

## **SCHEDULE C: Applications from the Carlisle Region**

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<b>Application Reference Number:</b>	<b>24/0118</b>
<b>Application Type:</b>	Full Planning Permission
<b>Application Address:</b>	Marsh House, Station Road, Burgh By Sands, Carlisle, CA5 6AX
<b>Proposal:</b>	Erection Of 4no. Detached Dwellings Within The Grounds Of Marsh House; Closing Of Existing Access And Forming New Entrance Onto Highway; In Conjunction With The Renovation Of Marsh House Including Removal Of Delapidated Outbuildings
<b>Applicant:</b>	Ms Susan Mackay
<b>Agent:</b>	Phoenix Architects
<b>Valid Date:</b>	23/02/2024
<b>Case Officer:</b>	Stephen Daniel

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

**Ward/s:**  
Dalston & Burgh

**Parish/s:**  
Burgh-by-Sands

### **Relevant Development Plan**

Carlisle District Local Plan 2015-2030

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

The Ward Councillor requested determination by the Planning Committee due to the previous planning history and the level of local interest.

### **Recommendation**

It is recommended that this application is refused.

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

- 1.1 Marsh House is a period dwelling located on the southern side of West End to the immediate west of the junction with Station Road. The dwelling has been unoccupied for a number of years and is currently in a poor state of repair. A single-storey utility room is attached to the western side of Marsh House, with a single garage being attached to this.
- 1.2 The front garden of Marsh House contains a number of mature trees, with others being located in the rear garden. There are 33 trees that are

protected by a Tree Preservation Order (TPO214) that lie to the front of the property, with 9 trees to the rear of the property being protected by TPO208. Any other trees within the plot are protected by virtue of falling within the Burgh-By-Sands Conservation Area. These trees have not been properly maintained and a number of them are currently in need of maintenance. The property is accessed via a driveway, which is located in the north-east corner of the site, in close proximity to the junction of West End and Station Road and provides access onto West End.

- 1.3 Marsh House is located within the Burgh-by-Sands Conservation Area, the Solway Coast Area of Outstanding Natural Beauty and is within the Hadrian's Wall Military Zone World Heritage Site Buffer Zone.
- 1.4 1 & 2 Station Road Cottages are attached to the eastern side of Marsh House and these are adjoined by Walton House, which fronts onto Station Road. The garden to Walton House runs to the rear of 1 & 2 Station Road Cottages and adjoins the rear garden of Marsh House. The cottages are accessed via a driveway that runs to the front of the properties and stops at the boundary with Marsh House. To the south, the property is bounded by dwellings on Marsh House Gardens, with properties known as Marsh Terrace, Marsh Cottage and The Orchard House adjoining the site to the west. Sundown Cottage and 1-3 Beech Croft lie across the road from the application site.

## **2. Proposal**

- 2.1 Two dwellings would be located to the front of Marsh House, with two being located to the rear. Unit 1 would be located in the north-east corner of the site, with Plot 2 being located in the north-west corner. Unit 1 would be a three-bedroom dwelling, with the ground floor containing a kitchen/ dining area, a living area, a bedroom/ study, a utility and a WC, with the first floor containing two en-suite bedrooms. The front elevation would contain a two-storey gable, the main entrance, which would be covered by a catslide roof, and a flat roof dormer window. The rear elevation would contain a two-storey gable, that would have patio doors, with a single window being located at first-floor level. Units 4 and 5 would be the same design as Unit 1, but Unit 5 would have two rooflights in place of a flat roof dormer in the front elevation and the ground floor bedroom/ study window would be relocated from the front elevation to the side (east) elevation.
- 2.2 Unit 2 would have two-storey gables to the front and rear elevations, with the front elevation containing two flat roof dormer windows. The rear elevation would contain patio doors that would be angled to face south-east and an oriel window
- 2.3 The dwellings would be constructed of a combination of Burgh colour brick (orange to red brown) and render, with buff sandstone and buff brick surrounds under Welsh blue slate roofs, laid in diminishing courses. Windows would be timber sliding sash double glazed units painted light

grey, with the dormer windows being constructed of Western Red Cedar. Gutters would be extruded aluminium with rainwater pipes being cast aluminium, powder coated in black.

- 2.4 A new access would be created onto the C2042 and this would be located between Units 1 and 2. The access would run adjacent to the western side elevation of Marsh House and would provide access to a parking area to the rear of Marsh House and to Units 4 and 5. Each dwelling would have two in-curtilage car parking spaces. A visitor parking area for 5 cars would also be created to the west of Marsh House.
- 2.5 The proposals also include the repair and renovation of Marsh House and the application makes reference to the removal of dilapidated outbuildings at Marsh House.
- 2.6 The existing holly and laurel hedgerow that forms the front boundary of the property would be cut back with additional planting to extend the hedgerow around the radius of the new entrance. The two holly trees that would lie to the front of Unit 2 would be retained and crown lifted so that a path could be created beneath the trees. The existing red horse chestnut, yew and holly that lie near to the boundary with Station Road would be retained. A large number of the existing trees would be removed and would be replaced by new planting.
- 2.7 A main sewer runs through the rear garden of Marsh House and this would need to be diverted to the south of Units 4 and 5. Discharge to the existing foul network could be achieved entirely on-site. In relation to surface water drainage, the site is freely draining. Impervious roof surfaces would drain to individual crated soakaway chambers under the dwellings respective lawn areas. Roadway and patio surfacing would be porous. Overflow from the soakaways would be piped to an area at the south of the site with provision for SuDS chambers. It is intended to restrict the surface water flows to a rate to be agreed with the LLFA if required.

