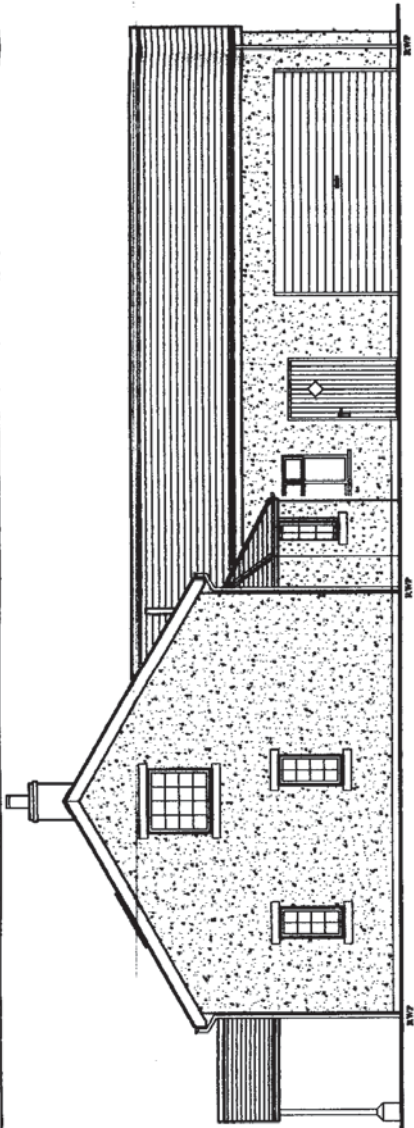
Dwelling on land adjoining "Tholt - y - Will"
Aglionby, Carlisle, Cumbria CA4 8AQ for Mr & Mrs J. Little

Drawn By	G.Tyler
Scale	1:100
Date	1st February 2014
Drawing No	JL / DWELL / FFP1
Rev	Rev A

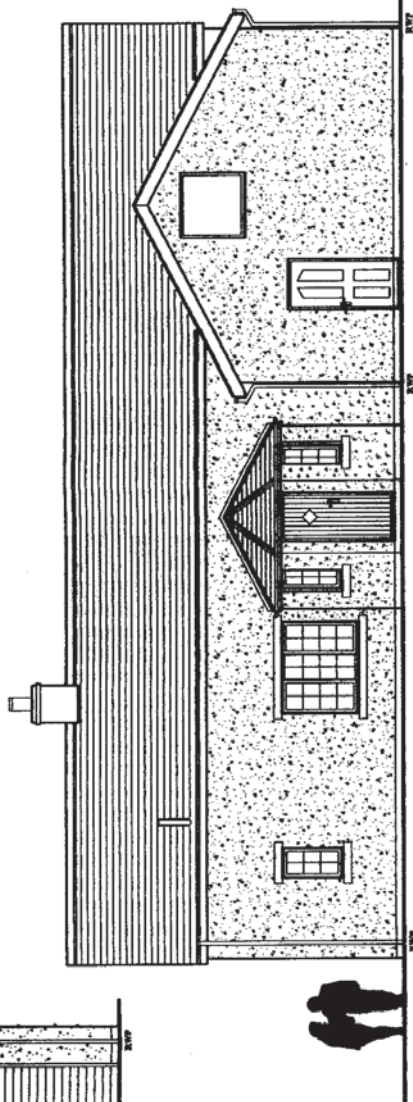
Rev.	Date	Description
A	01/02/14	Original Issue

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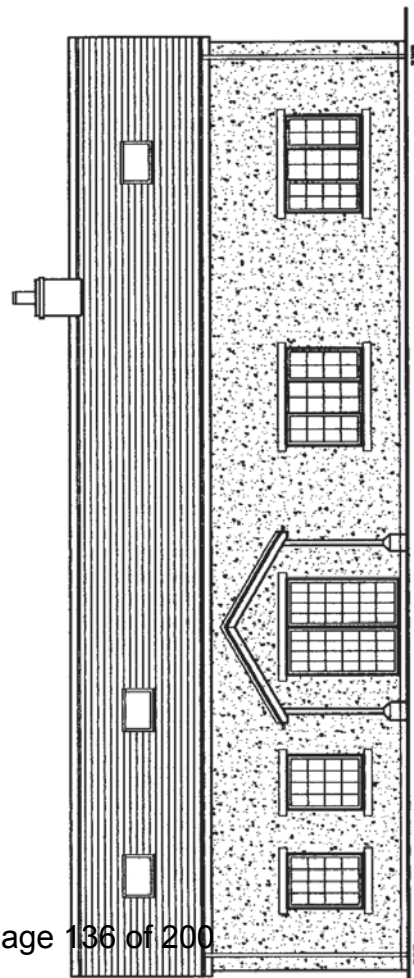
Tiled Roof
 Rough Dash Painted Render
 Granite Lintels and Cills
 Upvc double glazed windows with square leaded detail



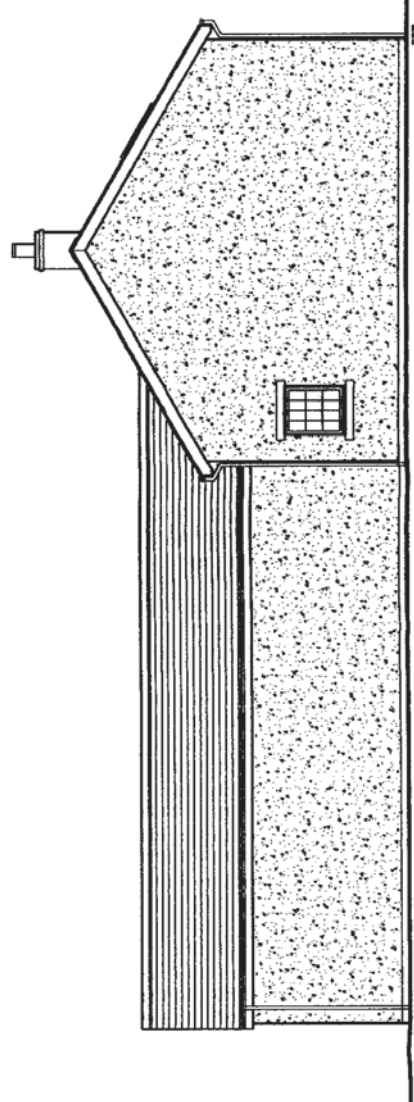
Proposed South West Elevation



Proposed South East Elevation



Proposed North West Elevation



Proposed North East Elevation

RECEIVED
 10 MAR 2014
 14/01/10

Dwelling on land adjoining "Tholt - y - Will"
 Aglionby, Carlisle, Cumbria CA4 8AQ for Mr & Mrs J. Little

Original Issue		Drawn By	G.Tyler
Description		Scale	1:100
Date		Date	1st February 2014
Rev.		Drawing No	JL / DWELL / ELEV2 Rev A

SCHEDULE A: Applications with Recommendation

14/0212

Item No: 06

Date of Committee: 16/05/2014

Appn Ref No:
14/0212

Applicant:
Mrs Brenda Chambers

Parish:

Agent:

Ward:
Upperby

Location: Land Adjacent 337 Blackwell Road, Carlisle, CA2 4RU

Proposal: Erection Of 1No. Dwelling (Outline)

Date of Receipt:
14/03/2014

Statutory Expiry Date
09/05/2014

26 Week Determination

REPORT

Case Officer: Suzanne Osborne

1. Recommendation

- 1.1 It is recommended that this application is refused.

2. Main Issues

- 2.1 Whether the principle of development is acceptable;
- 2.2 Whether the scale and design of the dwelling is acceptable;
- 2.3 Whether the siting of the dwelling is acceptable, impact upon character of the area including impact upon protected trees
- 2.4 The impact of the proposal on the living conditions of neighbouring residents;
- 2.5 The impact of the proposal on highway safety;
- 2.6 Whether the method of disposal of foul and surface water are acceptable;
- 2.7 Other matters.

3. Application Details

The Site

- 3.1 No.337 Blackwell Road is a two storey end terrace property constructed from brick/rendered walls under a tiled roof, located on the eastern side of Blackwell Road. The property is surrounded by two storey residential

dwelling to the north and a single storey property to the south known as "Seven Stiles". The garden of Seven Stiles wraps around the eastern boundary of the site with Hammonds Pond public park located beyond. There is a mature Oak Tree covered by Tree Preservation Order No.104 in the garden of Seven Stiles located approximately 6 metres from the application site.

The Proposal

- 3.2 This application seeks Outline Permission for the erection of one dwelling with all Matters Reserved in the southern garden of No.337 Blackwell Road. This application, therefore, is to establish the principle of development of the site for residential development.

4. Summary of Representations

- 4.1 This application has been advertised by the display of a site notice and by means of notification letters sent to four neighbouring properties. During the consultation period one comment has been received from the occupier of No.335 Blackwell Road.
- 4.2 The email of comment indicates that the occupier of No.335 Blackwell Road has a right of access over the path to the rear and side of No.337 Blackwell Road.

5. Summary of Consultation Responses

Cumbria County Council - (Econ. Dir. Highways & Transportation): - no objections subject to the imposition of three conditions;
Local Environment - Environmental Protection (former Comm Env Services-Env Quality): - no objections;
Northern Gas Networks: - no objections, advisory note attached;
United Utilities - (for water & wastewater comment) see UUES for electricity dist.network matters: - no objection.

6. Officer's Report

Assessment

- 6.1 The relevant planning policies against which the application is required to be assessed are Policies DP1, CP1, CP2, CP3, CP5, CP10, CP11, CP12, H2 and T1 of the Carlisle District Local Plan 2001-2016. The National Planning Policy Framework and the Council's Supplementary Planning Documents on "Achieving Well Design Housing" and "Trees and Development" are also material planning considerations.
- 6.2 At the heart of the National Planning Policy Framework (NPPF) is a presumption in favour of sustainable development which should be seen as a

golden thread through both plan-making and decision taking. Paragraph 14 of the NPPF states that for decision taking this means approving development proposals that accord with the development plan without delay.

6.3 The proposals raise the following planning issues:

1. Whether The Principle Of Development Is Acceptable

6.4 The application site, which lies within the urban area of Carlisle, is designated as a "Primary Residential Area" in the adopted Carlisle District Local Plan. As such, the principle of residential development is acceptable as the site is located within a sustainable area, subject to compliance with the criteria identified in Policy H2 and other relevant Local Plan policies.

