

SCHEDULE C: Applications from the Carlisle Region

Application Reference Number:	23/0639
Application Type:	Full Planning Permission
Application Address:	Firbank Farm Buildings, Firbank, Westlinton, CA6 6AQ
Proposal:	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)
Applicant:	Mr Iain Morrison
Agent:	Harraby Green Associates
Valid Date:	08/09/2023 16:00:11
Case Officer:	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 8th 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 357.5m² as opposed to 300m². The shed that was demolished and replaced had a footprint of approximately 180m². 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 3rd 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 G11 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 57.5m² 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, SoundPlanTM, 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**

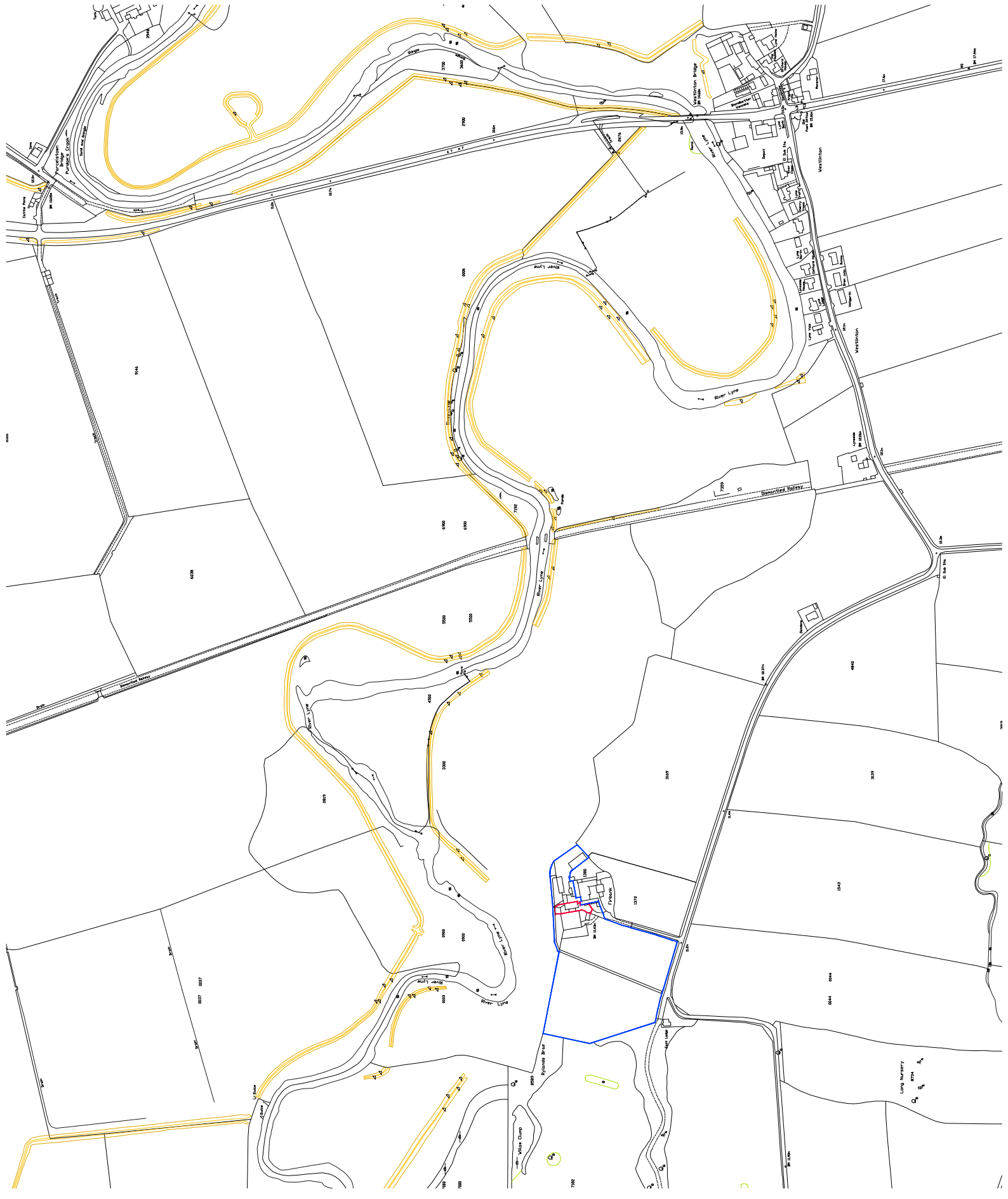
Wider Location Plan



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

Scale 1 : 110,000

Date February 2024



Revisions
A - 200 drawings completed
- 1000 drawings completed
18.02.22 PM
1:16



Client Ian Morrison & Viki Brown
Project Replacement of Agricultural Building & Silo
Erickson
Westfinton
Cairlie
CNE 6/6G
Drawing Location Plan