### **3. Relevant Planning History**

- 3.1 In March 2013, an application for the extension to existing dwelling and sub-division to create 2no. semi-detached dwellings together with 2no. detached dwellings was refused (12/0176).
- 3.2 In December 2007, an application for the extension to dwelling to create 2no. semi-detached houses and construction of 4 detached houses was refused (07/0915).
- 3.3 In September 2006, an application for an extension to the existing house to create 2no. semi-detached houses together with the construction of 5no. detached houses in the grounds was withdrawn prior to determination (06/0859).

- 3.4 In 1972, under planning reference BA7063, planning permission was refused for the conversion of one house into two dwellings.

#### 4. Consultations and Representations

**Burgh-by-Sands Parish Council:** - are aware that previous applications were refused although it must be noted that this application should be considered against current guidelines. The property known as Marsh House has fallen into a greater state of disrepair since these applications and the community appear thankful that action is proposed to address this. In addition, the lack of maintenance to the grounds and trees causes health and safety concerns to the public at large. The Parish Council do have specific concerns about the proposed development which are detailed below:

- there is not a surveyor's report on the existing structure and the feasibility of restating this house into a habitable property. The Parish Council is concerned that during the development, the developer may deem that it is not cost effective to reinstate this building and may apply for retrospective planning permission to demolish the building. The Parish Council would formally ask that conditions are placed upon the development to ensure that Marsh House is returned to a habitable property;
- the suggested new access road will emerge onto the main road directly opposite housing for individuals with disabilities. These individuals need to park directly outside their properties which will place those exiting the site, and those approaching the site, at considerable risk. The access road also emerges at a particularly dangerous part of the village giving a poor line of sight. The Parish Council formally ask that consideration is given to repositioning the access road to the site;
- concerns have been expressed that recurring flooding at Station Road, which is adjacent to the proposed scheme, will be further impacted by the development run-off once constructed.
- the existing sewage system within the village is Victorian, has not been updated and at present struggles to deal with the volume of waste generated by a village that has grown significantly in the last decade. This will place a further additional burden on the infrastructure;
- the archaeological report has not been updated. The Parish Council would formally request an up-to-date evaluation of the site;
- the parking identified within the proposed development is not adequate given the reliance on the motor vehicle and lack of public transport serving the village. The Parish Council note that there is an area of land within the proposed development that could provide additional car parking thus preventing overflow onto an already busy thoroughfare at the heart of the village. The Parish Council formally request that a condition is placed on the scheme to develop additional parking on the land within the boundaries of Marsh House;
- the report detailing the trees within the site is dated 2011. Within the information reference is made to the Giant Redwood being at the end of its life which is surprising given that the life span of this species is 1200 – 3000 years. The Parish Council would ask that an up-to-date tree report is undertaken;

- the proposed scheme is within a Conservation Area and several of the trees within the scheme have protection orders on them;
- the scheme details that the existing main sewer will need to be re-routed and the Parish Council seek assurances that this matter has been broached with United Utilities and will not cause long-term disruption to the village;
- the proposed plans and information lack the necessary detail to allow the Parish Council to make an informed decision on the overall scheme. The Parish Council formally request a plan providing greater detail of the planned new buildings and restoration of Marsh House;

**Historic England - North West Office:** - the application site lies in an area of high archaeological sensitivity due to its location on the course of the vallum of the Hadrian's Wall Roman frontier system. The significance of the Roman Frontier system is reflected in the designation of much of it's surviving remains as a series of scheduled monuments and its inclusion by UNESCO in its list of World Heritage Sites. The section of the vallum within the application site is not designated as a scheduled monument. However, this does not preclude the presence of nationally significant archaeological remains. The application site also lies within the Burgh by Sands Conservation Area. As such, the conservation area has been determined as being an area of special architectural and / or historic interest, the character or appearance of which it is desirable to preserve or enhance. An archaeological evaluation undertaken in 2007 in respect of a previous planning application identified significant Roman period archaeological remains within the northern portion of the application site. The proposed development has the potential to adversely impact these remains by truncating or completely removing them. These remains are not considered to be of such high significance that they warrant preservation in situ. However, they are of sufficient significance to warrant the implementation of a programme of archaeological excavation prior to any development commencing. The proposed development also has the potential to adversely impact the significance of the Burgh by Sands Conservation Area through the introduction of new development that does not preserve or enhance its special character. Again, it is not possible to determine the level of impact due to the lack of relevant information submitted in support of the application. Para. 200 of the NPPF states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. The information submitted to date in support of the application is not sufficient to understand the potential impacts of the proposed development on the Roman vallum, or the Burgh by Sands Conservation Area. Para. 212 of the NPPF asks that opportunities for new development to enhance conservation areas and the setting of listed buildings is sought. Similarly, para. 135 states that successful new design is sympathetic to local character and history without preventing or discouraging appropriate innovation or change. Historic England supports the Historic Environment Officer's recommendation that further information is supplied by the applicant or their agent to demonstrate the level of impact that the proposed

development will have on the significance of the Roman vallum prior to the determination of the application. Historic England defer to the Council's own conservation advisors regarding the proposed new development and any potential impact on the significance of the Burgh-by-Sands Conservation Area. However, the Council should bear in mind their statutory duty with regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. Historic England has concerns regarding the application on heritage grounds;