2. Whether The Scale And Design Of The Dwelling Is Acceptable

6.5 The indicative drawings and documents submitted as part of the application illustrate the siting of a single storey detached property approximately 40m² in area. Although the indicative floor area of the dwelling is small it is noted that the floor area would meet the "Parker Morris" Space Standards as prescribed in the report "Homes for Today and Tomorrow" for a one bedroom dwelling. The application however seeks Outline Planning Permission with all Matters Reserved, therefore the scale and design of the dwelling would be subject to a further application.

3. Whether The Siting Of The Dwelling Is Acceptable, Impact Upon Character Of The Area Including Impact Upon Protected Trees

6.6 There are no trees and hedges within the application site however there is a large healthy mature oak tree which is subject to a Tree Preservation Order (No.104) in the garden of Seven Stiles which wraps around the eastern boundary of the site. The trunk of the tree is located approximately 6 metres from the eastern boundary of the application site and has a canopy which extends over part of site and the remaining garden area proposed for No.337 Blackwell Road. The Oak Tree is visible from a range of public vantage points including the public highway and neighbouring public park at Hammond's Pond and makes a significant positive contribution to the amenity of the surrounding area.

6.7 Paragraph 118 of the National Planning Policy Framework (NPPF) indicates that planning permission should be refused for development resulting in deterioration of irreplaceable habitats, including ancient woodland and the loss of aged and veteran trees found outside ancient woodland, unless the need for, and benefits of, the development in that location clearly outweigh the loss".

6.8 Policy CP3 of the Local Plan seeks to ensure that proposals for new development should provide for the protection and integration of existing trees and hedges. In respect of new development, the City Council will resist proposals which cause unacceptable tree loss, and which do not allow for the successful integration of existing trees. This aim is further reiterated in Policy

CP5 which requires all developments to take into account important landscape features and ensure the enhancement and retention of existing hedges.

- 6.9 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. The SPD states that the design of a development should seek to retain existing tree and hedgerow features and goes on to state that in the case of residential dwellings development will not be permitted where a habitable room window would be overshadowed by a tree or hedge, or where any part of a tree or hedge would be sited within 5 metres of a habitable room window. To allow useable garden space the SPD indicates that no more than 50% of a new garden area should be dominated by the tree canopy of mature trees.
- 6.10 The layout plan, although only indicative, indicates that the proposed dwelling would be located approximately 4 metres (at its closest point) from the canopy of the mature Oak Tree however given the constrained nature of the site it is acknowledged that the dwelling could only be repositioned slightly further to the west (by approximately two metres) without affecting parking arrangements. In relation to where the proposed dwelling could be sited and the existing presence of the oak tree it is considered that little if any direct sunlight will reach any easterly facing windows; sunlight will only reach the garden for relatively short periods of time; and the tree will block significant amounts of attenuated light throughout the year. Furthermore, the tree can be viewed as forming an oppressive and overbearing feature which will, through falling leaves and use by wildlife such as birds, be detrimental to the living conditions of any occupiers of the proposed dwelling. These poor conditions would inevitably result in pressure from future occupiers of the proposed dwelling to prune or fell the tree to the significant detriment of the amenity and character of the area.
- 6.11 The Council's Tree Officer has been consulted on the proposal and has recommended that the application is refused planning consent as it is considered that the existing Oak Tree will have a significant detrimental impact on the living conditions of the occupants of the proposed property. This will result in the loss of a protected large mature tree which is on the edge of a public park to which it makes a valuable contribution.
- 6.12 In relation to the above it is considered that the proposed development represents overdevelopment of the site which would have a significant impact upon the living conditions of the occupants of the proposed dwelling through overdominance and loss of light. If the development went ahead the Council would inevitably receive pressure from the occupants of the proposed dwelling to removed the large mature Oak Tree in the future which would have a significant detrimental impact upon the character and amenity of the surrounding area. It is therefore not considered that the benefits of the scheme (providing an additional dwelling in the urban area in a sustainable

location) would outweigh the potential harm caused to the occupants of the proposed dwelling together with the character and appearance of the surrounding area. Furthermore no evidence of need for the dwelling has been submitted which would outweigh the harm created.

4. The Impact Of The Proposal On The Living Conditions Of Neighbouring Residents

- 6.13 The residential properties to the north and south of the site have no primary windows which would directly face the proposed development. Although the siting of the dwelling on the layout plan is only indicative adequate separation distances can be maintained between the existing and proposed dwellings thereby ensuring that the adjacent properties are not affected through loss of light, loss of privacy or over dominance.

5. Impact Of The Proposal On Highway Safety

- 6.14 The indicative layout plan and Design and Access Statement indicates that access to the site will be via Blackwell Road and parking will be to the front of the property. The indicative plans also indicate that parking for the adjacent property No.337 Blackwell Road will now be to the front of the property. The relevant Highways Authority has been consulted on the proposal and has raised no objections to the indicative proposals subject to the imposition of three conditions. Accordingly, it is unlikely that the proposal would have a detrimental impact on highway safety.

6. Whether The Method of Disposal of Foul And Surface Water Are Acceptable

- 6.15 In order to protect against pollution, Policy CP12 seeks to ensure that development proposals have adequate provision for the disposal of foul and surface water. As previously outlined, the proposal seeks Outline Planning Permission with all Matters Reserved; however, the application form highlights that surface water drainage will be to existing mains.
- 6.16 United Utilities in their consultation response have raised no objections to the drainage methods proposed. As this application is however outline with all matters reserved full details regarding drainage would be dealt with at the reserved matters stage.

7. Other Matters

- 6.17 An occupier of a neighbouring property (No.335 Blackwell Road) has indicated that they have a right of access over the path to the rear and side of No.337 Blackwell Road. This issue is a civil matter and is not a material planning consideration.

Conclusion

- 6.18 In overall terms whilst it is acknowledged that the site is located within a sustainable location for housing development the proposed development will

be located in close proximity to a large healthy mature Oak Tree covered by Tree Preservation Order No.104. This tree is visible from a range of public viewpoints including the public highway and neighbouring public park and has a significant contribution to the amenity of the surrounding area. In relation to where the proposed dwelling could be sited and the existing presence of the Oak Tree, the trunk of which is located approximately 6 metres from the eastern boundary of the application site, it is considered that little if any direct sunlight will reach any easterly facing windows; sunlight will only reach the garden for relatively short periods of time; and the tree will block significant amounts of attenuated light throughout the year. Furthermore, the tree can be viewed as forming an oppressive and overbearing feature which will, through falling leaves and use by wildlife such as birds, be detrimental to the living conditions of any occupiers of the proposed dwelling. These poor conditions would inevitably result in pressure from future occupiers of the proposed dwelling to prune or fell the tree to the significant detriment of the amenity and character of the area. Accordingly it is considered that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits of the scheme (i.e. providing an additional dwelling in a sustainable location). The proposal is therefore considered to represent overdevelopment of the site contrary to the underlying objectives of the NPPF, Policy CP3, Criteria 2, 5 and 6 of Policy CP5 and Criterion 3 of Policy H2 of the Carlisle District Local Plan 2001-2016.

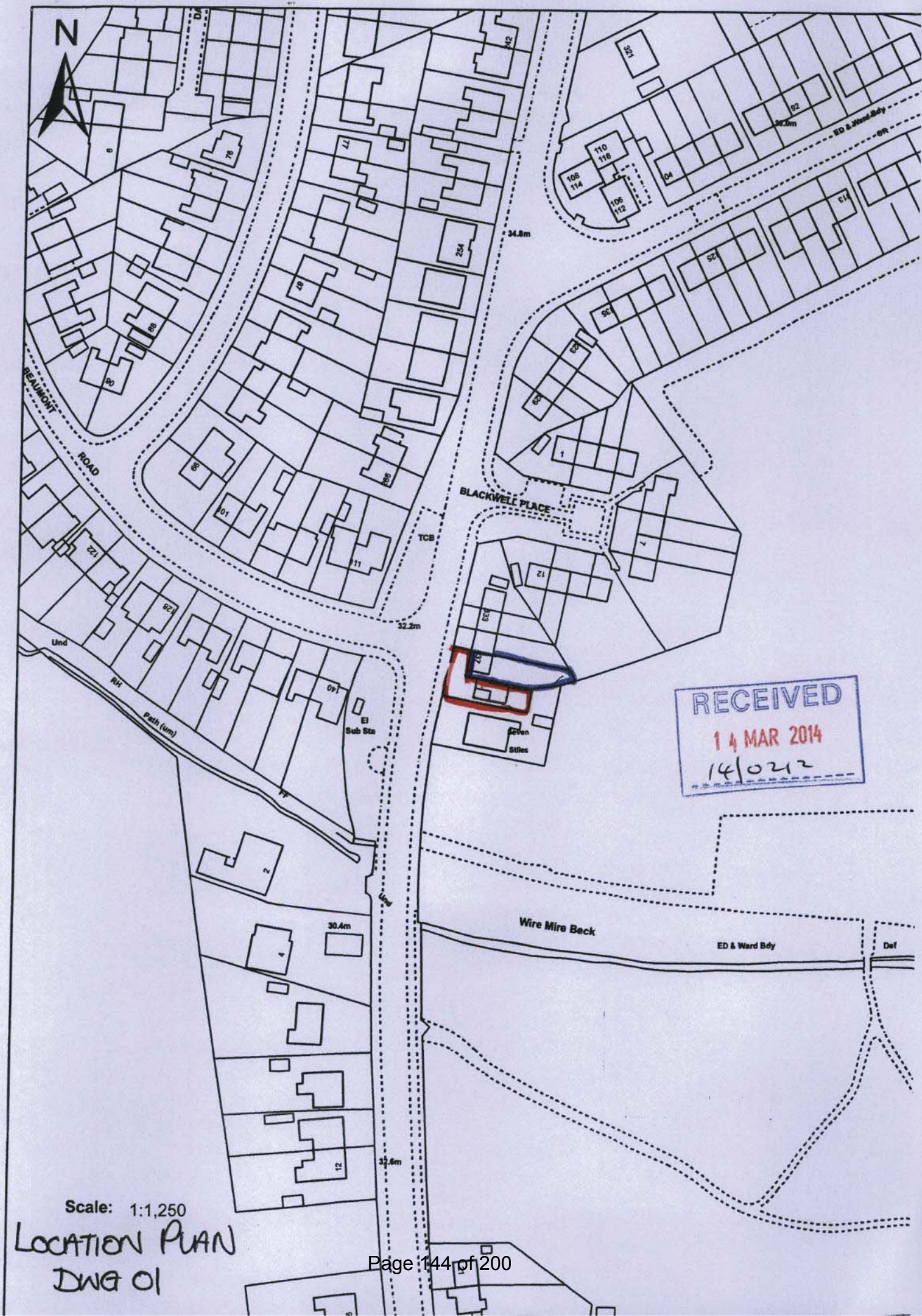
7. Planning History

- 7.1 In 2012 outline planning permission was sought for the erection of 1 no. dwelling adjacent to 337 Blackwell Road. The application was however never made valid (reference 12/0470).

