



# **Agenda**

Planning Committee  
Wednesday, 13 March 2024 at 10.30 am  
Council Chamber - Allerdale House, Workington

The press and public are welcome to attend for the consideration of any items which are public.

**Enquiries and requests for supporting papers to: Kathryn Magnay - Senior Business Support - Electoral & Democratic**  
**Email: [kathryn.magnay@cumberland.gov.uk](mailto:kathryn.magnay@cumberland.gov.uk)**

## **Membership**

Cllr A Glendinning  
Cllr R Dobson  
Cllr R Betton  
Cllr J Gisdale  
Cllr L Jones-Bulman  
Cllr Dr B Kelly  
Cllr J Mallinson  
Cllr A Markley  
Cllr A Semple  
Cllr C Southward

## **Substitutes:**

Cllr G Minshaw  
Cllr G Mitchell  
Cllr M Mitchelson  
Cllr D Moore  
Cllr B Pegram  
Cllr A Pratt  
Cllr G Troughton  
Cllr H Tucker  
Cllr B Wernham  
Cllr C Wills

## **Access to information**

Agenda and reports

Copies of the agenda and Part A reports are available for members of the public to inspect prior to the meeting. Copies will also be available at the meeting.

The agenda and Part A reports are also available on the [Cumberland Council website](#).

## **Public participation**

To register a Right to Speak at the Committee please contact the email addresses below:

Former Allerdale Area – [planning1@cumberland.gov.uk](mailto:planning1@cumberland.gov.uk)

Former Carlisle Area – [DCRTS@cumberland.gov.uk](mailto:DCRTS@cumberland.gov.uk)

Former Copeland Area - [Development.Control3@cumberland.gov.uk](mailto:Development.Control3@cumberland.gov.uk)

This meeting is likely to run past lunchtime, Members are advised to make their own arrangements for lunch.



## Site Visits

**The following site visits will take place on Monday 11 March 2024:**

4/20/2432/0F1 - Land at Howbank Farm and Former Orgill Infants School Site, Egremont

**Members of the Planning Committee will be picked up from Allerdale House, the bus will leave at 10.30am.**

**The following site visits will take place on Tuesday 12 March 2024:**

23/0639 – Firbank Farm Buildings, Firbank, Westlinton

23/0426 – Land at Byegill Farm, Corby Hill

**Members of the Planning Committee will be picked up from the Civic Centre, the bus will leave at 10.30am.**

### **1. Apologies for absence**

To receive apologies for absence and notification of substitutions.

### **2. Declarations of Interest**

To receive declarations by Members and or co-optees of disclosable pecuniary interests, personal interests, other registerable interests or any other interests in respect of items on the agenda.

### **3. Exclusion of Press and Public**

To consider whether the press and public should be excluded from the meeting during consideration of any items of business on the agenda.

### **4. Minutes of Previous Meeting (Pages 5 - 14)**

To approve the minutes of the meeting held on 31 January 2024.

### **5. Schedule of Applications (Pages 15 - 20)**

To consider the applications contained within the schedules.

## **Schedule A - Applications of Strategic Significance**

- 5a** 4/20/2432/0F1 - Land at Howbank Farm & Former Orgill Infants School Site, Egremont (Pages 21 - 62)
- 5b** 23/0148 - Land to the West of junction on Orton Road & Sandsfield Lane, Carlisle (Pages 63 - 120)
- 5c** 23/0833 - Land situated between the villages of Todhills and Westlinton, Carlisle, CA6 6AL (Pages 121 - 166)
- 5d** 23/0870 - Land at Harker Industrial Estate, Kingmoor Park, Harker Estate, Low Harker, CA6 4RF (Pages 167 - 190)

## **Schedule B - Applications from the Allerdale Region**

- 5e** FUL/2023/0088 - Old Fire Station, Cockermouth (Pages 191 - 260)

## **Schedule C - Applications from the Carlisle Region**

- 5f** 23/0639 - Firbank Farm Buildings, Firbank, Westlinton, CA6 6AQ (Pages 261 - 294)
- 5g** 23/0426 - Land at Byegill Farm, Corby Hill, Carlisle, CA4 8QB (Pages 295 - 306)
- 5h** 24/0001/TPO - 48 Lansdowne Close, Carlisle, CA3 9HN (Pages 307 - 324)

## **Schedule G - Applications determined by other Authorities**

- 5i** 21/1060 - Land Adjacent Geltsdale Avenue, Durranshill, Carlisle, CA1 2RL (Pages 325 - 330)



## Planning Committee

**Date:** Wednesday, 31 January 2024

**Time:** 10.30 am

**Location:** Cathedral Room - Civic Centre, Carlisle

**Present:** Cllr A Glendinning (Chair), Cllr R Dobson (Vice-Chair), Cllr R Betton, Cllr J Grisdale, Cllr L Jones-Bulman, Cllr A Markley, Cllr A Semple, Cllr C Southward, Cllr B Pegram and Cllr A Pratt

**In Attendance** Senior Lawyer  
Senior Business Support - Electoral & Democratic  
Principal Planning Officer  
Planning Technician  
Assistant Director of Thriving Place and Investment  
Planning Officer  
Head of Development Management  
Planning Manager  
Lead Officer - Flood & Development Management

### **PC.100/23 Apologies for absence**

Apologies for absence were submitted on behalf of Councillors Kelly and Mallinson.

### **PC.101/23 Declarations of Interest**

Councillor Grisdale declared an interest in agenda items 5d, application FUL/2023/0212, 5e, application VAR/2023/0034, 5f, application RMA/2023/0007 and 5g, application FUL/2023/0216 due to the potential perception of bias by calling in the applications with the reasons for objection attached, being the Ward Councillor for Seaton and would be removing himself from the committee for those items.

Councillor Dobson declared an interest in agenda item 5a, application 23/0655 due to being the Ward Councillor for Corby and Hayton this would not affect his consideration of the application of which he remained an open mind. Councillor Dobson also declared an interest in agenda item 5h, application 23/0804 as the Ward Councillor for Corby and Hayton and would be removing himself from the committee for the item to present his views.

### **PC.102/23 Exclusion of Press and Public**

There were no items on the agenda for the press and public to be excluded from the meeting.

### **PC.103/23 Minutes of Previous Meeting**

RESOLVED – That the minutes of the meeting held on 20 December 2023 be approved.

## **PC.104/23 Schedule of Applications**

RESOLVED – that the report be noted.

## **PC.105/23 Application - 23/0655 - Land north of Hurley Road and east of Little Corby Road, Little Corby, Carlisle**

### **Proposal: Erection of 42no. Dwellings**

The Principal Planning Officer submitted a report which had been subject to a site visit by the committee on 29 January 2024.

Slides were displayed on screen showing; wider location plan, proposed site layout, location plan, house type plan and elevation and photographs of the site, an explanation of which was provided for the benefit of Members.

The Principal Planning Officer read out a late objection with the main concerns that the area is unable to support services specifically doctors cover and places in the local secondary school and no provision for pedestrian walkways/pavements.

The Principal Planning Officer highlighted that the Parish Council and objectors had raised concerns about the impact of the proposal on the highway network and on pedestrian safety. The Principal Planning Officer confirmed that Highways had no objections to the proposals and that the 30mph zone would be extended to include the site access and gateway features would be introduced along with road markings. The site had been subject to previous outline planning permission for 45 dwellings. Prior to this there had been an appeal to the Secretary of State. Accordingly, the highways and safety aspect to the site had been scrutinised within earlier applications and deemed acceptable.

The Principal Planning Officer recommended that "authority to issue" approval with the conditions listed in Appendix 1 be granted to the Assistant Director of Thriving Place and Investment subject to the satisfactory resolution of nutrient neutrality and the completion of a satisfactory S106 legal agreement to secure:

- a) the provision of 12 (30%) of the dwellings as affordable;
- b) a financial contribution of £46,852 (£37,020 for provision and £9,832 for maintenance) towards the upgrading and maintenance of children's play space within Warwick Bridge;
- c) a financial contribution of £15,212 towards the improvement of existing open space within Warwick Bridge;
- d) a financial contribution of £10,319 to support the off-site improvement of existing sports pitches;
- e) a financial contribution of £7,500 for a TRO for a speed limit order, its publication and implementation including all ancillary works (village gateway signage and road markings to be introduced);
- f) the maintenance of the informal open space within the site by the developer;
- g) mitigation to deal with nutrient neutrality.

If the S106 legal agreement is not signed, authority be given to the Assistant Director of Thriving Place and Investment to issue refusal.

A Member made reference to the National Planning Policy Framework in particular promoting healthy and safe communities and that developments should give priority to pedestrian and cycle movements, the application is unsatisfactory and contrary to policy. The Flood and Development Management Officer commented that although walking/cycling is encouraged small sites are constrained and have limited opportunities which is common in villages.

The Principal Planning Officer advised members that part of the appeal process was to look at the access and this was deemed acceptable.

A member raised a number of concerns, the road is dangerous, there is no link ups for the disabled and the site is an encroachment on a listed building and no consideration for local infrastructure and proposed to refuse the application.

The Head of Development Management reminded Members that they had to be clear and state which policies they were rejecting the application on due to the site being allocated for housing in the adopted Local Plan.

The Member confirmed the grounds for refusal were that the site encroached on a listed building, access and infrastructure. A Member seconded the access/highways aspects of the proposal and emphasised that the site does not have safe pedestrian access. However they did not wish to support the other part of the motion – the reason for refusal on the basis of harm being caused to a listed building.

The proposer therefore amended the motion to refuse the application so as to remove the ground that the site encroached on a listed building and so the motion proposed, which was seconded was to refuse the application on the basis of access and highways.

The Principal Planning Officer reiterated to Members that the majority of the site is allocated for housing. Planning appeal had been carried out in 2017 and outline planning permission granted in 2021. With regards to the listed building there is a distance of 70 metres between the application site and the listed building. The application is for bungalows which would have less impact on the site than the previously approved scheme, the vehicle movement would be reduced to the site due to less properties being developed and the Independent Highway Consultant deemed the site to be suitable.

A Member thanked the Officer for the detailed report and stated that there is a need for bungalows to be built and with this proposed to move the Officer's recommendation which was seconded.

A vote was taken on the first amended motion to refuse the application contrary to policy IP2 – Transport and Development (Carlisle District Local Plan 2015 – 2030), the motion was not supported therefore the motion was lost.

A vote was taken on the second motion to grant as per officers recommendation, following voting it was:

RESOLVED – that authority to issue approval with the conditions be granted to the Assistant Director of Thriving Place and Investment subject to the satisfactory resolution of nutrient neutrality and the completion of a satisfactory S106 legal agreement the terms of which are noted above.

## **PC.106/23 Application - 23/0148 - Land to west of junction on Orton Road & Sandsfield Lane, Carlisle**

### **Proposal: Residential Development & Associated Infrastructure**

The Planning Officer submitted a report which had been subject to a site visit by the committee on 29 January 2024.

The Planning Officer drew Members attention to the update report with a correction to the recommendation should state 9 discounted sale properties, the requirement for mitigation to deal with nutrient neutrality and suggested revisions to the conditions.

Slides were displayed on screen showing; wider location plan, location plan, proposed site layout plan, house type range and photographs of the site, an explanation of which was provided for the benefit of Members.

The Planning Officer recommended that “authority to issue” approval with the conditions listed in Appendix 1 of the report be granted to the Assistant Director of Thriving Place and Investment subject to a satisfactory nutrient mitigation scheme to reduce the impact of nutrient pollution on the River Eden SAC and the completion of a satisfactory Section 106 legal agreement to secure:

- a) provision of affordable housing (9 discounted sale properties and 9 affordable rented properties);
- b) the payment of £409,800 towards secondary education;
- c) the payment of £6,500 towards a Traffic Regulation Order;
- d) the payment of £6,600 towards a Travel Plan monitoring fee;
- e) the payment of £78,433.50 to enhance, increase accessibility, and upgrade existing facilities on Yewdale Road and Richmond Green;
- f) the payment of £29,484 toward the provision of artificial pitches district wide; and
- g) the management of on-site open space.
- h) mitigation to deal with nutrient neutrality.

If the Section 106 legal agreement is not signed or a satisfactory resolution to nutrient pollution through an appropriate mitigation scheme is not agreed, authority be given to the Assistant Director of Thriving Place and Investment to issue refusal.

An objector spoke on the application with the main concerns raised; the road is extremely dangerous, lack of maintenance of hedges and verges, during build period noise pollution, dust and dirt pollution, extra traffic and works vehicles and drainage problems. The objector commented on the sums of money in the officer’s recommendations and stated that they could be used better locally.

The Ward Councillor spoke in objection of the application, although they welcomed bringing people into the area this application is not within a designated area but a windfall site. Complaints have been received from various housing estates within the area the main concerns being; road safety, disruption, noise/dust pollution, heavy vehicles during construction, speeding, lack of footpaths, hedgerows not maintained, additional traffic flow, bus service not adequate. Residents feel that they have not had adequate consultation. The Ward Councillor asked for a mitigating measure to be included for traffic calming of the area.

The Agent addressed the Committee highlighting that the financial contributions are a usual part of planning as set out in the policy. Windfall sites positively contribute and there is a significant shortfall of affordable housing. In relation to the drainage/flooding, surface water will go into the attenuation pond which discharges on the opposite side of the bypass and flows into the Solway. The Agent addressed the concerns over construction activity and advised the Committee that conditions were within the report, a condition had also been included for the maintenance of hedgerows. The Agent confirmed there are suitable transport links and stagecoach timetable shows 3 buses every 20 minutes. Highlighting the concerns in relation to highway safety and the provision of a park on site the Agent confirmed that the existing boundary would be set back 2 metres significantly improving the junction and advised Members

that there is no provision on site for a park however a significant contribution off site benefiting the wider community.

The Planning Officer advised the committee that in relation to construction traffic raised by the objector and the Ward Councillor conditions 3 and 8 set out that a construction traffic management plan and a construction method statement had to be submitted prior to any development. The Planning Officer also highlighted condition 6 that details of a sustainable surface water drainage scheme and a foul water drainage scheme to be submitted prior to the commencement of development. The Planning Officer also advised Members that the publication of the application and site notices had been adhered to within the specified time frames.

The Flood and Development Management Officer advised the committee that highways were working with the police to install a digital speed sign and request that the speed limit be moved and changes to road markings.

The Committee gave consideration to the application and following this a Member moved to defer the application, the site plan shows that there is some amenable space to implement a playground on site and asked for the scheme to be looked at again, with other matters to be looked into including footpath links; extra parking and information on the proposed location of 30mph speed restrictions, this was seconded and following voting it was;

*Councillor Betton left the meeting at 11:55*

RESOLVED – that the application be deferred in order to explore the potential for on-site open space (play area); footpath links; extra parking and information on the proposed location of 30mph speed restrictions and to await a further report on the application at a future meeting of the committee.

**PC.107/23 Application - 4/20/2432/0F1 - Land at Howbank Farm & Former Orgill Infants School Site, Egremont**

RESOLVED – that this application had been withdrawn from the Agenda for this meeting.

*The Planning Committee adjourned at 12:03 and reconvened at 12:18*

*Councillor Grisdale left the meeting*

*Councillor Betton returned to the meeting*

The Planning Manager explained to the committee the reason for the order of the following applications and provided Members with the background planning history.

**PC.108/23 Application - FUL/2023/0212 - Land East of Causeway Road, Seaton, Workington, CA14 1LP**

**Proposal: Construction of drainage infrastructure, comprising an attenuation basin and pumping station, together with associated works.**

The Planning Manager submitted a report which had been subject to a site visit by the committee on 30 January 2024.

Slides were displayed on screen showing; location plan, site layout plan, outline drainage and photographs of the site, an explanation of which was provided for the benefit of Members.

The Planning Manager recommended that the application be approved subject to the conditions in the report and signing of the S106 agreement to link the development to the outline application and 5 dwelling scheme.

Two objectors spoke on the application which included representations from Workington Flood Action Group with the main concerns raised, the proposal does not address current requirements and contravenes policies S29 (flood risk and surface water drainage) and S5 (development principles). The previous S106 is outdated and applicable to a previous application. Concerns were raised in relation to the pumping station and who would maintain this if United Utilities were not to adopt it. Standard of design for one pumping station unadoptable. Gale brook is already overloaded and in serious disrepair, outdated rainfall data used, not environmentally friendly, increase in power consumption and noise, increase foul odour and contamination to surface water. The objectors urged the committee to refuse or defer the application for further consideration to be made to the flood assessment.

The Agent addressed the committee and the concerns raised by the objectors, and advised the committee that the site had been heavily scrutinised by the LLFA (local lead flood authority) and the objectors since 2021. The change to the drainage system would allow a more spacious layout and the new strategy is acceptable to the LLFA for the betterment of the site, the principle can be drained effectively which had been established. There had been no technical objection therefore committee should support the application.

The Flood and Development Management Officer confirmed to members that the drainage report had been reviewed and as a result added in filter drains and the capacity of the SUDS point increased which would increase volume robustness and now satisfied it's a compliant design.

A Member asked for clarification in relation to the NAV system, if UU did not adopt the plan who would be responsible for the maintenance. The Planning Manager confirmed that condition 3 of the report set out that no development to commence until the details of how the approved drainage infrastructure shall be managed and maintained had been submitted to the Local Planning Authority.

A member asked for clarification with regards to the attenuation pond and the requirement of pumping they also asked when full how deep would it be? Also had concerns over children accessing the pond. The Flood Development Management Officer clarified there is no pumping in the SUD pond it's a gravity system. Best practice is no more than 2 metre deep and installation of a knee rail deterrent. The proposals are a dry basin design. The Planning Manager confirmed that condition 5 set out that a means of enclosure to be submitted and agreed in writing to the Local Planning Authority to reduce the risk and safeguard the surrounding area.

A Member was concerned that they did not feel that enough information with regards to the operation, maintenance flow and drainage had been given to them in order to make a decision on the application and proposed that the application be deferred. The motion was not seconded.

The Head of Development Management clarified to Members that a number of conditions had to be adhered to before the commencement of the development and in compliance with those further detail would be provided.

The Committee gave consideration to the application and following this a member moved the officer's recommendation. This was seconded and following voting it was;



**RESOLVED** – that the application be approved subject to the conditions and signing of the S016 to link the development to the outline application and 5 dwelling scheme (FUL/2023/0216).

**PC.109/23 Application - VAR/2023/0034 - Land East of Causeway Road, Seaton, Workington, CA14 1LP**

**Proposal: Variation of Conditions 6 (plans) and 12 (surface water drainage) on application 2/2018/0493**

The Planning Manager submitted a report which had been subject to a site visit by the committee on 30 January 2024.

Slides were displayed on screen showing; location plan, site layout plan, preliminary drainage plan (outline) off-site drainage plan (FUL/2023/0212) and aerial photo of the site, an explanation of which was provided for the benefit of Members.

The Planning Manager recommended that the application be approved subject to the conditions set out in the report and signing of S106 to link development to the separate full planning application for an alternative drainage scheme.

Two objectors spoke on the application which included representations from Workington Flood Action Group with the main concerns raised that the application contravenes policies S3 (spatial strategy and growth), S5 (development principles) and object to conditions 6 and 12 being removed. Concerns over risk of drowning in 1.8 metre pond and ask that the committee defer the application and ask drainage specialist to challenge the report.

The Agent addressed the committee and the objectors and fully understood the concerns over the drainage which had been looked at numerous times, a roundtable discussion had been held with a consultant on behalf of Workington Flood Action Group and own consultant this resulted in another independent view being sought after by the LLFA and advice received from the independent consultant was acceptable.

A Member proposed to defer to the application. This was not seconded.

A Member questioned the backup of the system if the power was to go down. The Senior Planning Manager confirmed that condition 12 covered the management and maintenance which would be submitted prior to commencement of development which would include provisions for an outage.

A Member raised a point of order that his points had not been considered. The Chair asked which Council procedural rule this related to. No further details were provided. The Chair considered the issue and confirmed that the Members points had been considered in full during the debate.

The Committee gave consideration to the application and following this a member moved the officer's recommendation. This was seconded and following voting it was;

**RESOLVED** – that the application be approved subject to the conditions and signing of the S016 to link the development to the separate full planning application for an alternative drainage system (FUL2023/0212).

*Councillor Betton left the meeting at 13:11*

**PC.110/23 Application - RMA/2023/0007 - Land East of Causeway Road, Seaton, Workington, CA14 1LP**

**Proposal: Reserved matters for approved application 2/2018/0493 for the erection of 94 dwellings and associated works.**

The Planning Manager submitted a report which had been subject to a site visit by the committee on 30 January 2024.

Slides were displayed on screen showing; location plan, outline illustrative masterplan, reserved matters layout, house type design and photographs of the site, an explanation of which was provided for the benefit of Members.

The Planning Manager recommended that the application be approved subject to the conditions set out in the report and signing of the S106 to link the alternative drainage scheme to this application.

Three objectors spoke on the application which included representations from Workington Flood Action Group with the main concerns raised, significant number of vehicular movements from the site resulting in adverse impact on residential amenity, contravenes policies S1 (presumption in favour of sustainable development, S2 (sustainable development principles), S3 (spatial strategy and growth), S4 (design principles) S5 (development principles) S29 (flood risk and surface water drainage and S32 (safeguarding amenity). One objector commented that they had asked for the application to be deferred as the consultant was unable to look at the application within the time frame for the objectors to submit their comments and that all the trees on Hill Farm have TPO's.

The Agent addressed the committee and reminded Members that the application was for the reserved matters to consider the layout, appearance, scale and landscape and reminded the committee that the drainage scheme had been approved. In relation to the access of the site this had been considered in detail. The application is for 94 units included are 18 affordable homes, the design offers a spacious layout and slightly larger house types than a previous application. It is believed to be an attractive scheme and layout. There had been no technical objection and would like Members to support the application.

A Member asked why two entrances to the site had not been agreed and how the second entrance for emergency vehicles would be controlled? The Planning Manager reminded Members that on the site visit there was a single track road and would not be suitable for access, in relation to the emergency overflow this would not be accessible to members of the public and would be controlled by a bollard which the emergency services have access to the code.

A Member asked the Officer if they were satisfied that the TPO would not be breached. The Planning Manager confirmed that the removal of certain TPO's were to gain access and visibility.

The Planning Committee considered the application and following this a Member moved the Officer's recommendation. This was seconded and following voting it was;

**RESOLVED** – that the application be approved subject to the conditions set out in the report and signing of the S106 to link the alternative drainage scheme (FUL/2023/0212) to this application.

*Councillor Betton returned to the meeting at 13:36*

**PC.111/23 Application - FUL/2023/0216 - Land North of Camerton Road, Seaton, Workington, CA14 1LP**

**Proposal: Erection of 5no. Residential dwellings, access, parking, landscaping and associated works.**

The Planning Manager submitted a report which had been subject to a site visit by the committee on 30 January 2024.

Slides were displayed on screen showing; location plan, 5 dwelling scheme reserved matters, 5 dwelling scheme full planning application, house type designs and photographs of the site, an explanation of which was provided for the benefit of Members.

The Planning Manager recommended that the application be approved subject to the conditions set out in the report and signing of the S106 to full application for the off-site drainage.

### **13:36 – Suspension of Procedural Rules**

*The Chair moved to suspend the procedural rules 8.2. Following voting the Committee agreed to continue with the meeting.*

Two objectors spoke on the application which included representations from Workington Flood Action Group with the main concerns raised that compared to a previous application that had been approved 99 houses would now be on one pumping station does not provide feasible drainage system and stated that a previous application in 2017 had been granted with own drainage system and therefore urged the committee to refuse the application or return to own drainage system the proposal also contravenes polices S3 (spatial strategy and growth) and S5 (development principles).

The Agent addressed the committee and the concerns raised by the objectors, he reminded the committee that the new drainage system had been approved. The retention pond is oversized offering betterment, there has been no other objections and hoped that the committee would support the application.

A Member questioned where the 30mph speed limit is on Camerton Road and suggested that a condition be added to move it. The Planning Manager confirmed that the speed limit is close to an existing bungalow, the original outline application had been approved for 100 dwellings and current application is not materially different and no requirement for a traffic regulation order to be carried out, the visibility splays are sufficient.

The Planning Committee considered the application and following this a Member moved the Officer's recommendation. This was seconded and following voting it was;

**RESOLVED** – That the application be approved subject to the conditions and signing of the S106 to full application for the off-site drainage (FUL/2023/0212).

*The Planning Committee adjourned at 14:00 and reconvened at 14:12*

*Councillor Betton left the meeting at 14:00, Councillor Grisdale resumed his seat at 14:12 and Councillor Dobson left the meeting to speak on the item.*

**PC.112/23 Application - 23/0804 - Pennine View, Sandy Lane, Broadwath, Heads Nook, Brampton, CA8 9BQ**

**Proposal: Removal of Condition 4 (closure of existing access) of previously refused 19/0540 subsequently approved by The Planning Inspectorate (reference 3247551) for the Variation of Condition 8 of previously approved permission 13/0916 to read as follows “The bungalow known as “Farndale”, identified on the block plan as “existing dwelling” shall cease its independent residential use and shall be occupied solely as ancillary accommodation to the property known as Pennine View and Farndale shall comprise a single planning unit.**

The Principal Planning Officer submitted a report which had been subject to a site visit by the committee on 29 January 2024.

Slides were displayed on screen showing; application site boundary and photographs of the site, an explanation of which was provided for the benefit of Members.

The Principal Planning Officer recommended that the application be refused.

The Ward Councillor spoke in support of the application on behalf of himself and the Agent noting that the separate access had been in situ for 90yrs it provides essential level wheelchair access for the occupant, access to various utility providers and acts as a passing place therefore is seen as a benefit rather than a problem.

*Councillor Dobson withdrew from the meeting 14:21*

The Principal Planning Officer read out from the report the Planning Inspectorates response.

The Committee gave consideration to the application, following this a Member moved the Officer’s recommendation. This was seconded and following voting it was;

**RESOLVED** – That the application be refused.

**PC.113/23 2/2018/0595 - Derwent Howe Retail Park, Derwent Drive, Workington, CA14 3YW**

RESOLVED – That the report be noted.

**PC.114/23 22/0143 - Millers Paddock, Broomfallen Road, Scotby, Carlisle, CA4 8DE**

RESOLVED – That the report be noted.

**PC.115/23 23/0177 - 1 Berrymoor Road, Brampton, CA8 1DH**

RESOLVED – That the report be noted.

The meeting finished at 2.30 pm



## Report to Planning Committee

Key Decision – No

Public/Private – Public

Portfolio – Cumberland Policy and Regulatory Services

Directorate – Place, Sustainable Growth and Transport

Lead Officer – Jane Meek, Assistant Director of Thriving Place and Investment

Title – **SCHEDULE OF APPLICATIONS**

### **Purpose / Summary:**

This schedule contains six parts all of which contain full reports on each application proposal and concludes with a recommendation to the Planning Committee to assist in the formal determination of the proposal or, in certain cases, to assist Members to formulate the Council's observations on particular kinds of planning submissions.

### **Recommendations:**

Officer recommendations are made, and the Committee's decisions must be based upon, the provisions of the Development Plan in accordance with S38(6) of the Planning and Compulsory Purchase Act 2004 <http://www.legislation.gov.uk/ukpga/2004/5/contents> unless material considerations indicate otherwise.

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.

## SCHEDULE A – Applications of Strategic Significance.

The proposals within applications in this schedule may have impacts that are of wider significance for the Cumberland Council area as a whole and are therefore strategic by their very nature. In order to reach a recommendation the reports have been prepared having taken into account the following background papers:-

- relevant planning policy advice contained in Government Circulars, National Planning Policy Framework, [National Planning Policy Framework - GOV.UK \(www.gov.uk\)](http://www.gov.uk),
- Planning Practice Guidance <http://planningguidance.planningportal.gov.uk/> and other Statements of Ministerial Policy;
- Allerdale Local Plan (Part 1) [adopted allerdale local plan part 1 - final version 151014.pdf](#)
- Allerdale Local Plan (Part 2) [Local Plan \(Part 2\) \(allerdale.gov.uk\)](http://allerdale.gov.uk)
- Carlisle District Local Plan 2015-2030 <http://www.carlisle.gov.uk/planning-policy/Local-Plan/Carlisle-District-Local-Plan-2015-2030>;
- Copeland Local Plan 2013 – 2028 (existing) [Core Strategy and Development Management Policies | Copeland Borough Council](#)
- Copeland Local Plan 2021-2038 (emerging) Publication Draft [Publication Draft document | Copeland Borough Council](#)
- Copeland Local Plan 2021-2038 Publication Draft Addendum
- [Copeland Local Plan 2021-2038: Publication Draft Addendum | Copeland Borough Council](#)
- Cumbria Minerals and Waste Local Plan 2015 – 30 - [Cumbria Minerals and Waste Local Plan \(MWLP\) | Cumberland Council](#);
- Conservation Principles, Policies and Guidance – <https://historicengland.org.uk/advice/constructive-conservation/conservation-principles/>
- Enabling Development and the Conservation of Significant Places <https://historicengland.org.uk/images-books/publications/enabling-development-and-the-conservation-of-significant-places/>
- Flood risk assessments: climate change allowances <https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances>

- Consultee responses and representations to each application;
- [Search planning applications | Cumberland Council](#)
- Cumbria Landscape Character Guidance and Toolkit [Landscape Conservation | Cumberland Council](#)
- Natural Environment and Rural Communities Act (2006)  
<http://www.legislation.gov.uk/ukpga/2006/16/contents>
- Wildlife and Countryside Act 1981 <http://www.legislation.gov.uk/ukpga/1981/69>
- Community Infrastructure Levy Regulations 2010  
<http://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents>
- EC Habitats Directive (92/43/EEC)  
[http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index\\_en.htm](http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index_en.htm)
- Equality Act 2010  
[http://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga\\_20100015\\_en.pdf](http://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga_20100015_en.pdf)
- Manual For Streets 2007  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/341513/pdfmanforstreets.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/341513/pdfmanforstreets.pdf)
- Where an application is recommended for approval, a condition on each application details the relevant application documents. Where an application is recommended for refusal an informative note will list the relevant application documents.

## **SCHEDULES B, C & D – Regional Applications**

There are 3 regions within the Cumberland Council area:

- Schedule B – Allerdale Region;
- Schedule C – Carlisle Region;
- Schedule D – Copeland Region.

For the initial reporting of planning applications, the three regional teams follow the local planning authority boundaries of the previous authorities and applications are reported where the proposed development may impact on the region as a whole or have specific circumstances which would require a committee decision rather than delegated to officers. The background documents for these applications are as detailed for Schedule A and in particular:

### **Schedule B:**

- Allerdale Local Plan (Part 1) [adopted allerdale local plan part 1 - final version 151014.pdf](#)
- Allerdale Local Plan (Part 2) [Local Plan \(Part 2\) \(allerdale.gov.uk\)](#)

### **Schedule C:**

- Carlisle District Local Plan 2015 – 30 -  
<https://www.carlisle.gov.uk/planning-policy/Adopted-Plans/Carlisle-District-Local-Plan-2015-2030>;

### **Schedule D:**

- Copeland Local Plan 2013 – 2028 (existing)  
[Core Strategy and Development Management Policies | Copeland Borough Council](#)
- Copeland Local Plan 2021-2038 (emerging) Publication Draft  
[Publication Draft document | Copeland Borough Council](#)
- Copeland Local Plan 2021-2038 Publication Draft Addendum
- [Copeland Local Plan 2021-2038: Publication Draft Addendum | Copeland Borough Council](#)

### **SCHEDULE E – Applications in respect of Public Footpaths**

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

- Highways Act 1980
- Wildlife and Countryside Act 1981
- Town and Country Planning Act 1990 (as amended)

### **SCHEDULE F – Applications in respect of Commons Registrations**

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

- Commons Act 2006.
- Commons Registration (England) Regulations 2014.
- Defra Part 1 of the Commons Act 2006: Guidance to Commons Registration Authorities and the Planning Inspectorate 2015.
- Commons Registration Act 1965.
- Common Land (Rectification of Registers) Act 1989.

### **SCHEDULE G – Applications determined by other authorities**

These applications have been determined by organisations outside of Cumberland Council e.g. determination of a planning appeal by the Planning Inspectorate or Secretary of State



If you are in doubt about any of the information or background material referred to in the Schedule you should contact the Head of Service for the regional team, or the Case Officer for the Planning Application.

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<b>Application Reference Number:</b>	<b>4/20/2432/0F1</b>
<b>Application Type:</b>	Full Planning Application
<b>Application Address:</b>	Land at Howbank Farm and Former Orgill Infants School Site, Egremont.
<b>Proposal</b>	Residential development (105 dwellings in total).
<b>Applicant</b>	Gleeson Homes
<b>Agent</b>	SRE Associates
<b>Valid Date</b>	19 <sup>th</sup> October 2020
<b>Case Officer</b>	Chris Harrison

## **Cumberland Area and Region**

Copeland and Egremont

## **Relevant Development Plan**

Copeland Local Plan 2013-2028 (Adopted December 2013).  
Emerging Copeland Local Plan 2017-2038.

## **Reason for Determination by the Planning Committee**

The Application Site exceeds 2 hectares in area and exceeds 100 dwellings; therefore, it falls within the definition of a strategic planning application for the purposes of the Cumberland Council Planning Scheme of Delegation.

## **Background**

This planning application was on the agenda for the meeting of the Planning Committee on the 31<sup>st</sup> January 2024; however, it was removed from the agenda following the submission of revised/additional information by the Applicant, which required re-consultation with the relevant statutory consultees, non-statutory consultees and neighbours/public.

The revised/additional information submitted by the Applicant seeks to resolve/address Reason for Refusal 3, Reason for Refusal 4 and Reason for Refusal 5 as detailed in the report prepared for the meeting of the Planning Committee on the 31<sup>st</sup> January 2024.

The additional information received comprised:

- A covering email/letter;
- A plot parking layout detail/example;
- A revised site layout plan; and,
- A Sequential Test Report.

This report is a new report and is not an addendum to the report prepared for the meeting of the Planning Committee on the 31<sup>st</sup> January 2024.

This report has been prepared on the basis of the revised/additional information submitted by the Applicant and the comments received from the required re-consultation with the relevant statutory consultees, non-statutory consultees and neighbours/public.

### **Recommendation:**

It is recommended that Members refuse the Full Planning Application for the reasons outlined at the end of the report.

## **1. Site and Location**

- 1.1 The Application Site relates to two sites within close proximity to each other in the settlement of Egremont, Cumbria.
- 1.2 The larger of the two sites is referenced as the How Bank Farm site and comprises 4.15 hectares (10.26 acres) of agricultural land. The site is irregular in shape and falls significantly from its northern boundary towards the south and the east. Tree planting exists to the south and east boundaries, some which have been removed to facilitate the creation of flood storage structures on Lower Whangs Beck. The site adjoins open fields to the north and to the east, with existing residential properties to south and west. The land is currently accessed from Chaucer Avenue
- 1.3 The smaller of the two sites is referenced as the Former Orgill School site and comprises 0.64 hectares (1.57 acres) former school site. The site is a cleared site that has most recently been used as a compound by the contractors completing the Skirting Beck and Whangs Beck Flood Risk Management Scheme. The site is regular in both shape and topography. The site is situated at the junction of Chaucer Avenue with Croadalla Avenue and is surrounded by existing residential development.
- 1.4 There are no conservation areas or listed buildings on or directly adjacent to the Application Site
- 1.5 The How Bank Farm site is principally located in Flood Zone 1, with part of the site access located in Flood Zone 3.
- 1.6 The Former Orgill School is located in a combination of Flood Zone 1, Flood Zone 2 and Flood Zone 3.
- 1.7 Skirting Beck and Whangs Beck Flood Risk Management Scheme has recently been completed in this area of Egremont. The scheme has involved constructing flood storage areas, with flood walls and flood embankments, at West Lakes Academy, the Falcon Club, How Bank Farm and at Whangs Beck Culvert. Improvements were also completed at Croadalla Avenue on Skirting Beck. Property resistance measures

have also been delivered to 36 properties across the town. The scheme seeks to reduce the flood risk to 220 properties.

- 1.8 Public Right of Way ref. FP406001 and FP406006 are located to the south and west of the How Bank Farm site and Public Right of Way ref. FP406007 is located to the east of the Former Orgill Infant School.

## **2. Proposal**

- 2.1 This application seeks Full Planning Permission for the erection of 105no. dwellings and associated infrastructure.
- 2.2 The proposed development comprises:
- 16no. 2 bed dwellings;
  - 65no. 3 bed dwellings; and,
  - 24no. 4+bed dwellings.
- 2.3 The dwellings comprise 4no. bungalows and 101no. two storey semi-detached and detached houses.
- 2.4 A total of 10% of the proposed dwellings are to meet the definition of affordable housing as outlined in the National Planning Policy Framework (NPPF). It is proposed that the dwellings are First Homes and delivered in accordance with the provisions and guidelines within the Planning Practice Guidance (PPG).
- 2.5 Access to the How Bank Farm site is proposed via a newly formed junction and spinal highway connecting to Baybarrow Road. The layout of this site incorporates a combination of frontage development to the spinal highway and a number of cul-de-sacs. Areas of formal and informal open space are incorporated within the layout, these include a large undeveloped area to the sloping land to the south, more formal recreational areas and drainage infrastructure.
- 2.6 Access to the How Bank Farm site is proposed via a newly formed junction and spinal highway connecting to Baybarrow Road. The layout of this site incorporates a combination of frontage development to the spinal highway and a number of cul-de-sacs. Areas of formal and informal open space are incorporated within the layout, these include a large undeveloped area to the sloping land to the south, more formal recreational areas and drainage infrastructure.
- 2.7 Access to the Former Orgill School site comprises a combination of driveways fronting onto Chaucer Avenue and Croadalla Avenue and the creation of a shared surface access from Croadalla Avenue. The layout incorporates active frontages to the highways and the open spaces. A drainage infrastructure pond is located within the open space to the south of the site.

- 2.8 A minimum of 2no. off highway parking spaces per dwelling are proposed in addition to which 42no. visitor parking spaces are included within the development layout.
- 2.9 It is proposed to finish the dwellings with brick to the elevations and concrete tiles to the roof structures. White uPVC windows and doors are proposed. The dwelling designs incorporate dormers and gables within the roof pattern to create a varied roofscape and add articulation/interest to the elevations.
- 2.10 A range of differing boundary treatments are proposed including timber fencing and facing brickwork walls.
- 2.11 It is proposed to drain surface water from the How Bank Farm via infiltration, supplemented by controlled discharge to Whangs Beck and Skirting Beck. It is proposed to drain surface water from the Former Orgill School site to the Skirting Beck culvert at a controlled rate.
- 2.12 It is proposed to discharge foul water to the existing public mains system.
- 2.13 The proposed layout, highway design and drainage design have been amended during the course of the application.

### **3. Separate Planning Application – How Bank Farm Site Access**

- 3.1 The Application Site does not include the land required for the access/junction with Baybarrow Road. The land required to deliver the access/junction is not wholly within the public highway and is partially in the ownership of Cumberland Council; therefore, the Applicant has submitted a separate Full Planning Application for the creation of this access – application ref. 4/23/2172/0F1.

### **4. Directly Relevant Planning Application History**

- 4.1 App. Ref. 4/19/2044/0F1 – Creation of three flood storage areas, landscaping and associated works – Land at How Bank Farm, Whangs Beck, Falcon Club, West Lakes Academy and West of Croadalla – Approved.

### **5. Consultations and Representations**

**Egremont Town Council**

Welcome this new housing development however wish for the following concerns to be noted:

1. Appreciate the visibility splay included in the plan however they still have concerns that there is only one access for cars coming in and out which will lead to a noticeable increase in traffic in an area where there is a primary school and a play park.
2. Ask the developers to notify all suppliers, construction staff etc. to limit their speed to a maximum speed of 20 mph whilst in the area and especially due to the close proximity of the school and play park.
3. Developers are requested not to allow work vehicles on or off site during the peak school hours – 8.30am – 9.30am and 2.30pm – 4pm.
4. Ask that the developers inform residents in the immediate area and the Town Council of expected dates of when any abnormal loads are expected on the site.
5. Developers are requested to keep the roads in a clean condition using a road sweeper and wheel wash as a minimum.

The amendments do not change the application significantly enough to warrant anything else but support from the Town Council.

### **Natural England**

No comments.

### **United Utilities**

Following review of the submitted drainage scheme it is confirmed that whilst the strategy for the disposal of foul and surface water is acceptable in principle, there are elements of the detailed drainage design that might not be acceptable to United Utilities. These are: some plots appear to be lower than the proposed drainage runs which could put them at risk in the event of blockages; the proposed drainage may not be adoptable by United Utilities; and, it is not clear from the drawings where the foul water is connecting.

It is requested that the ultimate connection points to chartered public sewers are clearly shown on the drawings.

We request that the proposed drainage strategy is not approved until such time as all concerns are resolved.

Should planning permission be granted without resolution of all drainage concerns, we request imposition of the following planning conditions: a pre-commencement planning condition requiring submission, approval and implementation of a detailed drainage scheme; a planning condition requiring that foul and surface water shall be drained on separate

systems; and, a planning condition requiring submission, approval and implementation of a drainage management and maintenance scheme.

### **Arboricultural Consultant**

Recommend the inclusion of the following planning conditions:

- a pre-commencement planning condition requiring the submission, approval and implementation of an Arboricultural Method Statement including details of the necessary tree protection and any ground protection measures to minimise soil compaction and damage to the retained trees; and,
- a pre-commencement planning condition requiring the submission, approval and implementation of a detailed landscaping scheme.

### **Environment Agency**

#### *Flood Alleviation Scheme*

Initially objected to the development on the basis that the proposed highway access to the How Bank site presented a significant risk to the viability of the flood storage structures on Lower Whangs Beck. It was confirmed that the proposed access from the junction with Baybarrow Road would be in direct conflict with the intended location of a flood embankment.

Revised access details and technical information were subsequently submitted based on the substantially complete Whangs Beck Flood Alleviation Scheme.

In relation to the Orgill School Site additional dimensioned sections through the site showing the relative positions of the developed site levels, finished floor levels, subsurface position of the Main River culvert(s) and the “exceedance flow route through the easement” were requested to enable a clearer understanding of the proposal and associated flood risk.

Following a meeting between the Developer, Agent and consulting engineers to discuss the development, in particular the How Bank Farm development scheme, and its relationship with the Environment Agency's Whangs Beck improvement scheme and the submission of additional technical details, it has been confirmed that no objections exist in relation to conflict with the Flood Alleviation Scheme.

#### *Flood Risk*

It is confirmed that the FRA makes it clear that the access road from Baybarrow Road is at risk of flooding during the design flood event, when there would be overtopping of the lower Whangs Beck flood storage reservoir. The current design presumes the flows would pass over and across the road and footpath. The minimum flood flow velocities in such



an event are as stated as 1.3m/s, however, the FRA states that the velocities could be significantly higher and with potential damaging consequences, potentially washing away the road and footpath forming the site access road from Baybarrow Road.

In the design flood the FRA concludes that the velocities could be as great as 4.79 m/s. No information of depth and duration of flood flows over the road in the design flood event provided and no Hazard Rating analysis is undertaken using the methodology for calculating UK flood hazard rating as defined in the EA/ Defra research Flood Risk Assessment Guidance for New Development (FD2320) and the supporting Explanatory Note for FD2320 and FD2321.

As there is insufficient information in the FRA in relation to the likely duration, depths, velocities, and flood hazard rating against the design flood event for the development proposals and we cannot advise whether the access is safe, or the proposals acceptable in this regard. We remind you to consult with your Emergency Planners and the Emergency Services to confirm the adequacy of the evacuation proposals.

#### *Sequential Test*

The Application Site includes land within Flood Zone 2 and Flood Zone 3.

The proposed development should be treated as development in Flood Zone 2/3 and as such subject to the Sequential Test.

It is for the local planning authority to determine whether or not the proposals satisfy the Sequential Test as defined in National Planning Policy Framework (NPPF) paragraph 158 and, where necessary, the requirements of the first part of the Exception Test as set out in paragraph 160. We will consider whether or not the proposals satisfy the requirements of the second part of the Exception Test.

It is acknowledged that The Environment Agency has conducted modelling which predicts future flood levels at the site once local flood alleviation schemes have been completed (included in Appendix D of the FRA). However, whilst it is likely that our flood maps will be updated in the future to reflect these changes, this will only be done after the as-built modelling and verification has been completed and any proposed changes to flood maps are deemed suitable. Until that point, any changes in the flood zones cannot be guaranteed, and planning decisions should not be based on assumed updates.

#### **Cumberland Council – Countryside Access Team (PROW)**

Public Right of Way ref. FP406001 and FP406006 are located to the south and west of the How Bank Farm site and Public Right of Way ref. FP406007 is located to the east of the Former Orgill Infant School and

must not be altered or obstructed before or after the development has been completed.

If the footpath is to be temporarily obstructed then a formal temporary closure will be required.

### **Cumberland Council – Strategic Housing**

The proposed housing mix reflects the housing need identified in the Housing Needs Survey, in that smaller dwellings were required and fewer 4 bedroomed + dwellings.

Egremont is popular with people working at Sellafield and new housing will be attractive to professionals and families – those already in the area looking to upsize and those looking to move into the area.

The inclusion of 11no. affordable homes for sale on this development is in accordance with the provisions of the NPPF. These could be delivered as First Homes, which means that the dwellings would be for sale at 70% of the market value. This is greater than the 80% normally secured and is therefore welcomed, as many people still struggle to afford affordable housing even with a 20% discount in the sale price.

The suggested cost at 70% reduction would be no more than £117,995 (subject to annual review), against a given average of £140,537 across Copeland.

The Affordable Housing Statement proposes a one month nomination period for the Council; however, we would like this to be extended to 6 weeks in line with our discounted sale policy.

### **Cumbria Fire and Rescue Service**

No objections.

### **Cumberland Council – Local Education Authority**

#### *Primary Education*

After other developments in the area are taken into consideration there are insufficient places available in the catchment school Orgill Primary to accommodate the primary pupil yield of 35 from this development. The next nearest school is St Bridget's Catholic Primary School which has sufficient spaces.

An education contribution would not be required.

#### *Secondary Education*

There are insufficient places available in the catchment school West Lakes Academy to accommodate the secondary pupil yield of 22 from this development. The school is already oversubscribed and places are required by other developments in the area. The next nearest school is Whitehaven Academy which is over the walking threshold.

An education contribution of £601,040 (22 x £27,320) would be required.

Please note that this is a snapshot in time and there is a possibility that these numbers will change between now and the point at which a planning application may be approved.

There may be other potential developments that may affect these schools, but as they haven't been approved at this stage, have not been included in the calculations.

## **Cumberland Council - Highways**

### *Transport Assessment*

The site by its location provides convenient and good level of provision for walking into the service centre of Egremont, schools and there are local essential services (small convenience stores). Bus services are reasonable from Egremont Town Centre, but the walk to these stops is not ideal. There is a limited local bus service HB01 to Whitehaven to St Bees which stops right outside the development.

Access and parking provision are acceptable.

There are no accident clusters in the last 5 years in the vicinity.

It is accepted that the traffic impact (trips) from the two sites will not have a material impact on highway conditions on the local highway network.

There are no junctions that would be over-capacity due to the increase in trips.

Overall, the site is considered to be a sustainable location and the development and is not considered to have any material impact on Highway Conditions nor have an unacceptable impact on Road Safety.

### *Interim Travel Plan*

The Interim Travel Plan includes some good and desirable walking and cycling initiatives. We also welcome the inclusion of travel packs to all residents. The plan includes the necessary administration and monitoring proposals including the post of Travel Plan Coordinator. The

plan will run for 5 years which is the minimum required. The timescales for the surveys and monitoring are appropriate. The draft action plan is acceptable and we look forward to the submission of the first plan review.

A travel plan monitoring fee of £6,600 and measures to secure implementation of the Travel Plan is required to be secured via Section 106 Agreement.

### *Technical/Design Details*

#### *How Bank Farm Site*

The width of the Emergency Vehicle Access is 3m and the gradient is an average of 1:7.5. Whilst this is steeper than the recommendation in the CDDG, taking into account the natural topography and required use as an emergency service route, it is not practicable to slacken the gradient with a zig-zag route or example. Further details can be secured by way of a condition.

The revised plans now show suitable width footways, and / or service strips and margins.

The proposed layout still does not show the cul-de-sac extending to the red-line boundary. This could make future highway connections into the adjacent field at a future date if developed difficult. However, as there is one access to the adjacent field, this proposed arrangement does deliver an option.

The requirement for bin storage areas to serve Plots 45-47 can be secured via planning condition.

Whilst the overall parking provision is compliant, I still note that some houses appear to only have one off-street space which is not satisfactory.

A potential pedestrian link has been included in latest layout. Further details of the pedestrian link are required. The link should be constructed to CCC PROW standard and made via a Creation Order into a PROW footpath. It should be 2m wide. These details can be secured via planning condition.

#### *Orgill School Site*

The access road cannot be adopted due to lack of a service strip.

The turning arrangement for delivery vehicles needs to be demonstrated so that vehicles can enter and exit the access lane in a forward gear.

Parking provision is now acceptable on this site.

## **Cumberland Council - LLFA**

No drainage strategy has been supplied for either site, in order to understand any drainage proposed and its suitability a strategy needs to be provided, which should be designed to NSTS, follows the drainage hierarchy and considers the conclusions of the FRA's.

A contributing areas plan needs to be provided with references to the Surface Water Storage and run-off calculations to demonstrate that the correct controlled discharge rate and storage have been designed into the system including assumptions and proposed locations of the infiltration areas.

Sectional drawings detailing existing site levels in relation to developed site levels and include FFL's are required. The final landform and fenced area following the EA flood storage scheme may influence the proposed design and should be accommodated in the drawings.

A plan showing the exceedance routes is required and confirmation (within the drainage strategy) of the function of the swales to the west of the road.

Micro drainage calculations need to be supplied Climate Change calculations should be 50%. Urban Creep 10% and CV values to 1.

A maintenance schedule for systems that are to remain private or under the care of a management company.

The attenuation storage facilities on the How Bank Site appear to differ from report to the drawings. Are these cascading basins in sub-catchments 2 and 3?

Please explain and show on a plan the discharge destination / receptor for the sub-catchment onto Chaucer Avenue. It shows a headwall, but what does this flow into?

## **Cumberland Council - Flood and Coastal Defence Engineer**

The Flood Risk Assessments for each of the two parts of the development, were written before validation modelling of the Orgill Flood Alleviation Scheme was made available, if actually undertaken. Therefore, it contains a number of educated assumptions, based on best available information, which need to be verified once the validation modelling data is available.

No Drainage Strategy has been submitted for either of the two parts of the development, but drainage layout drawings haven been provided. These have been drawn by a different consultant to the

consultant producing the Flood Risk Assessments and there appears to be discrepancies between what is written in the documents and shown in the drawings.

There is a need therefore to align the Drainage Strategy and drawings with the Flood Risk Assessment for each part of the site, but this should be deferred until the validation modelling for Orgill Flood Alleviation Scheme has been made available by the Environment Agency.

## 5.1 **Representations**

The application has been advertised by way of site notices, a press notice and notification letters issued to neighbouring dwellings.

## 5.2 Representations have been received from six parties, these comprise four representations in objection and two in support.

### Members of the Public

The material planning issues raised comprise the following:

The adverse landscape impacts and the result impact on views from existing dwellings.

The impacts of additional traffic generated on the local highway network including during school pickup and drop off.

The development will place additional pressures on an area already at high risk of flooding.

The development will result in the disturbance of vermin during construction exacerbating the existing rat infestation issues on the estate.

The development would result in impacts on the bird life including barn owls which are a protected species.

There is not enough amenities now for current residents.

The highways are not sustainable for heavy traffic.

Lower Orgill is already a run-down area that and is not maintained. Building new private homes is not going to improve this issue.

Representations have been made regarding the legal ownership of the land; however, these are not a material planning consideration.

### 5.3 Cllr Sam Pollen

I have represented Egremont as a Councillor of both Copeland Borough Council and now Cumberland Council for 13 years. Throughout this time I have actively sought investment and regeneration for my town, and believe that we should have the same opportunities as other towns, to receive significant direct investment.

Egremont has some of the best schools in Cumberland, situated in a great location on the edge of the Lake District and next to the largest employer in Cumberland. People want to live here, but there is little new or modern housing stock compared to other towns in Cumberland. I've read the planning officer's report and noted on balance they recommend the application be refused.

Notwithstanding their report, I fully support the application and would urge my fellow councillors to vote to grant planning permission to ensure that Egremont benefits from:

- 105 modern energy efficient homes – all homes will have air source heat pumps rather than gas and be extremely energy efficient
- 11 Affordable homes
- £500,000 of s106 payments towards school places and much needed improvement our play areas, open spaces and sports pitches.
- £9m of direct investment in Egremont in building the homes and associated infrastructure

Unlike other communities, Egremont hasn't had enough housing. I hope members of the planning committee can support Egremont in receiving the investment that will ensure its best days are ahead of it.

## **6. Planning Policy**

- 6.1 Planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

### **Development Plan**

On 1st April 2023, Copeland Borough Council ceased to exist and was replaced by Cumberland Council as part of the Local Government Reorganisation of Cumbria.

Cumberland Council inherited the local development plan documents of each of the sovereign Councils including Copeland Borough Council, which combine to form a Consolidated Planning Policy Framework for Cumberland.

The inherited local development plan documents continue to apply to the geographic area of their sovereign Councils only.

The Consolidated Planning Policy Framework for Cumberland comprises the Development Plan for Cumberland Council until replaced by a new Cumberland Local Plan.

**Copeland Local Plan 2013-2028 (Adopted December 2013):**

Core Strategy (CS):

- Policy ST1 – Strategic Development Principles
- Policy ST2 – Spatial Development Strategy
- Policy ST4 – Providing Infrastructure
- Policy ER7 – Principal Town Centres, Local Centres and other service areas:  
Roles and Functions
- Policy SS1 – Improving the Housing Offer
- Policy SS2 – Sustainable Housing Growth
- Policy SS3 – Housing Needs, Mix and Affordability
- Policy SS5 – Provision and Access to Open Space and Green Infrastructure
- Policy T1 – Improving Accessibility and Transport
- Policy ENV1 – Flood Risk and Risk Management
- Policy ENV3 – Biodiversity and Geodiversity
- Policy ENV5 – Protecting and Enhancing the Boroughs Landscapes

Development Management Policies (DMP):

- Policy DM10 – Achieving Quality of Place
- Policy DM11 – Sustainable Development Standards
- Policy DM12 – Standards for New Residential Development
- Policy DM21 – Protecting Community Facilities
- Policy DM22 – Accessible Developments
- Policy DM24 – Development Proposals and Flood
- Policy DM25 – Protecting Nature Conservation Sites, Habitats and Species
- Policy DM26 – Landscaping
- Policy DM28 – Protection of Trees

Copeland Local Plan 2001-2016 (LP) Saved Policies:

- Policy HSG2 – New Housing Allocations
- Policy TSP8 – Parking Requirements

**Emerging Copeland Local Plan 2017 - 2038 (ELP):**

Cumberland Council are continuing the preparation and progression to adoption of the ELP.

The Local Plan Examination Hearing Sessions were completed in March 2023.

The appointed Planning Inspector issued their post hearing letter in June 2023, which identified the next steps for the examination.



The appointed Planning Inspector has now considered all representations and the discussions that took place during the Local Plan Examination Hearing Sessions in 2023 and has identified a number of amendments or 'modifications' that are required in order to ensure the ELP is sound i.e. positively prepared, justified, effective and consistent with national planning policy.

A six week public consultation seeking views on the proposed modifications to the ELP commenced on Wednesday 14th February 2024 and will close on the 28<sup>th</sup> March 2024.

As set out at Paragraph 48 of the National Planning Policy Framework (NPPF), Local Planning Authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan; the extent to which objections to relevant policies have been resolved; and the degree to which emerging policies are consistent with the NPPF.

Given the advanced stage of preparation of the ELP full weight can be attached to policies where no objections have been received or objections have been resolved. Once the consultation on the main modifications to the ELP is complete significant weight can be afforded to the policies of the ELP where modifications are proposed.

Policy DS1PU - Presumption in favour of Sustainable Development  
Policy DS2PU - Reducing the impacts of development on Climate Change  
Policy DS3PU - Settlement Hierarchy  
Policy DS4PU - Settlement Boundaries  
Policy DS5PU - Planning Obligations  
Policy DS6PU - Design and Development Standards  
Policy DS7PU - Hard and Soft Landscaping  
Policy DS8PU - Reducing Flood Risk  
Policy DS9PU - Sustainable Drainage  
Policy DS10PU - Soils, Contamination and Land Stability  
Policy DS11PU - Protecting Air Quality  
Policy H1PU - Improving the Housing Offer  
Policy H2PU - Housing Requirement  
Policy H3PU - Housing delivery  
Policy H4PU - Distribution of Housing  
Policy H5PU - Housing Allocations  
Policy H6PU - New Housing Development  
Policy H7PU - Housing Density and Mix  
Policy H8PU - Affordable Housing  
Policy SC1PU - Health and Wellbeing  
Policy N1PU - Conserving and Enhancing Biodiversity and Geodiversity Strategic  
Policy N2PU - Local Nature Recovery Networks Strategic  
Policy N3PU - Biodiversity Net Gain  
Policy N5PU - Protection of Water Resources  
Policy N6PU - Landscape Protection  
Policy N9PU - Green Infrastructure  
Policy N10PU - Green Wedges  
Policy N11PU - Protected Green Spaces

Policy N12PU - Local Green Spaces  
Policy N13PU - Woodlands, Trees and Hedgerows  
Policy CO4PU - Sustainable Travel  
Policy CO5PU - Transport Hierarchy  
Policy CO7PU - Parking Standards and Electric Vehicle Charging Infrastructure

## 7. Other Material Planning Considerations

- 7.1 National Planning Policy Framework (NPPF).  
Planning Practice Guidance (PPG).  
National Design Guide (NDG).  
The Conservation of Habitats and Species Regulations 2017 (CHSR).  
Cumbria Development Design Guide (CDDG).  
Copeland Local Plan 2013-2028: Site Allocations and Policies Plan (SAPP).  
Copeland Borough Council Housing Strategy 2018-2023 (CBCHS)

## 8. Assessment

### 8.1 Principle of Development

Policy ST2 of the CS identifies Egremont as a *Key Service Centre*.

- 8.2 Policy ST2 of the CS states that Key Service Centres are to support moderate levels of the development reflecting the respective scale and function of these smaller towns and contribute to the regeneration of their town centres.

- 8.3 Policy ST2 seeks to restrict development outside the defined settlement boundaries to that which has a proven requirement for such a location, including housing that meets proven specific and local needs including provision for agricultural workers, replacement dwellings, replacement of residential caravans, affordable housing and the conversion of rural buildings to residential use.

- 8.4 Policy SS1 of the CS states *the Council will work to make Copeland a more attractive place to build homes and to live in them, by allocating housing sites to meet local needs in locations attractive to house builders and requiring new development to be designed and built to a high standard.*

- 8.5 Policy SS2 of the CS states that *house building to meet the needs of the community and to accommodate growth will be provided for by: allocating sufficient land for new housing development to meet identified requirements within the Borough; allocating land in accordance with the following housing targets: i) A baseline requirement, derived from projected household growth, of 230 dwellings per year ii) Provision for*

*growth 30% above that, to 300 dwellings per year; seeking densities over 30 dwellings per hectare, with detailed density requirements determined in relation to the character and sustainability of the surrounding areas as well as design considerations; and, seeking to achieve 50% of new housing development on previously developed sites.*

- 8.6 Policy HSG2 of the LP allocates land for housing purposes.
- 8.7 Policy DS3PU of the ELP continues to identify Egremont as a Key Service Centre due to its self-sufficiency providing a wide range of services, including convenience and comparison stores, employment opportunities, schools and healthcare and role as service hubs for nearby villages. It is stated that the focus will be for town centre developments, employment development and medium scale housing extensions, windfall and infill development.
- 8.8 Policy DS4PU of the ELP defines the settlement boundaries for all settlements within the hierarchy and states that *development within these boundaries will be supported in principle where it accords with the Development Plan unless material considerations indicate otherwise*. It is stated that to ensure the delivery of allocated sites is not prejudiced, development outside the settlement boundaries will only be accepted in the following cases: where the proposal is for housing and: the site is well related to and directly adjoins the settlement boundary of a town or Local Service Centre; and b) the site is or can be physically connected to the settlement it adjoins by safe pedestrian routes; and c) the Council is unable to demonstrate a 5-year supply of deliverable housing sites; or there has been previous under-delivery of housing against the requirement for 3 years or more or the proposal is for a specific type of housing supported by Policies H15PU (rural exception sites for affordable housing delivery), H16PU (essential dwellings for rural workers) or H17PU (conversion of rural buildings to residential use).
- 8.9 MM13 proposes modification of wording of the Policy DS4PU. The modification changes the criteria in relation to developments outside of settlement boundaries from sites related to and directly adjoins the settlement boundary of a town or Local Service Centre to adjoins an identified settlement boundary. This does not change the approach or provisions of this policy so far as it relates to Egremont but opens the provisions to the lower order settlements within the hierarchy also.
- 8.10 Policy H1PU of the ELP states the Council will work with stakeholders, partners and communities to make Copeland a more attractive place to build homes and live by: *allocating a range of deliverable and attractive housing sites to meet local needs and aspirations and ensuring they are built at a high standard, whilst protecting the amenity of existing residents; approving housing development on appropriate windfall sites within the settlement boundaries where it accords with the Development Plan; and, ensuring a consistent supply of deliverable housing sites is*

*identified through an annual Five-Year Housing Land Supply Position Statement.*

- 8.11 Policy H2PU of the ELP outlines the *housing requirement is for a minimum of 2,482 net additional dwellings (an average of 146 dwellings per annum) to be provided between 2021 and 2038 and that In order to plan positively and support employment growth over the Plan period, the Plan identifies a range of attractive allocated housing sites, which when combined with future windfall development, previous completions and extant permissions, will provide a minimum of 3,400 dwellings (an average of 200 dwellings per annum) over the Plan period.*
- 8.12 MM60 proposes modification of Policy H2PU to reference a requirement is for a minimum of 2,628 net additional dwellings (an average of 146 dwellings per annum) to be provided between 2021 and 2039 and that this figure will be used when calculating the five-year supply of deliverable housing sites in the Plan area. A modification is also proposed that amends the reference to a minimum of 3,400 dwellings to 3,600 dwellings. This reflects the additional year of the plan but does not change the housing strategy.
- 8.13 Policy H4PU of the ELP outlines that 30% of new housing development will be located within the three Key Service Centres of Cleator Moor, Egremont and Millom.
- 8.14 MM62 proposes modification of Policy H4PU to update the dwellings to be delivered in each settlement tier. This reflects the additional year of the plan, but does not change the housing strategy, which continues to propose 30% delivery in Key Service Centres.
- 8.15 Policy H5PU of the ELP allocates land for housing purposes.
- 8.16 Policy N11PU of the ELP states that the Local Plan Proposals Map identifies *Protected Green spaces which are of a high quality and/or value. Development proposals that enhance Protected Green Spaces will be supported where they accord with the Development Plan. The loss of such Protected Green Spaces will be resisted unless equivalent replacement provision of the same or better quality is provided within the same settlement. Proposals to develop other green spaces, including play areas and allotments not identified on the Proposals Map, should also comply with this policy where there is evidence that they are of value to the community.*
- 8.17 The proposed development is of a type and scale that aligns with the designation of Egremont as a Key Service Centre within the CS and ELP.
- 8.18 The Application Site is located beyond the defined settlement boundary of Egremont as identified in the CS and ELP.

- 8.19 The Application Site is not allocated for housing development in the LP, CS or ELP.
- 8.20 In February 2023, Copeland Borough Council produced a Five Year Housing Land Supply Statement which demonstrates a 7.1 year supply of deliverable housing sites against the emerging housing requirement and a 191 year supply against the Government's standard methodology figure. Copeland Borough Council has also met the most recent Housing Delivery Test.
- 8.21 The development comprises a market led new build housing development and does not therefore comprise an exception site for affordable housing, an essential dwelling for a rural worker or the conversion of a rural building.
- 8.22 The former Orgill School Site is not allocated as green space in the LP; however, it is allocated as a protected green space in the ELP. The Open Space Assessment identifies the site as having a high quality score, but low value score and that the site should be allocated if value can be enhanced. The proposed development retains a large area of the site as amenity space containing drainage infrastructure which would enhance the value of the space and would deliver additional amenity space on the How Bank Farm site.

#### Housing Need and Housing Mix

- 8.23 Policy SS3 of the CS states that *applications for housing development should demonstrate how the proposals help to deliver a range of good quality and affordable homes for everyone*. It is confirmed that *development proposals will be assessed according to how well they meet the identified need and aspirations of the Borough's individual Housing Market Areas as set out in the Strategic Housing Market Assessment including: creating a more balanced mix of housing types and tenures within the housing market area; including a proportion of affordable housing that makes the maximum contribution to meeting the identified needs in the housing market areas; and, establishing a supply of sites suitable for executive and high quality family housing, focussing on Whitehaven and its fringes as a priority*.
- 8.24 Policy H7PU of the ELP states that: *developments should make the most effective use of land. When determining appropriate densities development proposals should clearly demonstrate that consideration has been given to the shape and size of the site, the requirement for public open space and landscaping, whether the density would help achieve appropriate housing mix and help regeneration aims, the character of the surrounding area and the setting of the site. Applicants must also demonstrate, to the satisfaction of the Council, how their proposals meet local housing needs and aspirations identified in the latest Strategic Housing Market Assessment (SHMA) and Housing Needs Assessment in terms of house type, size and tenure. Alternative more up-to-date*

*evidence will be considered only in exceptional circumstances where a developer demonstrates to the Council's satisfaction that the SHMA and Housing Needs Assessment is out of date.*

- 8.25 MM68 proposes modification of Policy H7PU to seek prioritisation of previously developed land where possible and that alternative more up-to-date evidence in relation to local housing need will be considered where a developer demonstrates to the Council's satisfaction that the SHMA and Housing Needs Assessment is out of date in full or in part.
- 8.26 Policy H8PO of the ELP states on sites of 10 units or more... at least 10% of the homes provided should be affordable as defined in the NPPF 2019 (or any document that replaces it) unless: 1) this would exceed the level of affordable housing required in the area as identified in the Housing Needs Study; or 2) The development falls into an exemption category listed in the NPPF. Affordable housing should be provided in the tenure split - 40% discounted market sales housing, starter homes or other affordable home ownership routes of which 25% of these must meet the definition of First Homes and 60% affordable or social rented.
- 8.27 MM69, MM70 and MM71 propose modification of Policy H8PO to require on sites of 10 units or more (or of 0.5ha or more in size), or on sites of 5 units or more within the Whitehaven Rural sub-area, at least 10% of the homes provided should be affordable as defined in the NPPF 2021 (or any document that replaces it) unless: 1) this would exceed the level of affordable housing required in the area as identified in the Housing Needs Study; or 2) The development falls into an exemption category listed in the NPPF or any document superseding it. This is to reflect the fact that the Local Plan Viability Assessment has identified that viability is likely to be a constraint to delivery on a number of allocated housing sites and to ensure that affordable housing delivery is maximised on sites that are viable. It is identified that a viability assessment will be required to justify the provision of less than 10% affordable housing and that more the 10% affordable housing will be sought where the viability assessment identifies that this is deliverable. It is proposed to amend the tenure split of the affordable housing delivery to: 25% First Homes; 15% discounted market sales housing, starter homes or other affordable home ownership and 60% affordable or social rented.
- 8.28 The density of the proposed development is broadly comparable if slightly lower than that of the surrounding development, which comprises blocks of terraced homes. The surrounding development is linear form and arrangement and incorporates limited private garden spaces and large areas of public open space delivering the perception of a lower density of development.
- 8.29 The Application Site is located within the Whitehaven Housing Market Area (HMA) in the SHMA. The SHMA suggests a particular focus on the delivery of two and three bedroom (80%) and some 4+ bedroom (20%)

semi-detached and detached dwellings. It is stated that the Council should also consider the role of bungalows.

- 8.30 The proposed development comprises principally 77% two and three bedroom dwellings and 23% 4 bedroom dwellings, which is in close alignment with the provisions of the SHMA.
- 8.31 A total of 10% of the proposed dwellings are to meet the definition of affordable housing as outlined in the NPPF. It is proposed that the dwellings are First Homes that are delivered in accordance with the provisions and guidelines within the Planning Practice Guidance (PPG). First Homes are sold at 70% of the open market value of the dwellings. The suggested cost at 70% reduction would be no more than £117,995 (subject to annual review) against a given average of £140,537 across Copeland.
- 8.32 The number of affordable dwellings aligns with the provisions of Policy H8PO of the ELP.
- 8.33 The proposed tenure split is in conflict with the provisions of Policy H8PO of the ELP; however, given the high number of social rented dwellings within this area and the known issues with people accessing affordable housing even with a 20% discount in the sale price, the proposals are considered acceptable.
- 8.34 The Strategic Housing Manager has confirmed support for the housing mix proposed and affordable housing provision.
- 8.35 A Section 106 Agreement will be required to secure the delivery of the affordable housing in accordance with the NPPF and the provisions and guidelines within the PPG.

#### Landscape

- 8.36 Policy ENV5 of the CS states that the *Borough's landscapes will be protected and enhanced by: protecting all landscapes from inappropriate change by ensuring that the development does not threaten or detract from the distinctive characteristics of that particular area; that where the benefits of the development outweigh the potential harm, ensuring that the impact of the development on the landscape is minimised through adequate mitigation, preferably on-site; and, supporting proposals which enhance the value of the Borough's landscapes.*
- 8.37 Policy DM26 of the DMP requires that development proposals, where necessary, will be required to include landscaping schemes that retain existing landscape features, reinforce local landscape character and mitigate against any adverse visual impact. Care should be taken that landscaping schemes do not include invasive non-native species. The Council will require landscaping schemes to be maintained for a minimum of five years.

- 8.38 Policy N6PU of the ELP states that *the borough's landscapes will be protected and enhanced by: supporting proposals which enhance the value of the borough's landscapes; protecting all landscapes from inappropriate change by ensuring that development conserves and enhances the distinctive characteristics of that particular area in a manner commensurate with their statutory status and value.* It is stated that *proposals will be assessed according to whether the proposed structures and associated landscaping relates well in terms of visual impact, scale, character, amenity value and local distinctiveness and the cumulative impact of developments will be taken into account as part of this assessment and that consideration must be given to the Council's Landscape Character Assessment, Settlement Landscape Character Assessment and the Cumbria Landscape Character Guidance and Toolkit (CLCGT) at the earliest stage.*
- 8.39 MM97 proposes modification of Policy N6PU to require that development proposals must be informed by the Council's Landscape Character Assessment, Settlement Landscape Character Assessment, the Cumbria Landscape Character Guidance and Toolkit and where appropriate, the Lake District National Park Landscape Character Assessment from the earliest stage. This strengthens the role of this documentation in the assessment of planning merits.
- 8.40 The How Bank Farm site lies within Landscape Type 5: Lowland (LT5) and Landscape Sub Type 5b: Low Farmland (LST5b) defined in the CLCGT. The Orgill School site is within the urban area of Egremont.
- 8.41 The key characteristics of LST5b and evident within the study area are: undulating and rolling topography; intensely farmed agricultural pasture dominates; patchy areas of woodland provide contrast to the pasture; woodland is uncommon west towards the coast; fields are large and rectangular; and, hedges, hedgerow trees and fences bound fields and crisscross up and over the rolling landscape.
- 8.42 The Copeland Landscape Settlement Study (CLSS) places How Bank Farm site within Character Type: 5B Low Farmland and Area of Local Character 5Bi Egremont Low Farmland. The Orgill School site is within the urban area of Egremont.
- 8.43 The key characteristics of 5Bi identified in Part 2 of the CLSS and evident within the study area are: landform: rolling landform, high plateau above Egremont; land use: agriculture, predominantly pasture; landcover: improved and semi-improved pasture; field pattern: large, regular, straight sided field, long, straight roads follow field boundaries; hedgerow boundaries with some hedgerow trees; vegetation: hedgerow trees and sparse woodland; scale: large scale and open landscape; perceptual character: long distance, expansive, wide views to the fells. The characteristics of this area considered to be sensitive to the proposed development include: openness sensitive to skyline development and



traditional, sparsely settled farming character sensitive to unsympathetic settlement expansion.

- 8.44 The capacity of this Area of Local Character to accommodate change is considered together with the following mitigation potential: consider opportunities to enhance and strengthen green infrastructure to provide a link between urban areas and the wider countryside; reinforcing woodland belts, enhancing water and soil quality and the provision of green corridors from and between settlements could all help reinforce landscape and biodiversity features; ensure new development respects the historic form and scale of settlements and farmsteads; avoid skyline development on outskirts of Egremont that is not well related to the existing built form of the town; and fragmented housing or industrial development is not compatible with the landscape character.
- 8.45 Part 3 of the CLSS considers landscape character assessment and sensitivity assessment can be used to help develop development plans for individual settlements, including Egremont. Key characteristics of Egremont include: development westwards has risen up towards the farmland slopes that encircle the town; and the slopes provide Egremont with a farmed, rural setting that contributes to its market town character. The hillside setting of the town is considered to be sensitive to development that further encroaches on the skyline. A Landscape and Visual Appraisal Report (LVA) has been prepared in support of the planning application.
- 8.46 The LVA concludes that the effects of the proposed development at completion on landscape features in would be slight and adverse reflecting minimal losses and retention and enhancement of existing features such as hedgerows. After 15 years the effects would remain as slight but become beneficial as new tree and shrub planting in both areas, and gapping up of hedgerows matures.
- 8.47 In respect of the impact of the landscape character, the LVA concludes that openness of the area is considered to be sensitive to skyline development and that the proposed development would impact on the skyline in the views of residents at home in properties on the northern edge of the residential area of Orgill. It is concluded that in views from the wider landscape to the east of Egremont the proposed development would sit below Orgill and land allocated for housing in the ELP on the high plateau above and to the west of Egremont and so would not interrupt the skyline in these views.
- 8.48 The LVA considers that the effects on landscape character as result of the proposed development would be slight and adverse. It is concluded that there would be a long- term effect on the How Bank Farm site and its immediate surrounds as a result of the permanent change in character from a green field to a housing development. However, the extent of the effect on the wider character of the surrounding landscape would be

limited by boundary vegetation, topographic enclosure and new tree and shrub planting.

- 8.49 In terms of visual impacts, it is concluded that the visual envelope of the How Bank Farm site is generally limited by a combination of undulating and rolling topography, intervening vegetation and the settlement edge of Egremont to the south and east. It is stated that where views of the development would be experienced they would be in the context of existing housing. The only notable visual effects of the proposed development at completion and after 15 years would be on visual receptors within 0.5km.
- 8.50 Moderate and adverse effects are identified for some residents at home in Chaucer Avenue; some residents at home in properties on the eastern edge of Orgill; and, users of local public footpaths including parts of 406001 and 406006
- 8.51 The LVA concludes that the development will result in major visual changes that will result in moderate and adverse impacts in short range views and receptors.
- 8.52 It is identified that from dwellings on elevated ground to the northeast north, northeast and east northeast of Egremont is judged to be slight and neutral reflecting the fit of the proposed development with the built form settlement edge. The proposed development would form a perceptible but not enhancing or detracting feature within the views of visual receptors with medium sensitivity to a change in their views.
- 8.53 It is identified that from dwellings on elevated ground to the east southeast, south east and south east south of Egremont is judged to be slight and adverse as the proposed development extends into an open field and beyond woodland which defines the settlement edge. The proposed development would form a perceptible but not enhancing or detracting feature within the views of visual receptors with medium sensitivity to a change in their views.
- 8.54 It is identified that for users of the PRoW there would be a moderate visual change due to a noticeable change in the view, a moderate proportion of the view occupied by the proposed development and the loss of a substantial part of a distant view to fells in the Lake district National Park.
- 8.55 It is identified that of effect of the proposed development at completion on views of motorists using Orgill Road and Chaucer Avenue is judged to be moderate-slight and adverse. The proposed development would be prominent in transient views of visual receptors with medium-low sensitivity to a change in their views and there would be a noticeable deterioration in the existing view. It is stated that on maturity of the planting the impact would reduce to moderate-slight and neutral.

## Design

- 8.56 Policy SS1 of the CS seeks to make Copeland a more attractive place to build homes and to live through requiring new development to be designed and built to a high standard.
- 8.57 Policy DM10 of the DMP expects high standards of design and the fostering of quality places. It is required that development responds positively to the character of the site and the immediate and wider setting and enhance local distinctiveness. It is required that development incorporate existing features and address vulnerability to and fear of crime and antisocial behaviour.
- 8.58 Policy DM12 of the DMP outlines the requirements of the provision of open space and play provision.
- 8.59 Policy DS6PU of the ELP requires all new development to meet high-quality standards of design. These standards include: create and enhance locally distinctive places, use good quality materials that reflect the local character, include high quality and useful open spaces, adopt active travel principles, create opportunities for social interaction, comprise effective use of land whilst maintaining amenity and maximising solar gain.
- 8.60 MM16 proposes modification of Policy DS6 to introduce an expectation that all new development to meet high-quality standards of design standards which contribute positively to the health and well-being of occupiers residents, that provide safe, accessible and convenient pedestrian and cycling routes that encourage walking and cycling based on Active Design principles and connect the development provide connections to existing walking and cycling routes where possible and that developers must take a comprehensive and co-ordinated approach to development by respecting existing site constraints including utilities infrastructure on site.
- 8.61 Policy H6PU of the ELP requires that the design, layout, scale and appearance of housing development is appropriate to the locality and that development proposals clearly demonstrate that consideration has been given to surrounding natural, cultural and historical assets and local landscape character (including the impact upon the setting of the Lake District National Park and the Heritage Coast and its setting where appropriate). Its is required that the layout promotes active travel, linking new development with existing footpaths and cycleways, where possible.
- 8.62 MM67 proposes modification of Policy H6PU for clarity only.
- 8.63 The proposed layouts have been designed with reference to the shape and form of the respective sites.