**Solway Coast AONB Unit:** - have some concerns about aspects of this development in relation to the conservation and enhancement of the designated landscape it sits within. The property has historic and visual value - new development which obscures the façade and frontage of the house would be detrimental to the special character of the built environment of the village. Furthermore, the number of new buildings proposed would class as overdevelopment on this site and would completely obliterate any view of the historic building and its intentional historic green space. As well as being in an Area of Outstanding Natural Beauty the development site is in a Conservation Area, so new development of this scale would be likely to adversely affect the significance of the character of the wider village setting. The development site is within the likely path of the vallum, part of the Hadrian's Wall frontier defences, so appropriate archaeological scrutiny and recording should take place to ensure that there is no damage to any possible archaeological remains. Note that the building and grounds are in a poor / overgrown state of repair and appreciate that the developer has stated their intention to renovate and manage this. However, we do ask that renovation to be a strict condition of any planning permission, as further disrepair or destruction would be a huge loss to the historic village character and its landscape. The preservation of historic trees is important given the character of the property and the existing protection order on many of the trees. However, it was noted that the garden has become very overgrown and some of the trees look unsafe. Therefore, we recommend that the tree survey is reviewed and brought up to date and appropriate conservation is taken in accordance with this. In conclusion, we ask for the points above to be taken into account when considering whether this application should be granted permission or not. Without this, we would ask for this application to be refused;

**Historic Environment Officer (Archaeological Services):** - no objections subject to conditions (implementation of a programme of archaeological excavation in accordance with a written scheme of investigation and a programme of archaeological post-excavation assessment and analysis, preparation of a site archive ready for deposition at a store, completion of an archive report, and submission of the results for publication in a suitable journal within one year of the date of commencement of development or otherwise agreed in writing by the LPA);

**Northern Gas Networks:** - no comments received;

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

objections subject to conditions (provision of visibility splays; construction details of carriageway/ footway etc; no vehicular access or egress other than via the approved access; provision of vehicular access and turning areas prior to occupation of the dwellings; and provision of footways to link to the nearest existing footways; full details of surface water drainage system);

**United Utilities:** - noting this is a full application, request that the applicant provides a detailed drainage plan and that United Utilities has the opportunity to review and comment on this plan prior to determination of this application. Should planning permission be granted without the provision of this information request condition to require, prior to the commencement of development, details of a sustainable surface water drainage scheme and a foul water drainage scheme to be submitted to the Local Planning Authority for approval.

- 4.1 This application has been advertised by means of site and press notices as well as notification letters sent to 27 neighbouring properties. In response, 6 letters of objection, 4 letters of support and 2 letters providing comments have been received.
- 4.2 The letters of objection raise the following issues:

Impact on the Character Of The Area

- the site lies within a conservation area and AONB;
- the insertion of two dwellings in front of Marsh House and an additional two to the rear would disrupt the cohesive character of our neighbourhood. Such development risks compromising the integrity of the landscape and overburdening the site with an excessive number of structures;
- recent de-listing of Marsh House from historical registers should not serve as a pretext for disregard towards its preservation. Prioritising restoration efforts should precede any additional construction;
- the site is also in an Area of Outstanding Natural Beauty which sets out requirements for any development to enhance the present character and quality of the landscape;
- the proposed density of housing on the site is excessive, compromising valuable green space and endangering protected trees;
- urge the planning authority to reconsider the proposed development and prioritise a more balanced approach that respects the historical, environmental, and infrastructural integrity of the Marsh House site and its surroundings;
- no details at all have been provided for the renovation plan for Marsh House. The site plan appears to show a very small area of lawn provided as the entire garden space for what is a very large house;
- destruction of part of the historical environment and skyline of Burgh-by-Sands;
- as it stands, do not support this application in its current form - would very much welcome the renovation of Marsh House and a redevelopment of the grounds, but only if that is sympathetic to the existing environment, the neighbouring housing, and current and future environmental requirements. We consider that what is being presented is currently too high a price to pay,

just to see the renovation of Marsh House and its grounds;