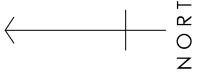
Drawing No. 2251-A-01A
Scale 1:2500(A) Drawn GC Date Jun 2022
1:5000(BAS)

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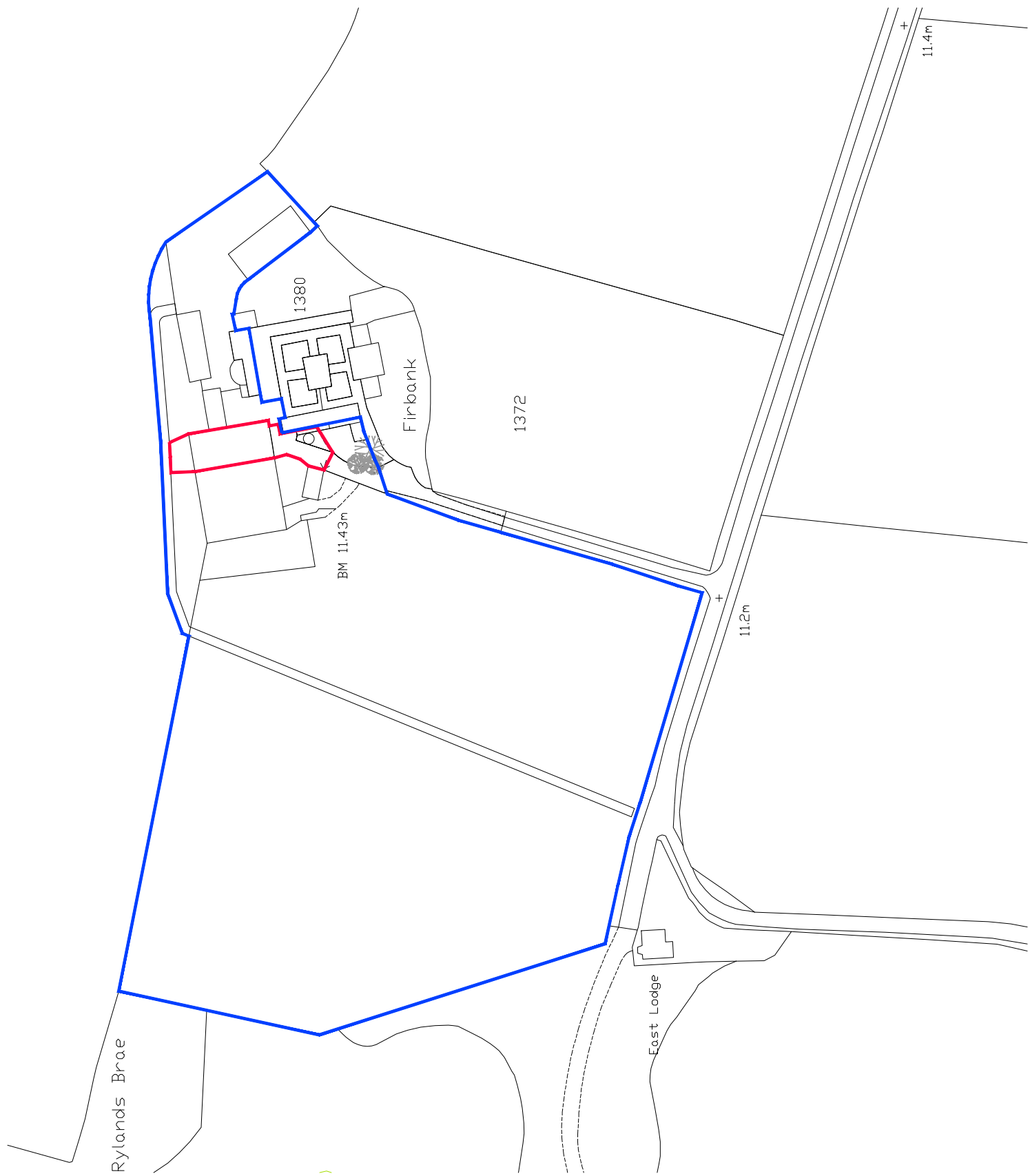
FIR BANK