- 8.64 In relation to the Orgill School Site, the layout includes a strong development block incorporating active frontages to the highways and the open space with a combination of driveways fronting onto Chaucer Avenue and Croadalla Avenue the shared surface access from Croadalla Avenue. The layout is in alignment and in keeping with the development to the development on Croadalla Avenue and Smithfield Road. The development is at odds with the character of the development on Milton Road etc. to the west; however, given the reverse arrangement of these properties and their limited interest, this is not considered to represent a betterment.
- 8.65 The layout of the How Bank Farm site incorporates a combination of frontage development to the spinal highway and a number of cul-de-sacs. Areas of formal and informal open space are incorporated within the layout, these include a large area of undeveloped area to the sloping land to the south, more formal recreational areas and areas accommodating drainage infrastructure. The layout of the development delivers a form of development that is acceptable in relation to the site in isolation; however, the development does not relate well to the existing development and character in this area of Egremont, which has an extremely strong linear and terraced/tiered character that follows and works with the form and character of the local landform. The eastern element of the site incorporates some terracing/tiering; however, this progresses into a large linear cul de sac.
- 8.66 Limited information has been provided in relation to levels.
- 8.67 The proposed dwellings comprise standard developer house types. A limited pallet of materials is proposed that are not wholly in appropriate in the context.
- 8.68 The proposed development has been designed with some legibility. The layout does not include a defined hierarchy of streets and spaces but includes linkages that following the desire lines of users to areas of the wider locality and incorporates some focal features that assist with way finding. The routes through the site incorporate footways and will encourage active travel.
- 8.69 The proposed development includes a number of both strategic and informal public open spaces located throughout the development. The open spaces serve as both formal and informal community/play spaces and linkages through the development.
- 8,70 Once the proposed scheme of landscaping is established, it will deliver some strategic screening and will tie into the surrounding woodland planting  
The proposed development exceeds the open space requirements of Policy DM12 of the LP, which requires the provision of 0.4ha of public open space for every 200 dwellings.

- 8,71 Policy DM12 requires that in groups of family housing a minimum of 100m<sup>2</sup> of children's play space should be provided at the rate of one play space per 30/40 dwellings.
- 8,72 A planning condition is required to secure details of respective play spaces.
- 8,73 A comprehensive scheme of landscaping is proposed. New planting is proposed to both the site peripheries/boundaries, open spaces and along the highway frontages.

### Flood Risk and Drainage

- 8.74 Policy DM11 of CS and Policy DS9PU of the ELP requires that surface water is managed in accordance with the national drainage hierarchy and includes Sustainable Drainage Systems where appropriate.
- 8,75 Policy DM24 of the CS and Policy DS8PU of the ELP seek that development will not be permitted where: there is an unacceptable risk of flooding and or, the development would increase the risk of flooding elsewhere.
- 8.76 MM19 proposes modification of Policy DS9PU to require that new development must incorporate sustainable drainage systems unless it can be demonstrated that this is not appropriate.
- 8,77 MM19 proposes modification of Policy DS8PU to require that flood risk is reduced and mitigated in Copeland through the application of the defined criteria including a) Directing development to allocated sites outside areas of flood risk where possible; unless it can be demonstrated that it would provide wider sustainable benefits outweighing the flood risk and that the development would be safe for its lifetime without increasing flood risk elsewhere.
- 8,88 A site specific Flood Risk Assessment (FRA) has been prepared in support of the planning application.
- 8.89 *Sequential Test*

The Former Orgill Infant School site is located in a combination of Flood Zone 1, Flood Zone 2 and Flood Zone 3. Dwellings are proposed within Flood Zone 2 on the Former Orgill School site.

The How Bank Farm site is principally located in Flood Zone 1, with part of the site access located in Flood Zone 3. Whilst the access to the How Bank Farm site is not technically within the Application Site, the site access is an integral element of the development, without which it could not be delivered.

The proposed development is a more vulnerable use and would be located within Flood Zones 2 and 3; therefore, the Sequential Test and Exception Test are applicable to the development as a whole.

The Application Site is not allocated for development in the LP or the ELP; therefore, no sequential testing of the Application Site has been completed at the plan making stage.

The appropriate geographic area for sequential test is considered to comprise the developed extent of Egremont given that the development will contribute towards housing need within the settlement and wider regeneration objections.

Comparator sites are considered to comprise sites with a comparable development capacity.

For a site to be considered reasonably available, the site should lie within the defined geographic area, is with the defined comparator threshold, can accommodate the general requirements of the development proposals and is, in principle, in conformity with the development plan and material planning considerations. Sites are considered not reasonably available if accommodating an existing use unless a planning permission exists to extinguish that use or it has a planning permission for a similar development that is likely to be implemented.

Given the Former Orgill Infant School site and the How Bank Farm site are both located within or require access through Flood Zone 2 and Flood Zone 3, a Sequential Test of the entire development is required.

The Applicant has submitted a development specific Sequential Test in relation to the Orgill Scholl site which demonstrates that demonstrates that there are no sequentially preferable locations to accommodate the development; however, there is no consideration of the development as a whole.

The ELP proposes the allocation of Site HEG1 - Land north of Ashlea Road for residential development. This site has a capacity of 108 dwellings and is located within Flood Zone 1, which is sequentially preferable. This site is not known to be unavailable.

#### 8.90 *Flood Risk*

The Environment Agency has reviewed the proposals from a flood risk perspective.

It has been confirmed that the development will not increase flood risk elsewhere and is not in conflict with the Skirting Beck and Whangs Beck Flood Risk Management Scheme.

It is however concluded that there is insufficient information in the FRA in relation to the likely duration, depths, velocities, and flood hazard rating against the design flood event for the development proposals to advise whether the access to the How Bank Farm site is safe, or the proposals acceptable in this regard. It is confirmed that their preference and recommendation would be that alternative or additional vehicular access is provided.

#### 8.91 *Exception Test*

If the Sequential Test shows that it isn't possible to use an alternative site, it is necessary to complete an Exception Test if the development is: highly vulnerable and in flood zone 2; essential infrastructure in flood zone 3a or 3b; or, more vulnerable in flood zone 3a.

The Exception Test is required to demonstrate that: development that has to be in a flood risk area will provide wider sustainability benefits to the community that outweigh flood risk; and, the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

An element of the Orgill School site is located within Flood Zone 3. The access to the How Bank Farm site is not technically within the Application Site, the site access is located in Flood Zone 3 and is an integral element of the development, without which it could not be delivered. It is therefore considered that the Exception Test is applicable.

The Applicant has prepared and submitted an Exception Test.

In relation to the first part of the Exception Test, the Applicant details the significant economic and social benefits to the development, which it is deemed provide wider sustainability benefits to the community that outweigh flood risk.

In relation to the second part of the Exception Test, reference is made to the submitted Flood Risk Assessment showing the proposed development will be safe for its lifetime and will not increase flood risk elsewhere. It is clear from the consultation response from the Environment Agency that the access road from Baybarrow Road is at risk of flooding during the design flood event, when there would be overtopping of the lower Whangs Beck flood storage reservoir and that there is insufficient information in relation to the likely duration, depths, velocities, and flood hazard rating against the design flood event for the development proposals to advise whether the access is safe, or the proposals acceptable in this regard.

It is not therefore reasonably possible to conclude that the requirements of the Exception Test are met.

## 8.92 *Drainage*

A Drainage Strategy not been prepared in support of the planning application; however, a drainage scheme has been prepared in relation to both sites.

The LLFA have been consulted and have confirmed that insufficient information has been submitted to demonstrate that the proposed drainage scheme is acceptable and have highlighted inconsistencies between the drainage scheme and submitted Flood Risk Assessment.

Notwithstanding the above, whilst it would be preferable to receive a detailed drainage scheme supported by a Drainage Strategy at this stage, these details can reasonably be secured via the imposition of a suspensive planning condition requiring the submission, approval and delivery of the drainage scheme and the imposition of a pre-occupation planning condition securing a maintenance and management scheme for any drainage scheme.

## Ecology and Arboriculture

- 8.93 Policy ENV3 of the CS and Policy N1PU of the ELP seek to ensure that new development will protect and enhance biodiversity and geodiversity. Policy N1PU of the ELP defines a mitigation hierarchy.
- 8.94 Policy N3PU of the ELP requires that *all development, with the exception of that listed in the Environment Act must provide a minimum of 10% biodiversity net gain over and above existing site levels, following the application of the mitigation hierarchy set out in Policy N1PU above. This is in addition to any compensatory habitat provided under Policy N1PU.* It is stated net gain should be delivered on site where possible and where on-site provision is not appropriate, provision must be made elsewhere in accordance with a defined order of preference.
- 8.95 MMP94 proposes modification of Policy N3PU to provide clarity and alignment of the policy with the provisions of the Environment Act 2021 and any documents which may supersede it.
- 8.96 A Preliminary Ecological Assessment of the How Bank Farm site has been prepared in support of the planning application.
- 8.97 No information has been provided in relation to the Orgill School site; however, the site has limited interest owed to its previous use and interim use as a compound by the contractors completing the Skirting Beck and Whangs Beck Flood Risk Management Scheme.
- 8.98 The results and findings from the Assessment concludes that there are no significant ecological constraints to the development of the site. It is confirmed that the development will not result in adverse impacts upon



any designated sites. It is confirmed that the loss of hedgerows will result in a minor adverse ecological impact at the local scale due to potential disruption of bat flightlines along this hedgerow. It is recommended that to mitigate any adverse impacts on bat flightlines a hedgerow is planted along those sections of the northern site boundary which do not currently have hedgerows and the hedgerow along the northern end of the southern field is very gappy and these gaps should be planted up with native shrub species.

- 8.99 A planning condition is required to secure inclusion of the mitigation measures within the any proposed planting scheme and both its implementation and retention.
- 8.100 The Applicant has not undertaken a Biodiversity Net Gain Assessment of the Application Site at this stage.
- 8.101 Given the scale and nature of the proposed development is considered that the achievement of a biodiversity net gain of 10% as required by Policy N3PU of the ELP is likely to be achievable on the Application Site with the potential for some limited off site works if not wholly deliverable on the Application Site. A planning condition is required to secure a Biodiversity Net Gain Assessment and its delivery. Arboricultural Impact Assessments have been prepared in support of the planning application.
- 8.102 In relation to the Orgill School site, it is stated that that all trees and hedgerows on the site fall within Category C – Low Quality and do not merit any long terms retention. It is concluded that the trees and hedgerow require removal for site remediation and the construction of the proposed dwellings and that replanting proposals will permit the delivery of a scheme that will not conflict now or the in future with the proposed development and the associated services.
- 8.103 In relation to the How Bank Farm site, it is stated that that all trees and hedgerows on and adjacent to the site fall within Category B, Moderate Quality, Category C – Low Quality and Category U – Poor Quality. It is confirmed that to undertake the construction of the access, proposed road network and new dwellings, no trees require removal; however, one Category C hedgerow and two , Category U hedgerows will require removal. It is stated that the loss of these poor quality hedgerows at some distance from public areas outside the site will have a negligible impact upon the visual amenities afforded to the local environment. Management recommendations are outlined in relation to the retained trees that are on third party land, which includes some removal. The requirement for an Arboricultural Method Statement and the Tree Protection Plan is identified and recommendation made regarding its content to prevent impacts upon the retained treescape.
- 8.104 The Councils Arboricultural Consultant has reviewed the Arboricultural Impact Assessments and recommended the inclusion of planning

conditions securing an Arboricultural Method Statement and detailed landscaping scheme.

### Ground Conditions

- 8.105 Policy ST1 of the CS includes provisions requiring that new development addresses land contamination with appropriate remediation measures.
- 8.106 Policy DS6PU and Policy DS10PU of the ELP includes provisions requiring that development addresses land contamination and land stability issues with appropriate remediation measures.
- 8.107 MMP94 proposes modification of Policy DS10PU to provide clarity in relation to the role of Coal Mining Risk Assessments.
- 8.108 A Preliminary Review and Phase 2 Geoenvironmental Appraisal (GA) for the Orgill School site and Ground Gas Monitoring Information (GGMI) for the How Bank Farm site have been submitted in support of the Full Planning Application.
- 8.109 In relation to the Orgill School site the investigations identified a localised hotspot of contamination that will require the impacted soil to be stripped and placed in an area of non-sensitivity (such as beneath hardstand) to remove the exposure pathway to future site users. It is concluded the site poses a very low risk to the controlled water receptors and that ground gas protection measures and radon protection measures are not required. It is identified that the site is not located in an area of historic coal mine workings or ground instability and the risk of future subsidence is considered to be very low. An iron ore mine was historically located to the north of the site, however, this area has since been redeveloped for residential use.
- 8.110 In relation to the How Bank Farm site, the ground comprises agricultural land since the mid 1800s. A dam and associated reservoir/ pond are recorded immediately south of the site in the early 1900s, with the pond extending into the south-west of the site. The pond is not recorded by the mid 1900s; possibly as a consequence of natural infilling behind the dam. It is concluded that the site could be considered to fall within Characteristic Situation (CS) 1 as defined in BS8485, for which no specific precautions are considered necessary for the protection of proposed residential properties in relation to ground gas and is located within an area where no additional gas protection measures are required for protection of proposed new buildings from the ingress of radon gas.
- 8.111 Environment Agency have been consulted and raise no objection.
- 8.112 No comments were received from Environmental Health.
- 8.113 The details submitted in support of the planning application provides confidence that it will be possible to suitably manage the ground risks.

- 8.114 A planning condition will be required to secure implantation of the implementation of the recommendation of the GA and GGMI.
- 8.115 A planning condition is also required to control works and secure remediation of any unexpected contamination identified during construction.

### Highways

- 8.116 Policy DM22 of the LP requires that development proposals be accessible to all users; respond positively to existing movement patterns in the area; and, incorporate parking provision to meet defined standards.
- 8.117 In addition to the above, Policies CO4PU, CO5PU and CO7PU of the ELP promotes active travel.
- 8.118 MM115 and MM16 proposes modification of Policy CO7PU to remove reference to the promotion of vehicles that facilitate car sharing and to remove the requirement to deliver electric vehicle charging infrastructure.
- 8.119 A Transport Assessment and Interim Travel Plan have been prepared in support of the Full Planning Application.
- 8.120 Cumberland Council – Highways have been consulted in relation to the development. It has been confirmed that site is considered to be a sustainable location and the development and is not considered to have any material impact on Highway Conditions nor have an unacceptable impact on Road Safety.
- 8.121 It is confirmed that the Interim Travel Plan includes some good and desirable walking and cycling initiatives and the inclusion of travel packs to all residents is welcomed. It is confirmed that the plan includes the necessary administration and monitoring proposals including the post of Travel Plan Coordinator, that the plan will run for 5 years which is the minimum required and that the timescales for the surveys and monitoring are appropriate. A Section 106 Agreement is required to secure the required monitoring fee of £6,600 and measures to secure implementation of the Travel Plan.
- 8.122 Notwithstanding the above, there remain a number of technical and design issues relating to the layout of the development that have been identified by Cumberland Council – Highways which are outstanding and unresolved.
- 8.123 These issues relate to the incorporation of single off-street spaces at certain dwellings which is not satisfactory and it not being demonstrated that delivery vehicles can enter and exit the access the Orgill School Site in a forward gear.

## Residential Amenity

- 8.124 Policy ST1 of the LP includes provisions requiring that development provides or safeguards good levels of residential amenity and security.
- 8.125 Policy DM12 of the LP outlines minimum distance standards for new residential development.
- 8.126 Policy H6PU of the ELP requires that in respect of new housing development, an acceptable level of amenity is provided for future residents and maintained for existing neighbouring residents in terms of sunlight and daylight.
- 8.127 Policy DS6PU of the ELP includes provisions that development mitigates noise pollution through good layout, design and appropriate screening.
- 8.128 Given the form and layout of the proposed, adverse impacts upon the residential amenity of the existing residents through loss of daylight, loss of sunlight, overshadowing, overbearing effects or overlooking will not result.
- 8.129 The proposed development will result in some adverse impacts upon residential amenity of the surrounding areas during the construction period. Planning conditions are proposed to limit the hours of construction and to impose suitable controls in relation to construction management.

## Education

- 8.130 The How Bank site covers an area of 4.2 hectares and for 90 dwellings. The Orgill School site covers an area of 0.6 hectares for 15 dwellings.
- 8.131 The combined dwelling mix has been provided as 16 x 2 bedroom houses, 65 x 3 bed and 24 x 4 bed. The dwelling-led model has been applied which theoretically estimates a yield of 57 children: 35 primary and 22 secondary pupils.
- 8.132 The catchment schools for this development are Orgill Primary School (0.6 and 0.3 miles) and West Lakes Academy (1.3 and 0.8 miles). The next nearest primary school to the development is St Bridget's Catholic School (0.8 and 0.4 miles) and the next nearest secondary school is Whitehaven Academy (5.3 and 4.5 miles) which is over the walking threshold.
- 8.133 Office of National Statistics pupil yield data for Cumbria has been used to calculate yield according to the number and type of housing in a development. The methodology for calculating available spaces in schools first considers developments with planning approval, before assessing which schools the developments will impact and what spaces remain for the most recently proposed development. Currently there are two developments affecting the primary school used for this assessment

and fifteen for secondary schools. The table below shows the primary and secondary catchment schools, the nearest primary schools and the developments that will affect them.

8.134 *Primary Education*

After other developments in the area are taken into consideration there are insufficient places available in the catchment school Orgill Primary to accommodate the primary pupil yield of 35 from this development. The next nearest school is St Bridget's Catholic Primary School which has sufficient spaces.

8.135 *Secondary Education*

There are insufficient places available in the catchment school West Lakes Academy to accommodate the secondary pupil yield of 22 from this development. The school is already oversubscribed and places are required by other developments in the area. The next nearest school is Whitehaven Academy which is over the walking threshold.

An education contribution of £601,040 (22 x £27,320) would be required. Please note that this is a snapshot in time and there is a possibility that these numbers will change between now and the point at which a planning application may be approved.

There may be other potential developments that may affect these schools, but as they haven't been approved at this stage, have not been included in the calculations.

## **9. The Planning Balance**

9.1 Paragraph 11 of the NPPF requires the application of the presumption in favour of sustainable development to the provision of housing where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date. Out of date includes where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in Paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

9.2 In February 2023, Copeland Borough Council produced a Five Year Housing Land Supply Statement which demonstrates a 7.1 year supply of deliverable housing sites against the emerging housing requirement and a 191 year supply against the Government's standard methodology figure. Copeland Borough Council has also met the most recent Housing Delivery Test.

The ELP will, once adopted, replace the policies of the adopted CS. The ELP has been drafted based upon an evidence base of documents which includes an updated Strategic Housing Market Assessment 2021

(SHMA). The SHMA calculates housing need in Copeland over the plan period 2017-2035 of 146 dwellings per annum. The ELP identifies that to meet the housing need identified in the SHMA, development will be required beyond the existing development boundaries and allocations identified in the CS and includes development boundaries and allocations sites for residential development that will permit delivery of the identified housing need in accordance with the sustainable development strategy proposed.

- 9.3 On this basis, the policies in the CS in relation to housing delivery must be considered out of date and only limited weight be given their content as far as they are consistent with the provisions of the NPPF.
- 9.4 Given the advanced stage of preparation of the ELP full weight can be attached to policies where no objections have been received or objections have been resolved. Once the consultation on the main modifications to the ELP is complete significant weight can be afforded to the policies of the ELP where modifications are proposed.
- 9.5 The proposed development is of a type and scale that aligns with the designation of Egremont as a Key Service Centre within the CS and ELP. The Application Site is located in close and convenient proximity to a wide range of services, employment opportunities and transport links, a small number of which are located within walking distance of the Application Site. The proposed development will support existing services and thus the aspirations for growth in the Borough. This is given great weight.
- 9.6 The Application Site is located beyond the defined settlement boundary of Egremont as identified in the CS and ELP and is not allocated for housing development in the LP, CS or ELP. The development comprises a market led new build housing development and does not therefore comprise an exception site for affordable housing, an essential dwelling for a rural worker or the conversion of a rural building as are supported outside of the defined settlement boundaries. This is given great weight.
- 9.7 The proposed development by virtue of its location, scale and developed form does not respond positively to the character of the site and the immediate and wider setting or enhance local distinctiveness and will result in adverse impacts upon the local landscape character and localised views from within and adjacent to Egremont. This is given significant weight.
- 9.8 The proposed development is located within defined Flood Zones 1, 2 and 3. The proposed development is a more vulnerable use and would be located within Flood Zones 2 and 3; therefore, the Sequential Test and Exception Test are applicable to the development. The applicant has failed to provide sufficient information to demonstrate that the Sequential

Test and Exception Test have been passed to the satisfaction of the Local Planning Authority. This is given significant weight.

9.9 There are a small number of technical highway design details within the development that do not accord with the provision of the Cumbria Development Design Guide. This is given some weight.

9.10 Notwithstanding the above, it must be acknowledged that the development would assist in boosting housing supply and delivery to meet the identified need for housing within the Borough as sought in both the CS and ELP. The proposals are supported in terms of supply and housing mix by the Copeland Housing Officer. This is given great weight.

9.11 In overall terms, it is considered that the direct conflicts with the provisions of ELP, the adverse local landscape character and visual impacts of the development, failure to demonstrate that the Sequential Test and Exception Test have been passed and the identified technical highway issues are sufficiently harmful to significantly and demonstrably outweigh the benefits of the development.

## **Recommendation**

It is recommended that Members refuse the Full Planning Application for the following reasons:-

### **Reasons For Refusal**

1. The proposed development comprises a market led residential development located on a site outside of the settlement boundary of Egremont in direct conflict with the provisions of Policy DS3PU, Policy DS4PU and Policy H4PU of the emerging Copeland Local Plan 2017-2038.
2. The proposed development by virtue of its location, scale and developed form does not respond positively to the character of the site and the immediate and wider setting or enhance local distinctiveness and will result in adverse impacts upon the local landscape character and localised views from within and adjacent to Egremont in conflict with the provisions of Policy ENV5, Policy DM26 and Policy DM10 of the Copeland Local Plan 2013-2028 and Policy H6PU and Policy N6PU of the emerging Copeland Local Plan 2017-2038.
3. The Former Orgill Infant School site is located in a combination of Flood Zone 1, Flood Zone 2 and Flood Zone 3. Dwellings are proposed within Flood Zone 2 on the Former Orgill School site. The How Bank Farm site is principally located in Flood Zone 1, with part of the site access located in Flood Zone 3. Whilst the access to the How Bank Farm site is not technically within the Application Site, the site access is an integral element of the development, without which it could not be delivered. The proposed development is a more vulnerable use and would be located within Flood Zones 2 and 3; therefore, the Sequential Test and Exception Test are applicable to the development as a whole. The Sequential Test and Exception Test have not been passed to the satisfaction of the Local Planning Authority in conflict with the provisions of Policy ENV1 and Policy DM24 of the Copeland Local Plan 2013-2028 and Policy CO4PU and Policy CO5PU of the emerging Copeland Local Plan 2017-2038.
4. The proposed development fails to demonstrate that adequate turning provision is proposed to the access from Croadalla Avenue and inadequate parking provision is proposed in relation to Plot 55 in conflict with the provisions of Policy ST1, Policy DM12 and Policy DM22 of the Copeland Local Plan 2013-2028 and Policy CO2PU and Policy DS6PU of the emerging Copeland Local Plan 2017-2038.



**Appendix 1 – Application Plans**

**Site Context Plan**

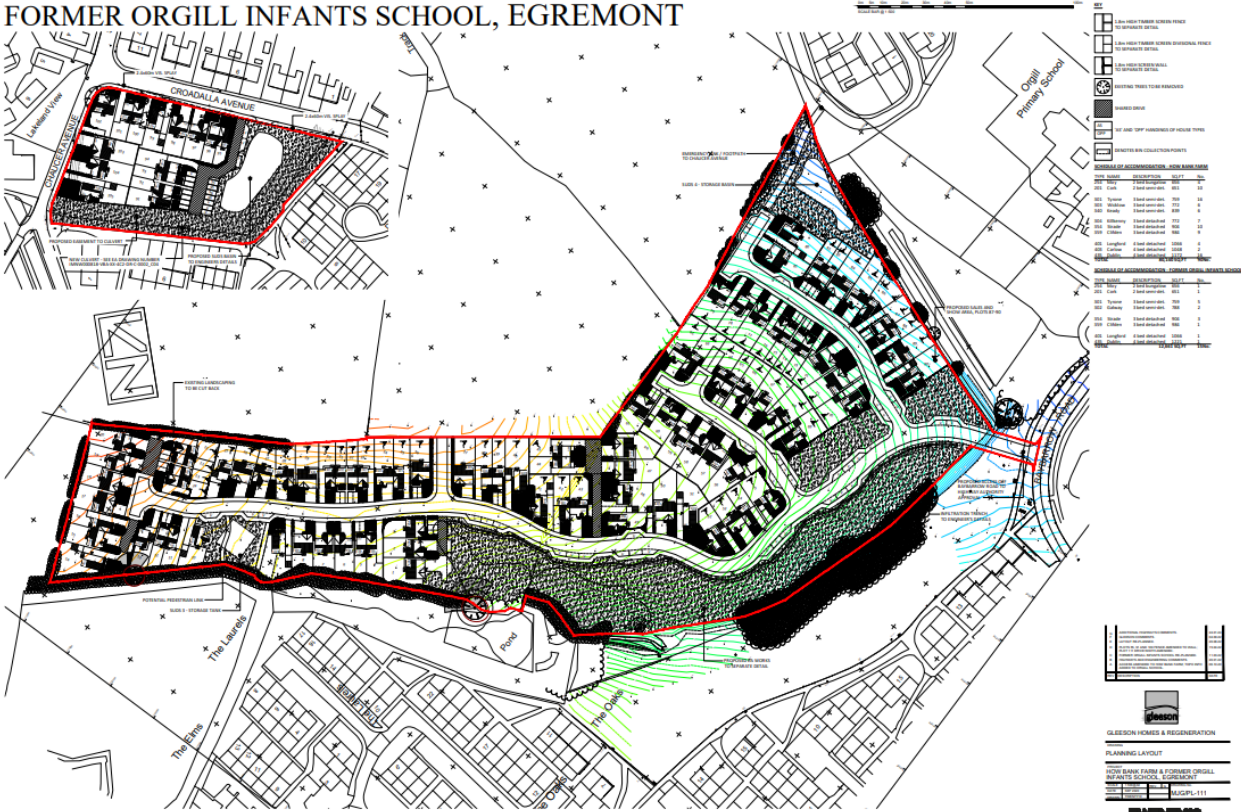


**Site Location Plan**



# Site Layout Plan

## FORMER ORGILL INFANTS SCHOOL, EGREMONT



## HOW BANK FARM, EGREMONT

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## **SCHEDULE A: Applications with Strategic Significance**

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<b>Application Reference Number:</b>	<b>23/0148</b>
<b>Application Type:</b>	Full Planning Permission
<b>Application Address:</b>	Land to the west of junction on Orton Road & Sandsfield Lane, Carlisle
<b>Proposal:</b>	Residential Development & Associated Infrastructure
<b>Applicant:</b>	Genesis Homes (North) Ltd
<b>Agent:</b>	Sam Greig Planning Ltd
<b>Valid Date:</b>	01/03/2023
<b>Case Officer:</b>	Barbara Percival

### **Cumberland Area and Carlisle Region**

**Ward/s:**  
Dalston & Burgh

**Parish/s:**  
Multiple Parishes  
Beaumont  
Cummersdale

### **ADDENDUM**

Members of the Planning Committee resolved at the meeting of the 31st January 2024 to defer consideration of the proposal in order to explore the potential for on-site open space (play area); footpath links; extra parking and information on the proposed location of 30 m.p.h. speed restrictions and to await a further report on the application at a future meeting of the Planning Committee.

The council has subsequently received the following drawing and supporting information consisting of:

'Site Framework Plan Alternative Maintenance Access & Play Space (drawing no. AFL-ZZ-XX-DR-A-20132 Revision P1); and an email from the Agent outlining proposed changes to the Site Framework etc plan. Further drawings have subsequently been received illustrating the re-location of the maintenance track / pedestrian footway on the remainder of the suite of submitted drawings.

The revisions to the originally submitted scheme primarily consist of:

- relocation of maintenance access track originally only serving the attenuation basin to also allow its use as a pedestrian footway
- track / pedestrian footway to be 3.5 metres wide surfaced with fine self-binding gravel designed to allow maintenance vehicles and pedestrians to pass one another in safety
- the track / pedestrian footway to be located within a 'landscape corridor' varying in width between approximately 10.5 metres and 11.5 metres

- a 'woodland play trail', aimed at younger children, to be formed within the landscape corridor adjacent to the track / footway
- the footway to ultimately connect the proposed development with existing pedestrian / cycle routes located to the north of the application site
- formation of pedestrian access link from Priorwood Close to the proposed footway / landscape corridor within the application site and existing pedestrian / cycle routes out with the application site
- extension of existing footway with dropped kerb at entrance to Priorwood Close.

Consultations have been undertaken with the relevant statutory consultees and third parties together with a Ward Councillor whom made representations on the original scheme.

The comments received by relevant statutory consultees to the revised details are summarised below:

Neighbourhoods - Health & Wellbeing: the pedestrian footway link to the cycle path to the north west is welcomed and potential green infrastructure and linking to wider walking and cycling network. The safety for pedestrian access to the SUDS will need to be considered. The cycle link to Priorwood Close is currently on to a highway with no footway and Priorwood Close is a cul-de-sac so limited benefit for accessibility to the wider neighbourhood. There is reference to a woodland play trail; this is likely to have limited play value and does not replace an off site play provision;

Cumberland Council - Highways & Lead Local Flood Authority: no objections with the revised drawings subject to imposition of previously recommended conditions.

As highlighted earlier in the report, consultations have also been undertaken with third parties in respect of the revised details. In response, 2no. third party responses have been received together with 4no. anonymous responses. In summary, the issues raised in the third party responses centre on:

- revised footpath would provide an amenity route to link nearby footpaths and cycle networks for residents
- scale of external private amenity space to serve each of the dwellings
- lack of in-curtilage parking provision to serve each of the dwellings
- ability of refuse vehicles to service the development
- Morton Academy is out with the school catchment area for the development with the secondary catchment school at capacity.
- Pupils attending secondary school would have to use private cars or public transport and there are no bus stops close to this development or the housing estate opposite. A bus lay-by and bus shelter should be provided as part of the development - changes to the routing of the bus service to access the city's amenities could then be subject of separate discussions with the public transport provider
- some documents refer to this application as 'Phase 1', the application should be submitted as a whole
- A survey undertaken with members of a social media page in respect of the revised plans voted 75% in favour of the scheme but need to ensure the developer provides the footpath

- detrimental impact on NHS services
- impact on highway safety
- loss of green fields

The Ward Councillor for Yewdale Ward has the following comments in respect of the revised scheme:

- since the previous application, encouraged to see that the developer has addressed many of the concerns that myself and the residents had
- provision of an access link to the site and existing cycle/pedestrian routes is appreciated and will allow young people to access the proposed Woodland play trail. This addresses the lack of play area in the previous application
- residents are encouraged that there will be an extension to the footway at the entrance of Priorwood Close
- there is a requirement for the provision of a zebra opposite the junction of Priorwood Close for the safety of residents
- the speed limit will need to be reduced on Sandsfield Lane to 30mph also for the safety of residents
- a bus stop should be provided at the top of Orton Road so that the residents of the new developments are not isolated. The reconfiguring of the bus route back to going down Orton Road by Stagecoach will assist in allowing a new bus stop to be provided next to the new development
- residents are generally happy with the plans for the development; however, residents are concerned that the developer has published a brochure advertising the development even though the planning application has not been approved
- further concerns raised is that the developer will seek to do a phase 2 development.

The application was deferred by Members of the Planning Committee at its last meeting to explore the potential for on-site open space (play area) and footpath links. Subsequently, revised details have been received which illustrate the relocation of the maintenance access track, originally intended to serve only the attenuation basin, to now provide a combined maintenance track / pedestrian footway along the southern and western boundaries of the undeveloped section of the application site to link with existing pedestrian / cycle routes located to the north of the application site. Along the route of the combined maintenance track / pedestrian footway a 'landscape corridor' with a 'woodland play trail' would also be provided. Pedestrian access from the extended footway at the junction to Priorwood Close onto the proposed combined maintenance track / pedestrian footway would also be provided.

The proposal would not provide a dedicated on-site play area within the built form of the development site; however, in mitigation the combined maintenance track / pedestrian footway would provide an amenity pathway to serve the proposed development together with a pedestrian link from existing residential developments ultimately linking to pedestrian / cycle routes located to the north of the application site. Furthermore, should Members resolve to approve the application a Section 106 Agreement would require the developer to provide financial contributions to enhance, increase accessibility, and upgrade existing recreation facilities within the locality and district wide. Cumberland Council's Neighbourhood and Highway

Sections have been consulted on the revised proposals and do not raise any objections.

A further issue raised by Members was the adequacy of the parking provision within the application site in respect of in-curtilage parking provision and visitor parking. The application was accompanied by a car parking plan (drawing no. AFL-ZZ-XX-DR-A-20120 Revision P6) which illustrates the provision of 219 in-curtilage parking spaces (excluding garage accommodation) and 18 visitor parking bays located throughout the development. The council's highway section, as local highway authority, was originally consulted on the application and did not raise any objections in respect of the adequacy of parking provision to serve the development. In light of the concerns of Members, further clarification has been sought from the local highway authority who have confirmed that in-curtilage parking provision and visitor parking provision complies with the objectives set out in the Cumbria Development Design Guide.

The final issue raised by Members in its reason for deferral was the location of the 30mph speed signs which would be subject of a Traffic Regulation Order should Members resolve to approve the application. The local highway authority has confirmed that the current 30mph speed restriction imposed by a Traffic Regulation Order for the Oakleigh Fields development opposite the site is located approximately at the proposed entrance into the application site subject of this application. The 30mph speed restriction is likely to be extended south west beyond the proposed access into the development site and would be subject of a further Traffic Regulation Order.

As highlighted earlier in the report, further consultations have been undertaken with third parties and a Ward Councillor in respect of the revised scheme. Some of the issues raised have previously been addressed in the committee report presented to Members of the Planning Committee at its meeting on 31st January 2024 and remain unaffected by the revised proposals. Other issues raised centre on provision of zebra crossing from junction of Priorwood Close to new pedestrian access onto proposed maintenance track / pedestrian footway; reduction of speed limit along Sandsfield Lane to 30mph; provision of bus stop / shelter to assist re-configuration of existing bus route to serve this development and existing developments; advertising of development prior to decision; potential other 'phases' of the development; and detrimental impact on NHS services. The views of the relevant statutory consultees have been sought in respect of these issues and are discussed in the paragraphs below.

#### Provision of Zebra Crossing across Sandsfield Lane linking Priorwood Close to the development site

The local highway authority considers that the provision of a zebra crossing is not warranted in this location. Subject to suitable visibility from the proposed pedestrian crossing location, the amount of traffic travelling along Sandsfield Lane would not be a significant barrier to allow pedestrians to cross Sandsfield Lane in safety or cause significant delays in crossing. This assessment, would apply for any formal, controlled pedestrian crossing, be that a Zebra / Penguin / Toucan etc. In overall terms, the request for the provision of a Zebra Crossing would be contrary to the



objectives of the Community Infrastructure Levy Regulations 2010 and the NPPF.

#### Reduction of speed limit along Sandsfield Lane to 30mph

The key factors that should be taken into account in any decisions on local speed limits are:

- history of collisions
- road geometry and engineering
- road function
- composition of road users (including existing and potential levels of vulnerable road users)
- existing traffic speeds
- road environment

The local highway authority could not support this proposal as the development would not contribute to the issues raised and would not comply with the normal 30mph speed criteria.

#### Provision of bus stop / shelter to assist re-configuration of existing bus route to serve this development and existing developments

The local highway authority advises that Stagecoach, as public transport provider, would have to be approached and agree to amend its service; however, currently there is no suitable turning route for a bus service until such time further developments are developed to the west.

#### Advertising of development prior to decision

This is not a planning issue and can not be considered as part of the determination of this application.

#### Potential other 'phases' of the development

As Members are aware, each application is dealt with on its own merits. The application before Members seeks permission for residential development and associated infrastructure. The submitted drawings illustrating the built development to be located in the southern section of the application site adjacent to Orton Road. Officers are unaware of any details relating to a second phase of development.

#### Detrimental impact on existing NHS services

It is acknowledged the pressures that NHS services are experiencing; however, this has to be addressed on a national level and is not for individual developers to address.

The originally submitted report is appended; however, for clarity and as previously outlined in the Update Report for the 31st January 2024 Members should be aware of the following corrections:

- 9 discounted sale properties would be provided by the development as opposed to the 8 stated in the report.
- the requirement for mitigation to deal with nutrient neutrality has also been included within the Section 106 obligations.
- the conditions attached in Appendix 1 of this report now include minor amendments as outlined in the Update Report of the 31st January Planning Committee meeting and revisions for the updated drawings now presented to this meeting.

It is recommended that “authority to issue” approval with the conditions listed in Appendix 1 be granted to the Assistant Director of Thriving Place and Investment subject to a satisfactory nutrient mitigation scheme to reduce the impact of nutrient pollution on the River Eden SAC and the completion of a satisfactory Section 106 legal agreement to secure:

- i. provision of affordable housing (9 discounted sale properties and 9 affordable rented properties);
- ii. the payment of £409,800 towards secondary education;
- iii. the payment of £6,500 towards a Traffic Regulation Order;
- iv. the payment of £6,600 towards a Travel Plan monitoring fee;
- v. the payment of £78,433.50 to enhance, increase accessibility, and upgrade existing facilities on Yewdale Road and Richmond Green;
- vi. the payment of £29,484 toward the provision of artificial pitches district wide;
- vii. the management of on-site open space; and
- viii. mitigation to deal with nutrient neutrality.

If the Section 106 legal agreement is not signed or a satisfactory resolution to nutrient pollution through an appropriate mitigation scheme is not agreed, authority be given to the Assistant Director of Thriving Place and Investment to issue refusal.

### **The original committee report follows with new Appendices 1 and 2**

#### **Relevant Development Plan**

Carlisle District Local Plan 2015-2030

#### **Reason for Determination by the Planning Committee**

This application is of strategic significance and is reported to Planning Committee as the application is for a housing development which covers an area exceeding 2 hectares.

## Recommendation

It is recommended that “authority to issue” approval with the conditions listed in Appendix 1 be granted to the Assistant Director of Thriving Place and Investment subject to a satisfactory nutrient mitigation scheme to reduce the impact of nutrient pollution on the River Eden SAC and the completion of a satisfactory Section 106 legal agreement to secure:

- i. provision of affordable housing (9 discounted sale properties and 9 affordable rented properties);
- ii. the payment of £409,800 towards secondary education;
- iii. the payment of £6,500 towards a Traffic Regulation Order;
- iv. the payment of £6,600 towards a Travel Plan monitoring fee;
- v. the payment of £78,433.50 to enhance, increase accessibility, and upgrade existing facilities on Yewdale Road and Richmond Green;
- vi. the payment of £29,484 toward the provision of artificial pitches district wide;
- vii. the management of on-site open space; and
- viii. mitigation to deal with nutrient neutrality.

If the Section 106 legal agreement is not signed or a satisfactory resolution to nutrient pollution through an appropriate mitigation scheme is not agreed, authority be given to the Assistant Director of Thriving Place and Investment to issue refusal.

## 1. Site and Location

- 1.1 The application site, equating to approximately 5.83 hectares, of agricultural land is located to the west of the junction of Orton Road and Sandsfield Lane, Carlisle; however, the area of land on which the proposed dwellings are to be sited extends to 3.3 hectares with the remainder of the land to the northwest to include land used for the provision of an attenuation basin for the disposal of surface water and the associated outfall into an unnamed watercourse located to the west of the site. The site gradually falls from south to north with its boundaries consisting of a combination of post and wire fencing, mature trees and hedgerows. A line of electricity pylons also crosses the northwestern, proposed undeveloped section of the site, on a north-south axis. There is an existing field access off Orton Road approximately 70 metres from the junction of Orton Road and Sandsfield Lane.
- 1.2 Located on the western periphery of the city, the proposed built form of the application site, is bordered on its north eastern boundary by Sandsfield Lane beyond which is the residential housing estate of Holmrook Road. The proposed attenuation basin, located in the northern section of the application site, would be opposite Priorwood Close separated by Sandsfield Lane. Immediately to the south east of the proposed housing, adjacent to Orton Road, is Oakleigh Fields a housing development of 156 dwellings currently being developed. A cluster of residential properties at Bunkers Hill is located

adjacent to the south western boundary of the application site which includes a terrace of three Grade II listed properties and a Grade II listed Dovecote. Views of the heritage assets are largely restricted by mature landscaping which separates the existing dwellings from the application site.

## **2. Proposal**

- 2.1 The proposal is seeking full planning permission for residential development and associated infrastructure. The submitted documents illustrating the development of 90 dwellings on the southern section of the site immediately adjacent to Orton Road with an attenuation basin located within the northern part of the site. The development would consist of 10 different house type and these would include: 6no. two storey terraced / semi-detached 2 bedroom dwellings; 3no. single storey detached two bedroom dwellings; 11no. two storey detached 3 bedroom dwellings (with / without attached garage); 13no. two storey detached 4 bedroom dwellings (with attached garage); 7no. two storey 4 bedroom detached dwellings (with attached garage); 20no. two storey 3 bedroom semi-detached dwellings; 9no. two storey 3 bedroom semi-detached dwellings; 2no. storey and half detached 3 bedroom dwellings (with attached garage); 7no. two and half storey 5 bedroom dwellings (with / without attached / detached garages); and 12no. two storey detached 4 bedroom dwellings (with attached garage).
- 2.2 In-curtilage parking provision and external amenity space to serve each of the dwellings would be provided together with visitor parking spaces throughout the proposed development.
- 2.3 The dwellings would be constructed from a palate of materials including red, buff and brown facing brick and render under Anthracite concrete tiled roofs. The dwellings would have various designs and would utilise a range of features to add visual interest and variety. These include the use of; sills and lintels; quoins; brick detailing: open porches; bay windows; two-storey projecting gables; single-storey projections; with some dwellings having integral garages, attached garages or detached garages.
- 2.4 Vehicular access to the site would be taken from Orton Road along the southern site boundary. A 2 metre wide pedestrian footpath would be formed from the site access to the junction of Sandsfield Lane and Orton Road to provide a continuation of the existing footpath positioned on the opposite side of the junction of Sandsfield Lane. An Emergency Vehicle Access would be provided onto Sandsfield Lane.
- 2.5 An attenuation basin SUDS pond linked to the built form of the development by a maintenance track would be provided in the northern section of the application site to accommodate surface water from the proposed development.

### 3. Relevant Planning History

3.1 There is no relevant planning history.

### 4. Consultations and Representations

**Local Education Authority:** - this is full application for 90 houses at the west of the junction on Orton Road and Sandsfield Lane, Carlisle. The development site is 5.83 hectares, but the houses are only on 3 hectares of that site.

A dwelling-led model has been applied to the housing mix of 9 x 2 bed, 42 x 3 bed, 39 x 4+ bedroom houses, which theoretically estimates a yield of 36 children: 21 primary and 15 secondary pupils for the schools. The primary catchment school for this development is Great Orton (3.11 miles measured from approximate centre of the site of the proposed houses) and Caldew is the catchment secondary for this development (3.39 miles). The next nearest schools are Yewdale (1.1 miles) for primary and Morton (1.27 miles) for secondary, both of which are closer than the catchment schools.

The methodology for calculating available spaces in schools first considers developments with planning approval, before assessing which schools the developments will impact and what spaces remain for the most recently proposed development. Currently there are five developments affecting the primary schools used for this assessment and seven affecting the secondary schools. The table attached shows both the catchment, and nearest, primary and secondary schools and the developments that will affect them.

**PRIMARY** - there are no places available in the catchment school of Great Orton to accommodate the primary yield once development is first considered. There are 7 other primary-age schools within the walking threshold of 2 miles (and closer to the development) which can accommodate all of the required 21 primary age children an education contribution would not be sought

**SECONDARY** - after development is first considered there are currently 23 available places in the catchment school of Caldew Academy, to accommodate the secondary pupil yield. However, when taking into consideration Morton Academy which is nearer to the development, there are no secondary places available. A contribution of £409,800 (15 x £27,320) would be required for secondary education

**NOTE:** Projections represent a snapshot in time and all figures can be subject to change as further information becomes available. It should be noted that there may be other potential developments that may affect these schools, but as they haven't been approved at this stage, have not been included in the calculations.

**Local Highway Authority:** - following the receipt of additional information raise no objections subject to the imposition of pre-commencement conditions and a financial contribution to a Traffic Regulation Order and Travel Monitoring Plan. The recommended pre-commencement conditions would require the submission of further details in respect of: carriageway, footway, footpaths, cycleways etc design; provision of visibility splays; height of boundary treatment at entrance to development; provision of footways; provision of base course level and street lighting prior to occupation; provision of Construction Traffic Management Plan; submission of Travel Plan; and an annual report reviewing the Travel Plan. The financial contribution towards a Traffic Regulation Plan would fund revisions to the speed limit order, moving the 'village gateway' sign and other traffic calming measures. A further financial contribution would fund a monitoring of the Travel Plan.

**Lead Local Flood Authority:** - The proposed drainage scheme is satisfactory and raise no objections subject to the imposition of a pre-commencement condition requiring the submission of a surface water drainage scheme.

**United Utilities:** - whilst the strategy for the disposal of foul and surface water is acceptable in principle, there are elements of the detailed drainage design that may not be acceptable to United Utilities (UU) from an adoptability point of view, and will require resolution by the applicant if they intend to offer the wastewater assets for adoption by UU. These elements include: access for maintenance whilst a vehicular access to the basin appears to have been provided, UU would also need a footpath/maintenance track around the perimeter of the basin (with 2m easement). Erosion protection at inlets and silt protection required this should be provided in the form of a sediment forebay which should be sized at least 10% of the basin size; side slopes are not confirmed these should vary between 1:3 and 1:5 (1:5 required at the headwalls); the shape of the basin should attempt to mimic natural shapes as much as possible, avoiding straight lines. A 3:1 length:width ratio is required, with flow path maximised.

Accordingly, UU request that the proposed drainage strategy is not approved until such time as all concerns are resolved or the applicant confirms they do not intend to offer the wastewater assets for adoption by UU. It is also The applicant should contact our Wastewater Developer Services team regarding this matter.

**Sport England North West:** - the proposed development does not fall within Sport England's statutory remit, therefore, Sport England has not provided a detailed response in this case;

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

**Natural England:** this proposal potentially affects European Sites vulnerable to nutrient impacts as advised in Natural England's overarching advice sent to local planning authorities in March 2022. When consulting Natural England on proposals with the potential to affect water quality resulting in nutrient impacts on European Sites please ensure that a Habitats Regulations Assessment is included which has been informed by the Nutrient Neutrality Methodology (provided within our Natural England's overarching advice letter). Without this information Natural England will not be in a position to comment on the significance of the impacts. Natural England advises that its Standing Advice should be used to assess any impacts on protected species and ancient woodland / veteran trees;

**Beaumont Parish Council:** - objects to the proposal on the following grounds:

- over development of the site - over 40% of the houses have a garden size of less than 80m<sup>2</sup>;
- there is no communal green space or children's play areas
- visitor parking - only 18 visitor parking places for 90 houses which will result in cars being parked in such a way ie on roadside/pavement that could restrict emergency services, service vehicles, and pedestrians walking on the road
- the land has not previously been earmarked or designated as building land in any recent Council documentation. Instead this is currently prime agricultural land which would be lost
- pressure on local schools - an additional 246 homes (90 on this proposed application on top of the 156 Story Homes already being built) will put unsustainable pressure on local Junior schools. The parish council have recently experienced this as Burgh by Sands and having lobbied the local MP and been informed by the local council that there is no funding available to increase classroom sizes

**Cummersdale Parish Council:** - object to this application and would like the opportunity to raise concerns and request refusal of the application:

- Local Plan, this site was not included in the Carlisle & District Local Plan and should be considered with the developments in Carlisle West included in the proposed Morton Development 722 dwellings and the Garden Village, delivering 10,000 homes. This development should be subject to public consultation, as such included for consideration in the new local plan for Cumberland Council. This is an example of the development considered individually not the cumulative effect on the area as with other recent developments in this vicinity
- Lack of infrastructure, traffic flows at the existing junction of Orton Road/Wigton Road is over capacity, this was outlined in the Oakleigh Fields application, this development adds stress to the junction taking it over capacity. The members request a revised traffic flow assessment, as they do not reflect the movements that Oakleigh fields will generate or the proposed James Rennie Sixth form. Sandsfield lane, has major issues with speeding vehicles and volume of traffic. The application indicated 2% of traffic will use this lane, currently the volume of traffic has increased with the direct link to the CNDR, linking Kingstown & Kingmoor

for employment. This lane should be assessed, with revisions to improve its safety as it would anticipate more than 2% use.

- School places, secondary school places at Morton Academy is at capacity, primary school provisions at Yewdale as has available places, however the development is outside the catchment area for the school (on the boundary), places are not guaranteed. With 284 pupils on roll, the school has a major problem with a demand for parking at drop off and pick up times currently, this would exacerbate if the school was to capacity with the influx of children from the nearby developments
- Water discharge, there is an issue with the highway gullies between the site and the entrance to Prior wood Close which regularly overflows and the camber directs this across the road. The increase in discharge may affect this gully, the rainwater study was undertaken in January 2022, during a light period of rain, this may not be a true reflection of the impact of the development
- Section 106 funds, this funding should be allocated to the local area, Yewdale Community Centre require capital to improve and invest in the early years provision, this should be included in the legal agreement

**Place, Sustainable Growth & Transport - Climate & Waste:** - raise no objections to the proposal;

**Neighbourhoods - Health & Wellbeing:** have the following comments

- General. A development of this size needs to provide onsite and/or access to high quality green space to meet a range of recreational needs.
- Quantity. It is not clear from the Design and Access statement or the landscaping plans the amount of accessible and useable public open space. The Local Plan target of 3.6Ha/000 population which equates to 1.1 Ha based on an occupancy of 307. 0.09 Ha is being provided on site therefore a contribution to the upgrade of the nearby open spaces in Yewdale and Richmond Green would be required. As 9% is being provided on site this equates to £80,945.
- Layout. The proposed layout does not appear to put green space at the heart of the development as per the design and access statement. The green space at the entrance to the development is small and has less amenity value than of a Neighbourhood Green as described by the agent.
- Accessibility. There is walking and cycling access via both Orton Road and Sandisfield Lonning.
- Play Provision. There is no play provision proposed on site. A contribution towards nearby facilities to enhance, increase accessibility and upgrade would be sought. This would be split between Yewdale Road and Richmond Green. The total for new facilities is £156,867 – as there are existing facilities which only require upgrading this would be reduced by 50% to £78,433.50.
- Sports Pitch Provision. A contribution towards District Wide provision (artificial pitches) would be required of £29,484.
- Management. The developer will be required to ensure appropriate measures are put in place for the management of any new open space provided through this development.



**Environmental Health:** - no objections subject to imposition of conditions to ensure that there is no adverse impact on the occupiers of residential properties through unacceptable construction hours, noise/vibration, disturbance and dust. Recommends additional conditions be included in respect of unidentified contamination and electric vehicle car charging points;

**Environment Agency (N Area (+ Waste Disp & Planning Liaison Team):** - no objections or comments regarding the proposal subject to informative advising applicant of the requirement to obtain necessary permits under its legislation;

**Cumbria Fire & Rescue Service:** - no objections;

**Cumbria Constabulary - Designing Out Crime Officer:** - no objections;

**Historic Environment Officer:** - the applicant has commissioned an archaeological geophysical survey of part of the development area. The results indicate that there is a low potential for archaeological assets to survive within the site, therefore, confirm there are no objections to the application and that do not wish to make any further comments;

**National Grid:** - no National Grid Electricity Transmission assets affected in this area.

**Electricity North West:** comments awaited;

**Housing Development:** in overall terms raise no objections to the development; however, Cumberland Council expectations are that affordable properties will meet the space standards adopted by legacy Councils. The minimum size for a 3 bed 4 person home is specified in section 9.2 of the legacy Carlisle Council's Affordable and Specialist Housing SPD as 80 m<sup>2</sup>. The Council's expectations are that the developer will amend their plans to ensure that properties that do not meet the Council's standards are not used for social or affordable rented properties. There may be some leeway for properties allocated as discounted sale.

- 4.1 This application has been advertised by the direct notification of twenty-six neighbouring properties and the posting of site and press notices. In response, eighteen representations of objection have been received. The Councillor for Yewdale, Councillor Miss Jeanette Whalen has also made a representation.
- 4.2 The representations have been reproduced in full for Members, however, in summary the issues raised are:
1. impact on highway safety arising from extra traffic and location of proposed junction with other road junction;
  2. development would result in extra traffic using Sandsfield Lane where

- there is no footpath or street lighting;
- 3. questions findings of traffic survey;
- 4. construction traffic from an adjacent development currently use Sandsfield Lane, therefore, construction traffic management plan ensure construction traffic avoid Sandsfield Lane;
- 5. exacerbate poor conditions of existing highway surfaces within the vicinity;
- 6. suitability of road design and parking provision within the development;
- 7. adequacy of access roads to accommodate refuse vehicles;
- 8. questions how emergency vehicle access would operate and whether it would set a precedent for further accesses onto Sandsfield Road;
- 9. Police are aware of speeding traffic along Sandsfield Lane;
- 10. current speed restriction along Sandsfield Lane should be reduced from 40mph to 30mph;
- 11. development would take agricultural land out of production;
- 12. unallocated site within the local plan;
- 13. overdevelopment of site;
- 14. no social or play spaces within the development;
- 15. potential noise and disturbance from the development should be controlled;
- 16. communications between developer and residents should be pro active;
- 17. exacerbate existing noise and disturbance experienced by residents which has arisen from nearby development;
- 18. potential exacerbation of flooding within the vicinity;
- 19. area around SUDs basin should also provide wildlife and public amenity feature;
- 20. loss of trees and hedgerows;
- 21. detrimental impact on biodiversity;
- 22. adequacy of school places to accommodate children from the development;
- 23. distance from service provision;
- 24. development in vicinity of power lines.

4.3 The Councillor for Yewdale Ward expressed the following comments:

- 1. the road at the top of Orton Road and Sandsfield Lane is a dangerous junction. Cars are coming from the A689, and many cars are not at the speed limit at this point in the road. Even though there have only been two crashes in 5 years, for residents who live in the area, it is surprising that there have not been more accidents. As a local resident, I am aware of many near misses here.
- 2. regarding the bus service, the statement in the report that there are 6 per hour is unreliable. Many residents have made me aware that buses are often cancelled due to bus driver shortages and sometimes there is a wait for up to 40 minutes for a bus into town. This is not ideal for a housing site for people who wish to come into the town centre to work or shop using sustainable transport.
- 3. regarding the previous build of Story Homes, Residents at St Edmunds Park experienced disruption due to noise and dust that came on to their homes. If this development is to be accepted, I would urge that the noise

and emissions of dust would be kept to a minimum. The times of work should be restricted at weekends and need to be specified as per building regulations. The communication between the developer and the local residents needs to be proactive and considerate of how the building work will affect the day to day lives of those who live nearby. I support the residents in the area but realise that housing developments will come into the area but it is paramount that the safety and day to day life of the residents is taken into account when these decisions are undertaken.

## **5. Planning Policy**

- 5.1 Section 70(2) of the Town and Country Planning Act 1990/Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.
- 5.2 The relevant national planning policies against which the application is required to be assessed are the National Planning Policy Framework (NPPF), the Planning Practice Guidance (PPG).

## **Development Plan**

Carlisle District Local Plan 2015-2030

- SP2. Policy SP 2 - Strategic Growth and Distribution
- SP6. Policy SP 6 - Securing Good Design
- SP7. Policy SP 7 - Valuing our Heritage and Cultural Identity
- HO1. Policy HO 1 - Housing Strategy and Delivery
- HO2. Policy HO 2 - Windfall Housing Development
- HO4. Policy HO 4 - Affordable Housing
- IP2. Policy IP 2 - Transport and Development
- IP3. Policy IP 3 - Parking Provision
- IP4. Policy IP 4 - Broadband Access
- IP6. Policy IP 6 - Foul Water Drainage on Development Sites
- CC5. Policy CC 5 - Surface Water Management and Sustainable Drain

- CM4. Policy CM 4 - Planning Out Crime
- CM5. Policy CM 5 - Environmental and Amenity Protection
- HE3. Policy HE 3 - Listed Buildings
- GI1. Policy GI 1 - Landscapes
- GI3. Policy GI 3 - Biodiversity & Geodiversity
- GI4. Policy GI 4 - Open Space
- GI6. Policy GI 6 - Trees and Hedgerows

## **6. Other Material Planning Considerations**

- 6.1 The 'Cumbria Landscape Character Guidance and Toolkit (March 2011)', The Cumbria Development Design Guide together with Carlisle City Council's Supplementary Planning Documents 'Achieving Well Designed Housing', 'Affordable and Specialist Housing'; 'Designing Out Crime'; and 'Trees and Development'.
- 6.2 Historic England has produced a document entitled 'The Setting of Heritage Assets - Historic Environment Good Practice Advice in Planning: 3 (Second Edition)' (TSHA) which is a further material planning consideration.
- 6.3 Also relevant in the determination of this application are the Conservation of Habitats and Species Regulations 2017 and the Nation Design Guide (2021).

## **7. Assessment**

7.1 The following are the main issues in the consideration of this application:

- 1. Principle Of Development
- 2. Layout, Scale, Appearance, Access And Landscaping
- 3. Impact Of The Proposal On Existing Trees and Hedgerows
- 4. Impact Of The Proposal On The Amenity Of The Occupiers Of Neighbouring Properties
- 5. Impact Of The Proposal On The Nearby Listed Buildings
- 6. Highway Issues And Accessibility
- 7. Affordable Housing, Education And Recreational Provision

8. Impact Of The Proposal On Archaeology
9. Contaminated Land
10. Effect Of The Proposal On Biodiversity And Nature Conservation Interests
11. Flood Risk and Proposed Drainage Methods
12. Crime and Disorder
13. Waste/ Recycling
14. Other Matters

1. Principle Of Development

- 7.2 The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied. It provides a framework within which locally prepared plans can provide for sufficient housing and other development in a sustainable manner (paragraph 1 of NPPF). To achieve sustainable development paragraph 7 of the NPPF outlines: *"the purpose of the planning system is to contribute to the achievement of sustainable development, including the provision of homes, commercial development, and supporting infrastructure in a sustainable manner. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs ... "* Paragraphs 10 stating: *"so that sustainable development is pursued in a positive way, at the heart of the Framework is a **presumption in favour of sustainable development** "*. In respect of decision taking Paragraph 11 c) highlighting: *"approving development proposals that accord with an up-to-date development plan without delay"*.
- 7.3 The achievement of sustainable development is reiterated at a local level in the Carlisle District Local Plan 2015-2030 (local plan). The local plan seeking to ensure the provision of a range of new housing to help meet the needs of the whole community and to create opportunities for better neighbourhoods. The application site is not an allocated site under Policy HO1 of the local plan; however, this does not preclude the development of unallocated sites. Policy HO2 of the local plan recognising that windfall housing contributes in a positive way to the supply of housing over the plan period. Within the built-up areas of Carlisle, Brampton and Longtown, particularly but not exclusively within the Primary Residential Areas, there are likely to be opportunities for new residential development, either through the development of vacant sites, the conversion of vacant buildings, or as part of a larger mixed use scheme.
- 7.4 Policy HO2 of the local plan outlining that:
- "New housing development on sites other than those allocated will be acceptable within or on the edge of Carlisle, Brampton, Longtown and villages within the rural area provided that the development will not prejudice the delivery of the spatial strategy of the local plan and:*
1. *the scale and design of the proposed development is appropriate to the scale, form, function and character of the existing settlement;*

2. *the scale and nature of the development will enhance or maintain the vitality of the rural community within the settlement where the housing is proposed;*
3. *on the edge of settlements the site is well contained within existing landscape features, is physically connected, and integrates with the settlement and does not lead to an unacceptable intrusion into open countryside;*
4. *in the rural area there are either services in the village where the housing is proposed, or there is good access to one or more other villages with services, or to the larger settlements of Carlisle, Brampton and Longtown; and*
5. *the proposal is compatible with adjacent land users.*

*Within rural settlements applicants will be expected to demonstrate how the proposed development will enhance or maintain the vitality of rural communities.*

*Applicants will be expected to work closely with those directly affected by their proposals to evolve designs that take account of the views of the community."*

- 7.5 In respect of the application before Members, the application site is located on the edge of Carlisle which, the largest urban area in Cumbria, and can sustainably support this scale of windfall housing schemes. The proposal is appropriate to the scale, form, function, and character of this part of Carlisle, which is characterised by large-scale, urban housing estates. The built part of the site contained within existing landscape features, therefore, would not constitute an unacceptable intrusion into open countryside especially when considered within the context of recent construction that has taken place on the opposite side of Orton Road.
- 7.6 As to the potential for the development to prejudice the delivery of the spatial strategy of the local plan, the council's Planning Policy Officer has been consulted on the application and considers that the scale and character appropriate to the scale, form, function, and character of surrounding development in this part of Carlisle. The council has seen good take and build-out up of the housing allocations in the local plan, and the council has evidence of developer interest in the remaining, unimplemented sites in this part of the city. Accordingly, the proposal will not prejudice the delivery of the spatial strategy of the local plan.
- 7.7 In summary, the land is not allocated in the local plan for housing development; however, this does not preclude the development of unallocated sites. It is a well-established planning principle enshrined in current planning policies transparent at both national and local level that windfall sites contribute in a positive way to the supply of housing. Furthermore, the proposal would not prejudice the delivery of the spatial strategy of the local plan. In overall terms, the principle of development accords with both national and local planning policies, therefore, the principle of housing on this site is deemed acceptable.

## 2. Layout, Scale, Appearance, Access And Landscaping

- 7.8 Paragraph 6 of the National Design Guide refers to the expectations of good design in the NPPF. Paragraph 131 of the NPPF outlining that: *"the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities"*. To achieve well-designed and beautiful places paragraph 135 of the NPPF highlights that: *"Planning policies and decisions should ensure that developments: a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development; b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities); d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit; e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience"*.
- 7.9 It is further appropriate to be mindful of the requirements in paragraph 139 of the NPPF which states: *"development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes"*.
- 7.10 High quality design is also a key thrust of the local plan's strategic overarching strategy. Policy SP6 of the local plan seeking to ensure that proposals respond to the local context taking account of established street patterns, making use of appropriate materials and detailing, and reinforcing local architectural features to promote and respect local character and distinctiveness. Policies HO2 seeking to ensure that the scale and design of development is appropriate to the scale, function and would not result in a cramped form of development out of character with the surrounding environment.
- 7.11 When assessing the character of the area, the proposed development is appropriate to the scale, form, function and character of this part of Carlisle, which is characterised by large-scale, urban housing estates of differing ages and styles. The built form of the development following that of this section of the application site enclosed by existing and reinforced landscaping together

with green spaces at the entrance to development and landscaping within the development itself. This would help to soften and settle the development into the landscape character of the area and not constitute an unacceptable intrusion into open countryside.

7.12 The development would consist of 10 different house types each served by in-curtilage parking provision and external amenity space with the submitted documents detailing that: *"90 new homes will be provided to allow a mix of unit types, sizes and tenures, thereby meeting the requirements of a wide range of residents of varying family size, age and income. In this way all members of the community can be provided for and the allowance is created for residents to move between different homes as personal circumstances change, without having to leave their neighbourhood to do so ...the housing mix aims to strike a balance between meeting the housing needs of existing local residents and providing a wider choice of aspirational housing in terms of size, type, tenure and price which enables both the existing community to relocate within the neighbourhood and also to attract new residents to the area"*.

7.13 The dwellings would be constructed from a palette of materials including red, buff and brown facing brick and render under Anthracite concrete tiled roofs. The dwellings would have various designs and would utilise a range of features to add visual interest and variety. These include the use of; sills and lintels; quoins; brick detailing: open porches; bay windows; two-storey projecting gables; single-storey projections; with some dwellings having integral garages, attached garages or detached garages.

7.14 Turning to the issue of density and the most effective use of land, the Planning Practice Guidance (PPG) provides guidance to assist local councils in developing policies and identifies planning considerations. In respect of supporting more effective use of land Paragraph 005 Reference ID: 66-005-20190722 Revision date: 22 07 2019 of the PPG states that:

*"How can density be measured for planning purposes?"*

*Different measures of density can be used to help make effective use of land, including optimising the housing potential of particular areas or sites by identifying appropriate building forms:*

- *Plot ratio measures can help to indicate how a development will relate to its surroundings and the provision of open space within the site. For example the site coverage ratio (gross external ground floor area ÷ site area) indicates the ratio of building cover to other uses.*
- *Bedspaces per hectare: indicates the density of potential residential occupation.*
- *Dwellings per hectare: measures the number of homes within a given area.*

*Dwellings per hectare, used in isolation, can encourage particular building forms over others, in ways that may not fully address the range of local*



*housing needs. For example, an apartment building containing one person studios could deliver significantly more dwellings per hectare, but significantly fewer bedspaces per hectare, than a terrace of family-sized townhouses on a similarly sized site. It is therefore important to consider how housing needs, local character and appropriate building forms relate to the density measures being used".*

- 7.15 The application site equates to approximately 5.83 hectares of agricultural land is located to the west of the junction of Orton Road and Sandsfield Lane, Carlisle; however, the area of land on which the proposed dwellings are to be sited extends to 3.3 hectares with the remainder of the land to the northwest to include land used for the provision of an attenuation basin for the disposal of surface water from the development. The proposal seeks to erect 90 dwellings on a site of 3.3 hectares (excluding the area set aside for the attenuation basin) which equates to 28 dwellings per hectare with each of the dwellings served by in-curtilage parking and external amenity space. As Members are aware, each application is dealt with on its own merits; however, and by way of background information the proposed housing density equates to that of the housing development, Oakleigh Fields, currently under construction on the opposite side of Orton Road previously accepted by Members of Carlisle City Council's Development Control Committee.
- 7.16 As highlighted earlier in the report, the area is characterised by large-scale, urban housing estates of differing ages and styles. The built form of the development would be enclosed by existing and reinforced landscaping together with green spaces at the entrance to development and landscaping within the development itself. This would help to soften and settle the development into the landscape character of the area and not constitute an unacceptable intrusion into open countryside.
- 7.17 The development would consist of 10 differing house types and tenures constructed from a palate of materials with a range of features adding visual interest and variety to the proposed development each served by its own in-curtilage parking provision and external amenity space. Furthermore, public and private spaces are considered to be well defined and overlooked. The layout of the proposed dwellings are such that each dwelling has space to accommodate refuse / recycling bins.
- 7.18 Well-defined streets and spaces would be formed, which would be easy to navigate and not encourage inappropriate vehicle speeds integrating resident and visitor parking. An Emergency Vehicle Access would be provided onto Sandsfield Lane. In addition, a 2 metre wide pedestrian footpath would be formed from the site access to the junction of Sandsfield Lane and Orton Road to provide a continuation of the existing footpath positioned on the opposite side of the junction of Sandsfield Lane.
- 7.19 An attenuation basin SUDS pond linked to the built form of the development by a maintenance track would be provided in the northern section of the application site to accommodate surface water from the proposed

development.

- 7.20 In overall terms, the proposal would maximise the use of the site and would be of an appropriate density taking into account the character and nature of dwellings in the vicinity of the site and that of modern housing. The proposal would achieve adequate amenity space and off-street parking and incorporate existing and proposed soft landscaping. In overall terms, the proposal would respond to the local context and would not be disproportionate or obtrusive within the street scene. Accordingly, there is no conflict with planning policies.

### 3. Impact Of The Proposal On Existing Trees and Hedgerows

- 7.21 Paragraph 136 of the NPPF recognises the importance of trees by outlining that: *"trees make an important contribution to the character and quality of urban environments and can also help to mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are trees lined"*. The aim of the NPPF is reiterated in Policy GI6 of the local plan which 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 endorsed in Policy SP6 which requires all developments to consider important landscape features and ensure the enhancement and retention of existing hedges.
- 7.22 Furthermore, the Carlisle City Council's SPD 'Trees and Development' outlines that native large growing species are intrinsic elements in the landscape character of both rural and urban areas alike and acquire increasing environmental value as they mature. Large trees need space in which to grow to maturity without the need for repeated human intervention. Not only should the design of the development seek to retain existing tree and hedgerow features, but sufficient space should be allocated within the schemes to ensure integration of existing features and space for new planting it is important that these issues are considered at the very start of the planning process.
- 7.23 The application refers to the retention / reinforcement of the hedgerows to the periphery of the site (with the exception of vehicular and Emergency Vehicles Accesses) together with specimen trees within the development site itself. The Arboricultural Impact Assessment, submitted as part of the application, includes a Root Protection Area and Barrier Specification. No specific details have been provided in respect of the species / size to be used in the reinforcement of boundary hedgerows or the specimen trees within the development. Accordingly, should Members resolve to approve the application it would be appropriate to impose a condition requiring the submission of a detailed landscaping scheme together with a further condition ensuring the protection of the retained trees and hedgerows prior to commencement of development.

4. Impact Of The Proposal On The Amenity Of The Occupiers Of Neighbouring Properties

- 7.24 Development should be appropriate in terms of quality to that of the surrounding area. Policy SP6 of the local plan seeking to ensure that the living conditions of the occupiers of adjacent residential properties are not adversely affected by proposed developments through unacceptable loss of light, overlooking or over-dominance. This is echoed and reinforced in the City Council's SPD 'Achieving Well Designed Housing'.
- 7.25 On the matter of privacy, Carlisle City Council's SPD "Achieving Well Designed Housing", states that:
- "Where a development faces or backs onto existing development, in order to respect privacy within rooms a minimum distance of 21 metres should usually be allowed between primary facing windows (and 12 metres between any wall of the building and a primary window). However, if a site is an infill, and there is a clear building line that the infill should respect, these distances need not strictly apply. (paragraph. 5.44). While it is important to protect the privacy of existing and future residents, the creation of varied development, including mews style streets, or areas where greater enclosure is desired, may require variations in the application of minimum distances" (paragraph. 5.45).*
- 7.26 In this respect, the closest residential dwelling to the application site, Sanjo Bunkers Hill, is located to the southwest of the development. The submitted drawings illustrate that the rear elevation of Plot 54 would be located 17.9 metres from the gable elevation of Sanjo; however, the orientation of Sanjo is such that the primary windows of Plot 54 would face onto a blank gable elevation of Sanjo which exceeds the minimum distance of 12 metres as outlined in the SPD to protect against loss of privacy. Furthermore, the orientation of Sanjo together with the separation distances between the existing and proposed dwellings would not result in loss of light or over-dominance.
- 7.27 When considering the living conditions of the neighbouring residents it is appreciated that the proposal, when compared to the existing use, is likely to lead to an increase in noise and disturbance although the significance of such is not considered sufficient to merit the refusal of permission. The increase in traffic is also likely to lead to a greater degree of inconvenience for residents within the vicinity but this is also not considered in itself to be sufficient to merit the refusal of permission. As such, the current proposal is acceptable in terms of any impact on the occupiers of the neighbouring properties.
- 7.28 Whilst it is acknowledged that during the construction phase neighbouring residents and will experience effects such as dust and noise/ disturbance. Should Members resolve to approve the application, conditions are recommended requiring the submission of a Construction Method Statement and a restriction on construction hours.
- 7.29 In overall terms, taking into consideration the scale and position of the

proposed application site in relation to neighbouring properties, the living conditions of the occupiers of the surrounding properties will be compromised through loss of light, loss of privacy or over dominance.

## 5. Impact Of The Proposal On The Nearby Listed Buildings

- 7.30 Paragraph 6 of the NPPF states that:  
*"The purpose of the planning system is to contribute to the achievement of sustainable development"*.
- 7.31 Pursuing sustainable development involves seeking positive improvements in the quality of the historic environment (paragraph 8).

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

- 7.32 Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 highlights the statutory duties of local planning authorities whilst exercising of their powers in respect of listed buildings. The section states that:  
  
*"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses"*.
- 7.33 Accordingly, considerable importance and weight to the desirability of preserving the adjacent listed buildings and their settings when assessing this current 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).
- 7.34 Protecting and enhancing the historic environment is also an important component of the National Planning Policy Frameworks drive to achieve sustainable development. Paragraph 195 highlights that: *"heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations"*.
- 7.35 Paragraph 201 of the NPPF requires local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

- 7.36 *"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification" (paragraphs 205 and 206 of the NPPF). "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use" (paragraph 208).*
- 7.37 The aims of Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 and the NPPF are reiterated at a local level. Policies SP7 and HE3 of the local plan seeking to ensure that listed buildings and their settings are preserved and enhanced. Any harm to the significance of a listed building will only be justified where the public benefits of the proposal clearly outweigh the harm.
- 7.38 As highlighted earlier in the report, the local planning authority need to have cognizance of: a) the significance of the nearby listed buildings at Bunkers Hill and their contribution made to that significance by their settings; and then assess b) the effect of the proposal on the listed buildings and their settings (inclusive of their significance and on the appreciation of that significance).
- a) the significance of the listed buildings and the contribution made by their settings
- 7.39 As previously highlighted in the report, a cluster of houses at Bunkers Hill lie to the southwest of the application site. Within Bunkers Hill, there is a terrace of three Grade II listed residential properties, West End, Centre House and East End, together with a Grade II listed Dovecote. By way of background, 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\* listed buildings are particularly important buildings of more than special interest, 5.8% of listed buildings are Grade II\*. The final tier of listed buildings are Grade II listed buildings are of special interest; 91.7% of all listed buildings are in this class and it is the most likely grade of listing for a homeowner. Historic England's website details that: *"surprisingly the total number of listed buildings is not known, as one single entry on the National Heritage List for England (NHLE) can sometimes cover a number of individual units, such as a row of terraced houses. However, we estimate that there are around 500,000 listed buildings on the NHLE".*
- 7.40 The terrace of residential properties was listed by Historic England (formerly English Heritage) as Grade II Listed Buildings in 1957. The listing details for West End, Centre House and East End is as follows:

*"House and stables, now 3 dwellings. Probably 1797 for John Milbourn. Painted rendered walls on chamfered painted plinth, raised V-jointed quoins, moulded cornice and parapet; graduated greenslate hipped roof, hidden by parapet, rendered chimney stacks. Originally 2 storeys, 8 bays, now 11 bays, 3 bays right being formerly blank wall for stables now with matching C20 windows. Central C20 door in eared architrave, side lights and moulded triangular pediment. 2 C19 canted bay windows, all other windows being single-pane sashes in painted stone architraves. C20 door to former servants' quarters to extreme left, now West End. C20 door in end wall right to East End, formerly stables. Centre rear has different roof line: 2 storeys, 4 bays, C20 windows. This could be an earlier house, the deeds in the County Record Office going back to 1770".*

- 7.41 The Dovecote was listed by Historic England as a Grade II listed building in 1976. The listed details is as follow:

*"Former Dovecote. Late C18 or early C19. Mixed river cobbles and red sandstone rubble, graduated Welsh slate roof and glover. 2 storeys, circular plan. Plank doors on ground floor and loft to rear. Roof re-slatted in early 1970s, glover with louvred wooden slats. Interior retains its original brick boulders for approximately 500 nests. See Cumberland & Westmorland Antiquarian & Archaeological Society, old series, ix, pp424-5".*

- 7.42 The terrace, formerly one dwelling, is still largely read as one dwelling and is set within substantial mature grounds. Public viewpoints of the terrace; however, is restricted as it is set back from the county highway partially screened by mature landscaping along the boundaries. The Dovecote is not visible from public viewpoints due to its location to the rear of the terrace.

b) the effect of the proposed development on the listed buildings and their settings

- 7.43 As previously highlighted in the report, Section 66 (1) requires that development proposals consider not only the potential impact of any proposal on a listed building but also on its setting. Considerable importance and weight need to be given to the desirability of preserving the adjacent listed buildings and their settings when assessing this current 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). This aim being reiterated in policies within the NPPF and local plan.

- 7.44 Historic England has produced a document entitled 'The Setting of Heritage Assets - Historic Environment Good Practice Advice in Planning: 3 (Second Edition)' (TSHA). The document sets out guidance, against the background of the NPPF and the related guidance given in the PPG, on managing change within the settings of heritage assets, including archaeological remains and historic buildings, sites, areas, and landscapes.

- 7.45 The TSHA document details the definition of the setting of a heritage asset as

that contained within Annex 2: Glossary of the NPPF as: *"the surroundings in which heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive and negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral"*.