### Drainage Issues

- the proposed drainage plan for this development is by way of soakaways. The applicant and the City/Cumberland Council will be aware from the previous planning applications that this area is already the subject of poor drainage and over capacity in the sewage system. A report by Tweddell & Slater for surface water for the 07/0915 application proposed storage tanks and soakaways for rainwater. This proposal was objected to by United Utilities based on their requirement to have "an access strip no less than 6 meters wide, measuring 3m either side of a centre line for maintenance or replacement" or to a diversion of the sewer pipe if United Utilities find this acceptable;
- United Utilities also had concerns as to how rainwater runoff would be dealt with;
- Burgh-by-Sands Parish Council also objected to the earlier applications on this site due to the critical drainage situation at Burgh-by-Sands - it stated that the existing sewage system installed in the 1930's is unable to cope with the existing volumes which have been added to since 2007;
- the Parish Council noted that "if any more properties are added upstream before the 2007 situation is rectified the resulting run-off will almost certainly flood the homes on Southfield. This has been evidenced in the last 2 years with flooding at the bottom of Station Road and some of the gardens in the vicinity following any periods of heavy rain. This issue is currently under investigation by the Flood and Development Management Team;
- the proposed development which creates a greatly increased area of hard surfaces in roofs, driveways, car parking etc plus the removal of many trees will only serve to further increase the flooding risks and must be addressed by a fully piped system for both fresh and foul water and be approved by the various agencies;
- the proposals do not make reference (in sufficient detail) to the re-routing of the sewerage and surface water in accordance with the policies in the local plan, namely;. IP 6, CC 4 and CC 5. From the previous application(s) for the same site 12/0176, UU already raised issues with the development of the site being in the location of the main sewer, which from the drawings is something of an encroachment from what we can tell. It is difficult to see however, as there are no dimensions on what appear to be very poor submitted schematic drawings, but these do follow the similar lines of the previous application;
- already have a flooding issue within Station Road that also affects Southfield properties and also encroaches within 1 Marsh House Gardens as a result of excess surface water runoff and over development further upstream, not being treated effectively (the flooding stayed for over three months last year). There should be some flood alleviation measures and the existing drainage outflows investigated if the existing systems in the locality are to be used;
- sewage and drainage services within the village have not been upgraded and are virtually at capacity;
- there have been incidents of back flow and blockage in the sewage main system resulting in issues that cause a serious sewage drainage restriction



in Station Road and into Southfield. Further loading the sewage system with additional dwellings will potentially exacerbate this problem further;

- what special provision has been made to pump sewage from the two dwellings at the rear of Marsh House up to and into the main sewer under the main road in the village (i.e. in front of Marsh House) and what additional capacity has been provided for the sewage main to ensure backflow and overload issues are eliminated;
- loss of a substantial area of soak away land on the development site for the retention of surface water will be a significant issue;
- the land area adjacent to and sections of the roads at and in Marsh House Gardens, Station Road and Southfield have and are still subject to the accumulation of large amounts of surface water and flooding of roads. This has been previously investigated by the County Council;
- what special measures have been set in place to retain all surface water in the new development and prevent any run off and or drainage into the area covering Marsh House Gardens, Station Road and Southfield. Special measures must have a substantial retention capacity to ensure that during prolonged periods of precipitation surface water is contained and does not add to existing surface water drainage issues within the areas adjoining the development site;
- the proximity of the soak-away to the shared boundary brick wall raises concerns about potential damage to foundations over time;
- given the history of flooding in the area, exacerbated by the proposed development's impact on natural drainage systems, there is a serious risk of increased flood vulnerability for both properties and infrastructure;
- the drainage issues linked to Station Road and the village are of huge concern and need to be addressed before anything can be considered;
- a significant risk of increasing the existing flooding issues to the area, threatening homes and access to a number of properties. There is a lack of consideration of the impact of the proposed development on the existing drainage and sewer infrastructure and the consequences that the proposed removal of adult trees would have on the water table;

#### Impact on Trees/ Biodiversity

- the trees in the area have been the subject of various Tree Preservation Orders, Number 78 in 1989, number 173 in 2003 and other TPO's 208 and 214 and by the fact that the trees are located in a conservation area and their protection is to ensure that development in conservation areas does not affect the character of the area;
- it is not sufficient to ignore previous TPO's of 1989 and 2003 and to state that the later TPO's were a reaction to proposed development of 2006 nor is it correct to state that the trees and hedges are now in a poor condition due to planting restriction and competition. The trees and hedges are in a poor state due to lack of maintenance over the last 20 years;
- the planting of trees in Marsh House were a designed planting to be in keeping with a grand country house as evidenced by those on its perimeters. Lack of maintenance should not be used as an excuse to remove. Other property owners with TPO trees go through the system of seeking permission to maintain their trees and pay for professionals to carry out the work so the same should apply here;

- the proposed development is contrary to the Tree Preservation Orders that have been granted. The Wellingtonia being removed but the subsequent Cedar that was to replace this has not been undertaken, which would affect the unit 4 development;
- the trees bordering Marsh House Gardens and that of the said development are within a conservation area and are shown to be removed within the current proposals. This is without any consent. Perhaps we can all remove the trees without consent in a conservation area?;
- removal of trees in a conservation area would appear to go against the environmental policies of the council and those actioned within the area for at least the last forty years;
- there will be a loss of wildlife, habitat and amenity that is evident from the current proposal and this will have a detrimental effect to the character of the area contrary to policies of the Carlisle District Local Plan, namely SP7, HE1, HE7, HO3, GI1, GI2, GI3 and GI6;
- the presence of protected trees within the conservation area surrounding Marsh House adds another layer of complexity to the proposal. While acknowledging the need for maintenance, any alterations should be approached with utmost care to avoid irreversible damage to the local ecosystem;
- the proposed development threatens local wildlife and their habitats, with potential long-term ecological repercussions;
- you cannot simply make excuses for the removal of trees due to poor care of them over the years. The trees are healthy and as owners with other trees in our property it is our responsibility to maintain and go down the proper channels for work required to them. Simply removing all the trees purely because you want to build on it is not acceptable;
- the plans seem to require an almost total site clearance of the grounds of Marsh House. This is supported by occasionally specious reasoning, with poor understanding demonstrated of the implications and potential outcomes of the environmental damage - including loss of habitat;
- the proposed layout seems to only identify 5 trees or shrubs to be retained from the entire site - all in the north garden, none in the south garden. If this is the case then it is tantamount to a site clearance, with all the resulting damage to existing ecosystems, environment, and privacy, which will take decades to restore;
- the existing trees absorb a large amount of water - given that there is already a flooding issue downhill from Marsh House (particularly around the bottom of Station Road), if the trees are not there to take up this water, that water will only go downhill toward the existing problem area;
- giant redwoods are thriving in the UK;