KEY:

- Extent of development site
- Extent of other site ownership

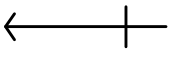


NORTH

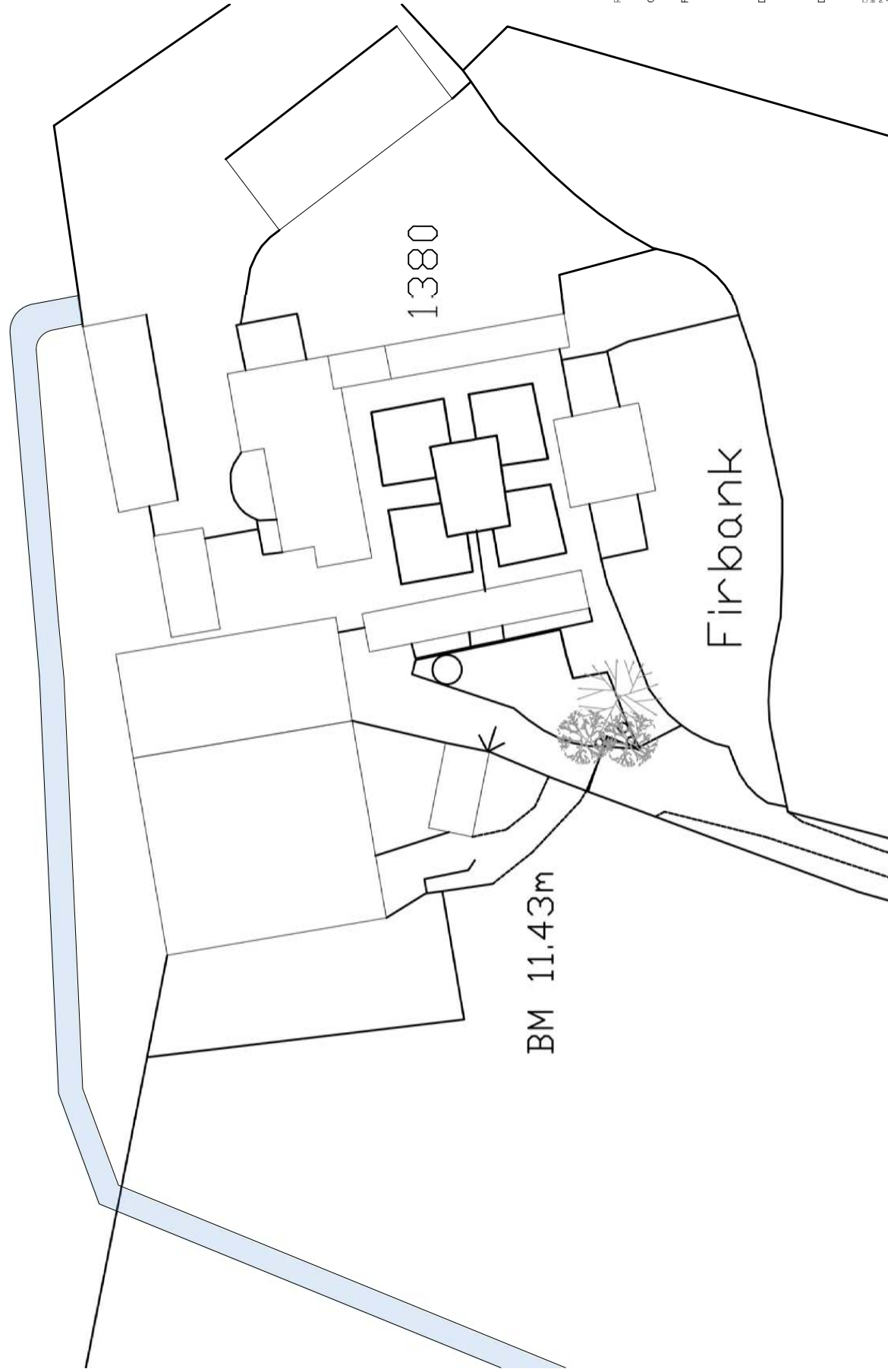


Revisions	A - Site ownership amended	18.02.22 PM
Client	Ian Morrison & Val Brown	
Project	Replacement Agricultural Building & Silo Firbank Westlinton Cothillie CA6 6AQ	
Drawing	Block Plan As Existing	
Drawing No.	2251-A-02A	Date Jan 2022
	Scale 1:1250@ A3	Drawn OK