- 7.46 The document acknowledging that conserving or enhancing heritage assets by taking their settings into account need not prevent change and recommends a staged approach to proportionate decision taking. The TSHA stating that: *"all heritage assets have significance, some of which have particular significance and are designated. The contribution made by their setting to their significance also varies. Although many settings may be enhanced by development, not all settings have the same capacity to accommodate change without harm to the significance of the heritage asset or the ability to appreciate it. This capacity may vary between designated assets of the same grade or of the same type or according to the nature of the change. It can also depend on the location of the asset: an elevated or overlooked location; a riverbank, coastal or island location; or a location within an extensive tract of flat land may increase the sensitivity of the setting (i.e., the capacity of the setting to accommodate change without harm to the heritage asset's significance) or of views of the asset. This requires the implications of development affecting the setting of heritage assets to be considered on a case-by-case basis"*.
- 7.47 East End, the closest of the Grade II listed buildings to the application site is located approximately 45 metres from the application site and is enclosed by a belt of mature trees and shrubs. Beyond the trees lies a vehicular access track serving Sanjo with a further belt of trees along the shared boundary of the application site. The Dovecote is approximately 75 metres from the application site but by virtue of its location to the rear of the Grade II listed terrace and mature landscaping is largely obscured from public viewpoints with only glimpses of the upper walls and roof visible from within the application site. Accordingly, the proposal will have a less than substantial harm to the significance of the heritage assets and their settings and would not compete or dominate the listed buildings or their settings to detract from their importance.
- 7.48 In accordance with the objectives of NPPF, PPG, Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 and relevant local planning policies, this less than substantial harm should be weighed against the public benefits of the proposal including where appropriate, securing its optimum viable use.
- 7.49 In the context of the foregoing, the benefits of the proposal would: a) contribute to achieving the council's housing targets through the development of a windfall site; and b) provide 18 affordable housing units within the development. On balance, the benefits of the proposal outweigh any perceived harm to the listed buildings and their settings.

## 6. Highway Issues And Accessibility

- 7.50 Paragraph 108 of the NPPF outlines that transport issues should be considered from the earliest stages of plan-making and the development proposals so that the potential impacts of developments on transport networks can be addressed. Paragraph 115 expanding by stating that: *"development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe"*. Paragraph 117 highlighting that *"all developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed"*.
- 7.51 These aims are reiterated in Policies SP6, IP1, IP2 and IP3 of the local plan which seek to ensure that sufficient infrastructure is in place to support development proposals, including adequate highway capacity and achievable access. Development proposals will be assessed against their impact upon the transport network and will be required to demonstrate / provide convenient access to public transport. Policy IP3 of the local plan specifically requires appropriate parking provision, whilst the Cumbria Development Design Guide also sets out recommended parking provision standards.
- 7.52 The submitted details illustrate that vehicular access to the site would be taken from Orton Road along the southern site boundary. A 2 metre wide pedestrian footpath would be formed from the site access to the junction of Sandsfield Lane and Orton Road to provide a continuation of the existing footpath positioned on the opposite side of the junction of Sandsfield Lane. An Emergency Vehicle Access (EVA) is also proposed between Plots 24 and 25 linking the site to Sandsfield Lane. In the unlikely event that the primary access becomes blocked, the proposed EVA would provide an alternative point of access.
- 7.53 In line with the objectives of paragraph 117 of the NPPF, the application was accompanied by a Transport Assessment (TA) which provides information on the traffic and transport planning aspects of the development proposals. The TA identifies the nearest bus stops to the site are located on Queensway close to its junction with Orton Road (approximately 450 metres from the proposed entrance to the site). There are also connections to footpaths and cycle routes.
- 7.54 The Transport Assessment includes detailed assessment of the highway network and future traffic flows. The TA outlining that: "the scope of the assessment that has been undertaken is based upon advice obtained from highway officers at the LHA". In summary, the TA detailed the following:
- the site location and its current use
  - currently Orton Road is subject to a 40mph speed limit along the site frontage although the speed limit reduces to 30mph at a point around 95m north-east of its junction with Sandsfield Lane.
  - The proposals for the Oakleigh Field development (opposite) include a



gateway feature being installed on Orton Road and the 30mph speed limit being extended to a point south-west of the access to the Oakleigh Fields development

- Sandsfield Lane runs in a north-south orientation between Orton Road and a roundabout on the A689 to the north of the site. It is also subject to a posted speed limit of 40mph and is without footways or street lighting
- The crashmap website ([www.crashmap.co.uk](http://www.crashmap.co.uk)) has been used to determine whether there is evidence of an existing safety issues on the road network in the vicinity of the site. The study area includes Orton Road in the vicinity of the site, as well it its junction with Sandsfield Lane and the A689 roundabout. Over the most recent 5-year period, only two accidents occurred in the study area, and both of these resulted in injuries that were classed as 'slight'. Two accidents over a 5-year period is low and the accidents occurred at two different locations. There is therefore no evidence of an existing highway safety issue that could be exacerbated by the increase in traffic volumes generated by the proposed development.
- The Institute for Highways and Transportation (IHT) publication 'Guidelines for Providing for Journeys on Foot' (2000) provides suggested walking distances to some common facilities, which may be used for development planning purposes. This document recognises that although acceptable walking distances will vary between individuals and circumstances, for commuting and school trips a distances 2km is considered as the 'preferred maximum' walking distance. The site is situated where a good range of local amenities are within a reasonable walk distance. The proposals will provide a 2m wide footway on the north-western side of Orton Road between the site access and the existing footway which is in place to the east of Sandsfield Lane. In the built-up area that lies to the east of the site, the roads have footways in place and pedestrian crossings and so amenities can be safely accessed on foot.
- parts of the route between the site and the city centre have cycle lanes or shared pavements in place. Furthermore, much of the road network around the site comprises lightly trafficked streets which are subject to a 30mph speed limit. The topography of the local areas is also fairly flat which provides an environment that encourages cycling.
- The nearest bus stops to the site are located on Queensway, close to its junction with Orton Road. These bus stops are served by frequent services that provide connections to Morton, Newtown, the city centre, London Road and Botcherby. The nearest bus stops to the site are served by the 6 services per hour during weekdays. The journey time into the city centre is around 25 minutes from the bus stop. The buses also provide a connection to Carlisle railway station.
- The closest railway station to the site is Carlisle railway station which is located within 5km of the site and so could be accessed by bike. This train station has cycle parking and provides connections to a range of national destinations such as London, Newcastle and Glasgow.
- A Travel Plan would be implemented at the site in order to encourage the future residents to use sustainable travel modes. A Framework Travel Plan has been produced and accompanies the planning application.

- Traffic flow forecasts that have been used in junction capacity assessments. The scope of the assessment was agreed with the LHA through scoping discussions. Scoping discussions with the LHA revealed the requirement to account for trips from the 153 dwellings, Oakfield Fields, opposite site on Orton Road and is currently under construction.
- Assessments have been undertaken for a single future year of 2028, 5 years after the date of registration of the planning application.
- The results indicate that in 2028 all assessed junctions would work well within capacity and without queues.

7.55 The TA also provides details of the proposed highway design / parking provision / refuse collection / construction traffic for the application site.

Again, in summary, the TA details:

- Access to the development would be provided via a priority junction to be located on Orton Road. The junction would be located with a centre line that is 82m offset from Sandsfield Lane and 47m west of the access to the Story Homes development junction.
- The internal road network has been designed in accordance with adoptable standards set out in the Development Design Guide (Appendix 4 – Highway Design Guidance – Residential).
- The junction of the application site with Orton Road would have a carriageway width of 5.5m, 6m turn radii and 2m wide footways on both side of the access road.
- The site features a 5.5m wide spine road between the site access and the field to the north-west of the site. Three cul-de-sacs are located to the east of the spine road and a road forming a loop would be located to the west of the spine road. Within the site, all junctions will have turn radii of 6m and 2m wide footways will be provided along the entirety of the spine road.
- The three cul-de-sacs will take the form of shared spaces with 2m wide service strips in place where houses are present.
- The northernmost cul-de-sac includes an emergency vehicle access onto Sandsfield Lane. This would feature a bollard that could be removed by emergency operatives in the event that access to the development was required and part of the spine road was obstructed.
- Parking is in accordance with the parking standards outlined in Cumbria Development Design Guide.
- The parking standards also state a requirement for visitor parking at one space every 5 units. Any demands for visitor parking that cannot be accommodated within the curtilage of properties can be accommodated on-street, with the layout showing several areas with formal on-street parking spaces.
- The site has been designed to accommodate a large refuse collection vehicle.
- Details of the construction of the site are yet to be finalised; however, the impacts of construction would be short term and temporary in nature.
- A detailed Construction Traffic Management Plan (CTMP) will be submitted and approved prior to the commencement of the development. The purpose of a CTMP is to identify appropriate measures to reduce the

impacts of construction traffic in the vicinity of the site and on the surrounding highway network are kept to a minimum.

- 7.56 The Highway Authority has been consulted on the application and following the receipt of additional information raise no objections subject to the imposition of pre-commencement conditions and a financial contribution to a Traffic Regulation Order and Travel Plan monitoring fee. The recommended pre-commencement conditions would require the submission of further details in respect of: carriageway, footway, footpaths, cycleways etc design; provision of visibility splays; height of boundary treatment at entrance to development; provision of footways; provision of base course level and street lighting prior to occupation; provision of Construction Traffic Management Plan; submission of Travel Plan; and an annual report reviewing the Travel Plan.
- 7.57 Financial contributions are required of £6,500 towards a Traffic Regulation Order to fund revisions to the speed limit order together with other traffic calming measures. A further financial contribution would fund the monitoring of the Travel Plan. The contributions to the Traffic Regulation Order and the monitoring of the Travel Plan would be secured by a Section 106 legal agreement.
- 7.58 The proposal would include off-street parking provision for the development in the form generally of 2 spaces per property, some with an integral garage, with the addition of 18 visitor spaces. Given that this site has good public transport links and sustainable travel opportunities, this level of parking provision is acceptable. On this basis, therefore, it is not considered that the proposal raises any highway safety issues.
- 7.59 It is acknowledged that the development of the application site will increase vehicular movements within the vicinity; however, the LHA subject to the imposition of conditions do not raise any objections on highway related issues that would preclude permission being granted. Accordingly, the application complies with the objectives of the NPPF and local plan.

## 7. Affordable Housing, Education And Recreational Provision

- 7.60 Policy IP8 of the local plan seeks to ensure that the council works with partners to identify and deliver infrastructure, services, and community facilities to improve the sustainability of its communities. In the first instance new development will be expected to provide infrastructure improvements which are directly related to and necessary to make the development acceptable. These will be identified through the development management process and secured through planning conditions and obligations.

### Affordable Housing Provision

- 7.61 Paragraph 60 of the NPPF states that: *"to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the*

*needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet as much of an area's identified housing need as possible, including with an appropriate mix of housing types for the local community".*

Paragraph 63 expanding by seeking to ensure that in the context of establishing need the size, type and tenure of housing need for different groups in the community should be assessed and reflected in planning policies.

- 7.62 The aim of the NPPF is reiterated at a local level in Policies HO4 (affordable housing) and HO10 (housing to meet specific needs). Policy HO4 aims to provide a supply of homes of differing tenures to assist those members of the community who are unable to meet their housing needs on the open market. Whilst Policy HO10 seeks to deliver the right type of homes in the right locations to meet the housing needs of Carlisle's population. The council's SPD 'Affordable and Specialist Housing' providing more detailed guidance, clarity and consistency in respect of the implementation of Policies HO4 and HO10.
- 7.63 Policy HO4 of the local plan identifies the application site as being within Housing Zone B which requires all sites of 11 units or over to provide 20% of the units as affordable housing. The application seeks permission for the erection of 90 dwellings which would require an affordable housing contribution of 18 units. The SPD requiring development sites of between 50-99 units to provide 5% of the units as bungalows or other suitable adaptable properties to meet the needs of the ageing population.
- 7.64 The development would provide 18 affordable units, located throughout the application site, 9 of which would be discounted sale properties with the remaining 9 affordable rented properties. Most of the housing development would consist of 2 or 2 and a half storey properties; however, in line with the objectives of the SPD, 3 of the dwellings would be of bungalows (Dee house type) with a further two properties 'dormer' bungalows (Tay house type) which would have a bedroom on the ground floor.
- 7.65 The council's Housing Development Team has been consulted and in overall terms raise no objections to the proposal; however, seeks revisions to the design of the 'Petteril' house type to be offered for social or affordable rent to meet the space standards as outlined in the SPD even though it has previously been accepted on other developments within Carlisle and has been sold on numerous occasions to Housing Associations across Cumbria. The minimum size for a 3 bed 4 person home is specified in section 9.2 of the SPD as 80 square metres; the submitted drawings illustrate a floor space of 78.6 square metres. There may be some leeway for properties allocated as discounted sale.
- 7.66 The applicant has subsequently amended the proposal to reflect the comments of the council's Housing Development Team. The development would still provide 18 affordable units, located throughout the application site, 9 of which would be discounted sale properties with the remaining 9

affordable rented properties. Those properties for affordable rent would consist of 6 'Caldew' house types (2 storey 2 bed properties) and 3 'Dee' house type (single storey 2 bed properties). In overall terms, the proposed level of affordable housing provision accords with the objectives of Policy HO4 and HO10 of the local plan and satisfies the requirements of the SPD in relation to the provision of single storey properties. The provision of the affordable dwellings would be secured through the completion of a Section 106 legal agreement should Members resolve to approve the application.

#### Education Contribution

- 7.67 Policy CM2 of the local plan aims to respond to the need to ensure that there is sufficient choice of school places available to meet the needs of existing and new communities. To assist in the delivery of additional school places, where required, to meet the needs of development, contributions will be sought.
- 7.68 The Education Authority advises that a dwelling-led model has been applied to the housing mix of 9 x 2 bed, 42 x 3 bed, 39 x 4+ bedroom houses, which theoretically estimates a yield of 36 children: 21 primary and 15 secondary pupils for the schools. The primary catchment school for this development is Great Orton (3.11 miles measured from approximate centre of the site of the proposed houses) and Caldew is the catchment secondary for this development (3.39 miles). The next nearest schools are Yewdale (1.1 miles) for primary and Morton (1.27 miles) for secondary, both of which are closer than the catchment schools.

The methodology for calculating available spaces in schools first considers developments with planning approval, before assessing which schools the developments will impact and what spaces remain for the most recently proposed development. Currently there are five developments affecting the primary schools used for this assessment and seven affecting the secondary schools. There are no primary places available in the catchment school of Great Orton to accommodate the primary yield once development is first considered. There are 7 other primary-age schools within the walking threshold of 2 miles (and closer to the development) which can accommodate all of the required 21 primary age children. As such an education contribution for primary school spaces would not be sought. In respect of secondary places, after development is first considered, there are currently 23 available places in the catchment school of Caldew Academy, to accommodate the secondary pupil yield. However, when taking into consideration Morton Academy which is nearer to the development, there are no secondary places available. A contribution of £409,800 (15 x £27,320) would be required for secondary education.

- 7.69 The provision of the education contribution to secondary school places would be secured through the completion of a Section 106 legal agreement should Members resolve to approve the application.

#### Recreation Provision

- 7.70 Policy GI4 states that new housing developments of more than 20 dwellings will be required to include informal space for play and general recreational or amenity use on site according to the size of the proposal. On smaller housing sites, where on site provision is not appropriate the developer may be required to make commuted payments towards the upgrade of open space provision in the locality, especially if a deficit has been identified.
- 7.71 The council's Health & Wellbeing Section has been consulted and advises that the proposed layout does not appear to put green space at the heart of the development as per the design and access statement. The green space at the entrance to the development is small and has less amenity value than of a Neighbourhood Green as described by the agent. There is however, walking and cycling access via both Orton Road and Sandsfield Lonning. There is no play provision proposed on site. A contribution towards nearby facilities to enhance, increase accessibility and upgrade would be sought. This would be split between Yewdale Road and Richmond Green. The total for new facilities is £156,867 but as there are existing facilities which only require upgrading this would be reduced by 50% to £78,433.50. A contribution towards District Wide provision (artificial pitches) would be required of £29,484. Furthermore, the developer will be required to ensure appropriate measures are put in place for the management of any new open space provided through this development.
- 7.72 In overall terms, there are no open spaces on the site or play provisions within the site. As such, financial contributions of £78,433.50 are required to enhance, increase accessibility and upgrade existing facilities on Yewdale Road and Richmond Green. A further financial contribution of £29,484 toward the provision of artificial pitches district wide would also be required together with a management plan for the on-site open space. These contributions and management plan would be subject of a Section 106 legal agreement.

#### 8. Impact Of The Proposal On Archaeology

- 7.73 The overriding objective of Policy HE2 is to ensure that both designated and non-designated assets are preserved in perpetuity. Where in-situ preservation is not deemed to be appropriate, adequate provision for excavation, recording and analysis will be expected. Development will not be permitted where it would cause substantial harm to the significance of a scheduled monument, or other non-designated site or assets of archaeological interest, or their setting.
- 7.74 The application is accompanied by an Archaeological Geophysical Survey which was undertaken to assess the possible presence of below ground archaeological remains. The survey concludes by outlining that the majority of the anomalies identified by this survey relate to modern material / objects, agricultural activity and natural variations. Several relatively strong linear / curvi-linear anomalies are present and whilst the cause of these is not certain it is likely that they are related to relatively modern features / material.

Numerous trends (discrete anomalies) are also present. The cause of these anomalies is not certain as they are all too weak, short and / or diffuse to reliably interpret. There are several possible groups of trends, which could suggest the presence of sub-surface features / activity but there is no clear evidence to indicate an archaeological origin and it is more likely that they are a product of agricultural, drainage or other modern activity or natural features / variations.

- 7.75 The Historic Environment Officer has been consulted on the application and has confirmed that the results of the Geophysical Survey indicate that there is a low potential for archaeological assets to survive within the site. As such, raise no objections to the application and that do not wish to make any comments.

## 9. Contaminated Land

- 7.76 The application was accompanied by a Phase 2 Ground Investigation Report to assess the possible presence of land contamination. The report details that the land has been in agricultural use since 1868 with no development on the site. Soil testing has been undertaken which finds that there are no elevated levels of contaminants that would preclude the use of the site for residential purposes. The ground gas monitoring that has been undertaken identified that the soil gas conditions were determined as 'Characteristic Situation 2', therefore, gas protection measures should be incorporated into the design of the dwellings which would be addressed at the design stage via the Building Regulations application. A planning condition is also recommended that in the event contamination that wasn't previously suspected or identified can be adequately dealt with.

## 10. Effect Of The Proposal On Nature Conservation Interests

- 7.77 When considering whether the proposal safeguards the biodiversity and ecology of the area it is recognised that local planning authorities must have regard to the requirements of the EC Habitats Directive (92/43/EEC) when determining a planning application as prescribed by regulation 3 (4) of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), and Article 16 of the Habitats Directive before planning permission is granted. Article 16 of the Directive indicates that if there is reasonable likelihood of a European protected species being present then derogation may be sought when there is no satisfactory alternative and that the proposal will not harm the favourable conservation of the protected species and their habitat. In this case, the proposal relates to the development of residential dwellings on greenfield land. As such it is inevitable that there will be some impact upon local wildlife.
- 7.78 The authority should consider securing measures to enhance the biodiversity of a site from the applicant, if it is minded granting permission for an application in accordance with paragraph 186 of the NPPF. This is reflected in Section 40 of the Natural Environment and Rural Communities Act (2006) which states that every public authority must have regard to the purpose of

conserving biodiversity. Local planning authorities must also have regard to the requirements of the EC Habitats Directive (92/43/EEC) when determining a planning application as prescribed by regulation 3 (4) of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), and Article 16 of the Habitats Directive before planning permission is granted.

- 7.79 Policy GI3 of the local plan seeks to ensure the protection and, where possible, enhancement of biodiversity assets across the District.
- 7.80 The application was accompanied by a Preliminary Ecological Appraisal of the application site which concludes that: *"the site was found to be of moderate value to roosting bats, high suitability for nesting birds, and moderate suitability for hedgehogs and brown hare due to the hedgerows, grassland, and mature trees on site. The majority of hedgerows and trees are to be retained, other than small sections that need removal for access points meaning the post-development site still offers moderate value to roosting bats and nesting birds"*. The appraisal recommending a series of mitigation / compensation / enhancement measures.
- 7.81 On the basis of the foregoing, it is considered that the proposal is consistent with Policy GI3 of the local plan subject to the imposition of condition that include a requirement that the development is undertaken in strict accordance with the mitigation / compensation / enhancement measures outlined in the Preliminary Ecological Appraisal together with an Informative that deals with the matter of breeding birds.
- 7.82 Alongside other local planning authorities, Carlisle City Council received advice from Natural England about nutrient pollution in the protected habitats of the River Eden Special Area of Conservation (SAC). It is advised that new development within the catchment of these habitats comprising overnight accommodation (which includes new dwellings) can cause adverse impacts to nutrient pollution.
- 7.83 Whilst the council assesses the implications of these matters, it cannot lawfully conclude that development within the catchment of the River Eden SAC will not have an adverse effect. Accordingly, until these matters are resolved, the council will not be able to grant planning permission for developments comprising overnight accommodation (including new dwellings) within the affected catchments. This application cannot, therefore, be formally approved until this issue is resolved. It is recommended that "authority to issue" approval be granted to the Assistant Director of Thriving Place and Investment subject to a satisfactory nutrient mitigation scheme to reduce the impact of nutrient pollution on the River Eden SAC.

#### 11. Flood Risk And Proposed Drainage Methods

- 7.84 Paragraph 173 of the NPPF outlines that when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere and that development proposals incorporate sustainable drainage systems, unless there is clear evidence that this would be



inappropriate. In respect of surface water drainage, the PPG detailing a hierarchy of drainage options which aims to discharge surface water run off as high up the hierarchy of drainage options as reasonably practicable (paragraph 080 Reference ID: 7-080-20150323 of PPG). These being:

- into the ground (infiltration)
- to a surface water body
- to a surface water sewer, highway drain, or other drainage system
- to a combined sewer

7.85 The aims of the NPPF and PPG are reiterated within policies of the local plan to ensure adequate provision for the disposal of surface water facilities is achievable prior to commencement of any development. Policy IP6 of the local plan outlines that in respect of the disposal of foul drainage the first presumption will be for new development to drain to the public sewerage system. Where alternative on-site treatment systems are proposed, it is for the developer to demonstrate that connection to the public sewerage system is not possible in terms of cost and/or practicality and provide details of the responsibility and means of operation and management of the system for its lifetime to ensure the risk to the environment is low. Policy CC5 of the local plan prioritising the use of sustainable surface water drainage systems through the hierarchy of drainage options detailed in the PPG based on evidence of an assessment of site conditions.

7.86 The foul drainage would be connected to the mains infrastructure which is acceptable with the approach being confirmed as such by United Utilities. The submitted Flood Risk Assessment concludes that the site is in Flood Zone 1 and has been shown to be at low risk of flooding from rivers groundwater, surface water, sewers and climate change. As such, mitigation measures are not considered necessary for any future development at the site. Results from the Ground Investigation indicated that the underlying soils have inadequate infiltration characteristics for soakaways. Surface water run-off is proposed to discharge into the watercourse via a 860 cubic metre dry SUDS basin. Discharges from the basin are proposed to be limited to 18.8 l/s using a vortex flow control device (hydro brake or similar). The combination of the attenuation pond and flow control is expected to limit to the existing QBAR greenfield run off rate. This will significantly reduce the flow of water leaving the site in a storm event reducing flood risk further downstream.

7.87 The Lead Local Flood Authority and United Utilities, as statutory consultees, raise no objections to the proposed drainage methods subject to the imposition of a pre-commencement condition requiring details of a sustainable surface water drainage scheme and a foul water drainage scheme. These details would then be assessed by the relevant statutory consultees. If such details prove to be unacceptable, it may be that the residential development would stall as a result.

## 12. Crime and Disorder

- 7.88 Section 17 of the Crime and Disorder Act together with Policy SP6 of the local plan requires that the design of all new development must contribute to creating a safe and secure environment, integrating measures for security and crime prevention, and minimising the opportunity for crime.
- 7.89 The layout has been designed to give a degree of natural surveillance and creates a distinction between public and private spaces. This definition should act as a deterrent to potential offenders and reduce the likelihood of crime occurring. In this respect, there is no objection to the principle of development.

### 13. Waste/ Recycling

- 7.90 The council's Waste Services has advised that there are no objections to the proposed development as the development can accommodate the waste collection vehicles. A condition is recommended to ensure that the developer contributes to the cost of waste containers.

### 14. Other Matters

- 7.91 Concerns have been expressed in respect of the proximity of the overhead power lines to the proposed development. National Grid has advised that there are none of its assets within the vicinity of the application site, therefore, Electricity North West (ENW) has been consulted. At the time of preparing the report, the formal response of ENW has not been received. Nevertheless, Members will note that the power lines cross the northern undeveloped section of the application site and not the proposed developed southern section, therefore, will not impact on the built form of the proposed development.

## **8. Planning Balance and Conclusion**

- 8.1 Although the site is not allocated for housing development this does not preclude the development of unallocated sites. It is a well-established planning principle enshrined in current planning policies transparent at both national and local level that windfall sites contribute in a positive way to the supply of housing. The application site is located on the edge of Carlisle which, the largest urban area in Cumbria, can sustainably support this scale of windfall housing schemes. The proposal is appropriate to the scale, form, function and character of this part of Carlisle, which is characterised by large-scale, urban housing estates. The built part of the site contained within existing landscape features, therefore, would not constitute an unacceptable intrusion into open countryside especially when considered within the context of recent construction that has taken place on the opposite side of Orton Road. Furthermore, the proposal will not prejudice the delivery of the spatial strategy of the local plan.
- 8.2 On the matter of design, the proposal will reinforce existing connections;

provide a mix of dwelling types and tenures that suit local requirements; has sought to create a distinctive character with well-defined and legible streets/spaces; has streets designed to encourage low vehicle speeds; provide sufficient and well integrated resident and visitor parking; has clearly defined public and private spaces; there is adequate external storage space for bins and recycling.

- 8.3 Adequate off-street parking would be provided within the site and the buildings would not adversely affect the living conditions of the occupiers of neighbouring properties. The planning conditions will ensure that in the short-term period of construction, the residents would be adequately protected from the works, as far as reasonably practicable.
- 8.4 The supporting documents accompanying the application adequately address those matters relating to contamination, trees and hedgerows, surface water, heritage assets and ecology can also be addressed through the imposition of relevant conditions.
- 8.5 It is considered that the proposal will neither be detrimental to the character of the area nor the living conditions of neighbouring residents.
- 8.6 On this basis, the scheme will deliver the development of a 'wind fall' housing site on the edge of Carlisle. The development will provide appropriate financial contributions and 18 affordable housing units. As such, the scheme accords with the relevant planning policies and development plan and is recommended for approval.

## **Recommendation**

It is recommended that “authority to issue” approval with the conditions listed in Appendix 1 be granted to the Assistant Director of Thriving Place and Investment subject to a satisfactory nutrient mitigation scheme to reduce the impact of nutrient pollution on the River Eden SAC and the completion of a satisfactory Section 106 legal agreement to secure:

- i. provision of affordable housing (9 discounted sale properties and 9 affordable rented properties);
- ii. the payment of £409,800 towards secondary education;
- iii. the payment of £6,500 towards a Traffic Regulation Order;
- iv. the payment of £6,600 towards a Travel Plan monitoring fee;
- v. the payment of £78,433.50 to enhance, increase accessibility, and upgrade existing facilities on Yewdale Road and Richmond Green;
- vi. the payment of £29,484 toward the provision of artificial pitches district wide;
- vii. the management of on-site open space; and
- viii. mitigation to deal with nutrient neutrality.

If the Section 106 legal agreement is not signed or a satisfactory resolution to nutrient pollution through an appropriate mitigation scheme is not agreed, authority

be given to the Assistant Director of Thriving Place and Investment to issue refusal.

## **Appendix 1**

### **List of Conditions and Reasons**

#### Granted Subject to Nutrient Resolution

1. The development shall be begun not later than the expiration of 3 years beginning with the date of the grant of this permission.  
  
**Reason:** In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
  
2. The development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:
  1. the submitted planning application form received 22nd February 2023;
  2. the Arboricultural Impact Assessment received 22nd February 2023;
  3. the Archaeological Geophysical Survey received 22nd February 2023 (Project No. ARC/3383/1287);
  4. the Specifications for a Programme of Archaeological Evaluation received 22nd February 2023;
  5. the Flood Risk Assessment Report received 22nd February 2023 (Reference 7653FRA);
  6. the Transport Assessment received 22nd February 2023 (Reference TA01);
  7. the Framework Travel Plan received 22nd February 2023 (Reference FTP01);
  8. the Phase 2 Ground Investigation Report received 22nd February 2023 (Reference 8546OR02);
  9. the Preliminary Ecological Appraisal received 22nd February 2023 (Reference GH-22-01);
  10. the Foul Sewerage Design Micro Calculations received 22nd February 2023;
  11. the Surface Water Micro Calculations received 22nd February 2023;
  12. the House Types received 27th February 2024 (Reference 224113-AFL-00-ZZ-RP-A-002-P2);
  13. the site location plan received 27th February 2024 (Drawing No. AFL-ZZ-XX-DR-A-20110 Revision P5);
  14. the site block plan received 27th February 2024 (Drawing No. AFL-ZZ-XX-DR-A-20111 Revision P5);
  15. the site framework plan received 27th February 2024 (Drawing No. AFL-ZZ-XX-DR-A-20112 Revision P8);
  16. the housing schedule plan received 27th February 2024 (Drawing No. AFL-ZZ-XX-DR-A-20113 Revision P6);
  17. the site massing plan received 27th February 2024 (Drawing No. AFL-ZZ-XX-DR-A-20115 Revision P6);

18. the surface materials plan received 27th February 2024 (Drawing No. AFL-ZZ-XX-DR-A-20116 Revision P6);
19. the house materials plan received 27th February 2024 (Drawing No. AFL-ZZ-XX-DR-A-20117 Revision P6);
20. the boundary treatment plan received 27th February 2024 (Drawing No. AFL-ZZ-XX-DR-A-20118 Revision P8);
21. the garden areas plan received 27th February 2024 (Drawing No. AFL-ZZ-XX-DR-A-20119 Revision P6);
22. the car parking plan received 26th February 2024 (Drawing No. AFL-ZZ-XX-DR-A-20120 Revision P6);
23. the refuse and recycling plan received 27th February 2024 (Drawing No. AFL-ZZ-XX-DR-A-20121 Revision P6);
24. the affordable housing plan received 27th February 2024 (Drawing No. AFL-ZZ-XX-DR-A-20122 Revision P6);
25. the Street Scene received 27th February 2024 (Drawing No. AFL-ZZ-XX-DR-A-20130 Rev. P2);
26. the site framework plan (wide site) received 27th February 2024 (Drawing No. AFL-ZZ-XX-DR-A-20131 Revision P3);
27. the site framework plan (wider site) alternative maintenance access & play space received 27th February 2024 (Drawing No. AFL-ZZ-XX-DR-A-20132 Revision P2);
28. the proposed drainage strategy Sheet 1 of 2 received 28th February 2024 (Drawing No. 7653/SK01-1 Rev E);
29. the proposed drainage strategy Sheet 2 of 2 received 28th February 2024 (Drawing No. 7653/SK01-2 Rev F);
30. the Highway and Drainage Longsections Sheet 1 of 2 received 22nd February 2023 (Drawing No. 7653/SK02-1 Rev. A);
31. the Highway and Drainage Longsections Sheet 2 of 2 received 22nd February 2023 (Drawing No. 7653/SK02-2 Rev. B);
32. the Topographical Survey received 26th July 2023 (Drawing No. P11103/amr/1 Sumb. 01);
33. the Topographical Survey received 26th July 2023 (Drawing No. P11103/amr/2 Sumb. 01);
34. the Notice of Decision;
35. any such variation as may subsequently be approved in writing by the local planning authority.

**Reason:** To define the permission.

3. Development shall not commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority. The CTMP shall include details of:
  - pre-construction road condition established by a detailed survey for accommodation works within the highways boundary conducted with a Highway Authority representative; with all post repairs carried out in consultation with the Local Highway Authority at the applicants expense
  - details of proposed crossings of the highway verge
  - retained areas for vehicle parking, maneuvering, loading and unloading for their specific purpose during the development

- cleaning of site entrances and the adjacent public highway
- details of proposed wheel washing facilities
- the sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials on the highway
- construction vehicle routing
- the management of junctions to and crossings of the public highway and other public rights of way/footway
- details of any proposed temporary access points (vehicular / pedestrian)
- surface water management details during the construction phase

**Reason:** To ensure the undertaking of the development does not adversely impact upon the fabric or operation of the local highway network and in the interests of highway and pedestrian safety in accordance with Policies SP6 and IP2 of the Carlisle District Local Plan 2015-2030.

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

**Reason:** To ensure a minimum standard of construction in the interests of the highway safety in accordance with Policies SP6, IP2 and IP3 of the Carlisle District Local Plan 2015-2030.

5. Prior to the commencement of development, details of a sustainable surface water drainage scheme and a foul water drainage scheme shall be submitted to and approved in writing by the local planning authority. The drainage schemes must include:

- (i) an investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water in accordance with BRE365;
- (ii) a restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations);
- (iii) levels of the proposed drainage systems including proposed ground and finished floor levels in AOD;
- (iv) incorporate mitigation measures to manage the risk of sewer surcharge where applicable; and
- (v) foul and surface water shall drain on separate systems.

The approved schemes shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any

subsequent replacement national standards and unless otherwise agreed in writing by the local planning authority, no surface water shall discharge to the public sewerage system either directly or indirectly.

Prior to occupation of the proposed development, the drainage schemes shall be completed in accordance with the approved details and retained thereafter for the lifetime of the development.

**Reason:** To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution in accordance with Policies IP6, CC4, CC5 and CM5 of the Carlisle District Local Plan 2015-2030.

6. Notwithstanding the submitted detail, a landscaping scheme shall be implemented in strict accordance with a detailed proposal that has first been submitted to and approved in writing by the local planning authority. The scheme shall include details of the following where relevant (this list is not exhaustive):

- new areas of trees and shrubs to be planted including planting densities
- new groups and individual specimen trees and shrubs to be planted
- specification/age/heights of trees and shrubs to be planted
- existing trees and shrubs to be retained or removed
- any tree surgery/management works proposed in relation to retained trees and shrubs
- any remodelling of ground to facilitate the planting
- timing of the landscaping in terms of the phasing of the development
- protection, maintenance and aftercare measures

**Reason:** To ensure that a satisfactory landscaping scheme is implemented, in the interests of public and environmental amenity, in accordance with Policies SP6 and GI6 of the Carlisle District Local Plan 2015-2030.

7. Development shall not be begun until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. The CMS shall include details of (this list is not exhaustive):

- implementation of noise mitigation measures i.e. use of noise attenuation barriers, storage/unloading of aggregates away from sensitive receptors, use of white noise reversing alarms where possible
- the sheeting of all HGVs taking spoil to/from the site
- provision and use of water suppression equipment
- covering of 'dusty' materials
- wheel washing facilities for vehicles leaving the development

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

8. Notwithstanding any description of materials in the application, prior to their use as part of the development hereby approved, full details of materials to be used externally on the dwellings shall be submitted to and approved in writing by the local planning authority. Such details shall include the type, colour and texture of the materials. The development shall then be undertaken in strict accordance with the approved details.

**Reason:** Satisfactory details of the external materials have not yet been provided, therefore further information is necessary to ensure that materials to be used are acceptable visually and harmonise with existing development, in accordance with Policies SP6 and HO2 of the Carlisle District Local Plan 2015-2030.

9. Within 6 months of the occupation of the first dwelling, the developer shall prepare and submit to the local planning authority for their approval a Travel Plan which shall identify the measures that will be undertaken by the developer to encourage the achievement of a modal shift away from the use of private cars to visit the development to sustainable transport modes. The measures identified in the Travel Plan shall be implemented by the developer prior to the occupation of the twentieth dwelling.

**Reason:** To aid in the delivery of sustainable transport objectives in accordance with Policy IP2 of the Carlisle District Local Plan 2015-2030.

10. For a period of five years commencing with the date that the Travel Plan is first submitted to the council an annual report reviewing the effectiveness of the Travel Plan and including any necessary amendments or measures shall be prepared by the developer/occupier and submitted to the local planning authority for approval.

**Reason:** To aid in the delivery of sustainable transport objectives in accordance with Policy IP2 of the Carlisle District Local Plan 2015-2030.

11. The development shall not commence until visibility splays providing clear visibility of 120 metres (travelling westbound) and 60 metres (travelling eastbound) measured 2.4 metres down the centre of the access road and the near side channel line of the carriageway edge have been provided at the junction of the access road with Orton Road. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grow within the visibility splay at a height exceeding 1.05 metres above the carriageway level of the adjacent highway. The visibility splays shall be constructed before general development of the site commences so that construction traffic is safeguarded.



**Reason:** In the interests of highway safety in accordance with Policies SP6 and IP2 of the Carlisle District Local Plan 2015-2030.

12. Footways shall be provided that link continuously and conveniently to the nearest existing footway in accordance with the approved plans.

**Reason:** In the interests of highway safety in accordance with Policies SP6 and IP2 of the Carlisle District Local Plan 2015-2030.

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

**Reason:** In the interests of highway safety in accordance with Policies SP6 and IP2 of the Carlisle District Local Plan 2015-2030.

14. 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: 2012 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 shall 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 SP6 and GI6 of the Carlisle District Local Plan 2015-2030.

15. The development hereby approved shall be undertaken in strict accordance with the mitigation / compensation / enhancements measures as detailed in Section 5 of the Preliminary Ecological Appraisal compiled by Naturally Wild (reference GH-225-01 September 2022) unless otherwise agreed in writing by the local planning authority.

**Reason:** In order to ensure the protection and mitigation of wildlife in accordance with Policy GI3 of the Carlisle District Local Plan 2015-2030.

16. Prior to the occupation of each dwelling hereby permitted suitable receptacles shall be provided for the collection of waste and recycling in line with the schemes available in the council's area.

**Reason:** In accordance with Policy IP5 of the Carlisle District Local Plan 2015-2030.

17. No work associated with the construction of the development hereby

approved shall be carried out before 00730 hours on weekdays and Saturdays nor after 1800 hours on weekdays and 1300 hours on Saturdays (nor at any times on Sundays or statutory holidays).

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

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. Further guidance can be found on the Cumberland Council website "Development of Potentially Contaminated Land and Sensitive End Uses – An Essential Guide For Developers".

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

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

**Reason:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

### List of Informatives/Advisory Notes

Northern Gas Networks working with United Utilities has advised that there may be apparatus in the area that may be at risk during construction works and they require the developer to contact them directly to discuss their requirements in detail. A copy of correspondence received is available on the council's website [www.cumberland.gov.uk](http://www.cumberland.gov.uk).

The Environment Agency has advised that:

The Spital Sike Beck, to the north of the development site, is a designated statutory main river. In addition to any planning approval, the Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16

metres if tidal)

- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a planning permission

For further guidance please visit

<https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact the Environment Agency's National Customer Contact Centre on 03708 506 506.

The applicant should not assume that a permit will automatically be forthcoming should planning permission be forthcoming and advise the applicant to consult with the Environment Agency at the earliest opportunity.

The Local Highway Authority advises that:

Any works within or near the Highway must be authorised by Cumberland Council and no works shall be permitted or carried out on any part of the Highway including Verges, until in receipt of an appropriate permit (I.E Section 184 Agreement) allowing such works. Enquires should be made to Cumberland Councils Street Work's team - [streetworks.central@cumbria.gov.uk](mailto:streetworks.central@cumbria.gov.uk)

Please be advised that the Highway outside and or adjacent to the proposal must be kept clear and accessible at all times.

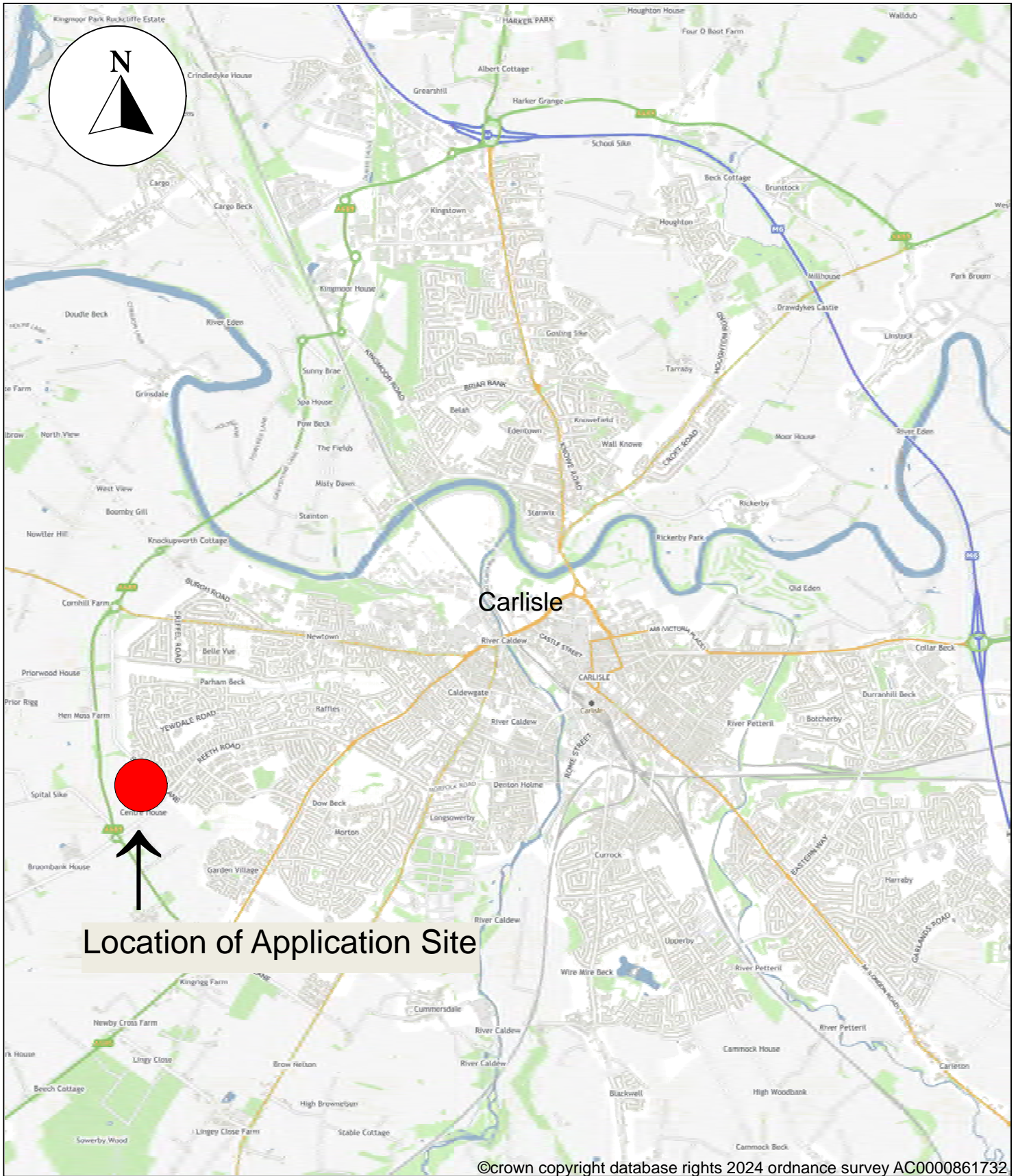
The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Many species and their habitats are protected under conservation legislation such as the Wildlife and Countryside Act 1981, The Conservation of Habitats and Species Regulations 2010, the Countryside and Rights of Way Act 2000, the Hedgerows Regulations 1997. If any protected species are found during development all work must cease immediately and the Local Planning Authority notified.

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 in accordance with the Wildlife And Countryside Act 1981.

## **Appendix 2**

Copy of the plans/drawings including red line boundary.



Location of Application Site

## 23/0148 Land to the west of junction on Orton Road & Sandsfield Lane, Carlisle

### Wider Location Plan



Thriving Place and Investment,  
 Planning,  
 Civic Centre, Rickergate, Carlisle, CA3 8QG

Scale 1 : 40,000

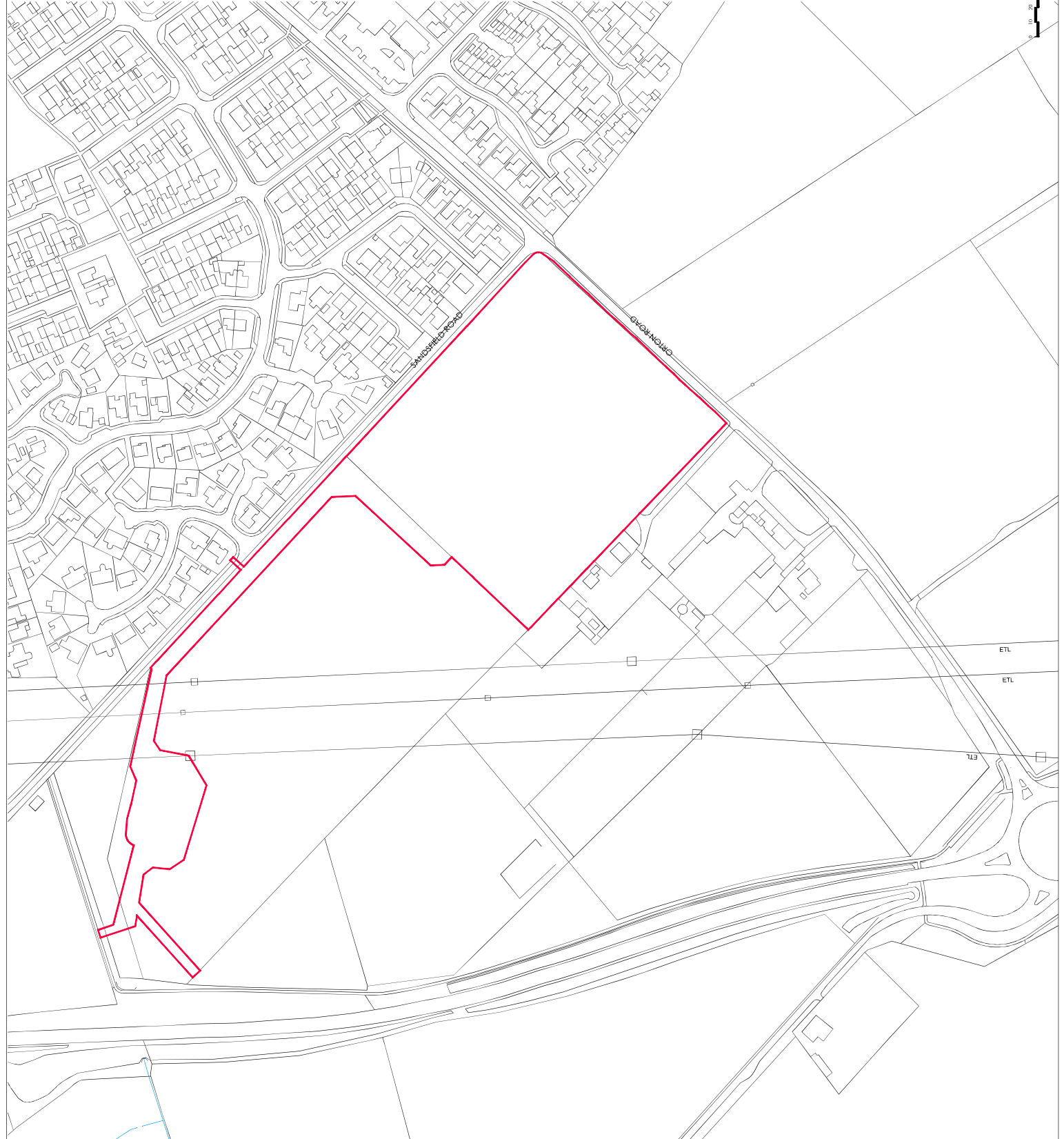
Date February 2024

NOTES

ALL DIMENSIONS AND LEVELS ARE TO BE CHECKED ON SITE  
ANY DISCREPANCIES ARE TO BE REPORTED TO THE  
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THIS DRAWING SHALL NOT BE SCALED TO ASCERTAIN ANY  
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SHOWN ON THIS DRAWING SHALL BE TAKEN AS THE FINAL  
EXPRESSION OF THE ARCHITECT'S INTENTIONS WITHOUT  
EXPRESS WRITTEN PERMISSION FROM AFL LTD.

Key

Site Boundary Redline



- P5 28/09/24 Redline revised to show updated
- P4 18/04/23 Redline revised to show updated
- D5 18/04/23 Redline revised to show updated
- P3 02/02/23 Redline following client feedback
- P2 02/02/23 Redline revised to show updated
- P1 28/01/22 Redline following client feedback
- R0 28/01/22 Redline

PROJECT  
ORTON ROAD

LOCATION  
ORTON ROAD, CARLISLE

TYPE  
GENESEE HOMES

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DATE OF ISSUE  
01/07/2024

PROJECT NAME  
ORTON ROAD, CARLISLE

DRAWING TITLE  
SITE LOCATION PLAN



DATE OF ISSUE  
01/07/2024

PROJECT NAME  
ORTON ROAD, CARLISLE

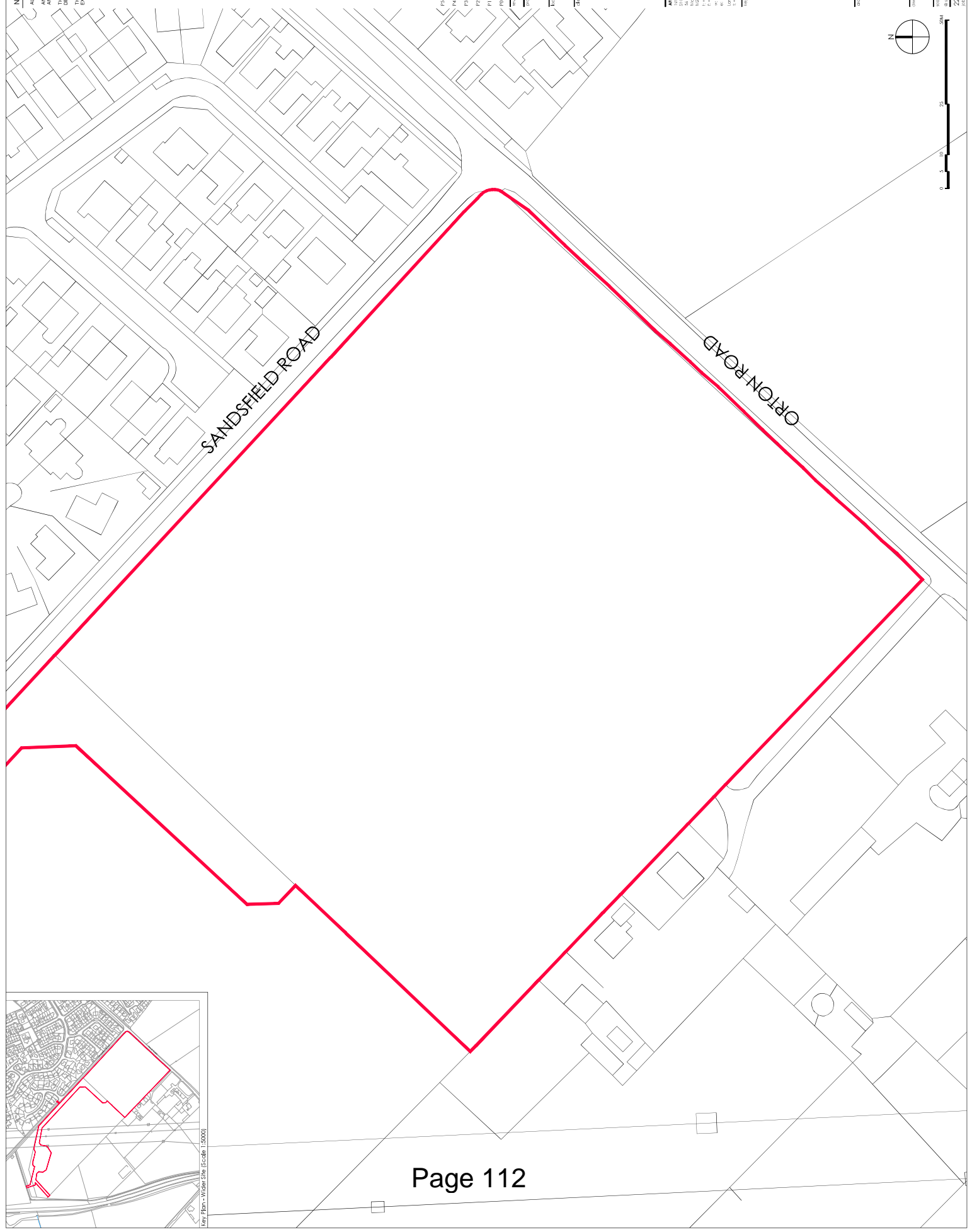
DRAWING TITLE  
SITE LOCATION PLAN

NOTES

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Key

Site boundary Redline

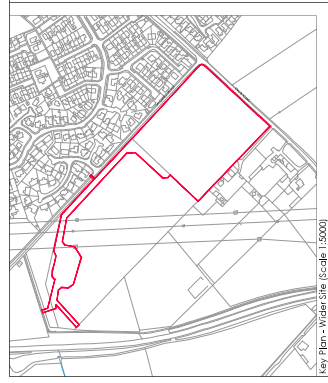
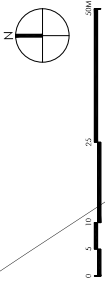


- P5 28/09/24 Redline revised to show updated
- P4 18/09/23 Redline revised to show updated
- DC 18/09/23 Redline revised to show updated
- P3 08/09/23 Redline following client feedback
- P2 08/09/23 Redline positions updated
- P1 28/08/23 Redline following client feedback
- P0 28/08/23 Redline

ORTON ROAD  
ORTON ROAD, CARBIE  
GENEVE HOMES

**AFL architects**  
 112, 114, 116, 118, 120, 122, 124, 126, 128, 130, 132, 134, 136, 138, 140, 142, 144, 146, 148, 150, 152, 154, 156, 158, 160, 162, 164, 166, 168, 170, 172, 174, 176, 178, 180, 182, 184, 186, 188, 190, 192, 194, 196, 198, 200, 202, 204, 206, 208, 210, 212, 214, 216, 218, 220, 222, 224, 226, 228, 230, 232, 234, 236, 238, 240, 242, 244, 246, 248, 250, 252, 254, 256, 258, 260, 262, 264, 266, 268, 270, 272, 274, 276, 278, 280, 282, 284, 286, 288, 290, 292, 294, 296, 298, 300, 302, 304, 306, 308, 310, 312, 314, 316, 318, 320, 322, 324, 326, 328, 330, 332, 334, 336, 338, 340, 342, 344, 346, 348, 350, 352, 354, 356, 358, 360, 362, 364, 366, 368, 370, 372, 374, 376, 378, 380, 382, 384, 386, 388, 390, 392, 394, 396, 398, 400, 402, 404, 406, 408, 410, 412, 414, 416, 418, 420, 422, 424, 426, 428, 430, 432, 434, 436, 438, 440, 442, 444, 446, 448, 450, 452, 454, 456, 458, 460, 462, 464, 466, 468, 470, 472, 474, 476, 478, 480, 482, 484, 486, 488, 490, 492, 494, 496, 498, 500, 502, 504, 506, 508, 510, 512, 514, 516, 518, 520, 522, 524, 526, 528, 530, 532, 534, 536, 538, 540, 542, 544, 546, 548, 550, 552, 554, 556, 558, 560, 562, 564, 566, 568, 570, 572, 574, 576, 578, 580, 582, 584, 586, 588, 590, 592, 594, 596, 598, 600, 602, 604, 606, 608, 610, 612, 614, 616, 618, 620, 622, 624, 626, 628, 630, 632, 634, 636, 638, 640, 642, 644, 646, 648, 650, 652, 654, 656, 658, 660, 662, 664, 666, 668, 670, 672, 674, 676, 678, 680, 682, 684, 686, 688, 690, 692, 694, 696, 698, 700, 702, 704, 706, 708, 710, 712, 714, 716, 718, 720, 722, 724, 726, 728, 730, 732, 734, 736, 738, 740, 742, 744, 746, 748, 750, 752, 754, 756, 758, 760, 762, 764, 766, 768, 770, 772, 774, 776, 778, 780, 782, 784, 786, 788, 790, 792, 794, 796, 798, 800, 802, 804, 806, 808, 810, 812, 814, 816, 818, 820, 822, 824, 826, 828, 830, 832, 834, 836, 838, 840, 842, 844, 846, 848, 850, 852, 854, 856, 858, 860, 862, 864, 866, 868, 870, 872, 874, 876, 878, 880, 882, 884, 886, 888, 890, 892, 894, 896, 898, 900, 902, 904, 906, 908, 910, 912, 914, 916, 918, 920, 922, 924, 926, 928, 930, 932, 934, 936, 938, 940, 942, 944, 946, 948, 950, 952, 954, 956, 958, 960, 962, 964, 966, 968, 970, 972, 974, 976, 978, 980, 982, 984, 986, 988, 990, 992, 994, 996, 998, 1000

ORTON ROAD, CARBIE  
SITE BLOCK PLAN  
PLANNING  
DATE: 28/08/23  
DRAWN BY: M  
CHECKED BY: M  
PROJECT NO: AFL240823011  
REF: 1000



Key Plan - Wider Site (Scale 1:5000)





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### 5.1.6 House Type Range (Genesis Homes)





## **SCHEDULE A: Applications with Strategic Significance**

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<b>Application Reference Number:</b>	<b>23/0833</b>
<b>Application Type:</b>	Full Planning Permission
<b>Application Address:</b>	Land Situated Between the Villages of Todhills and Westlinton, Carlisle, CA6 6AL
<b>Proposal:</b>	Construction & Installation Of A Battery Energy Storage Facility, With Associated Infrastructure, Access, Landscaping & Buried Cable Grid Connection Route
<b>Applicant:</b>	CSWE 4 Ltd
<b>Agent:</b>	Stephenson Halliday
<b>Valid Date:</b>	05/12/2023
<b>Case Officer:</b>	Barbara Percival

### **Cumberland Area and Carlisle Region**

**Ward/s:**  
Longtown

**Parish/s:**  
Multiple Parishes  
Westlinton  
Rockcliffe

### **Relevant Development Plan**

Carlisle District Local Plan 2015-2030

### **Reason for Determination by the Planning Committee**

This application is of strategic significance and is reported to Planning Committee as the application is for a renewable energy development which covers an area of 1 hectare or more.

### **Recommendation**

It is recommended that this application is approved with conditions.

### **1. Site and Location**

1.1 The application site consisting of 3no. fields, equating to approximately 6.4

hectares, excluding the underground grid connection cable corridor to Harker National Grid Substation. The village of Todhills is located approximately 1 kilometre to the southwest whilst Westlinton is approximately 800 metres to the northeast. The proposed battery energy storage system (BESS) would be connected to the National Grid via a buried cable to Harker Electricity Grid Substation located approximately 2.7 kilometres south of the application site.

- 1.2 The western and southern fields of the application site are delineated by mature hedgerows whilst the north-eastern field boundary is open with occasional trees; the surrounding agricultural fields are also enclosed by mature hedgerow boundaries. Pockets of mature woodlands are located to the west, northwest, south and southwest of the application site.
- 1.3 Pine Glen, the closest residential property to the application site, is located immediately adjacent to the western boundary of the application. Other residential properties are located further to the northwest and southwest of the application site adjacent to the U1072 county highway and to the southeast adjacent to the U1075 county highway. Public Footpath Number 137008 runs east to west along the southern boundary of Pine Glen and the application site.
- 1.4 The site is not subject to any statutory designations, it is not located within a conservation area and nor are there any listed buildings within or immediately adjacent to the site.

## **2. Proposal**

- 2.1 The application seeks full planning permission for the construction and installation of a circa 200MW battery energy storage system (BESS) with associated infrastructure, access, landscaping connected to the National Grid at Harker Substation by an underground cable.
- 2.2 The proposed development, primarily comprises two main equipment areas, the BESS deployment area in the north eastern field with the on-site substation area located in the north western field. The field to the south would remain largely undeveloped except by the formation of an emergency access route along its eastern boundary. The proposed facility briefly comprises of:

### BESS Deployment Area

- 162no. battery containers / units (3000mm high exc. base)
- 54no. inverters and 27no. transformers within twin skid units (2300mm high exc. base)
- 8no. back-up auxiliary transformers (600mm high exc. base)
- internal cabling



### On-Site Substation Area: Switchgear and HV Compounds

- maintenance parking
- 3no. BESS switchgear containers (3100mm high exc. base)
- BESS control building (5900mm high)
- 1no. 33/440kV transformer (12000mm high)
- harmonic filters (6000mm high exc. base)
- 1no. earthing auxiliary transformer (3000mm high exc. base)
- 1no. circuit breaker
- 4no. storage containers (2600 high exc. base)
- 3no. surge arrestors
- 3no. post insulators
- 2no. rotating centre post disconnecter C/W switch earth switch
- 1no. marshalling kiosk
- 1no. free standing earth switch
- 3no. cable sealing ends

### Other On-Site Infrastructure

- permeable internal access tracks (5000mm wide)
- infra-red CCTV cameras mounted on 4200mm high poles
- perimeter security fencing (2400mm high)
- acoustic fencing (4500mm high)
- 3 metre high by 12 metre wide screening bund with native shrub planting

### Grid Connection Cable Route

- underground cabling between the BESS and Harker National Grid Substation located approximately 2.7 kilometres to the south of the application site
- the majority of the underground grid connection cable route will run along the adopted highway; however, a small section along the access track leading to the application site may need to pass through the adjacent field

- 2.3 Landscape and biodiversity enhancements are proposed along and within the application site. This includes new mixed species hedgerow to northern BESS deployment area site boundary (maintained at 3 metre in height); proposed enhancement of existing native hedgerow along eastern, southern and western BESS area boundaries (maintained at 3 metres in height) and existing boundaries of the substation part of the site; plus, new woodland areas to the west and south of the equipment.
- 2.4 The site will be accessed via an existing vehicular access track currently serving 'Pine Glen' and surrounding agricultural fields off the U1072 county highway. Public Footpath 1137008 also partly runs along the access track. A secondary access point is proposed from the south east, which would ultimately link to the U1075 county highway, providing a separate access into the BESS deployment area in case of an emergency.

### 3. Relevant Planning History

3.1 There is no relevant planning history.

### 4. Consultations and Representations

**Rockcliffe Parish Council:** - no objections subject to effective landscaping / raised bund, noise attenuation, woodland planting / nature walk, fire safety and restoration of site following decommissioning;

**Westlinton Parish Council:** - no response received;

**Natural England:** - no response received;

**National Grid Company:** - no objection to the proposal provided the developer follows the use of National Grid Electricity Transmission (NGET) land process to agree a cable easement for the cable connection into the Harker substation site. Additionally, the developer must follow NGET guidance to ensure their proposed cable route does not interfere with any NGET assets associated with and nearby to Harker Substation (e.g. the statutory safe clearances from our overhead lines and sufficient distance from our towers from their underground cable must be maintained);

**The Ramblers:** - no response received;

**Cumberland Council - (Highway Authority - Footpaths):** - no objection to the proposed development. The method of work that's proposed is sufficient enough that no temporary closure of the path would be required;

**Environmental Health:** -

#### Noise Assessment

The noise assessment has been considered. Environmental Health have some concerns relating to the predicted noise levels. It is noted that the predicted levels are reduced with the addition of acoustic fencing, it is recommended that this mitigation measure is included in the proposal, as a minimum. The council routinely request that noise levels from large new installations do not exceed 5dB below background at the nearest noise sensitive receptor. Even with the acoustic fencing, this recommended level is exceeded at several locations during the day and at all locations during the night time hours. It is recommended that further consideration is given to further mitigate the noise impacts from the site, to protect nearby residential receptors. The assessment states that acoustic penalties were not necessary in this case. This requires further investigation, it is of particular importance in

relation to tonality and intermittency. For this reason we request that the BS4142 assessment should be revised and presented using the one-third octave method. It is noted that another similar, nearby, proposed battery storage facility carried out a BS4142 assessment using this method. The assessment concluded that it was necessary to add a tonal penalty of +4dB to the specific sound level. This would have a bearing on the outcome of this assessment, as the predicted noise impacts could be significantly higher. This would require a much more robust system of noise mitigation from the facility. The revised assessment should also consider the cumulative impact of any other nearby proposed battery storage facilities.

#### Construction noise

Consideration should be given to limit the permitted hours of work, during the construction phase, in order to protect any nearby residents from possible statutory noise nuisance, this includes vibration. Any other appropriate noise mitigation measures should be considered, for example, the use of noise attenuation barriers, the storage/unloading of aggregates away from sensitive receptors and the use of white noise reversing alarms, where possible. These measures should aim to minimise the overall noise disturbance during operation.

#### Lighting

A lighting impact assessment to prevent nuisance to nearby sensitive receptors should be provided. The proposed lighting scheme should comply with the published Carlisle locality local plan around night time skies. Only information provided indicates 6 metre columns will be erected across the site, with no further modelling.

In summary, recommends the imposition of pre-commencement conditions in respect of the submission of a full noise impact assessment; employment of an independent consultant in the event of a complaint received relating to noise nuisance; submission of a lighting impact assessment; employment of an independent noise consultant in the event of a complaint received relating to light overspill; and submission of remediation scheme in the event that contamination is found;

**Cumberland Council - (Highways & Lead Local Flood Authority):** - no objections subject to the imposition of conditions requiring the submission of a surface water drainage system; funding of transport to serve the development; and construction traffic management plan. Applicant should be aware that works within the highway would require permission under the Highway Act 1980;

**Cumbria Constabulary - Force Crime Prevention Design Advisor:** - no response received;

**Cumbria Fire & Rescue Service:** - no objections.

- 4.1 This application has been advertised by the direct notification of the occupiers of twenty-one neighbouring properties and the posting of site and press notices. No verbal or written representations have been made during the consultation period.

## **5. Planning Policy**

- 5.1 Section 70(2) of the Town and Country Planning Act 1990/Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.
- 5.2 The relevant national planning policies against which the application is required to be assessed are the National Planning Policy Framework (NPPF), the Planning Practice Guidance (PPG).

## **Development Plan**

Carlisle District Local Plan 2015-2030

- SP1. Policy SP 1 - Sustainable Development
- SP2. Policy SP 2 - Strategic Growth and Distribution
- SP6. Policy SP 6 - Securing Good Design
- IP2. Policy IP 2 - Transport and Development
- IP3. Policy IP 3 - Parking Provision
- CC3. Policy CC 3 - Energy Conservation, Efficiency and Resilience
- CC4. Policy CC 4 - Flood Risk and Development
- CC5. Policy CC 5 - Surface Water Management and Sustainable Drain
- CM4. Policy CM 4 - Planning Out Crime
- CM5. Policy CM 5 - Environmental and Amenity Protection
- GI1. Policy GI 1 - Landscapes
- GI3. Policy GI 3 - Biodiversity & Geodiversity
- GI6. Policy GI 6 - Trees and Hedgerows

## 6. Other Material Planning Considerations

- 6.1 The 'Cumbria Landscape Character Guidance and Toolkit (March 2011)' together with Carlisle City Council's Supplementary Planning Documents (SPD) 'Trees and Development (November 2009)' and 'Designing Out Crime (November 2009)' are also material planning considerations.
- 6.2 Also relevant in the determination of this application are the National Policy Statement for Energy (EN-1 July 2011) and National Policy Statement for Renewable Energy Infrastructure (EN-3 July 2011) as updated by the Department for Energy Security & Net Zero's "Overarching National Policy Statement for Energy (EN-1)" (March 2023).

## 7. Assessment

7.1 The proposal raises the following planning issues:

1. Principle of development
2. Impact of the proposal on the landscape and visual character of the area including cumulative impacts
3. Impact of the proposal on existing trees and hedges
4. Impact of the proposal on the living conditions of the occupiers of neighbouring residents
5. Impact of the proposal on ecology and nature conservation
6. Impact of the proposal on highway safety
7. Proposed method for the disposal of surface water drainage
8. Other Matters

1. Principle Of Development

7.2 Internationally, in 2005, the UK together with 37 other countries signed the Kyoto Protocol, an international agreement that aimed to reduce carbon dioxide emissions and the presence of greenhouse gases in the atmosphere. Subsequently, leading on from the from the global agreement and climate pact established at COP26, during the 27th United Nations Climate Change conference in November 2022, governments were requested to revisit and strengthen 2030 targets for mitigating climate change in their national climate plans by the end of 2023, to limit global warming to 1.5 degrees.

7.3 Nationally, The Climate Change Act (2008) set legally binding carbon budgets for the UK to reduce UK carbon dioxide emissions by 34% by 2020 and, in line with European guidelines, at least 80% by 2050. These figures were

revised on 12th June 2019 when the Government laid the draft Climate Change Act 2008 (2050 Target Amendment) Order 2019 by introducing a target for at least a 100% reduction of greenhouse gas emissions (compared to 1990 levels) in the UK by 2050. The draft order would amend the 2050 greenhouse gas emissions reduction target in the Climate Change Act from at least 80% to at least 100%, thereby, constituting a legally binding commitment to end the UK's contribution to climate change. This revision reinforcing the objectives of both the National Policy Statement for Energy (EN-1 July 2011) and National Policy Statement for Renewable Energy Infrastructure (EN-3 July 2011) setting out how the energy sector can deliver the Government's climate change objectives for low carbon energy infrastructure and the importance of renewable energy in achieving the Government's ambitious targets for renewable energy generation. More recently, The Electricity System Operator (ESO) are driving the changes needed to achieve the 2035 and 2050 targets. Future Energy Scenarios outline four different pathways for the future of the whole energy system to reach carbon zero by 2050. Recognising that electricity storage so that it can be used during later periods, when and where it is most needed, is vital to accommodate higher renewable penetration in power systems and ensure security of supply.

- 7.4 Further national legislation includes The UK Clean Growth Strategy (2017) which outlines the Government's objective of achieving clean growth, whilst ensuring an affordable energy supply for businesses and consumers. The Strategy recognises that there will be a need for a significant acceleration in the pace of decarbonisation, while ensuring a secure energy supply at minimum cost to both industry and domestic consumers. The Energy White Paper (2020) sets out the UK Government's commitment to deliver net zero by 2050. The Energy White Paper stipulates the importance of renewable energy schemes in reaching net zero by 2050 and in ending coal in the electricity mix by 2025. Specifically, in respect of the application before Members, The Energy White Paper recognises the importance of energy storage systems in achieving the goals of becoming carbon neutral. The Paper states that *"flexibility will come from new cleaner sources, such as energy storage in batteries ... by 2050, we expect low carbon options, such as clean hydrogen and long duration storage, to satisfy the need for peaking capacity and ensure security of supply at low cost"*.
- 7.5 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how these should be applied. The NPPF makes it clear that the purpose of the planning system is to contribute to the achievement of sustainable development. The three dimensions to sustainable development being: economic, social, and environmental. These dimensions give rise to the need for the planning system to perform several roles; however, should not be taken in isolation, because they are mutually dependent. Paragraph 10 outlining that: *"So that sustainable development is pursued in a positive way, at the heart of the Framework is a **presumption in favour of sustainable development** (paragraph 11)"*.

- 7.6 To meet the challenge of climate change, flooding and coastal change, paragraph 157 of the NPPF highlighting: *"the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure"*. Paragraph 163 expanding by stating that: *"when determining planning applications for renewable and low carbon development, local planning authorities should: a) not require applicants to demonstrate the overall need for renewable or low carbon energy and recognise that even small-scale projects provide a valuable contribution to significant cutting greenhouse gas emissions; b) approve the application if its impacts are (or can be made) acceptable. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas; and c) in the case of applications for the repowering and life-extension of existing renewable sites, give significant weight to the benefits of utilising an established site, and approve the proposal if its impacts are or can be made acceptable"*.
- 7.7 The Planning Practice Guidance (PPG) provides guidance to assist local councils in developing policies and identifies planning considerations. In respect of renewable and low carbon energy, the PPG recognising that: *"increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses. Planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable"*. In respect of electricity storage, the PPG goes on to highlight that: *"electricity storage can enable us to use energy more flexibly and de-carbonise our energy system cost-effectively – for example, by helping to balance the system at lower cost, maximising the usable output from intermittent low carbon generation (e.g., solar and wind), and deferring or avoiding the need for costly network upgrades and new generation capacity"*.
- 7.8 At a local level, the Carlisle District Local Plan 2015-2030 recognises the importance of protecting the natural environment whilst making the most effective use of our natural resources through renewable energy generation. Policy SP1 of the local plan promotes sustainable development whereas Policy SP2 requires that development proposals will be assessed against their ability to promote sustainable development. Outside of the specified settlements, development proposals will be assessed against the need to be in the location specified. Further policies of the local plan, Policies CC1 and CC3, relate to renewable energy development and energy conservation, efficiency, and resilience respectively.

- 7.9 The application seeks permission for the construction of a BESS which provides energy storage as opposed to renewable energy generation. As such, the policies within the local plan do not appear to be applicable to the proposed development; however, is supported by the local plan when taken as a whole.
- 7.10 Nevertheless, as highlighted above, there is as clear international and national drive to move the country from a fossil fuel-based energy network to a net zero renewable energy network, and nuclear power plants and BESS's will play an important part in reducing carbon emissions, providing energy security, and ensuring energy affordability by mitigating the frequency volatility created by a renewable energy network. Without these mitigating systems, the energy network that the country is moving towards would be subject to energy fluctuations.
- 7.11 In overall terms, the proposed development would contribute towards sustainable development, and it is a type of development that is nationally supported through EN-1, the NPPF and PPG. It is also supported by the local plan when taken as a whole. The benefits towards a net-zero carbon future must be given substantial weight, as must its contribution towards sustainable development due to it meeting the environmental role of sustainable development. The principle of development, therefore, is acceptable. The remaining issues raised by this application are discussed in the following paragraphs.

2. Impact of the proposal on the landscape and visual character of the area including cumulative impacts

- 7.12 As previously outlined, paragraph 162 of the NPPF indicates that local planning authorities should approve applications for renewable or low carbon energy if the impacts are, or can be made, acceptable. In respect of conserving and enhancing the natural environment, paragraph 180 details that: "*planning policies and decisions should contribute to and enhance the natural and local environment by: a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland; c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate; d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, considering relevant information such as river basin management plans; and f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land,*



where appropriate".

- 7.13 Paragraph 6 of the National Design Guide refers to the expectations of good design in the NPPF. Paragraphs 131 to 136 of the NPPF emphasises that the creation of high-quality buildings and places is fundamental to what the planning system and development process should achieve. The Framework has a clear expectation for high quality design which is sympathetic to local character and distinctiveness as the starting point for the design process. Paragraph 135 outlines that:

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

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

- 7.14 It is further appropriate to be mindful of the requirements in paragraph 139 of the NPPF which states:

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

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

- 7.15 At a local level, in respect of this proposal for the formation of a BESS and associated infrastructure and potential impact on the landscape and visual character of the area, Policies SP6 and GI1 are relevant. These policies

seek to ensure that development is appropriate in terms of quality to that of the surrounding area and that development proposals incorporate high standards of design including siting, scale, use of materials. Highlighting that all landscapes are valued for their intrinsic character and will be protected from excessive, harmful or inappropriate development seeking to ensure that development proposals do not have an unacceptable impact on the location, in relation to visual impact caused by the scale of development, on the character and sensitivity of the immediate and wider landscape, townscape or heritage assets and their settings.