8. Recommendation: Refuse Permission

1. **Reason:** The proposed development will be located in close proximity to a large healthy mature Oak Tree covered by Tree Preservation Order No.104 which is visible from a range of public viewpoints including the public highway and neighbouring public park at Hammonds Pond. The tree makes a significant contribution to the amenity and character of the surrounding area. In relation to where the proposed dwelling could be sited and the existing presence of the Oak Tree, the trunk of which is located approximately 6 metres from the eastern boundary of the application site, it is considered that little if any direct sunlight will reach any easterly facing windows; sunlight will only reach the garden for relatively short periods of time; and the tree will block significant amounts of attenuated light throughout the year. Furthermore, the tree can be viewed as forming an oppressive and overbearing feature which will, through falling leaves and use by wildlife such as birds, be detrimental to the

living conditions of any occupiers of the proposed dwelling. These poor conditions would inevitably result in pressure from future occupiers of the proposed dwelling to prune or fell the tree to the significant detriment of the amenity and character of the area. In such circumstances the proposal is therefore considered to represent overdevelopment of the site contrary to the underlying objectives of the NPPF, Policy CP3, Criteria 2, 5 and 6 of Policy CP5 and Criterion 3 of Policy H2 of the Carlisle District Local Plan 2001-2016.

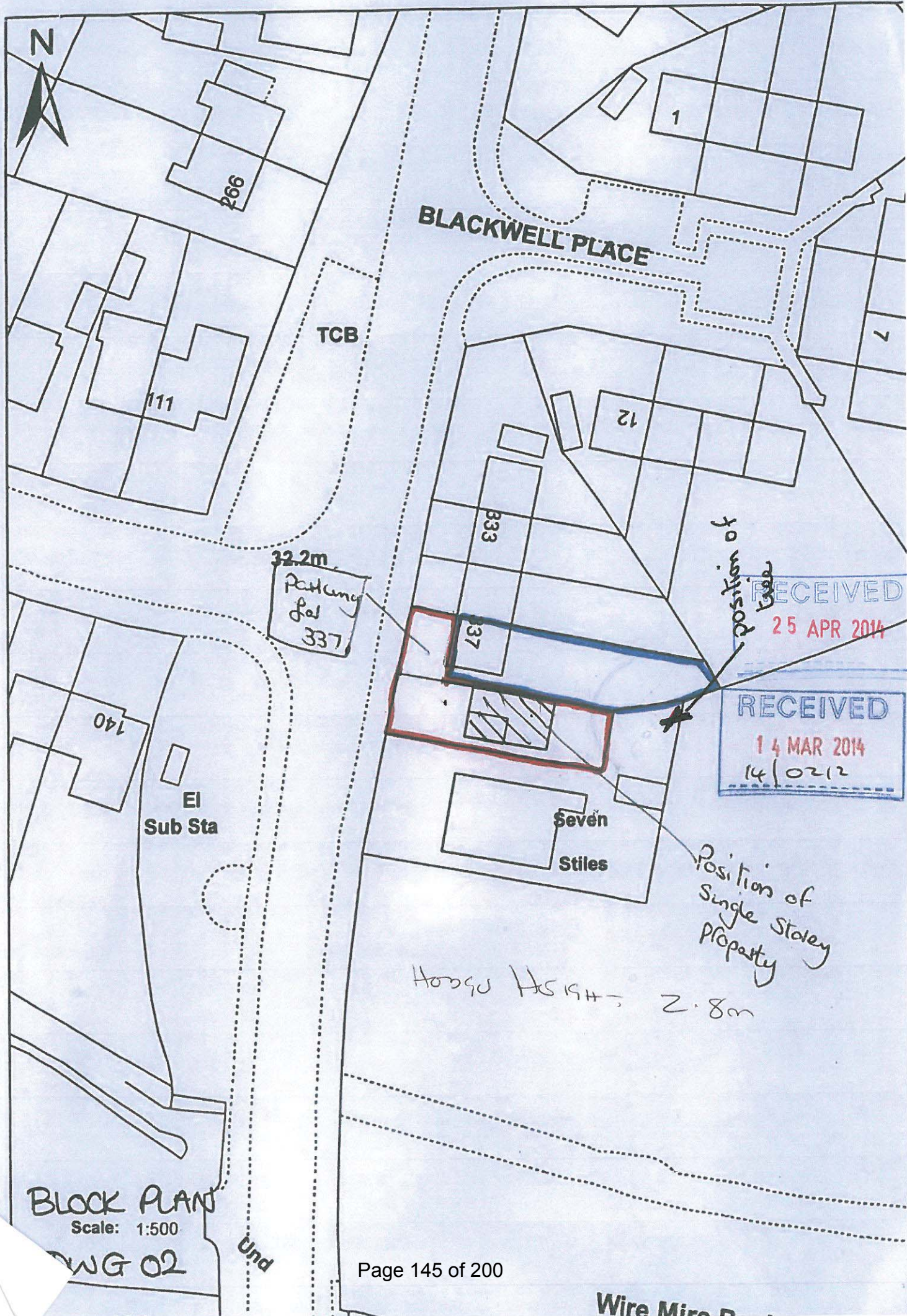


RECEIVED
14 MAR 2014
14/0212

Scale: 1:1,250

LOCATION PLAN
DWG 01

Tree Info.







SCHEDULE B

SCHEDULE B

SCHEDULE C

SCHEDULE C

SCHEDULE D

SCHEDULE D

SCHEDULE D: Reports on Previously Deferred Decisions

Item No: 07

Between 29/03/2014 and 02/05/2014

Appn Ref No:

13/0728

Applicant:

Mr Andrew Pape

Parish:

Beaumont

Date of Receipt:

13/09/2013

Agent:

Taylor & Hardy

Ward:

Burgh

Location:

Land to the rear of Hallcroft, Monkhill, Carlisle, CA5 6DB

Grid Reference:

334385 558527

Proposal: Erection Of 7 Dwellings, Including 2 Affordable Units And The Change Of Use Of Agricultural Land To Domestic Garden To Serve The Property Known As 'Hallcroft' (Outline Application)

Amendment:

REPORT

Case Officer: Richard Maunsell

Details of Deferral:

Members will recall at Committee meeting held on 20 December 2013 that authority was given to the Director (Economic Development) to issue approval subject to the completion of a S106 Agreement to ensure the provision of 2 affordable housing units. The S106 Agreement has been completed and approval was issued on 24 April 2014.

Decision: Granted Subject to Legal Agreement

Date: 24/04/2014

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).

SCHEDULE D: Reports on Previously Deferred Decisions

2. Before any work is commenced, details of the layout, scale, appearance, access and landscaping 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 Article 3 of the Town and Country Planning (General Development Procedure) Order 1995.

3. The approved documents for this Planning Permission comprise:

1. the Planning Application Form received 13th September 2013;
2. the Location Plan received 13th September 2013;
3. the Indicative Layout received 21st November 2013 (Drawing no. 11285-01B);
4. the Indicative Drainage Layout received 13th September 2013 (Drawing no. 11285-02);
5. the Planning Statement 13th September 2013;
6. the Statement On Land Contamination 13th September 2013;
7. the Tree Report received 13th September 2013;
8. the Notice of Decision;
9. any such variation as may subsequently be approved in writing by the Local Planning Authority.

Reason: To define the permission.

4. 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 accordance with the approved details.

Reason: To ensure the materials are appropriate to the building and character of the area in accordance with Policy CP5 of the Carlisle District Local Plan 2001-2016.

5. Details of the relative heights of the existing and proposed ground levels and the height of the proposed finished floor levels of the dwellings and garages 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 details.

Reason: In order that the approved development is appropriately located within the topography of the land in accordance with Policy CP5 of the Carlisle District Local Plan 2001-2016.

6. Prior to the commencement of development hereby approved by this

SCHEDULE D: Reports on Previously Deferred Decisions

permission a scheme for the provision of surface water drainage works shall be submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include the investigation and, where possible, the inclusion of SUDs and shall be constructed and completed in accordance with the approved plans prior to the occupation of any dwelling.

Reason: To ensure a satisfactory means of surface water disposal and in accordance with Policy CP12 of the Carlisle District Local Plan 2001-2016.

7. 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. No part of the development shall be brought into use until such treatment plant has been constructed and completed in accordance with the approved plans. The development shall then be undertaken in accordance with the approved plans.

Reason: To prevent pollution of the water environment in accordance with Policy CP12 of the Carlisle District Local Plan 2001-2016.

8. Prior to the commencement of development 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 in accordance with Policy CP5 of the Carlisle District Local Plan 2001-2016.

9. 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 Policy CP5 of the Carlisle District Local Plan 2001-2016.

10. The shared access way shall be designed, constructed and drained to a standard suitable for adoption and in this respect full engineering details shall be submitted for approval before work commences on site. Any works so approved shall be constructed before the development is complete.

SCHEDULE D: Reports on Previously Deferred Decisions

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

11. Full details of the surface water drainage system shall be submitted with the first reserved matters application for approval prior to construction works being commenced. Any approved works shall be implemented prior to the development being completed and shall be maintained operational thereafter.

Reason: In the interest of highway safety and environmental management and to support Local Transport Plan Policies LD7 and LD8.

12. No dwelling shall be occupied until the vehicular access and parking requirements have been constructed in accordance with the approved plan and brought into use. These facilities shall be retained and capable of use at all times thereafter 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 and to support Local Transport Plan Policies LD5, LD7 and LD8.