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NORTH



BM 11.43m

1380

Firbank



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

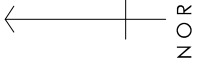
Drawing Site Plan

As existing

Drawing No. 2251-A-03

Scale 1:500@ A3 Drawn OK Date Jan 2022

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FIR BANK

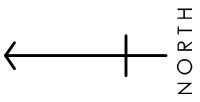
KEY:

- Extent of development site
- Extent of other site ownership

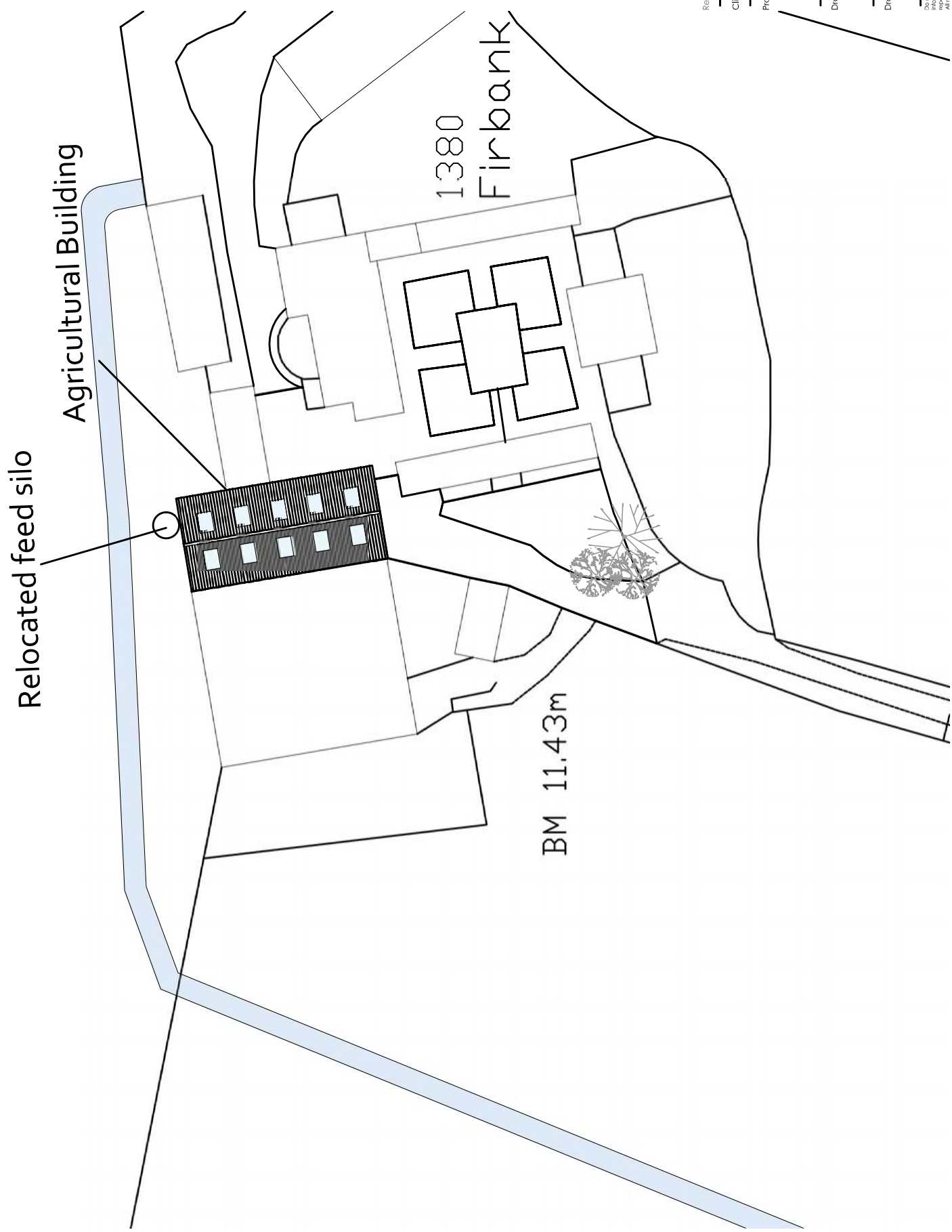


Revisions	A - Site ownership amended	18.02.22 PM
Client	Ian Morrison & Val Brown	
Project	Replacement Agricultural Building & Silo Firbank Westlinton Cothill CA6 6AQ	
Drawing	Block Plan As Proposed	
Drawing No.	2251-A-04A	Date Jan 2022
	Scale 1:1250@ A3 Drawn OK	