- 7.16 As such, it is important that a distinction is drawn between i) landscape impacts that relate to the characteristics of the landscape; and ii) visual impacts on receptor points (houses, roads, rights of way etc) that relate to individual outlooks within that landscape. To assess the effect of the proposal on the character of the area, it is important to understand the quality and sensitivity of the landscape, the sensitivity of visual receptors, and the magnitude of change. These issues are separately discussed as follows:

i) Landscape

- 7.17 The application site is not subject to any national or local landscape designations. The Cumbria Landscape Character Guidance and Toolkit (CLCGT) provides a base line of information that can be used by landowners, managers, developers, communities, and planning authorities when making decisions on future land use and management and provides a strategic framework that includes visions and objectives for future landscapes and guidelines to help protect, manage, and plan changes to maintain and enhance landscape distinctiveness.
- 7.18 The application site is identified in the CLCGT as being within Sub Type 2c 'Coastal Plain'. The key characteristics of which are: *"flat and slightly undulating coastal plain; long and narrow fields in undulating areas with larger fields in flat areas; intersected by shallow rivers and watercourses; hedges form main field boundaries; scarce tree cover; predominantly pasture with some arable in drier areas; frontiers of the Roman Empire - Hadrian's Wall World Heritage Site is a significant archaeological feature in the Solway; historic field pattern strongly linked to settlements"*.
- 7.19 The toolkit identifies that *"telecommunications masts and pylons provide prominent and contrasting vertical features in some of the areas."* With regards to development, it continues *"minimise the impact of major developments such as large-scale wind energy, roads, pylons, masts and infrastructure linked to offshore developments by careful siting to maximise screening from public view and high standards of design and landscape treatment. Open and exposed sites and those that affect key views should be avoided, especially where development would become the dominant feature; reduce the impact of new farm buildings by careful siting, breaking down mass, choice of sympathetic colours and non-reflective finishes and screen planting; encourage horse grazing and equestrian uses to respect field boundaries and field patterns. Stables and other facilities should be sited*

*sensitively with appropriate landscape mitigation to prevent the erosion of the pastoral farmland character”.*

- 7.20 The site occupies 6.4 hectares (excluding the buried connection cable) over three rectangular agricultural fields approximately 800 metres south-west of the village of Westlinton. The western and southern fields of the application site are enclosed by mature hedgerows; however, the north-eastern field boundary is open with occasional trees; the surrounding agricultural fields are also delineated by mature hedgerow boundaries. There is a single residential property, Pine Glen, directly adjacent to the western boundary of the application site. The U1072 county highway is located approximately 320 metres west of the site with the U1075 county highway located 290 metres to the east of the application suite. Public Footpath 137008 (PRoW) runs east to west along the southern boundary of the site.
- 7.21 The primary change in landscape character would arise from a localised change in land cover from agricultural fields to BESS infrastructure and an on-site substation compound. In respect of impact on the landscape character of the area, whilst the proposals will inevitably give rise to some landscape change, it would be a highly localised development. In mitigation, the existing field boundaries would be retained and reinforced as part of the proposals together with the formation of a 3 metre high planted bund. Further areas of native woodland tree blocks with woodland edge scrub planting would also be introduced to help screen the proposed development and integrate it with the surrounding landscape with the effects being reversible following the decommissioning of the BESS.
- 7.22 The proposed BESS would have a utilitarian appearance as this type of development is designed for a functional purpose rather than delivering aesthetically pleasing development; however, following the establishment of mitigation planting the proposal will not give rise to any significant adverse effects in terms of landscape character, nor would it result in significant harm in terms of its impact on the wider landscape character.

ii) Visual Impact

- 7.23 With regard to visual impact it is important to make a distinction between something that is visible as opposed to being prominent and oppressive. Right to a view is not a material planning consideration and the focus of the planning system is to regulate the use and development of land in the public interest.
- 7.24 The application is accompanied by a Landscape and Visual Appraisal (LVA) which contains a detailed appraisal of the surrounding study area undertaken in accordance with published best practice guidance namely the Guidelines for Landscape and Visual Impact Assessment (Third Edition), Landscape Institute and IEMA 2013 (GLVIA3) and associated technical guidance notes. The LVA outlines that the data subsequently informed the on-site field analysis to identify key viewpoints, analyse the landscape character and visual environment of the local area, and determine the extent and

significance of any potential landscape and visual effects.

- 7.25 A total of eight viewpoints have been selected from representative viewpoint locations to inform the assessment of landscape and visual effects arising because of the proposed development. The LVA detailing that: *"the visual receptor groups include different categories of receptors including local residents, users of PRow and local road users. Existing views within the study area towards the site are generally views across a well-maintained agricultural landscape in good condition. The landscape however includes commonplace elements and lacks distinctiveness. Tall manmade vertical elements, including steel pylons and wind turbines, and the busy M6 and A7 highways are detrimental factors impacting visual amenity"*.
- 7.26 The LVA concluding that from visual receptor groups (residential properties / villages) that: *"once the proposed planting around the periphery of the site and the proposed woodland blocks have matured, in the medium to long term, screening and backclothing of the proposed development would be increased. This would also help integrate the site into the wider landscape. However, the scale of change in the view would remain as Small/Negligible over a Limited extent. The magnitude of change would remain as Slight/Negligible over the long term and the visual effects would be Minor to Minor/Negligible adverse"*. In respect of key routes (PRow 1370080) that: *"once the proposed mitigation planting measures have matured, in the medium to long term, there would be further screening of the development, particularly from the eastern section of the PRow; and the western end of the PRow; where woodland would now be prominent in views. The scale of change in the view would reduce to Medium over a Localised extent. In the Long term there would be a Moderate magnitude of change and Moderate adverse visual effects"*.

iii) Cumulative Impact

- 7.27 In addressing the 'Cumulative Effects', the accompanying LVA states:
- "In October 2023 a planning application for a BESS development at Blackford, Carlisle was consented by the local planning authority. The northern boundary of the Blackford site is approximately 1.46km south south-east of the Harker site and overlaps the study area boundary. There are three intervening woodland blocks between the sites, and the Harker BESS indicates that there is limited intervisibility between the sites, with only the potential for heavily filtered views of the substation infrastructure visible from the northern boundary of the Blackford site and no possible views of the BESS units; this is before considering the proposed mitigation planting within both proposals. It is considered unlikely that both developments would be visible simultaneously (excluding very long-distance views from high ground) and any cumulative effects on landscape character and/ or visual amenity would not be greater than minor/negligible adverse"*.
- 7.28 The LVA concludes that: *"in addition, there are electricity infrastructure developments outside the southern boundary of the study area including an*

*application to extend Harker Substation and an application for an Energy Storage System to the north of Harker Moss. In addition to being outside the study area, both these applications include landscape proposals for tree and hedgerow planting to the north of the schemes. As a result, it is extremely unlikely there are any locations from which the proposed development and either of these schemes would be visible concurrently, excluding very long-distance views from high ground. From here the impact on the viewer would be negligible or very rare, glimpsed views where at least one scheme would be heavily screened by intervening landform, vegetation and/or built form. There could, however, be sequential views for users of local roads but there would not be large-scale adverse impact on road users".*

- 7.29 As highlighted earlier in the report, the proposed BESS would have a utilitarian appearance as this type of development is designed for a functional purpose rather than delivering aesthetically pleasing development. Large scale, adverse effects would be limited to the site itself and the immediate vicinity, where there would be a fundamental change in character from agricultural fields to a BESS development. Over-time this would be significantly reduced through proposed and reinforced landscaping and the formation of a planted bund.
- 7.30 The relatively low-level development of the BESS on land with limited public viewpoints together with existing and reinforced landscaping would mitigate for any wider visual impact on the character of the area and help to settle the BESS within the wider landscape. Furthermore, there are electricity transmission lines within the vicinity with the closest located approximately 600 metres south-east of the site with others to the west and north-west of the application site. The transmission lines connect to Harker Substation to the south of the site, and due to the flat local landscape are often prominent vertical features within the landscape character of the area.
- 7.31 The submitted Landscape Mitigation Plan (Drawing No. 1000 Rev. 02) illustrates the formation of a 3 metre high by 12 metre high bund with planting to the west of the on-site substation area together with additional areas of new landscaping and reinforced landscaping. The Arboricultural Assessment also details measures to be taken to protect the existing trees and hedges. Nevertheless, should Members resolve to approve the application, a condition is recommended requiring the submission of a landscaping scheme to be submitted and agreed that would, over time, adequately landscape and partially screen the development from the immediate and wider landscape. A further condition is also recommended requiring the applicant to agree a colour for the exterior of the proposed structures with the local planning authority.
- 7.32 In overall terms, subject to compliance with the recommended conditions and acknowledging that the development is function led and designed to meet a certain functional requirement, the cumulative impact of the development would not demonstrably harm the character or appearance of the area.
- 7.33 On balance, the development would not result in a significant impact on any

designated landscape and there would be no detrimental landscape or visual impact arising from the development.

### 3. Impact Of The Proposal On Existing Trees and Hedges .

- 7.34 Paragraph 136 of the NPPF outlines that; *“trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly planted trees, and that existing trees are retained wherever possible ... “.*
- 7.35 Policy GI6 of the local plan seek to ensure that proposals for new development should provide for the protection and integration of existing trees and hedges. In respect of new development, the City Council will resist proposals which cause unacceptable tree loss, and which do not allow for the successful integration of existing trees and hedges. This aim is further reiterated in Policy SP6 of the local plan which requires all developments to consider important landscape features and ensure the enhancement and retention of existing landscaping.
- 7.36 The City Council's SPD 'Trees and Development' outlines that native large growing species are intrinsic elements in the landscape character of both rural and urban areas alike and acquire increasing environmental value as they mature. Large trees need space in which to grow to maturity without the need for repeated human intervention. Not only should the design of the development seek to retain existing tree and hedgerow features, but sufficient space should be allocated within the schemes to ensure integration of existing features and space for new planting it is important that these issues are considered at the very start of the planning process.
- 7.37 The application was supported by an Arboricultural Survey Report, the scope of which was to an assessment of any impact of the proposal to the tree cover. The survey focused on any trees present within or bordering the site that may potentially be affected by the future proposals or will pose a constraint to any proposed development. The application was also accompanied by a Landscape Mitigation Plan (Drawing No. 1000 Rev. 02) which illustrates the retention and reinforcement of the existing landscaping, the formation of a planted 3 metre high by 12 metre wide planted bund together with blocks of native trees planting to the west of the substation compound and the south of the BESS compound. Should Members resolve to approve the application, pre-commencement conditions are recommended requiring the submission of a drawing illustrating the type and position of the root protection barriers around the retained trees and hedgerows with the submission of a Landscape and Environmental Management Plan ensuring further details in respect of enhancement / maintenance of landscaping.

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

- 7.38 The NPPF emphasises that the creation of high-quality buildings and places is fundamental to what the planning system and development process should achieve. The Framework has a clear expectation for high quality design which is sympathetic to local character and distinctiveness as the starting point for the design process.
- 7.39 Moreover, Policies SP6 and CM5 of the local plan requires that proposals ensure that there is no adverse effect on residential amenity or result in unacceptable conditions for future users and occupiers of the development and that development should not be inappropriate in scale or visually intrusive.
- 7.40 The nearest residential property to the application site is Pine Glen which immediately adjoins the application sites western boundary. There are also other residential properties to the west and east of the application site adjacent to the U1072 and U1075 county highways respectively. In respect of Pine Glen, the proposed development would be sited sufficiently far from the residential property with intervening landscaping and a planted earth bund to not cause material harm to residential amenity because of it being overbearing or through loss of light.
- 7.41 The application was accompanied by a Noise Assessment. The report summaries that:

*"an assessment of potential noise impact associated with the proposed development has been made following the guidance presented within BS 4142. Following an initial estimate of noise impact, along with consideration of the context and any potential effects of uncertainty, the development is unlikely to result in any 'adverse' or 'significant adverse' impacts.*

*In addition to the embedded noise mitigation measures outlined in section 6.1 – 6.2 of this report, the use of acoustic fencing has been considered to further minimise noise emissions from the proposed scheme and reduce the likelihood of any potential adverse impacts. Following the inclusion of the proposed acoustic screening along with the complementary landscaping and planting, the proposed scheme is expected to have a 'low impact' in accordance with BS 4142.*

*In relation to the noise exposure hierarchy outlined in PPG-Noise which supports the NPPF and NPSE, it is suggested that potential noise at the most affected noise-sensitive premises is likely to be below the 'Lowest Observed Adverse Effect Level' where noise will have little adverse effect as the exposure is unlikely to cause any change in behaviour, attitude or other physiological responses of those affected by it.*

*As a result, the proposed development is considered to be consistent with the aims of the NPSE and NPPF which seek to mitigate and minimise potential*

*adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life.*

*At a local level the proposed development also accords with policy CM 5 of the Carlisle District Local Plan which seeks to avoid development that would generate unacceptable levels of noise which cannot be satisfactorily mitigated.*

*The overall noise impact of the development is therefore considered to be in line with current national and local planning policy which seeks to prevent and avoid any significant or unacceptable adverse impacts and, where necessary, mitigate and reduce to a minimum other adverse impacts".*

7.42 The council's Environmental Health Officer has been consulted and has raised issues in terms of:

- routinely request that noise levels from large new installations do not exceed 5dB below background at the nearest noise sensitive receptor. Even with the acoustic fencing, this recommended level is exceeded at several locations during the day and at all locations during the nighttime hours. It is recommended that further consideration is given to further mitigate the noise impacts from the site, to protect nearby residential receptors.
- The noise assessment states that acoustic penalties were not necessary in this case. This requires further investigation; it is of particular importance in relation to tonality and intermittence. For this reason, request that the BS4142 assessment should be revised and presented using the one-third octave method.
- a revised assessment should also consider the cumulative impact of any other nearby proposed battery storage facilities.
- permitted hours of work, during the construction phase, to protect any nearby residents from possible statutory noise nuisance, this includes vibration should be imposed. Any other appropriate noise mitigation measures should be considered, for example, the use of noise attenuation barriers, the storage/unloading of aggregates away from sensitive receptors and the use of white noise reversing alarms, where possible. These measures should aim to minimise the overall noise disturbance during operation.
- A lighting impact assessment to prevent nuisance to nearby sensitive receptors should be provided.

7.43 In order to ensure that the proposal does not give rise to unacceptable noise and light spillage arising from development, the council's Environmental Health Officer has recommended the imposition of pre-commencement conditions requiring the submission of a full noise impact assessment, submission of a lighting impact assessment and a construction environmental management plan. Further conditions details the measures to be employed in the event of the receipt of a noise nuisance or light nuisance complaint and the submission of remediation scheme in the event that contamination is found.



## 5. Impact Of The Proposal On Ecology and Nature Conservation

- 7.44 When considering whether the proposal safeguards the biodiversity and ecology of the area it is recognised that Local Planning Authorities must have regard to the requirements of the EC Habitats Directive (92/43/EEC) when determining a planning application as prescribed by regulation 3 (4) of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), and Article 16 of the Habitats Directive before planning permission is granted. Article 16 of the Directive indicates that if there is reasonable likelihood of a European protected species being present then derogation may be sought when there is no satisfactory alternative, and that the proposal will not harm the favourable conservation of the protected species and their habitat. In this case, the proposal relates to the siting of a solar array and associated infrastructure within agricultural land.
- 7.45 The application was also accompanied by a series of ecological and biodiversity reports including an Ecological Impact Assessment (EIA) and a Biodiversity Impact Assessment (BIA). The EIA outlines that the key objectives of the EIA are to: *"gain an understanding of the baseline ecology of the site and immediate surrounding area; determine whether the site supports or has the potential to support protected species; identify any likely ecological constraints and use this to inform the development design process; assess the likely significant impacts of the proposals on the Important Ecological Features; identify mitigation measures likely to be required; identify the opportunities offered by the potential project to deliver ecological enhancement"*.
- 7.46 The EIA identifies the following Important Ecological Features which could be affected by the proposals or warrant consideration due to the legal protection afforded to them:
- Solway Firth SPA / SAC / RAMSAR / SSSI
  - River Eden SAC / SSSI
  - Rockcliffe Moss CWS & Special Roadside Verges at Rockcliffe Moss (SRV)
  - Breeding and Wintering Bird Assemblage
  - Great Crested Newts
  - Badger
  - Roosting and Generalist Bat Species
  - Red squirrel
  - Hare
  - Hedgehogs
- 7.47 The EIA concludes that no impacts are expected on any designated site within the specified zone of influence. The proposals will result in the loss of improved grassland and arable land which is of low ecological value and a small amount of hedgerow (approximately 10 metres to facilitate internal access. Habitats were identified that had the potential to support important bird assemblages in association with Solway Firth SPA, great crested newts,

breeding birds, hedgehog, hare, generalist, and roosting bat species. Given the proposed layout and results of the ecology assessments undertaken it is considered that there are no statutory constraints with regards to these species / species groups. The construction phase impacts on retained features, nesting birds and hedgehog could be minimised through careful control of construction activities through an industry best practice Construction Environmental Management Plan (CEMP). All other predicted effects on more valuable onsite habitats such as boundary trees and hedgerows, which are largely retained within the scheme, will be minimised. This will also reduce the impacts on species that may utilise these habitats, such as foraging and commuting bats and nesting birds. The EIA and BIA includes a series of biodiversity compensation / enhancements which would maximise the biodiversity value of the site.

- 7.48 Should Members resolve to approve the application, conditions are recommended that would include the submission of a CEMP and that the development is undertaken in strict accordance with the compensation / enhancement's measures outlined in the EIA and BIA.

## 6. Impact Of The Proposal On Highway Safety

- 7.49 Paragraph 108 of the NPPF outlines that transport issues should be considered from the earliest stages of plan-making and the development proposals so that the potential impacts of developments on transport networks can be addressed. Paragraph 1115 expanding by stating that: *"development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe"*. These aims are reiterated in Policies SP6, IP2 and IP3 of the local plan which also seeks to ensure that all new development is assessed against its impact on the transport network and that well designed, safe, and appropriate parking provision is provided.
- 7.50 The application was supported by a Transport Statement which contains details of how the traffic (both on and off site) during the construction period will be managed. The Transport Statement outlining that: *"the primary access to the site, which will be used throughout the construction phase of the BESS, will be via the unnamed track that begins adjacent to the property 'Arndore' then runs past the property 'Pine Glen'. Vehicle movements along the access track from the adopted highway will be controlled by the use of Banksmen. Priority will always be given to vehicles arriving at the site with those exiting being held back to ensure that HGVs do not have to wait on the adopted highway"*.
- 7.51 The Highway Authority has been consulted on the proposal and raises no objections to the proposal subject to the imposition of conditions and an informative. The recommended pre-commencement conditions require the submission of further details in respect of funding of a mini-bus service for construction operatives, and a construction traffic management plan. The informative would require the developer to obtain the relevant permissions

from the local highway authority for works within the highway. In such a context and subject to compliance with the relevant conditions, the proposal will not have a detrimental impact on highway safety.

## 7. Proposed Method for the Disposal Of Surface Water Drainage

7.52 Paragraph 173 of the NPPF outlines that when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. In respect of surface water drainage, the PPG detailing a hierarchy of drainage options which aims to discharge surface water run off as high up the hierarchy of drainage options as reasonably practicable (paragraph 080 Reference ID: 7-080-20150323 of PPG). These being:

- into the ground (infiltration)
- to a surface water body
- to a surface water sewer, highway drain, or other drainage system
- to a combined sewer

7.53 The aims of the NPPF and PPG are reiterated within policies of the local plan to ensure adequate provision for the disposal of foul and surface water facilities is achievable prior to commencement of any development. Policy CC5 of the local plan prioritising the use of sustainable surface water drainage systems through the hierarchy of drainage options detailed in the PPG based on evidence of an assessment of site conditions.

7.54 The Lead Local Flood Authority (LLFA) has been consulted on the proposal and has advised that the submitted drainage information provided does not illustrate sufficient details and recommend the imposition of a condition requiring full details of the surface water drainage system. Subject to compliance with the recommended condition and subsequently discharged through the submission of an appropriate scheme, which would be subject to consultation with the LLFA, the scheme would be acceptable in terms of the drainage issues.

## 8. Other Matters

7.55 As highlighted earlier in the report, the Planning Practice Guidance (PPG) provides guidance to assist local councils in developing policies and identifies planning considerations. In respect of renewable and low carbon energy, the PPG recognising that: *"increasing the amount of energy from renewable and low carbon technologies will help to make sure the UK has a secure energy supply, reduce greenhouse gas emissions to slow down climate change and stimulate investment in new jobs and businesses. Planning has an important role in the delivery of new renewable and low carbon energy infrastructure in locations where the local environmental impact is acceptable"*. In respect of electricity storage, the PPG goes on to highlight that: *"electricity storage can enable us to use energy more flexibly and de-carbonise our energy system cost-effectively – for example, by helping to balance the system at lower cost, maximising the usable output from intermittent low carbon generation (e.g., solar and wind), and deferring or avoiding the need for costly network*

*upgrades and new generation capacity".*

- 7.56 The PPG outlining (paragraph 035 Reference ID: 5-035-20230814) that: *"when planning applications for the development of battery energy storage systems of 1 MWh or over, and excluding where battery energy storage systems are associated with a residential dwelling, are submitted to a local planning authority, the local planning authority are encouraged to consult with their local fire and rescue service as part of the formal period of public consultation prior to deciding the planning application. This is to ensure that the fire and rescue service are given the opportunity to provide their views on the application to identify the potential mitigations which could be put in place in the event of an incident, and so these views can be taken into account when determining the application. Local planning authorities are also encouraged to consider guidance produced by the National Fire Chiefs Council when determining the application".*
- 7.57 The National Fire Chiefs Council document 'Grid Scale Battery Energy Storage System planning – Guidance for FRS' encourages engagement in the planning process. It then provides advice and guidance in respect of system design and construction; testing; design; detection and monitoring; suppression systems; deflagration prevention and venting; site access; access between BESS units and units spacing; distance from BESS units to occupied buildings and site boundaries; site conditions; water supplies; signage; emergency plans; environmental impacts; and recovery.
- 7.58 Cumbria Fire and Rescue Services has been consulted and their consultation response advises that no objection is made against the application.
- 7.59 Whilst there may be a potential for a fire safety risk to occur, this can be mitigated through a planning condition that requires the developer to agree a Battery Safety Management Plan (BSMP) with the local planning authority prior to works commencing. The BSMP would need to include safety measures and risk mitigation and it shall cover the construction, operational and decommissioning phases of the development.
- 7.60 Subject to 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) outlines that every planning permission granted should be subject to a condition that the development to which it relates must be begun not later than the expiration of a set period of time beginning with the date on which the permission is granted. The time period is usually 3 years; however, Section 91(b) permits such other period (whether longer or shorter) beginning with that date as the authority concerned with the terms of planning permission may direct.
- 7.61 In this instance, should Members resolve to approve the application a period of 5 years from the date of approval is sought. The justification provided by the Agent detailing that: *"there is a request for 5-year consent period to address the requirements of delivering the project. The current grid*

*connection date is 2031, to ensure development can be commenced and energised, a 5-year consent period is required. Both the land lease and planning term are both 40 years, if the 3-year consent period is applicable, with the current connection date this would reduce the operational period by 4 years. Increasing it to 5-years ensures the grid opportunity can be maximised. The 5-year period is in the interest of sustainable development and would meet the condition tests".*

- 7.62 In light of the justification it is considered reasonable to recommend that the period for commencement of development be permitted for 5 years from the date of approval.

## **8. Planning Balance and Conclusion**

- 8.1 National and local planning policy supports the development of renewable energy resources where impacts are or can be made acceptable and the government has recognised the need to not only harness the energy from renewable sources but also to ensure that the power can maintain a secure network of power supply through flexible energy storage. The proposed development would contribute towards sustainable development, and it is a type of development that is nationally supported through EN-1, the NPPF and PPG. It is also supported by the local plan when taken as a whole. The benefits towards a net-zero carbon future must be given substantial weight, as must its contribution towards sustainable development due to it meeting the environmental role of sustainable development. The principle of development is therefore acceptable.
- 8.2 There would be some localised change to the landscape; however, any adverse effects would be limited to the site itself and the immediate vicinity, where there would be a fundamental change in character from agricultural fields to a BESS development. The relatively low-level development of the BESS on land with limited public viewpoints together with existing and reinforced landscaping together with the formation of a planted earth bund would mitigate for any wider visual impact on the character of the area and over time would help to settle the BESS within the wider landscape.
- 8.3 The attachment of conditions ensuring that appropriate measures are put in place to reduce noise levels and light spillage emanating from the site, the impact on neighbouring residential amenity would not be materially harmful either.
- 8.4 Conditions are recommended to ensure that the proposal would not have a detrimental impact on biodiversity and would also secure ecological enhancements in line with the NPPF. Furthermore, the imposition of other recommended conditions would mitigate against any potential negative impact on highway safety and surface water drainage.

- 8.5 The potential of fire risk and the potential safety implications of this have been given due consideration. The relevant consultees have been consulted in relation to this matter and no objections have been raised to the proposal. However, some form of safety management plan for the site is required and with this in mind, a condition requiring a Battery Safety Management Plan to be agreed with the local planning authority and other relevant parties should be attached to the permission to ensure that the potential safety issues are mitigated against.
- 8.6 In overall terms, the proposal is considered to be compliant under the provisions of the NPPF and the objectives of the relevant local plan policies. For the reasons set out above, having regard to all the matters raised, it is therefore recommended that planning permission is granted subject to conditions.

## **Recommendation**

It is recommended that this application is approved with conditions.

## **Appendix 1**

### **List of Conditions and Reasons**

#### Grant Permission

1. The development shall be begun not later than the expiration of 5 years beginning with the date of the grant of this permission.  
  
**Reason:** In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:
  1. the Planning Application Form received 5th December 2023;
  2. the Planning , Design and Access Statement received 4th December 2023;
  3. the 2no. Notice under Article 13 of the T&CP (DMP)(England) Order 2015 received 4th December 2023;
  4. the Press Notice published 21st November 2023;
  5. the Statement of Community Involvement received 4th December 2023;
  6. the Flood Risk and Drainage Strategy received 4th December 2023;
  7. the Aerosol Based Fire Suppression System received 4th December 2023;
  8. the Agricultural Land Classification Report received 4th December 2023;

9. the Transport Statement received 4th December 2023;
10. the Landscape and Visual Appraisal received 4th December 2023;
11. the Arboricultural Assessment received 4th December 2023;
12. the Noise Assessment received 4th December 2023;
13. the Ecological Impact Assessment received 4th December 2023;
14. the Biodiversity Impact Assessment received 4th December 2023;
15. the Historic Environment Assessment received 4th December 2023;
16. the site location plan Figure 1 received 4th December 2023;
17. the site location plan Figure 1a (Inset 1) received 4th December 2023;
18. the site location plan Figure 1b (Inset 2) received 4th December 2023;
19. the site location plan Figure 1c (Inset 3) received 4th December 2023;
20. the site location plan Figure 1d (Inset 4) received 4th December 2023;
21. the site location plan Figure 1e (Inset 5) received 4th December 2023;
22. the cable route received 4th December 2023 (Drawing No. WIN-BES-04-DR-01-05-01 Rev. 04);
23. the BESS design received 4th December 2023 (Drawing No. WIN-BES-04-DR-03-01-01 Rev. 12);
24. the BESS design received 4th December 2023 (Drawing No. WIN-BES-04-DR-03-02-01 Rev. 03);
25. the BESS design received 4th December 2023 (Drawing No. WIN-BES-04-DR-03-02-02 Rev. 03);
26. the BESS design received 4th December 2023 (Drawing No. WIN-BES-04-DR-03-02-03 Rev. 03);
27. the substation layout - 22/400kV - 200MW received 4th December 2023 (Drawing No. SUB-01 Rev 05);
28. the substation layout - Elevations 1 received 4th December 2023 (Drawing No. SUB-02 Rev. 03);
29. the substation layout - Elevations 2 received 4th December 2023 (Drawing No. SUB-03 Rev. 03);
30. the substation layout - Elevations 3 received 4th December 2023 (Drawing No. SUB-04 Rev. 04);
31. the indicative BESS detail received 4th December 2023 (Drawing No. A1-3);
32. the indicative BESS detail received 4th December 2023 (Drawing No. A1-4);
33. the typical Spare Parts Container received 4th December 2023 (Drawing No. SPAREPARTS-01);
34. the MV Twin Skid Compact Gen3+ HEMK Gen2 received 4th December 2023;
35. the Manufacturers Specification for Jesiva Transformers received 4th December 2023;
36. the Notice of Decision;
37. any such variation as may subsequently be approved in writing by the local planning authority.

**Reason:** To define the permission.

3. Prior to the commencement of development hereby approved, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The CEMP shall

include and address the following matters (where appropriate):

- provision of appropriate protective barriers/ boundary hoarding and lighting;
- dust management and details of the proposed means of dust suppression;
- details of deliveries times to the site during the construction phase;
- noise management measures;
- programme of works (including measures for traffic management and operating hours);
- loading and unloading of plant and materials;
- piling techniques;
- location and nature of compounds and storage areas (including maximum storage heights) and factors to prevent wind-whipping
- waste storage and removal and litter management;
- temporary buildings and boundary treatments;
- details of checks of vehicles and other plant for leaks;
- static plant to be placed on drip trays;
- preparation of cement and other construction materials;
- waste minimisation and management measures;
- bio-security measures to prevent the introduction of disease and invasive species;
- measures to prevent pollution including the management of site drainage such as the use of silt traps during construction;
- the checking and testing of imported fill material where required to ensure suitability for use and prevent the spread of invasive species;
- noise and vibration management (to include arrangements for monitoring, and specifically for any concrete breaking and any piling);
- there shall be no burning of materials on the site;
- any external lighting associated with the development during any ground works / construction for the purposes of security and site safety shall prevent upward and outward light radiation;
- protocols for contact and consultation with local people and other matters to be agreed with the local planning authority;
- vibration management.

The agreed scheme shall be implemented upon commencement of development and shall not be varied without prior written agreement of the local planning authority.

**Reason:** To avoid hazard and obstruction being caused to users of the public highway, in the interest of public safety and to protect biodiversity and wildlife in accordance with Policies SP6, IP3, CM5, GI3 and GI6 of the Carlisle District Local Plan 2015-2030.

4. Prior to commencement of development a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the local planning authority. The CTMP shall include details of:

- pre-construction road condition established by a detailed survey for



accommodation works within the highways boundary conducted with a local highway authority representative; with all post repairs carried out to the satisfaction of the local highway authority at the applicants expense;

- details of proposed crossings of the highway verge;
- retained areas for vehicle parking, maneuvering, loading and unloading for their specific purpose during the development;
- cleaning of site entrances and the adjacent public highway;
- details of proposed wheel washing facilities;
- the sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials on the highway;
- construction vehicle routing;
- the management of junctions to and crossings of the public highway and other public rights of way/footway;
- details and management of any proposed access points (vehicular / pedestrian);
- surface water management details during the construction phase.

**Reason:** To ensure the undertaking of the development does not adversely impact upon the fabric or operation of the local highway network and in the interests of highway and pedestrian safety in accordance with Policies SP6 and IP2 of the Carlisle District Local Plan 2015-20230.

5. Prior to commencement of development details of a scheme of workforce commute for construction operatives for the development shall be submitted to the local planning authority, thereafter, the scheme of workforce commute shall be retained for the duration of the construction period.

**Reason:** In the interests of highway safety, accessibility by sustainable transport modes and to minimise potential hazards in accordance with Policies SP6 and IP2 of the Carlisle District Local Plan 2015-2030.

6. Notwithstanding the submitted details, full details of the surface water drainage system (incorporating SUDs features as far as practicable) and a maintenance schedule (identifying the responsible parties) shall be submitted to the local planning authority for approval prior to development being commenced. Any approved works shall be implemented prior to the development being completed and shall be maintained thereafter in accordance with the schedule.

**Reason:** To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution. To ensure the surface water system continues to function as designed and that flood risk is not increased within the site or elsewhere in accordance with Policies CC4 and CC5 of the Carlisle District Local Plan 2015-2030.

7. Notwithstanding the submitted details, prior to commencement of development hereby approved, a landscaping scheme shall be submitted to

and approved in writing by the local planning authority. The scheme shall include details of the following where relevant (this list is not exhaustive):

- new areas of trees and hedges to be planted including planting densities;
- new groups and individual specimen trees and hedges to be planted;
- specification/age/heights of trees and hedges to be planted;
- existing trees and hedges to be retained or removed;
- any tree surgery/management works proposed in relation to retained trees and hedges;
- any remodelling of ground to facilitate the planting;
- timing of the landscaping in terms of the phasing of the development;
- protection, maintenance and aftercare measures.

The landscaping scheme shall then be implemented in strict accordance with the approved details and completed prior to the development being commissioned.

**Reason:** To ensure that a satisfactory landscaping scheme is implemented, in the interests of public and environmental amenity, in accordance with Policies SP6, GI3 and GI6 of the Carlisle District Local Plan 2015-2030.

8. Notwithstanding the submitted details, prior to the commencement of development, details of the height of the bund, including cross-sections through the site and proposed landscaping including height and species shall be submitted to and agreed in writing by the local planning authority. The development shall then be constructed in strict accordance with the approved details and completed prior to the development being commissioned.

**Reason:** To ensure an appropriate form of development and landscaping in accordance with Policy SP6, GI3 and GI6 of the Carlisle District Local Plan 2015-2030.

9. Prior to the commencement of the development hereby permitted, a detailed Battery Safety Management Plan (BSMP) shall be submitted to, and approved in writing by, the local planning authority. The BSMP shall include safety measures and risk mitigation and it shall cover the construction, operational and decommissioning phases of the development. Thereafter the batteries shall be installed and maintained for the duration of the permission in accordance with the approved BSMP.

**Reason:** In the interests of safeguarding the water environment and preventing a pollution incident or danger to the adjacent electricity substation.

10. Prior to commencement of development, an assessment on the potential for noise from the development affecting residential properties in the area shall be submitted to and been approved in writing by the local planning authority. The Noise Impact Assessment (NIA) shall be carried out by a suitably

qualified acoustic consultant/ engineer in accordance with British Standard BS4142 assessment and should be presented using the one-third octave method. The NIA should cover all stages of BS4142 and provide explanation of each step. The assessment should detail predicted noise impacts at several of the nearest sensitive receptors, details of the mitigation measures used to reduce sound emissions from the site and propose additional mitigation where necessary.

The approved scheme shall be implemented prior to the commencement of the use and be permanently maintained thereafter.

**Reason:** In order that noise levels may be agreed prior to the commencement of works on site to minimise the potential for noise and disturbance both through the construction phase and the future operation of the development in accordance the Policy CM5 of the Carlisle District Local Plan 2015-2030.

11. In the event that a complaint is received relating to noise caused by the proposed facility: within 28 days from the receipt of a written request from the local planning authority, the operator of the proposed facility shall, at the operators expense, employ an independent consultant approved by the local planning authority, to assess the level of noise emissions from the facility at the complainant's property. This should be carried out in accordance with the most appropriate current standard (such as BS4142) and a suitable report prepared. The report should demonstrate compliance with the appropriate standard. If necessary the applicant shall, within 28 days, propose a scheme of noise mitigation to the local planning authority, to utilise any appropriate on site measures as is necessary, to ensure that sound levels from the site are reduced to an acceptable level. This scheme shall specify the time scales for implementation.

**Reason:** To prevent disturbance to nearby occupiers in accordance with Policies SP6 and CM5 of the Carlisle District Local Plan 2015-2030.

12. Prior to the installation of any external lighting within the development hereby approved, details of the lighting scheme including measures to minimise light spillage, shall be submitted to and approved in writing by the local planning authority. The scheme shall have regard to "Lighting Design for Bats", following Guidance Note 8 - Bats and Artificial Lighting (ILP and BCT 2018) and the design shall show how and where external lighting will be installed (including through the provision of technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their resting places and to prevent nuisance to nearby sensitive receptors. All external lighting shall be installed in strict accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances shall any other external lighting be installed without prior consent from the local planning authority.

**Reason:** In order to ensure no adverse impact on European Protected Species and residential amenity in accordance with Policies GI3 and CM5 of the Carlisle District Local Plan 2015-2030.

13. In the event that a complaint is received, relating to light over spill from the facility: Within 28 days from the receipt of a written request from the local planning authority, the operator of the facility shall, at the operators expense, employ an independent consultant approved by the local planning authority, to assess the level of light over spill from the facility, at the complainant's property. This should be carried out in accordance with the most appropriate current standard and a suitable report prepared. The report should demonstrate compliance with the appropriate standard. If necessary, the applicant shall, within 28 days, propose a scheme of mitigation to the local planning authority, to utilise any appropriate on-site measures as is necessary, to ensure that any light over spill from the site is reduced to an acceptable level. This scheme shall specify the time scales for implementation.

**Reason:** To prevent disturbance to nearby occupiers in accord with Policies SP6 and CM5 of the Carlisle District Local Plan 2015-2030.

14. Notwithstanding the submitted details, prior to first use of the development hereby permitted, details of the colour for the exterior of all buildings and structures shall be submitted to, and approved in writing by, the local planning authority. The aforementioned structures shall then be coloured in accordance with the approved details prior to first use of the development and they shall be retained in that colour thereafter.

**Reason:** In the interests of visual amenity and the satisfactory appearance of the development upon completion in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

15. The development hereby permitted shall be constructed in strict accordance with the compensation / enhancement measures contained within Section 7 of the Ecological Impact Assessment compiled by Future Ecology (Report Reference Number FE242/EclA01) received 4th December 2023 and Section 4 of the Biodiversity Impact Assessment compiled by Future Ecology (Report Reference Number FE242/BIA01) received 4th December 2023. Any subsequent reports and mitigation strategies shall be submitted to and approved in writing by the local planning authority prior to the commencement of development.

**Reason:** To afford protection of protected habitats and species during the construction phase of the development in accordance with Policies GI1 and GI3 of the Carlisle District Local Plan 2015-2030.

16. The development hereby permitted shall be for a maximum temporary period

of 40 years from the date when the development is brought into use. Thereafter, the site shall be decommissioned and returned to its former state in accordance with details that have been submitted to, and agreed in writing by, the local planning authority. Such details shall include a time scale of the decommissioning works.

**Reason:** To determine the scope of this permission and in the interests of visual amenity in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

17. Notwithstanding the submitted details, construction and de-commissioning works shall not take place outside the hours of 0730 hours to 1800 hours Monday to Friday inclusive and 0730 hours to 1300 hours on Saturdays. No construction or de-commissioning works shall take place on a Sundays or Public Holidays. Exceptions for work outside these hours may be carried out only with the prior written approval of the local planning authority. Emergency works may be carried out at any time provided that the operator retrospectively notifies the local planning authority in writing of the emergency and works undertaken within 24 hours following the event.

**Reason:** In the interests of amenity to restrict noise impact and the protection of the local environment in accordance with Policies SP6 and CM5 of the Carlisle District Local Plan 2015-2030.

18. Notwithstanding the submitted details, deliveries of any construction materials or equipment for the construction of the development shall not take place outside the hours of 0900 hours to 1400 hours Monday to Friday inclusive with no such deliveries on Saturday, Sunday or Public Holiday unless otherwise approved in writing by the local planning authority having been given a minimum of two working day's notice of the proposed delivery.

**Reason:** In the interests of minimising disturbance to local residents during the construction process in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

19. 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: 2012 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 shall 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 SP6 and GI6 of the Carlisle District Local Plan 2015-2030.

20. In the event that contamination is found at any time when carrying out the

approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the local planning authority. Further guidance can be found on the Cumberland Council website “Development of Potentially Contaminated Land and Sensitive End Uses – An Essential Guide For Developers.”

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

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

**Reason:** To protect the environment and prevent harm to human health in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

### **List of Informatives/Advisory Notes**

National Grid advises that the developer must follow the use of NGET land process to agree a cable easement for the cable connection into our Harker substation site. Additionally, the developer must follow NGET guidance to ensure their proposed cable route does not interfere with any NGET assets associated with and nearby to Harker Substation (e.g. the statutory safe clearances from our overhead lines and sufficient distance from our towers from their underground cable must be maintained). Any further support for working near NGET assets can be obtained via [assetprotection@nationalgrid.com](mailto:assetprotection@nationalgrid.com).

National Grid has provided the National Grid Technical Guidance Note 287 which has been forwarded under a separate cover to the Agent by the local planning authority.

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

The Local Highway Authority advises that:

the BESS is to be connected to the Harker substation using a 2.76km cable route to be buried in the adopted highway. The applicant is not presumably a statutory undertaker, so will need the appropriate highway license for this apparatus in the highway together with an appropriate agreement for the highway works to be carried out. This advice also applies for the hardened works as shown on the Transport

Statement to accommodate HGV turning where it falls within highway. The applicant should at an early stage discuss this matter with the Structures team of the Local Highway Authority to confirm that the bridge on the C road at Low Harker can indeed accommodate the potential increased HGV movement over it during construction phase.

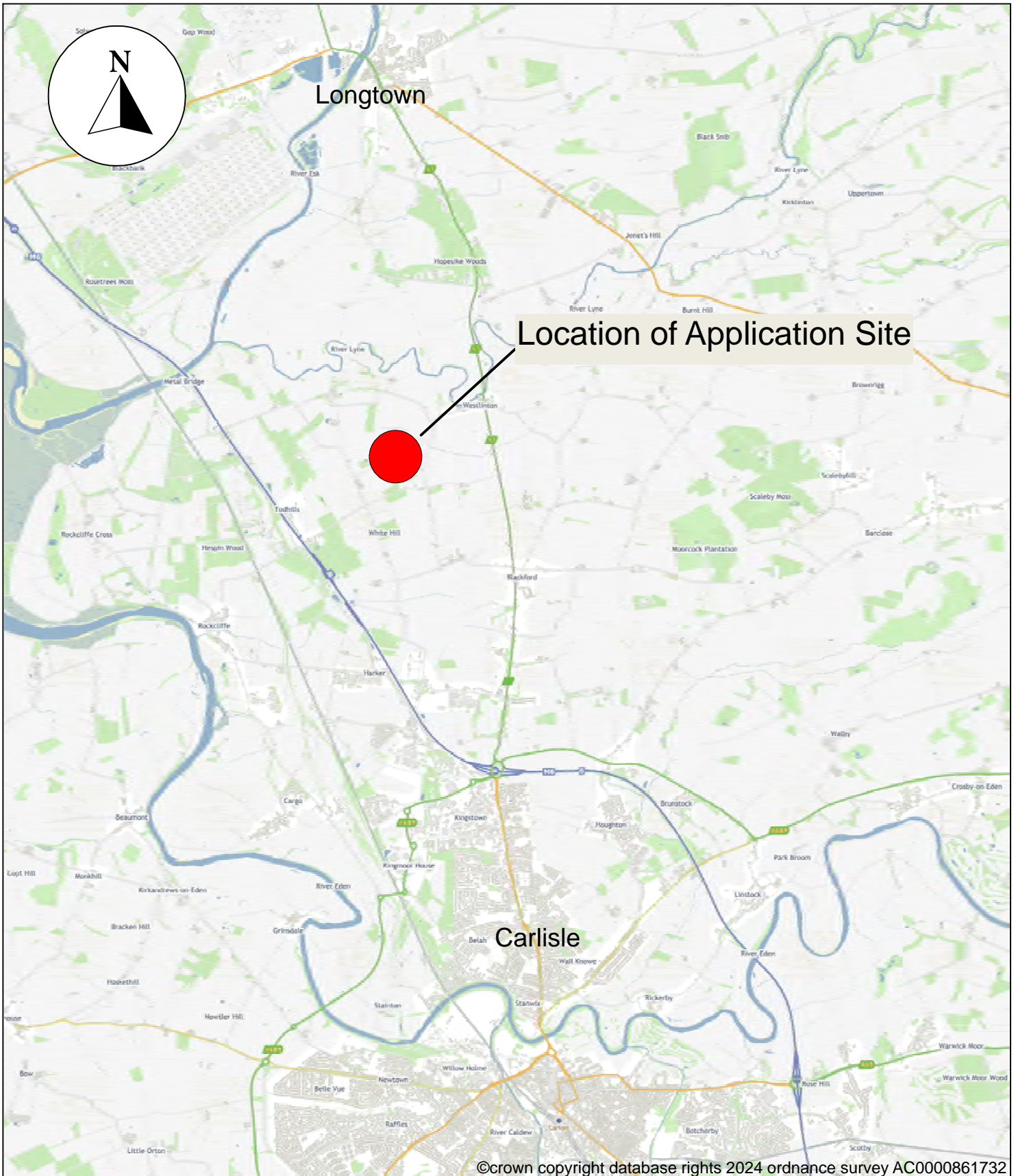
There will be the need for a Pre start survey of the network.

Many species and their habitats are protected under conservation legislation such as the Wildlife and Countryside Act 1981, The Conservation of Habitats and Species Regulations 2010, the Countryside and Rights of Way Act 2000, the Hedgerows Regulations 1997. If any protected species are found during development all work must cease immediately and the Local Planning Authority notified.

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 in accordance with the Wildlife And Countryside Act 1981.

## **Appendix 2**

Copy of the plans/drawings including red line boundary.



**23/0833 Land Situated Between the Villages of  
Todhills and Westlinton, Carlisle, CA6 6AL**

**Wider Location Plan**



Thriving Place and Investment,  
Planning,  
Civic Centre, Rickergate, **Page 154**  
Carlisle, CA3 8QG

Scale 1 : 65,000

Date February 2024





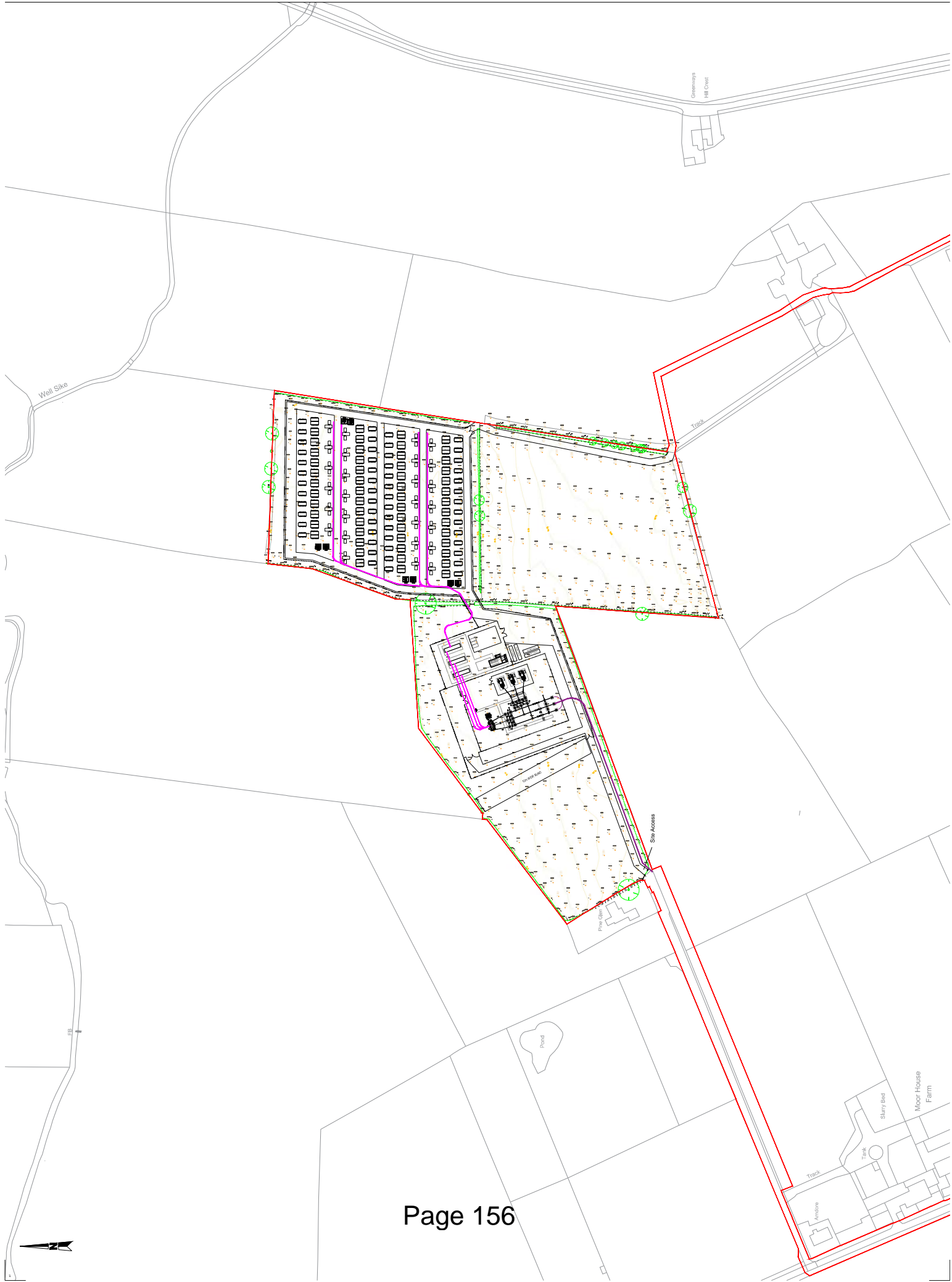
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WINDMILL ENERGY	
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CHECKED BY	...
APPROVED BY	...
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DATE	12/12/2023
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CHECKED BY	...
APPROVED BY	...

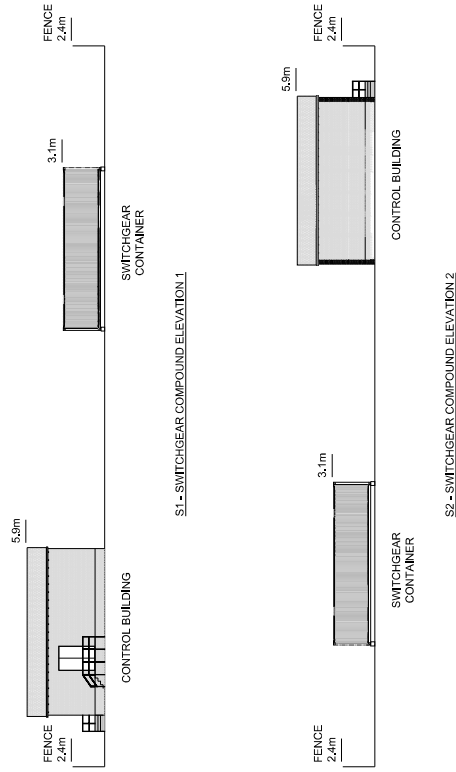








**NOTE: LAYOUT AND ELEVATIONS ARE INDICATIVE AND SUBJECT TO DETAILED DESIGN**

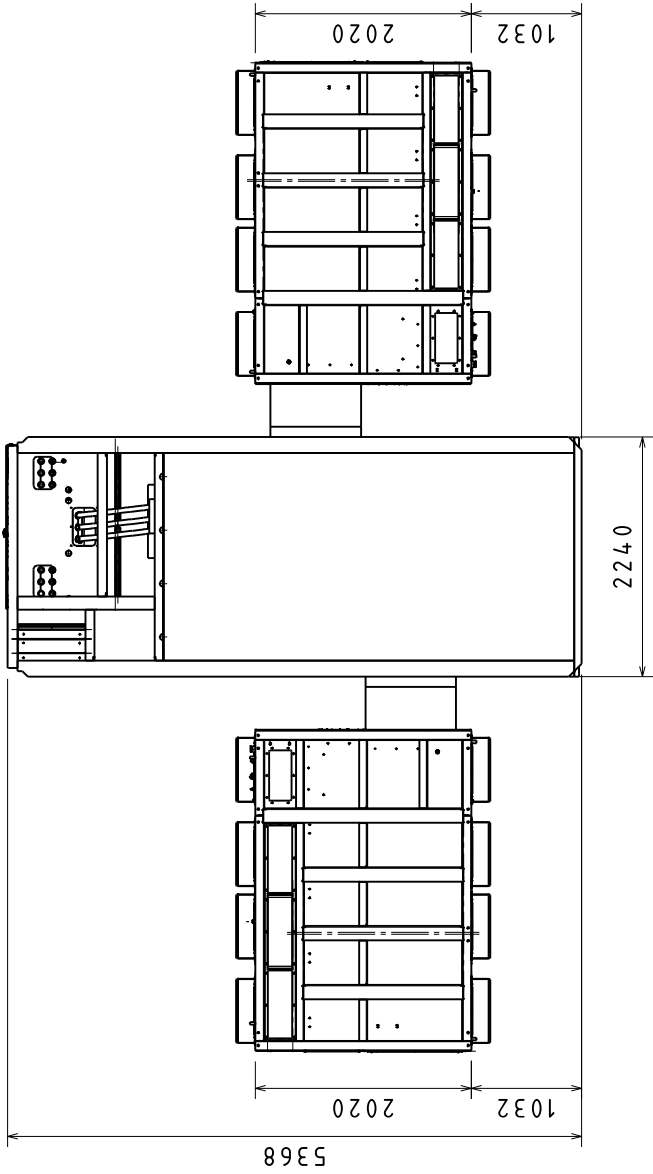


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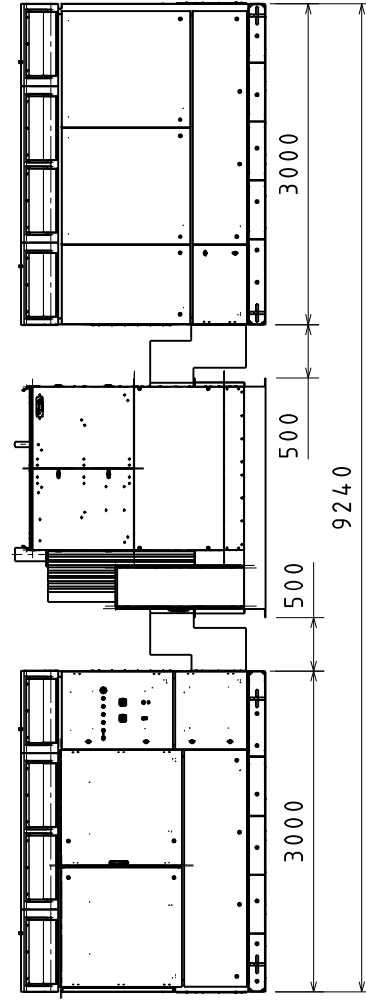
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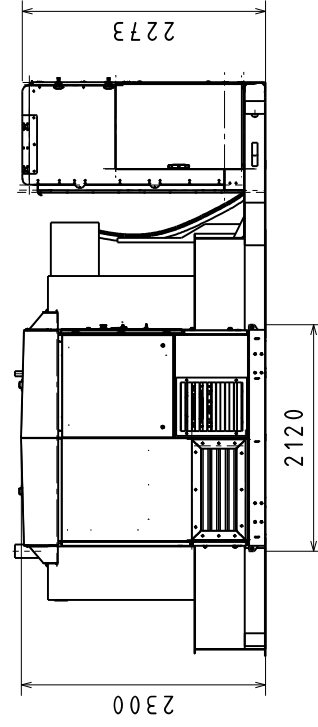
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BOTTOM VIEW

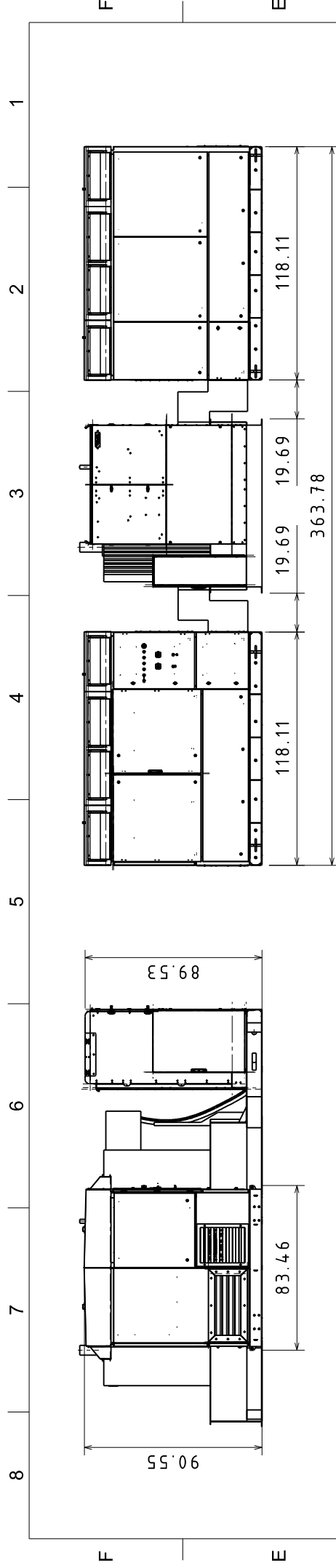


FRONT VIEW



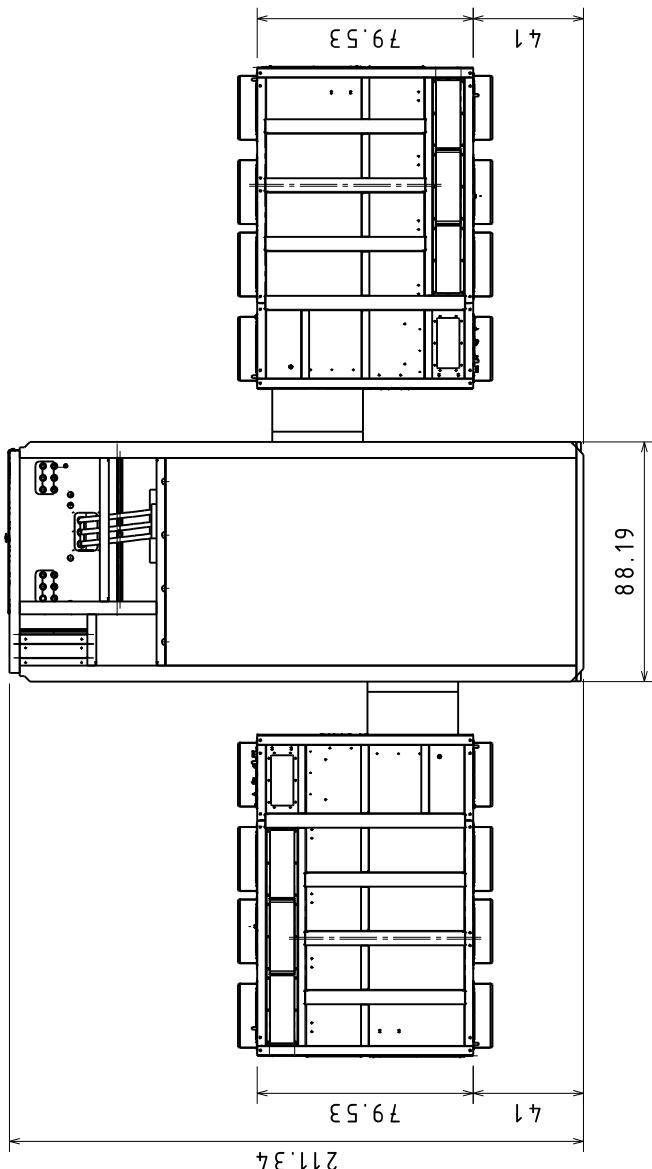
LEFT VIEW

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Revisado por/Checked by: E.MAS	Tolerancia general según normal/General tolerance according to standard: ISO 2768-mK	
Aprobado por/Approved by: J.M. VIDAL		
Peso/Weight (kg): -		<b>POWER ELECTRONICS</b>
Hoja 1 de 1	Escala: 1/50	



FRONT VIEW

LEFT VIEW



BOTTOM VIEW

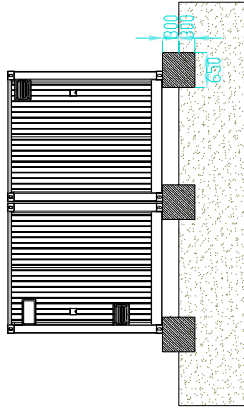
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<b>Revisado por/Checked by:</b> E.MAS		Tolerancia general según norma/General tolerance according to standard: ISO 2768-mK	
<b>Aprobado por/Approved by:</b> J.M. VIDAL			
<b>Peso/Weight (kg):</b> -			
<b>Hoja 1 de 1</b>			
<b>Título/Title:</b> MV TWIN SKID COMPACT GEN3+ HEMK GEN3		<b>Escala:</b> 1/50	

PRELIMINARY

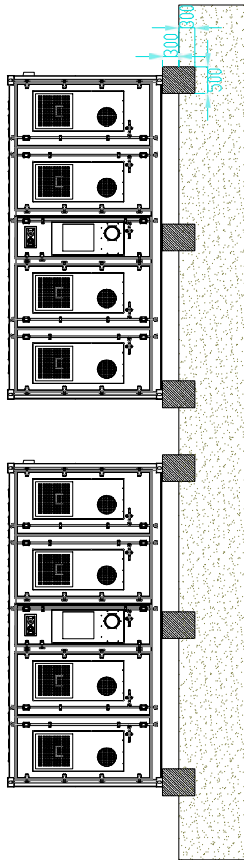




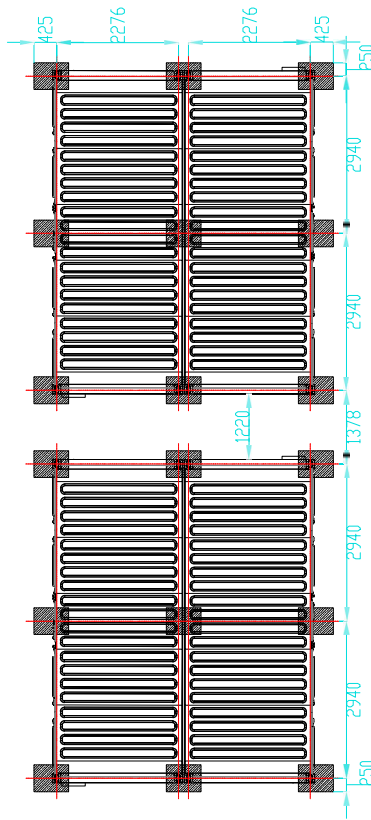
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FRONT AND REAR ELEVATIONS - FOUNDATIONS



SIDE ELEVATION (TYPICAL FOR BOTH SIDES) - FOUNDATIONS



PLAN - FOUNDATIONS

REV.	DATE	BY	CHECKED	APPROVED

**Windel Energy**  
 630 01th, Middelweg, Coenraadslooterveen Oost, Oost-Holland, 1816 NED-3460  
 Phone: +44 (0) 1474 460 0209  
 www.windelenergy.co.uk

CURBT

PROJECT TITLE

DRAWING TITLE  
INDICATIVE BESS DETAILS

SCALE @ A3  
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JOB No. REV.

DRAWING No. A1-3



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**Windtel Energy**  
 5040101, Wickhampton, Cromwellshire, County Wick, R19H 7E2-3, IRELAND  
 Phone: +44 (0) 191 468 0209  
 www.windtelenergy.co.uk

CLIENT

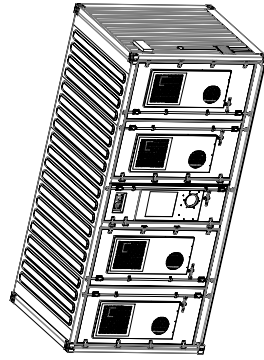
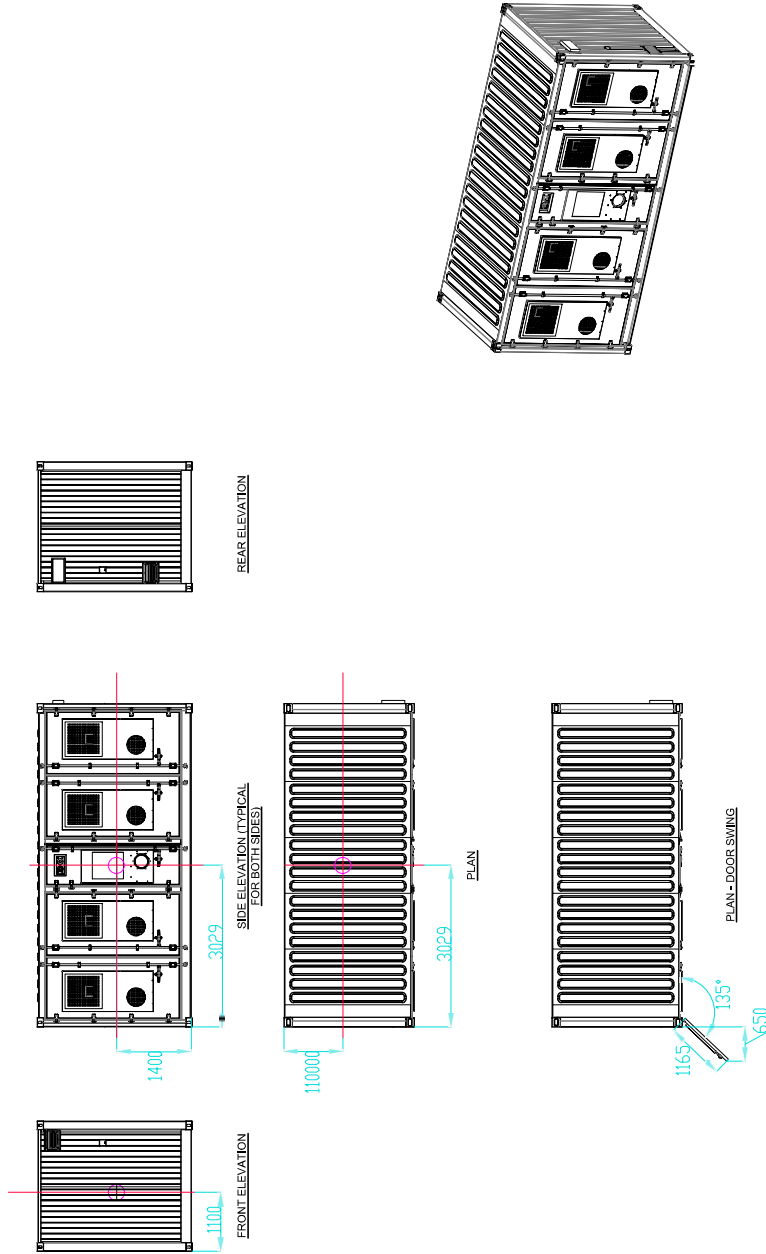
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**Windel Energy**  
 520 8th Michigan, Columbus, Ohio, Ohio, 43215, USA  
 Phone: +44 (0) 191 406 0209  
 www.windelenergy.co.uk

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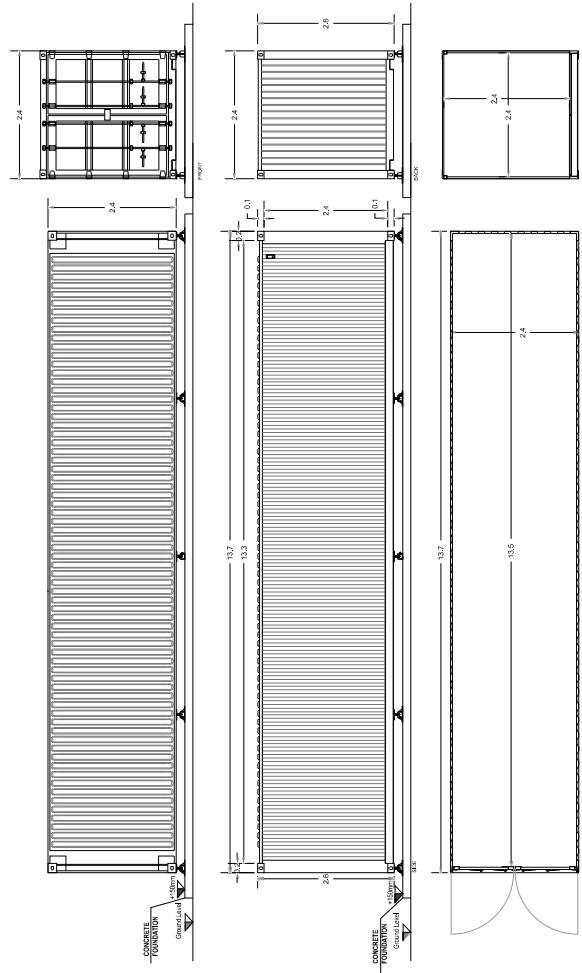
PROJECT TITLE

DRAWING TITLE  
 Typical Spare Parts Container

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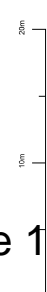
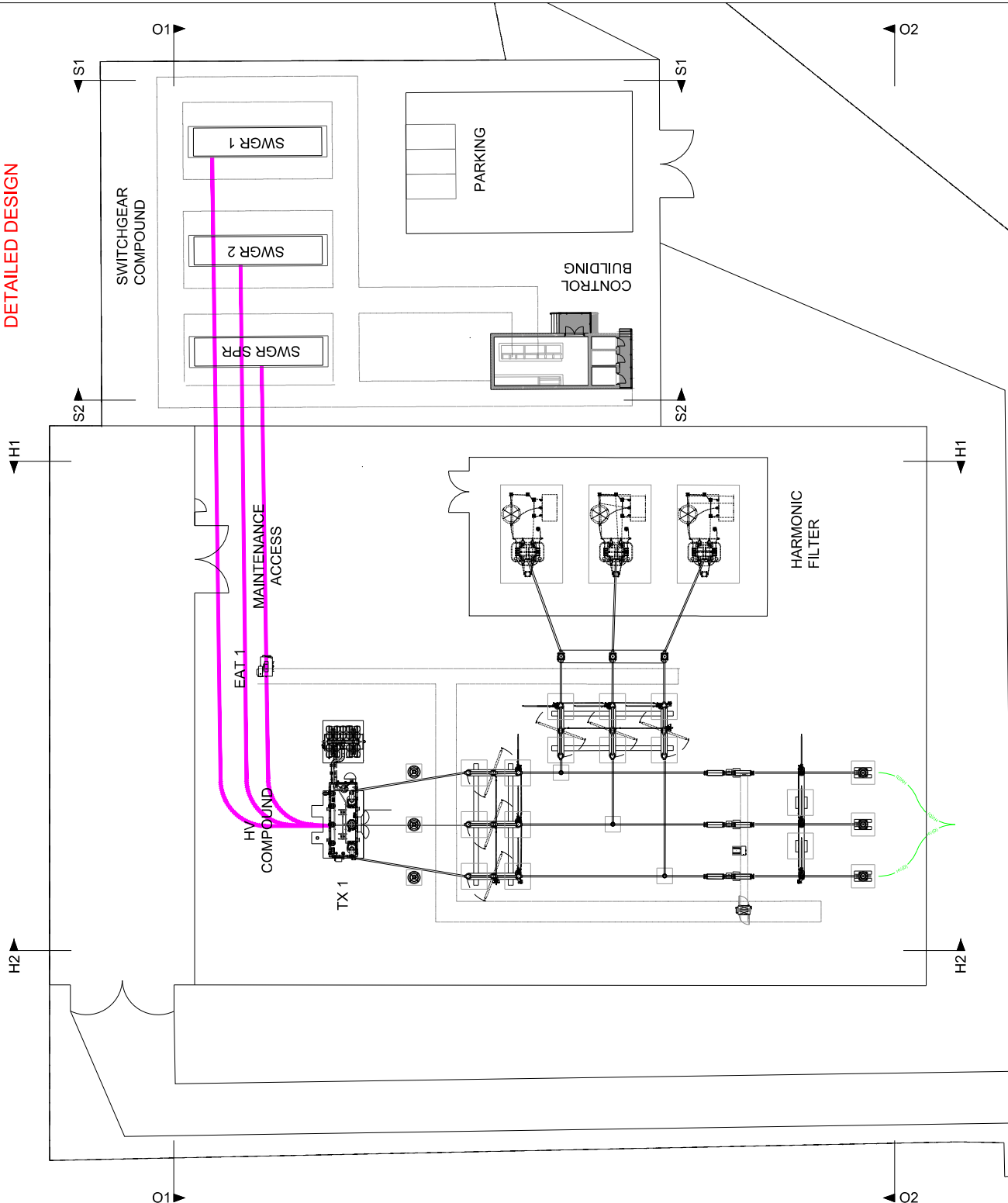
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DRAWING No.  
 SPAREPARTS-01



Spare Parts Store Details

**NOTE:**  
 LAYOUT AND ELEVATIONS ARE  
 INDICATIVE AND SUBJECT TO  
 DETAILED DESIGN



SYMBOL	EQUIPMENT TYPE	PLANT SCHEDULE	MANUFACTURER
	400V HV TRANSFORMER (20-20 MVA)	TIC	TIC
	66KV/400V TRANSFORMER (SMT)	TIC	TIC
	SURGE ARRESTOR (SA)	TIC	TIC
	POST INSULATOR (PI)	TIC	TIC
	ROUTING CENTRE POST DISCONNECTOR OR SINGLE BUSH SWITCH (RCP/BSW)	TIC	TIC
	CIRCUIT BREAKER (CB)	TIC	TIC
	MARSHALLING RACK (MR)	TIC	TIC
	FREE PINNING SWITCH (SWITCH) (FPI)	TIC	TIC
	CABLE GLAND (CG)	TIC	TIC
	SWITCHGEAR (CONDUITLESS)	TIC	TIC

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 CHECKED BY: ...  
 APPROVED BY: ...  
 DATE: ...

## **SCHEDULE A: Applications with Strategic Significance**

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<b>Application Reference Number:</b>	<b>23/0870</b>
<b>Application Type:</b>	Variation of Condition
<b>Application Address:</b>	Land at Harker Industrial Estate, Kingmoor Park Harker Estate, Low Harker, Carlisle, CA6 4RF
<b>Proposal:</b>	Variation Of Condition 2 (Approved Documents) Of Previously Approved Permission 22/0616 (Erection Of 300no. Dwellings Including Associated Open Space And Infrastructure (Reserved Matters Application Pursuant To Outline Permission 15/0812)) To Substitute The House Types & To Make Minor Modifications To The Layout
<b>Applicant:</b>	Genr8 Land Limited
<b>Agent:</b>	Sam Greig Planning
<b>Valid Date:</b>	22/12/2023
<b>Case Officer:</b>	Alanzon Chan

### **Cumberland Area and Carlisle Region**

**Ward/s:**  
 Multiple Wards  
 Longtown  
 Dalston & Burgh

**Parish/s:**  
 Rockcliffe

### **Relevant Development Plan**

Carlisle District Local Plan 2015-2030

### **Reason for Determination by the Planning Committee**

The development in question comprises more than 100no. dwellings and the site area of the development exceeds 2ha.

### **Recommendation**

It is recommended that this application is approved with conditions.

## **1. Site and Location**

- 1.1 The site covers an area of approximately 10.7 hectares. It is situated between the M6 Motorway and the A7 about 640 metres to the northwest of Junction 44. This is 250 metres north of the urban area boundary. The Industrial Estate is formed from a number of MOD buildings as part of the former 14MU site.
- 1.2 To the north of the site is a small group of residential properties including Low Harker Farm and a further small grouping of industrial units. To the south of the site is Grearshill Farm and there are open fields to the west separating the site from the Low Ghyll traveller community and to the east is a small area of woodland.

## **2. Proposal**

- 2.1 The application seeks planning permission to vary to condition 2 (Approved Documents) of previously approved permission 21/0194 (erection of 300no. dwellings including associated open space and infrastructure (reserved matters application pursuant to outline permission 15/0812) to substitute the house types and to make minor modifications to the layout.

## **3. Relevant Planning History**

- 3.1 In 2015, outline planning permission was granted via an appeal for erection of up to 300no.dwellings including associated open space and infrastructure (reference 15/0812) (Approved appeal decision reference APP/E0915/W/17/3179674);
- 3.2 In 2022, planning permission was granted for the reserved matters application (pursuant to outline permission 15/0812) for erection of 300no. Dwellings including associated open space and infrastructure (reference 21/0194).
- 3.3 In 2023, planning permission was granted for the variation of condition 2 (Approved Documents) of previously approved application 21/0194 (Erection of 300no. dwellings including associated open space and infrastructure) to substitute the house types & to make minor modifications to the layout (reference 22/0616).
- 3.4 In 2023, permission was granted for the discharge of condition 9 (Surface Water Drainage Scheme) of previously approved application 15/0812 (reference 22/0669).
- 3.5 In 2023, permission was granted for the discharge of condition 10

(Archaeological Investigation) of previously approved application 15/0812 of previously approved application 15/0812 (reference 23/0477).

- 3.6 In 2023, permission was granted for the discharge of condition 8 (Existing And Proposed Levels) of previously approved appeal decision APP/E0915/W/17/3179674 (reference 23/0513).
- 3.7 In 2023, permission was granted for the discharge of condition 11 (Investigation & Risk Assessment Of Contamination) of previously approved application 15/0812 (reference 23/0603).
- 3.8 In 2023, permission was granted for the discharge of condition 6 (Construction Method Statement) of previously approved application 15/0812 (reference 23/0602)
- 3.9 In 2023, permission was granted for the discharge of conditions 4 (Ecological Management Scheme) & 5 (Ecological Implementation Timetable) of previously approved application 15/0812 (reference 23/0600)

#### 4. Consultations and Representations

**Rockcliffe Parish Council:** the original comments and observations still stand:

Believe that the C1015/1 is not suitable to cope with the amount of additional traffic, there is no existing footway to the A7. The front row of properties should be further away from the road and trees planted to provide screening of the site and soften the visual impact from the C1015/1. There should also be planted screening provision to the West and Southern boundaries again to mitigate the visual impact to the surrounding area. School provision is a massive issue in North Carlisle and a development of this size will only exacerbate this problem. Aside of the lack of School provision in the area in essence there is no infrastructure of any kind to sustain such a large development. There is no footpath or cycleway connectivity with the North of the City which is only going to lead to massive traffic movements as all amenities will be a car journey away.

**Kingmoor Parish Council:** No comments received

**Cumberland Council - (Highways & Lead Local Flood Authority):** No objection

- 4.1 This application has been advertised by means of a press notice, site notices and direct notification to the occupiers of 63no. properties. 3 letters of objection were received during the advertisement period, and the objections are summarised below:

- *'Im concerned at how this is going to from the highway perspective. This design results in numerous driveways being accessed directly of the road which is not wide enough to cope for what will incur visitors*

*parking on the roadside for these houses.'*

- *'It's a shame that the proposed developers have chose to cut down the row of trees currently along that side of the road with what looks like no plan to replant anything! How can an estate of 300 homes not have more greenery. No park either which is an absolute joke for both the potential new homeowners and local occupants.'*
- *'The proposal is for a large urban housing scheme plonked in a semi rural location with no access to local services or amenities. It is just a case of piling up houses for profit.'*
- *'The number of units should be reduced by 50%, there needs to be a lot more amenity land, green spaces, bigger gardens etc, more room for parking. None of the houses should have direct access to the Harker Road.'*
- *'The current infrastructure cannot support 300 houses no matter what minor amendments are made.'*

## **5. Planning Policy**

- 5.1 Section 70 (2) of the Town and Country Planning Act 1990/Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.
- 5.2 The relevant national planning policies against which the application is required to be assessed are the National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG).