#### Highway Issues

- where you propose the junction onto the main road is not acceptable. Already there is not enough parking for the houses existing, so people park on the main road making it a very narrow and busy road. Yet you wish to build more properties with not enough space for parking;
- the existing parking situation on the main road needs to be addressed before you add more houses and cars and a whole new junction that people will not be able to see out of due to all the cars on the main road at present;

- the creation of a new junction on to the main through road for the village in relatively close proximity to two other junctions will further contribute to the existing issues on this section of the road in relation to line of sight for through traffic and vehicles joining / exiting the through road at the existing junctions;
- there have already been a number of near misses at the junction of Station Road and the main through road in the village. Parked cars adjacent to this junction significantly obstruct / or totally obscure the view of motorists exiting the junction and joining the main road as well as the vehicles travelling through the village;
- a further road junction to serve the new dwellings will further increase the volume of vehicles exiting and entering in this small section of road and further contribute to this problem, with the potential of near misses becoming significant road traffic accidents;
- what measures have been considered and are to be set in place to ensure the safety of motorists and pedestrians over this section of road. i.e. double yellow lines and no waiting signage for a distance of approx 15m either side of the junctions to ensure that line of sight for vehicles joining and exiting the main road at these junctions is maximised and to provide clear line of sight for vehicles travelling through the village on the main road past these junctions;

#### Archaeology

- proposal has very little concern for any archeological remains;
- a previous PA requiring a full archaeological site investigation 50 metres to the east of Marsh House, found clear evidence of the Vallum running to the south of the main road. This is in a different line to the location of those trenches investigated during the previous dig at Marsh House detailed in the Archeological Report;

#### Impact on Residential Amenity

- lack of consideration toward potential loss of privacy for both the new properties and existing neighbouring properties, caused by the suggested removal of all existing boundary trees replacing them with juvenile trees;

#### Other Matters

- the key part of this application is the renovation of Marsh House. While the focus is on the development of the site, there is almost no detail addressing the Marsh House renovation. It would be very welcome and very reassuring if the application addressed this concern;
- any approval should make it clear that the renovation of Marsh House must be completed before any further building work was undertaken (ie. to ensure that it actually happens);
- in any approval it must be made it clear that no more than the proposed number of new houses could be built and that they are built without further significant amendment to the design presented;
- would expect that the design of the houses was eco-friendly, for instance including provision for EV charging and without utilising fossil fuel heating;

#### 4.3 The letters of support make the following points:

- think this plan makes good use of a central site in the village that had become an eyesore;
- broadly supportive of a sympathetic development to Marsh House and its garden;
- the proposal is sympathetic and we would approve provided that the concerns are addressed;
- the properties are well designed. The room in roof configuration combines economic use of space with a scale that is not too imposing. This allows for generous spacing between units and good garden grounds;
- the appearance of the units blend in very well with the unusual local vernacular;
- it's a welcome and added bonus that the developers intend to renovate the existing house rather than demolish it;
- it's a shame about the trees but you can't make an omelet without breaking eggs and apart from that, the proposal offers a vast improvement to the existing;
- the renovation of this property will enhance the street scene;
- currently Marsh House and the grounds are in terrible condition;
- we share a party wall with Marsh House and the longer that it remains derelict, the more likely it is to cause damage to our house (damp and the unstable chimney that looks like it will collapse);
- there are also trees in the grounds of Marsh House that appear unstable which is very concerning when ever there is a storm. Should they fall, they are likely to cause damage to homes and council property - one tree completely overhangs neighbouring properties and driveways - green marks on the front of neighbouring dwellings have formed as a result of the existing trees;
- the branches of the existing trees are growing over the power lines;
- it's positive to see that the planning will include planting new trees, of a smaller nature and that would be easier to maintain;
- the houses that are proposed look fantastic and the appearance will suit the street;
- with building these houses, the huge jungle like garden will be cleared - again, drastically improving the street scene;
- Marsh House itself is a stunning building and to see this renovated and restored will be great;
- if this application is denied, we fear that our house price will decrease and that damage caused to our property will be a high risk;
- fully support the renovation and planning application;
- it was encouraging to read that the house is to be refurbished and to remain as a significant historical property in the village as permission had been sought in 2023 via the Parish Council to have it demolished;
- would like to see that the house development was carried out at an early stage in the development to ensure that it is protected;
- the additional proposed properties would appear to be being built to a high standard and would be an acceptable development but due to the number of proposals that have been submitted for this property over the years I would want an assurance that they are built as proposed and not downgraded in

any way if and when planning is approved;