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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
Canthlie
CA6 6AQ

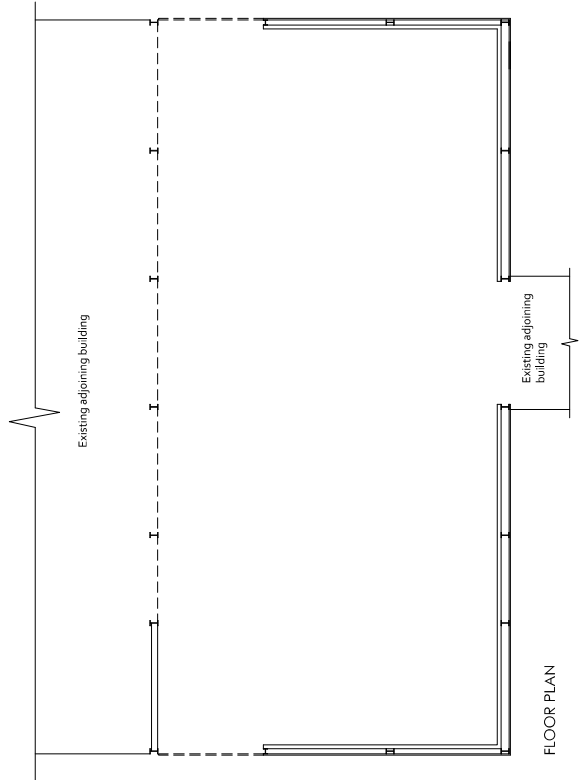
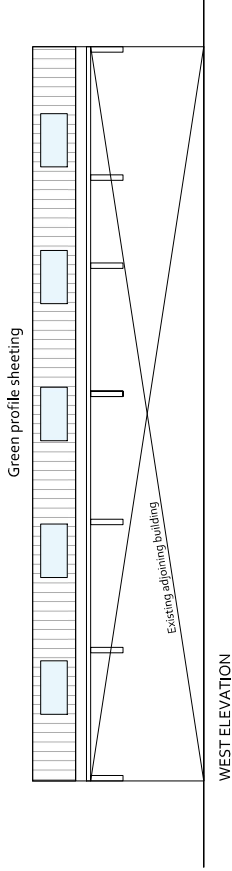
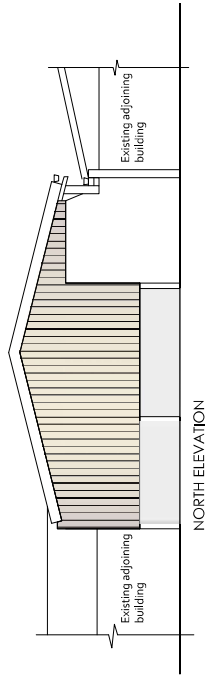
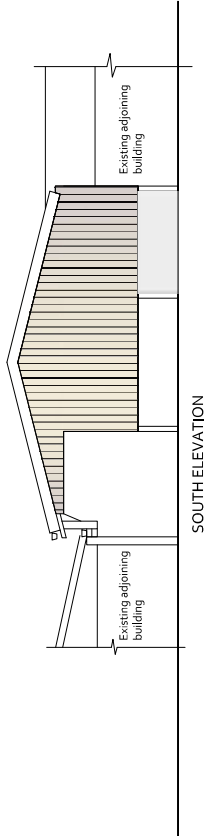
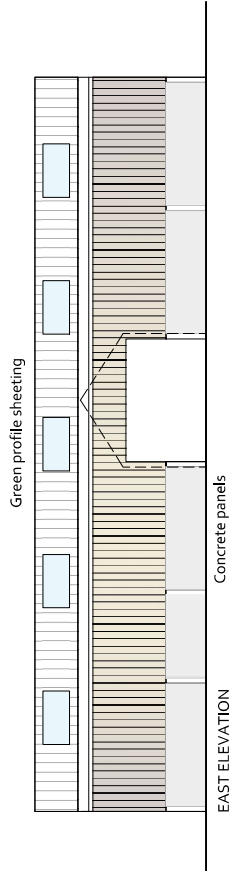
Drawing Site Plan