13. Before any development takes place, a plan shall be submitted for the prior approval of the Local Planning Authority reserving adequate land for the storage of materials, parking of vehicles and plant 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 Policy LD8.

14. No development shall commence until visibility splays providing clear visibility of 43 metres measured along the nearside channel lines of the public road from a position of 2.4 metres inset from the carriageway edge, on the centre line of the access, at a height of 1.05 metres, have been provided. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure 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 and LD8.

SCHEDULE D: Reports on Previously Deferred Decisions

15. Before development commences a scheme of tree and hedge protection shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall show the position and type of barriers to be installed. The barriers shall be erected before development commences and retained for the duration of the development.

Reason: To protect trees and hedges during development works in accordance with Policy CP3 of the Carlisle District Local Plan 2001-2016.

16. Before development commences a scheme of tree and hedge protection shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall show the position and type of barriers to be installed. The barriers shall be erected before development commences and retained for the duration of the development.

Reason: To protect trees and hedges during development works in accordance with Policy CP3 of the Carlisle District Local Plan 2001-2016.

17. Prior to the commencement of development hereby approved, a Method Statement detailing the type of materials and construction methods to be used in the Root Protection Areas shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

Reason: To protect the trees on and adjacent the site in accordance with Policy CP3 of the Carlisle District Local Plan 2001-2016.

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

SCHEDULE D: Reports on Previously Deferred Decisions

receptors in accordance with the Policy LE29 of the Carlisle District Local Plan 2001-2016.

19. No site clearance or works to hedges 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 nesting birds in accordance with Policy CP2 of the Carlisle District Local Plan 2001-2016.

20. Prior to the occupation of the first property suitable receptacles shall be provided for the collection of waste and recycling for each unit in line with the schemes available in the Carlisle district.

Reason: In accordance with Policy CP14 of the Carlisle District Local Plan 2001-2016.

21. The corridor access to the septic tanks for the properties known as 'Gracelands' and Bushy Bank' shown on drawing no. 11285-01B received on 21st November 2013 shall be enclosed by a fence prior to the commence of development and the land retained as such and not developed or used for any other purpose.

Reason: To ensure that there is reasonable future access to the septic tanks in accordance with Policy CP12 of the Carlisle District Local Plan 2001-2016.

22. 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 and 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 CP6 of the Carlisle District Local Plan 2001-2016.

SCHEDULE E

SCHEDULE E

SCHEDULE E: Decisions Issued Under Delegated Powers

Between 29/03/2014 and 02/05/2014

Appn Ref No: 12/0465	Applicant: Wragg Mark-Bell Solicitors Ltd	Parish: Carlisle
Date of Receipt: 07/06/2012	Agent:	Ward: Castle
Location: 21 Castle Street, Carlisle, CA3 8SY		Grid Reference: 339886 556048

Proposal: Display Of 1No. Non Illuminated Fascia Sign

Amendment:

Decision: Grant Permission

Date: 03/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No: 13/0125	Applicant: Stobart Air Limited	Parish: Irthington
Date of Receipt: 14/02/2013	Agent: URS/Scott Wilson	Ward: Stanwix Rural
Location: Carlisle Lake District Airport, Carlisle, Cumbria CA6 4NW		Grid Reference: 348000 561000

Proposal: Discharge Of Conditions 10 (Construction Management Plan); 20 (Liquid Storage Tanks) And 25 (Contamination) Of Previously Approved Permission 10/1116

Amendment:

Decision: Withdrawn by Applicant/or by default

Date: 03/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No: 13/0250	Applicant: Stobart Developments	Parish: Irthington
Date of Receipt:	Agent:	Ward:

SCHEDULE E: Decisions Issued Under Delegated Powers

12/04/2013

URS

Stanwix Rural

Location:

Carlisle Lake District Airport, Carlisle, Cumbria CA6 4NW

Grid Reference:

348000 561000

Proposal: Discharge Of Conditions 22 (Nesting Birds); 23 (Biodiversity Management And Enhancement Plan) And 24 (Great Crested Newt Method Statement) Of Previously Approved Permission 10/1116

Amendment:

Decision: Withdrawn by Applicant/or by default

Date: 03/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:

13/0321

Applicant:

Stobart Developments

Parish:

Irthington

Date of Receipt:

22/04/2013

Agent:

URS

Ward:

Stanwix Rural

Location:

Carlisle Lake District Airport, Carlisle, Cumbria CA6 4NW

Grid Reference:

348000 561000

Proposal: Discharge Of Conditions 3 (Access Details); 6 (Signage Strategy); 15 (Watchclose Roman Camp - Archaeological Watching Brief) And 17 (Stanegate Roman Road - Programme Of Supervised Archaeological Excavation) Of Previously Approved Permission 10/1116

Amendment:

Decision: Withdrawn by Applicant/or by default

Date: 03/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:

13/0762

Applicant:

Mr & Mrs Lawson

Parish:

Hayton

Date of Receipt:

27/09/2013

Agent:

Taylor & Hardy

Ward:

Hayton

SCHEDULE E: Decisions Issued Under Delegated Powers

Location:

Lands to rear and east of Croftlands, Allenwood,
Heads Nook

Grid Reference:

3494065 555315

Proposal: Residential Development (Outline)

Amendment:

Decision: Granted Subject to Legal Agreement

Date: 02/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:

13/0798

Applicant:

Wellburn Care Homes

Parish:

St Cuthberts Without

Date of Receipt:

08/10/2013

Agent:

Ward Associates Planning
Consultants

Ward:

Dalston

Location:

Scalesceugh Hall, Carleton, Carlisle, CA4 0BT

Grid Reference:

344770 549688

Proposal: Proposed 47 Bed Residential Care Home With Associated 6 Close Care Cottages To Be Constructed Within The Grounds (Renewal Of Previously Approved Permission 10/0642)

Amendment:

Decision: Granted Subject to Legal Agreement

Date: 10/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:

13/0917

Applicant:

Mr Fox

Parish:

Wetheral

Date of Receipt:

07/02/2014

Agent:

Black Box Architects
Limited

Ward:

Wetheral

Location:

Rumdoodle, Cotehill, Carlisle, CA4 0EG

Grid Reference:

346914 550403

Proposal: Conversion Of Existing Garage And Erection Of Two Storey Extension

SCHEDULE E: Decisions Issued Under Delegated Powers

To Form 1No. Dwelling With Double Garage, Associated Parking And Garden

Amendment:

Decision: Grant Permission

Date: 04/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
13/0922

Applicant:
Mr Wishart

Parish:
Wetheral

Date of Receipt:
04/12/2013

Agent:
Taylor & Hardy

Ward:
Wetheral

Location:
Land at The Stripes, Cumwhinton, Carlisle, CA4 0AP

Grid Reference:
345631 551892

Proposal: Erection Of Single Live/Work Unit (Outline)

Amendment:

Decision: Grant Permission

Date: 31/03/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
13/0976

Applicant:
GC Properties (Carlisle) Ltd

Parish:

Date of Receipt:
13/12/2013

Agent:
Swarbrick Associates

Ward:
Denton Holme

Location:
Linton House, Shaddongate, Carlisle

Grid Reference:
339482 555691

Proposal: Change Of Use From Second Hand Furniture Shop To Hot Food Take-Away

Amendment:

Decision: Grant Permission

Date: 01/04/2014

SCHEDULE E: Decisions Issued Under Delegated Powers

Between 29/03/2014 and 02/05/2014

Appn Ref No:
13/0980

Applicant:
Messers Gardhouse

Parish:

Date of Receipt:
12/12/2013 16:00:05

Agent:
Hopes Land Agency

Ward:
Dalston

Location:
Cumdivock House, Cumdivock, Dalston, Carlisle,
CA5 7JJ

Grid Reference:
334724 548761

Proposal: Erection Of Livestock Building

Amendment:

Decision: Grant Permission

Date: 07/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
13/0997

Applicant:
Mr & Mrs Oliver Roberts

Parish:
Dalston

Date of Receipt:
30/12/2013

Agent:
Architects Plus (UK) Ltd

Ward:
Dalston

Location:
Low Fauld, 13 The Square, Dalston, Carlisle, CA5
7PH

Grid Reference:
336938 550041

Proposal: Demolition Of Outbuilding And Erection Of Detached Dwelling

Amendment:

Decision: Grant Permission

Date: 04/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0022

Applicant:
Mr Marcus Jefferson

Parish:

Date of Receipt:
24/02/2014

Agent:

Ward:
Denton Holme

SCHEDULE E: Decisions Issued Under Delegated Powers

Location:

38 East Norfolk Street, Carlisle, CA2 5JL

Grid Reference:

339870 554945

Proposal: Demolition Of Existing Buildings; Erection Of 3no. Dwellings (Revised Application)

Amendment:

Decision: Grant Permission

Date: 04/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:

14/0027

Applicant:

Mallinson Fabrications Ltd

Parish:

Dalston

Date of Receipt:

10/03/2014

Agent:

Walton Goodland Ltd

Ward:

Dalston

Location:

Mallinson Fabrications Depot, Land to the rear of
Barras Lane, Dalston, Carlisle

Grid Reference:

336437 550733

Proposal: Erection Of Single Storey Workshop, Messroom, Lean To Stores, Spray Booth And Office (Retrospective)

Amendment:

Decision: Grant Permission

Date: 02/05/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:

14/0046

Applicant:

Cumbria County Council

Parish:**Date of Receipt:**

10/02/2014

Agent:**Ward:**

Denton Holme

Location:

Garden Lynx Horticultural Unit, Carlisle Cemetery,
Richardson Street, Carlisle

Grid Reference:

339152 554485

Proposal: Demolition Of Brick Built Hot Frame Abutting Greenhouse (LBC)

Amendment:

SCHEDULE E: Decisions Issued Under Delegated Powers

Decision: Grant Permission

Date: 03/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0051

Applicant:
Fir Ends School

Parish:
Kirklington Middle

Date of Receipt:
27/02/2014

Agent:

Ward:
Lyne

Location:
Fir Ends School, Skitby Road, Smithfield, Carlisle,
CA6 6AY

Grid Reference:
344289 565439

Proposal: Change Of Use Of Land; Formation Of Enclosed Multi Use Games Area (MUGA) - All Weather Games Surface With 3 Metre High Security Fence Incorporating 4No. 6.7 Metre High Floodlights