- support the proposal subject to the proposal not worsening the existing drainage issues (e.g. all drainage for the new development drains to the front of the site (the main road);
- propose a clause in the approval to ensure that the Marsh House building must get renovated e.g. last 2 new properties cannot be sold until Marsh House renovation is ready to also sell;

#### 4.4 The letter of comments makes the following points:

- would like our driveway made wider to fit modern-day cars down and it's a struggle getting past next doors;
- would also like to know the extent of the works to Marsh houses renovation
- guessing full strip out to first fix;
- will they need to put scaffolding on adjoining land to access the party wall;
- it should be made clear to residents that ALL trees in a conservation area (ie Burgh-by-Sands), are protected to TPO status without the need for an individual listing;
- the house, and the site, has been left to fall into ruin. The house is an eyesore, and as such out of keeping with the general state of maintenance and upkeep found throughout the village. It will only deteriorate further without remedial work, eventually suffering collapse. At that point it would present an existential threat to existing attached properties, while potentially creating issues of environmental, health and safety concern to the immediate neighbourhood. Therefore the major reason to support this application would be to see the renovation of Marsh House and its grounds finally being undertaken;
- the application advocates removal of trees with TPOs on the grounds that the trees are now too large for the surrounding development including the existing houses in Marsh House Gardens. If this is accepted then all the remaining TPOs on trees in Marsh House Gardens should also be removed;
- it would be very unfair to allow removal of trees and TPOs for a new development whilst leaving TPOs for existing homes.

## 5. Planning Policy

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

## **Development Plan**

Carlisle District Local Plan 2015-2030

SP2.	Policy SP 2 - Strategic Growth and Distribution
SP6.	Policy SP 6 - Securing Good Design
SP7.	Policy SP 7 - Valuing our Heritage and Cultural Identity
HO2.	Policy HO 2 - Windfall Housing Development
HO3.	Policy HO 3 - Housing in Residential Gardens
IP2.	Policy IP 2 - Transport and Development
IP3.	Policy IP 3 - Parking Provision
IP6.	Policy IP 6 - Foul Water Drainage on Development Sites
CC4.	Policy CC 4 - Flood Risk and Development
CC5.	Policy CC 5 - Surface Water Management and Sustainable Drain
HE1.	Policy HE 1 - Hadrian's Wall World Heritage Site
HE7.	Policy HE 7 - Conservation Areas
GI2.	Policy GI 2 - Areas of Outstanding Natural Beauty
GI3.	Policy GI 3 - Biodiversity & Geodiversity
GI6.	Policy GI 6 - Trees and Hedgerows

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

- 6.1 Burgh-by-Sands Parish Design Statement.  
Trees and Development Supplementary Planning Document.  
Achieving Well Designed Housing Supplementary Planning Document.  
National Design Guide.  
The Conservation of Habitats and Species Regulations 2017.

## **7. Assessment**

- 7.1 The proposal raises the following planning issues:
1. Principle Of Development
  2. Impact On The Burgh-by-Sands Conservation Area
  3. Impact On The Solway Coast AONB
  4. Impact On The Hadrian's Wall WHS Buffer Zone
  5. Layout, Scale And Design
  6. Impact On Residential Amenity/ Future Occupiers
  7. Impact On Trees
  8. Highway Matters
  9. Drainage Matters
  10. Biodiversity
  11. Archeology
  12. Nutrient Neutrality

## 1. The Principle Of Development

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

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

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

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

7.4 Para 83 of the NPPF states that "To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby."

7.5 Policy HO2 (Windfall Housing Development) of the adopted Local Plan states that new housing development on sites other than those allocated will be acceptable within or on the edge of Carlisle, Brampton, Longtown and villages within the rural area provided that the development will not prejudice the delivery of the spatial strategy of the Local Plan and:

1. the scale and design of the proposed development is appropriate to the scale, form, function and character of the existing settlement;

2. the scale and nature of the development will enhance or maintain the vitality of the rural community within the settlement where the housing is proposed;

3. on the edge of settlements the site is well contained within existing landscape features, is physically connected, and integrates with the settlement and does not lead to an unacceptable intrusion into open countryside;

4. in the rural area there are either services in the village where the housing is proposed, or there is good access to one or more other villages with services, or to the larger settlements of Carlisle, Brampton and Longtown; and

5. the proposal is compatible with adjacent land users.

7.6 Although the site is not allocated for housing development, it lies within Burgh-by-Sands, which is recognised as a sustainable settlement, enjoying a range of services and facilities, including a primary school, a public house, a village hall, a church, a children's play area and playing fields. The principle of residential development being acceptable within Burgh-by-Sands is well established. The scale and nature of the development would help to maintain the vitality of the settlement since the scheme is within easy walking distance of all services and amenities.

7.7 In light of the above, the proposal would comply with the requirements of Policy HO2 and would, therefore, be acceptable in principle.