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

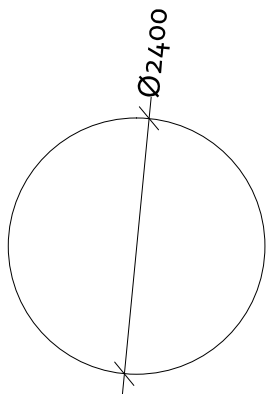
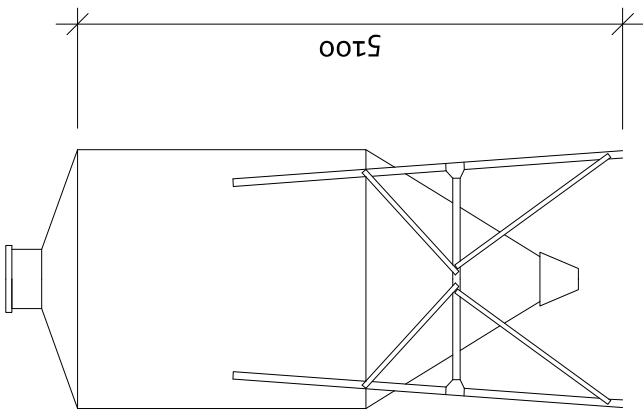
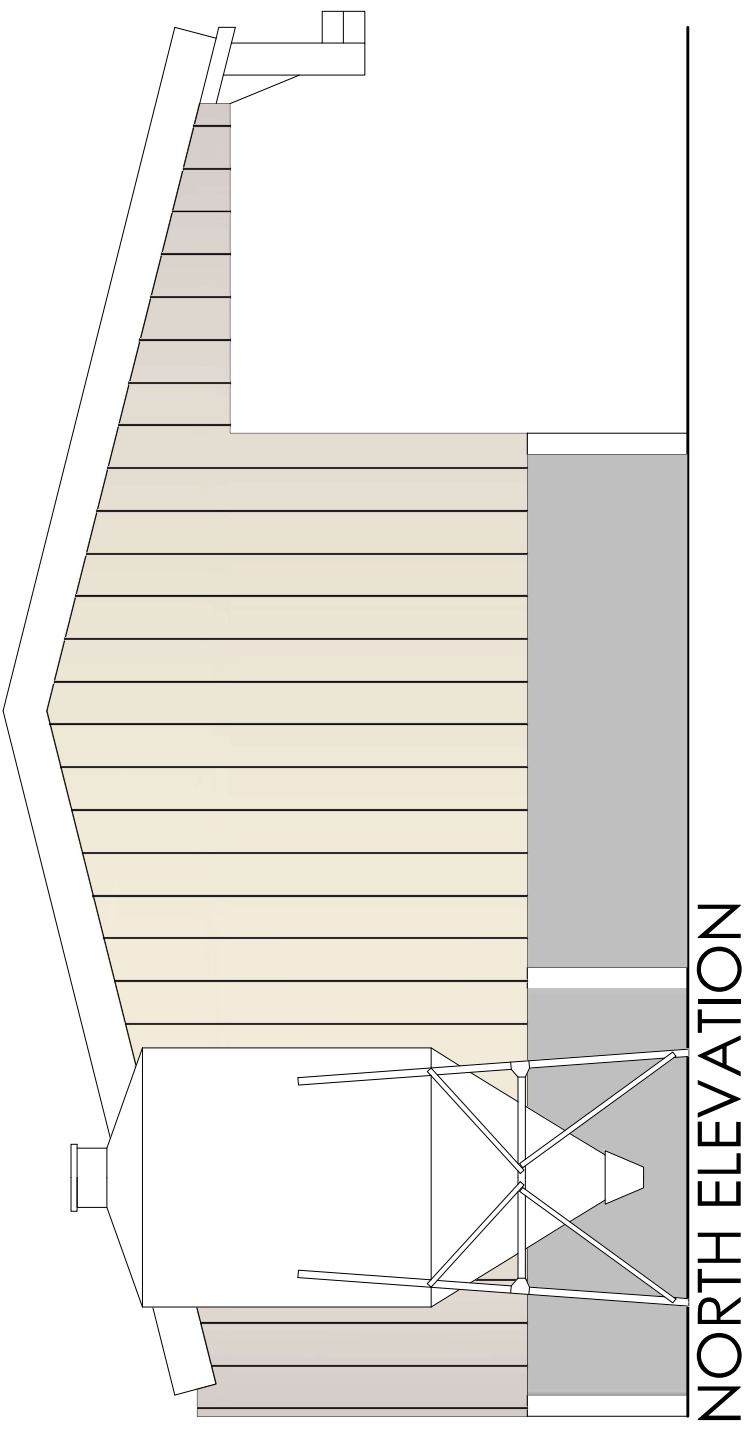
Client: Ian Morrison & Val Brown

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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