## **Development Plan**

Carlisle District Local Plan 2015-2030

- SP1. Policy SP 1 - Sustainable Development
- SP2. Policy SP 2 - Strategic Growth and Distribution
- SP6. Policy SP 6 - Securing Good Design
- SP8. Policy SP 8 - Green and Blue Infrastructure
- SP9. Policy SP 9 - Healthy and Thriving Communities
- HO1. Policy HO 1 - Housing Strategy and Delivery



- HO4. Policy HO 4 - Affordable Housing
- IP1. Policy IP 1 - Delivering Infrastructure
- IP2. Policy IP 2 - Transport and Development
- IP3. Policy IP 3 - Parking Provision
- IP4. Policy IP 4 - Broadband Access
- IP5. Policy IP 5 - Waste Minimisation and the Recycling of Waste
- IP6. Policy IP 6 - Foul Water Drainage on Development Sites
- IP8. Policy IP 8 - Planning Obligations
- CC4. Policy CC 4 - Flood Risk and Development
- CC5. Policy CC 5 - Surface Water Management and Sustainable Drain
- CM4. Policy CM 4 - Planning Out Crime
- CM5. Policy CM 5 - Environmental and Amenity Protection
- GI1. Policy GI 1 - Landscapes
- GI3. Policy GI 3 - Biodiversity & Geodiversity
- GI6. Policy GI 6 - Trees and Hedgerows

## **6. Other Material Planning Considerations**

- 6.1 'Achieving Well Designed Housing' Supplementary Planning Document (SPD)

## **7. Assessment**

- 1 Whether The Proposed Alterations Are Acceptable
- 2 Other Matters

## 1. Whether The Proposed Alterations Are Acceptable

- 7.1 It is noted that under application 15/0812, outline planning application (with all matters reserved) for the erection of up to 300no. dwellings including associated open space and infrastructure was granted via an Appeal Decision (ref: APP/E0915/W/17/3179674).
- 7.2 Subsequently, under application 21/0194, a reserved matters application (pursuant to outline permission 15/0812) for erection of 300no. Dwellings including associated open space and infrastructure was granted.
- 7.3 Following approval of application 21/0194, a further approval (ref: 22/0616) was granted to vary condition 2 (Approved Documents) of previously approved application (ref: 21/0194) to substitute the house types & to make minor modifications to the layout.
- 7.4 This application seeks to reverse some of the changes secured under the second approved scheme (ref: 22/0616), so that the overall scheme is more aligned with the original Reserved Matters Application approval (ref: 21/0194). The current Reserved Matters application could be seen as an amalgamation of:
- (i) approved roads design from 21/0194 (the original approved reserved matters application),
  - (ii) approved Sustainable drainage systems (SuDS) design from 22/0669 (previously approved discharge of condition application),
  - (iii) approved open spaces layout from 22/0616 (previously approved S73 application to the Reserved Matters Application), and,
  - (iv) slight amendments to some of the house types, with a total substitution of one house type approved under 21/0194 (the original approved Reserved Matters Application).
- 7.5 The actual proposed amendments to the scheme are summarised below:

### Layout of the development

In terms of road layout, the applicant proposes to use the road layout approved within 21/0194, with minor changes as follows:

- a) Introduction of a turning head on a private shared drive adjacent Plot 108.
  - b) Minor adjustments to the length of the private gardens adjacent Plots 85-86, 97-98 and 107-108 to accommodate SuDS proposals approved in 22/0669.
- 7.6 In terms of layout regarding SuDS and open spaces, the applicant proposes to use the approved SuDS design from 22/0669 and the matching approved open spaces layout from 22/0616.

## 7.7 Alterations to house types

In terms of amendments to the house types, the applicant proposes to make the following changes to the scheme approved under the reserved matters application 21/0194:

1. House type changed from 4-bed semi-detached (M3BBS - Caldwell) to 4-bed semi-detached (M4BGD - Grantham) to these plots; plots 19/20, 94/95, 125/126, 128/129, 132/133, 134/135, 143/144, 246/247, 251/252, 260/261, 285/286, 294/295, 296/297, 298/299;
2. House types swapped between plots: plots 101 & 102, 104 & 105 and 154 & 156;
3. House types changed to enable approved SuDS proposals to be incorporated; plots 82, 85-88, 96-99, 106, 108-110; and
4. House types change (from and 4-bed semi-detached (M3BBS - Caldwell) to 4-bed semi-detached (M4BGD - Grantham)) and house types swapped between plots: plots 173-176.

## 7.8 Alterations to house types designs

In terms of designs of the house types, the applicant proposes the following amendments to some of the house types of the approved scheme (application 21/0194):

- a. Type A2BAS (Abberton) – minor layout amendments; revised elevation treatments; omit canopy to front door; solar PV to roof; revised ground floor (rear) window/door arrangement.
- b. Type A3BAS (Albourne) – minor ground floor layout amendments; revised first floor arrangement; revised elevation treatments; omit canopy to front door; solar PV to roof; revised (rear) window/door arrangement.
- c. Type M3BAS (Bainbridge) – minor ground floor layout amendments; revised first floor arrangement; front projecting gable in lieu of front bay; revised elevational treatments; solar PV to roof; revised window/door arrangements.
- d. Type M3BCS (Didcot) – minor layout amendments; minor revised elevational treatments; solar PV to roof; Solar Assisted Heat Panel (“SAHP”) to wall.
- e. Type M3BDS (Exton) – minor layout amendments; omit front bay; revised elevational treatments; solar PV to roof; SAHP to wall; larger rear patio door.
- f. Type M4BAD (Fairfield) – revised kitchen/dining layout; minor revised elevational treatments; solar PV to roof; SAHP to wall.
- g. Type M4BBD (Garsdale) – omit double height bay; increase dwelling depth, omit projecting rear extension; ground floor amended layout; first floor minor internal amendments; solar PV to roof; SAHP to wall.
- h. Type M4BCD (Hadlow) – increase width; minor layout amendments; minor revised elevational treatments; solar PV to roof; SAHP to wall.
- i. Type M4BDD (Ingham) – minor layout amendments; omit projecting rear extension; change from hipped to gabled roof; minor revised

- elevational treatments; solar PV to roof; SAHP to wall.
- j. Type M4BED (Kemble) – minor layout amendments; minor revised elevational treatments; solar PV to roof; SAHP to wall.
- k. Type M4BFD (Ladbroke) – minor layout amendments; minor revised elevational treatments; solar PV to roof; SAHP to wall.
- l. Type M4BGD (Grantham) – new house type – replaces M3BBS (Caldwell) but based on similar footprint.
- m. Type M5BAD (Manley) – ground floor layout amendments; minor first floor layout amendments; omit front canopy and bay; change from hipped to gabled roof; minor revised elevational treatments; solar PV to roof; SAHP to wall.
- n. Garages - minor revised elevational treatments

7.9 It is considered that the proposed amendments are minor in nature. The minor layout amendments and revised elevational treatments would not significantly or adversely affect the visual amenity of the area. The swapping of house types between some of the plots will not have any detrimental impact upon the appearance or the character of the area either. The installation of solar PV panels on the roofs and the installation of SAHP to the walls on some of these plots are also considered acceptable. Overall, the height, scale and design of the proposed dwellings will remain proportionate and acceptable to the vernacular of surrounding properties, and they will not detrimentally affect the living conditions of nearby residents.

## **2. Other Matters**

- 7.10 It is noted that the details previously provided to discharge conditions 4 (Ecological Management Scheme), 5 (Ecological Implementation Timetable), 6 (Construction Method Statement), 10 (Archaeological Investigation) and 11 (Investigation & Risk Assessment Of Contamination) are unaffected by the proposed change to the layout as the information provided to discharge these conditions is not layout specific. The applicant would not need to re-discharge these conditions.
- 7.11 In terms of condition 8 (Existing And Proposed Levels) and condition 9 (Surface Water Drainage Scheme), although these conditions were previously discharged, due to the slight alterations to the layout and house types, the applicant has submitted revised details within the current application.
- 7.12 According to the submitted details, the proposed finished levels would follow the slope of the drainage system, and the finished levels submitted within the current application are similar to those approved under application 23/0513 (Discharge of condition application regarding condition 8 (Existing And Proposed Levels)). As for the surface water drainage, this application is accompanied by a revised surface water drainage scheme and micro-drainage calculations, of which these details have been considered by the Lead Local Flood Authority (LLFA). The LLFA has confirmed that the submitted surface water drainage details are acceptable.

- 7.13 A member of the public raised concerns that the width of the road is not appropriate for the level of traffic to be generated by this development, and that no houses should be accessed directly from Low to High Harker road. It is noted that the accesses have been previously considered by the former Cumbria County Council as the Highways Authority, and the accesses were determined and approved under the reserved matters application (ref: 21/0194 and 22/0616). Access arrangements are therefore considered satisfactory.
- 7.14 This application proposed some minor alterations to the layout. The Highways Authority and the Lead Local Flood Authority were consulted under this application and they confirm that they have no objection to the proposed alterations to the layout of the development site.
- 7.15 Concerns were raised that the number of dwellings proposed will result in a cramped development and that the layout lacks communal green space or amenities. It is noted that the number of dwellings (up to 300no.) were considered acceptable under appeal decision (relevant outline application ref: 15/0812) and reserved matters applications (ref: 21/0194 and 22/0616). It is also noted that the overall layout of the proposal was approved under applications 21/0194 and 22/0616. Although the applicant proposes to revise the layout under this application, the extent of alterations made to the layout is considered minor in comparison to the layout approved under applications 21/0194 and 22/0616. The applicant has submitted revised landscaping plans and the details contained within the landscaping plans are considered acceptable.
- 7.16 In terms of concerns raised regarding ecology and biodiversity net gain, under the appeal decision (relevant app ref: 15/0812), condition 4 (Ecological Management Scheme) requires the applicant to submit an ecological management scheme prior to any demolition, site clearance or construction take place. The issue regarding ecology and biodiversity net gain was considered by the Inspector during the outline stage and has been addressed under the discharge of condition application (23/0600) (Discharge of condition application regarding conditions 4 (Ecological Management Scheme) and 5 (Ecological Implementation Timetable)).

## **8. Planning Balance and Conclusion**

- 8.1 Taking into consideration the nature and scale of the proposed alterations, it is considered that the proposal will not have a detrimental impact upon highway safety, streetscene nor would it affect the living conditions of any nearby residents.
- 8.2 Whilst 3 letters of objections have been received during the consultation period and consultees raised similar issues, these relate to the principle of the development which has been established by the granting of the outline permission with a S106 legal agreement through the appeal process (application reference 15/0812).

- 8.3 Overall, it is considered that the proposed amendments are minor in nature. The details submitted are considered acceptable and they are in full accordance with both local and national planning policies. Therefore, it is recommended that this application is approved with conditions.

## Recommendation

It is recommended that this application is approved with conditions.

## Appendix 1 List of Conditions and Reasons

### Grant Permission

1. The development shall be begun not later than the 6th April 2024.  
**Reason:** In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development shall be undertaken in strict accordance with the approved documents for this Reserved Matters Consent which comprise:
  1. the submitted planning application form, received 3 Mar 2021 (submitted under 21/0194);
  2. the submitted planning application form, received 2 Jan 2024;
  3. the Site Plan As Proposed (Dwg no. 1946-PL210 Rev G) received 2 Jan 2024;
  4. the Proposed Floor plans for the 3-bed terraced dwellings (Dwg no. M3BAT S101-110 -The Bainbridge), received 2 Jan 2024;
  5. the Proposed Elevations for the 3-bed terraced dwellings (Dwg no. M3BAT S101-160 -The Bainbridge), received 2 Jan 2024;
  6. the Proposed Floor plans for the 2-bed semi-detached dwellings (Dwg no. A2BAS S101-110 – The Abberton), received 2 Jan 2024;
  7. the Proposed Elevations for the 2-bed semi-detached dwellings (Dwg no. A2BAS S101-160 -The Abberton), received 2 Jan 2024;
  8. the Proposed Floor plans for the 3-bed semi-detached dwellings (Dwg no. A3BAS S101-110 – The Albourne), received 2 Jan 2024;
  9. the Proposed Elevations for the 3-bed semi-detached dwellings (Dwg no. A3BAS S101-160 – The Albourne), received 2 Jan 2024;
  10. the Proposed Floor plans for the 3-bed semi-detached dwellings (Dwg no. M3BAS S101-110 - The Bainbridge), received 2 Jan 2024;
  11. the Proposed Elevations for the 3-bed semi-detached dwellings (Dwg

- no. M3BAS S101-160 The Bainbridge), received 2 Jan 2024;
12. the Proposed Floor plans for the 3-bed semi-detached dwellings (Dwg no. M4BGS S101-110 – The Grantham), received 2 Jan 2024;
  13. the Proposed Elevations for the 3-bed semi-detached dwellings (Dwg no. M4BGS S101-110 – The Grantham), received 2 Jan 2024;
  14. the Proposed Floor plans for the 3-bed semi-detached dwellings (Dwg no. M3BCS AS S101-110 – The Didcot), received 2 Jan 2024;
  15. the Proposed Elevations for the 3-bed semi-detached dwellings (Dwg no. M3BCS AS S101-160 – The Didcot), received 2 Jan 2024;
  16. the Proposed Floor plans for the 3-bed semi-detached dwellings (Dwg no. M3BDS S101-110 – The Exton), received 2 Jan 2024;
  17. the Proposed Elevations for the 3-bed semi-detached dwellings (Dwg no. M3BDS S101-160 - The Exton), received 2 Jan 2024;
  18. the Proposed Floor plans for the 4-bed detached dwellings (Dwg no. M4BAD S101-110 – The Fairfield), received 2 Jan 2024;
  19. the Proposed Elevations for the 4-bed detached dwellings (Dwg no. M4BAD S101-160 - The Fairfield), received 2 Jan 2024;
  20. the Proposed Floor plans for the 4-bed detached dwellings (Dwg no. M4BBD S101-110 - The Garsdale), received 2 Jan 2024;
  21. the Proposed Elevations for the 4-bed detached dwellings (Dwg no. M4BBD S101-160 - The Garsdale), received 2 Jan 2024;
  22. the Proposed Floor plans for the 4-bed detached dwellings (Dwg no. M4BCD S101-110 – The Hadlow), received 2 Jan 2024;
  23. the Proposed Elevations for the 4-bed detached dwellings (Dwg no. M4BCD S101-160 – The Hadlow), received 2 Jan 2024;
  24. the Proposed Floor plans for the 4-bed detached dwellings (Dwg no. M4BDD S101-110 – The Ingham), received 2 Jan 2024;
  25. the Proposed Elevations for the 4-bed detached dwellings (Dwg no. M4BDD S101-160 – The Ingham), received 2 Jan 2024;
  26. the Proposed Floor plans for the 4-bed detached dwellings (Dwg no. M4BED S101-110 - The Kemble), received 2 Jan 2024;
  27. the Proposed Elevations for the 4-bed detached dwellings (Dwg no. M4BED S101-160 – The Kemble), received 2 Jan 2024;
  28. the Proposed Floor plans for the 4-bed detached dwellings (Dwg no. M4BFD S101-110 - The Ladbrooke), received 2 Jan 2024;
  29. the Proposed Elevations for the 4-bed detached dwellings (Dwg no. M4BFD S101-160 - The Ladbrooke), received 2 Jan 2024;
  30. the Proposed Floor plans for the 5-bed detached dwellings (Dwg no. M5BAD S101-110 - The Manley), received 2 Jan 2024;
  31. the Proposed Elevations for the 5-bed detached dwellings (Dwg no. M5BAD S101-160 – The Manley), received 2 Jan 2024;
  32. the Proposed Garage Plans (Dwg no. GARAGE S101-110), received 27 Feb 2024;
  33. the Boundary & Elevation Treatments and Layout Plan as Proposed (Dwg no. 1946-PL211 Rev G), received 2 Jan 2024;
  34. the Hard Surfacing & Facade Treatments Plan as Proposed (Dwg no.

- 1946-PL213 Rev G), received 2 Jan 2024;
35. the Parking Layout Plan as Proposed (Dwg no. 1946-PL214 Rev G), received 2 Jan 2024;
  36. the External Finishes Schedule (ref PLD/002 Rev A), received 18 Jan 2024;
  37. the Landscaping Layout Plan as Proposed (Dwg no. 1946-PL216), received 18 Jan 2024;
  38. the Engineering Strategy (Dwg no. QD2127-00-01), received 18 Jan 2024;
  39. the Engineering Strategy Impermeable Areas (Dwg no. QD2127-00-11), received 18 Jan 2024;
  40. the Surface Water Drainage Strategy (Dwg no. QD2127-00-12), received 18 Jan 2024;
  41. the micro-drainage calculations, received 18 Jan 2024;
  42. the Planting Strategy Report (ref: 1946-D03), received 18 Jan 2024;
  43. the Notice of Decision;
  44. any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason:** To define the permission.

3. Notwithstanding the requirements of Condition 8 of Outline Application 15/0812, which relates to the proposed finished ground levels and finished floor levels of the dwellings, and the discharge of Condition 8 that was approved via Application 23/0513, the proposed finished ground levels and finished floor levels of the dwellings hereby approved shall be implemented in accordance with the Engineering Strategy (Drawing No. QD2127-00-01, received 18 January 2024).

**Reason:** To define the permission.

4. Notwithstanding the requirements of Condition 9 of Outline Application 15/0812, which relates to the proposed surface water drainage scheme, and the discharge of Condition 9 that was approved via Application 22/0669, the surface water drainage scheme shall be implemented in accordance with the Surface Water Drainage Strategy (Drawing No. QD2127-00-12, received 18 January 2024).

**Reason:** To define the permission.

### **List of Informatives/Advisory Notes**

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the



presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Many species and their habitats are protected under conservation legislation such as the Wildlife and Countryside Act 1981, The Conservation of Habitats and Species Regulations 2010, the Countryside and Rights of Way Act 2000, the Hedgerows Regulations 1997. If any protected species are found during development all work must cease immediately and the Local Planning Authority notified.

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 in accordance with the Wildlife And Countryside Act 1981.

United Utilities (UU) has advised the following:

The applicant should be aware that should a foul connection be required, this may need third party consent by way of crossing the motorway.

#### Drainage Comments

In accordance with the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG), the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way.

The NPPG clearly outlines the hierarchy to be investigated by the developer when considering a surface water drainage strategy. We would ask the developer to consider the following drainage options in the following order of priority:

1. into the ground (infiltration);
2. to a surface water body;
3. to a surface water sewer, highway drain, or another drainage system;
4. to a combined sewer.

Further information regarding Developer Services and Planning, can be found on our website at <http://www.unitedutilities.com/builders-developers.aspx>.

The applicant can discuss the above with Developer Engineer, Josephine Wong, by email at [wastewaterdeveloperservices@uuplc.co.uk](mailto:wastewaterdeveloperservices@uuplc.co.uk).

Please note, United Utilities are not responsible for advising on rates of discharge to the local watercourse system. This is a matter for discussion with the Lead Local Flood Authority and / or the Environment Agency (if the watercourse is classified as main river).

#### Management and Maintenance of Sustainable Drainage Systems

Without effective management and maintenance, sustainable drainage systems can fail or become ineffective. As a provider of wastewater services, we believe we have a duty to advise the Local Planning Authority of this potential risk to ensure the longevity of the surface water drainage system and the service it provides to people. We also wish to minimise the risk of a sustainable drainage system having a detrimental impact on the public sewer network should the two systems interact. We therefore recommend the Local Planning Authority include a condition in their

Decision Notice regarding a management and maintenance regime for any sustainable drainage system that is included as part of the proposed development. For schemes of 10 or more units and other major development, we recommend the Local Planning Authority consults with the Lead Local Flood Authority regarding the exact wording of any condition.

If the applicant intends to offer wastewater assets forward for adoption by United Utilities, the proposed detailed design will be subject to a technical appraisal by an Adoptions Engineer as we need to be sure that the proposal meets the requirements of Sewers for adoption and United Utilities' Asset Standards. The detailed layout should be prepared with consideration of what is necessary to secure a development to an adoptable standard. This is important as drainage design can be a key determining factor of site levels and layout. The proposed design should give consideration to long term operability and give United Utilities a cost effective proposal for the life of the assets. Therefore, should this application be approved and the applicant wishes to progress a Section 104 agreement, we strongly recommend that no construction commences until the detailed drainage design, submitted as part of the Section 104 agreement, has been assessed and accepted in writing by United Utilities. Any works carried out prior to the technical assessment being approved is done entirely at the developers own risk and could be subject to change.

#### Water supply

Any new service or mains pipe should be barrier lined for protection due to land contamination. If the applicant intends to obtain a water supply from United Utilities for the proposed development, we strongly recommend they engage with us at the earliest opportunity. If reinforcement of the water network is required to meet the demand, this could be a significant project and the design and construction period should be accounted for. To discuss a potential water supply or any of the water comments detailed above, the applicant can contact the team at [DeveloperServicesWater@uuplc.co.uk](mailto:DeveloperServicesWater@uuplc.co.uk). Please note, all internal pipework must comply with current Water Supply (water fittings) Regulations 1999.

#### United Utilities' property, assets and infrastructure

It is the applicant's responsibility to demonstrate the exact relationship between any United Utilities' assets and the proposed development. We recommend the developer contacts United Utilities for advice on identifying the exact location of the water main. Where United Utilities' assets exist, the level of cover to the water mains and public sewers must not be compromised either during or after construction.

For advice regarding protection of United Utilities assets, the applicant should contact the teams as follows:

Water assets – [DeveloperServicesWater@uuplc.co.uk](mailto:DeveloperServicesWater@uuplc.co.uk)

Wastewater assets – [WastewaterDeveloperServices@uuplc.co.uk](mailto:WastewaterDeveloperServices@uuplc.co.uk)

It is the applicant's responsibility to investigate the possibility of any United Utilities' assets potentially impacted by their proposals and to demonstrate the exact relationship between any United Utilities' assets and the proposed development.

A number of providers offer a paid for mapping service including United Utilities. To find out how to purchase a sewer and water plan from United Utilities, please visit the Property Searches website; <https://www.unitedutilities.com/property-searches/>.

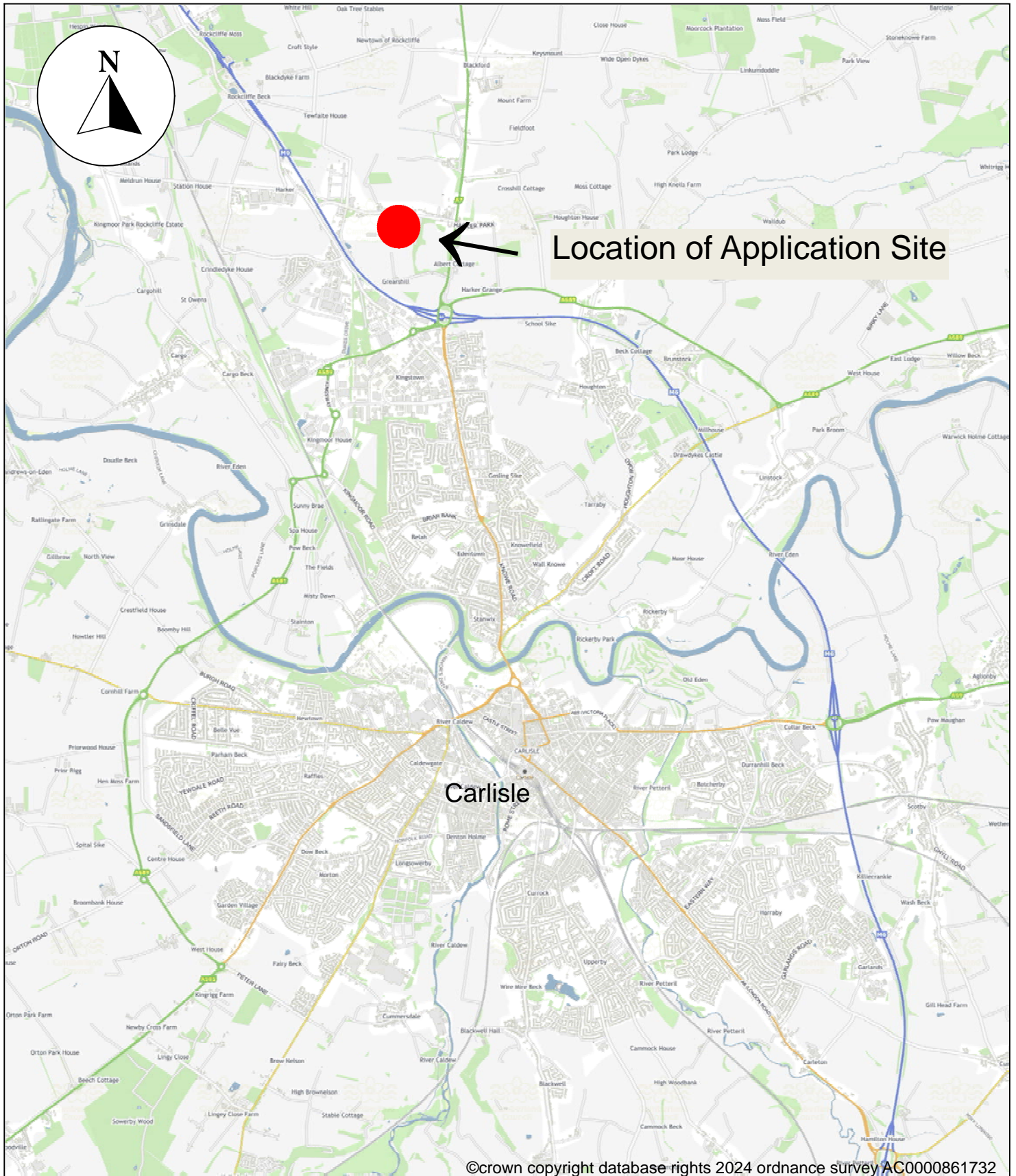
You can also view the plans for free. To make an appointment to view our sewer records at your local authority please contact them direct, alternatively if you wish to view the water and the sewer records at our Lingley Mere offices based in Warrington please ring 0370 751 0101 to book an appointment. Due to the public sewer transfer in 2011, not all sewers are currently shown on the statutory sewer records and we do not always show private pipes on our plans. If a sewer is discovered during construction; please contact a Building Control Body to discuss the matter further. For any further information regarding Developer Services, including application forms, guides to our services and contact details, please visit our website at <http://www.unitedutilities.com/builders-developers.aspx>.

Northern Gas Networks working with United Utilities has advised that there may be apparatus in the area that may be at risk during construction works and they require the developer to contact them directly to discuss their requirements in detail. A copy of correspondence received is available on the Council's website <https://publicaccess.carlisle.gov.uk/online-applications/>

The Council's Waste Services department have advised that some of the more 'squared off' roads will be difficult to enter as a wide splay is required on it to turn in/out. If this cannot be done it will be necessary for residents to bring their waste and recycling containers to the end for collection. It is advised that the applicant tracks the route.

## **Appendix 2**

Copy of the plans/drawings including red line boundary.



**23/0870 Land at Harker Industrial Estate,  
Kingmoor Park Harker Estate, Low Harker, Carlisle, CA6 4RF**

**Wider Location Plan**



Thriving Place and Investment,  
Planning,  
Civic Centre, Rickergate, Carlisle, CA3 8QG

Scale 1 : 50,000

Date February 2024



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REVISIONS:

REVISION	DATE	DESCRIPTION
Revision A	2021-02-26	PRELIMINARY PLANNING
Revision B	2021-03-03	REVISIONS TO ADDRESS COMMENTS
Revision C	2021-03-08	REVISIONS TO ADDRESS COMMENTS
Revision D	2021-03-10	REVISIONS TO ADDRESS COMMENTS



HOUSING SCHEDULE	m <sup>2</sup>	ft <sup>2</sup>	no.	m <sup>2</sup> Total	ft <sup>2</sup> Total
A-2B-A-5 Semi	68.8	741	6	413	4,446
A-3B-A-5 Semi	81.8	880	8	654	7,040
A-3B-A-T Terrace	81.8	880	1	82	880
M-3B-A-5 Semi	88.7	955	37	3,283	35,335
M-3B-A-T Terrace	88.7	955	9	798	8,595
M-3B-B-5 Semi	96.9	1,043	30	2,907	31,290
M-3B-C-5 Semi	98.2	1,057	17	1,669	17,869
M-3B-D-5 Semi	100.6	1,083	8	805	8,664
M-3B-E-5 Semi	100.6	1,083	18	1,811	19,494
M-4B-A-D Detached	107.5	1,157	17	1,827	19,669
M-4B-B-D Detached	111.3	1,200	38	4,236	45,000
M-4B-C-D Detached	111.4	1,199	8	891	9,592
M-4B-E-D Detached	124.0	1,335	39	4,837	52,085
M-4B-F-D Detached	132.4	1,425	35	4,634	49,875
M-4B-F-D Detached	139.9	1,506	18	2,518	27,108
M-5B-A-D Detached	147.6	1,589	11	1,694	17,475
<b>TOTAL</b>			<b>300</b>	<b>32,990</b>	<b>355,101</b>
2 Bed Semi Total			6	2%	
3 Bed Semi Total			120	40%	
3 Bed Detached Total			8	3%	
4 Bed Detached Total			155	52%	
5 Bed Detached Total			11	4%	
<b>Total</b>			<b>300</b>	<b>100%</b>	



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 Fax: 01392 848881  
 www.manningjelliott.co.uk

Project title:  
**Land at Harker Road  
 Harker  
 Proposed Residential Development**

Drawing title:  
**Site Plan as Proposed**

Issue stage:  
**PLANNING ISSUE**

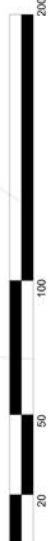
Date:  
**FEB 21**

Drawn by:  
**CS/NB**

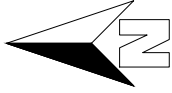
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Planning number:  
**1946-PL210**

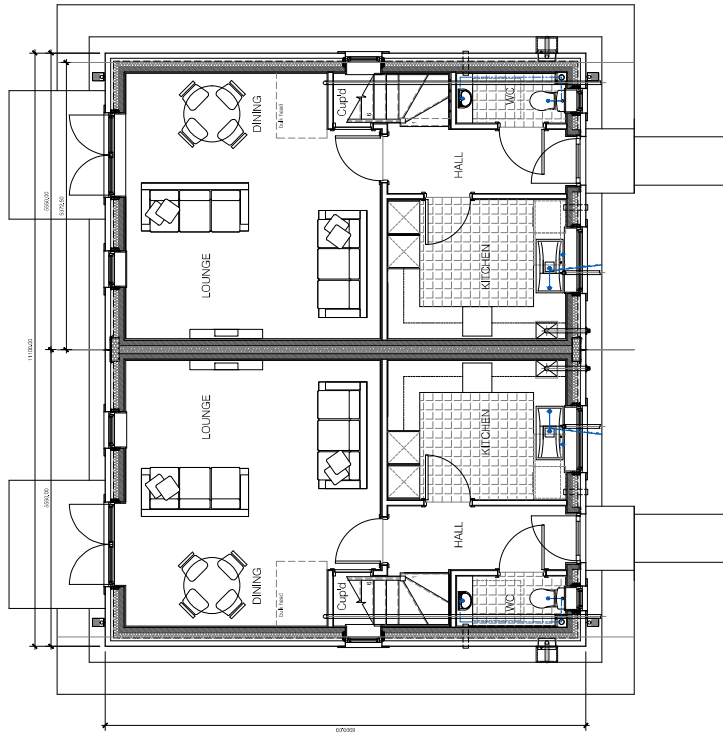
Phase:  
**D**



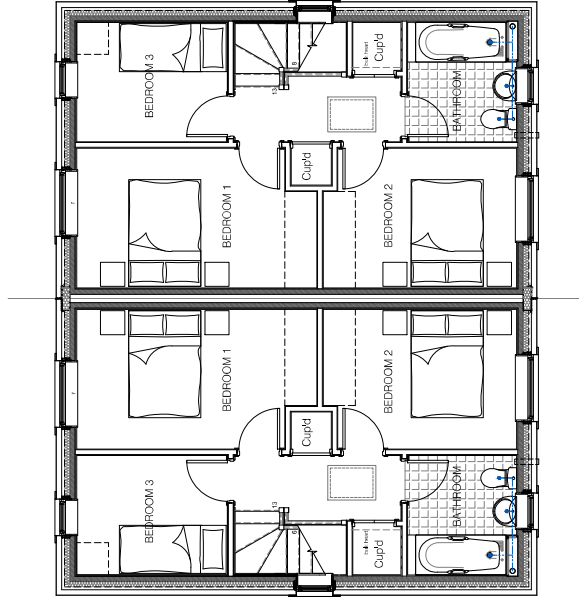
Previously approved scheme under application 21/0194



Target Schedule			
APPROPRIABLE	SQ.M	UNITS	TOTAL SQ.M
M-28-16-5	2,364	742	4,232
M-28-16-5	2,364	800	4,564
M-28-16-5	2,364	858	4,902
M-28-16-5	2,364	916	5,240
M-28-16-5	2,364	974	5,578
M-28-16-5	2,364	1,032	5,916
M-28-16-5	2,364	1,090	6,254
M-28-16-5	2,364	1,148	6,592
M-28-16-5	2,364	1,206	6,930
M-28-16-5	2,364	1,264	7,268
M-28-16-5	2,364	1,322	7,606
M-28-16-5	2,364	1,380	7,944
M-28-16-5	2,364	1,438	8,282
M-28-16-5	2,364	1,496	8,620
M-28-16-5	2,364	1,554	8,958
M-28-16-5	2,364	1,612	9,296
M-28-16-5	2,364	1,670	9,634
M-28-16-5	2,364	1,728	9,972
M-28-16-5	2,364	1,786	10,310
M-28-16-5	2,364	1,844	10,648
M-28-16-5	2,364	1,902	10,986
M-28-16-5	2,364	1,960	11,324
M-28-16-5	2,364	2,018	11,662
M-28-16-5	2,364	2,076	12,000
M-28-16-5	2,364	2,134	12,338
M-28-16-5	2,364	2,192	12,676
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M-28-16-5	2,364	14,944	85,440
M-28-16-5	2,364	15,008	85,780
M-28-16-5	2,364	15,072	86,120
M-28-16-5	2,364	15,136	86,460
M-28-16-5	2,364	15,200	86,800
M-28-16-5			



GROUND FLOOR PLAN



FIRST FLOOR PLAN

**MANNINGELLIOTT**  
PARTNERSHIP  
Chartered Architects &  
Designers  
100, Victoria Road  
Carlisle, Cumbria, CA2 9JF  
Tel: 01273 824243  
Fax: 01273 824244  
www.manningelliott.co.uk

**FLOOR PLANS**

Type A3BAS (Affordable)  
Harker Rd, Harker, Carlisle.

PLANNING DWG  
The Albourne

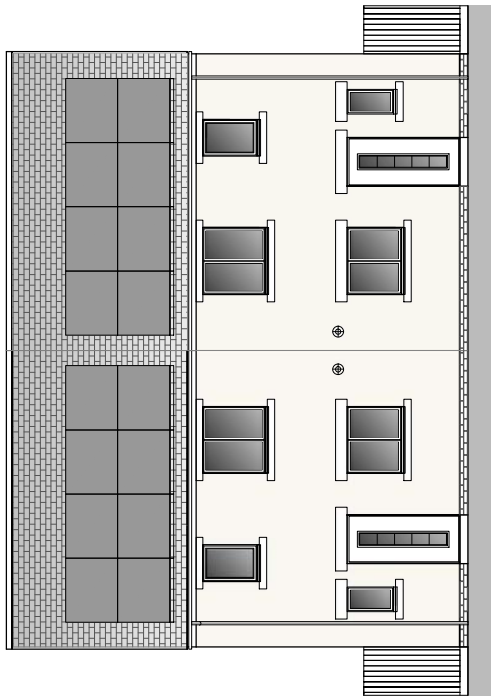
Description:  
3 Bedroom detached / semi property.  
2 Storey.  
Full Double.  
2 x Living Spaces / No Garage.

Area:  
Floors: 61.76 sq m (669 sq ft).  
Exterior finish:  
Roof:  
Windows & Doors:

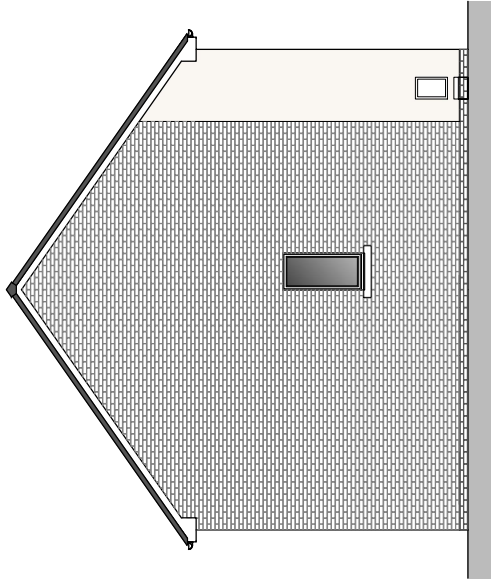
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DRAWING NUMBER:  
Type A3BAS S101-110

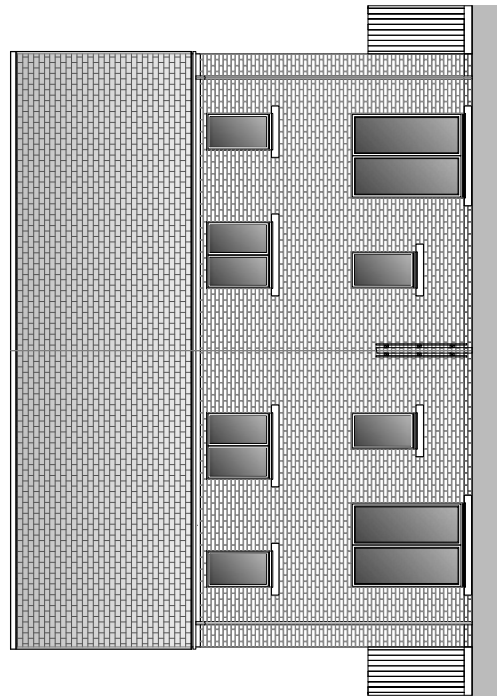




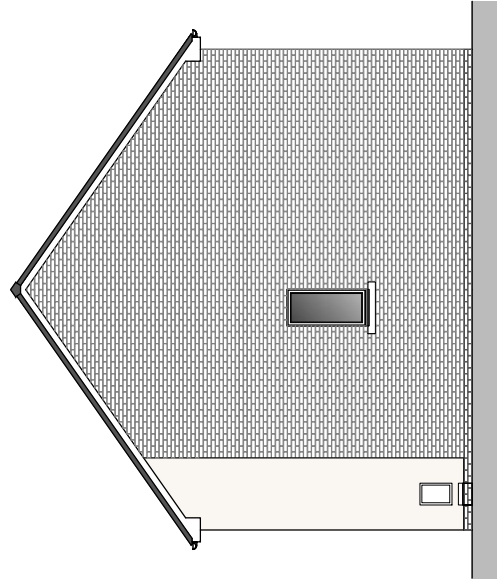
FRONT ELEVATION



SIDE ELEVATION



REAR ELEVATION



SIDE ELEVATION

**MANNINGELLIOTT**  
PARTNERSHIP  
Chartered Architects &  
Designers  
100, North Street,  
Carlisle, Cumbria, CA1 1JH  
Tel: 01273 572222  
Fax: 01273 572223  
www.manningelliott.co.uk

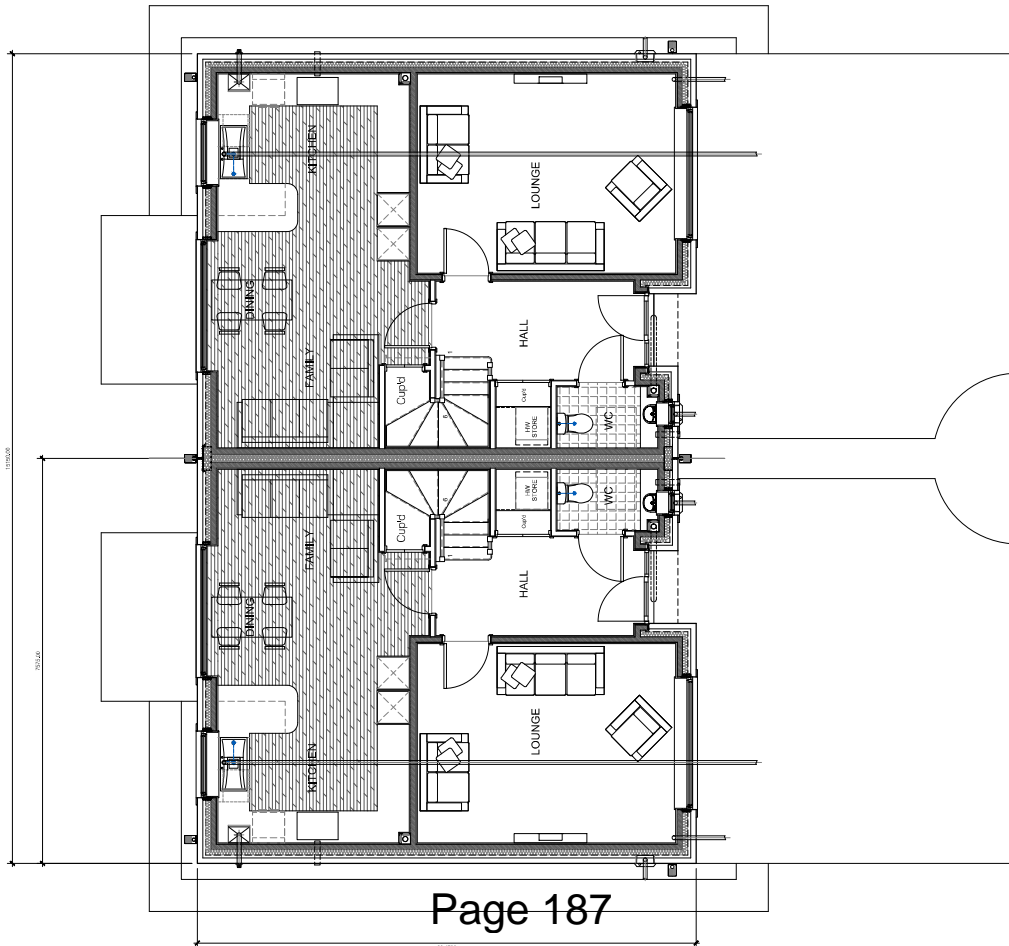
**ELEVATIONS**

Type A3BAS  
Harker Rd, Harker, Carlisle,  
PLANNING DWG  
The Albourne

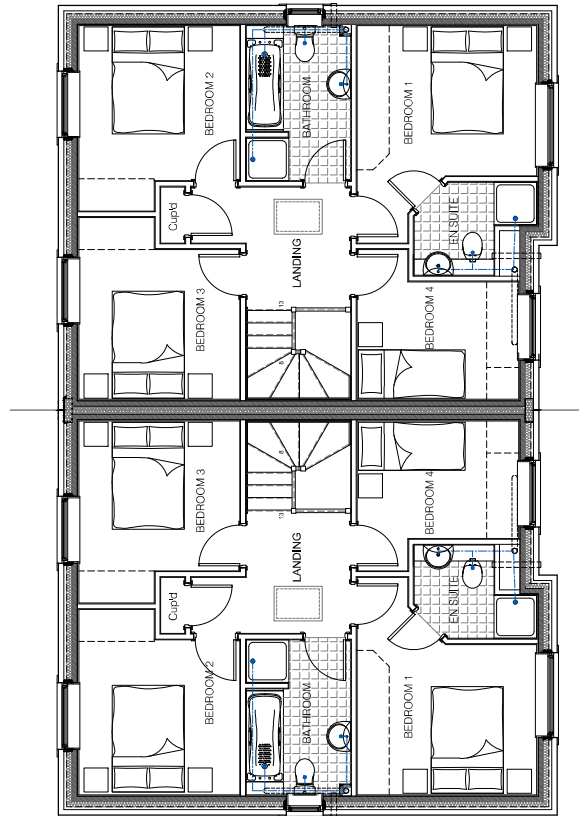
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Date: 06/11/10

Drawing Number:  
Type A3BAS S101-160





GROUND FLOOR PLAN



FIRST FLOOR PLAN

**MANNINGELLIOTT**  
PARTNERSHIP  
Chartered Architects &  
Interior Designers  
100, The Quadrant,  
Canterbury, Kent,  
CT1 1JF, UK  
Tel: 01226 333333  
www.manningelliott.co.uk

**FLOOR PLANS**

Type M4BG5  
Harker Rd, Harker, Carlisle.

PLANNING DWG  
The Grantham

Descriptions:  
4 Bedroom semi  
3 x Parking spaces,  
2 Storey.

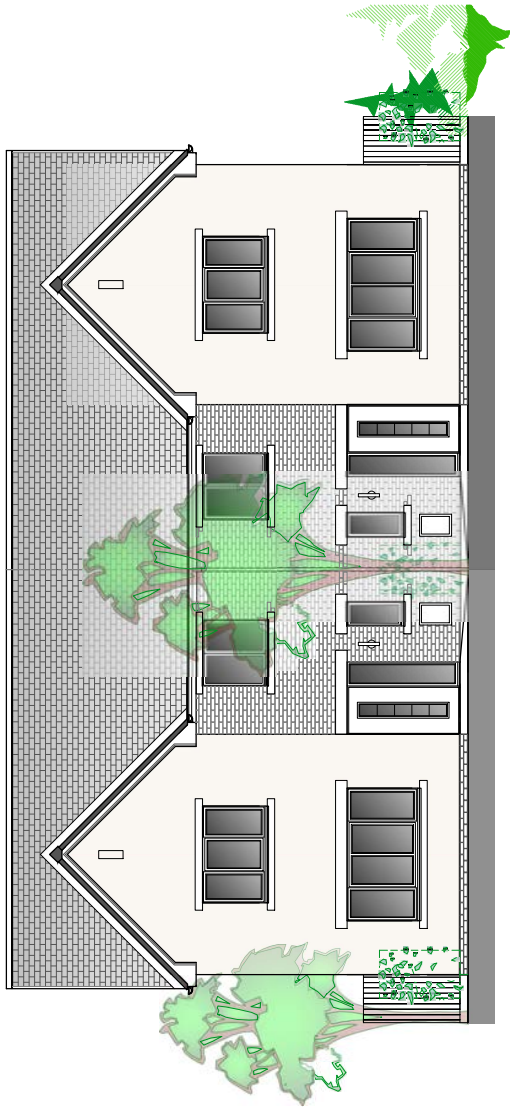
Area  
House - 116.05 sq m (1295 sq ft).

Style: Caribbean Modern

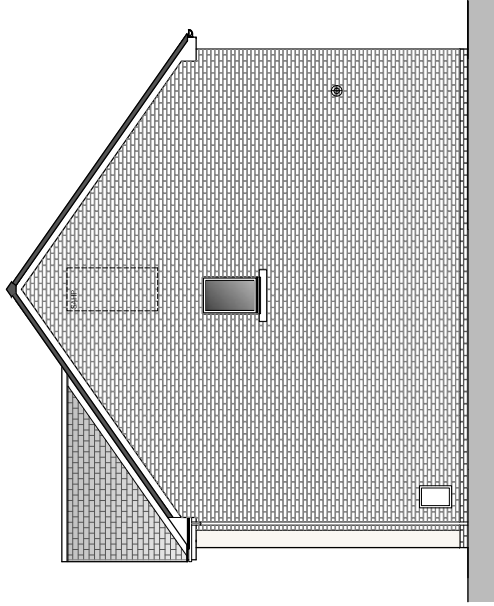
External finish:  
Walls: White Render / Blockwork msk  
Roof: Gray Slate (substituted) tiles  
Windows & Doors: Powder Coated Al (Black)

SCALE: 0/0 A1/A2  
1:50/100

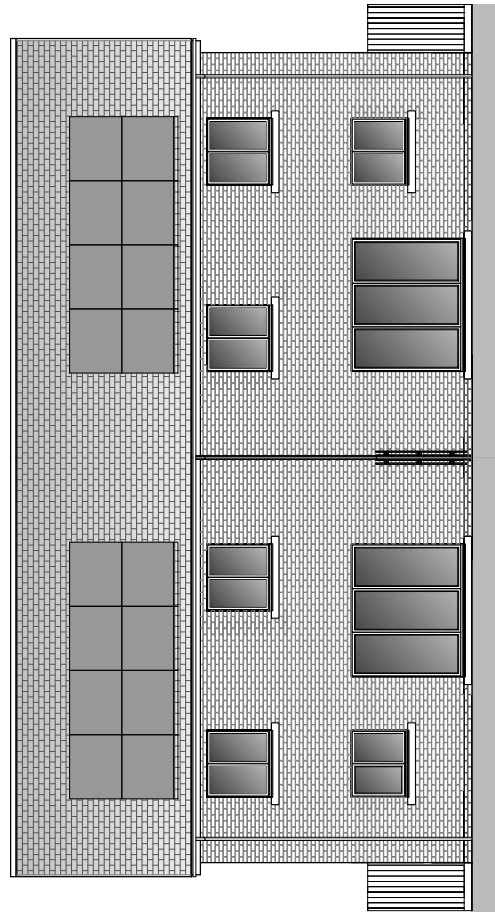
DRAWING NUMBER:  
Type M4BG5 S101-110



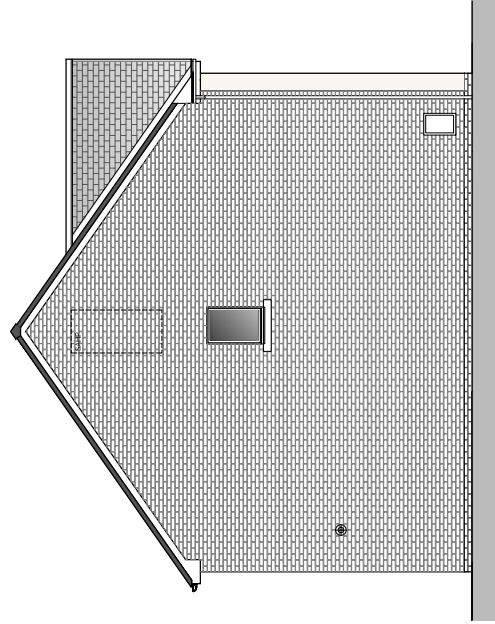
FRONT ELEVATION



SIDE ELEVATION



REAR ELEVATION



SIDE ELEVATION

**MANNINGELLIOTT**  
PARTNERSHIP

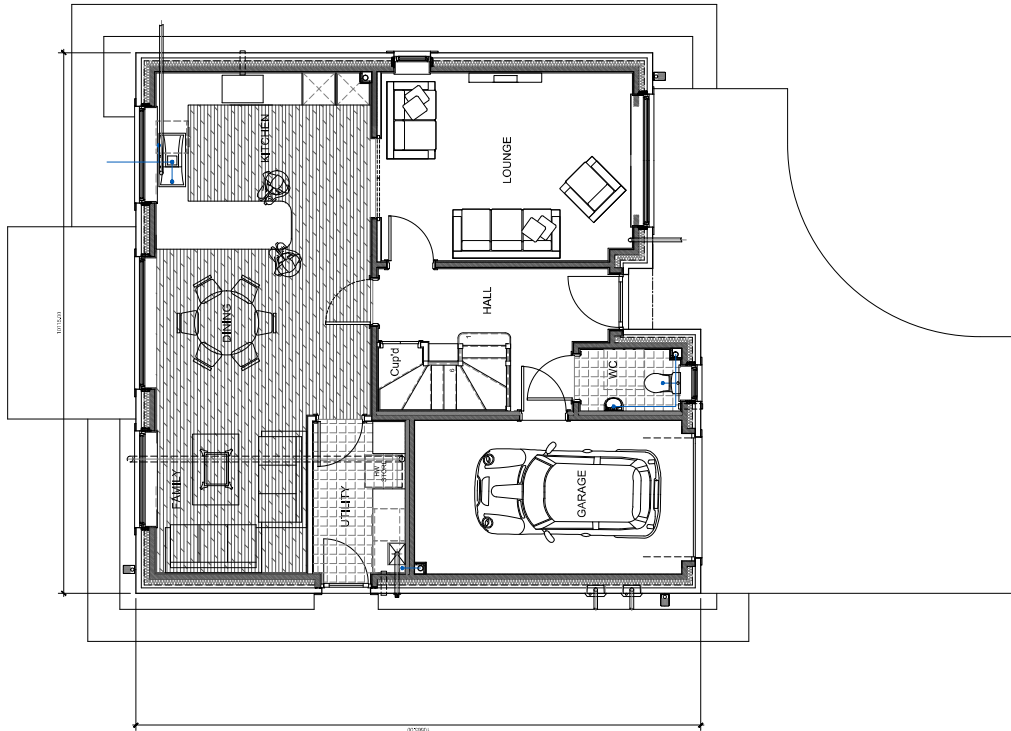
Chartered Architects &  
Designers  
No. 1005, 1006, 1007  
Commercial Road  
Grantham  
Lincolnshire  
LN31 1JH  
Tel: 01509 443000  
www.manningelliott.co.uk

**ELEVATIONS**

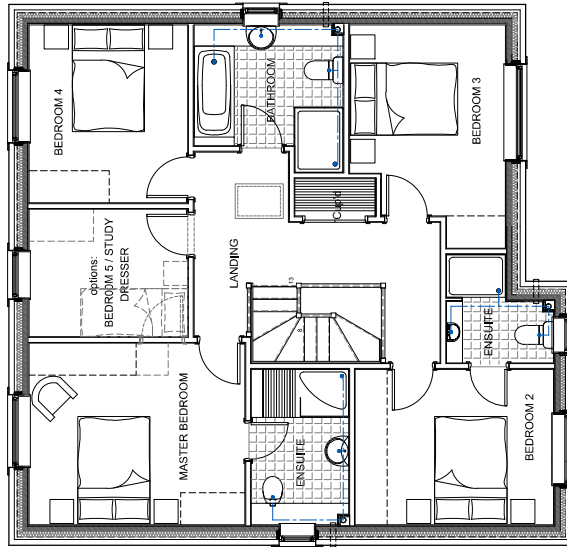
Type M4BGS  
Harker Rd, Harker, Carlisle,  
PLANNING DWG  
The Grantham

SCALE: 0.6/1/2/3  
1:50/100

DRAWING NUMBER:  
Type M4BGS S101-160



GROUND FLOOR PLAN



FIRST FLOOR PLAN

**MANNINGELLIOTT**  
PARTNERSHIP  
Chartered Architects &  
Designers  
100, Victoria Road,  
Cranford, North  
Gloucestershire,  
GL53 0JH  
Tel: 01452 842424  
www.manningelliott.co.uk

**FLOOR PLANS**

Type M6BAD  
Harker Rd, Harker, Carlisle.

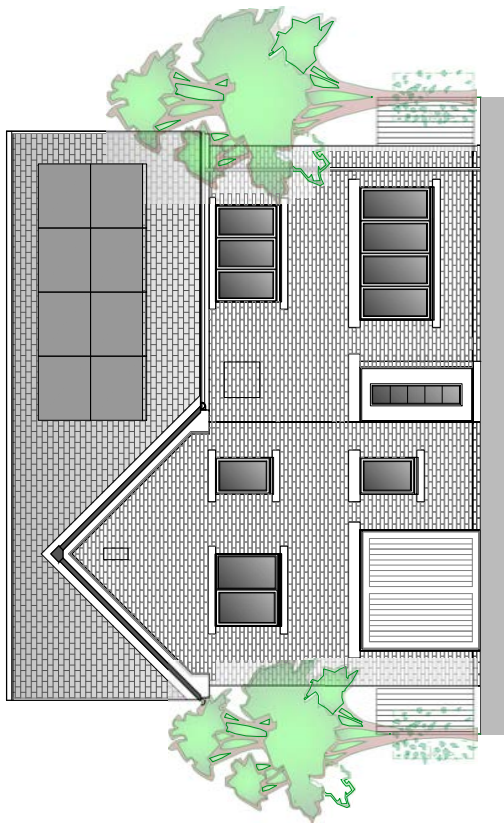
PLANNING DRAWING  
The Manley XL

Description:  
5 Bedroom detached  
Integral Garage,  
2 Storey,  
2 Storey.

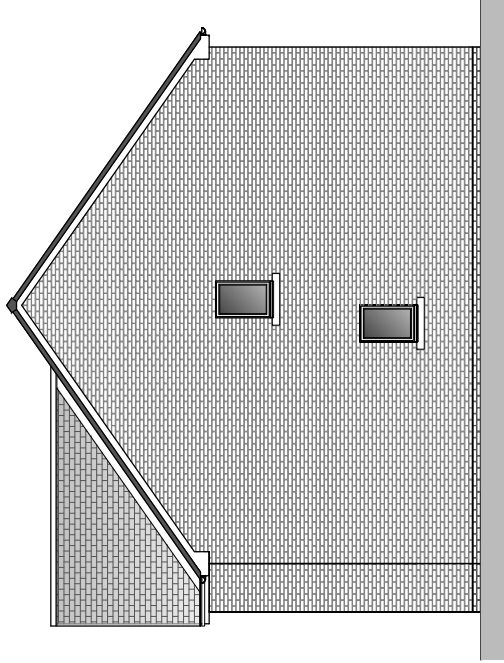
Area:  
Garage - 157.56 sq ft (14.65 sq m)  
Garage - 14.40 sq m (135 sq ft).

External finish  
Walls:  
Roof:  
Windows & Doors

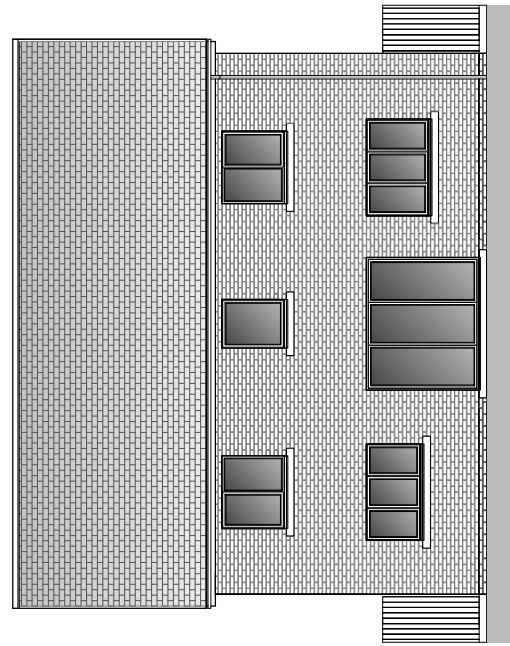
SCALE: 0.67/1/02  
1:50/100  
DRAWING NUMBER:  
Type M6BAD S101-110



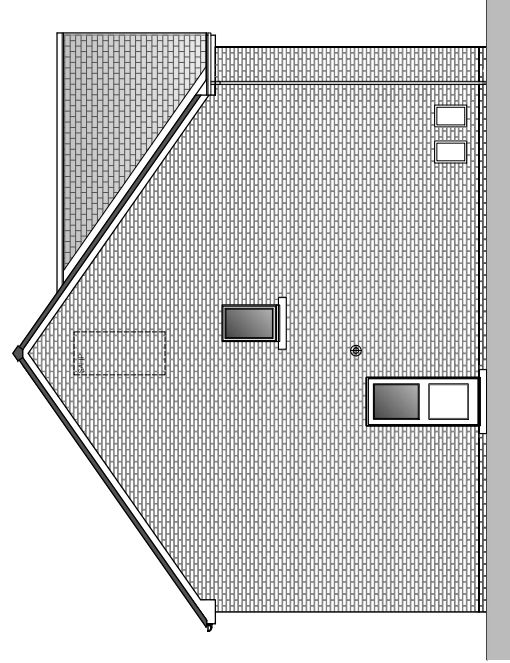
FRONT ELEVATION



SIDE ELEVATION



REAR ELEVATION



SIDE ELEVATION

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**ELEVATIONS**

Type M5BAD  
Harker Rd, Harker, Carlisle,  
PLANNING DWG  
The Manley XL

SCALE: 0:0.1/1/2/0  
1:50/100

DRAWING NUMBER  
Type M5BAD S101-160

<b>Application Reference Number:</b>	FUL/2023/0088
<b>Application Type:</b>	Full Planning Application
<b>Application Address:</b>	Former Fire Headquarters, Station Road, Cockermouth
<b>Proposal</b>	Change of use from site of former fire station to private housing development
<b>Applicant</b>	Bill Dobie
<b>Valid Date</b>	11 <sup>th</sup> May 2023
<b>Case Officer</b>	Alison Williams

- I. **Cumberland Area and Allerdale Relevant Development Plan** Allerdale Local Plan (Part 1) 2014 and Allerdale Local Plan (Part 2) 2020
- II. **Reason for Determination by the Planning Committee**
- III. Application FUL/2023/0088 was considered at the September 2023 planning committee with a resolution to approve subject to conditions and the signing of a S106 agreement.
- IV. However, following the planning committee it was brought to the Council's attention that the Ecological Report and Red Squirrel report were not carried out in 2023 as submitted by the applicant and were actually an out of date survey from a 2018 application and for a 2019 planning application that was withdrawn.
- V. As such the council have not issued the permission and have required the applicant to provide a new ecological and red squirrel survey to be undertaken by a qualified Ecologist. A public re-consultation has been undertaken in relation to the ecological survey and information to address pre-commencement conditions.
- VI. The application is therefore being brought back to planning committee for transparency.
- VII. Update to report since last presented at Committee**
- VIII. Consultation responses
- IX. Natural England – Comment
  - a. Queries raised regarding Rhododendron planting, types of planting around the soakaway. They also highlighted potential impacts of the scheme on habitats, run off and contamination however these are considered within the officer report and can be controlled by condition.
  - b. The applicants landscape architect provided a response confirming the species is non-invasive but have removed Rhododendron from the proposed planting. They have confirmed the location of native and none native species and updated the drawing to reflect.

- X. Environmental Health – Confirm remediation strategy and Construction Method Statement still required
- XI. Highways Officer – Confirmed that the Construction Method Statement is acceptable.
- XII. Cockermouth Town Council – Object Ecology survey carried out during hibernation period and is therefore not a fair assessment and contains insufficient data.

**XIII. Note to members**

- XIV. The previous committee resolution to approve subject to the signing of the S106 is a material planning consideration. There is case law which clarifies that where a decision-maker was minded to depart from a previous decision, it has to engage with the reasons for that decision and explain its departure from them.

**XV. Ecology**

- XVI. Following the consideration of this proposal at Planning Committee in September 2023 it came to light that the ecological information submitted by the applicant in support of the application was misrepresented. The information provided was actually an out of date survey presented as a 2023 report. As a result the planning decision was not issued and the applicant was required to undertake a new survey by a qualified ecologist.
- XVII. The ecologist that carried out the most recent survey is a north east based ecologist. The ecologist is fully qualified including undertaking Red Squirrel Surveys. They are a full member of the Chartered Institute of Ecology & Environmental Management (CIEEM) and a member of the Northumberland Bat Group.
- XVIII. Concern has been raised that the new Red Squirrel survey has been carried out during the hibernation period. However, this is incorrect as Red squirrels do not hibernate, although it is acknowledged that they may be less active in winter. Squirrel surveys can be undertaken at anytime of the year. With the identification of squirrel dreys being best undertaken in the winter months where trees are not in leaf and are therefore more visible.
- XIX. The new report confirms that a transect survey throughout the Site and northern edge of the adjacent Harris Park was undertaken on the 5th January 2024. The transect survey was undertaken within suitable red squirrel habitat (woodlands) to search for foraging red squirrels, drey (nest) locations, feeding remains and suitable holes in trees. A Guide IR Pro 38 thermal camera was used to assist the surveyor in locating potential red squirrels during the transect survey. The transect was undertaken between 10:00 and 14:00, during peak foraging activity in January.
- XX. The ecologist confirms that the habitats within the Site remained very similar to that of 2018 report previously undertaken at the site.
- XXI. Referring to the Governments document in relation to red squirrels and forestry operations in England<sup>1</sup>, Red squirrel habitat depends entirely on the presence of suitable food supplies and trees for drey building. Knowledge of

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<sup>1</sup> [Red squirrels and forestry operations in England - operations note 65 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/100000/red_squirrels_and_forestry_operations_in_england_-_operations_note_65.pdf)



coning is a useful way to predict good feeding areas in the woodlands. The tree species referred to are Norway Spruce (preferred for dreys and food source), Scots Pine (provides food supply, Larch (important food source in years of low pine and spruce seed production), Douglas Fir (seed food source), Sitka Spruce (less preferred food source and only provides food in autumn, Corsican Pine (less favourable to red squirrel than Sitka Spruce as produces fewer cones), Lodgepole Pine (dependable food supply in failure years for Sitka Spruce and Norway Spruce).

XXII. In relation to trees within the site that are of the species referred to above. T15 is larch and is to be retained, T19, T21, T22 are Scots Pine to be retained, W4a includes Scots Pine and Larch and no works are proposed.

XXIII. It is acknowledged that there have been sightings of red squirrels in the area of the site however no feeding remains were recorded during the most recent visit and additionally, no dreys were recorded within the Site and Zol. There remains no evidence that the site supports breeding red squirrels although it may still support a small population of foraging red squirrel on an occasional basis.

XXIV. The ecologist concludes that additionally, further red squirrel surveys are unlikely to detect the presence of red squirrels if the local population has declined, as recorded throughout England (RSNE 2024). However, they recommend as part of the mitigation measures (which is inline with the 2018 report) that the trees are checked no more than 48 before works to the trees for the presence of squirrel dreys. If a drey was identified at this point the works would not be possible to be legally carried out and the works would stop. The impact of finding a drey would need to be then discussed with the council and may require amendments to the permitted scheme or make the scheme unimplementable.

#### **XXV. Contamination**

XXVI. Information has been submitted in relation to the remediation strategy for the site which was previously added as a pre-commencement condition. This has been reviewed by the council's environmental health officer and is considered acceptable. The conditions have therefore been reflected to ensure that the development would be carried out in accordance with the remediation strategy and no longer requires the need for a pre-commencement contamination condition.

#### **XXVII. Construction Method Statement (CMS)**

XXVIII. A construction method statement has been submitted which has been received and considered acceptable. The condition has been updated to ensure that the development is carried out in accordance with the submitted CMS and no longer requires the need for a pre-commencement contamination condition.

**XXIX. Recommendation:**

- XXX. Approve subject to S106 securing 6 affordable units (2 x first homes and 4 x discounted sale) and off site planting in Harris Park.

**PREVIOUS REPORT FOR INFORMATION AND CONDITIONS**

**1.0 Site and Location**

- 1.1 The application site forms a brownfield site within the development boundaries of Cockermouth. The site is identified as a housing commitment within the Allerdale Local Plan (Part 2) Site Allocations DPD for up to 27 dwellings which is in relation to the former office block converted to flats under permitted development rights. The fire station is located to the south of the access road with the Mountain Rescue team closer to Station Road. The former office building outside of the site limits is partially converted to residential use under permitted development. The terrace of residential dwellings to the south of the Mountain Rescue are Grade II Listed.
- 1.2 The Greenway (path and cycleway) bounds the site to the north and is an adopted cycleway. Harris Park bounds the site to the south, which also forms the southern boundary of the Conservation Area. To the north of the Greenway is Lidl supermarket and WCF Animal and Equestrian. There are a further 4 residential properties accessed via New Road to the north of the Greenway.
- 1.3 To the east is the river Cocker and a number of residential properties accessed via Rubbybanks Road, which is a private road and public right of way. The River Cocker is a Site of Special Scientific Interest (SSSI) and a Special Area of Conservation (SAC). The site is located within Flood Zone 1.

**2.0 Proposal**

- 2.1 The proposal seeks planning permission for the construction of a 4 storey apartment block with car parking at the ground floor. At the first floor level would be 3 x 2 bedroom Apartments and 1 x 1 bedroom apartment, the same arrangement would be repeated at the second floor. The third floor would provide 2 x 3 bedroom penthouse apartments served by roof terraces. The apartment block has been designed to be contemporary in appearance with the top floor set back and finished in standing seam zinc providing contrast to the render below. The car parking level would be faced in red brick. Windows would be dark grey uPVC.
- 2.2 A total of 6 affordable apartments are proposed within the existing block of flats within Station House. This would comprise 2 x first time homes and 4 x discounted sale and secured by a S106 agreement.
- 2.3 The proposals also includes the construction of 2 detached 4 bedroom dwellings and 1 pair of semi detached 3 bedroom dwellings and 1 pair of semi-detached 2 bedroom dwellings. The dwellings would be a mix of brick and render with slate roofs.
- 2.4 To facilitate the proposed development, 18 canopy trees and 3 groups (containing a total of 22 mature, and 20 young/semi-mature understory trees) which are generally low quality require removal. These trees would otherwise be recommended to be coppiced as part of a Woodland Management Plan due to poor form and disease which has shortened their safe useful life expectancy. A further 7 trees have been recommended to



undergo arboricultural operations to reduce conflict between their crowns and the proposed development. These operations include crown lifting, crown reductions, and pollarding.

### **3.0 Relevant Planning History**

#### *Application Site*

FUL/2019/0007 – Erection of 13 dwellings - withdrawn  
2/1985/0604 – Erection of fire service HQ additions and fire station - approved  
2/1983/0410 – Proposed new fire services headquarters – approved  
2/1982/0187 – Erection of a new fire headquarters - approved  
2/1979/0343 – Erection of agricultural supplies depot - approved  
2/1978/0953 – Use of land for agricultural supplies depot – approved  
2/1976/0339 – Change of use of former station goods yard for erection of offices - approved  
2/1976/0338 – Change of use of former station goods yard for light industrial purposes - approved  
2/1976/0337 – Change of use former station goods yard for erection of hotel- approved  
2/1975/0340 – Change of use of railway station as a site for residential caravans – refused

#### *Mountain Rescue*

2/2000/0076 – Erection of Mountain Rescue Team Headquarters – approved

#### *Station House*

NMA/2019/0001 – Non-material amendment to application  
FUL/2019/0031 for the extension to four first floor apartments and other external amendments - approved  
FUL/2019/0031 - Extension to 4no first floor apartments and other external alterations to the building - Approved  
2/2018/0341 - Prior approval for conversion of former office building to 23no one and two bedroom apartments – Permitted development  
2/1982/0566 - Renewal of consent for a portacabin- approved  
2/1981/0694 – Renewal of consent for a portacabin- approved  
2/1978/0438 – Siting of temporary portacabin as store, workshop and office also display of agricultural machinery – approved  
2/1976/0339 – Change of use of former station goods yard for erection of offices - approved  
Greenway  
2/1993/0087 – Reclamation of railway line to provide footpath and cycleway - Approved  
2/1993/0939 – Revised application for reclamation of disused railway to form cycleway – approved

### **4.0 Consultations and Representations**

#### **Cockermouth Town Council**

- Density of building proposed for the site Cockermouth has exceeded targets identified in ALP (parts 1 and 2)
- Appearance: A 4 storey building in one area of the site will dominate the landscape both on the site and beyond

- Only part of the site can be classified as brownfield . Some of the building would be identified woodland directly adjacent to Harris Park.
- Most trees in eastern woodland spaces identified as having TPO's. Effect on woodland conservation – some woodland described as having 'high spatial priority'
- It is a wildlife corridor Protected species identified in area.
- Current trees contribute to visual amenity
- Light pollution concerns in woodland area
- Drainage concerns – these are highlighted and would be exacerbated by tree removal in the south and east of the site. Would a soakaway be sufficient? Cumberland Council have already expressed concerns about this Part of the site is in Flood Zone 2.
- The Greenway has been used by the public for many years who would be responsible for the upkeep e.g. lighting going forward. Clarification and commitment would be needed. Future residents should not be responsible
- Without mitigation, there is potential for the proposed construction activities to impact the SSI/SAC via run off and pollution incidents.
- Areas of woodland habitat on site could be described as being 'of importance for nature conservation
- There is concern expressed regarding parking allocation and the fact that some of the proposed garage spaces do not meet the 7x3m minimum requirement (for a car)
- Potential for deleterious impact upon the qualifying feature of River Derwent and Bassenthwaite Lake SAC
- Recommended to refuse the application on the grounds of overdevelopment and massing preferring the flats to be 3 rather than 4 storey high and woodland concerns as outlined above

## Highways and Drainage Officer

19.05.23 – Concerns raised regarding the width of the access road and path arrangements. Site visibility plan required. Comments provided regarding parking requirements, sizes and EV charging points. Detailed drainage strategy required and further drainage requirements.

31.07.23 - Amended plan DWG-5840-178 RevA details a turning head suitable for a refuse wagon to turn and manoeuvre, wider driveways to allow by foot access which are welcomed by the LHA. There has been no proposed changes in the current layout for a shared surface and a continuous carriageway width of 4.8m throughout the development, which would result in it not being adoptable in the future the development is to be considered private. Should you be minded to approve this application. • A 4.8m width carriageway throughout the development and introduce a shared surface or extend the contrasting surface to the highway extent. Or if the 4.8m cannot be secured, request swept path diagrams showing that vehicles can manoeuvre from the dwelling driveways despite the 4.1m carriageway width. • Seek to have "Private" sign installed at the entrance the development. The LHA has no further objections to the proposed development.

7.09.23 - Further to our previous response recommending objection due to lack of information. While that recommendation still stands, should you be minded to approve the application (if you are confident that the details omitted at this stage of the planning process can be satisfactorily obtained at discharge of conditions stage) then we would recommend **Page 196** conditions in any notice of consent you may grant.

1. Condition: Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the Local Planning Authority, no surface water shall discharge to the public sewerage system either directly or indirectly. The drainage scheme submitted for approval shall also be in accordance with the principles set out in the drawing Proposed Surface Water Drainage Strategy, dated 06/07/23 proposing surface water discharging through infiltration and permeable surfaces. The works shall be constructed, maintained and managed in accordance with the approved details.

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

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

Reason: To safeguard against flooding to surrounding sites and to safeguard against pollution of surrounding watercourses and drainage systems.

**Public Rights of Way** – No objections

**Environmental Health** - No objections subject to conditions regarding contamination and Construction Method Statement

**Cockermouth Civic Trust** – No objections to the proposed apartment block. Concerns raised regarding the proposed dwellings and gardens. Concerns also raised regarding the crowning and reduction of the tree line.

**Affordable housing team** – Support provision of affordable housing. Confirmation provided regarding the mix of first homes and affordable purchase.

### **Other representations**

A total of 347 objections have been received raising the following concerns:

- Loss of trees
- Impact on biodiversity and protected sites (namely red squirrels and wider habitats)
- Impact on the character and appearance of the area (scale and design of the apart
- Impact on the highway (access onto a busy road, additional traffic)
- Parking (insufficient off street parking provision)
- Drainage and flooding (potential impact on surface water flooding)
- Impact on Harris Park (visual impact in relation to loss of trees and built development proposed)
- Privacy and amenity (potential for overlooking and overbearing impact on neighbouring properties)

## **5.0 Planning Policy**

Planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

## **Development Plan**

### **Allerdale Local Plan (Part 1) 2014**

S1 Presumption in favour of sustainable development  
S2 Sustainable development principles  
S3 Spatial Strategy and Growth  
S4 Design principles  
S5 Development principles  
S7 A Mixed and Balanced Housing Market.  
S22 Transport Principles  
S29 Flood Risk and Surface Water Drainage  
S32 Safeguarding amenity  
S33 Landscape  
S36 Air, Soil and Water quality.  
DM14 Standards of Good Design

### **Allerdale Borough Local Plan (Part 2) 2020**

SA2 Settlement Boundaries  
SA33 Broadband

### **Other Material Planning Considerations**

National Planning Policy Framework (NPPF) (2023)  
Cumberland Plan (2022)

## **6.0 Assessment**

### **Principle of development**

- 6.1 Policy S3 of the Allerdale Local Plan (Part 1) (adopted July 2014) (ALP) sets out the framework for development across the area. In order to achieve sustainable growth it seeks to direct the majority of new growth to Workington, as the principal centre, together with other key and local service centres. Beyond this a limited amount of growth is expected to take place in a number of identified villages.
- 6.2 Policy S5 of the Allerdale Local Plan Part 1 (ALPP1) states that new development will be concentrated within the physical limits of Principal, Key and Local Service Centres (PSC, KSC and LSC). The site lies within the settlement limits of Cockermouth which is a Key Service Centre that is a second tier of the Settlement Hierarchy. The site is also an allocated housing site within the Allerdale Local Plan and is identified as suitable for development of up to 27 dwellings.
- 6.3 Therefore, the principle of development is therefore supported by Policies S2, S3 and S5 of the Allerdale Local Plan (Part 1) and the settlements limit defined within Part 2 of the Allerdale Local Plan.

### **Highway Safety and Public Rights of Way**

- 6.4 Policies S2 and S22 of the ALP (Part 1) seek to ensure that new development is located in areas that help to reduce journey times, have safe and convenient access to public transport, improve travel choice and reduce

the need to travel by private motor vehicles.