## 2. Impact On The Burgh-by-Sands Conservation Area

7.8 The application site lies adjacent to the Burgh-by-Sands Conservation Area. Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 highlights the statutory duties of Local Planning Authorities whilst exercising of their powers in respect to any buildings or land in a conservation area. The aforementioned section states that:

*"special attention shall be paid to the desirability or preserving or enhancing the character or appearance of that area".*

7.9 The aims of the 1990 Act are reiterated in both the NPPF, PPG and policies within the adopted Local Plan. Policy HE7 of the Local Plan advises that proposals should preserve or enhance the special character and appearance of conservation areas.

7.10 Case law (South Lake land District Council v Secretary of State for the Environment (1992)) has established the principle that if development has a neutral impact on a conservation area, in that it made no positive contribution but left it unharmed, it could properly be said to preserve the character and appearance of that area.

7.11 Historic England (HE) has been consulted on the application. HE notes that the application site also lies within the Burgh-by-Sands Conservation Area. As such, the conservation area has been determined as being an area of special architectural and / or historic interest, the character or appearance of which it is desirable to preserve or enhance. HE considers that the proposed development also has the potential to adversely impact the significance of the Burgh-by-Sands Conservation Area through the introduction of new development that does not preserve or enhance its special character. HE does not consider that it is possible to determine the level of impact due to the lack of relevant information submitted in support of the application. Para. 200 of the NPPF states that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. The information submitted to date in support of the application is not sufficient to understand the potential impacts of the proposed development on the Roman vallum, or the Burgh-by-Sands Conservation Area.

7.12 Para. 212 of the NPPF asks that opportunities for new development to enhance conservation areas and the setting of listed buildings is sought. Similarly, para. 135 states that successful new design is sympathetic to local character and history without preventing or discouraging appropriate innovation or change. HE defer to the Council's own conservation advisors



regarding the proposed new development and any potential impact on the significance of the Burgh-by-Sands Conservation Area. However, the Council should bear in mind their statutory duty with regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

- 7.13 The Council's Heritage Officer has been consulted on the application. He notes that the existing site is a large plot containing Marsh House, a period building whose footprint is present on late Victorian OS mapping. The site appears to be a large garden plot with what appears to be a mid to late Victorian dwelling at its centre. The garden is generously planted, with its extensive if somewhat overgrown tree planting providing, a substantial green interlude within the streetscape.
- 7.14 As required by law, the planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The Conservation Area, as a designated heritage asset, holds a level of significance which has resulted in its designation. A high proportion of buildings within a conservation area are usually also of significance and special interest. This special interest can be understood as 'significance', defined by the NPPF as the value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic.
- 7.15 The building is dated to the mid to late C19 although and as the Heritage Statement notes, it may contain earlier fabric. The building survives as an intact example of genteel Victorian housing within the village of Burgh-by-Sands. The decay of the site is noted but given a number of applications relating to the site over the years, each citing the condition of the existing buildings and site, these conditions should be fully appreciated by the applicant, and yet steps do not seem to have been taken to tidy the site, or to remedy obvious maintenance issues with the existing building – vegetation ingress was noted on the Heritage Officer's site visit. Determination of the application should be mindful of NPPF para 202 which states that 'Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision'.
- 7.16 The villa character of the dwelling and its relatively high status is reflected in its generous plot, with what would have been landscaped gardens to the front and rear. Mature trees and vegetation within these gardens now also contribute positively to the conservation area. The proposed works are the refurbishment of the existing building and the construction of four additional dwellings within the grounds, two to the rear and two to the northern elevation, closely abutting the main road which passes through the village.
- 7.17 No street scene elevation as existing with the extensive tree cover, nor as proposed, is provided but the site plan suggests the removal of a number of trees to the front of Marsh House, which would have a marked alteration in

the street scene. To the Marsh House Gardens area, a dot and dashed boundary is indicated, but no treatment for this boundary is annotated or shown in elevation. Marsh House has no boundary indicated to its plot, with a lawn to the south descending to the access road.

- 7.18 While the individual proposed dwellings appear to be well-composed and with a sympathetic palate of materials, including vertical timber sash windows, Welsh slate roofs and a combination of brick and render to the walls, there are concerns over the density of the proposed development, in particular to the poor relationship of outdoor space afforded to each unit. Units 2 and 5 in particular have very limited external space, with Marsh House having limited private enclosed space, with its rear aspect separated by a small lawn and a hedge from the access road serving Units 4 and 5. The lack of clarity on existing site features leaves the assumption that the site is currently served by a series of mature trees, the majority of which appear to be removed to facilitate the development. The overall impression is of a site crammed to maximum density, inappropriate within the context of Burgh-by-Sands, and with the host villa subsumed among the new units and their access road.
- 7.19 The principle statutory duty under the Planning (Listed Building and Conservation Areas) Act 1990 is to preserve the special character of heritage assets, including their setting. Section 72(1) states that in undertaking its role as a planning authority the Council should pay special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas. Paragraphs 205-208 of the NPPF introduce the concept that great weight should be given the conservation of an asset and that harm can be caused by development that affects the setting and significance of heritage assets. The degrees of harm are defined as 'total loss', 'substantial harm', or 'less than substantial harm' and introduces the need to balance any harm against the public benefits of the development. Paragraph 208 states that 'Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'.
- 7.20 Local Plan Policy HE 7 – 'Conservation Areas' states that "Any new development and/or alterations to buildings in conservation areas should preserve or enhance the special character and appearance of the conservation area and its setting. Specifically proposals should:
1. seek to harmonise with their surroundings and be sympathetic to the setting, scale, density and physical characteristics of the conservation area;
  2. preserve or enhance features which contribute positively to the area's character or appearance, in particular the design, massing and height of the building should closely relate to adjacent buildings and should not have an unacceptable impact on the town scape or landscape;
  3. not have an unacceptable impact on the historic street patterns/boundaries, roofscape, skyline and setting of the conservation area, important open spaces or significant views into, out of and within the area;

...[...].