Amendment:

Decision: Grant Permission

Date: 24/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0054

Applicant:
Mr Alistair Dawson

Parish:
Askerton

Date of Receipt:
23/01/2014

Agent:
Abacus Building Design

Ward:
Irthing

Location:
Land adj. former Lees Hill Farm, Lees Hill,
Brampton, Cumbria, CA8 2BB

Grid Reference:
355507 568082

Proposal: Erection Of 1No. Dwelling And Detached Garage

Amendment:

Decision: Grant Permission

Date: 11/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:

Applicant:

Parish:

SCHEDULE E: Decisions Issued Under Delegated Powers

14/0065 Mr & Mrs Milbourn Stanwix Rural

Date of Receipt: **Agent:** **Ward:**
06/02/2014 GR Architects Stanwix Rural

Location: **Grid Reference:**
Walby Cottage, Birky Lane, Walby, Carlisle, CA6
4QL 343780 560675

Proposal: Erection Of Replacement Dwelling

Amendment:

Decision: Grant Permission

Date: 03/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No: **Applicant:** **Parish:**
14/0072 Two Castle Housing
Association/Hearthstone
Homes Ltd Wetheral

Date of Receipt: **Agent:** **Ward:**
31/01/2014 13:00:57 Alpha Design Wetheral

Location: **Grid Reference:**
Land adjacent Quentin Gardens, Peter Gate,
Cumwhinton, Carlisle, CA4 8DX 345275 552677

Proposal: Discharge Of Conditions 3 (Materials); 4 (Hard Surface Details); 5 (Drainage); 6 (Landscape Works); 7 (Protective Fence); 8 (Root Protection); 13 (Provision Of Affordable Housing) And 15 (Construction Of Access) Of Previously Approved Permission 13/0702

Amendment:

Decision: Grant Permission

Date: 02/05/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No: **Applicant:** **Parish:**
14/0073 Messrs T E Fisher & Co. Brampton

Date of Receipt: **Agent:** **Ward:**
04/02/2014 H&H Land & Property Brampton

SCHEDULE E: Decisions Issued Under Delegated Powers

Location:

Gelt Bridge Farm, Brampton, CA8 1SY

Grid Reference:

352033 559427

Proposal: Installation Of Anaerobic Digester Plant

Amendment:

Decision: Grant Permission

Date: 28/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:

14/0074

Applicant:

Mr Brough

Parish:

Irthington

Date of Receipt:

24/02/2014

Agent:

Pegasus Group

Ward:

Stanwix Rural

Location:

Seat Hill, Irthington, Carlisle CA6 4PS

Grid Reference:

348496 563360

Proposal: Installation Of Anaerobic Digester Plant

Amendment:

Decision: Grant Permission

Date: 15/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:

14/0079

Applicant:

Carlisle College

Parish:

Carlisle

Date of Receipt:

05/02/2014

Agent:

Broadway Malyan

Ward:

Castle

Location:

St Pauls Church Hall, Compton Street, Carlisle

Grid Reference:

340423 556118

Proposal: Change Of Use Of Vacant Former Chapel Building To Provide New Teaching And Learning Facilities For Carlisle College

Amendment:

SCHEDULE E: Decisions Issued Under Delegated Powers

Decision: Grant Permission

Date: 02/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0085

Applicant:
Greensphere Modular Ltd

Parish:
Carlisle

Date of Receipt:
04/02/2014 13:00:06

Agent:
Modular Adaptation Pods
UK Ltd

Ward:
Harraby

Location:
8 Cresswell Avenue, Carlisle, CA1 3RL

Grid Reference:
342803 554645

Proposal: Erection Of Single Storey Rear Extension To Provide En-Suite Bedroom
Amendment:

Decision: Withdrawn by Applicant/or by default

Date: 31/03/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0086

Applicant:
PK Engineering Ltd

Parish:

Date of Receipt:
21/02/2014

Agent:
Swarbrick Associates

Ward:
Belle Vue

Location:
Brown Roofing Services Ltd, Marconi Road, Burgh
Road Industrial Estate, Carlisle, CA2 7NA

Grid Reference:
337648 556245

Proposal: Erection Of 4no. Workshop/Store Units (With Office And Toilet Facilities)
Amendment:

Decision: Grant Permission

Date: 09/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0088

Applicant:
Mr Christopher Green

Parish:
Carlisle

SCHEDULE E: Decisions Issued Under Delegated Powers

Date of Receipt:
19/02/2014

Agent:

Ward:
Denton Holme

Location:
3 Wadsworth Road, Carlisle, CA2 5SF

Grid Reference:
339518 554639

Proposal: Erection Of Single Storey Side Extension To Provide Garage And Wet Room

Amendment:

Decision: Grant Permission

Date: 03/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0090

Applicant:
Mr Main

Parish:
Carlisle

Date of Receipt:
18/02/2014

Agent:
Philip Wilkinson Associates

Ward:
Botcherby

Location:
25 Whimbrel Drive, Carlisle, CA1 2WG

Grid Reference:
341725 555487

Proposal: Erection Of Single Storey Side And Rear Extension To Provide Sun Room, Utility And Garage

Amendment:

Decision: Grant Permission

Date: 03/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0091

Applicant:
Alexander Sterling (UK)
Limited

Parish:

Date of Receipt:
06/02/2014

Agent:

Ward:
Denton Holme

Location:
Unit 2, Byron House, The Maltings, Shaddongate,
Carlisle, CA2 5TU

Grid Reference:
339520 555934

Proposal: Change Of Use Of First Floor From Kitchen Showroom To Nursery/Early

SCHEDULE E: Decisions Issued Under Delegated Powers

Years Centre

Amendment:

Decision: Grant Permission

Date: 03/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0092

Applicant:
Mr Eronini

Parish:
Brampton

Date of Receipt:
11/02/2014

Agent:
David Hetherington E A P
S

Ward:
Brampton

Location:
48-50 Front Street, Brampton, CA8 1NT

Grid Reference:
352879 561051

Proposal: Change Of Use Of Ground Floor Of 48 Front Street From A1 (Retail) To Residential (C3) To Provide 2No. 2 Bed Dwellings

Amendment:

Decision: Grant Permission

Date: 07/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0094

Applicant:
Hunley Bank farm Ltd

Parish:
Kirklington Middle

Date of Receipt:
11/02/2014

Agent:
Tsada Building Design
Services

Ward:
Lyne

Location:
Hetherside, Kirklington, Carlisle, CA6 6AZ

Grid Reference:
343547 565831

Proposal: Erection Of 2no. Semi-Detached Dwellings To Be Used As Agricultural Workers Dwellings

Amendment:

Decision: Grant Permission

Date: 08/04/2014

SCHEDULE E: Decisions Issued Under Delegated Powers

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0095

Applicant:
HA Historical Railways
Estate

Parish:
Beaumont

Date of Receipt:
10/02/2014

Agent:
Jacobs UK Ltd

Ward:
Burgh

Location:
Grinsdale Bridge, Grinsdale, Carlisle, Cumbria

Grid Reference:
336439 557263

Proposal: Proposed Infill Of Bridge Structure

Amendment:

Decision: Grant Permission

Date: 03/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0096

Applicant:
EWM Propco

Parish:
Hayton

Date of Receipt:
10/02/2014

Agent:
SPACE Designed
Solutions Ltd

Ward:
Hayton

Location:
Town Head Cottage and adjoining land, Townhead,
Hayton, CA8 9JH

Grid Reference:
351721 557610

Proposal: Discharge Of Conditions 7 (Materials); 8 (Hard Surface Details); 11 (Landscape Scheme); 13 (External Lighting Scheme); 14 (Lighting At First Floor) And 15 (Construction Site Management Plan) Of Previously Approved Permission 13/0431

Amendment:

Decision: Partial Discharge of Conditions
04/04/2014

Date:

Between 29/03/2014 and 02/05/2014

Appn Ref No:

Applicant:

Parish:

SCHEDULE E: Decisions Issued Under Delegated Powers

14/0099 Story Homes Dalston

Date of Receipt: **Agent:** **Ward:**
07/02/2014 13:02:19 Dalston

Location: **Grid Reference:**
Land between Townhead Road and Station Road,
Dalston 336722 550172

Proposal: Discharge Of Conditions 2 (Samples Of Materials); 3 (Hard And Soft Landscaping Works); 4 (Boundary Treatments); 8 (Scheme Of Remediation); 9 (Approved Scheme Of Remediation); 11 (Tree Protection Plan); 13 (Bat Method Statement); 14 (Programme Of Archaeological Work); 18 (Station Road Access) And 23 (Stone Wall) Of Previously Approved Permission 12/0878

Amendment:

Decision: Grant Permission **Date:** 08/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No: **Applicant:** **Parish:**
14/0101 Dalston Hall Hotel Dalston

Date of Receipt: **Agent:** **Ward:**
14/02/2014 Taylor & Hardy Dalston

Location: **Grid Reference:**
Dalston Hall Hotel, Dalston, Carlisle, CA5 7JX 337702 551553

Proposal: Erection Of A Marquee (Part Retrospective)

Amendment:

Decision: Grant Permission **Date:** 11/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No: **Applicant:** **Parish:**
14/0102 Carlisle College Carlisle

Date of Receipt: **Agent:** **Ward:**
13/02/2014 Broadway Malyan Castle

SCHEDULE E: Decisions Issued Under Delegated Powers

Location:

Carlisle College, Victoria Place, Carlisle, CA1 1HS

Grid Reference:

340568 556083

Proposal: Single Storey Extension Of Current Motor Vehicle Workshop To Provide Further Teaching And Learning Space

Amendment:

Decision: Grant Permission

Date: 10/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:

14/0103

Applicant:

Mr J Frost

Parish:

Beaumont

Date of Receipt:

14/02/2014

Agent:

Mr A Fox

Ward:

Burgh

Location:

Orchard House, Beaumont, Carlisle, CA5 6EF

Grid Reference:

334871 559388

Proposal: Installation Of Windows Together With Internal Alterations (LBC)

Amendment:

Decision: Grant Permission

Date: 11/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:

14/0104

Applicant:

Driver & Vehicle
Standards Agency

Parish:

Rockcliffe

Date of Receipt:

10/02/2014 13:00:11

Agent:

Rider Levett Bucknall

Ward:

Longtown & Rockcliffe

Location:

Weighbridge M6 Todhills, Todhills, Blackford,
Carlisle, CA6 4HB

Grid Reference:

337555 561940

Proposal: Erection Of Vehicle Testing And Inspection Facility

Amendment:

SCHEDULE E: Decisions Issued Under Delegated Powers

Decision: Grant Permission

Date: 04/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0110

Applicant:
Mr David Harrison

Parish:
Kingwater

Date of Receipt:
24/02/2014

Agent:

Ward:
Irthing

Location:
MOD Range 5 RAF Spadeadam, Gilsland

Grid Reference:
361582 572567

Proposal: Erection Of Conference Centre
Amendment:

Decision: Grant Permission

Date: 10/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0111

Applicant:
RO Regional Properties
Ltd

Parish:

Date of Receipt:
13/02/2014 16:00:51

Agent:
Elias Topping

Ward:
Castle

Location:
12, 13 & 14 Carlyles Court, St Marys Gate, Carlisle,
CA3 8RY

Grid Reference:
339988 556028

Proposal: Installation Of New Shopfront Together With The Lowering Of 4no. Cills
Of Existing Windows (Revised Application)

Amendment:

Decision: Grant Permission

Date: 04/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0112

Applicant:
RO Regional Properties
Ltd

Parish:

SCHEDULE E: Decisions Issued Under Delegated Powers

Date of Receipt:
13/02/2014 16:00:51

Agent:
Elias Topping

Ward:
Castle

Location:
12, 13 & 14 Carlyles Court, St Marys Gate, Carlisle,
CA3 8RY

Grid Reference:
339988 556028

Proposal: Installation Of New Shopfront Together With The Lowering Of 4no. Cills
Of Existing Windows (LBC) (Revised Application)

Amendment:

Decision: Grant Permission

Date: 04/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0113

Applicant:
Cumberland Building
Society

Parish:
Kingmoor

Date of Receipt:
14/02/2014 11:00:12

Agent:
John Lyon Associates Ltd

Ward:
Stanwix Rural

Location:
Cumberland House, Cooper Way, Parkhouse
Business Park, Carlisle, CA3 0JF

Grid Reference:
338732 559934

Proposal: Creation Of Additional Car Parking Spaces

Amendment:

Decision: Grant Permission

Date: 08/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0115

Applicant:
Messrs Noble

Parish:
Brampton

Date of Receipt:
17/02/2014

Agent:
Alpha Design

Ward:
Brampton

Location:
Ye Olde Scotch Arms, 35-37 Main Street,
Brampton, Carlisle, CA8 1SB

Grid Reference:
352971 561137

SCHEDULE E: Decisions Issued Under Delegated Powers

Proposal: Demolition Of Existing Single Storey Rear Extension;
Renovation/Refurbishment Of Retained Building (LBC)

Amendment:

Decision: Grant Permission

Date: 03/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0118

Applicant:
Mr Holliday

Parish:
Burtholme

Date of Receipt:
18/02/2014

Agent:
H&H Land and Property

Ward:
Multiple Wards

Location:
Pine Grove, Walton, Brampton, CA8 2JW

Grid Reference:
355009 566156

Proposal: Erection Of Livestock Shed And Lean-To

Amendment:

Decision: Grant Permission

Date: 15/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0119

Applicant:
Mr Holliday

Parish:
Burtholme

Date of Receipt:
18/02/2014

Agent:
H&H Land and Property

Ward:
Multiple Wards

Location:
Pine Grove, Walton, Brampton, CA8 2JW

Grid Reference:
355001 566195

Proposal: Erection Of Concrete Base Pad For A Silage Clamp

Amendment:

Decision: Grant Permission

Date: 15/04/2014

Between 29/03/2014 and 02/05/2014

SCHEDULE E: Decisions Issued Under Delegated Powers

Appn Ref No:
14/0121

Applicant:
La Mezzaluna

Parish:
Carlisle

Date of Receipt:
28/02/2014

Agent:

Ward:
Castle

Location:
La Mezzaluna, 6 The Crescent, Carlisle, CA1 1QW

Grid Reference:
340308 555650

Proposal: Change Of Use From First Floor Bedsit To Extend Existing Restaurant
(Retrospective)

Amendment:

Decision: Grant Permission

Date: 07/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0122

Applicant:
Pirelli Ltd

Parish:
Carlisle

Date of Receipt:
18/02/2014

Agent:
Architects Plus (UK) Ltd

Ward:
Denton Holme

Location:
Pirelli Tyres Limited, Dalston Road, Carlisle, CA2
6AR

Grid Reference:
338863 553693

Proposal: Discharge Of Conditions 3 (Construction Site Management Plan) And 4
(Biodiversity Management And Enhancement Plan) Of Previously
Approved Permission 13/0606

Amendment:

Decision: Partial Discharge of Conditions
07/04/2014

Date:

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0123

Applicant:
Mr Peter Whytock

Parish:
Carlisle

Date of Receipt:
18/02/2014

Agent:

Ward:
Belah

SCHEDULE E: Decisions Issued Under Delegated Powers

Location:

15 Sanderson Close, Carlisle, CA3 0QA

Grid Reference:

339391 558517

Proposal: Erection Of Single Storey Rear Extension To Provide Music, Hobby, Shower And Sun Room (Revised Application)

Amendment:

Decision: Grant Permission

Date: 14/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:

14/0125

Applicant:

JD Wetherspoon

Parish:

Carlisle

Date of Receipt:

24/02/2014

Agent:

Harrison Ince Architects
LLP

Ward:

Currock

Location:

Former Platform 1, Collier Lane, Carlisle, CA1 1QB

Grid Reference:

340296 555552

Proposal: Discharge Of Condition 4 (Proposed Repairs To Adjoining Listed Building Together With Material Samples) Of Previously Approved Permission 12/0968

Amendment:

Decision: Grant Permission

Date: 14/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:

14/0126

Applicant:

JD Wetherspoon

Parish:

Carlisle

Date of Receipt:

18/02/2014 11:00:10

Agent:

Harrison Ince Architects
LLP

Ward:

Currock

Location:

Former Platform 1, Collier Lane, Carlisle, CA1 1QB

Grid Reference:

340296 555552

Proposal: Discharge Of Condition 4 (Proposed Repairs To Adjoining Listed Building Together With Material Samples) Of Previously Approved

SCHEDULE E: Decisions Issued Under Delegated Powers

Permission 12/0969

Amendment:

Decision: Grant Permission

Date: 14/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0130

Applicant:
Mr Terry Johnson

Parish:
Nether Denton

Date of Receipt:
20/02/2014

Agent:

Ward:
Irthing

Location:
Magnum Opus, Low Row, Brampton, CA8 2LN

Grid Reference:
358387 563151

Proposal: Erection Of Single Storey Extension To North Elevation To Provide 1No. En-Suite Bedroom With Utility And W.C.

Amendment:

Decision: Grant Permission

Date: 03/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0131

Applicant:
Mr Grierson

Parish:
St Cuthberts Without

Date of Receipt:
21/02/2014

Agent:
Mr Tony Wharton

Ward:
Dalston

Location:
7 Wellside Walk, Carlisle, CA1 3TP

Grid Reference:
343039 554152

Proposal: Erection Of Two Storey Side Extension To Provide Dining Room On Ground Floor With Bedroom Above Together With Hardstanding To The Front

Amendment:

Decision: Grant Permission

Date: 16/04/2014

SCHEDULE E: Decisions Issued Under Delegated Powers

Between 29/03/2014 and 02/05/2014

Appn Ref No: 14/0132	Applicant: Mr Slack	Parish: Wetheral
Date of Receipt: 20/02/2014	Agent: H&H Land and Property	Ward: Great Corby & Geltsdale
Location: Cockley Bank, Heads Nook, Brampton, CA8 9EQ		Grid Reference: 349278 554059
Proposal: Erection Of Agricultural Building		
Amendment:		

Decision: Grant Permission

Date: 03/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No: 14/0133	Applicant: National Grid	Parish: Rockcliffe
Date of Receipt: 17/03/2014	Agent:	Ward: Longtown & Rockcliffe
Location: Harker Substation, Harker Road Ends, Low Harker, Carlisle, Cumbria, CA6 4DQ		Grid Reference: 338295 561498
Proposal: Non Material Amendment (Alterations To Landscaping Scheme) Of Previously Approved Planning Permission 12/0057		
Amendment:		

Decision: Amendment Accepted
24/04/2014

Date:

Between 29/03/2014 and 02/05/2014

Appn Ref No: 14/0134	Applicant: Iceland Foods Limited	Parish:
Date of Receipt: 20/02/2014	Agent: RRDS Limited	Ward: Currock

SCHEDULE E: Decisions Issued Under Delegated Powers

Location:

Unit 3A, St Nicholas Gate Retail Park, London
Road, Carlisle, CA1 2EA

Grid Reference:

340850 555011

Proposal: Display Of 1no. Internally Illuminated Fastica Sign

Amendment:

Decision: Grant Permission

Date: 03/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:

14/0137

Applicant:

Mr C Lloyd

Parish:

Carlisle

Date of Receipt:

28/02/2014

Agent:

Architects Plus (UK) Ltd

Ward:

Denton Holme

Location:

Pirelli Tyres Limited, Dalston Road, Carlisle, CA2
6AR

Grid Reference:

338922 553729

Proposal: Extension To Existing Finishing Department To Provide Additional Tyre
Storage

Amendment:

Decision: Grant Permission

Date: 15/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:

14/0138

Applicant:

Mr Martin Murray

Parish:

Irthington

Date of Receipt:

21/02/2014

Agent:

Thomson Roddick & Laurie

Ward:

Stanwix Rural

Location:

Ryecroft, Ruleholme, Brampton, Cumbria, CA6 4NE

Grid Reference:

348829 559770

Proposal: Variation Of Conditions 2 (Approved Plans) And 9 (Foul Drainage) Of
Previously Approved Permission 13/0810

Amendment:

SCHEDULE E: Decisions Issued Under Delegated Powers

Decision: Grant Permission

Date: 14/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0139

Applicant:
Strawberry Howe Nursery

Parish:

Date of Receipt:
20/02/2014 23:00:06

Agent:
Black Box Architects
Limited

Ward:
Morton

Location:
Land between Westwood and Wigton Road,
Carlisle

Grid Reference:
337741 554218

Proposal: Erection Of Single Storey Nursery Building

Amendment:

Decision: Grant Permission

Date: 17/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0142

Applicant:
Story Homes

Parish:
St Cuthberts Without

Date of Receipt:
21/02/2014 13:01:28

Agent:

Ward:
Multiple Wards

Location:
Land bounded by Hammonds Pond, Oaklands Drive
and Durdar Road, Carlisle

Grid Reference:
340260 553024

Proposal: Display Of 2no. Non Illuminated Advertisement Boards And 4no.
Aluminium Poles With Flags

Amendment:

Decision: Grant Permission

Date: 16/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:

Applicant:

Parish:

SCHEDULE E: Decisions Issued Under Delegated Powers

14/0143

Mr Wightman

Castle Carrock

Date of Receipt:

26/02/2014

Agent:

Co-ordinate (Cumbria)
Limited

Ward:

Great Corby & Geltsdale

Location:

Tottergill Farm, Heads Nook, Brampton, CA8 9DP

Grid Reference:

354896 554444

Proposal: Demolition Of Barn And Erection Of Two Storey Side Extension To Dwelling (Revised Application)

Amendment:

Decision: Grant Permission

Date: 14/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:

14/0147

Applicant:

Mrs Sally Cartwright

Parish:

Date of Receipt:

24/02/2014

Agent:

Sam Fletcher Architect

Ward:

Harraby

Location:

89 Hillary Grove, Carlisle, CA1 3JQ

Grid Reference:

342379 553900

Proposal: Erection Of Single Storey Side And Rear Extension To Provide Utility, Cloakroom And Extended Kitchen Together With Decking And Proposed New Driveway

Amendment:

Decision: Grant Permission

Date: 03/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:

14/0148

Applicant:

Carlisle City Council

Parish:

Brampton

Date of Receipt:

05/03/2014

Agent:

Ward:

Brampton

Location:

Talkin Tarn Country Park, Brampton, CA8 1HN

Grid Reference:

354013 558982

SCHEDULE E: Decisions Issued Under Delegated Powers

Proposal: Display Of 1no. Free Standing Double Sided Oak Ladder Signage

Amendment:

Decision: Grant Permission

Date: 28/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0149

Applicant:
Mr Fawkes

Parish:
Hayton

Date of Receipt:
25/02/2014

Agent:
Black Box Architects
Limited

Ward:
Hayton

Location:
Thistledown, Allenwood, Heads Nook, Brampton,
CA8 9AE

Grid Reference:
349569 555270

Proposal: Erection Of Single Storey Rear And Side Extensions To Provide Living Room, Utility And Shower Room; Erection Of Porch To Front Elevation Together With Internal Alterations

Amendment:

Decision: Grant Permission

Date: 03/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0150

Applicant:
Mr & Mrs Watt

Parish:
Hayton

Date of Receipt:
25/02/2014

Agent:

Ward:
Hayton

Location:
7 Little Corby Road, Little Corby, Carlisle, CA4 8QN

Grid Reference:
347417 556996

Proposal: Erection Of Ground Floor Extensions To Provide Utility Room/Cloaks To Front And Sun Lounge To Side

Amendment:

SCHEDULE E: Decisions Issued Under Delegated Powers

Decision: Grant Permission

Date: 03/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0151

Applicant:
Somersham LLP

Parish:
Carlisle

Date of Receipt:
28/02/2014

Agent:
C4 Consulting

Ward:
Currock

Location:
Harveys, Crown Street, Carlisle, CA2 5AB

Grid Reference:
340328 555212

Proposal: Re-building Of Non-Food Retail Warehouse, Office Accommodation And Service Facilities

Amendment:

Decision: Grant Permission

Date: 17/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0152

Applicant:
Royal Mail Group Ltd

Parish:
Carlisle

Date of Receipt:
26/02/2014

Agent:
JYM Partnership LLP

Ward:
Belah

Location:
Parcelforce Worldwide, Bankend Road, Kingstown
Industrial Estate, Carlisle, CA3 0PP

Grid Reference:
338633 559211

Proposal: Display Of 2no. Non Illuminated Free Standing Signs (Part Retrospective)

Amendment:

Decision: Grant Permission

Date: 03/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0153

Applicant:
The Tranquil Otter Ltd

Parish:
Burgh-by-Sands

SCHEDULE E: Decisions Issued Under Delegated Powers

Date of Receipt:
25/02/2014 16:00:11

Agent:
Ashton Design

Ward:
Burgh

Location:
The Tranquil Otter Ltd, The Lough, Thurstonfield,
Carlisle, CA5 6HB

Grid Reference:
332021 556421

Proposal: Erection Of Replacement Holiday Lodge

Amendment:

Decision: Grant Permission

Date: 14/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0154

Applicant:
Corby Castle Estates

Parish:
Wetheral

Date of Receipt:
26/02/2014

Agent:
Swarbrick Associates

Ward:
Great Corby & Geltsdale

Location:
The Poplars, Great Corby, Carlisle, CA4 8LR

Grid Reference:
347180 554413

Proposal: Demolition Of Existing Kitchen, Bathroom And Conservatory; Erection Of
Two Storey And Single Storey Extensions To Provide Additional Living
Accommodation

Amendment:

Decision: Grant Permission

Date: 23/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0156

Applicant:
Iceland Foods Limited

Parish:

Date of Receipt:
10/03/2014

Agent:
RRDS Limited

Ward:
Currock

Location:
Unit 3A, St Nicholas Gate Retail Park, London
Road, Carlisle, CA1 2EA

Grid Reference:
340850 555011

Proposal: Formation Of 1no. Opening To Side Elevation; Insertion Of 2no.

SCHEDULE E: Decisions Issued Under Delegated Powers

Openings In Roof For Internal Plant Installation

Amendment:

Decision: Grant Permission

Date: 16/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0157

Applicant:
Amber Taverns

Parish:

Date of Receipt:
26/02/2014 16:00:47

Agent:
Chris Shanley Innovations
Ltd

Ward:
Castle

Location:
The Caledonian, 17 Botchergate, Carlisle, CA1 1QP

Grid Reference:
340326 555598

Proposal: Removal Of All Existing Signs; Display Of Illuminated And Non
Illuminated Signage (LBC)

Amendment:

Decision: Grant Permission

Date: 03/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0159

Applicant:
Pirelli Tyres Limited

Parish:
Carlisle

Date of Receipt:
27/02/2014

Agent:
Architects Plus (UK) Ltd

Ward:
Denton Holme

Location:
Pirelli Tyres Limited, Dalston Road, Carlisle, CA2
6AR

Grid Reference:
338863 553693

Proposal: Discharge Of Condition 10 Of Previously Approved Permission 13/0606
And Condition 7 Of Previously Approved Permission 14/0048 (Scheme
For The Disposal And Management Of Surface Water)

Amendment:

Decision: Partial Discharge of Conditions

Date:

SCHEDULE E: Decisions Issued Under Delegated Powers

07/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0161

Applicant:
Miss El Haj

Parish:
Burtholme

Date of Receipt:
28/02/2014

Agent:
Sandy Johnston Architect

Ward:
Irthing

Location:
Barn at Banks Green, Banks, Lanercost, Brampton,
CA8 2JH

Grid Reference:
356751 564573

Proposal: Removal Of Conditions 8, 9, 10, 12 And 13 Of Previously Approved
Application 12/0448 To Allow The Holiday Cottage To Be Used As A
Single Dwelling

Amendment:

Decision: Grant Permission

Date: 03/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0162

Applicant:
Mr Whiteford

Parish:
Brampton

Date of Receipt:
28/02/2014

Agent:
H&H Land and Property

Ward:
Brampton

Location:
Middle Farm, Irthington, Carlisle, CA6 4NF

Grid Reference:
351062 560647

Proposal: Erection Of Agricultural Building

Amendment:

Decision: Grant Permission

Date: 07/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0163

Applicant:
Mr John Van Lierop

Parish:
Carlisle

SCHEDULE E: Decisions Issued Under Delegated Powers

Date of Receipt:
28/02/2014

Agent:
Mr David Lammond

Ward:
Castle

Location:
14-16 Devonshire Street, Carlisle, CA3 8LP

Grid Reference:
340214 555740

Proposal: Alterations To Existing Fire Escape Including Removal Of 2No. Lower Sections Of Existing Escape Stair, Fire Protection To Existing Stair Between First And Ground Floors And Provision Of New Exit Door At Foot Of Stairs (LBC)

Amendment:

Decision: Grant Permission

Date: 16/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0168

Applicant:
Ciceley Commercials
Limited

Parish:
Carlisle

Date of Receipt:
05/03/2014

Agent:
Sunderland Peacock &
Assoc.