- 6.5 These policies accord with the NPPF which seek to ensure sustainable transport modes are maximised and development is safe and accessible. Policy S5 requires that new development includes acceptable arrangements for car parking and access. Paragraph 111 of the NPPF states, 'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'.
- 6.6 The Institution of Highways and Transportation (IHT) document 'Providing for Journeys on Foot' (2000) considers acceptable walking distances for planning and evaluation purposes and indicates that for commuting/school a distance of 500m is desirable, 1000m is acceptable and 2000m is the preferred maximum. For other journeys (such as shops), 400m is desirable, 800m is acceptable and 1200m is the preferred maximum. The application site is located within the centre of Cockermouth within easy access by foot or cycle to the facilities of Cockermouth. As such the site is considered to be in a sustainable location.
- 6.7 The site is served by an existing vehicular access point onto Station Road. The access is shared with the Mountain Rescue and the Fire Station. Confirmation of the existing visibility splays have been provided and sufficient visibility is achieved in both directions.
- 6.8 The applicant has confirmed that the internal access road would be a private road, which would form part of the wider maintenance agreement for the site. Advice has been provided by the Highways Officer in relation to the width of the road. The proposals demonstrate the road being 4.8m in width reducing to 4.1m past Station House. Whilst the Highways Officer advises 4.8m width would be preferred throughout the site it is noted that the Cumbria Highways Design Guide sets out that "A carriageway width of 4100mm will allow light vehicles such as cars and vans to pass each other without the need to give way but only at reduced speeds for the sake of comfort. Larger vehicles such as refuse service vehicles will require additional width to allow for transition. This additional width may be created through the use of passing places or by restricting the length of carriageway which uses this width."
- 6.9 This is the arrangement proposed as part of this application and as such the road width proposed would allow for vehicles to pass safely with turning heads and passing areas for refuse and large vehicles to access and turn within the site.
- 6.10 The proposals include linking the internal residential paths to the Greenway, which is a permissive path/cycleway (not adopted Public Right of Way) that links to the town centre. This would provide a safe and accessible link to the town centre for residents from the site and would be a desirable route negating the need for an internal footpath throughout the site.
- 6.11 A total of 16 car parking spaces are provided within the under croft parking serving the flats. The dwellings would be served by driveways and garages. The garages measure 4m in width by 6m in depth. Whilst this is 1m shorter than the design guide, this is based on the garage providing storage at the rear (3m x 7m) however as the proposed garages are 4m in width the storage element can be accommodated within the extra 1m in width of the

garage and as such it is considered that the garage provides a parking space. A further parking space is provided on the driveway. It would be possible to accommodate another car on the driveway however this would require occupants of the car to enter/exit the vehicle on the grassed areas to the front of their properties. It is material to note that the site is sustainably located and development should seek to encourage sustainable modes of transport. Each dwelling would be served by at least 2 car parking spaces with visitor parking also provided. The flats would have a parking space each and a secure cycle store is also provided. It is considered that the proposed levels of parking are commensurate to the sustainable location and the number of residential units proposed.

- 6.12 It is considered therefore that the development would not result in an unacceptable impact on highway safety in accordance with Policies S2 and S22 of the ALP (Part 1) and paragraph 111 of the NPPF.

### **Impact on the Character and Appearance of the area and setting of the Conservation Area**

- 6.13 Policy S4 'Design Principles' from the Allerdale Local Plan (Part 1) explains that all new development will be required to demonstrate high standards of design and must be visually attractive, of appropriate scale and appearance, respond positively to the character, history and distinctiveness of its location and integrate well with existing development.

- 6.14 Policy DM14 'Standards of Good Design' from the Allerdale Local Plan (Part 1) also states that new development will be required to:

- Reinforce and respect the existing development pattern with regards to plot size, building heights and frontage widths, particularly where they contribute to local character;
- Respect and respond positively to the distinctive qualities of the location and integrate with the characteristics of the site;
- Take advantage of green infrastructure assets, topography, landscape and waterscape features, historic or biodiversity assets;
- Create an attractive environment that provides appropriate levels of open and amenity green space, privacy and amenity for the occupants of the properties;
- Provide appropriate vehicular access, parking and turning arrangements and facilities for cyclists and pedestrians.

Section 72(1) of the Listed Buildings Act 1990 states that, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Policy S27 of the ALP Part 1 seek to conserve and enhance heritage assets within the Plan area in accordance with their level of significance, reflecting advice within the revised NPPF.

- 6.15 Paragraph 6 of the National Design Guide refers to the expectations of good design in the NPPF. The NPPF which emphasises that the creation of high quality buildings and places is fundamental to what the planning system and development process should achieve. The Framework has a clear expectation for high quality design which is sympathetic to local character and distinctiveness as the starting point for the design process.

- 6.16 Paragraph 130 outlines that: "Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the

short term but over the lifetime of the development;

b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and

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

6.17 Paragraph 134 of the NPPF states: “Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:

a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or

b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.”

6.18 The site is not located within the Conservation Area, however it bounds the site along Harris Park to the south, to the east at the river Cocker and to the north at Lorton Road. The site is a brownfield site having originally formed the railway station up until the 1960’s before its closure. It was later redeveloped as the Fire Station and a detached office block. The office block is now partially converted to residential apartments. The rear of the site, which is where the apartment block is proposed comprises existing hardstanding and overgrown/self seeded vegetation bounded by mature trees in the wider woodland.

6.19 The coppicing of approximately 80 trees would result in the greatest visual change to the existing vegetation. Trees at the top of the woodland embankment closest to the boundary with Harris Park are to be mostly retained as these have good form. The impact therefore is considered to be an initial increase in the transparency of the woodland when viewed from Harris Park, rather than a significant change in canopy outlines. The works to the trees are recommended as part of the arboricultural report to maintain the health and long term viability of the remaining more mature trees. The large conifer and broadleaf mature tree line along the boundary of Harris Park would be retained. The diversity in height structure created by coppicing and planting will result in the long term screening of the development and give privacy to its residents.

6.20 The contemporary design and the scale of the 4 storey apartment building is supported by the Civic Trust and is considered to be sympathetic with its

location. It compliments other modern buildings in the locality (e.g. Fire station, Lidl, WCF), by incorporating local materials into the design to reflect the local vernacular architecture with a contemporary design. The top floor of the building would be finished in standing seam which is a grey finish and is also set back to reduce the visibility of the height of the building. It is considered overall that while the building is taller than the existing converted apartment block it would be viewed in conjunction with the more contemporary development in this location, changing land levels and its design would complement the character and appearance of the area and complies with National and Local Policies.

- 6.21 The proposed dwellings would be a mix of semi-detached and detached two storey dwellings, which are traditional in design. The design of the dwellings reflect the more traditional residential character of Cockermouth and whilst this contrasts with the more contemporary development already on site they would provide variety to the overall site design, whilst utilising materials that draw the development together.
- 6.22 As such overall it is considered that the scale, design, layout and materials of development proposed would not result in harm to the character or appearance of the area and would comply with Policies S4 and S27 of the Allerdale Local Plan. The site is located outside of the Conservation Area and is a brownfield site, while some views could be taken from the Conservation area these would be in the wider context and viewed in conjunction with existing contemporary development in the local area, as such it is considered that the proposals would not result in harm to the character, appearance or setting of the Conservation Area.

### **Residential amenity**

- 6.23 Policy S32 of the ALP (Part 1) seeks to ensure that new development does not have a significant adverse impact on the amenity of existing residents this is inline with Paragraph 130 of the NPPF.
- 6.24 Concerns have been raised by neighbouring residents regarding the potential impact on amenity in relation to privacy, overlooking and overbearing impact.
- 6.25 The nearest residential properties to the proposed apartment block are the existing residential apartments within the site, which are 21m from the site and 34m to the north at New Road and Railway Terrace 50m to the east. The proposed apartment block would be 12.5m overall in height with residential accommodation over 3 floors with the ground floor providing the parking area. The top floor would be set back 5.3m from the northern and southern lower levels. The separation distance between the proposed apartment block and the existing apartment block meets the accepted 21m separation distance and as such overlooking, overbearing impact and loss of privacy would not result.
- 6.27 In relation to properties on New Road and Railway Terrace these are located in excess of 21m from the proposed apartment block. In addition the land level to the north rises outside towards the Greenway before dropping away again towards New Road. As such given the land levels, separation distance and intervening trees the proposals would not result in any harm to amenity. In relation to railway Terrace the properties are set down in land level from the application site with a large number of mature trees between the existing



dwellings and proposed apartment block. As such given the land levels, separation distance and intervening trees the proposals would not result in any harm to amenity.

- 6.28 In relation to the proposed development. The apartment block would be served by a shared amenity area commensurate in size to the proposed residential units. In addition, the site is located within the town centre of Cockermouth with direct access to the Greenway and Harris Park which provided additional amenity and greenspace.
- 6.29 The proposed two storey dwellings would be located to the west of the existing apartment block and to the south of the access road. The positioning of these dwellings would not result in harm to existing amenity. The proposed dwellings would be served by private gardens. Whilst the gardens to the southern properties would be partially constrained by the rising land levels to Harris Park they would provide adequate private external space for the dwellings proposed. The development would not result in an overall loss of daylight or sunlight due to the distances involved between the application site and the residential properties.
- 6.30 As such it is considered that the proposals would achieve sufficient amenity for existing and proposed residents in accordance with Policy S32 of the Allerdale Local Plan and Paragraph 130 of the NPPF.

## **Trees**

- 6.31 Policy DM17 of the ALP Part 1 seeks to protect existing trees where they are considered important to the community or contribute positively to the character of the area or nature conservation.
- 6.32 To facilitate the proposed development, 18 canopy trees and 3 understorey tree groups require felling. The combined total number of trees in G1, G2 and G3 is approximately 22 mature and 20 young/semi-mature trees. However, all these trees except for T47 have been recommended by the Forestry Commission (FC) to be coppiced along with much of W1 irrespective of development. Therefore, the impact of development following woodland coppicing will be the removal of approximately 60 living tree stumps. It is proposed to plant 130 trees in W1 following coppicing. Tree T47 is a healthy twin-stemmed silver birch on the embankment forming W1, due to competition its crown is unbalanced and weighted north. Because of the proximity of a proposed dwelling to this tree and its unbalanced crown form, it is unviable to retain this tree. To benefit the proposed development and long-term woodland structure, it is recommended to coppice approximately 18 trees in Group 4 as these have poor form with slender, etiolated stems and narrow, suppressed crowns. The understorey shrub layer, which includes healthy hazel shrubs will be retained for screening and biodiversity. On the west side of Station House there are four trees which require pruning to facilitate development. Trees T2, T3, T4 and T5 are semi-mature lime located beside the public footpath. These are proposed to be crown reduced from their current size of around 14m high down to approximately 11 m with crown widths reduced to a diameter of around 8m. As part of the same operation, it is recommended to remove minor defects from these trees including low branch tips over footway along with removal and reduction of some weaker stems.

- 6.33 On the north side of the proposed apartment block one tree is recommended

to be pollarded, one tree is recommended to have its crown reduced in lateral extent, and one tree crown lifted to provide clearance for the building plot. Tree T13 (beech), T14 (English oak) and T17 (crab apple) have unbalanced crowns which extend greatest to the south. Tree T13 is recommended to have the south side of its crown reduced by approximately 3 m. Tree T14 is recommended to be crown lifted to 5 m which will also help to balance the crown. Tree T17 is recommended to be pollarded at around 4 m to reduce the spread of an unbalanced crown.

- 6.34 No action to facilitate development is required to the remaining 23 trees, 3 groups and 5 woodland compartments on site. Although development works could proceed in a practical sense without a Woodland Management Plan allowing largescale coppice within W1, a pragmatic approach would initiate intervention (i.e., coppice the trees in W1 as recommended by the Forestry Commission) prior to development of the new dwellings. This way, future conflict issues between houses and tree shading will be removed; access into the woodland for felling and timber removal is unrestricted; and the felling works can proceed more safely.
- 6.35 All retained trees, including those to be coppiced and pruned are to be protected during development with CEZ fencing, such as Heras panels on level ground. The roots of coppiced stumps in woodland W1 can be protected by lightweight forms of barriers or fencing, in recognition of the steep terrain in these areas. Mitigation measures and replacement planting would be secured by condition.
- 6.36 An independent peer review was undertaken in relation to the arboricultural report. This identified in W1 area *“the coppicing and felling of this area is required in order to ensure a long-term retention of tree cover in this area irrespective of whether development takes place or not. Due to the existing overgrown unmanaged condition of these trees the option of thinning is no longer available hence the need for extensive coppicing and felling. The coppice will allow natural regeneration to result in a managed tree covered area. This could take up to five-years to allow the natural regeneration and the planting to establish to start to have a positive impact on wider amenity.”*  
*“T2 – T5, T27 – T30 The works proposed to these trees would allow the trees to be retained long-term in this prominent location along the edge of the footpath. The works is not excessive and would be required irrespective of whether development is granted in that location.”*
- 6.37 T24 and T29 are proposed to be removed to safeguard the existing footpath. Overall the tree removal and works to trees are required to facilitate the long term viability of the wider woodland area and the safety of the footpath users. The trees to be removed to facilitate the development are predominantly self seeded and offer limited value. Subject to the imposition of conditions the proposals would therefore secure a scheme of protection for retained trees, replanting and maintenance, which will result in an overall betterment of the woodland area and trees in accordance with DM17 of the Allerdale Local Plan.

## **Biodiversity**

- 6.38 Policy S35 of the ALP (Part 1) seeks to protect and enhance ecological interest.

- 6.39 The site is located within 80m of the River Derwent and Tributaries SSSI and

the River Derwent and Bassenthwaite Lake SAC. The application has been accompanied by a Preliminary ecological report and Red Squirrel survey.

- 6.40 The squirrel survey identifies that there is no evidence that the site currently supports a breeding population of red squirrel however the site likely forms a supplementary foraging habitat for breeding populations in Harris Park and River Cocker. Mitigation measures are recommended to ensure that removal of vegetation is conducted with caution and any mature trees scheduled for removal or disturbance should be checked by an ecologist for the presence of dreys prior to their removal and undertaken outside of the breeding season (February- September) as a further precaution.
- 6.41 Recommendations are made regarding species mix for replacement planting and linking green corridors with the species also included species favoured by the red squirrel and the installation of red squirrel boxes.
- 6.42 In relation to other protected species such as bats/birds mitigation and risk prevention measures are recommended.
- 6.43 The site is located within proximity to the River Cocker, part of the River Derwent SSSI and the River Derwent and Bassenthwaite Lake SAC, therefore without mitigation there would be a potential for the proposed construction activities to impact on the SSSI/SAC via run-off and/or pollution incidents. Recommendations are therefore made that the development is carried out inline with the best practice guidelines to prevent sediments or pollutants entering the watercourse. These should include:
- The erection of sediment fencing along the eastern site boundaries to prevent any sediment from entering the watercourses as a result of any works undertaken on the site;
  - Secure storage of materials such as topsoil, building materials and chemicals away from the watercourses (these storage facilities should be bunded if appropriate);
  - Appropriate spillage procedures should be put in place and enforced as necessary; and
  - Appropriate surface water drainage facilities utilised.
- 6.44 The site and interface between the site and the SSSI/SAC is classified as highly urban in character and therefore it is considered unlikely that there would be any further direct or indirect impacts on the qualifying habitats or species of the SSSI/SAC as a result of the proposals.
- 6.45 The above would be secured by suitably worded planning conditions and as such the proposals are considered to protect and enhance the ecological interests of the site. In addition a lighting condition would be imposed to ensure any lighting is considered by the LPA to ensure it does not impact on the surrounding woodland.

### **Flood Risk and Drainage**

- 6.46 The site is located within Flood Zone 1, which is at the lowest risk of flooding. Whilst reference is made by the town council of the site being located within the Flood Zone 2 this only relates to the very end of the site which is not to be developed. Foul drainage would connect to the mains sewer and water to the existing drainage system. Details have also been provided demonstrating that the existing amount of impermeable areas

would be reduced thereby improving the overall risk of surface water run-off. A pre-commencement condition is proposed to secure the final details of the drainage scheme and its long term management. Therefore, subject to conditions the proposals would not result in an increased risk of flooding.

## **Affordable Housing**

6.47 Policy S8 of the Allerdale Local Plan Part 1 requires an affordable housing provision for housing developments of 10 dwellings (0.3ha) or more in a Key Service Centre. This triggers the need for 6 affordable units. The applicant is proposing these within the existing apartment block and would be in the form of 2 x first homes and 4 x affordable purchase. This has been agreed with the council's affordable housing team and would be secured by a S106 agreement. As such the proposals would accord with Policy S8 of the Allerdale Local Plan.

## **7.0 Planning Balance and Conclusion**

7.1 The site is located within the settlement limits of Cockermouth which is a Key Service Centre that is a second tier of the Settlement and is also an allocated housing site. Therefore, the principle of development is supported by Policies S2, S3 and S5 of the Allerdale Local Plan (Part 1) and the settlements limit defined within Part 2 of the Allerdale Local Plan. The site is considered to be in a sustainable location, with access to public transport and a range of amenities within reasonable walking distance. The proposals would provide off street parking commensurate to the size of the development and its town centre location. The siting, scale and design of the development would ensure that the amenity of neighbouring residents would be adequately protected. Ecological interest is considered to be limited to the and any direct impacts are considered to be a low risk and can be mitigated by condition. As such the proposals are considered acceptable subject to the signing of a S106 to secure the affordable housing provision.

### **Recommendation:**

Approve subject to a S106 securing affordable housing provision and planting.

## **Appendix 1**

### **List of Conditions and Reasons**

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

Reason: In order to comply with Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out solely in accordance with the following plans:

5840-01A Location Plan  
5840-03H Proposed Site Plan  
5840-04A Proposed GF/FF Plans  
5840-05B Proposed SF/TF Plans  
5840-06D Proposed Elevations & Section  
5840-07B Proposed House Type A  
5840-08A Proposed House Type B

5840-09A Proposed House Type C  
5840-10B Proposed Site Section  
5840-11A Proposed House Type D  
5840-15 Original Run-Off Areas  
5840-17A Access/Footpath  
5840-18 Proposed Elevations Sheet 2  
5543/001B Proposed Existing Fire Station GF Plan (proposed affordable units)  
5543/002D Proposed Existing Fire Station FF Plan (proposed affordable units)

**Other Drawings & Reports:**

Lowther BS 5837 Tree Report Update 14-09-23.  
Lowther Small Woodland Management Plan  
Westwood Landscape drawing WW/L01 Rev D.  
Westwood Landscape Woodland Plant Schedules 21/11/ 22  
Westwood Landscape Landscape Images Rev B 18/01/23  
23297 - Gadsden Consulting - Drainage Strategy P01.  
23297-GAD-00-00-DR-C-1000-Drainage Layout.  
23297-GAD-00-00-DR-C-1060-Drainage Details.

Reason: In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

**Pre-Occupation**

3. The surface water drainage system of the development hereby approved including SuDS features, shall be constructed in accordance with the principals set out in Documents; Drainage Layout 23297-GAD-00-00-DR-C-1000 REVP01, Drainage Details 23297-GAD-00-00-DR-C-1060 REVP01 and FRA No23297 dated 15/09/2023 and shall thereafter be maintained and managed in accordance with the details set out in Appendix D of FRA No23297 15/09/2023

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

4. The development shall be carried out in accordance with the approved Construction Method Statement (January 2024). The approved statement shall be adhered to throughout the duration of the development.

Reason: To ensure adequate protection, mitigation and compensation for protected species, priority species and priority habitat priority habitats.

5. The development should be carried out in accordance with the GEO Environmental Engineering, Soil Contamination Remediation Strategy and a verification report submitted to and approved in writing by the Local Planning Authority, prior to the development being first brought into use.

Reason: To minimise any risk during or post construction works arising from any possible contamination from the development to the local environment in compliance with the National Planning Policy Framework and Policy S30 of

the Allerdale Local Plan (Part 1), Adopted July 2014.

6. 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 immediately to the Local Planning Authority. Development on the part of the site affected must be halted and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These shall be implemented prior to the development (or relevant phase of development) being brought into use. All works shall be undertaken in accordance with current UK guidance, particularly CLR11.

Reason: To minimise any risk arising from any possible contamination from the development to the local environment in compliance with the National Planning Policy Framework and Policy S30 of the Allerdale Local Plan (Part 1), Adopted July 2014.

7. No part of the development hereby permitted shall be built above ground floor level until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping which shall include indications of all existing trees and shrubs on the site, and details of any to be retained, together with measures for the protection in the course of development. All planting, seeding or turfing comprised within the scheme shall be carried out in the first planting season following completion of the development 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 other similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to enhance the appearance of the development and minimise the impact of the development in the locality.

8. No railings, fences, gates, walls and other means of enclosure development shall be erected in connection with the development hereby permitted until details of their design, external appearance and decorative finish have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to the development being occupied.

Reason: In the interests of visual amenity and the character and appearance of the area.

9. The dwellings hereby approved shall not be occupied until the vehicular access, parking and turning requirements have been constructed in accordance with the approved plan and have been brought into use. The vehicular access, parking and 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, parking and turning provision when the development is brought into use.

10. The access drives shall be surfaced in bituminous or cement bound materials, or otherwise bound and shall be constructed and completed before the development is occupied/brought into use.

Reason: In the interests of highway safety.

11. The development shall be undertaken in accordance with the mitigation measures contained within the Falco Ecology Updated Ecology Report FE-231-001-400-R-01-V1 dated January 2024 and The Sidings Bat and Bird Box locations.

Reason: In the interests of safeguarding ecological interests during the construction works of the development hereby approved, in compliance with the National Planning Policy Framework and Policy S35 of the Allerdale Local Plan (Part 1), Adopted July 2014.

12. The works to the trees shall be carried out solely in accordance with the details outlined in the Lowther Arboricultural Survey, Implication Assessment and Tree Protection report dated 2<sup>nd</sup> February 2023.

Reason: To ensure that the trees are protected to an appropriate standard during the construction phase of the development.

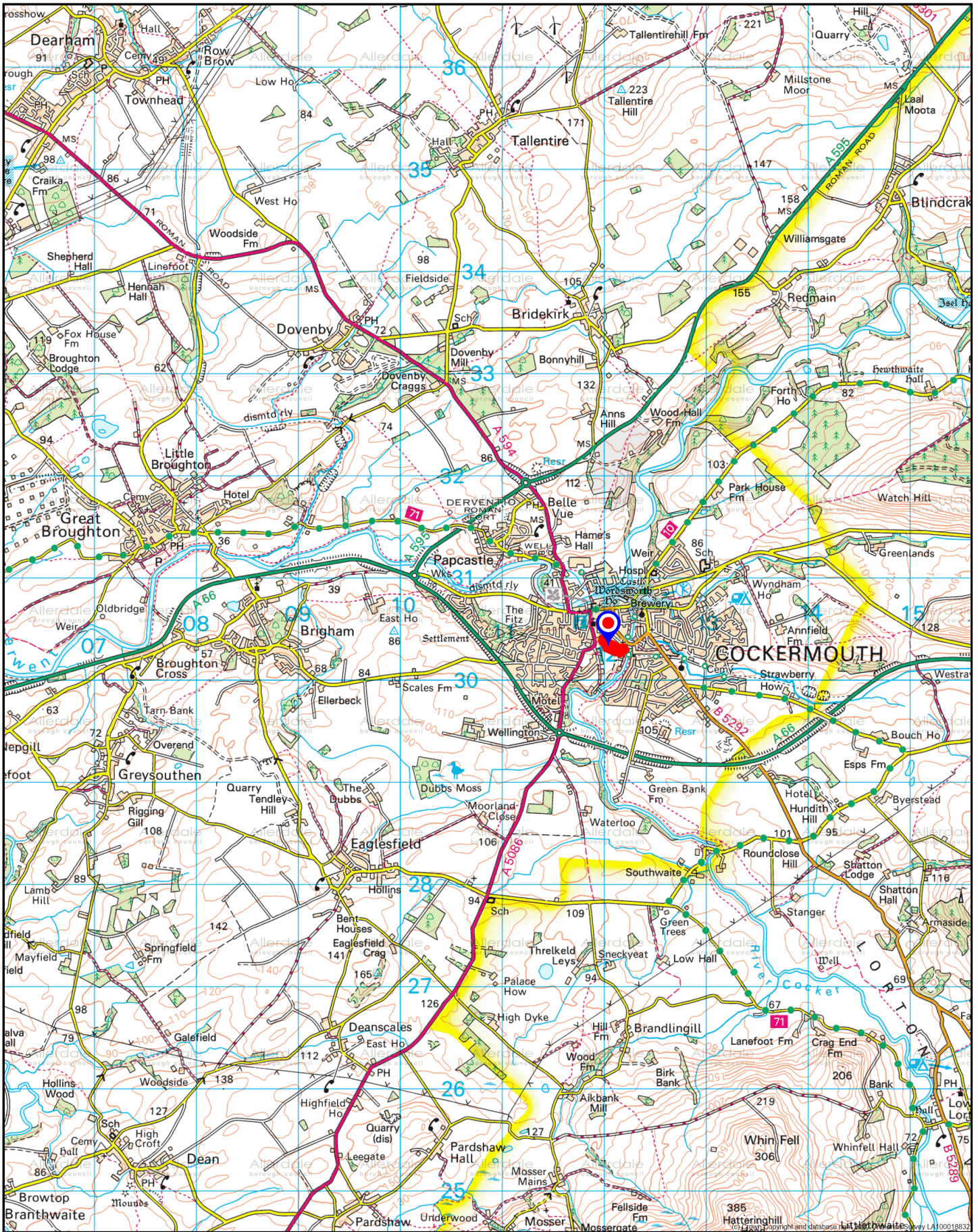
13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no gates, fences, walls or other means of enclosure, other than those shown on the approved plans, shall be erected or placed anywhere on the site.

Reason: To ensure control over boundary details in the interest of public and private amenity and landscape.

14. No part of the development hereby permitted shall be built above ground floor level until there has been details submitted to and approved by the Local Planning Authority of improvements to the existing steps accessing the Greenway to include but not limited to the inclusion of a handrail and details of lighting to serve the Greenway. The approved details shall be implemented prior to the first occupation of the development and maintained and retained thereafter.

Reason: In the interest of public safety of users of the Greenway.





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**Key**  
 The information on existing trees shown should be read in conjunction with the BS 5837 Arboricultural Survey Methodology prepared by Cussons Forestry Group Ltd.

Individual tree groups and with management proposals as described in the AIA. Trees to be removed are as detailed in the AIA.

New woodland (specified by the developer) to be planted in the AIA.

Proposed new trees and planting to be specified by the developer in the AIA.

**Key to House Types**

**Apartment Block**  
 2 Bed - 5/2d 4No  
 2 Bed - 1/2m2 4No  
 3 Bed - 1/2m2 2No

**House Type A**  
 1/2m2 Escalator 1No  
 1/2m2 Escalator 1No

**House Type B**  
 4 Bed - 1/2m2 2No  
 1/2m2 Escalator 2No  
 Garage 2No

**House Type C**  
 3 Bed - 2/2m2 2No  
 1/2m2 Escalator 2No  
 Garage 2No

**House Type D**  
 1/2m2 Escalator 1No  
 1/2m2 Escalator 1No

**House Type E**  
 1/2m2 Escalator 1No  
 1/2m2 Escalator 1No

**Total - 16 No New Dwellings**

Code	Description	Quantity	Unit
A	1/2m2 Escalator	2	No
B	4 Bed - 1/2m2	2	No
C	3 Bed - 2/2m2	2	No
D	1/2m2 Escalator	2	No
E	1/2m2 Escalator	2	No
F	2 Bed - 5/2d	4	No
G	2 Bed - 1/2m2	4	No
H	3 Bed - 1/2m2	2	No
I	1/2m2 Escalator	2	No
J	1/2m2 Escalator	2	No
K	1/2m2 Escalator	2	No
L	1/2m2 Escalator	2	No
M	1/2m2 Escalator	2	No
N	1/2m2 Escalator	2	No
O	1/2m2 Escalator	2	No
P	1/2m2 Escalator	2	No
Q	1/2m2 Escalator	2	No
R	1/2m2 Escalator	2	No
S	1/2m2 Escalator	2	No
T	1/2m2 Escalator	2	No
U	1/2m2 Escalator	2	No
V	1/2m2 Escalator	2	No
W	1/2m2 Escalator	2	No
X	1/2m2 Escalator	2	No
Y	1/2m2 Escalator	2	No
Z	1/2m2 Escalator	2	No

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**Dobles Cumbria Properties Ltd**

Proposed Residential Development at The Slings, Cockerham, Cumbria.  
 Proposed Site Plan

Scale: 1:500 Date: 03.11.23  
 Drawn: [Name] Checked: [Name]  
 Title: AI  
 Project No: 5840  
 Drawing No: 03  
 Scale: H



# Ecological Update Report

**The Sidings  
Cockermouth  
Cumbria**

**Dobies Cumbria Properties Limited**

**FE-231-001-400-R-01-V1**

**January 2024**



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## DOCUMENT CONTROL

### Confidentiality: Not confidential

Site Name	The Sidings
Report Name:	Ecological Update Report
Client:	Dobies Cumbria Properties Ltd
Reference No:	FE-231-001-400-R-01-V1

### Document Checking

Written by: Adrian George	Date: 08/01/2024
Checked by: Adrian George	Date: 10/01/2024

Issue	Date	Status	Comments
V1	10/01/2024	Final	

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## 1 Executive Summary

- An updated ecological survey (hereafter referred to as the 'survey') was undertaken by FALCO Ecology at The Sidings in Cockermouth (hereafter referred to as the 'Site') on the 5<sup>th</sup> January 2024.
- A Preliminary Ecological Appraisal (PEA) & Red Squirrel Report was produced for the Site by SK environmental solutions Ltd. in 2018. A small suite of breeding birds and a small number of red squirrels and feeding remains were recorded during the 2018 survey. This Ecological Update Report should be read in conjunction with the Preliminary Ecological Appraisal & Red Squirrel Report.
- The survey objectives were to establish if priority habitats and protected and notable species were present within and adjacent to the Site.
- The survey was undertaken by a Suitably Qualified Ecologist – Adrian George.
- The Zone of Influence (ZoI) for the proposed development has been set at 50m for direct disturbance; however, given the type and scale of the proposed development, it is considered that the indirect disturbance would be negligible and therefore no scale was set as part of this assessment.
- The Site was not situated within a statutory designated site. No additional statutory designated sites were returned from those described in the PEA (SK environmental solutions Ltd. 2018).
- The UK priority (S41) habitats within the Site and search area included deciduous woodland.
- The Site consisted of deciduous woodland, buildings with associated hardstanding (car parking) and amenity grassland (newly seeded lawn).
- No protected or notable flora were recorded within or adjacent to the Site during the survey.
- No protected or notable species were recorded within the Site during the survey, except for common and widespread lowland bird species.
- No red squirrels, feeding remains or dreys were recorded within the Site or the ZoI during the survey.
- No INNS were recorded within or adjacent to the Site.
- It is considered that the Site has negligible suitability to support the majority of protected or notable species and low suitability to support nesting birds, foraging birds, bats and red squirrel. The small storage building is considered to have negligible/low suitability to support roosting bats.
- The habitats within the indicative site boundary were of negligible value to most ecological receptors and of low value to nesting birds, and foraging birds, bats and red squirrel.
- The impact of the proposed development during the construction and operational phases will be negligible for priority habitats and the majority of protected and notable species. It is predicted that the impact on nesting birds, foraging birds, bats and red squirrel would be minor negative at a site scale. Mitigation measures are required to safeguard protected and notable species, maintain and enhance habitats within the Site.
- Mitigation Measures include:
  - Site/vegetation clearance is recommended to be undertaken outside of the breeding bird season. If undertaken within the breeding bird season (1<sup>st</sup> March-31<sup>st</sup> August), a nesting bird check by a Suitably Qualified Ornithologist (SQO) will be undertaken no



- more than 48 hours prior to the tree felling, to establish if active bird nests are present;
- A qualified and licensed bat ecologist will oversee the roof removal of the small storage building to safeguard potential roosting bats;
- A squirrel drey survey to be undertaken no more than 48 hours prior to the tree felling;
- All open trenches will have ramps installed or will be covered overnight to reduce the potential for terrestrial mammals to get trapped; and
- Any security lighting will be low powered, cowled and downfacing.
- Ecological Enhancements include:
  - The proposed development will follow the detailed Landscape Plan;
  - Installation of 4no. integrated bat boxes in the south aspects of the proposed buildings;
  - Installation of 3no. bird boxes for house sparrow in the east aspects of the proposed buildings; and
  - 2no. squirrel nest boxes to be installed in the retained woodland within the indicative site boundary.
- Residual Impacts will result in a minor positive impact at a site scale if the proposed mitigation and enhancement measures are strictly implemented as per Table 5 within this report.



## 2 Introduction

### 2.1 Background

- 2.1.1 FALCO Ecology Ltd. was commissioned by Bill Dobie of Dobie Cumbria Properties Ltd. (hereon referred to as the 'Client') to undertake an updated ecological appraisal (hereon referred to as the 'survey') at The Sidings in Cockermouth (hereon referred to as the 'Site').
- 2.1.2 A Preliminary Ecological Appraisal & Red Squirrel Report was produced for the Site by SK environmental solutions Ltd. in 2018. A small suite of breeding birds and a small number of red squirrels and feeding remains were recorded during the 2018 survey. No other protected or notable species were recorded during the 2018 species. Additionally, the 2018 survey recorded no invasive non-native species (INNS). This Ecological Update Report should be read in conjunction with the Preliminary Ecological Appraisal & Red Squirrel Report.
- 2.1.3 The purpose of this report is to provide an updated record of the habitats and potential presence of protected species within the Site and adjacent areas. An evaluation of predicted impacts, recommendations regarding further ecological surveys, enhancement and conservation of existing features of ecological importance are also included, where required. This report will provide sufficient information to assist the County Ecologist to assess the impacts of the proposed development on protected and notable species, priority habitats, statutory designated and non-statutory designated sites.

### 2.2 Site Location

- 2.2.1 The Site was the land at the Former Fire Station Headquarters, Station Road Cockermouth, Cumbria. The indicative site boundary<sup>1</sup> is shown in Plate 1 (page 4). The central Ordnance Survey grid reference for the Site is NY 12055 30319 and the Site is ~50m above sea level.
- 2.2.2 The surrounding habitats of the Site were predominantly residential dwellings and commercial units (supermarket). Harris Park is adjacent to the south of the Site. Additionally, the River Cocker is adjacent to the eastern fringe of the indicative site boundary. These habitats along with an ~2km buffer are shown in Plate 2 (page 4).
- 2.2.3 The Site lies within the administrative area of Cumberland Council.

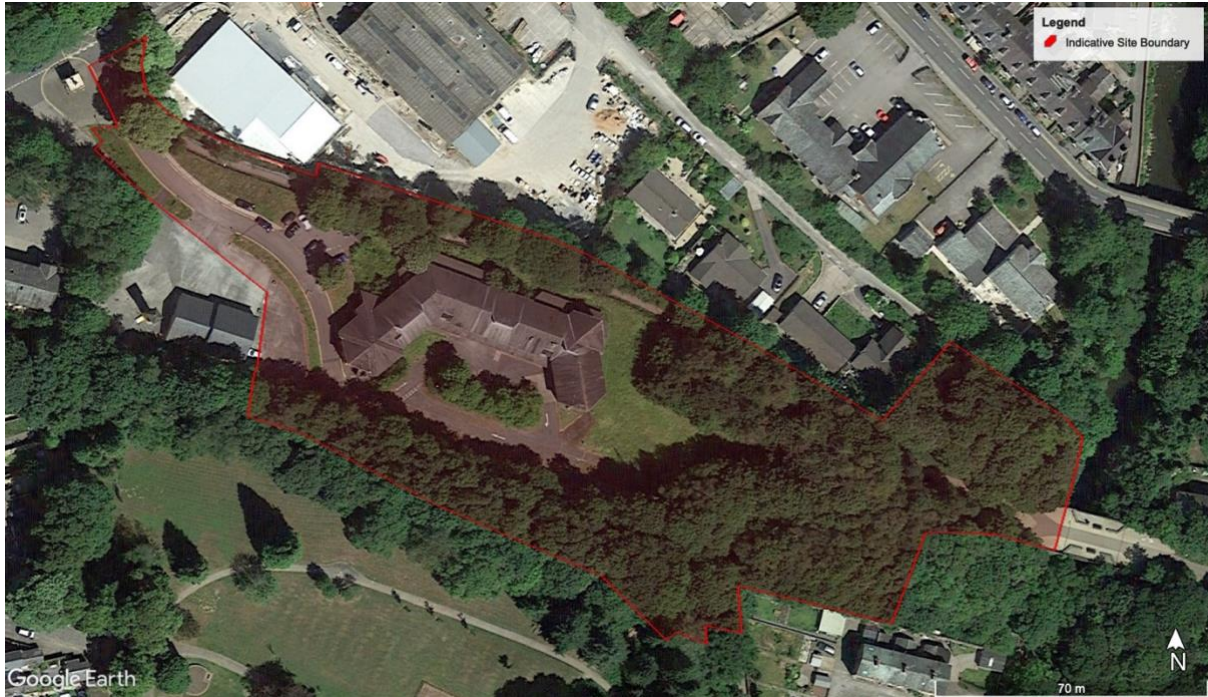
### 2.3 Proposed Development

- 2.3.1 The planning application is for the change of use from site of former fire station to private housing development, which includes an apartment block with 10no. residential units and 6no residential houses.
- 2.3.2 The existing former headquarters building within the Site has prior approval and is currently being converted into private housing.
- 2.3.3 The existing and proposed site plans are shown in Appendix 1.

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<sup>1</sup> Approximately re-drawn in Google Earth Pro from drawing 5840-03H Proposed Site Plan. Not to scale and not to be used as an accurate site boundary.





**Plate 1:** Indicative site boundary.

© Google Earth. Image date 30/06/2018.



**Plate 2:** Surrounding habitats of the Site.

© Google Earth. Image date 30/06/2018.



## **2.4 Ecological Appraisal and Reporting Objectives**

2.4.1 The ecological investigations undertaken by FALCO Ecology included the following objectives:

- Update Desktop Study to obtain existing information on statutory and non-statutory Sites of nature conservation interest;
- Update Extended Phase 1 involving a walkover of the Site to record habitat types and dominant vegetation, including any invasive species, and a walkover survey for evidence of protected fauna or habitats capable of supporting such species;
- Red squirrel transect;
- Recommendations for further ecological surveys;
- Impacts of the development on ecological receptors; and
- An assessment of the potential ecological constraints to the works at the Site.

## **2.5 Legislation**

2.5.1 UK Legislation (specifically related to England) relating to habitats, plants, herptiles, birds and mammals are fully documented in Appendix 5.



## 3 Methodology

### 3.1 Desktop Study

#### Desk Search

3.1.1 A desktop study from following web resources was used:

- The Government's Multi-Agency Geographic Information for the Countryside or 'MAGIC' website, which provides details of nature conservation sites designated for their ecological interest including Natura 2000 sites, priority habitats, and registered European Protected Species Mitigation (EPSM) Licenses;
- Google Earth Pro was utilised to assess the habitats surrounding the surveyed building for their suitability to support species of ecological importance and protected species and the wider habitat features such as woodlands, urban environments and types of agricultural habitats; and
- Ordnance Survey Maps which provided watercourse and waterbody locations.

#### Consultation Data

3.1.2 Consultation data from the Cumbria Biodiversity Data Centre was obtained for the Site by the Client in December 2022 and included historical records of protected and notable species within 2km of the Site (hereafter referred to as the study area).

### 3.2 Ecological Update Survey

3.2.1 The survey was undertaken by Adrian George BSc (Hons), a suitably qualified and experienced ecologist from FALCO Ecology on the 5<sup>th</sup> January 2024 during good weather conditions.

3.2.2 The survey consisted of a walkover of the Site and adjacent area where access was available to record the presence or potential presence of priority habitats and protected and notable species. A red squirrel transect survey was also undertaken. These are discussed further below.

3.2.3 For all fauna species recorded during the survey, common and scientific (*italics*) names are used in the first instance and common names thereafter.

#### S41 Habitats

3.2.4 The vegetation and habitat types within the site boundary were recorded during the survey and followed the Phase 1 habitat survey methodology outlined in the 2016 revised edition of the 'Handbook for Phase 1 Habitat Survey' by the Joint Nature Conservation Committee (JNCC 2016a).

3.2.5 A Phase 1 habitat survey is not designed to provide a full and comprehensive list of the flora within the Site. However, species were recorded where identified.

#### Protected and Notable Species

3.2.6 The Site was inspected for evidence of and its potential to support protected or notable species, especially those listed under the Conservation of Habitats and Species Regulations 2017 and the Wildlife & Countryside Act 1981 (as amended), including those given extra protection under the Natural Environment and Rural Communities (NERC) Act 2006, Section 41 (S41) and Countryside & Rights of Way (CROW) Act 2000, listed on the UK and Local BAPs and birds included on Red or Amber on the Birds of Conservation Concern list.





## Terrestrial Invertebrates

- 3.2.7 The survey was undertaken outwith the flying season for most terrestrial invertebrates. The assessment of the habitats within the Site was undertaken which may support terrestrial invertebrates.

## Aquatic Invertebrates

- 3.2.8 The Site consisted of terrestrial habitats with a watercourse (River Cocker) running adjacent to the eastern site boundary. No waterbodies were present within the Site. An assessment of the habitats that could support aquatic invertebrates was undertaken.

## Herptiles

### Amphibians

- 3.2.9 An assessment of ponds, watercourses and terrestrial habitats was undertaken which may support great crested newts *Triturus cristatus*. Habitat Suitability Index (HSI) following ARG (2010) was not considered to be required as no ponds within 250m of the Site were recorded on the 1:25:000 Ordnance Survey map (Streetmap 2024).

### Reptiles

- 3.2.10 Presence of suitable resting, foraging and hibernacula habitats, including mosaic habitats and brash/log piles were recorded where present.

## Birds

- 3.2.11 All birds observed and heard during the survey were recorded along with their activity i.e. singing/carrying food etc. All bird species detailed within this report follow the sequence and taxonomy recommended by the British Ornithologists' Union (BOU) (2022). Bird names used differ from those recommended by the BOU in that they follow the British (English) vernacular names in common usage by birders and ornithologists in the UK.

## Terrestrial Mammals

### Badger

- 3.2.12 The Site and a 30 m buffer (where access was available), as recommended by English Nature's Badgers and Development (2002), was investigated for evidence of badger activity, which included setts, latrines, snuffle holes and runs.

### Bats

- 3.2.13 An assessment was undertaken during the survey on the suitability of the Site and adjacent area (woodland/wildlife corridor) to support roosting and foraging bats. The survey followed the guidance for assessing PRFs as set out within the Bat Conservation Trust Guidelines (Collins 2023) shown in Table 1, below.

**Table 1:** Guidelines for assessing potential roost features.

Suitability	Description
Negligible	Negligible habitat features on site likely to be used by roosting bats.
Low	A structure with one or more potential roost sites that could be used by individuals bats opportunistically. However, these potential roost sites do not provide enough space, shelter, protection, appropriate conditions and/or suitable surrounding habitats to be used on a regular basis or by large numbers of bats (i.e. unlikely to be suitable for maternity or hibernation).



Suitability	Description
	A tree of sufficient size and age to contain PRFs but with none seen from the ground or features seen with only very limited roosting potential.
Moderate	A structure or tree with one or more potential roost sites that could be used by bats due to their size, shelter, protection, conditions and surrounding habitat but unlikely to support a roost of high conservation status (with respect to roost type only – the assessments in this table are made irrespective of species conservation status, which is established after presence is confirmed).
High	A structure or tree with one or more potential roost sites that are obviously used by large numbers of bats on a more regular basis and potentially for longer periods of time due to their size, shelter, protection, conditions and surrounding habitat.
Confirmed	A bat or bats observed within the building/tree.

3.2.14 All UK bats have been found to be roosting in buildings; however, some bats prefer buildings more than others. Furthermore, many species prefer unique aspects of a roost feature within a building. Bats that utilise buildings for roosting can be separated into four categories and are described in Table 2 (BCT2015).

**Table 2:** Roost features in buildings that various bats prefer.

Roost Type	Species
Crevice dwelling bats (These are often hidden from view)	Common pipistrelle <i>Pipistrellus pipistrellus</i> , soprano pipistrelle <i>Pipistrellus pygmaeus</i> , Nathusius' pipistrelle <i>Pipistrellus nathusii</i> , Brandt's bat <i>Myotis brandtii</i> , whiskered bat <i>Myotis mystacinus</i> and noctule <i>Nyctalus noctule</i> .
Roof-void dwelling bats (maybe seen on roof timbers)	Serotine <i>Eptesicus serotinus</i> , Leisler's bat <i>Nyctalus leisleri</i> , Daubenton's bat <i>Myotis Daubentonii</i>
Bats that need flight space in certain types of roost	Natterer's bat <i>Myotis nattereri</i> and brown long-eared bat <i>Plecotus auritus</i>
Bats that need flight space and flying access into the roost	Greater Horseshoe <i>Rhinolophus ferrumequinum</i> and Lesser Horseshoe <i>Rhinolophus hipposideros</i>

3.2.15 All UK bats have been found to be roosting in buildings; however, some bats prefer buildings more than others. Furthermore, many species prefer unique aspects of a roost feature within a building. Bats that utilise buildings for roosting can be separated into four categories and are described in Table 3 (BCT 2015).

**Table 3:** Roost features in buildings that various bats prefer.

Roost Type	Species
Crevice dwelling bats (These are often hidden from view)	Common pipistrelle <i>Pipistrellus pipistrellus</i> , soprano pipistrelle <i>Pipistrellus pygmaeus</i> , Nathusius' pipistrelle <i>Pipistrellus nathusii</i> , Brandt's bat <i>Myotis brandtii</i> and whiskered bat <i>Myotis mystacinus</i>
Roof-void dwelling bats (maybe seen on roof timbers)	Serotine <i>Eptesicus serotinus</i> , Leisler's bat <i>Nyctalus leisleri</i> , Daubenton's bat <i>Myotis daubentonii</i>





Roost Type	Species
Bats that need flight space in certain types of roost	Natterer's bat <i>Myotis nattereri</i> and brown long-eared bat <i>Plecotus auritus</i>
Bats that need flight space and flying access into the roost	Greater Horseshoe <i>Rhinolophus ferrumequinum</i> and Lesser Horseshoe <i>Rhinolophus hipposideros</i>

### Otter and water vole

3.2.16 Watercourses and terrestrial habitats within or adjacent to the Site were assessed for suitability to support foraging, resting, and breeding otter *Lutra lutra* and water vole *Arvicola amphibius*.

### Other Notable Species

3.2.17 Signs of the presence of other notable species was recorded during the survey and included brown hare *Lepus europaeus*, red squirrel *Sciurus vulgaris* and European hedgehog *Erinaceus europaeus*.

#### Red Squirrel

3.2.18 A transect survey throughout the Site and northern edge of the adjacent Harris Park was undertaken on the 5<sup>th</sup> January 2024. The transect survey was undertaken within suitable red squirrel habitat (woodlands) to search for foraging red squirrels, drey (nest) locations, feeding remains and suitable holes in trees. A Guide IR Pro 38 thermal camera was used to assist the surveyor in locating potential red squirrels during the transect survey.

3.2.19 The transect was undertaken between 10:00 and 14:00, during peak foraging activity in January (Rae 2014). Additionally, red squirrels do not hibernate and are active every day throughout the winter. The weather conditions during the transect survey was light winds, overcast, 6degC and dry.

3.2.20 Red squirrel field signs, ecology and legislation are detailed in the PEA (SK environmental 2018).

#### Fish

3.2.21 No waterways were present within the Site and therefore no fish specific surveys were undertaken as part of this assessment.

#### Invasive Non-native Species

3.2.22 The Site and the adjacent area were searched for evidence of invasive non-native species (INNS), such as Japanese Knotweed *Fallopia japonica*, Indian (Himalayan) Balsam *Impatiens glandulifera*, Giant Hogweed *Heracleum mantegazzianum*, Horizontal Cotoneaster *Cotoneaster horizontalis* and Rhododendron *Rhododendron ponticum*.

### 3.3 Zone of Influence

3.3.1 The Zone of Influence (ZOI) is defined as 'the area(s) over which ecological features may be affected by the biophysical changes caused by the proposed project and associated activities' (CIEEM 2018). The ZoI will depend on a variety of factors including composition of waders and waterfowl, bird activity (foraging, resting, nesting) and existing habituation levels. Times of year, weather conditions and morphology of the area (Cutts et al 2009).



3.3.2 The ZOI for the proposed development has been set at 50m for direct disturbance<sup>2</sup>; however, given the type and scale of the proposed development, it is considered that the indirect disturbance<sup>3</sup> would be negligible and therefore no scale was set as part of this assessment.

### 3.4 Limitations

3.4.1 This report provides an assessment of the ecological interest present on the day of the survey and highlights areas where further ecological surveys may be required.

3.4.2 To determine likely presence or absence of protected species usually requires multiple visits at suitable times of the year. As a result, the survey undertaken focussed on assessing the potential of the Site to support species of note, which are considered to be of principal importance for the conservation of biodiversity with reference to the National Planning Policy Framework (NPPF, 2018), especially those given protection under UK or European wildlife legislation.

3.4.3 The consultation data was requested by the Client rather than an Ecologist and therefore data (species) on sensitive species (Schedule 1 birds) were redacted. No sensitive species were return within or adjacent to the Site and therefore this limitation is not considered to have impacted the assessment within this report.

3.4.4 The details within this report will remain valid for a period of 12 months. Beyond this period, it is recommended that a new review of the ecological conditions of the Site are undertaken.

3.4.5 The assessment within this report is based on the full application proposal, any future full planning application will require an updated assessment to establish the impact of the proposed development on protected and notable habitats and species.

### 3.5 Assessment

3.5.1 In order to determine the value of the habitats and species found through the surveys detailed above, the data search and survey results were assessed against the criteria set out in Table 4, below.

**Table 4:** Assessment criteria.

Suitability	Description
Negligible	Habitats within the Site and surrounding area are poor quality for a species or suite of species. Data searches provided no historical records within the search area. A species or suite of species cannot be ruled out within the search area.
Low	Habitats within the Site and surrounding area are of poor to low suitability for a species or suite of species. Suitable habitats are limited in size with no connectivity to other suitable habitats. Data searches provided few and/or old historical records within the search area. Species have a low potential to be present on the Site.

<sup>2</sup> Direct effects are considered to comprise impacts such as pollution incidents (noise and vibration, water, air and dust) and human presence.

<sup>3</sup> Indirect effects in general comprise an increase in recreational activity at the Natura 2000 site. This is particularly prevalent with coastal sites, which are seen as a particular "attraction".



Suitability	Description
Moderate	Habitats within the Site and surrounding area are of moderate suitability to a species or suite of species, with sub-optimal habitats, being medium in size and limited connectivity between other suitable habitats.
High	Habitats within the Site and surrounding area are of optimal suitability for a species or a suite of species, with suitable resting, foraging and hibernacula sites, wildlife corridors linking further suitable habitats. Data searches provided recent records within the search area.

### 3.6 Significant Effect

- 3.6.1 A 'significant effect' is an effect that either supports or undermines biodiversity conservation objectives for 'important ecological features' or for biodiversity in general (CIEEM 2016).
- 3.6.2 The CIEEM EcIA guidelines (2016) state that effects should be referenced against a geographical frame. Effects can be considered significant at a wide range of scales and these include International, European, national, regional, county or local authority area, local or site.

### 3.7 Surveyor's Experience

#### Adrian George

- 3.7.1 Adrian is an experienced ecologist who has undertaken commercial ecology surveys for 15 years on a range of developments including residential properties, small and large scale wind farms, solar farms, power lines, water pipelines and highways. Adrian has completed an array of ecological surveys throughout England, Wales and Scotland. Adrian meets the competency for surveying a range of protected and notable species. Environmental licenses held by Adrian include: Class 2 Natural England (CL18 2017-32910-CLS-CLS), a Scottish Natural Heritage bat licence, a Class 1 Natural England great crested newt license (2018-34025-CLS-CLS) and a Natural England Barn Owl licence (CL29-00427). Ecological training has been a combination of in-houses and workshops and courses.
- 3.7.2 Adrian is a full member of the Chartered Institute of Ecology & Environmental Management (CIEEM) and a member of the Northumberland Bat Group.



## 4 Results

### 4.1 Desktop Study

#### Designated Sites

- 4.1.1 No additional designated sites have been formed since the Preliminary Ecological Appraisal (SK environmental 2018) (DEFRA 2024).

### 4.2 Extended Phase 1 Habitat Survey

- 4.2.1 The habitats within the Site remained very similar to that recorded within the Preliminary Ecological Appraisal (SK environmental 2018). The semi-natural broadleaved woodland along the southern and eastern edge of the Site remained. The former fire station headquarters building was being converted into residential units with associated car parking and surrounding seeded amenity grassland. An updated Phase 1 habitat plan has not been produced for this report as the 2018 map remains relevant to the current habitats on Site.

- 4.2.2 Photos of the habitats within and adjacent to the Site taken during survey are shown in Appendix 2.

#### S41 Habitats

- 4.2.3 The UK priority habitats within the search area included swathes of deciduous woodlands; with the closest being within the eastern area of the Site. The deciduous woodland within the search area formed a woodland corridor from Cockermouth Cemetery to and then along the River Cocker. The nearest ancient and semi-natural woodland was located ~930m northeast, adjacent to St Helens Street allotment gardens.

- 4.2.4 It is considered that the proposed development will negatively impact the deciduous woodland within the Site due to the small scale of felling required to construct the proposed development.

#### Protected & Notable Plants (incl. Fungi)

- 4.2.5 Common Spotted-orchid *Dactylorhiza fuchsia* was the only protected and notable plant species was returned as part of the desktop. This record was from Fitz Wood in Cockermouth. No records were returned within or adjacent to the Site.

- 4.2.6 No protected or notable plant species were recorded within the indicative site boundary during the survey.

- 4.2.7 It is considered that the suitability of the Site to support protected and notable plants is negligible and therefore are not considered further within this report.

#### Other Plants

- 4.2.8 The flora species within the indicative site boundary remained very similar to that recorded within the Preliminary Ecological Appraisal (SK environmental 2018) with no additional flora species recorded.

#### Terrestrial Invertebrates

- 4.2.9 A small array of protected and notable terrestrial invertebrate species (butterfly, moth and dragonfly) was returned as part of the desktop study. None of these were recorded within or adjacent to the Site.



- 4.2.10 No butterflies or other terrestrial invertebrates were recorded during the survey; however, the survey was undertaken outside of the flying season for most invertebrates. Furthermore, there was very limited flowering vegetation within the Site to support terrestrial invertebrates.
- 4.2.11 The habitats present within the indicative site boundary would likely only support a very limited array of terrestrial invertebrates such as soil invertebrates and low numbers. The Bramble within the woodland understorey is likely to support a small array of butterfly and bees species. Therefore, it is considered that the suitability of the Site to support terrestrial invertebrates is negligible and not considered further within this report.

### Aquatic Invertebrates

- 4.2.12 No watercourses or waterbodies were present within the Site, thus the presence of aquatic invertebrates within the Site is negligible. The River Cocker was within the ZoI; however, given the distance between the proposed development and the River Cocker, it is considered that the suitability of the Site to support aquatic invertebrates is negligible and not considered further within this report.

### Herptiles

#### Amphibians

- 4.2.13 No great crested newts were returned as part of the desktop study. Palmate newt *Lissotriton helveticus* were also returned as part of the desktop study, however, no ponds were located within the 100m grid reference (Streetmap & Google Earth Pro 2024) provided and therefore this record is not considered correct.
- 4.2.14 No amphibians were recorded during the survey and no waterbodies were present within the Site. The Site was unfavourable for amphibians and therefore, it is considered that the suitability of the Site to support amphibians is negligible and are not considered further within this report.

#### Reptiles

- 4.2.15 No reptile records were returned as part of the desktop study.
- 4.2.16 The habitats within the indicative site boundary were considered unsuitable foraging or resting habitat for reptiles. The surrounding habitats, which included Harris Park and residential gardens were also unsuitable for reptiles. Therefore, it is considered that the suitability of the Site to support reptiles is negligible and are not considered further within this report.

#### Birds

- 4.2.17 A large array of protected and notable bird species was returned as part of the desktop study; however, all sensitive species had been redacted by CBDC from the report.
- 4.2.18 The habitats (semi-natural deciduous woodland, amenity grassland and built environment) within the indicative site boundary offered nesting and foraging opportunities for an array of lowland urban birds. Several common and widespread garden species were recorded within the Site during the survey which included dunnock *Prunella modularis*, house sparrow *Passer domesticus*, blackbird *Turdus merula*, woodpigeon *Columba palumbus*, robin *Erithacus rubecula*, nuthatch *Sitta europaea*, jackdaw *Corvus monedula* and blue tit *Cyanistes caeruleus*.



4.2.19 The suitability of the Site to support breeding, resting and foraging birds is low, particularly due to the small size of the Site. The Site had negligible suitability to support foraging, roosting or breeding Schedule 1 species, such as barn owl *Tyto alba*.

### Terrestrial Mammals

4.2.20 Mammal tracks were recorded running into the Site within the woodland area at the eastern end. A rabbit warren was recorded within the banking on the southern adjacent land. It is predicted that these mammal tracks pertain in part to rabbits and domestic dogs.

#### **Badger**

4.2.21 Five badger records were returned as part of the desktop study and none of these were within or adjacent to the Site. Additionally, all records were prior to 2000, thus no recent records of badger within the search area.

4.2.22 As per the 2018 survey, no signs of badger presence (setts, latrines, snuffle holes) were observed within or adjacent to the indicative site boundary. The steep banks within the Site were suitable for sett creation although no setts were recorded. The surrounding habitats, and the Site, were suitable for foraging badger. It is plausible that if badger were present within the surrounding area that foraging may occur within the Site; however, there was no evidence that this occurs. Therefore, it is considered that the suitability of the Site to support breeding or foraging badger is negligible and therefore are not considered further within this report.

#### **Bats**

4.2.23 A total of seven bat species were returned as part of the desktop study, which included common and soprano pipistrelle, brown long-eared bat, noctule, Brants/whiskered bat, whiskered bat and Daubenton's bat. No bat roosts were returned within the adjacent area of the Site. Maternity roosts of common pipistrelle, soprano pipistrelle and brown long-eared bat were recorded within the search area. No closer records were returned than those described within the Preliminary Ecological Appraisal (SK environmental 2018).

4.2.24 A data search on DEFRA (2024) showed a total of two granted EPSM Licenses within the search area. The EPSM licenses were for the:

- Destruction and damage of a breeding site and resting place for common pipistrelle, soprano pipistrelle, Natterer's bat and whiskered bat (2018-37167-EPS-MIT) ~700m north northeast of the Site; and
- Destruction of a resting place for soprano pipistrelle (2014-1556-EPS-MIT) ~1.1km northeast of the Site.

4.2.25 The habitats within and adjacent to the Site were suitable to support foraging bats as well as providing navigational features (linear woodlands). It is considered that the Site would be used mostly by pipistrelle bats; however, given the urban location and adjacent commercial units, the use of the Site by myotis bats and brown long-eared bats would likely be low and infrequent. The River Cocker and woodland corridor will provide foraging and commuting habitat for a wide range of bats including myotis bats and brown long-eared bat.

4.2.26 The trees within the Site were considered to be of a similar age structure and no potential roost features were recorded within the trees during the survey which included a ground level roost assessment. It is unlikely although plausible that small features, such as tear outs or limb cavities were present that could support individual



roosting bats. Ivy was recorded on numerous trees within the Site; however, the density and structure of the ivy was not considered to provide potential roost features for bats.

- 4.2.27 The small storage building had fallen into disrepair between the 2018 and the 2024 surveys. The small storage building has a cavity wall which is now exposed on the western aspect; however, there remains the potential to support individual roosting bats. Although, roosting bats maybe exposed to predators such as birds now that the cavity wall has been exposed. Furthermore, the environmental conditions, temperature, humidity and air flow may be unsuitable for roosting bats and therefore it is considered that the small storage building has negligible/low suitability to support roosting bats. The small storage building would at most only support very low numbers on an occasional basis, thus a single bat activity survey is unlikely to detect a roosting bat within the building.
- 4.2.28 The suitability of the Site to support roosting bats is negligible/low, and to support foraging bats is low which is particularly due to the small size of the Site.
- 4.2.29 It is plausible that surrounding residential dwellings and mature deciduous woodlands support roosting bats.

#### **Otter**

- 4.2.30 A total of 10 otter records were returned five being within the River Cocker; however, no recent records (<10 years) were returned. No records of otter were present in the immediate vicinity of the indicative site boundary although otter will commute and forage along the River Cocker adjacent to the Site.
- 4.2.31 No evidence of otter holts was present within or adjacent to the indicative site boundary. Given the surrounding habitat features, roads, wall and significant drops) of the indicative site boundary, it is extremely unlikely that otters would be present within the Site.
- 4.2.32 It is considered that the suitability of the Site support foraging, commuting, or resting/breeding otter was negligible. Otter is therefore not considered further within this report.

#### **Water vole**

- 4.2.33 No water vole records were returned as part of the desktop study.
- 4.2.34 No signs or evidence of presence of water vole were recorded within the Site.
- 4.2.35 As per otter, no suitable habitat for water vole is present within the Site or the ZoI and therefore water vole is not considered further within this report.

#### **Other Notable Species**

##### Brown hare

- 4.2.36 A total of three records of brown hare were returned as part of the desktop study. These records were all prior to 2008.
- 4.2.37 The habitats within and surrounding the indicative site boundary were not suitable to support resting, foraging, or breeding brown hare. It is considered that the suitability of the Site support foraging or resting/breeding brown hare was negligible. Brown hare is therefore not considered further within this report.





### Red squirrel

- 4.2.38 Two additional records were returned for 2018 and 2019 with both being in Cockermouth Cemetery.
- 4.2.39 The habitats within the Site remained very similar to that of 2018. No red squirrels were recorded during the survey. A low number of spruce and pine trees were present within and adjacent to the Site; however, unlike the 2018 survey, no feeding remains were recorded. Additionally, no dreys were recorded within the Site and ZoI.
- 4.2.40 There remains no evidence that the Site supports breeding red squirrels, and it is plausible that given the lack of feeding remains, that the red squirrel population in Cockermouth may have declined between 2018 and 2024. However, the survey was only a snapshot and the Site may still support a small population of foraging red squirrel on an occasional basis. Additionally, further red squirrel surveys are unlikely to detect the presence of red squirrels if the local population has declined, as recorded throughout England (RSNE 2024).

### Invasive Non-native Species

- 4.2.41 No INNS were recorded within or adjacent to the Site during the survey and therefore INNS are not considered further within this report.





## 5 Assessment

### 5.1 Assessment of Value

- 5.1.1 The Site consisted semi-natural deciduous woodland, amenity grassland and built environment (Buildings and hardstanding). The habitats within the indicative site boundary were of negligible value to most ecological receptors and of low value to nesting birds, and foraging birds, bats and red squirrel.
- 5.1.2 The surrounding residential properties and associated gardens and urban green park with mature trees and hedgerows in combination are of moderate value to the above species, including roosting bats and breeding red squirrel.

### 5.2 Assessment of Impact

- 5.2.1 The potential impacts, both during the construction phase and the operational phase, of the proposed development on nesting birds and foraging birds, bats, and red squirrel are discussed within this section.
- 5.2.2 The proposed development will result in the permanent loss of a small area of deciduous woodland along the southern fringe of the Site which includes the loss of 22 mature trees and 20 young/semi-mature trees (Lowther 2023).

#### Construction Phase

- 5.2.3 The construction phase is likely to be relatively short to medium as the proposed development consists of a small number of residential houses and an apartment block. A total of 42 trees are proposed to be removed which has the potential to destroy active bird nests and potential future red squirrel dreys. A single old woodpigeon nest and no red squirrel dreys were recorded during the survey. Based on the combination of the 2018 survey and the updated 2024 survey, the loss of 42 trees to breeding birds and foraging birds and red squirrel will be negligible.
- 5.2.4 The Tree Protection Plan, with Root Protection Areas, will safeguard the remaining existing trees within and adjacent to the Site. No impact on the surrounding habitats is predicted.
- 5.2.5 The demolition of the small storage building has the potential to disturb or harm roosting bats, although the roost suitability of the building was negligible/low.
- 5.2.6 Working at night under powerful flood lights have the potential to displace foraging bats which are light sensitive, such as brown long-eared bat and some *Myotis* sp.
- 5.2.7 Mitigation measures are required to safeguard ecological receptors including; active bird nests, potential future red squirrel dreys, roosting and foraging bats.

#### Operational Phase

- 5.2.8 The habitat connectivity through and along the southern fringe of the Site will remain functionally available to red squirrels allowing future movement across Cockermouth.
- 5.2.9 The operational phase of the proposed development will marginally increase artificial lighting within the Site. It is considered that ecological receptors will have habituated to the artificial lighting from the surrounding dwellings and commercial units. However, the installation of high-powered flood lighting could impact ecological receptors, i.e. foraging bats.
- 5.2.10 It is considered that the level of noise on the Site during the operation phase is extremely unlikely to be significantly greater than the existing baseline.



5.2.11 The presence of the proposed development including artificial lighting, excluding floodlighting will have a negligible impact on ecological receptors. To minimise any impact of floodlighting on ecological impacts, i.e. foraging bats, mitigation measures will be required.

### Overall

5.2.12 The unmitigated construction and operation of the proposed development will have a minor negative impact on nesting birds, foraging birds and bats, and red squirrels. This impact is not considered to be significant and will not impact their populations or an individual's ability to survive.

## 5.3 Mitigation, Compensation and Enhancement

5.3.1 The impacts of the proposed development during the construction and operational phase, as identified in Section 5.2, on ecological receptors would be negligible. However, mitigation measures are required to minimise the potential of destroying active bird nests, potential future red squirrel dreys and displacement of foraging bats. Enhancement measures are required for the continued functionality of the Site to be used by foraging and resting protected and notable species and retain connective habitats along the southern edge of the Site.

5.3.2 The ecological mitigation, compensation and enhancement measures are outlined in Table 5, below and broadly follow that described within the Preliminary Ecological Appraisal (SK environmental 2018). Further details on specifications and locations of the enhancement measures are shown in Appendix 4.

**Table 5: Recommended mitigation, compensation, and enhancement.**

Feature	Environmental measures proposed	Means of securing delivery
Habitats	The proposed development will follow the detailed Landscape Plan - WW/L01 (Westwood Landscape 2022), which will provide species rich native hedgerows, improve woodland understorey habitats and creation of wildflower meadow/grassland.	Condition as part of the decision notice
Birds	Site/vegetation clearance undertaken within the breeding bird season (1 <sup>st</sup> March-31 <sup>st</sup> August) will require a nesting bird check by a Suitably Qualified Ornithologist (SQO) – FALCO Ecology. The nesting bird check will be undertaken by the SQO no more than 48 hours prior to the site clearance works. Additionally, the nesting bird check is valid for 48 hours, thereafter, further nesting bird checks will be required.  Provision of 3no. integrated hole nest boxes similar to a Vivara Pro WoodStone House Sparrow, or similar design, as shown in Plate 4. The placement of the integrated bird box will be on the east or west aspect of the proposed residential houses and apartment block. The hole dimensions will be 32mm, to allow use by house sparrow.	Condition as part of the decision notice



Feature	Environmental measures proposed	Means of securing delivery
	<p>The integrated bird boxes will remain as part of the property for the duration of the life of the proposed development. If the bird box was to need replacing, then this will be done immediately to maintain the ecological enhancement.</p>	
<p>Bats</p>	<p>The roof removal of the small storage building will be undertaken under the supervision of a suitably qualified and licensed bat ecologist. This will safeguard potential roosting bats. Once the roof is removed, the bat ecologist will be able to fully inspect the wall cavity. The bat ecologist will have the right to stop works on the small storage building if a roosting bat or evidence of a roosting bat is observed. A bat licence from Natural England will be required if a roosting bat or evidence of a bat roost is recorded.</p> <p>Provision of 4no. an integrated bat boxes similar to the Vivara Pro Build-in WoodStone bat box (Plate 3), or similar, will be incorporated into the proposed development. The integrated bat boxes will be on the southern aspect of the proposed residential houses and apartment block. Additionally, the integrated bat boxes will be a minimum of 4m above ground level.</p> <p>The integrated bat boxes will remain as part of the property for the duration of the life of the proposed development. If the bat boxes were to need replacing, then this will be done immediately to maintain the ecological enhancement.</p> <p>No up lighting will be installed under or at the integrated bat boxes.</p> <p>All lighting on the proposed development should be low powered as to not provide excessive light spread over the woodland habitats and adjacent habitats. All exterior lighting will be cowled downwards to minimise light spill.</p>	<p>Condition as part of the decision notice</p>
<p>Terrestrial mammals</p>	<p>A squirrel drey survey to be undertaken no more than 48 hours prior to the tree felling. This survey is to be undertaken by a suitably qualified ecologist.</p> <p>A total of 2no. squirrel nest boxes to be installed in the retained woodland to create opportunities that the existing trees do not provide as yet due to their age.</p> <p>All trenches and foundations will be covered over or have wooded ramps situated at the</p>	<p>Condition as part of the decision notice</p> <p>Add as part of any potential Construction and Environmental Management Plan.</p>



Feature	Environmental measures proposed	Means of securing delivery
	ends of the trench to allow terrestrial mammals to escape if they fall in during the night.	

## 5.4 Residual Impact

5.4.1 The implementation of the mitigation, compensation and enhancement measures will result in a minor positive impact on ecological receptors at a site scale.



## **6 Required Actions**

### **6.1 Survey Requirements**

6.1.1 No further ecological surveys are considered necessary with regards to the full planning application.

### **6.2 Mitigation Measures**

6.2.1 All mitigations detailed within Table 5 (page 18) will be implemented to safeguard and enhance protected and notable species and to achieve no net loss of habitats.



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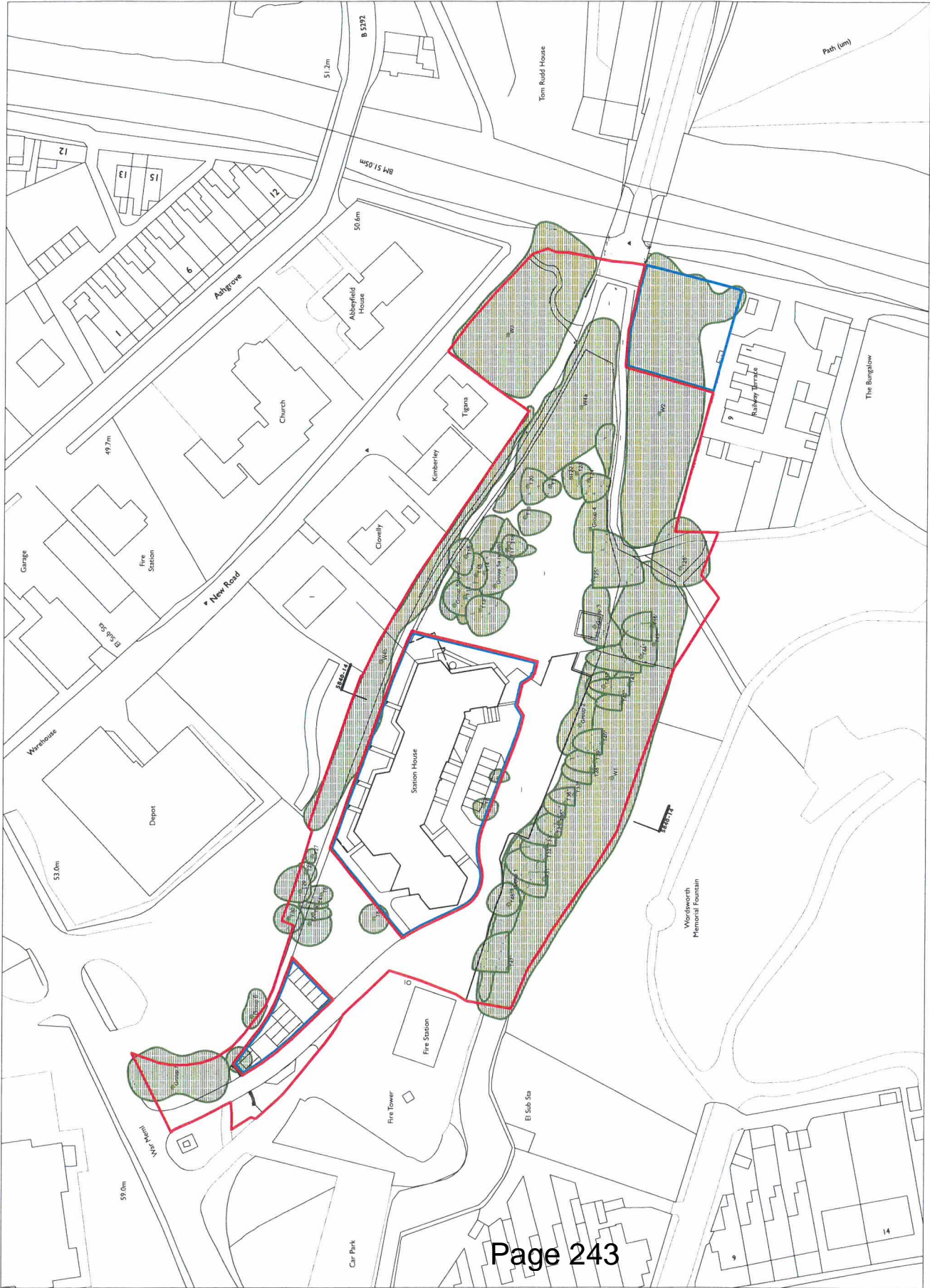
## **Appendix 1 – Existing and Proposed Site Plans**



**Tree Types**

The information on existing trees shown on this drawing, the numbers and references, should be read in conjunction with the Arboricultural Method Statement and Arboricultural Tree Protection Report (A1) for this site prepared by Lowther Forestry Group Ltd.

- Site boundary
- Other land owned by client



No.	Description	Author	Date	Comments
1	Drawn	...	...	...
2	Checked	...	...	...
3	Approved	...	...	...

**Dobles Cumbria Properties Ltd**



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Project: Proposed Residential Development at The Sidings, Cockermouth, Cumbria

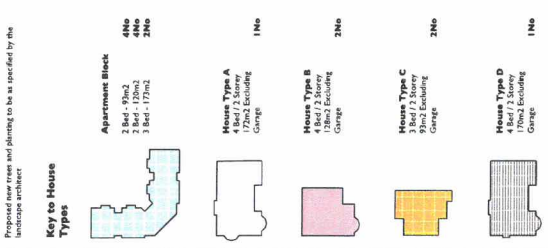
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**Key**  
 The information on existing trees below should be read in conjunction with the BS 5837 Arboricultural Survey Implication Report (dated 12/01/2017) and the AIA for the site prepared by Southern Forestry Group Ltd.

Individual trees, groups and woodlands to be retained as described in the A.I.A.  
 Trees to be removed as detailed in the A.I.A.  
 New woodland (specified by landscape architect)  
 Timber fencing

Proposed new trees and planting to be as specified by the landscape architect



**Total - 18 No New Dwellings**

Code	Description	No
1	14/21/13 18 No New Dwellings (18 No New Dwellings)	18
2	14/21/13 18 No New Dwellings (18 No New Dwellings)	18
3	14/21/13 18 No New Dwellings (18 No New Dwellings)	18
4	14/21/13 18 No New Dwellings (18 No New Dwellings)	18
5	14/21/13 18 No New Dwellings (18 No New Dwellings)	18
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7	14/21/13 18 No New Dwellings (18 No New Dwellings)	18
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99	14/21/13 18 No New Dwellings (18 No New Dwellings)	18
100	14/21/13 18 No New Dwellings (18 No New Dwellings)	18

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Project: Proposed Residential Development at The Sidings, Cockerham, Cumbria.

Drawing No: Proposed Site Plan

Client: MP

Scale: 1:500

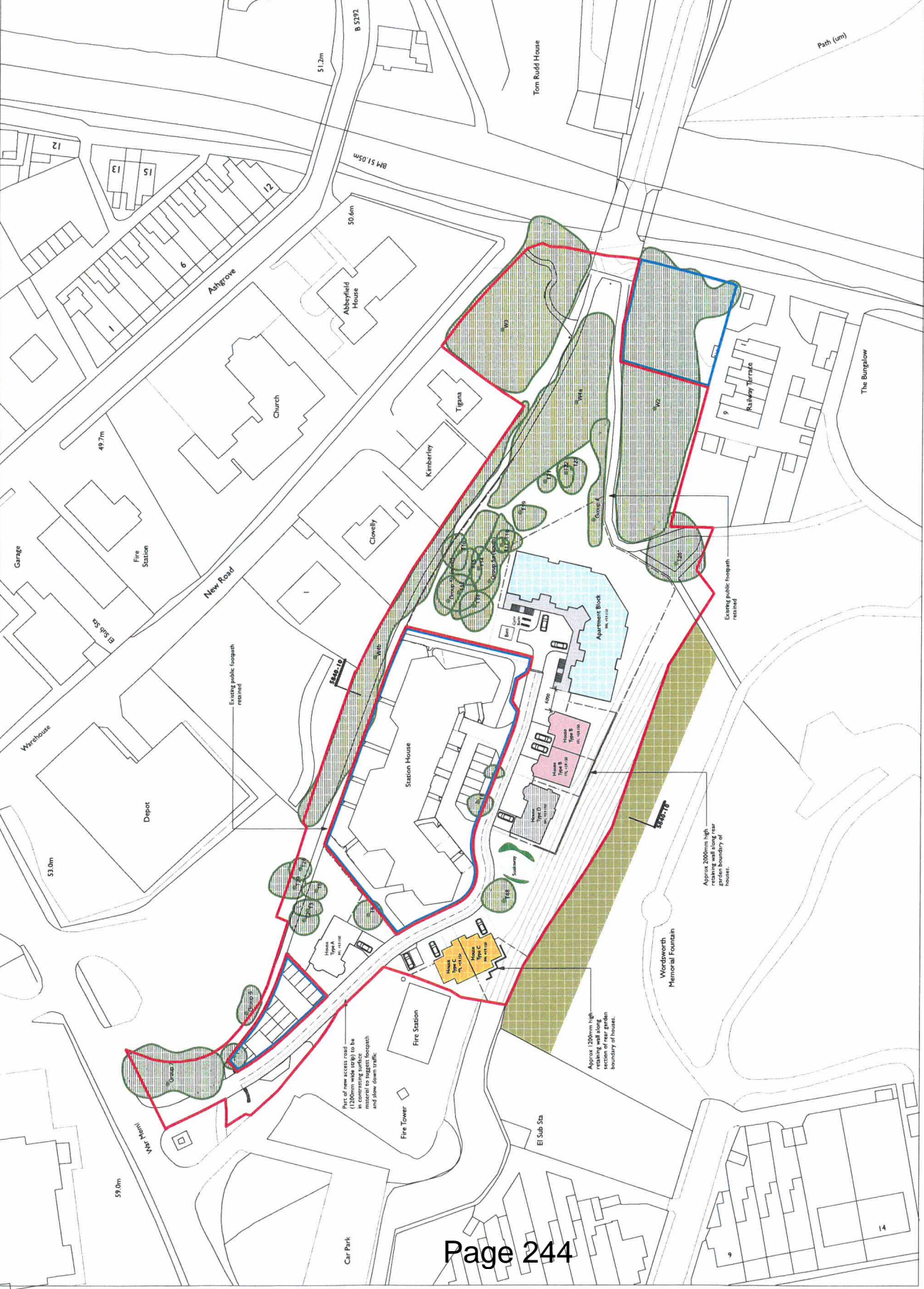
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Sheet No: A1

Project No: 5840

Drawing No: 03

Page: F





## **Appendix 2 – Site Photos**





Ref.	Description	Photo
1	Southern semi-natural broadleaved woodland (from Harris Park).	
2	Southern banking within the Site.	
3	Eastern area of the Site comprising of semi-natural broadleaved woodland.	







