

SCHEDULE C: Applications from the Carlisle Region

Application Reference Number:	23/0426
Application Type:	Full Planning Permission
Application Address:	Land at Byegill Farm, Corby Hill, Carlisle, CA4 8QB
Proposal:	Closure And Change Of Use Of Layby And Wood From Operational Highway To Become Ancillary To The Hayton Estate
Applicant:	Equorium Property Co. Ltd
Agent:	Harraby Green Associates
Valid Date:	12/06/2023 16:00:21
Case Officer:	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.

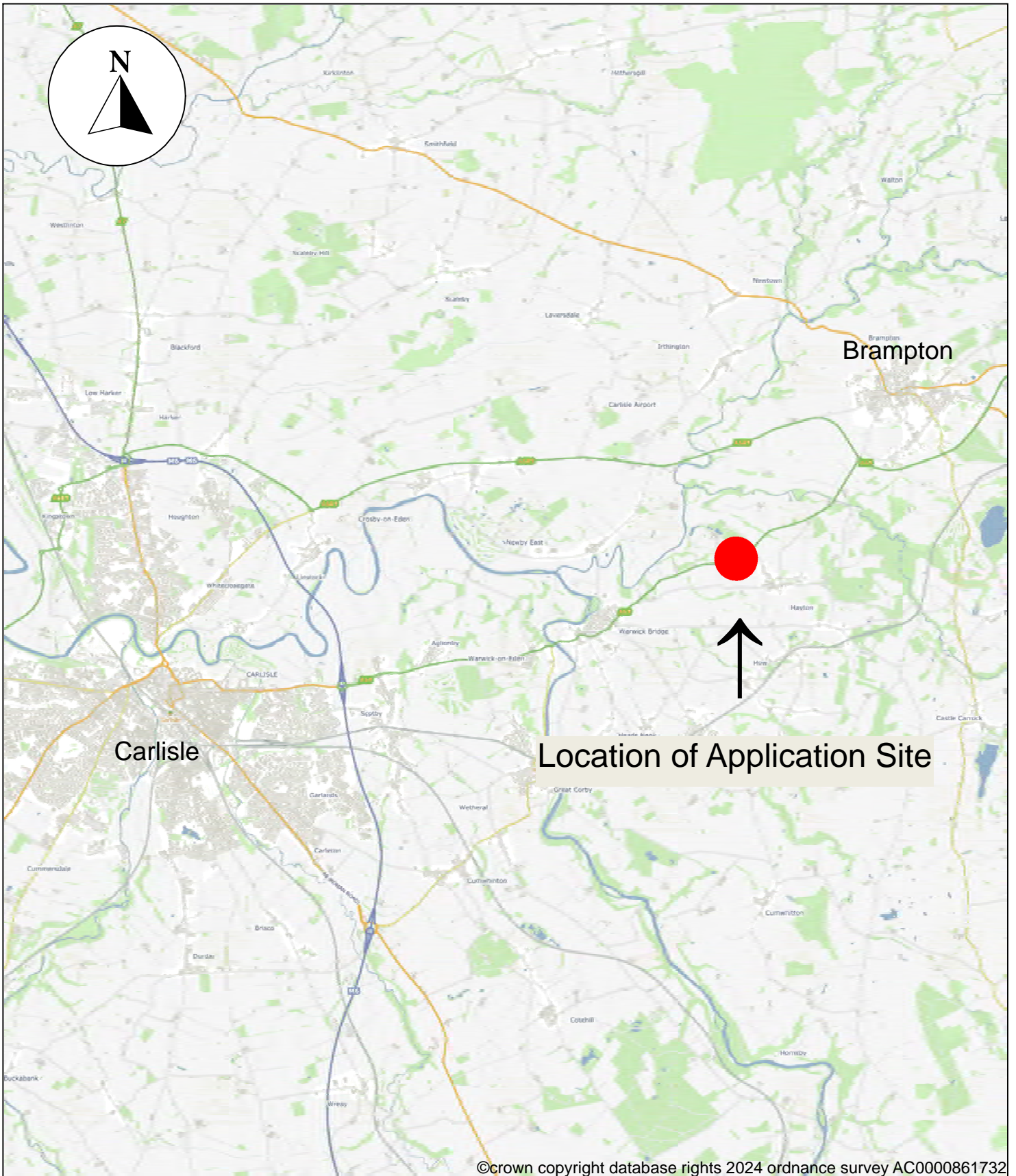
3. No trees existing on the site (as shown on the site plan (dwg no. 2042_B (01) 03, received 12 June 2023) shall be felled, lopped, uprooted, layered or otherwise structurally altered without the prior written consent in writing of the local planning authority.