Ward:
Belah

Location:
Ciceley Commercials Ltd, 27 Peterfield Road,
Carlisle, CA3 0EY

Grid Reference:
339063 559245

Proposal: Single Storey Extension To Form New Reception Area (Revised Application)

Amendment:

Decision: Grant Permission

Date: 28/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0169

Applicant:
Mrs Andrea Bell

Parish:
Carlisle

Date of Receipt:
03/03/2014

Agent:

Ward:
Stanwix Urban

Location:

Grid Reference:

SCHEDULE E: Decisions Issued Under Delegated Powers

46 Brampton Road, Carlisle, CA3 9AU

340732 557382

Proposal: Erection Of Detached Garden Room & Integral Shed To Rear

Amendment:

Decision: Grant Permission

Date: 07/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0171

Applicant:
Picton Capital Limited

Parish:
Carlisle

Date of Receipt:
03/03/2014

Agent:
Trident Building
Consultancy

Ward:
Castle

Location:
6-12 English Street, Carlisle, CA3 8HX

Grid Reference:
340036 555922

Proposal: Replacement Of Existing Shopfronts And Internal Alterations

Amendment:

Decision: Grant Permission

Date: 23/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0172

Applicant:
Picton Capital Limited

Parish:
Carlisle

Date of Receipt:
05/03/2014

Agent:
Trident Building
Consultancy

Ward:
Castle

Location:
6-12 English Street, Carlisle, CA3 8HX

Grid Reference:
340036 555922

Proposal: Replacement Of Existing Shopfronts And Internal Alterations (LBC)

Amendment:

Decision: Grant Permission

Date: 23/04/2014

SCHEDULE E: Decisions Issued Under Delegated Powers

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0173

Applicant:
Mr Gary Roberts

Parish:
Carlisle

Date of Receipt:
03/03/2014

Agent:
Mr D Shankland

Ward:
Morton

Location:
55 Langrigg Road, Carlisle, CA2 6DJ

Grid Reference:
338685 554761

Proposal: Erection Of Single Storey Rear Extension
Amendment:

Decision: Grant Permission

Date: 03/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0175

Applicant:
Mr Scrimgeour

Parish:
Burgh-by-Sands

Date of Receipt:
05/03/2014

Agent:

Ward:
Burgh

Location:
Stone House, Moorhouse, Carlisle, CA5 6HA

Grid Reference:
333099 556818

Proposal: Change Of Use Of Unused Farm Outbuildings To Commercial Smoke House And Preparation Kitchen

Amendment:

Decision: Grant Permission

Date: 30/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0176

Applicant:
Mr Scrimgeour

Parish:
Burgh-by-Sands

Date of Receipt:
04/03/2014 08:02:33

Agent:

Ward:
Burgh

Location:

Grid Reference:

SCHEDULE E: Decisions Issued Under Delegated Powers

Stone House, Moorhouse, Carlisle, CA5 6HA

333099 556818

Proposal: Change Of Use Of Unused Farm Outbuildings To Commercial Smoke House And Preparation Kitchen; Internal Alterations (LBC)

Amendment:

Decision: Grant Permission

Date: 29/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0177

Applicant:
Mr David Mallinson

Parish:
Dalston

Date of Receipt:
06/03/2014

Agent:
Mr B F Child

Ward:
Dalston

Location:
Garage/Workshop, Cardew Lodge, Cardew,
Dalston, Carlisle, CA5 7JQ

Grid Reference:
333763 549118

Proposal: Conversion Of Domestic Garage/Workshop To 1No. Dwelling (LBC)
(Revised Application)

Amendment:

Decision: Grant Permission

Date: 25/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0179

Applicant:
Mr & Mrs Chris Smith

Parish:
Wetheral

Date of Receipt:
04/03/2014

Agent:

Ward:
Great Corby & Geltsdale

Location:
Avoncroft, Warwick Bridge, Carlisle, Cumbria, CA4
8RY

Grid Reference:
347756 556191

Proposal: Demolition Of Existing Flat Roofed Extension; Erection Of Two Storey Extension To Provide Kitchen And Family Room on Ground Floor With 1No. Bedroom And Bathroom Above

Amendment:

SCHEDULE E: Decisions Issued Under Delegated Powers

Decision: Grant Permission

Date: 29/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0180

Applicant:
Mr Ian Barrie

Parish:
Brampton

Date of Receipt:
05/03/2014

Agent:

Ward:
Brampton

Location:
The Swarthel, Lanercost Road, Brampton, CA8 1EN

Grid Reference:
353790 561491

Proposal: Replacement Garage And Erection Of Porch To Rear Elevation

Amendment:

Decision: Grant Permission

Date: 29/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0181

Applicant:
Mrs J A Montgomery

Parish:
Carlisle

Date of Receipt:
05/03/2014

Agent:
Jock Gordon

Ward:
Stanwix Urban

Location:
6 Thornton Road, Carlisle, CA3 9HZ

Grid Reference:
339948 557250

Proposal: Erection Of Single Storey Rear Extension To Provide Dining Room

Amendment:

Decision: Grant Permission

Date: 30/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0191

Applicant:
Mr Fazey

Parish:
Brampton

Date of Receipt:

Agent:

Ward:

SCHEDULE E: Decisions Issued Under Delegated Powers

10/03/2014 08:00:11

JPR Building Design Ltd

Brampton

Location:

25B Front Street, Brampton, CA8 1NG

Grid Reference:

352950 561034

Proposal: Erection Of First Floor Extension To Provide Extended Bedroom

Amendment:

Decision: Grant Permission

Date: 28/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:

14/0195

Applicant:

Mrs Christine Davidson

Parish:

Irthington

Date of Receipt:

14/03/2014

Agent:

Ward:

Stanwix Rural

Location:

Bellmount, Laversdale Lane End, Irthington,
Carlisle, CA6 4PS

Grid Reference:

347595 563846

Proposal: Extension To Existing Agricultural Shed

Amendment:

Decision: Grant Permission

Date: 14/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:

14/0198

Applicant:

Mr Cumming

Parish:

Dalston

Date of Receipt:

10/03/2014 23:00:06

Agent:

Gray Associates Limited

Ward:

Dalston

Location:

4 Low Moorlands, Dalston, Carlisle, CA5 7NX

Grid Reference:

336786 550431

Proposal: Erection Of Single Storey Extension To Provide Extended Kitchen,
Utility, Bathroom And Porch

Amendment:

SCHEDULE E: Decisions Issued Under Delegated Powers

Decision: Grant Permission

Date: 17/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0201

Applicant:
Mr Arnett

Parish:
Dalston

Date of Receipt:
11/03/2014 13:01:03

Agent:

Ward:
Dalston

Location:
Squirrel Cottage, Greensyke Lane, Cumdivock,
Dalston, Carlisle, CA5 7JD

Grid Reference:
335402 548339

Proposal: Erection Of Greenhouse

Amendment:

Decision: Grant Permission

Date: 16/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0203

Applicant:
Mr Edgar

Parish:
Castle Carrock

Date of Receipt:
13/03/2014

Agent:
JPR Building Design Ltd

Ward:
Great Corby & Geltsdale

Location:
Geltsted, Rectory Road, Castle Carrock, Brampton,
CA8 9LZ

Grid Reference:
354164 555404

Proposal: Erection Of Single Storey Side Extension To Provide Extended Kitchen,
Utility And WC; Installation Of Air Source Heating Unit Within Existing
Outhouse

Amendment:

Decision: Grant Permission

Date: 16/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:

Applicant:

Parish:

SCHEDULE E: Decisions Issued Under Delegated Powers

14/0211 Mr Bowman Wetheral

Date of Receipt: 18/03/2014 **Agent:** Ian Cleasby Drafting & Design **Ward:** Wetheral

Location: Eden Brows, Armathwaite, Carlisle, CA4 9SY **Grid Reference:** 349679 549498

Proposal: Conversion Of Former Outbuildings To Create 4No. Dwellings (Revised Application)

Amendment:

Decision: Grant Permission

Date: 30/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No: 14/0216 **Applicant:** Mr Naylor **Parish:** St Cuthberts Without

Date of Receipt: 18/03/2014 **Agent:** JPR Building Design Ltd **Ward:** Wetheral

Location: 12 Huntsman Lane, Carlisle, CA1 3TQ **Grid Reference:** 343118 554312

Proposal: Two Storey Side Extension To Provide Secure Storage Area With Front And Rear Access On Ground Floor With 1No. Bedroom Above

Amendment:

Decision: Grant Permission

Date: 29/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No: 14/0229 **Applicant:** Story Homes **Parish:** Dalston

Date of Receipt: 20/03/2014 **Agent:** **Ward:** Dalston

Location: Land between Townhead Road and Station Road, Dalston **Grid Reference:** 336722 550172

SCHEDULE E: Decisions Issued Under Delegated Powers

Proposal: Discharge Of Condition 3 (Level 1 Survey) Of Previously Approved Consent 13/0797

Amendment:

Decision: Grant Permission

Date: 10/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0233

Applicant:
Graham & Bowness Ltd

Parish:
St Cuthberts Without

Date of Receipt:
19/03/2014 16:01:43

Agent:
JPR Building Design Ltd

Ward:
Dalston

Location:
The Keep, Wreay, Carlisle, CA4 0RH

Grid Reference:
342698 550743

Proposal: Erection Of Replacement Dwelling

Amendment:

Decision: Grant Permission

Date: 02/05/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0240

Applicant:
Mr Thomas Flynn

Parish:
Dalston

Date of Receipt:
20/03/2014

Agent:

Ward:
Dalston

Location:
School House, Raughton Head, Dalston, CA5 7DD

Grid Reference:
337897 545290

Proposal: Removal Of Condition 2 Of Previously Approved Permission 04/1497 To Change The Use Of An Annex To A Separate Unit Of Accommodation (Revised Application)

Amendment:

Decision: Grant Permission

Date: 23/04/2014

SCHEDULE E: Decisions Issued Under Delegated Powers

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/0243

Applicant:
Mr Mark Abbot

Parish:
Wetheral

Date of Receipt:
25/03/2014

Agent:
Abacus Building Design

Ward:
Great Corby & Geltsdale

Location:
Greenacres, Heads Nook, Brampton, CA8 9AF

Grid Reference:
349201 555480

Proposal: Erection Of Ground Floor Rear Extension And First Floor Side Extension To Provide Kitchen And Garden Room On Ground Floor With 3no. Bedrooms (1no. En-Suite) And Study/Office Above

Amendment:

Decision: Grant Permission

Date: 30/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/9006

Applicant:
Lanercost C of E Primary School

Parish:
Burtholme

Date of Receipt:
10/04/2014

Agent:
Cumbria County Council - Economy & Planning

Ward:
Irthing

Location:
Lanercost C of E Primary School, Lanercost, Brampton, CA8 2HL

Grid Reference:
355873 563866

Proposal: Conversion Of Existing Canopy To Form New Classroom

Amendment:

Decision: City Council Observation - Raise No Objection

Date: 30/04/2014

Between 29/03/2014 and 02/05/2014

Appn Ref No:
14/9105

Applicant:
Hanson Quarry Products

Parish:
Hayton

SCHEDULE E: Decisions Issued Under Delegated Powers

Europe Ltd

Date of Receipt:
07/04/2014

Agent:
Cumbria County Council

Ward:
Hayton

Location:
Low Gelt Quarry, Low Gelt Bridge, Brampton,
Carlisle CA8 1SY

Grid Reference:
352091 558547

Proposal: Discharge Of Condition 32 (Aftercare Scheme) Of Previously Approved
Permission 1/09/9033

Amendment:

Decision: City Council Observation - Raise No Objection
Date: 28/04/2014