Ref.	Description	Photo
4	Typical ground cover vegetation within the Site consisting of scattered Bramble.	
5	Small building with collapsed/removed outer skin on western aspect.	
6	Small mammal access points at the eastern end of the Site. Considered to be formed by rabbits.	





Ref.	Description	Photo
7	Adjacent footpath along the northern site boundary.	
8	Woodpigeon nest located within one of the trees on Site.	



## **Appendix 3 – Figures**

Figure 1: Priority Habitats within 2km of the Site.

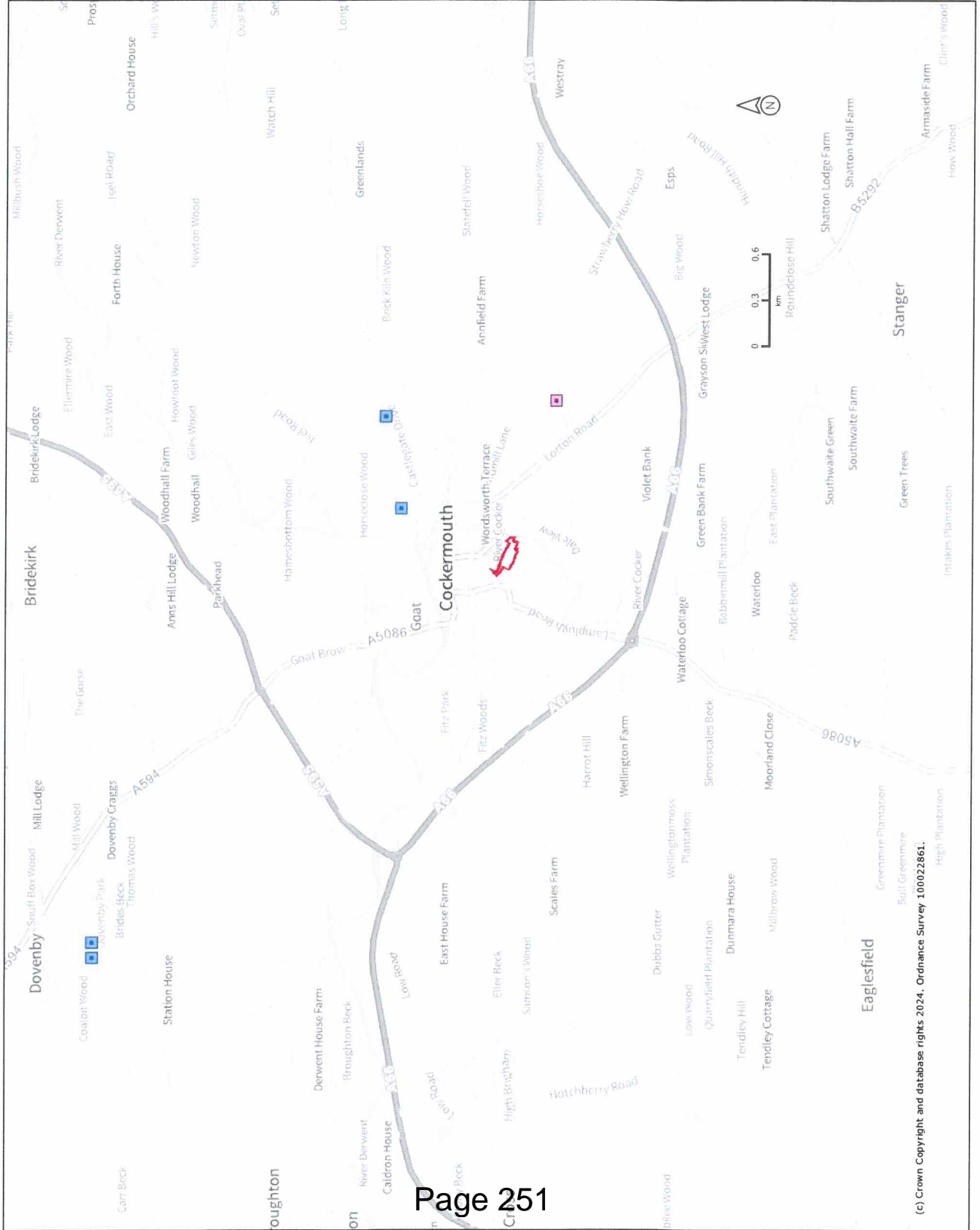


**Legend**  
**Ancient Woodland (England)**  
 Ancient and Semi-Natural Woodland  
 Ancient Replanted Woodland  
 Priority Habitat Inventory - Deciduous Woodland (England)

Projection = OSG836  
 xmin = 305400  
 ymin = 527100  
 xmax = 538100  
 ymax = 533700  
 Map produced by MAGiC on 9 January, 2024.  
 Copyright resides with the data suppliers and the map must not be reproduced without their permission. Some information in MAGiC is a snapshot of the information that is being maintained or continually updated by the originating organisation. Please refer to the metadata for details as information may be illustrative or representative rather than definitive at this stage.



Figure 2: Protected Species Licenses within 2km of the Site.





## **Appendix 4 – Ecological Enhancement Measures**



## Integrated Bat Boxes

To fulfil the latest National Planning Policy Framework which includes biodiversity net gain into proposed developments, it is recommended that integrated bat boxes are installed southern aspect walls of the proposed residential houses and apartment block. An example of a suitable integrated bat box (Vivara Pro Build-in WoodStone Bat Box<sup>4</sup>) is shown in Plate 3, below. This type of bat box allows the entrance hole to be situated within the mortar line and stone cladding over the top. This bat box must be installed vertically, with the access hole in the horizontal position and at the base, as shown in Plate 3.

No artificial lighting will be situated near or directed toward the integrated bat boxes.



**Plate 3:** Example of an integrated bat box.

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<sup>4</sup> Picture sourced from [www.nhbs.com](http://www.nhbs.com)



## Integrated Bird Boxes

Integrated bird boxes will be incorporated into eastern and western aspect walls of the proposed residential houses and apartment block. An example of an integrated bird box is the Vivara Pro WoodStone House Sparrow Nest Box<sup>5</sup>, as shown in Plate 4, below.



**Plate 4:** Vivara Pro WoodStone House Sparrow Nest Box.

---

<sup>5</sup> Pictures sourced from <https://www.nhbs.com/search?q=sparrow+box&qtview=195281>



### Red Squirrel Nest Box

A total of 2no. red squirrel nests will be positioned within mature trees which are located away from public rights of way. An example of a red squirrel nest box<sup>6</sup> is the is shown in Plate 5, below. The red squirrel nest box should be constructed from a long-lasting material such as a recycled plastic. Proposed locations of the two red squirrel nest boxes (red star) are shown in Plate 6 (page 38).



**Plate 5:** Example of a red squirrel nest box.

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<sup>6</sup> Photo sourced from <https://www.wildlifeboxes.co.uk/product-page/red-squirrel-box>



**Plate 6:** Proposed red squirrel nest box locations (red star).



## **Appendix 5 – Environmental Legislation & Conventions**





## Introduction

The UK has ratified a number of Conventions and implemented legislation pertaining to the protection of habitats, plants, herptiles, birds and mammals, either independently or as member state of the European Union. These are defined and summarised below.

### Bern Convention (1982)

The Convention on the Conservation of European Wildlife and Natural Habitats (the Bern Convention) was adopted in Bern, Switzerland in 1979, and was ratified in 1982. Its aims are to protect wild plants and animals and their habitats listed in Appendices I and II of the Convention, and regulate the exploitation of species listed in Appendix III. The regulation imposes legal obligations on participating countries to protect more than 1000 animals.

To meet its obligations imposed by the Convention, the European Community adopted the EC Birds Directive (1979) and the EC Habitats Directive (1992 – see below). Since the Lisbon Treaty, in force since 1st December 2009, European legislation has been adopted by the European Union.

### The UK Post-2010 Biodiversity Framework

The UK Post-2010 Biodiversity Framework was published in July 2012 and supersedes the Biodiversity Action Plan which lists and prioritises habitats and species and sets national targets to be achieved. The UK Post-2010 Biodiversity Framework includes all the species formally listed under the old UKBAP. The Environmental Departments of all four governments in the UK work together through the Four Countries Biodiversity Group.

The former UKBAP identified 391 'Priority' Species Action Plans (SAPs), 45 'Priority' Habitat Action Plans and 162 Local Biodiversity Action Plans. Local Biodiversity Action Plans (LBAP) identify habitat and species conservation priorities at a local level (typically at the County level), and are usually drawn up by a consortium of local Government organisations and conservation charities.

### Bonn Convention

The Convention on the Conservation of Migratory Species of Wild Animals or 'Bonn Convention' was adopted in Bonn, Germany in 1979 and came into force in 1985. Participating states agree to work together to preserve migratory species and their habitats by providing strict protection to species listed in Appendix I of the Convention. It also establishes agreements for the conservation and management of migratory species listed in Appendix II.

In the UK, the requirements of the convention are implemented via the Wildlife & Countryside Act 1981 (as amended), Wildlife (Northern Ireland) Order 1985, Nature Conservation and Amenity Lands (Northern Ireland) Order 1985 and the Countryside and Rights of Way Act 2000 (CRoW).

The UK has currently ratified four legally binding Agreements under the Convention, one of which is the Agreement on the Conservation of Populations of European Bats (EUROBATS).

### National Planning Policy Framework (2021)

Following the publication of the first revision of the National Planning Policy Framework (NPPF) in March 2012, Planning Policy Statement 9 (PPS9): Biodiversity and Geological Conservation (2005) has been withdrawn. However, ODPM 06/2005: Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System (the guidance document that accompanied PPS9) has not been withdrawn and, where more detailed guidance is required than is given within the NPPF, local planning authorities will





continue to rely on ODPM 06/2005. The NPPF has been revised and was published in July 2021.

The natural environment is covered within the NPPF 2021 in Chapter 15, paragraphs 174-188.

The purpose of the NPPF is to conserve and enhance the natural environment including:

- *minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.*

To protect and enhance biodiversity and geodiversity, plans should:

- *Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation; and*
- *promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.*

This guidance requires local planning authorities (planning policies and planning decisions) to take account of the conservation of protected species when determining planning applications and makes the presence of a protected species a material consideration when assessing a development proposal that, if carried out, would be likely to result in harm to the species or its habitat. Furthermore, the NPPF 2021 still includes the requirement for developments to *improve biodiversity* including ecological *net gain*. In the case of European Protected Species such as bats, planning policy emphasises that strict statutory provisions apply (including the Conservation of Habitats and Species (Amendment) Regulations 2012), to which a planning authority must have due regard.

Where developments requiring planning permission are likely to impact upon protected species it is necessary that protected species surveys are undertaken and submitted to meet the requirements of paragraph 98 of ODPM Circular 06/2005 which states that:

*'The presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat.'*

Potential Special Protected Areas, possible Special Areas of Conservation, listed or proposed Ramsar site should be given the same protection as habitats sites.

### Species of Principal Importance in England

Section 41 (S41) of this Act requires the Secretary of State to publish a list (in consultation with Natural England) of habitats and species which are of principal importance for the conservation of biodiversity in England. The S41 list is used to guide decision-makers such as public bodies including local and regional authorities, in implementing their duty under Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006, to have regard to the conservation of biodiversity in England, when carrying out their normal (e.g. planning) functions. The S41 list includes 65 habitats of principal importance and 1,150 species of principal importance.



## The Conservation of Habitats and Species Regulations 2017

The Conservation of Habitats and Species Regulations 2017 came into force on 30<sup>th</sup> November 2017. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales.

Regulations place a duty on the Secretary of State to propose a list of sites which are important for either habitats or species (listed in Annexes I or II of the Habitats Directive respectively) to the European Commission. These sites, if ratified by the European Commission, are then designated as Special Protection Areas (SPAs) within six years. The 2012 amendments include that public bodies help preserve, maintain and re-establish habitats for wild birds.

## Wildlife and Countryside Act 1981 (as amended)

This is the principal mechanism for the legislative protection of wildlife in the UK. This legislation is the chief means by which the 'Bern Convention' and the Birds Directive are implemented in the UK. Since it was first introduced, the Act has been amended several times.

The Act makes it an offence to (with exception to species listed in Schedule 2) intentionally: kill, injure, or take any wild bird, take, damage or destroy the nest of any wild bird while that nest is in use, or take or destroy an egg of any wild bird.

In addition, the Act makes it an offence (subject to exceptions) to: intentionally or recklessly kill, injure or take any wild animal listed on Schedule 5, interfere with places used for shelter or protection, or intentionally disturbing animals occupying such places.

The Act also prohibits certain methods of killing, injuring, or taking wild animals. Finally, the Act also makes it an offence (subject to exceptions) to: intentionally pick, uproot or destroy any wild plant listed in Schedule 8, or any seed or spore attached to any such wild plant, unless an authorised person, intentionally uproot any wild plant not included in Schedule 8, sell, offer or expose for sale, or possess (for the purposes of trade), any live or dead wild plant included in Schedule 8, or any part of, or anything derived from, such a plant.

Following all amendments to the Act, Schedule 5 'Animals which are Protected' contains a total of 154 species of animal, including several mammals, reptiles, amphibians, fish and invertebrates. Schedule 8 'Plants which are Protected' of the Act, contains 185 species, including higher plants, bryophytes and fungi and lichens. A comprehensive and up-to-date list of these species can be obtained from the JNCC website.

Part 14 of the Act makes unlawful to plant or otherwise cause to grow in the wild any plant which is listed in Part II of Schedule 9.

## **SCHEDULE C: Applications from the Carlisle Region**

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<b>Application Reference Number:</b>	<b>23/0639</b>
<b>Application Type:</b>	Full Planning Permission
<b>Application Address:</b>	Firbank Farm Buildings, Firbank, Westlinton, CA6 6AQ
<b>Proposal:</b>	Amendment To Scheme Approved Under Application 20/0471 (Erection Of Replacement Agricultural Building Together With Construction Of New Access Track) (Retrospective Permission); And The Siting Of A Silo (Revised Application)
<b>Applicant:</b>	Mr Iain Morrison
<b>Agent:</b>	Harraby Green Associates
<b>Valid Date:</b>	08/09/2023 16:00:11
<b>Case Officer:</b>	Alanzon Chan

### **Cumberland Area and Carlisle Region**

**Ward/s:**  
Longtown

**Parish/s:**  
Westlinton

### **Relevant Development Plan**

Carlisle District Local Plan 2015-2030

### **Reason for Determination by the Planning Committee**

Under 22/0087, the application (with the same proposal) was initially approved at Carlisle City Council's Development Control Committee on 24th June 2022 and the decision was issued to the applicant on 27th June 2022. The permission was subsequently challenged in the Courts by way of judicial review proceedings and the permission was quashed by the Courts on 23rd November 2022 on the basis that the initial Officer Report considered the potential impact on the living conditions at neighbouring properties by making numerous references to the impacts not amounting to a statutory nuisance, which in effect caused the Members of the Development Control Committee to consider the acceptability of impacts on neighbouring properties was only by reference to whether a statutory nuisance would arise.

Following the decision of this judicial review, the application reverted back to a live application which has to be re-determined and re-considered by Committee. On 8<sup>th</sup> September, the applicant withdrew application 22/0087. A new application reference 23/0639, which is identical to the proposal under 22/0087, has been submitted and it is advised that this application (23/0639) is to be determined by the

Planning Committee.

## **Recommendation**

It is recommended that this application is approved with conditions.

### **1. Site and Location**

- 1.1 The application site, Firbank farm, is located approximately 150 metres to the north of the C1022 road, 1.3 kilometres to the west of Westlinton, 175 metres to the northeast of a residential property know as East Lodge, and 120 metres to the south of the River Lyne.
- 1.2 Approximately 30m to the southeast boundary of the application site is a property, known as Firbank, which was originally a farmhouse associated to Firbank Farm and was listed grade II on 16 January 1984. Firbank (the former farmhouse) and Firbank Farm were owned by the same owner up until 2000 when the farm owner sold Firbank as a separate domestic dwelling.
- 1.3 Firbank Farm has remained a working farm to this date, albeit under new ownership.
- 1.4. There has been a change in ownership of Firbank in September 2023.

### **2. Proposal**

- 2.1 The application seeks planning permission for amendments to the replacement agricultural building approved under application 20/0471 and the relocation of a silo. In the case of this application, the submitted amendments involve increasing the dimensions of the originally approved replacement building (from 12m by 25m to 13m by 27.5m) and the formation of an entrance/exit at either end to allow for the through movement of vehicles, equipment, and livestock. This application is also seeking permission to relocate a silo away from a courtyard building of the farmhouse, to the north of the proposed agricultural building.
- 2.2 The silo has not yet been relocated but since the amendments to the replacement agricultural building had already taken place, the application is made in part-retrospect.

### **3. Relevant Planning History**

- 3.1 The following planning history relates to the assessment of this planning application:

(22/0087) This application was initially approved at Carlisle City Council's Development Control Committee on 24th June 2022 and the decision was issued to the applicant on 27th June 2022. This permission was subsequently challenged in the courts by way of judicial review proceedings and the permission was quashed by the High Court of Justice on 23rd November 2022 on the basis that the initial Officer Report considered the potential impact on the living conditions at neighbouring properties by making numerous references to the impacts not amounting to a statutory nuisance, which in effect potentially caused the Members of the Development Control Committee to consider the acceptability of impacts on neighbouring properties only by reference to whether a statutory nuisance would arise. Following the decision of this judicial review, this application reverts back to a live application which has to be re-determined by Committee. The application has subsequently been withdrawn.

#### **3.2 Planning history relating to Firbank Farm:**

In 2022, retrospective full planning permission was granted for the extension of track approved under application 20/0471; re-surface existing drive; and form/replace areas of hardstanding. This application was determined at Carlisle City Council's Development Control Committee on 24th June 2022.(22/0088).

In 2021, a discharge of condition application was granted for the Discharge Of Conditions 3 (Surface Water Discharge); 4 (Surface Water Drainage Scheme) & 6 (Construction Traffic Management Plan) Of Previously Approved Application 20/0471. (Reference no. 21/0692), and

In 2020, full planning permission was approved for removal of agricultural building and erection of replacement together with construction of new access track. (Reference no. 20/0471)

#### **3.3 Planning history relating to the dwelling and outbuildings at Firbank (the former farmhouse), adjacent to the application site:**

In 2021, full planning permission was granted for the erection of single storey side extension to provide garden room; glazed lobby link through to outbuilding; conversion of outbuildings to domestic use: alterations to outbuilding 1 to create utility, boot room & storage room; alterations to outbuilding 2 to create kitchen, w.c., lounge/dining room and gym on ground floor with function room, office and shower/w.c. above; alterations to outbuilding 3 to create 2no. en-suite bedrooms, boot room, consulting room with dispensary, sauna/shower room and gym; erection of detached garage; erection of new gateway and boundary treatments; creation of new access

(Reference no. 21/0120);

In 2021, listed building consent was granted for the erection of single storey side extension to provide garden room; glazed lobby link through to outbuilding; conversion of outbuildings to domestic use: alterations to outbuilding 1 to create utility, boot room & storage room; alterations to outbuilding 2 to create kitchen, w.c., lounge/dining room and gym on ground floor with function room, office and shower/w.c. above; alterations to outbuilding 3 to create 2no. en-suite bedrooms, boot room, consulting room with dispensary, sauna/shower room and gym; erection of detached garage; erection of new gateway and boundary treatments; creation of new access (LBC) (Reference no. 21/0121);

In 2019 a discharge of condition application was granted for the discharge of condition 3 (construction details) of previously approved permission 18/0258 (Reference 19/0314);

In 2018 full planning permission was granted for the alterations to existing boundary walls and gates (Reference no.18/0257);

In 2018 listed building consent was granted for the alterations to existing boundary walls and gates together with blocking up of openings within outbuilding (LBC) (Reference no.18/0258);

In 2004 listed building consent was granted for the erection of a wall with arched doorway and creation of arched opening through outbuildings to paddock (LBC) (Reference no.04/0859);

In 2004 full planning permission was granted for the erection of partition wall, creation of archway opening through existing outbuildings and landscaping of farmyard (Reference no.04/0860); and

In 2000 listed building consent was granted for internal alterations to dwelling comprising of the replacement of 3no. fireplaces and removal of 2no. partition walls to kitchen and bathroom; alteration to attached byre to form additional living accommodation and alterations to barns to form utility room and garage (LBC) (Reference no.00/0804).

#### **4. Consultations and Representations**

**Westlinton Parish Council:** supports the application

**Local Environment - Environmental Protection:** No objection under 22/0087 and remains no objection to this application

- 4.1 Under the current application, the application has been advertised by the display of a site notice, press notice and by means of a notification letter sent

to two neighbouring properties. A letter was received during the advertisement period stating that they have no objection to the application. Meanwhile, upon requests, both previous objection and letter of support received under 22/0087 have been brought forward to this application.

4.2 Under application 22/0087, the application has been advertised by the display of a site notice, press notice and by means of a notification letter sent to one neighbouring property. During the initial consultation period, an objection has been received.

4.3 The representations have been reproduced in full for Members of the Committee under separate cover including the objections received under 22/0087 which are summarised as follows:

1. the unauthorised opening to the South of the building causes significant planning harm as a result of heavy farm vehicle traffic flow, which leads to intolerable disturbance to the residential amenity.
2. the agricultural noise includes loud, bellowing cattle of increasing size, including bull beef animals, at all times of the day and night, a straw blower, numerous tractors, lorries, vans, a tractor generator, and a JCB digger equipped with a high frequency reverse warning horn, all being used for hours on end, very close to Firbank, repeatedly passing to and from in front of their courtyard garden gates.
3. the proximity of the farm vehicle traffic moving to the agricultural building's unlawful south opening results in significant odour and exposure to fumes from the diesel tractors. These fumes fill the courtyard and the adjacent domestic buildings.
4. high intensity lights mounted on such vehicles shining into the courtyard garden and through the windows to the rear of the adjacent dwelling.
5. it can be seen from drawing number 2251-A -10 submitted with application 22/0087 that there is no concrete panel in the centre section of the southern elevation. This exacerbates the disturbance.
6. the area of Yorkshire boarding planks above this open base section have been cut, as if in preparation for its opening up at some future point, possibly immediately following any decision to approve the submitted application.
7. the as built dimensions of the replacement shed are 13m x 27.5m as opposed to 12 x 25m as authorised. This gives a floor area of 357.5m<sup>2</sup> as opposed to 300m<sup>2</sup>. The shed that was demolished and replaced had a footprint of approximately 180m<sup>2</sup>. The increased size of the replacement agricultural shed in such close proximity to the boundary with Firbank, housing numerous cattle where none were previously kept at all, has a demonstrable adverse impact on the residential amenity of the occupiers due to much increased levels of heavy agricultural vehicle movements, noise, dust, vibration and noxious fumes and odours.
8. the use of Yorkshire boarding on the south and east elevations does not prevent escape of dust, straw, noise and odours. In particular, when straw is being spread for bedding Firbank is showered with dust and fragments of straw. Barley dust and straw are known allergens and

injurious to the health of the neighbouring residents.

9. the increased dimensions of the agricultural building in excess of those authorised by the original consent 20/0471 have resulted in the apex of the replacement agricultural shed being higher, which has an adverse effect on Firbank.

10. objects to the new position of the silo as it will be visible from Firbank over the roof line. If the silo were to be sited in line with the central bay of the replacement shed, it would not be readily visible over the roof line, this mitigation would reduce any harm to Firbank.

11. unauthorised change of use of the former sheep pen area from an area for the occasional mustering of sheep on an otherwise unused area of grass to use for parking and storage of substantial quantities of rusting agricultural machinery, equipment and materials. The basis of their objection is that this change of use will cause very significant harm to the setting of Firbank. Frequent movements on this area also generate substantial amounts of noise, fumes and vibration directly next to Firbank. The process of removing the sheep pens without authorisation resulted in vibrations known to have caused damage to Firbank, including loosening of lime mortar. Any work which causes vibrations is likely to cause further damage to Firbank.

12. the new access track along a route not authorised by consent 20/0471 is also associated with an access radius of curvature that admits very large, heavy vehicles onto the site. This puts at risk of damage the domestic site's drainage lines and soakaways issuing into the field area traversed by the unauthorised track and makes access to them for maintenance and to exercise rights of extension more costly and difficult. The track also emerges into an area directly opposite a domestic orchard gate which has been blocked for almost a year as a result of poor management of equipment storage at the farm site. Construction on parcel no 0003 (Ordnance Survey 1:2500 c1974) is also in breach of covenant and contributes to an overall detrimental change to the character of the setting as a result of the increasingly wide area of green space being covered with stone chips and large areas of concrete.

- 4.4 Following the decision of the judicial review, the Council has commissioned NoiseAir Ltd, an independent acoustics and air quality specialist consultancy company, to undertake noise, odour and dust impact assessments. These reports were published on the Council website on 3<sup>rd</sup> April 2023 and a notification email was subsequently sent to one neighbouring property to directly inform the occupiers of the property about the publication of the reports. An extended consultation period was given to the public to review these reports.
- 4.5 During the second consultation period of application 22/0087 , an objection was received, and it was accompanied by a Technical Review by Apex Acoustics. The objector claimed that the noise assessment conducted by NoiseAir Limited was inaccurate due to the behavioural modification of the applicant during the assessment monitoring period. In addition, based on the data in NoiseAir Limited 's report, Apex conducted an assessment of impacts and has concluded that the noise impacts at Firbank farmhouse are above a



significant adverse effect level. This will be discussed in detail in Section 7 (Assessment) of the report.

- 4.6 Meanwhile, a letter of support was received and stated all buildings within the farm had a long established use for housing livestock.
- 4.7 The Council has also received confirmation from the new owner of Firbank that they have no objections to this application.

## **5. Planning Policy**

- 5.1 Section 70 (2) of the Town and Country Planning Act 1990/Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.
- 5.2 The relevant national planning policies against which the application is required to be assessed are the National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG).

## **Development Plan**

Carlisle District Local Plan 2015-2030

- ASLB. Affecting the Setting of a Listed Bldg
- SP6. Policy SP 6 - Securing Good Design
- EC12. Policy EC 12 - Agricultural Buildings
- HE3. Policy HE 3 - Listed Buildings
- IP3. Policy IP 3 - Parking Provision
- GI1. Policy GI 1 - Landscapes
- GI3. Policy GI 3 - Biodiversity & Geodiversity
- CC5. Policy CC 5 - Surface Water Management and Sustainable Drain
- IP6. Policy IP 6 - Foul Water Drainage on Development Sites

## **6. Other Material Planning Considerations**

- 6.1 Section 66 of the Planning (Listed Building) Act 1990 (LBA);  
'Method implementation document (MID) for BS 4142' by Environment Agency;  
British Standard 4142:2014+A1:2019 - Methods for rating and assessing industrial and commercial sound  
British Standard 8233:2014 - Guidance on sound insulation and noise reduction for buildings

## 7. Assessment

1. Whether The Principle Of The Development Is Acceptable
2. Whether The Scale And Design Are Acceptable, And Impact Upon The Landscape Character Of The Area
3. Impact On The Living Conditions Of Neighbouring Residents
4. Impact Upon The Setting Of A Grade II Listed Building
5. Impact Of The Proposal On Biodiversity
6. Other Matters

### Assessment

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

- 7.1 At the heart of the NPPF is a presumption in favour of sustainable development. In order to promote a prosperous rural economy, paragraph 84 of the NPPF states that planning decisions should enable the development and diversification of agricultural and other land-based rural businesses.
- 7.2 Meanwhile, Policy EC12 (Agricultural Buildings) of the CDLP confirms that proposals for new agricultural buildings and structures will be permitted provided that:
- 1) the building is sited where practical to integrate with existing agricultural buildings and/or take advantage of the contours of the land and any natural screening;
  - 2) the scale and form of the proposed structure relates to an existing group of buildings unless otherwise justified;
  - 3) the design and materials used reflect the overall character of the area; and
  - 4) the proposal would not have an unacceptable impact on any adjacent land uses.
- 7.3 It is noted that the principle of the development to demolish an existing agricultural building on the site and erect a replacement agricultural building had already been established and was considered acceptable under

application 20/0471. Whether the amendments to the approved replacement agricultural building are acceptable will be assessed under the subsequent sections of this report.

- 7.4 As for the principle of relocating a silo away from a courtyard building of Firbank (the former farmhouse) and to the north of the replacement agricultural building, it is noted that the current silo was erected without the benefit of a planning permission. Nevertheless, given the silo will be for agricultural purposes and that the proposed relocation of the silo will facilitate the operation of the existing farming business, the principle of the siting of a silo within Firbank Farm is considered acceptable, subject to the criteria of the relevant policies being met.

## 2. Whether The Scale And Design Are Acceptable, And Impact Upon The Landscape Character Of The Area

- 7.5 The NPPF attaches great importance to the design of the built environment recognising that good design is a key aspect of sustainable development. The NPPF states that planning decisions should ensure developments function well and add to the overall quality of the area; are visually attractive; are sympathetic to local character and history whilst not preventing or discouraging appropriate innovation or change; establish or maintain a strong sense of place; and optimise the potential of the site to accommodate and sustain the appropriate mix of development. Paragraph 134 of the NPPF states that permission should be refused for development of poor design.
- 7.6 Policy EC12 of the CDLP which specifically relates to agricultural buildings seeks to ensure that buildings relating to agricultural development are sited where practical to integrate with existing farm buildings and/or take advantage of the contours of the land and any existing natural screening. The scale and form of the proposed building or structure should relate to an existing group of buildings, unless otherwise justified, with the design and materials reflective of the overall character of the area.
- 7.7 The objectives of Policy EC12 are also reflected in the relevant design policy of the CDLP (Policy SP6) which seeks to ensure that proposals respond to the local context in terms of height, scale and massing and by using appropriate materials and detailing. Local landscape character should be respected and development should be fully integrated into its surroundings. Policy GI1 of the CDLP also aims to protect landscapes from excessive, harmful and inappropriate development.
- 7.8 The siting of the replacement agricultural building has already been established under planning permission 20/0471; given that the replacement agricultural building is sited immediately adjacent to the existing farm buildings within Firbank Farm, it is considered that it is well related to the existing built form of the farm steading.
- 7.9 Under permission 20/0471, the approved replacement agricultural building would have had a width of 12m and a depth of 25m. Conversely, the

replacement agricultural building as built measures 13m in width and 27.5m in depth. The maximum height of the replacement agricultural building would be 6.4m which is same as the one approved under 20/0471. Whilst it is noted that the replacement agricultural building as built is 1m wider and 2.5m deeper than the previously approved, it is considered that the replacement agricultural building remains well integrated with the existing farm buildings. Although there are openings on all elevations of the replacement agricultural building, its scale, design and materials used for the replacement agricultural building remain appropriate and sympathetic to the overall character of the area. As such, it is not considered that the amendments to the replacement agricultural building have an adverse impact upon the landscape character of the area.

- 7.10 In terms of the silo, an objection was received regarding that the silo can be seen from over the roofline. It is noted that the silo has a maximum width of 2.4m and height of 5.77m. The height of the silo is lower than the ridge of the adjacent replacement agricultural building. Furthermore, the silo will be seen in the context of the surrounding agricultural buildings. CDLP Policy EC12 states that the siting of agricultural building/structure could have a considerable impact on the surrounding landscape and, where possible, should be integrated with the existing agricultural buildings, surrounding landscape and farmstead as a whole. Given that the silo is proposed to be relocated to the north of the replacement agricultural building, it will be well related to the surrounding buildings and will be sufficiently screened by the existing agricultural buildings on site. Where public views are afforded, the development will be seen in the context of existing agricultural buildings. In light of the above, it is considered that the overall scale of the silo is acceptable, and the proposed relocation of the silo will not have an unacceptable impact upon the landscape character of the area.

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

- 7.11 An objection to the application was received regarding the increased size of the replacement agricultural building and being in such close proximity to the boundary of Firbank (the former farmhouse), along with the use of Yorkshire boarding on the south and east elevations, and having openings on all elevations of the replacement agricultural building, leading to an unacceptable impact upon the residential amenity of the area, primarily due to increased levels of heavy agricultural vehicle movements, noise, dust, vibration and odour.
- 7.12 It is noted that Firbank (the former farmhouse) is located approximately 30m from the replacement agricultural building. Whilst it is acknowledged that the footprint of the replacement agricultural building built (13mx27.5m) is larger than that approved under planning permission 20/0471 (12mx25m), the increase in the depth of the agricultural building (by 2.5m) took place at the northward part of the agricultural building, keeping the separation distance between the replacement agricultural building and the Firbank property unchanged. In terms of the increased footprint of 57.5m<sup>2</sup> of the replacement agricultural building, taking into account the recommendation by Red Tractor

regarding the industry standard of 4.9 sqm to 5.85 sqm per suckler cow, the proposal could potentially lead to an increase of livestock by a maximum of 9 animals. This is in very approximate terms but represents approximately 1-2% of the total number of livestock that are part of the farm business. Overall, it is not considered that the slight increased footprint of the replacement agricultural building would result in a significant enough intensification of farm activities on the land in so that to warrant refusal of the application on the grounds of increased noise/disturbance/odour to the living conditions of the occupiers of the neighbouring property.

- 7.13 In terms of issues regarding noise nuisance, this matter has been raised with the ongoing works relating to application 20/0471. The Council's Environmental Health department have carried out two separate noise assessments on site in July 2021 and November 2021. Both assessments were carried out over a 4-day period to give as accurate as possible indication of the expected level of noise caused by farming activities at the replacement agricultural building and Firbank Farm as a whole. The assessment results concluded that the noise levels recorded on site were considered to be normal for the regular use of farmland, and the noise generated by the Farm does not amount to a statutory nuisance.
- 7.14 It is acknowledged that the development might create additional noise that is at a level which is below the threshold to be considered a statutory nuisance that needs to be assessed as part of the assessment of this application. In order to ascertain the likelihood of adverse impact due to operational activities carried out at the site and to allow an informed decision to be made with regard to noise impact, the Council has commissioned NoiseAir Ltd, a qualified acoustics and air quality specialist consultancy company, to undertake an independent noise impact assessment.

#### **Noise Assessment Report by NoiseAir Ltd**

- 7.15 NoiseAir Ltd carried out a 10-day period noise monitoring assessment on site between 4th February 2023 and 14th February 2023. At the time of the assessment, the agricultural building in question has openings on both south and north elevations. According to the noise impact assessment report produced by NoiseAir Ltd (Report reference: P6000-R1-V3), the noise monitoring was undertaken at two locations around the site. Industry standard noise modelling software, SoundPlan<sup>TM</sup>, was used to calculate the sound pressure levels at selected potential noise sensitive receptors (NSRs). In this instance, the NSRs are the façade of Firbank and the external area of Firbank. The acoustic equipment was calibrated to comply with Section 4.2 of British Standard (BS) 7445-1:20031, before and after the noise monitoring periods.
- 7.16 Section 2 of the report by NoiseAir Ltd outlined the relevant guidance and policy documents that are often used when assessing noise impact. The report sets out the limitation of BS 4142, and explains why NoiseAir Ltd cannot undertake a true BS 4142:2014+A1:2019 assessment and why additional guidance and criteria needs to be drawn from other widely used

standards. NoiseAir Ltd has employed a relative assessment method to evaluate any potential noise nuisance, which means that more than one standard has been applied for the assessment of potential noise nuisance in this instance.

- 7.17 According to BS 4142:2014+A1:2019, an initial estimate of the impact of a specific sound can be obtained by subtracting the measured background sound level from the rating level. Depending on the context, typically the greater this difference, the greater the magnitude of the impact. BS 4142:2014+A1:2019 recognises the importance of the context in which a sound occurs. Therefore, BS 4142:2014+A1:2019 specifically states that 'when making assessments and arriving at decisions, it is essential to place the sound in context'. As a general guide, where noise levels are up to +4.9 dB(A) above the background sound level, a low impact is likely; when the exceedance is between 5.0 and 9.9 dB(A), an adverse impact is likely; and with an exceedance of 10 dB(A) and above, a significant adverse impact is likely, albeit the context in which a sound occurs would need to be taken into consideration.
- 7.18 Due to the limitation of BS4142:2014, although NoiseAir Ltd cannot provide a true BS 4142:2014+A1:2019 assessment, they have selected the worst case façade noise level in order to provide a robust BS4142:2014 style assessment. The findings initially indicate that during the daytime and night-time, the excess of rating level above the existing background sound level is +6 dB(A) and -9 dB(A), which suggest that operational activities at the development site might have an adverse and low impact at the site for the daytime and night-time, respectively. The report findings then proceed to state that the context of the assessment is an extended livestock facility that is used to house/ feed cattle. Although the proposal has led to an increase in the capacity of the agricultural building, it has not introduced a new source of noise into the acoustic environment. Given the context of the site being a well-established cattle steading, the marginal increase in agricultural activity that has occurred does not suggest a significant increase in noise would be probable.
- 7.19 The measured background sound levels are considered to be low, which would in turn produce an inherently conservative assessment, NoiseAir Ltd therefore emphasises the importance of considering the absolute noise levels and how they relate to other widely used British Standards. Since BS 4142:2014+A1:2019 is only a method to assess sound levels outside a building, NoiseAir Ltd has also conducted a BS 8233:2014 assessment to assess sound levels in external amenity areas and inside habitable rooms at the NSR (i.e. Firbank).
- 7.20 According to the result of the BS 8233:2014 assessment, all of the receptor points meet the internal ambient noise level criteria as presented in BS 8233:2014. This indicates that absolute noise levels are an important consideration when assessing noise breakout at the site. Based on the result of the BS 8233:2014 assessment, it is reasoned that noise breakout from the extended livestock facility will have a low impact at Firbank.

- 7.21 Taking into consideration the results of the BS 4142:2014+A1:2019 style and BS 8233:2014 assessments, alongside the contextual considerations, NoiseAir Ltd concluded that the noise impact from the proposal upon Firbank would be low, and to an extent which noise mitigation would be unnecessary.

### **Technical Review by Apex Acoustic**

- 7.22 The objector has commissioned Apex Acoustics to review the forementioned noise assessment report carried out by NoiseAir Limited. The Technical Review by Apex Acoustics has made the following points:
- ‘Our opinion is that NA's report is not adequate to determine the extent of noise impact at Firbank farmhouse residential premises.’
  - ‘The NA assessment of the reported source noise levels is erroneous, and the modelling of impact is fundamentally flawed.’
  - ‘the NA report only focuses on a small portion of the premises that benefit from acoustic screening, but all buildings are classified as residential and may be occupied as such.’
  - ‘The assessment misinterprets the recorded data to determine noise levels and fails to account for penalties due to intermittency, tonality, or impulsivity, which are necessary for an appropriate assessment.’
  - ‘Using the data included in the NA report, we demonstrate that the noise impact at Firbank farmhouse is above a significant adverse effect level and at a level that could cause distress and a poor quality of life for its residents. An assessment at a part of the residential premises which sits closer to the farm premises would demonstrate even higher rating noise and impacts.’
  - ‘The findings here coincide with those presented in the earlier report issued by Apex (Doc. Ref. 9786.2D), which concluded that significant adverse impacts are likely during the day and night based on the internal ambient noise measurements carried out by [the objectors themselves].’
  - ‘According to the Environmental Protection Act 1990, noise can be considered a statutory nuisance if it unreasonably and substantially interferes with the use or enjoyment of a home or other premises or poses a health risk. The Local Authority is responsible for determining whether the noise impacts at Firbank Farmhouse residence premises amount to a statutory nuisance or not, but evidence suggests that it may be significantly disruptive.’

### **Case Officer's Assessment**

#### **1. The use of British Standards and their limitations**

- 7.23 It is crucial to note that at the time of writing, there is no current definitive UK legislation for the assessment of noise from livestock installations. Therefore, the determination of appropriate assessment criteria needs to draw upon a variety of different guidance and policy documents. Whilst BS 4142 is commonly used to assess noise complaints by Acousticians, it is acknowledged there had been an increased and incorrect use of the previous

version of BS4142 (BS 4142:1997) by the industry in a variety of scenarios for which it was not researched and/ or therefore intended. Consequently, it had been updated to BS 4142:2014+A1:2019. The most up-to-date version of this Standard (BS 4142:2014+A1:2019) has a clear list of applications for this criteria, in order to avoid Acousticians and Decision Makers mis-using this document in their assessments. Based on the review of the 4142:2014+A1:2019 and Noise Policy Statement for England, alongside the consultation with the Council's Environmental Health Officer, below are the limitations of solely using BS 4142:2014+A1:2019 to assess noise impact:

7.24 *j) It is ambiguous as to whether assessment of sound from livestock would be covered within the scope of BS 4142:2014+A1:2019*

As previously stated, the revised version of BS 4142 (BS 4142:2014+A1:2019) provide a clear list of applications for assessing sound of an industrial and/or commercial nature, which includes:

- a) sound from industrial and manufacturing processes;
- b) sound from fixed installations which comprise mechanical and electrical plant and equipment;
- c) sound from the loading and unloading of goods and materials at industrial and/or commercial premises; and
- d) sound from mobile plant and vehicles that is an intrinsic part of the overall sound emanating from premises or processes, such as that from fork-lift trucks, or that from train or ship movements on or around an industrial and/or commercial site.

7.25 The updated BS 4142 provides a clear list of applications for the document which does not include assessment of farm/ livestock installations. Whilst some Acousticians argue that livestock installation is within its scope, some argue that the current BS4142 exclude the assessment of noise from farm or agricultural type installations. This ambiguity as to whether assessment of sound from livestock would be covered within the scope of BS 4142:2014+A1:2019 provide a reasonable ground to consider additional guidance and criteria from other widely used standards, in order to provide a fair and robust assessment.

7.26 *ii) BS 4142:2014+A1:2019 must not be used to assess whether sound amounts to a noise nuisance. This is not within the scope of BS 4142*

Whilst BS 4142 can be used to indicate the likely impact of a sound by taking into account the context in which the sound occurs, both BS 4142:2014+A1:2019 and the 'Method implementation document (MID) for BS 4142' by Environment Agency have explicitly stated that this British Standard 'must not be used to assess whether sound amounts to a noise nuisance, as this is not within the scope of BS 4142'. Since BS 4142:2014+A1:2019 cannot be used to determine whether a sound would cause noise nuisance, it is considered that the use of additional relevant BS such as BS8233:2014 could help the decision makers reach the most robust and fair conclusion.

7.27 *iii) There is no noise level set in Law; Noise is a subjective assessment*



The Government acknowledged that noise is a subjective matter, and different people react to it in different ways. What can cause annoyance to some people may be barely noticeable to others. Since there is no noise level set in law, and whether a sound would be classed as noise or nuisance would be affected by many factors and contextual considerations. This is also the reason why the criteria set within the BS can only be seen as a general guide, and the context in which a sound occur must be taken into account during the assessment of noise impact. Below are some of the issues that the Government suggests decision makers to consider while making decisions about 'context':

- what the sound 'means'
- time of day
- the absolute level of sound
- where the sound occurs
- new industry or new residences
- intrinsic links between the source and receptor
- local attitudes

7.28 Since noise assessment is subjective, rather than using BS4142 as the only criteria to assess the likely noise impact level, it would be reasonable and appropriate to also consider the use of other relevant BS such as BS8233 in order to provide a robust assessment.

7.29 *iv) BS 4142 is not intended to be applied to the assessment of indoor sound levels*

It has been clearly stated within BS 4142:2014+A1:2019 that this Standard is not intended to be applied to the assessment of indoor sound levels. Whilst BS 4142 can be used to assist in the determination of the likelihood of an adverse impact in outdoor locations, it cannot be used to assess the extent of the impact at indoor locations. As such, the assessment of indoor sound levels should be assessed via the use of other relevant BS. Although Apex Acoustics Ltd argue that BS8233 mainly applies to traffic noise, it is recognised in BS 4142 that BS8233:2014 provides guidance on indoor ambient noise levels, and can be useful to provide absolute figures for such assessment.

7.30 Based on the aforementioned reasons, the Case Officer and the Council's Environmental Health Officer are in agreement with the approach and methodology employed by NoiseAir Ltd, to use a relative assessment method and to consider various Standards, to provide a robust and fair assessment.

**Discussion on the points raised within the Noise Assessment Report by NoiseAir Ltd; Technical Review by Apex Acoustics Ltd, and the Objector**

7.31 The following section will look into the points raised within the Technical Review by Apex Acoustics.

One of the comments made by Apex Acoustics Ltd in their Technical Review criticises that NoiseAir Ltd has misinterpreted the recorded data to determine noise levels. Section 3 of the Technical Review by Apex Acoustics criticises that NoiseAir Ltd uses the "median" daytime and "typical" night-time values of 56dB(A)  $L_{Aeq,1hr}$  and 45dB(A)  $L_{Aeq,15min}$  respectively to determine the rating noise levels  $L_{Ar,Tr}$  for the day and night-time.

- 7.32 In response to this comment by Apex Acoustics Ltd, it is noted that this is an incorrect interpretation of the data. Each of the values amongst the recorded ambient sound levels were used to calibrate the SoundPLANTM 3D sound model, which was used to calculate the specific sound level at Firbank's façade and external amenity. The results of the model produce a much lower noise level at the façade due to sound dissipates through the air and the screening afforded by the surrounding buildings, fences and gate.
- 7.33 Apex Acoustics criticised that NoiseAir Ltd's report fails to account for penalties due to intermittency, tonality, or impulsivity, which are necessary for an appropriate assessment. By using the data collected by NoiseAir Ltd, Apex Acoustics Ltd has chosen 64 dB  $L_{Aeq,1hr}$ , and 54 dB  $L_{Aeq,15min}$  as the specific noise levels for day-time and night-time respectively to undertake their BS4142 assessment. According to the Technical Review, these levels were selected as they occur consistently for at least 2 hours during the day and 0.5 hours at night. Apex Acoustics Ltd then applied acoustic features corrections (+9Db and +6Db to day-time and night-time respectively) to the assessment and concluded that the assessment indicates a likelihood of a significant adverse impact on Firbank. Apex Acoustics argues that the findings of the aforesaid assessment coincide with those presented in the earlier report issued by Apex (Doc. Ref. 9786.2D), which concluded that significant adverse impacts are likely during the day and night based on the internal ambient noise measurements carried out by the objectors themselves.
- 7.34 There are a few issues that are worth taking into account when considering the result of the aforementioned assessment made by Apex Acoustics Ltd. Firstly, Apex Acoustics' review states that 'the Standard requires selecting the repeatable highest day and night-time values of ambient noise...'. This is not discussed within BS 4142:2014. On the contrary, NoiseAir Ltd has confirmed to the Case Officer that data selection is usually required to be 'typical', which means selecting the value that occurs most frequently in the data. That being said, BS 4142 did not explicitly set out any criteria for data selection, which suggests that either data selection method could be considered acceptable as long as sufficient justification can be given.
- 7.35 Secondly, contextual consideration must be taken into account when comparing the rating level to the background sound level which gives an indication of impact. Whilst character corrections could be added to the specific sound level where deem necessary, BS4142 suggests that the presence of a character feature at source does not necessarily mean there will or should be a character correction applied in the assessment. According

to BS 4142:2014+A1:2019, character corrections and penalties can only be added to the assessment where acoustic feature is audible at the receptor during the assessment.

- 7.36 During several site visits by the Case Officer and by previous Development Control Committee Members, it was apparent that no acoustic feature was audible at the Farm or the area surrounding Firbank. Whilst admittedly the duration of these visits were short, these observation results coincide with the on-site assessments conducted by NoiseAir Ltd and The Council's Environmental Health Team on numerous separate occasions, of which only normal farm activities sounds were recorded.
- 7.37 In addition, when applying character correction to the specific sound level, BS4142 requires a full description of what can be heard during the assessment and measurement period. The assessment conducted by Apex Acoustics (as shown within table 1 of their Technical Review) did not provide any information or description of what can be heard during the assessment and measurement period. In light of the aforementioned points, it is considered that there is a misuse of these character corrections in Apex Acoustics' assessment. Based on the Case Officer's own observation and the evidence presented, it is the Case Officer's view that character corrections should not have been applied to the assessment, in line with the BS 4142:2014+A1:2019 guidance.
- 7.38 Thirdly, Apex Acoustics stated that the findings of their desk-top BS4142 assessment coincided with those presented in their earlier report (Doc. Ref. 9786.2D), which concluded that significant adverse impacts are likely during the day and night based on the internal ambient noise measurements carried out by the objectors themselves. The Case Officer has previously requested that the objector submit this earlier Apex report (Doc. Ref. 9786.2D) for consideration, however, the Objector has refused to submit this document. It is crucial to point out that all relevant British Standards and guidance documents require noise impact assessments to be carried out by a suitably qualified Acoustician with the appropriate equipment. It is unclear what equipment has been used and if the technical quality of said equipment is appropriate to conduct such an assessment. There is significant concern that the data for this report by Apex Acoustics was gathered by the Objector using the Environmental Health mobile phone application. If this is the case, then the data gathered through this application by the Objector would be considered inappropriate for such assessments, especially that the Council's Environmental Health Department has informed the Case Officer that this mobile application has previously been mis-used by the Objector. Therefore, the data collected through this application by the Objector would not be deemed a reliable source of data that could be used for formal noise impact assessment. There would also be a clear conflict of interest by using the complainant's data. It is the view of the Case Officer that as the Objector has not been forthcoming with the requested details of the formal assessment by Apex, it cannot be verified that the findings of this assessment were gathered by a qualified Acoustician on site using recognised techniques, and therefore should be disregarded for the consideration of this application.

- 7.39 The Technical Review by Apex Acoustics then continues to state that ‘the NA report only focuses on a small portion of the premises that benefit from acoustic screening, but all buildings are classified as residential and may be occupied as such. An assessment at a part of the residential premises which sits closer to the farm premises would demonstrate even higher rating noise and impacts’.
- 7.40 It is acknowledged that the NSRs of the NoiseAir Ltd’s noise assessment relate to the façade of Firbank and the external area of Firbank. It is also acknowledged that the outbuildings currently are ancillary accommodation to Firbank and sit closer to the farm premises. However, these outbuildings at Firbank were only converted into residential use on 26 July 2021 via application permission 21/0120, which is after permission was given for the erection of the replacement agricultural building at Firbank Farm. Prior to this date, these outbuildings were deemed under agricultural use.
- 7.41 It is also crucial to note that Firbank used to be a farmhouse, and is intrinsically linked to Firbank Farm. Although Firbank was sold as a separate residential property in 2000, the character of the area has not changed and Firbank Farm remains an active working farm. The previous owner of Firbank farm has confirmed via a letter that all buildings in the farm were used for keeping livestock. Therefore, since the applicant took over the farm in 2020, the applicant did not introduce a new use to the site. The objector purchased Firbank in knowledge that it is a farm house and is next to a working farm. By living next to a working farm, one has to expect some kind of farm noise and smell, the assessment therefore should focus on whether or not these impacts go beyond reasonable.
- 7.42 Meanwhile, under application 18/0257, the objector has submitted an application to alter the existing boundary walls and gate. Within the submitted planning statement, it was clearly stated at the time there was alleged noise and dust issues experienced by the Objector. Below is the extract of what was submitted by the Objector during application 18/0257:
- ‘The cow shed to the north of Firbank’s rear courtyard gate is in a state of ruin, with half of the roof collapsed in. It is occupied by noisy bulls, which are intensively reared for beef. Bedding for these animals, which are visited and fed using industrial scale machinery several times a day, is flung into the shed using automation that scatters straw throughout the Firbank courtyard and requires cleaning up to keep the setting fit to be called a dwelling house.’*
- This suggests that the alleged issues regarding the operation of the farm was raised by the objector predated 2020, which was when the ownership of the farm was transferred to the applicant.
- 7.43 Paragraph 187 of the NPPF explains that planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result

of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

7.44 In this case, the applicant has received permission to build a replacement agricultural building in 2020 under permission 20/0471, which was before the permission given for the conversion of these outbuildings in 2021 under 21/0120. With the alleged pre-existing noise issues and the acknowledgement of the outbuildings being closer to the farm, the objector decided to continue to convert the outbuildings into ancillary accommodation under application 21/0120. Likewise, by choice to convert the outbuildings next to a working farm into additional ancillary accommodation, one should expect some kind of farm noise and smell, the assessment therefore should focus on whether or not these impacts go beyond reasonable.

7.45 In terms of the opening on the south elevation of the agricultural shed, the applicant has explained that the reason for opening is to allow sufficient air exchange and air distribution within the agricultural shed. Good ventilation is essential for animal health and general wellbeing. This is considered acceptable and good husbandry. According to the applicant, the opening on the south elevations of the shed also act as a means of escape during emergency situations. The objector claimed that planning permission (20/0471) was granted on the basis that the opening of the shed would only be to the north which is furthest away from the main farmhouse. This is a misinterpretation of the officer recommendation report of application 20/0471. The case officer of application 20/0471 has confirmed that the opening to the south elevation was never assessed as part of the application 20/0471, since the drawings at the time only shows an opening to the north elevation of the site. This does not mean that the Council has refused or will refuse an opening to the south elevation of the agricultural shed. In any event, the technical reports now commissioned by the Council demonstrate that the impacts arising from the development with openings in the south elevation are acceptable.

7.46 Taking into consideration the following points:

- the previous agricultural building also had an opening on the south elevation;
- the opening on the south elevation of the agricultural building is essential for ventilation and welfare of the animals;
- the opening on the south elevation of the agricultural building could act as a means of escape for the farmers;
- the previous agricultural building was also used to house cattle;
- that the enlargement is at the north of the agricultural building and is away from the boundary of Firbank;
- the enlargement of the agricultural building could only house a maximum of 8 additional animal; and
- the cattle are only generally housed in the building during the winter

months/periods of inclement weather.

It is considered that having an opening to the south elevation of the agricultural building is acceptable. Since the main purpose of the opening to the south elevation of the agricultural building is to provide a means of escape for the farmers and ventilations for the livestock, it is not envisaged that this opening to the south elevation of the agricultural shed would lead to a substantial increase in the levels of heavy agricultural vehicle movements adjacent to Firbank, to an extent which is significant enough to warrant refusal of this application.

- 7.47 Nevertheless, NoiseAir Ltd has conducted an on-site noise assessment and the result of the noise assessment coincide with the assessment previously conducted by the Council's Environmental Health Department, which concluded that the noise levels recorded on site were considered to be normal for the regular use of farmland. It is therefore not considered that the proposal would lead to unreasonable noise impact that would be detrimental or significant enough to warrant refusal of this application.
- 7.48 Whilst the objector has made copious amount of complaints regarding the overall operation of the farm, long before the submission of this application, these complaints regarding the operation of the farm are outwith the scope of the application, and the assessment of this application should only look into whether the development applied for, including the opening to the south and the slight enlargement, will lead to unacceptable impact upon the residential amenity.
- 7.49 Although the replacement agricultural building as built is slightly larger and has more openings than the approved replacement agricultural building under permission 20/0471, given the context of the site being a well-established cattle steading, the marginal increase in agricultural activity that has occurred due to the enlargement of the agricultural building does not suggest that a significant increase in noise would be probable.
- 7.50 A concern has been raised in the objection as to who the agent of change is in this scenario and therefore the responsibility to ameliorate impacts in particular relating to noise. However, the noise impacts from the development at Firbank Farm have been assessed and considered as acceptable, there are therefore no unacceptable impacts which require the agent of change principle to be applied. Based on the aforementioned assessment, it is not considered that the current use of the farm has led to such a degree of noise that would warrant the refusal of the application or require the imposition of any restrictions on the existing use of the land as a farm.
- 7.51 With regard to the concerns over dust, straw and odours due to the use of Yorkshire boarding on the south and east elevations, and the openings on all elevations of the replacement agricultural building, it is noted that the original agricultural building also had openings on several elevations including the south elevation. It is also noted that Yorkshire boarding is a standard material used amongst agricultural buildings. The Council's Environmental Health

department have undertaken their assessments and have confirmed that the level of farming activities on site is not considered to be excessive to an extent which would amount to statutory nuisance. There are also no existing planning restrictions on use of the farmyard for machinery or livestock from other buildings on the farm.

- 7.52 Likewise, it is acknowledged that the agricultural building, by having a slightly larger footprint and more openings, might increase the dust and odour impacts of the site and subsequently impacting the residential amenity of the area. Although the odour and dust impact levels resulting from the development are below the threshold to be considered a statutory nuisance, the impacts would need to be assessed as part of the assessment of this application in order to ensure the residential amenity of the area is safeguarded. To allow an informed decision to be made with regard to odour and dust impacts, the Council has commissioned NoiseAir Limited, an independent acoustics and air quality specialist consultancy company, to undertake an odour impact assessment and a dust impact assessment.
- 7.53 For the odour impact assessment, NoiseAir Limited carried out Field Odour Surveys at 14no. survey locations around the site on 13th February 2023, 14th February 2023 and 21st February 2023. All three Field Odour Surveys were undertaken in accordance with the Institute of Air Quality Management (IAQM) methodology, and the positions were selected based on the meteorological conditions during the time of surveying and the positioning of the closest residential properties. The results of the Surveys indicated that odour impacts ranged between moderate and negligible. According to the odour impact assessment report produced by NoiseAir Limited (Report reference: P6000-R2-V3), these fluctuations on odour impacts are expected given the proximity of the agricultural shed to the residential property boundary and the setting of the replacement building within a working cattle farm. The air quality specialist confirms that it is unlikely that Field Odour Surveys results would change significantly between the consented and as built schemes due to the minor difference in potential odour emissions associated with the two buildings. NoiseAir Limited also undertaken a risk assessment to assess the risk of potential odour effects as a result of operations at the farm as detailed under consented planning application 20/0471 and retrospective planning application 22/0087 using the IAQM methodology. The results of the assessment indicated that the predicted odour effect significance was slight under both scenarios. Based on the results of the Field Odour Surveys and Risk Assessment, The Report concludes that the predicted effect of odour emissions is predicted to be the same for the consented and as built schemes. Based on the aforementioned assessment finding, it is not considered that the proposal (the amendments to the replacement agricultural building and the relocation of silo) will have an odour impact that is at a level which is significant enough to warrant refusal of the application or to impose restriction to the operation of the working farm in attempt to mitigate the slight impact identified.
- 7.54 Regarding dust impact, NoiseAir Limited undertook a dust assessment in strict accordance with the IAQM guidance and methodology in order to

evaluate baseline conditions and consider any potential differences in the risk of dust impacts between the agricultural building as built and the previously consented scheme. The dust impact assessment report produced by NoiseAir Limited (Report reference: P6000-R3-V2) concludes that the impacts are not significant, and mitigation to further reduce impact is therefore not considered necessary.

- 7.55 It is crucial to note that Firbank Farm has existed for a significant number of years. Firbank Farm has been a well-established farm steading even before the former farmhouse, Firbank, was sold as a separate domestic dwelling in 2000. Despite the replacement agricultural building having a larger footprint than the previously approved (under 20/0471), it is not considered that the current footprint of the replacement agricultural building as built has led to an intensification of use so great as to warrant the refusal of this application. The replacement agricultural building has brought the farm steading up to modern standards with the proposed design in accordance with good animal husbandry. Moreover, both the Council's Environmental Health department and the independent acoustics and air quality specialists have undertaken thorough assessments of the site, and have raised no concerns about the level of usage nor any resulting noise, debris or odours impact that would require further action. It is therefore not considered that the proposal has resulted in demonstrable adverse impact upon the residential amenity of the area. Consequently, it is not considered that it will be reasonable to impose restrictions to restrict farming activities at an active working farm when the current level of farming activities is considered acceptable.
- 7.56 The scale and design of the agricultural building and silo in question are appropriate to the site. Given the positioning of the development in relation to the primary windows of Firbank and intervening buildings, it is not considered that the amendments to the replacement agricultural building or the siting of the silo would have an adverse impact upon the living conditions of the neighbouring property in terms of loss of light, overlooking or over dominance.
- 7.57 Another objection relates to high intensity lights mounted on farm vehicles shining into the courtyard garden and through the windows to the rear of Firbank. Whilst the concern is noted, it is not uncommon that farm vehicles would be fitted with lights to ensure safety and visibility during its operation. It is considered that the likelihood of any farm vehicles having full lights on whilst being stationary and parking outside the boundary of Firbank for a prolonged period of time would be very low. Since no static light source would present on site, it is not envisaged that the lights from farm vehicles would lead to a nuisance that would detrimentally affect the living conditions of the occupiers of Firbank, to an extent which is significant enough to warrant refusal of this application.

#### 4. Impact Upon The Setting Of A Grade II Listed Building

- 7.58 Firbank (the former farmhouse) was listed grade II on 16 January 1984, with the following description:



*'Farmhouse. Early C19. Flemish bond brickwork with cream headers, graduated slate roofs, gutter modillions, brick chimney stacks. 2 storeys, 3 bays, and flanking single storey wings with hipped roofs. C20 6-panel door and glazed fanlight, has pilaster strip surround and moulded cornice. Sash windows with glazing bars have flat brick arches and stone sills.'*

- 7.59 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".

- 7.60 Meanwhile, CDLP Policy HE3 highlights that development within the locality of a listed building should preserve or enhance its character and setting and be sympathetic in scale, character and materials. Any harm to the significance of a listed building will only be justified where the public benefits of the proposal clearly outweighs the significance.
- 7.61 The objector argues that agricultural buildings of the Farm can be viewed from various locations of Firbank, and untidiness of the Farm has created an eyesore that disfigures the listed character and context of the house site. It has been established under planning permission 20/0471 that the replacement agricultural building would not have a detrimental impact upon the setting of the listed building. The setting of the listed building has always been the farm since Firbank was originally a farmhouse associated to Firbank Farm. Although the replacement agricultural building built has a larger footprint than the one approved under 20/0471, the scale and design of the replacement agricultural building remains acceptable. Likewise, it is also considered that the scale and design of the silo are acceptable. The setting of the listed building remains unaffected by the proposal. Whilst it is acknowledged that the proposal will slightly alter the appearance of the steading, but the overall visual impact would be limited and very localised. In general, the characteristic features of the steading are retained, and it is not envisaged that the amendments to the replacement agricultural building approved under application 20/0471 and the siting of the silo would have a detrimental impact upon the setting of the grade II listed building. The Council's Heritage Officer was consulted and has raised no objections to the application.

#### 5. Impact Of The Proposal On Biodiversity

- 7.62 Given the scale and nature of the proposal, it is unlikely that the development would harm any protected species or their habitat. However, it is recommended that an Informative is to be included within the Decision Notice

ensuring that if a protected species is found, all work must cease immediately and the Local Planning Authority informed.

## 6. Other Matters

- 7.63 The objectors have expressed that should this application be approved, it will present a clear inconsistency between the approval of this retrospective application versus the original planning permission 20/0471. In response to this, Members are advised that each application must be assessed on its own merits and where decisions are reached which are inconsistent with previous decisions that is permissible provided reasons for doing so are provided. Officers do not accept that there are inconsistencies between this recommendation and the previous decision. However, in any event, this application has been supported by and reviewed by technical assessments that were not available when the previous decision was made. The assessments made in this report build on that new material and provides reasoned recommendations that are informed by it. The amendments of the replacement agricultural building and the siting of the silo have been fully assessed and the recommendation has been made based on that assessment.
- 7.64 The objector has raised that there has been an unauthorised change of use of the former sheep pen area to an area for parking and storage of substantial quantities of rusting agricultural machinery, equipment and materials. It is noted that permission is not required in this instance as there has been no change of use that would constitute as a 'development'. Nevertheless, the works in relation to the demolition of the sheep pen area is not within the scope of this application and hence, it has not been included as part of the assessment of this application.
- 7.65 Another concerns was raised that the applicant have not adhered to the construction traffic management plan submitted under application 21/0692. When these concerns were notified the Council's enforcement officer visited the site and pursued those issues with the applicants to ensure conditions were complied with.
- 7.66 The objector has also raised issues regarding the breaches of covenants, these are however civil matters which cannot be dealt with through planning legislation. Article 8 of the European Convention on Human Rights (ECHR) provides that everyone has the right to respect for his/her private and family life. Whilst Article 8 ECHR rights are important, it cannot be assumed that it would outweigh the importance of having coherent control over town and country planning. The rights have to be balanced against all other material considerations and this will be a planning judgment. In this assessment, the Council has taken into account Article 8 of the ECHR as part of the material considerations, and has considered all relevant legislations. Officers have considered data presented by all parties, including the applicant, objector, NoiseAir Ltd and Apex Acoustics Ltd and the Council's Environmental Health Department, and concluded that the level of farming activities on site does not amount to a nuisance, and the noise, dust and odour impacts resulting

from this development would be at a level which is unnecessary to employ any form of mitigation in this instance.

## **8. Planning Balance and Conclusion**

- 8.1 The amendments to the replacement agricultural building and the siting of the silo are acceptable. Although the footprint of the replacement agricultural building is larger than that previously approved under 20/0471, and has more openings, the scale and design of the replacement agricultural building remain well related to the surrounding agricultural buildings. The landscape character of the area will not be adversely affected by the amendments to the replacement agricultural building nor the siting of the silo. In addition, it is not considered that the proposal would result in a significant enough intensification of farm activities on the land to warrant refusal of the application on the grounds of increased noise/dust/disturbance/odour to the living conditions of the occupiers of the neighbouring property. This is reaffirmed by the findings of the Council's Environmental Health department's and the independent acoustics and air quality specialists' (NoiseAir Limited) assessments, which confirm that the level of farming activities on site are reasonable and do not create any issues that require mitigation. The noise, dust and odour impacts resulting from this development would be at a level which is unnecessary to employ any form of mitigation, and would not be detrimental enough to warrant refusal of this application.
- 8.2 Overall, the application is considered to be in full accordance with both local and national planning policies. Therefore, it is recommended that this application is approved with conditions.

## **Recommendation**

It is recommended that this application is approved with conditions.

## **Appendix 1 List of Conditions and Reasons**

### **Grant Permission**

1. The development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:
  1. the submitted planning application form, received 12 Sep 2023;
  2. the location plan (dwg no. 2251-A-01A), received 12 Sep 2023;

3. the proposed block plan (dwg no. 2251-A-04A), received 12 Sep 2023;
4. the proposed site plan (dwg no. 2251-A-05), received 12 Sep 2023;
5. the silo plan (dwg no. 2251-A-11), received 12 Sep 2023;
6. the revised floor and elevations plan for the agricultural building (dwg no. 2251-A-10 Rev A), received 12 Sep 2023;
7. the heritage, design and access statement, received received 12 Sep 2023;
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.

2. No work associated with the construction of the development hereby approved shall be carried out before 07.30 hours on weekdays and Saturdays nor after 1800 hours on weekdays and 1300 hours on Saturdays (nor at any times on Sundays or statutory holidays).

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

### **List of Informatives/Advisory Notes**

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.

Many species and their habitats are protected under conservation legislation such as the Wildlife and Countryside Act 1981, The Conservation of Habitats and Species Regulations 2010, the Countryside and Rights of Way Act 2000, the Hedgerows Regulations 1997. If any protected species are found during development all work must cease immediately and the Local Planning Authority notified.

### **Appendix 2**

Copy of the plans/drawings including red line boundary.