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

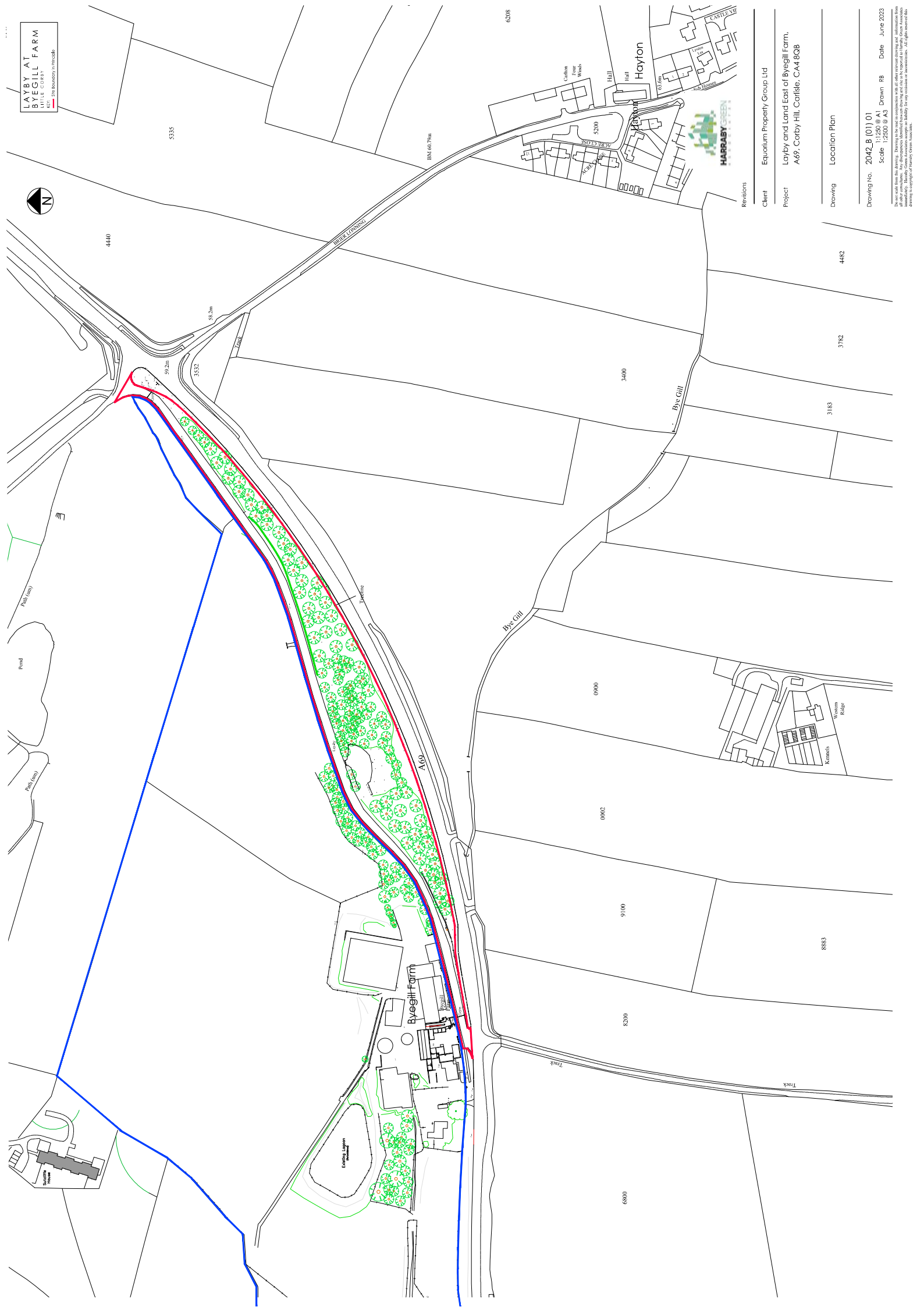
Wider Location Plan



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

Scale 1 : 90,000

Date February 2024



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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