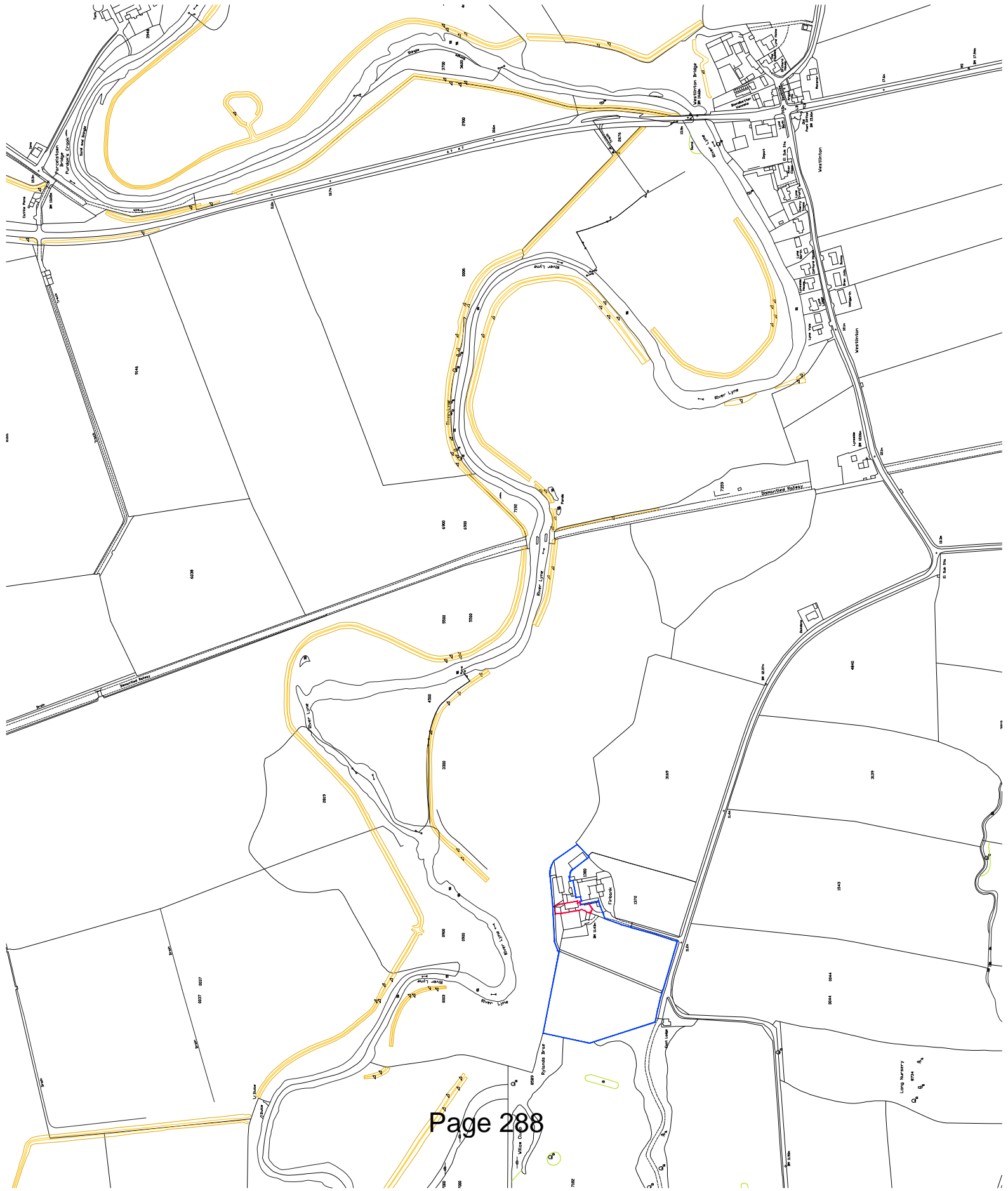
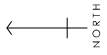


**23/0639 Firbank Farm Buildings, Firbank,  
Westlinton, CA6 6AQ**

**Wider Location Plan**



Thriving Place and Investment,  
Planning,  
Civic Centre, Rickergate,  
Carlisle, CA3 8QG



18.02.22 PM  
A-200 drawings converted  
- drawings not updated

Revisions	
Client	Ian Morrison & Viki Brown
Project	Replacement of Agricultural Building & Silo
	Firbank
	Westfinton
	Canale
	CNE 6/16
Drawing	Location Plan

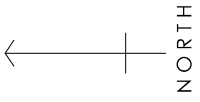
Drawing No. 2251-A-01A  
Scale 1:2500(A) Drawn GC Date Jun 2022  
Scale 1:5000(BAS)

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**FIR BANK**

KEY:

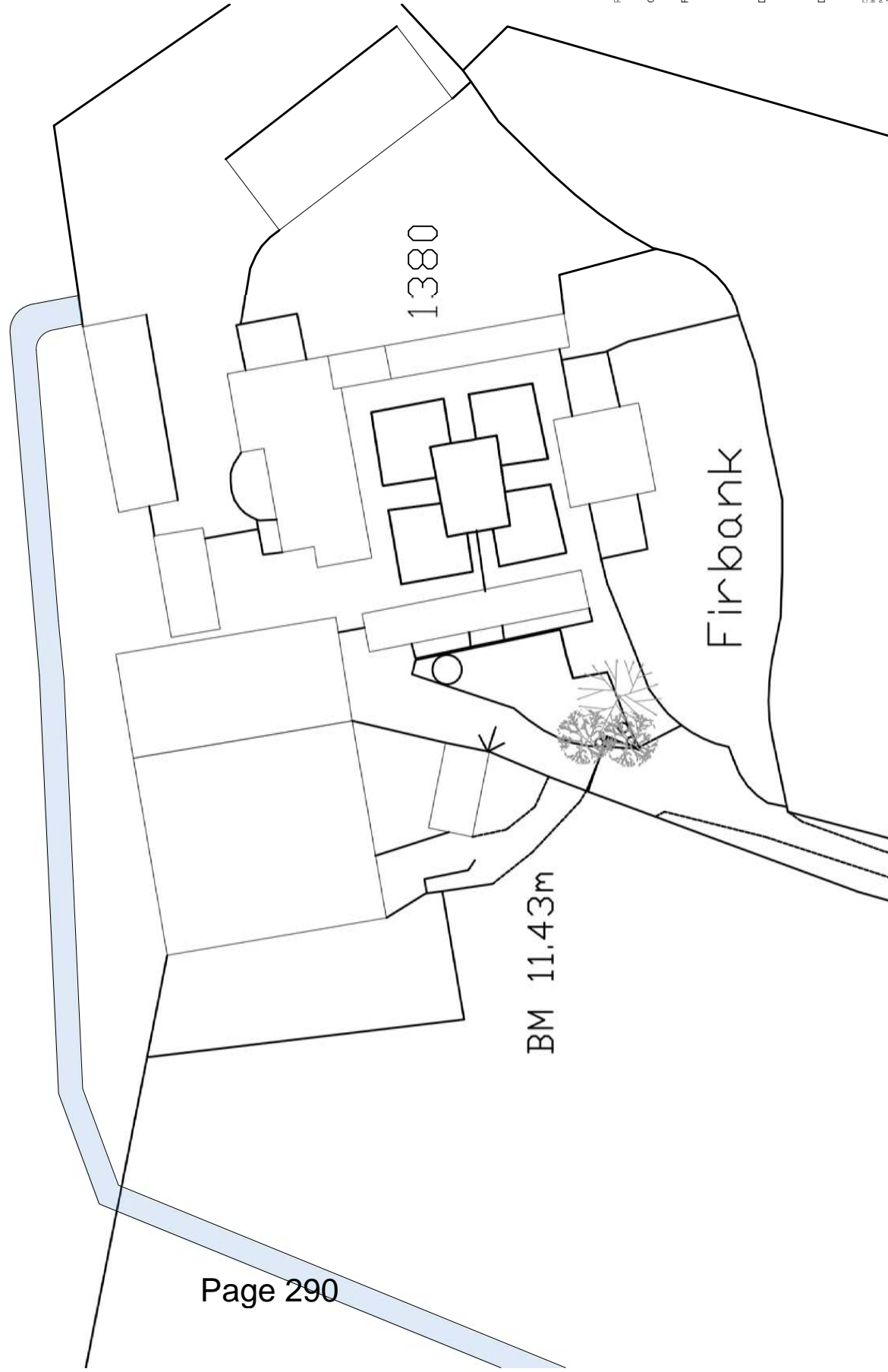
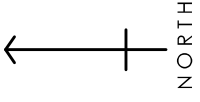
- Extent of development site
- Extent of other site ownership



Revisions	A - Site ownership amended	18.02.22 PM
Client	Ian Morrison & Val Brown	
Project	Replacement Agricultural Building & Silo Firbank Westlinton Cothillie CA6 6AQ	
Drawing	Block Plan As Existing	
Drawing No.	2251-A-02A	Date Jan 2022
	Scale 1:1250@ A3	Drawn OK

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Revisions - Jan 22 Drawing set up for discussion purposes. GC

Client Ian Morrison & Val Brown

Project Replacement of Agricultural Building & Silo  
Firbank  
Westlinton  
Canthrie  
CA6 6AQ

Drawing Site Plan  
As existing

Drawing No. 2251-A-03 Date Jan 2022  
Scale 1:500@ A3 Drawn OK

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**FIR BANK**

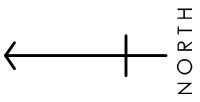
KEY:

- Extent of development site
- Extent of other site ownership

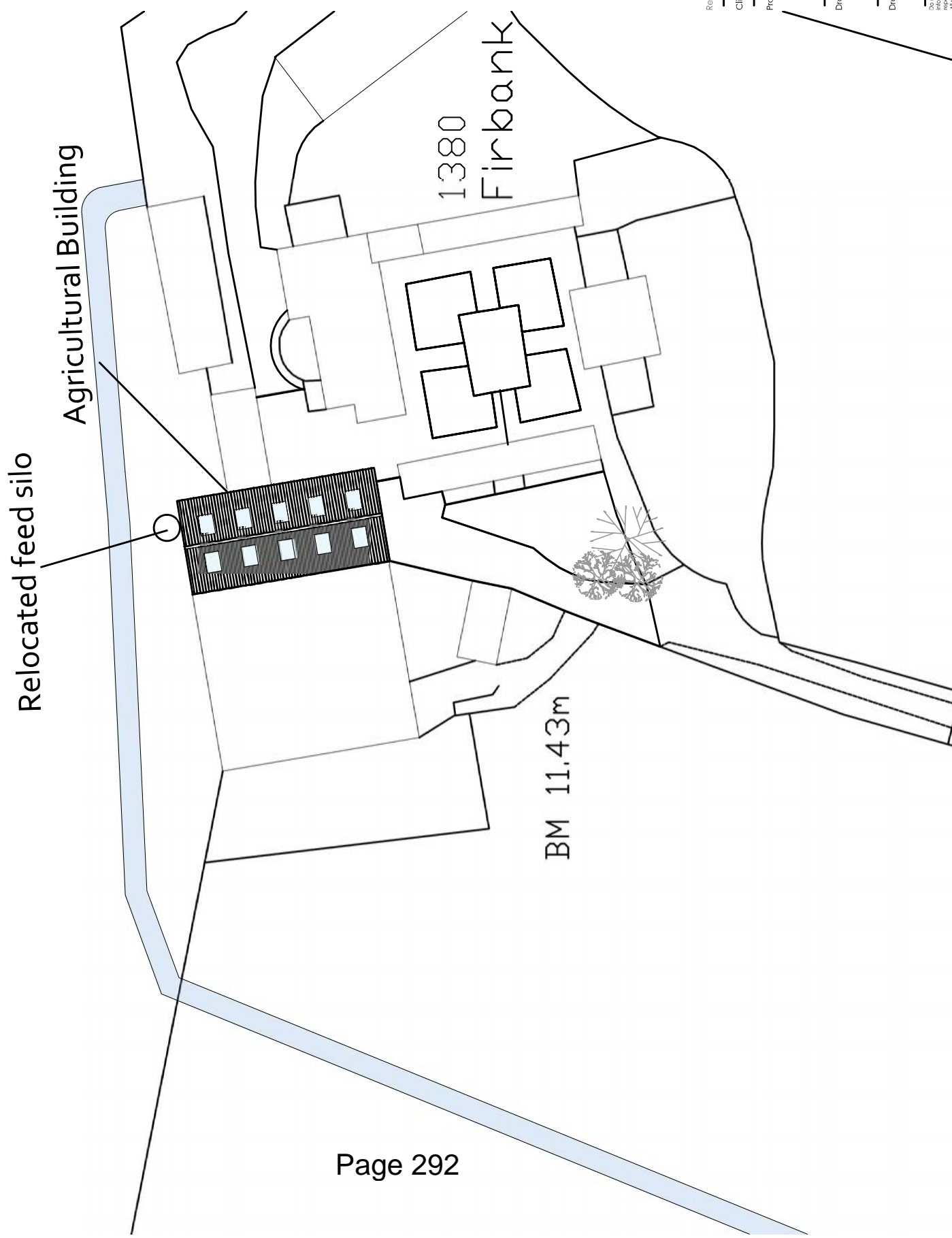


Revisions	A - Site ownership amended	18.02.22 PM
Client	Ian Morrison & Val Brown	
Project	Replacement Agricultural Building & Silo Firbank Westlinton Cothill CA6 6AQ	
Drawing	Block Plan	
	As Proposed	
Drawing No.	2251-A-04A	Date Jan 2022
	Scale 1:1250@ A3	Drawn OK

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NORTH



Revisions - Jan 22 Drawing set up for discussion purposes. GC

Client Ian Morrison & Val Brown

Project Replacement of Agricultural Building & Silo  
Firbank  
Westlinton  
Canthly  
CA6 6AQ

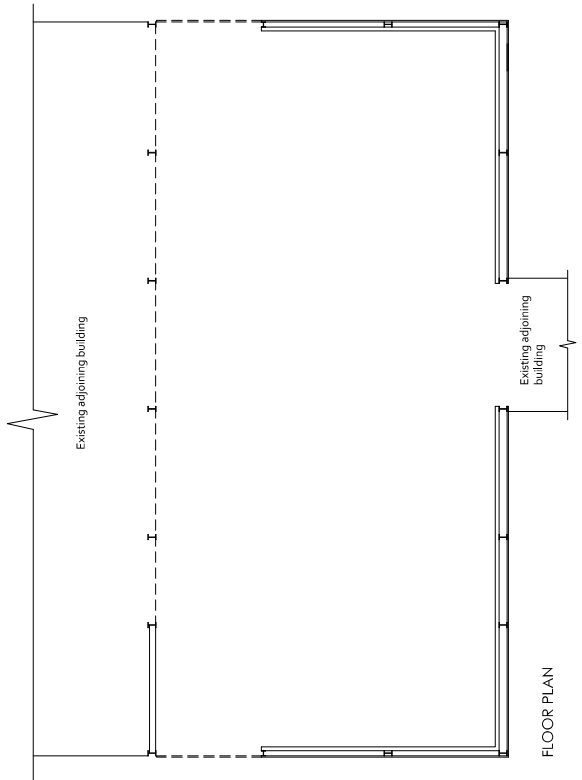
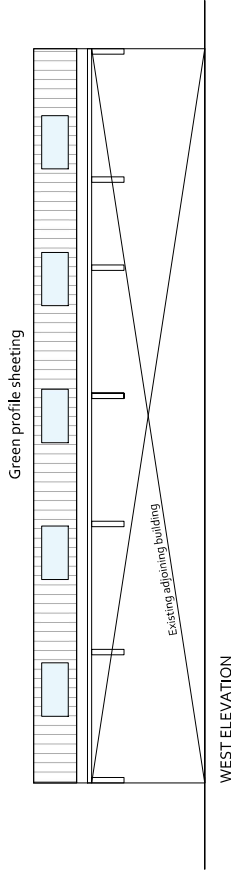
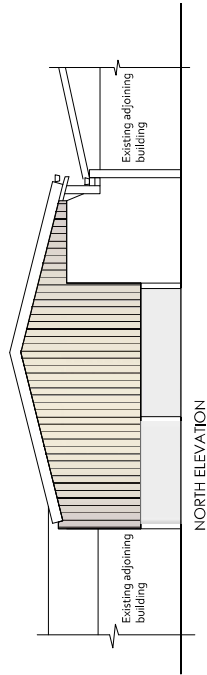
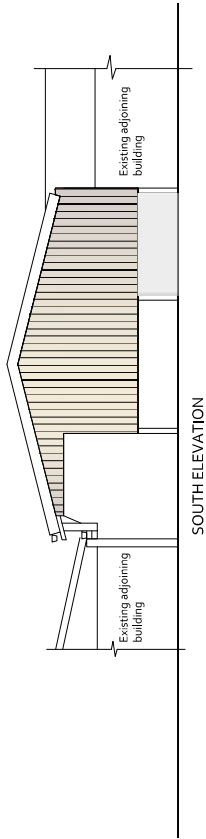
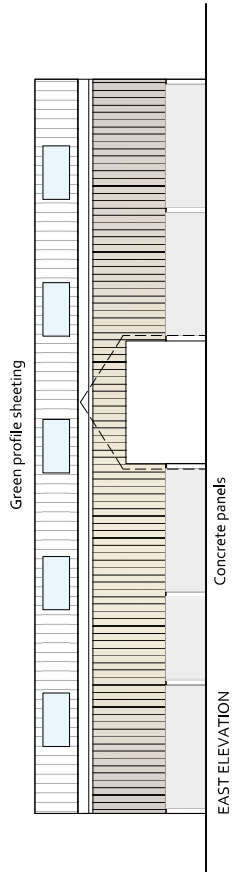
Drawing Site Plan

As proposed

Drawing No. 2251-A-05

Scale 1:500@ A3 Drawn OK Date Jan 2022

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Revisions: A - general update - information added 09.06.22 RB

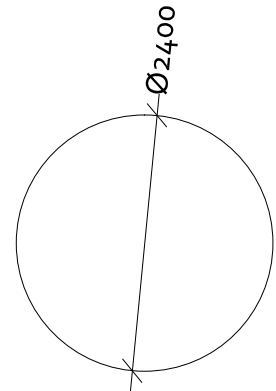
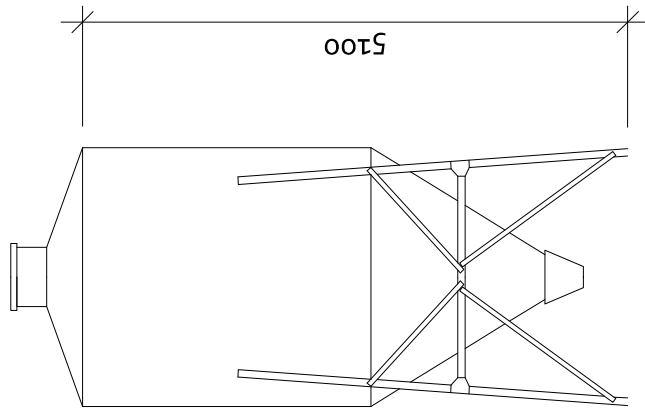
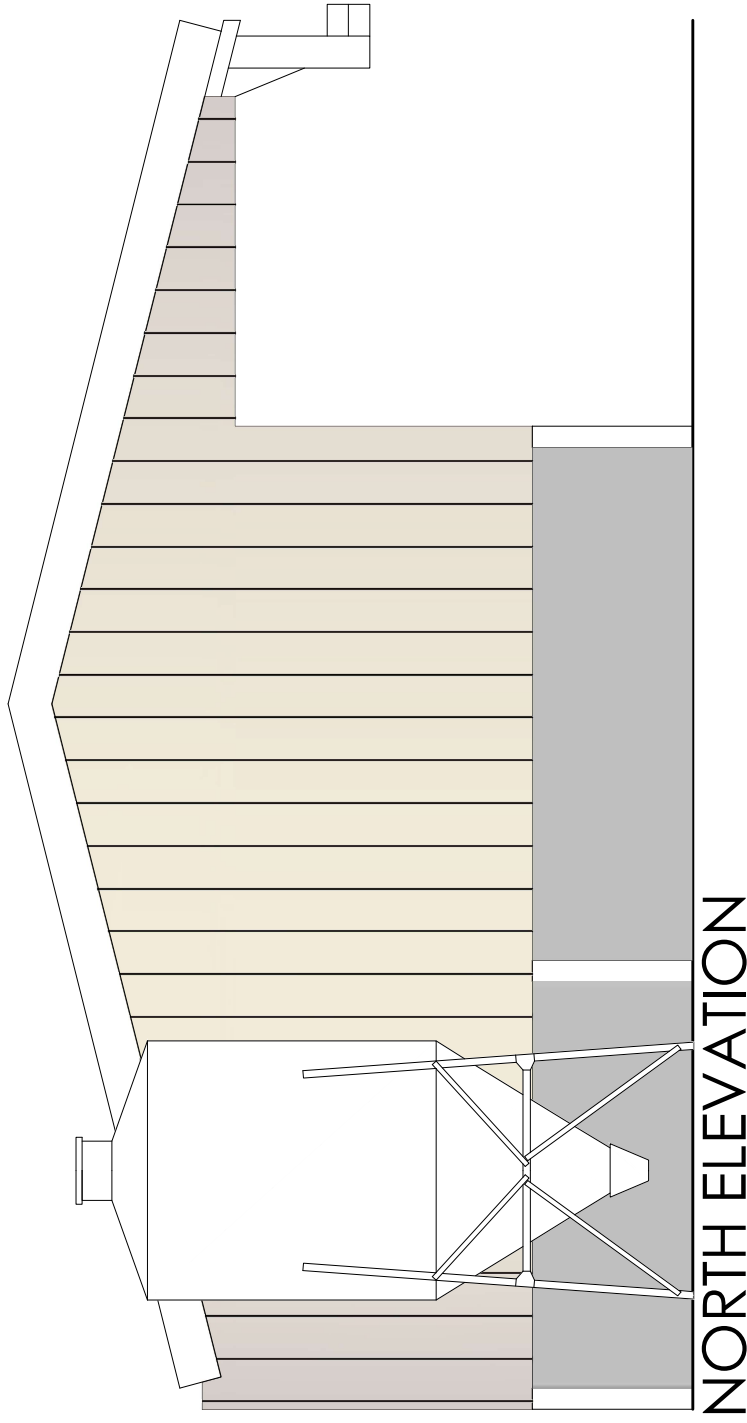
Client: Ian Morrison & Val Brown

Project: Replacement of Agricultural Building & Silo  
 Fribank  
 Westinton  
 Carlisle  
 CA6 6AQ

Drawing: Agricultural Building  
 Floor Plan & Elevations

Drawing No. 2251-A-10 Rev. A  
 Scale: 1:200 @ A3  
 Drawn: OK Date: Jan 2022

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Revisions

Client	Ian Morrison & Val Brown
Project	Replacement of Agricultural Building & Silo Fisbank Westlinton Carlisle CA6 6AQ
Drawing	Silo Plan

Drawing No. 2251-A-11

Scale 1:50@ A3

Drawn OK

Date

Jan 2022

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## **SCHEDULE C: Applications from the Carlisle Region**

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<b>Application Reference Number:</b>	<b>23/0426</b>
<b>Application Type:</b>	Full Planning Permission
<b>Application Address:</b>	Land at Byegill Farm, Corby Hill, Carlisle, CA4 8QB
<b>Proposal:</b>	Closure And Change Of Use Of Layby And Wood From Operational Highway To Become Ancillary To The Hayton Estate
<b>Applicant:</b>	Equorium Property Co. Ltd
<b>Agent:</b>	Harraby Green Associates
<b>Valid Date:</b>	12/06/2023 16:00:21
<b>Case Officer:</b>	Alanzon Chan

### **Cumberland Area and Carlisle Region**

**Ward/s:**  
Corby & Hayton

**Parish/s:**  
Hayton

### **Relevant Development Plan**

Carlisle District Local Plan 2015-2030

### **Reason for Determination by the Planning Committee**

The Head of Service considers this application to raise significant issues such that it is in the public interest for the application to be considered by Committee.

### **Recommendation**

It is recommended that this application is approved with conditions.

### **1. Site and Location**

- 1.1 The layby and land in question are located on the northern side of the A69 to the east of Byegill Farm and west of Garden Walk.
- 1.2 The layby constituted part of the former route of the A69. The remaining land between the layby and the current A69 forms an attractive wooded area.

- 1.3 In 2007, in response to persistent anti-social behaviour, the Highway Authority installed barrier gates at both ends of the layby.
- 1.4 In 2018, following discussions with Cumbria Constabulary, Highways England decided to demolish the then toilet block that was part of a rest/picnic area. Access to the former rest/picnic area has also been gated and padlocked.

## 2. Proposal

- 2.1 The application seeks planning permission for the closure and the change of use of the layby and woodland from operational highway to become ancillary to the Hayton Estate.

## 3. Relevant Planning History

- 3.1 The following planning history relates to the assessment of this planning application:

(18/0003/DEM) Approval was given for the demolition of the toilet block located on the amenity/picnic area.

## 4. Consultations and Representations

**Cumbria County Council - (Highways & Lead Local Flood Authority):** objects to the application - 'According to the highways act s116 , a highway can only be stopped up if it "is unnecessary or if it can be diverted so as to make it nearer or more commodious to the public". Under the Planning Act, only if it is to enable development to be carried out. It is our strong view that this section of highway is still needed and is indeed still being used. We will therefore recommend that this application be refused.'

**Hayton Parish Council:** The road (layby) was never stopped up when the new road was made in 1969 and still contains the utility services and so, access would still need to be available. However, if this is maintained, the Parish Council supports the application.

**Cumberland Council - (Highway Authority - Footpaths):** No comments received

**The Ramblers:** No comments received

**Cumbria Constabulary - North Area Community Safety Unit (formerly Crime Prevention):** The Neighbourhood Policing Team would support the closure of the lay-by in order to minimise the likelihood of ASB and crime

occurring and to reduce calls for police service to a repeat location. Closure would also disrupt the opportunities for fly-tipping, which is also a persistent issue.

**Connect Roads:** No comments

**Highways Agency -(A69 Road Link Consultants):** No comments received

**Highways England:** offer no objection

**Resources - Property Services:** No comments received

4.1 This application has been advertised by means of a press notice, site notices and direct notification to the occupiers of 4no. nearby properties. During the advertisement period, 2no. objections were received and the objection reasons are summarised below:

- 'There is a sheer shortage of spaces to stop between Carlisle and Newcastle.'
- 'The lay-by in question does have plenty of road available for passing HGV's who require by law a place to stop.'
- 'This proposal reduces available parking to HGV and commercial vehicles.'
- 'The applicant has made comment about the lay-by further up the road, which isn't capable of hosting more than a couple of HGV's'
- 'It is noted that the applicant has also recently purchased land further up the A69 which was once used by HGV drivers to ensure they were able to park for their breaks as required by law.'
- 'The applicant's application doesn't seem to provide any benefit to the local people or passing vehicles. I take on board the comment in relation to anti-social behaviour, however I feel this application is removing open space from the area which is used by local people'
- 'it would seems sensible to give the local residents the opportunity to transfer this lay-by as part of a community asset transfer for the local community to manage and look after as a public open space. I appreciate The Hayton Estate may wish to control access as they have a farm at the entrance to the lay-by heading East bound, however this will be such a loss should this be allowed.'
- 'At the end of the day this is public land - any commercial sale needs to be balanced against the potential detrimental loss to the community.'

## 5. Planning Policy

5.1 Section 70 (2) of the Town and Country Planning Act 1990/Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission is determined in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.

- 5.2 The relevant national planning policies against which the application is required to be assessed are the National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG).

## **Development Plan**

Carlisle District Local Plan 2015-2030

- SP1. Policy SP 1 - Sustainable Development
- SP6. Policy SP 6 - Securing Good Design
- CM4. Policy CM 4 - Planning Out Crime
- GI3. Policy GI 3 - Biodiversity & Geodiversity
- GI4. Policy GI 4 - Open Space
- GI6. Policy GI 6 - Trees and Hedgerows

## **6. Other Material Planning Considerations**

- 6.1 Section 116 of the Highways Act 1980

## **7. Assessment**

- 1 The Principle Of The Development
- 2 Impact Of The Proposal Upon The Amenity Of The Area
- 3 Highways Matters

### **Assessment**

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

- 7.1 There are two elements to this proposed development; Closure of the lay-by and change of use of the lay-by and wood from operational highway to become ancillary to the Hayton Estate.

Closure of the lay-by



- 7.2 At the heart of the NPPF is a presumption in favour of sustainable development. Paragraph 135 of the NPPF advocate that the planning decisions should aim to achieve healthy, inclusive and safe places, *‘so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience’*.
- 7.3 There have been numerous reports regarding anti-social behaviour, occurring at this lay-by, which prompted the measure to install barriers by the Highways Authority at both ends of the lay-by accesses to restrict traffic from using the lay-by after dark in 2007. However, due to budget and resource pressures, the Highways Authority was unable to allocate officers to manually shut the barrier gates every night and reopen them every morning. As such, these barriers have been left open on a permanent basis shortly after their installations.
- 7.4 Likewise, numerous reports of anti-social behaviour led to the eventual demolition of the public toilets (via application 18/0003/DEM).
- 7.5 Despite various measures to attempt to deter anti-social behaviour at this location, the Crime Prevention Officer from Cumbria Constabulary confirmed that this lay-by continues to be a popular gathering place and persists in generating occasional calls for police service due to anti-social behaviour still occurring. In addition, there are ongoing problems associated with littering and fly tipping.
- 7.6 The concept of a lay-by is to provide a stopping opportunity for road users needing to stop for a short duration. That being said, there are currently no laws preventing road users to park overnight in a lay-by.
- 7.7 It is acknowledged that HGV drivers must take a break of at least 45 minutes between each 4.5 hour driving period. A couple of objections have been received stating that due to the length of the lay-by in question, it can accommodate multiple passing HGVs whilst other lay-bys would not be able to offer the same amount of space for HGV drivers to park up and rest. In response to this concern, it is noted that there are a few lay-bys along A69, with the closest one being 600m to the southwest of the application site. Some of these lay-bys have parking restrictions for short parking period whilst some do not. Nevertheless, these lay-bys would allow for a couple of HGVs or a few cars to be parked up at any one time. Meanwhile, there are also a few truckstops in Carlisle (at Junction 42 and 44) which are not far from the application site, which would allow HGV drivers to stay overnight.
- 7.8 In light of this particular lay-by attracting a large amount of anti-social behaviour, and that there are alternative lay-bys and truckstops in Carlisle which provide stopping opportunities for road users and HGV drivers, on balance, it is considered that the principle of closing this lay-by is acceptable.

Change of use of the lay-by and wood from operational highway to become

## ancillary to the Hayton Estate

- 7.9 An objector stated that an opportunity should be given to the local community to have this lay-by transferred as part of a community asset, so that the local community can manage and look after it as a public open space. Whether or not this lay-by area is up for sale is entirely a decision by the owner of the land. It is noted that applicants can apply for planning permission on a piece of land even if they are not the owner of the land. Land ownership itself is not a planning material consideration that the local planning authority takes into account when determining applications. Since the applicant is not the current owner of this lay-by, the purpose of this assessment is to ascertain whether the proposed new use of this site would be acceptable should planning permission be granted for the change of use of this lay-by and woodland from operational highway to become ancillary to the Hayton Estate. This does not negate the need for the applicant to purchase the land from the owner, and to submit a S247 Stopping up Application to the Highways Authority. The land purchasing process and the assessment of the subsequent S247 Stopping Up Application by Highways Authority are separate and not relevant to the assessment of this application.
- 7.10 In this instance, the applicant is interested in changing the use of this lay-by and woodland to become ancillary to the Hayton Estate, so that the area could be tidied up and its use controlled, in order to reduce further antisocial behaviour. It is considered that the incorporation of the land into the existing estate and associated agricultural operations is consistent with its rural location.
- 7.11 An objector stated that this lay-by is currently being used by a few dog walkers to walk their dogs. Whilst it is incontestable that the retention of this lay-by would offer some benefits to some local residents who regularly use this road, it is considered that there are safer areas in the locality for dog walkers to exercise their dogs, where it is not directly adjacent to a highway. Whilst the retention of this lay-by might offer some benefits to the local community and road users, it is anticipated that the closure of this lay-by and the change of use of this lay-by and woodland from operational highway to become ancillary to the Hayton Estate would allow this area to be controlled better. From a public safety point of view, this would likely facilitate a reduction in anti-social behaviour within this area. Subsequently, it is considered that this proposal would provide a greater, wider net benefit to the local community.

## **2. Impact Of The Proposal Upon The Amenity Of The Area**

- 7.12 Policy SP6 (Securing Good Design) requires development proposals to take into consideration any important landscape or topographical features; respect local landscape character, and aim to ensure the retention and enhancement of existing trees, shrubs, hedges.
- 7.13 Meanwhile, Policy GI4 (Public Open Space) explains that development that would result in a partial or total loss of, an area of Open Space to non-sport

or recreation uses or would otherwise detract from the role and function an open space is valued for (be it visual amenity, noise attenuation, or other community use), will not be permitted.

- 7.14 In this instance, views of the wooded area are enjoyed from the A69, and this contributes to the visual amenity as passive open space. The submitted documents confirm that the proposal will involve any harmful changes to the appearance of the lay-by, and its existing character as a wooded area is to be retained. As such, the site's visual amenity value as open space will be retained in accordance with policies SP6 and GI4.
- 7.15 To safeguard the visual amenity of the area, a condition is recommended to be included within the decision notice to ensure that no tree works could be carried out within the wooded area without prior approval from the local planning authority.

### **3. Highways Matters**

- 7.16 Highways Authority were consulted on the application and they recommend this application be refused due to the fact that this section of highway is still being used by the public and is not redundant. According to Highways Authority, under s116 of the Highways Act, a highway can only be stopped up *'if it is unnecessary or if it can be diverted so as to make it nearer or more commodious to the public'* to enable development to be carried out.
- 7.17 As mentioned in paragraph 6.9, this application does not negate the need for the applicant to purchase the land from the owner, and to submit a formal S247 Stopping up Application to the Highways Authority. The Stopping Up Application would be assessed by Highways Authority independently under different legislation.

### **8. Planning Balance and Conclusion**

- 8.1 The lay-by in question has attracted a significant amount of anti-social behaviour over the years, including fly-tipping. Whilst the retention of this lay-by might offer some benefits to the local community and road users, it is anticipated that the closure of this lay-by and the change of use of this lay-by and woodland from operational highway to become ancillary to the Hayton Estate would allow this area to be controlled better. From a public safety point of view, this would likely facilitate a reduction in anti-social behaviour within this area. Subsequently, it is considered that this proposal would provide a greater, wider net benefit to the local community.
- 8.2 Whilst the applicant would still need to purchase the land from the owner, and to submit a S247 Stopping up Application to the Highways Authority, these processes are independent from the planning process and assessment. The S247 stopping up application would be assessed by the Highways Authority using different legalisation and policies. The approval of

this application would not mean that the applicant could take control of this area.

- 8.3 Overall, from planning point of view, the application is considered to be in full accordance with both local and national planning policies. Therefore, it is recommended that this application is approved with conditions.

## **Recommendation**

It is recommended that this application is approved with conditions.

## **Appendix 1 List of Conditions and Reasons**

### **Grant Permission**

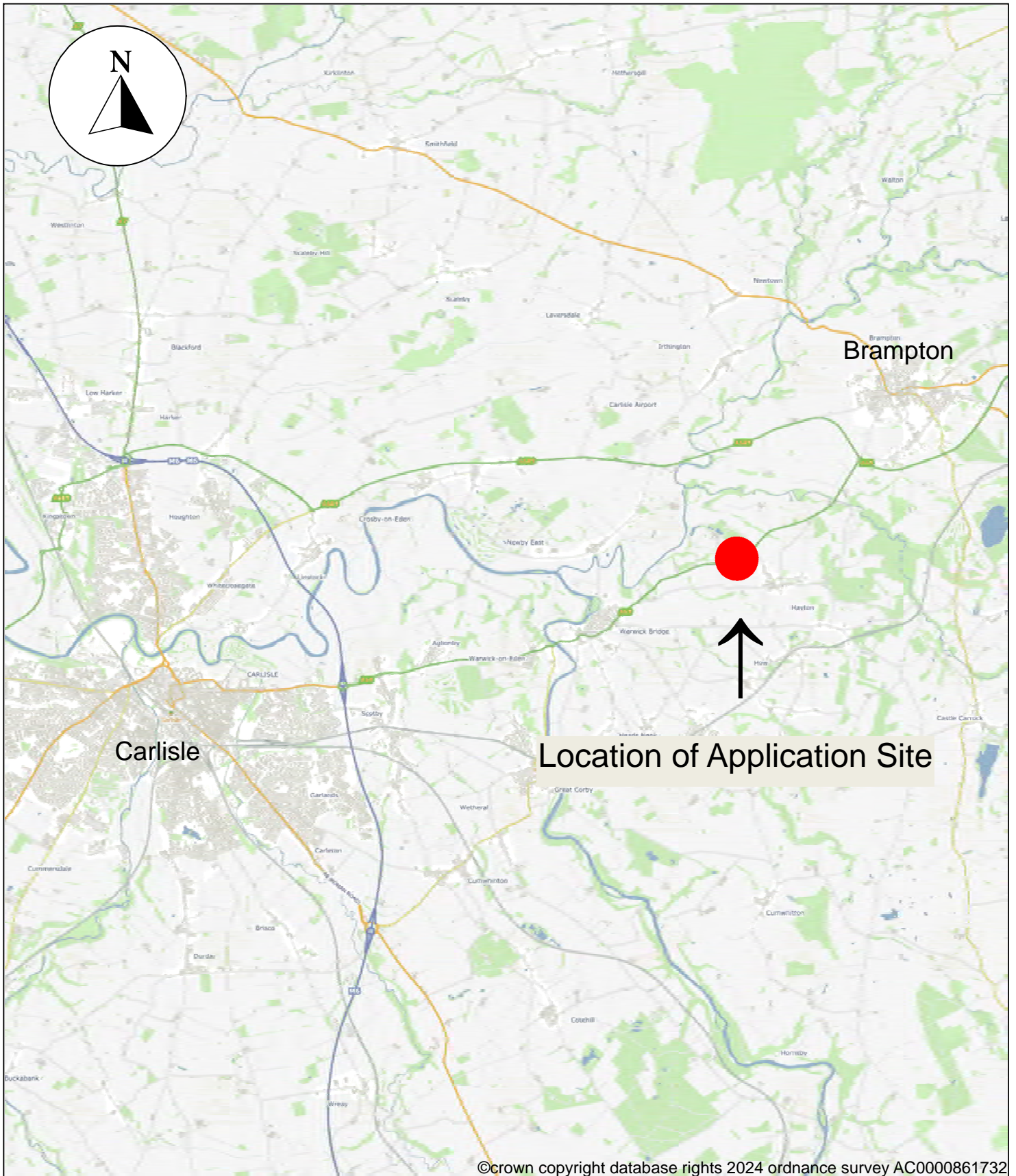
1. The development shall be begun not later than the expiration of 3 years beginning with the date of the grant of this permission.  
  
**Reason:** In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
  
2. The development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:
  1. the submitted planning application form, received 12 June 2023;
  2. the location plan (dwg no. 2042\_B (01) 01), received 12 June 2023;
  3. the block plan (dwg no. 2042\_B (01) 02), received 12 June 2023;
  4. the site plan (dwg no. 2042\_B (01) 03), received 12 June 2023;
  5. the Planning, Design and Access Statement, received 12 June 2023;
  6. the Notice of Decision;
  7. any such variation as may subsequently be approved in writing by the Local Planning Authority.  
**Reason:** To define the permission.
  
3. No trees existing on the site (as shown on the site plan (dwg no. 2042\_B (01) 03, received 12 June 2023) shall be felled, lopped, uprooted, layered or otherwise structurally altered without the prior written consent in writing of the local planning authority.

**Reason:** To ensure that the existing tree and hedgerow resource is preserved appropriately, in the interests of public and environmental amenity, in accordance with Policies SP6 and GI6 of the Carlisle District Local Plan 2015-2030.

### **List of Informatives/Advisory Notes**

### **Appendix 2**

Copy of the plans/drawings including red line boundary.



**23/0426 Land at Byegill Farm, Corby Hill, Carlisle, CA4 8QB**

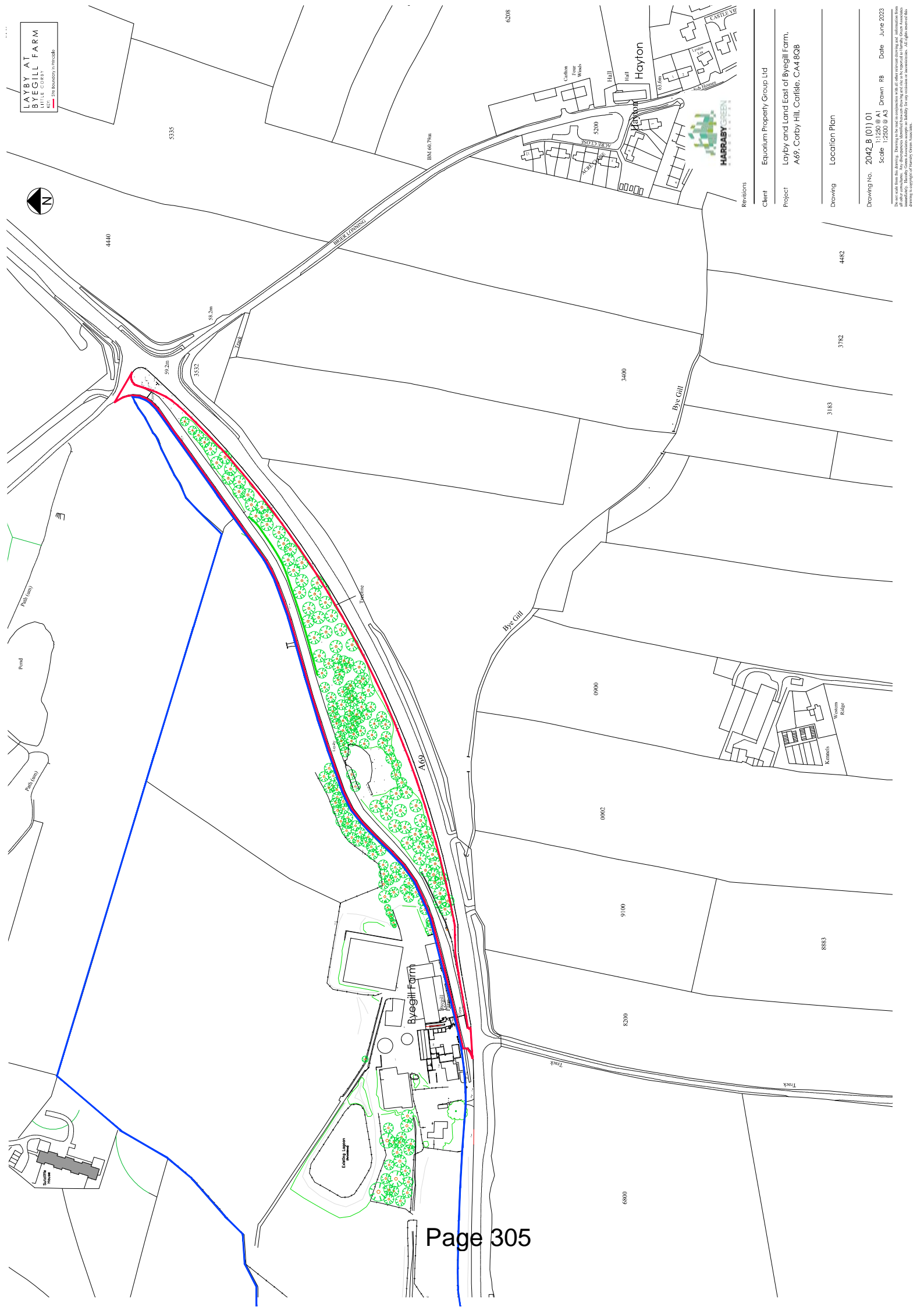
**Wider Location Plan**



Thriving Place and Investment,  
 Planning,  
 Civic Centre, Rickergate, Carlisle, CA3 8QG

Scale 1 : 90,000

Date February 2024



4410

5335

6208

BM 60.79m

6800

8200

9100

0002

0800

Byegill Farm

Hayton

Bye Gill

Bye Gill

A69

Turfline

58.2m

3532

59.2m

4482

3782

3183

8883

Western Ridge  
Kennels

Revisions

Client Equorum Property Group Ltd

Project Layby and Land East of Byegill Farm,  
A67, Corby Hill, Carlisle, CA4 8QB

Drawing Location Plan

Drawing No. 2042\_B (01)\_01  
Scale 1:2500 @ A3  
Drawn RB Date June 2023

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## **SCHEDULE A: Applications with Strategic Significance**

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<b>Application Reference Number:</b>	24/0001/TPO
<b>Application Type:</b>	Tree Preservation Order - Works Related
<b>Application Address:</b>	48 Lansdowne Close, Carlisle, CA3 9HN
<b>Proposal:</b>	Pollard 1no. Ash Tree To 5m Subject To TPO 288
<b>Applicant:</b>	Ian Grey
<b>Agent:</b>	
<b>Valid Date:</b>	03/01/2024
<b>Case Officer:</b>	Sue Stashkiw

### **Cumberland Area and Carlisle Region**

**Ward/s:**  
Stanwix Urban

**Parish/s:**  
Stanwix Rural

### **Relevant Development Plan**

Carlisle District Local Plan 2015-2030

### **Reason for Determination by the Planning Committee**

This application is brought for determination by Members of the Planning Committee following an application (22/0034/TPO) that was considered at Carlisle City Council's former Planning Committee on 24<sup>th</sup> March 2023.

### **Recommendation**

It is recommended that this application is approved with conditions.

### **1. Site and Location**

#### **Site and Location**

- 1.1 The tree subject of this application is situated within the private rear garden of 48 Lansdowne Close, Carlisle. This bungalow is part of a new development of 10 dwellings, all which have recently been occupied.

Access to this housing development is from a former field gate that was situated between 42 and 55 Lansdowne Close.

### **Background/History**

- 1.2 In 2016 a request was made to protect trees on this site as a result of the proposed housing development. TPO 288 was confirmed on the 1st of June 2017 which protected a single young ash tree and a group of three trees (2 x Ash, 1 Oak).
- 1.3 The statement of reasons for their protection and making of the Order states: Section 197 of the Town and Country Planning Act 1990 places a duty on local planning authorities to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made for the preservation of trees. The local authority may make a tree preservation order where it appears to the authority that it is expedient in the interests of amenity. The trees protected by this tree preservation order are visible to the public from the surrounding roads, Lansdowne Close and Pennington Way. The public visibility will increase once the development has been completed. Tree number T1 (Ash) of TPO 288, is a young tree which will contribute to the area for many years. Trees A and C (Ash) in Group 1 of TPO 288 have been identified as veteran trees. As such they have a substantial ecological value which is recognised in the National Planning Policy Framework, and the local planning authorities planning policies, (GI3 and SP6 of Carlisle District Local Plan 2015-2030. Tree B in Group 1 of TPO 288 is a large mature Oak tree with potential to provide a significant contribution for many years.
- 1.4 In November 2022 an application to undertake works to Trees A, B and C in Group 1 was received by Westwood Landscapes on behalf of the builder, Citadel Estates Ltd. As part of the application (22/0034/TPO), the proposed work in relation to this tree (A) was to '*pollard to 5 metre due to extensive decay and recent limb loss*', it was stated that this would result in a more '*balanced crown with regrowth from the 5 metre high stem*'. '*It should be noted that pollarding of Ash is commonly applied*'.
- 1.5 Due to objections that were received from the Parish Council and neighbours who were concerned for the loss of amenity value, an independent report was commissioned by the City Council and undertaken by James England, who is a qualified Forester with over 26 years of tree surveying experience. His report dated 3rd January 2023 stated: '*recommendation is that the ash tree should be retained and to discharge the duty of care without equivocation, in my opinion, it would be best to carry out a reduction to 5 metre pole. This would remove the remaining first order limb at the union with the stem*'.
- 1.6 The application was the subject of discussion at Carlisle City Council's Development Control Committee on 24th March 2023 and the work was approved in relation to this tree, with the following condition: *The ash tree T6 (Group G1-A of TPO 288) shall be pollarded to no lower than 10 metres in height. Reason: In the interests of amenity value of the protected tree.*

## 2. Proposal

- 2.1 This application was submitted on 3<sup>rd</sup> January 2024 by the new owners to address their safety concerns of the potential failure of the veteran Ash tree. Their proposal is to request a reduction in height by pollarding to 5 metres in line with professional opinions.

## 3. Relevant Planning History

- 3.1 22/0034/TPO - Members resolved to grant permission to pollard the Ash Tree to no lower than 10 metres in height. **Reason:** In the interests of amenity value of the protected tree.

## 4. Consultations and Representations

Unlike planning applications, no statutory consultation is required for applications for tree works. As a matter of practice we notify local ward councillors and parish councils.

**Councillor Brian Wernham - Stanwix Urban Ward:** - no objection received

**Stanwix Rural Parish Council:** - objection received:

- states that valid consent exists to reduce the tree to no more than 10 metres
- that the tree has easily withstood damage from storm Isha (occurring on 21st January 2024), with an accompanying photograph of the tree from south
- due to the evident continuing robustness of the tree they recommend that only work in full compliance with the constraints of the existing consent be permitted
- the work to be performed under the supervision of the relevant officer, or appointee, of the authority
- 1no. photo provided with suggested compromise to remove branches within shaded area to encourage re-centring of growth and reduce risk of wind damage, while retaining as much canopy and shape as possible
- 1no. photo illustrating the potential loss if reduced to 5 metre

- 4.1 The application was registered as valid on 3rd January 2024.

**Neighbours:** one objection received:

- An identical application was determined in March 2023. (22/0034/TPO)
- The application fails to bring forward any new evidence to change that decision.

- The applicant must have been aware when he purchased the property of the existence of tree T6, that it was subject to a TPO and that a decision had been made not to permit the tree to be reduced in height below 10 metres.
- Citadel Homes failed to attend the hearing in March 2023 and made no application to appeal that decision.
- There would be a loss of amenity since the trees along the boundary can be seen in the wider context of the area and in particular the surrounding housing area.

## **5. Planning Policy**

- 5.1 The Town and Country Planning (Trees) Regulations 1999 set out the scope of Tree Preservation Orders and also the scope of protection afforded to trees in Conservation Areas.
- 5.2 The relevant national planning policies against which the application is required to be assessed are the National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG).

## **Development Plan**

Carlisle District Local Plan 2015-2030

TPO. Tree Preservation Order

## **6. Other Material Planning Considerations**

- 6.1 Trees and Development Supplementary Planning Document Amended November 2009.

## **7. Assessment**

- 1 Whether The Proposed Works Are Acceptable
- 7.1 When assessing an application, the Local Authority must consider the amenity value, public safety, and the desirability of preserving the character and appearance of the local area, with public safety being of paramount importance. Consideration has been given to the fact the tree has been the subject of professional monitoring, assessments, and reports since 2016

when this small development was proposed. These reports have concluded that the tree is in a very poor condition, with extensive basal decay as well as a large vertical split and cavity down the stem. The tree has also suffered from several branch failures related to storm damage in the last 2-3 years.

- 7.2 A site visit was made on 25<sup>th</sup> January 2024 to assess the tree's current health following recent storms Isha (21st January 2024) and Joycelyn (23rd January 2024) and further branch failure was evident. The tree's longevity is estimated to be around 20 years and its height is approximately 17 metres. The first order limb is predominantly weighted and leaning towards the south-east. The new build garden area is being established and the tree sits in an elevated position approximately 8-10 metres from the rear of the property.
- 7.3 Given the presence of ash-die back within near-by trees, it is a genuine concern that this tree may also succumb to the disease for which there is currently no cure. The disease is spread via windblown spores and through the movement of nearby infected ash trees. The disease then blocks water and nutrients from circulating within the tree, causing irreversible damage.
- 7.4 The Woodland Trust technical advice on managing ash dieback states that established 'ash pollards' have been shown to be particularly tolerant to the disease. This is most likely due to the intricate water transport systems and thick bark at the boles which have developed over years of continuous pollarding. Although the application tree has not been the subject of continuous pollarding, a reduction to 5 metres may reduce the tree's likelihood of future infection, may extend the tree's life, and provide added ecological value.
- 7.5 On 19<sup>th</sup> February 2024 a third professional inspection of the tree was made by Orchard Tree Surgery, (Andrew Edgar) who has accreditation by the Arboricultural Association as an approved contractor and tree specialist. The outcome of this inspection concluded that the tree has low amenity value. The weight of the co-dominant stem is adding stress and pressure on the tree that will cause it to fail soon. The main value within the tree is now the biodiversity and, as such, should remain as a habitat pole. It was recommended, without doubt that the tree needed to be reduced by removal of the co-dominated stem to just above the union. The remaining overhanging branches (that are all epicormic growth) should also be substantially cut back. Andrew Edgar's final comment was that if the tree were within a public space, it would certainly be removed to protect public safety and to uphold a duty of care.

## **Other Considerations**

- 7.6 Guide to the Law and Good Practice of Tree Preservation Orders state that Local Authorities should bear in mind that they are liable to pay compensation to any person who suffers loss or damage as a result of a grant of consent subject to conditions and the Council make the following statement on all approval notices issued:  
*‘Compensation is payable if an applicant suffers any loss or damage incurred as a consequence of conditions attached to a consent. Any such entitlement to compensation is recoverable from the Council 12 months from the date of a decision’.*
- 7.7 Natural England’s advice of working on veteran trees says ‘it is important to remember that the primary reason for working on a veteran tree is to prolong its life. Active management to increase its life expectancy may be needed because it is top heavy and about to fall over, or because a dangerous branch is overhanging a busy road’.
- 7.8 British Standards Institute Publication 3998:2010 on Tree Work Recommendations state that if the purpose of the tree work is to control risks to people or property, the relative priority of the work should be determined by a tree failure risk assessment (para 5.1). It also comments that where a tree is found to be so physically weakened, by cavity formation or other decay, that it poses an unacceptable risk to people, property or its own integrity, appropriate action should be taken to reduce the risk to an acceptable level (para.9.1).

## **8. Planning Balance and Conclusion**

- 8.1 The proposed work would reduce the tree’s amenity value to the surrounding area, however, the application seeks to establish an acceptable risk management plan and remove the danger to people and property. The tree is in the later stages of its life with a high risk of failure. The main reason for retention is to retain the ecology value. On this basis, the proposal to reduce the height of tree by pollarding to 5 metres is considered to be acceptable.

## **Recommendation**

It is recommended that this application is approved with conditions.

## **Appendix 1**

### **List of Conditions and Reasons**

#### Grant Permission

1. All tree surgery works consented to in this Decision Notice shall be carried out in strict accordance with the British Standard 3998:2010 'Tree Work – Recommendations'.

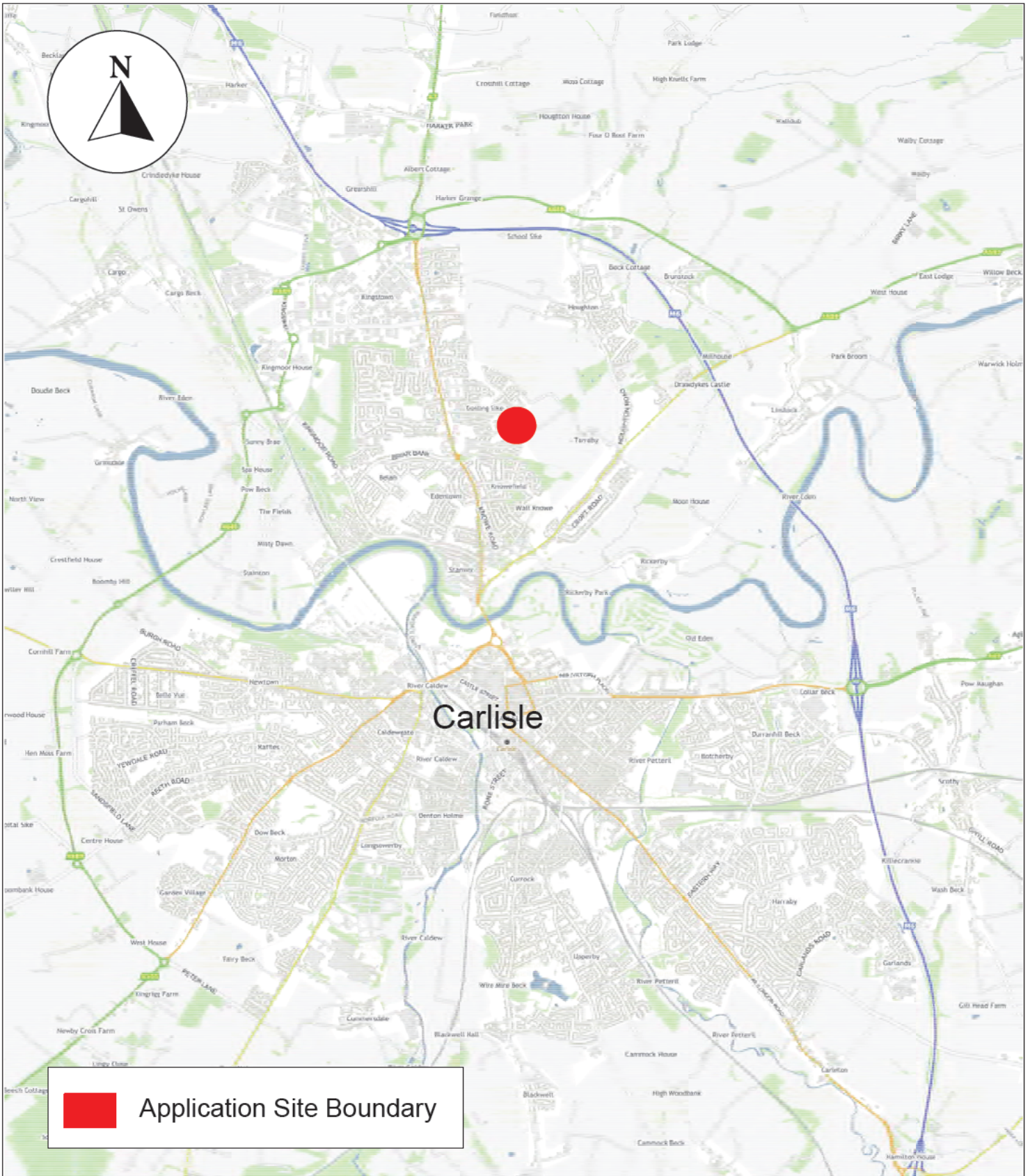
**Reason:** To ensure all authorised tree surgery works are undertaken in accordance with good arboricultural practice, in the interests of the health and future condition of the tree(s), and to accord with Policy GI6 of the Carlisle District Local Plan 2015-2030.

### **List of Informatives/Advisory Notes**

## **Appendix 2**

Copy of the plans/drawings including red line boundary.





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## 24/0001/TPO 48 Lansdowne Close, Carlisle, CA3 9HN

### Wider Location Plan

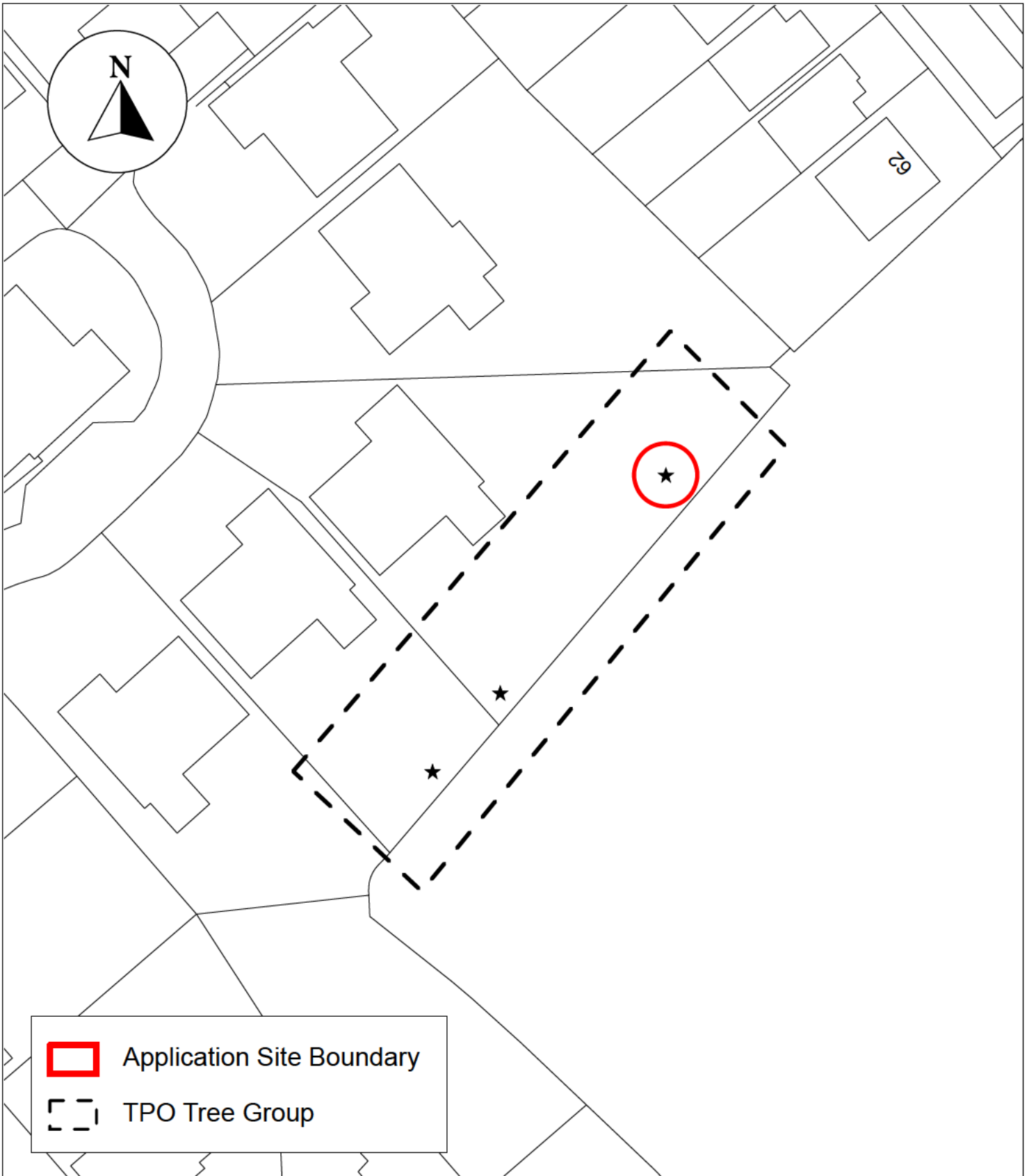


Thriving Place and Investment  
Planning  
Civic Centre, Rickergate  
Carlisle, CA3 8QG

Scale 1 : 45,000

Date February 2024





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## 24/0001/TPO 48 Lansdowne Close, Carlisle, CA3 9HN

### Location Plan



Thriving Place and Investment  
 Planning  
 Civic Centre, Rickergate  
 Carlisle, CA3 8QG



Overall view of tree showing where the branches have snapped off.



Cavity in the base showing decay in the stem.



Wound where first order limb has split off



# STANWIX RURAL PARISH COUNCIL

Chairman: Cllr C Nicholson

Clerk: Sarah Kyle,

[www.stanwixrural.co.uk](http://www.stanwixrural.co.uk) [clerk@stanwixrural.co.uk](mailto:clerk@stanwixrural.co.uk)

Cumberland Council  
Thriving Place and Investment  
Planning  
Civic Centre  
Rickergate  
CARLISLE  
CA3 8QG

30 January 2023

FAO Case Officer: Susan Stashkiw

**Appn Ref: 24/0001/TPO**  
**Location: 48 Lansdowne Close, Carlisle, CA3 9HN**  
**Proposal: Reduction to 1no. Ash Tree Subject To TPO 288**

This tree was examined under Appn 22/0034/TPO when the developer, Citadel Homes, sought to execute works on several trees subject to TPOs. The application was later withdrawn and amended.

Following objections from local residents, and the Parish Council, the application was withdrawn on the day it was to be determined, and subsequently amended. The amended application proposed pollarding the Ash tree identified as T6 to a height of 5 metres.

An independent survey by James England found that there was no sign of Ash dieback and identified the tree as a veteran capable of providing “*significant wildlife habitat.*” Despite these findings the report recommended pollarding to 5m.

This proposal attracted further objections, including the Parish Council’s submission which demonstrated the effect such drastic action would have upon the veteran tree – refer to Appendix 1, below.

The application was considered by the Development Control Committee on 24 March 2023. The minutes of this meeting record that members had undertaken a site visit on January 18 2023, and that it was resolved to approve the officer’s recommendation to permit pollarding of the veteran ash T6 to 10 metres.

*The Decision Notice issued in respect of the above resolution states: “The ash tree T6 (Group G1-A of TPO 288) shall be pollarded to no lower than 10 metres in height.*

*Reason: In the interests of amenity value of the protected tree.”*

Valid consent therefore exists to reduce the height of the tree to not less 10 metres.

Of the recent destructive storm Isha the Cumberland Council the Meteorological Office states: “*Storm Isha brought widespread strong winds, particularly across the northern half of*

*the UK, on 21 to 22 January 2024, where winds gusted at 60 to 70Kt (69 to 81mph), including a gust of 86Kt (99mph) in Northumberland”*

This information is echoed by Cumberland Council whose website records that the county experienced *“Winds of over 80mph at Shap - with many areas in Cumbria getting winds of 70 mph. Road and rail disruption. Power outages. Disruption to roads and closures of some routes.”*

Photograph A below was taken at 2:31pm on 23 January 2023 and clearly shows that the Ash tree T6 easily withstood the violence of Storm Isha.



In view of the existing consent and evident continuing robustness of the tree, the Parish Council strongly objects to the above application, and recommends that only work in full compliance with the constraints of the existing consent be permitted; the work to be performed under the supervision of the relevant officer, or appointee, of the authority.

Yours sincerely,

Sarah Kyle  
Clerk and Responsible Financial Officer



## APPENDIX 1



Chairman: Cllr C Nicholson

Clerk: Sarah Kyle, I

[www.stanwixrural.co.uk](http://www.stanwixrural.co.uk) [clerk@stanwixrural.co.uk](mailto:clerk@stanwixrural.co.uk)

Carlisle City Council  
Planning Services  
Development Control  
6th Floor  
Civic Centre  
Carlisle  
CA3 8QG

**FAO Case Officer: Christopher Hardman**

### PARISH COUNCIL REPLY TO CONSULTATION ON PLANNING APPLICATION

Appn ref: 22/0034 TPO  
Location: (Plots 6 & 8) Land at Lansdowne Close, Carlisle, CA3 9HN  
Proposal: Pollard 1no. Ash Tree to 5m, Crown Raising By 10% Canopy Volume to 1no. Oak & 1no. Ash Tree

The Parish Council refers the attention of officers and members to its previous response, dated 15 December 2022, to which it adds the following.

The Parish Council trusts that its concerns have been addressed regarding public disquiet arising from an earlier lack of adequate consultation.

This application amends the application in order to retain and pollard, rather than fell, a prominent veteran ash tree (identified as T6) of local landscape significance which benefits from the protections afforded by a Tree Preservation Order, TPO 288. The original application, which included felling of ash tree T6, generated 23 objections.

The Parish Council notes from the City Council Independent Tree Survey Report, by James England, that the developer has shown scant regard for the welfare of ash T6 allowing construction material to be stored within the root protection area (RPA), while the tree protective fencing is inadequate and not set out as per the original tree report which shows the RPA's to be observed.

This disregard fails to comply with conditions governing consents in respect of Appn Ref: 21/0496 and 21/1045 - Discharge Of Conditions. The Parish Council is given to understand that these breaches were reported to officers but no enforcement action was taken.

The Parish Council also notes the recommendation of the Independent Tree Survey Report that the ash tree T6 (tree A in the independent report) should be retained but that, in clear contrast, the suggested reduction in height, to a 5m (16 ft) poll, simply constitutes opinion.

The applicant's Amended Tree Report proposes to comply with the above opinion and reduce the height to 5m (16ft)

However, Appendix 1 Revision 4- Tree Schedule, of Appn 22/0034 TPO, states that ash T6 has a height of 17m (i.e. over 55 ft) and to have a diameter of 1.9m (i.e. over 6 ft).

An overall reduction in height of 12m (39 ft) i.e. 70.58% is therefore proposed.

The attached graphic illustrates the drastic effect of reducing the height by over 70% (5m), based on the dimensions given above. The graphic also illustrates a suggested compromise, pruning the tree to remove branches and encourage recentring of its growth, and reduce risk of wind damage while retaining as much canopy and shape as possible.

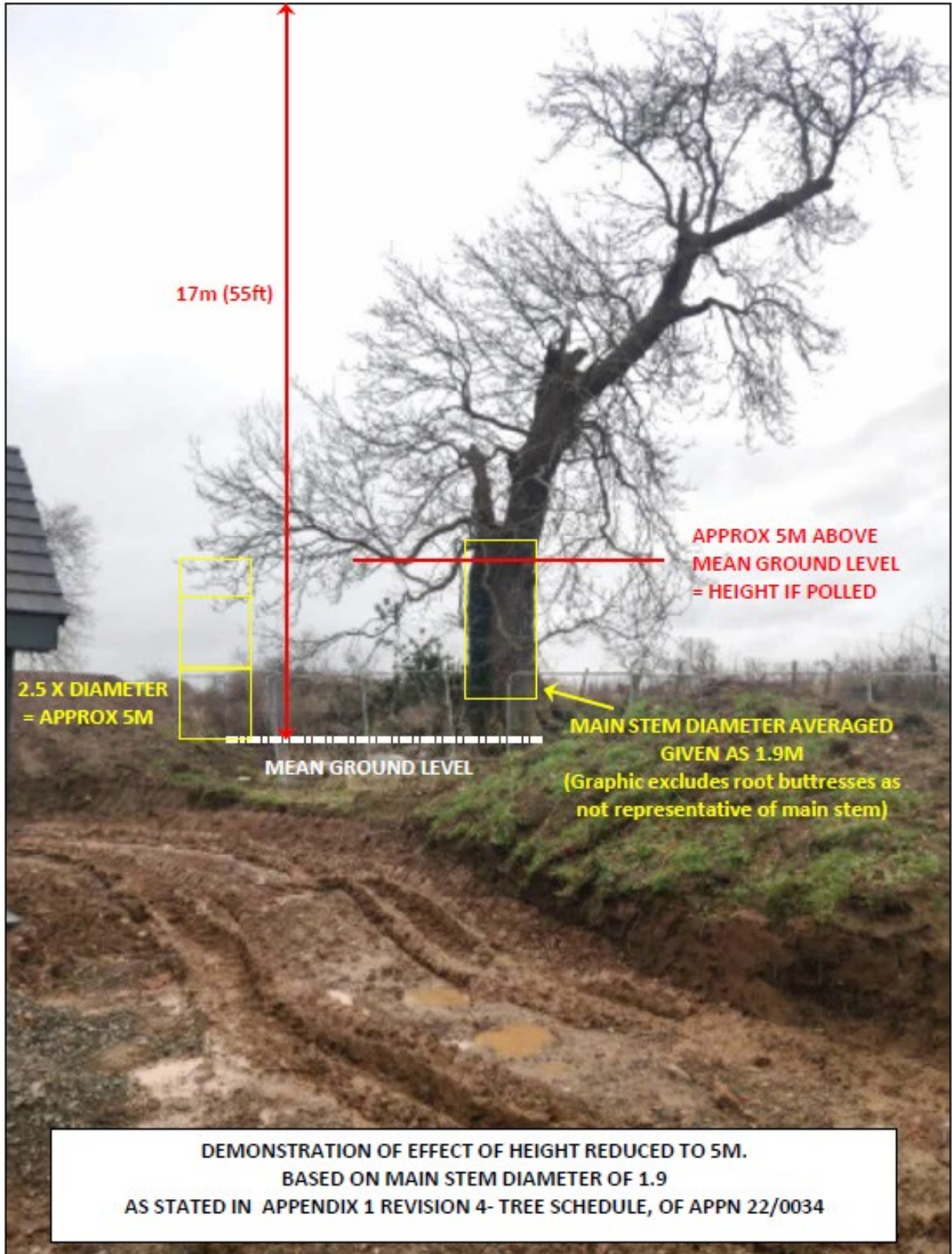
Ash trees are often favoured as roosts sites by bats with ancient, veteran, or trees of great size being preferred. Well established features will hold greater significance along with trees with clear access to trunks and main branches [Bat habitat assessment prior to arboricultural operations - guidance for Natural England's National Nature Reserves]. Yet no bat survey, or indeed any other type of professional ecological assessment, appears to have been undertaken.

In view of the evident local landscape significance of the threatened tree and radical and irreversible nature of the proposed works; and in the absence of an appropriate ecological impact assessment - not to be confined to bats but to include ash specific invertebrates and lichens etc. - the Parish Council must object strongly to the application.

Yours faithfully

Sarah Kyle  
Proper Officer











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## Schedule G - Applications Determined By Other Authorities

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<b>Application Reference Number:</b>	<b>21/1060</b>
<b>Application Type:</b>	Full Planning Permission
<b>Application Address:</b>	Land adjacent Geltsdale Avenue, Durranshill, Carlisle, CA1 2RL
<b>Proposal:</b>	Erection Of 1no. Dwelling (Revised Application)
<b>Applicant:</b>	Mr Ian Murray
<b>Agent:</b>	Tyler Design Services
<b>Valid Date:</b>	11/01/2022
<b>Case Officer:</b>	Richard Maunsell

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### REPORT

**Case Officer:** Richard Maunsell

#### Decision on Appeals:

**Appeal Against:** Appeal against refusal of permission

**Type of Appeal:** Written Representations

**Report:** A copy of the Notice of the decision of the Determining Authority is printed following the report.

**Appeal Decision:** Appeal Dismissed

**Date:** 12/02/2024

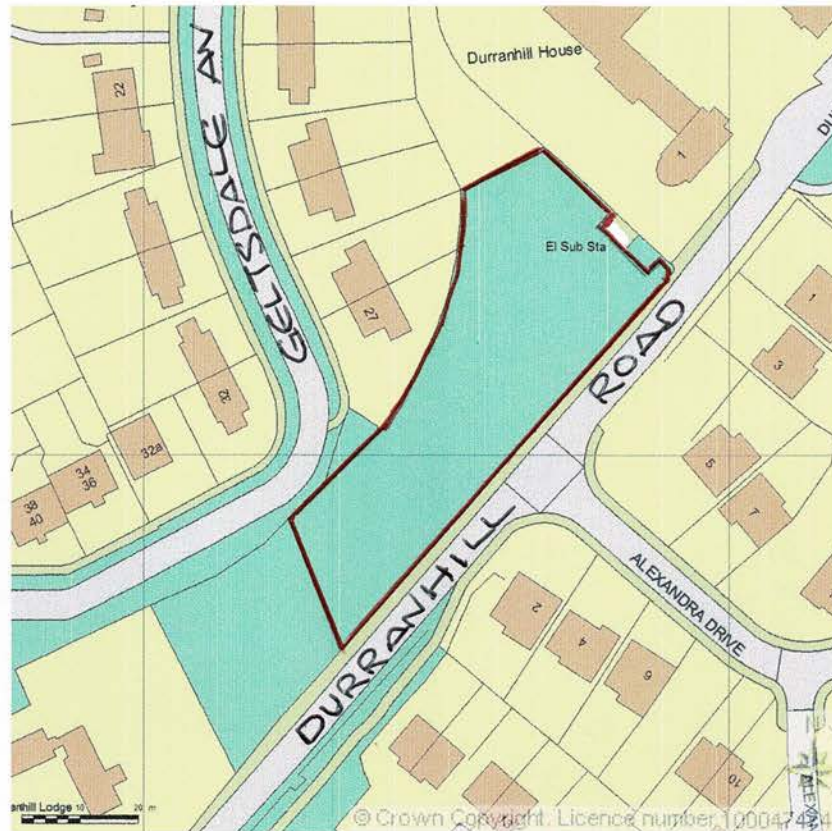
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SITE LOCATION PLAN

AREA 2 HA

SCALE: 1:1250 on A4

CENTRE COORDINATES: 342748 , 555206



Supplied by Streetwise Maps Ltd

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Licence No: 100047474

11:40:28 01/10/2015

LAND ADJACENT TO  
"GELTSDALE AVENUE"  
DURRANHILL CARLSLE CA1 2RL.

SITE LOCATION PLAN  
DRG N° IM/DURRANHILL/SLP REV'E  
Page 326



## Appeal Decision

Site visit made on 16 October 2023

by Caroline Mulloy BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12<sup>th</sup> February 2024

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Appeal Ref: APP/E0915/W/23/3320644

Land adjacent to Geltsdale Avenue, Durranhill Road, Carlisle CA1 2RL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Ian Murray against the decision of Carlisle City Council.
  - The application Ref 21/1060, dated 8 November 2021, was refused by notice dated 3 November 2022.
  - The development proposed is detached dwelling.
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this case are:
  - The effect of the proposal on the character and appearance of the area with specific reference to trees and whether or not the trees would have an effect on the living conditions of future occupiers; and
  - The effect of the proposal on the ecology of the area with specific reference to the River Eden Special Area of Conservation (SAC) and biodiversity.

### Reasons

#### *Trees*

3. The appeal site is a parcel of land situated between Geltsdale Avenue and Durranhill Road bound by a stone wall. Residential development lies to the north-west at Geltsdale Avenue, to the north-east at Chapel Brow and to the south of Durranhill Road. It comprises of a copse of trees some of which are subject to a Tree Preservation Order (TPO). Durranhill House lies to the north and Durranhill Lodge to the south both of which are listed buildings.
4. The trees on the site which are covered by TPO comprise a mix of mature Ash, Beech, Elm and Sycamore with a maximum height of around 25m and a spread of around 20m. Smaller tree species such as Blackthorn, Cherry, and Elder are also present. The trees can be seen from Alexandra Drive opposite and when travelling in both directions along Durranhill Road. The trees collectively contribute significantly to the verdant character of the area.
5. The proposal is for a two-storey dwelling situated towards the eastern part of the site served by an existing access from Durranhill Road. It would also comprise of an area of hardstanding for car parking and landscaping.
6. **The Council's 'Trees and Development'** - Supplementary Planning Document (SPD) requires that development should provide for the protection and integration of



existing trees and hedges. It states that where the trees and hedges have the potential or would cause unreasonable loss of daylight or sunlight due to their size this should be shown on the Tree Constraints Plan. 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 for useable garden space no more than 50% of a new garden area should be dominated by the tree canopy of mature trees. Account should also be taken of the need for the growth of developing trees on the site.

7. The proposed development would be situated in close proximity to mature trees on all sides. The tree management plan shows that the canopy of the trees would cover around 15.7% of the proposed house. The north-eastern corner of the house would be overshadowed which would reduce the level of natural light to a bedroom window on the ground floor and a north facing bedroom window on the first floor. The lounge windows to the north and south would also be affected by overshadowing.
8. The appellant **has referenced the BRE Guidance 'Site Layout Planning for Daylight and Sunlight – a Guide to Good Practice'** which states that the amount of daylight needs depends on what it is being used for but an angle greater than 65 degrees for a conventional window design will usually give reasonable results. He refers to a plan which shows that the bedroom on the north-eastern corner on the ground floor would achieve an angle of around 68.52 degrees. However, the window and angle are shown in isolation as opposed to in relation to the trees, so I cannot be certain that the required angle could be achieved. Whilst there may be potential for some early morning light, the bedrooms would receive very little sunlight during the remainder of the day. Furthermore, the diagram only shows the bedroom window as opposed to other rooms in the house.
9. Whilst paragraph 3.1.2 of the BRE Guidance states that sunlight is less important in bedrooms and in kitchens those rooms, nevertheless, require some sunlight, particularly given the more recent trend towards homeworking. Without any assessment of the annual probable sunlight hours (APSH), I cannot be certain that those rooms would receive sufficient sunlight. Although the living room windows of the proposed development may face south and west (in addition to north) in accordance with section 3.1.5 of the BRE Guidance they would still be overshadowed from the adjacent trees. In the absence of cogent evidence, I cannot be certain that the living room or indeed other rooms would receive sufficient light. Given the close proximity of the mature trees to the proposed development, the dwelling may not experience sufficient levels of daylight and sunlight to the detriment of future occupiers. Moreover, the predicted growth of the trees has not been taken into account and as such the harm could be exacerbated over time.
10. Furthermore, more than 50% of the garden would be overshadowed by trees restricting the enjoyment of the garden by future occupiers. There would be pressure from future occupiers to prune or remove the trees due to a lack of daylight/sunlight to the rooms and garden and the nuisance of branches and leaves falling on the roof of the dwelling, or on the cars and in the garden. Moreover, future occupiers may have perceived concerns over safety, particularly in inclement weather. Whilst I acknowledge that the trees are protected; there would inevitably be pressure to undertake works to the trees or to remove the trees altogether to the detriment of the character and appearance of the area.

11. In conclusion, the proposal would harm the character and appearance of the area with specific reference to trees. Furthermore, the proposal would have a harmful effect on the living conditions of future occupiers with specific reference to daylight and sunlight. It would, therefore, conflict with Policies SP6 and GI6 of the Carlisle District Local Plan (Local Plan) 2015-2030 and the SPD which amongst other things seek to ensure that proposals respect local landscape character, secure good design, protect existing trees within new developments and ensure that there is no adverse effect on local amenity. Conflict would also arise with paragraph 130c and 131 of the National Planning Policy Framework (the Framework) which seek to ensure that developments are sympathetic to local character and history including the landscape setting and that existing trees are retained where possible.

### *Ecology*

12. The development is situated within the catchment of the River Eden Special Area of Conservation (SAC) within which Natural England advises that new development comprising overnight accommodation can cause adverse impacts to nutrient pollution. **Natural England's Nutrient Neutrality** Budget Calculator shows that the development would result in an annual phosphorous load of 0.75 TP/year that would need to be mitigated.
13. It was initially proposed that the foul drainage would discharge direct to the public sewer. However, the appellant is now proposing that foul drainage could be dealt with through an advanced waste-water treatment system, with a +P Phosphate removal package which would reduce the phosphate in the effluent. He goes on to say that surface water could also be drained into the ground in addition to the discharge from the treatment system.
14. The Council question whether this would be permissible under Part H1 Section 2: Foul Drainage paragraph 2.3 of Approved Document H of the Building Regulations 2010 which states that foul drainage should be connected to a public sewer wherever this is reasonably practicable. For small developments connection should be made to a public sewer where this is within 30m provided that the developer has the right to construct the drainage over the intervening private land. Where levels do not permit drainage by gravity a pumping installation should be provided. It is not within my remit to determine whether it would be permissible under the Building Regulations; however, even if it were permissible no calculations have been provided by the appellant to demonstrate that the proposed drainage system would mitigate any nutrient outfall from the development. In terms of surface water drainage, no details of the percolation test are before me and furthermore the installation of such a system could result in disturbance to the trees. In the absence of this evidence, it would not be appropriate to leave the acceptability of this matter to a planning condition. Consequently, I cannot be certain that the proposal would not have an adverse effect on the SAC with regards to nutrient outfall in the catchment area.
15. In terms of general biodiversity, the appellant submitted a Bat Report (the Report) with the application. The Report identifies the **land as 'Mixed Woodland'**. A range of species typical to the local area were identified as having potential to be on the site. Pipistrelle and Brown Long Eared bats are reported in this Tetrad and Pipistrelle and Soprano Pipistrelle were observed on site. No barn owls were observed. However, the group of trees provide a feeding and commuting area for bats, **with sheltered areas used for 'wing warming'**. The proposed new building **would be in the 'wing warming' area** and the Report urges for lighting in this area to be low level. The Report makes several recommendations to help to protect

bats and maintain and improve biodiversity. These include: the provision of 3 Schwegler bat boxes on T11 at 5m high in addition to bats access to the new building; nesting boxes in trees and ledges and holes in the building to create bird nesting opportunities; planting and maintaining broad leaf native tree species; native flowering species planting to link habitats; and designing external lighting to encourage dark wildlife friendly corridors. The Report concludes that a well thought out and planted domestic garden can form an important oasis and corridors for wildlife. Whilst this may be the case, the proposal would inevitably result in a domestication of the site with increased lighting, movement, activity and the presence of outbuildings which would inevitably cause disruption to wildlife. I cannot, therefore, be certain that the suggested mechanisms would fully mitigate the impact on biodiversity, particularly given the potential loss of the trees.

16. In conclusion, the proposal would have an adverse effect on ecology with specific reference to the SAC and biodiversity in general. It would, therefore, be contrary to Policy GI3 of the Local Plan and paragraphs 174 and 179 of the Framework which seek to protect sites of biodiversity value and minimise impacts on and providing net gains for biodiversity.

#### *Other matters*

17. Durranshill House is a Grade II listed building which lies immediately adjacent to the north-east boundary. The proposal is not within the curtilage of the listed building and would be set at a lower level due to the topography. Furthermore, it would be separated by mature trees and vegetation and the retaining wall which forms the boundary of Chapel Brow. Furthermore, new dwellings and apartments have been constructed in the grounds of Durranshill House. Consequently, the proposal would not have an adverse impact on the setting of Durranshill House.
18. Durranshill Lodge, a grade II listed building is situated to the south-west of the proposed development. It is set back from the boundary and is partially screened by mature landscaping. Given the greater distance from the proposed development and the intervening mature trees to the south-west of the appeal site, I am satisfied that the proposal would not have an adverse impact on the setting of Durranshill Lodge.
19. The proposal would make a contribution, albeit limited, to housing land supply in the area. There would be economic benefits during the construction phase and thereafter as future occupiers utilise local shops and services. Due to the scale of the development, I can only attach modest weight to these benefits.
20. However, I have identified that the proposal would harm the character and appearance of the area, the living conditions of future occupiers and have a harmful effect on ecology. The proposal would, therefore, be contrary to the development plan as a whole. There are no material considerations which would indicate a decision other than in accordance with the development plan.

#### Conclusion

21. For the reasons stated and taking all other considerations into account the appeal should be dismissed.

*Caroline Mulloy*

Inspector