6. retain individual features of interest e.g. doorways, windows, shopfronts, garden walls, railings, cobbled or flagged forecourts, sandstone kerbs, trees and hedges etc. Where this is not possible or practical any replacement should match the original; ...[...].

Development which would result in harm to a public or private open space that contributes positively to the character of a conservation area will be permitted only where this harm is outweighed by the public benefits of the proposals.

There will be a presumption in favour of the retention of buildings and/or features which make a positive contribution to the special character and appearance of a conservation area. Demolition or other substantial loss of these assets will only be permitted where it can be clearly demonstrated that the tests set out in national policy can be met. Such proposals must also be accompanied by clear details of the proposed redevelopment".

- 7.21 Reviewing previous applications on the site for similar levels of development which have been refused, it is not clear what has occurred to make any variation from this position more likely. A level of 'less than substantial' harm arises from these proposals, primarily through the adverse impact of the over-development of the site on the setting of Marsh House, which can be considered an undesignated heritage asset within the designated heritage asset of the Burgh-By-Sands Conservation Area. The Heritage Statement is silent on the relationship of the works to Marsh House, and it is not clear what the 'renovation' referred to in the application title would be. The intensive use of the site for four additional dwellings and the indicated reduction in the landscape setting of Marsh House, has a negative impact on the character of the Conservation Area and the proposal does not provide any public benefits to outweigh the harm. The Heritage Officer considers that a less intensive proposal perhaps with two additional dwellings and a clear statement of the works proposed to Marsh House could be acceptable.
- 7.22 The Burgh-by-Sands Parish Design Statement states that "Any proposals to fell, lop or top trees within village Conservation Areas should be given careful consideration in view of their importance to the visual unity of the area and the contribution which they make in supporting wildlife in and around the village".
- 7.23 In light of the above, the proposal would have an adverse impact on the Burgh-by-Sands Conservation Area and would be contrary to Paras 205-208 of the NPPF, Policy HE7 of the adopted Local Plan and the Burgh-by-Sands Parish Design Statement.

### 3. Impact On The Solway Coast AONB

- 7.24 The site lies within the Solway Coast Area of Outstanding Natural Beauty. Policy GI2 deals with Areas of Outstanding Natural Beauty. It states that "Development proposals within the North Pennines or Solway Coast AONBs must conserve and enhance the natural beauty of the areas. Natural beauty includes landform and geology, plants and animals, landscape features and

the history of human settlement. Development in the AONBs will be expected to protect the special characteristics and landscape quality of the areas and ensure that:

1. the scale, siting and design of the proposal is appropriate to the landscape setting; and
2. existing landscape features are incorporated in a way which preserves or enhances the character of the area and, where appropriate, mitigates the effects of the development.

Development in both AONBs must ensure that it is in accordance with the objectives of the AONB Management Plans. Proposals within the Solway Coast AONB will be expected to have regard to the Solway Coast AONB Landscape Character Assessment".

- 7.25 The Solway Coast AONB Unit has been consulted on the application. It notes that the property has historic and visual value and new development which obscures the façade and frontage of the house would be detrimental to the special character of the built environment of the village. Furthermore, the number of new buildings proposed would class as over-development on this site. A restricted view of the historic property and its garden is not appropriate for a development in the designated landscape and conservation area. Development of two buildings in front of the house would hide the building to such an extent that the impact of the façade would be lost completely, even if small parts of the masonry in places was still visible. As well as being in an Area of Outstanding Natural Beauty, the development site is in a Conservation Area, so new development of this scale would be likely to adversely affect the significance of the character of the wider village setting.
- 7.26 The AONB Unit notes that the building and grounds are in a poor / overgrown state of repair and appreciate that the developer has stated their intention to renovate and manage this. Renovation should be a strict condition of any planning permission, as further disrepair or destruction would be a huge loss to the historic village character and its landscape.
- 7.27 The preservation of historic trees is important given the character of the property and the existing preservation order on many of the trees. However, the AONB Unit note that the garden has become very overgrown and some of the trees look unsafe. Therefore, it recommends that the tree survey is reviewed and brought up to date and appropriate conservation is taken in accordance with this.
- 7.28 In light of the above, the proposal would have an adverse impact on the Solway Coast AONB, contrary to Policy GI2 of the adopted Local Plan.

#### 4. Impact On The Hadrian's Wall WHS Buffer Zone

- 7.29 Policy HE1 deals with Hadrian's Wall World Heritage Site. This states that "Proposed development in the buffer zone should be assessed for its impact on the site's Outstanding Universal Value and particularly on key views both into and out of it. Development that would result in substantial harm will be

refused...Where development proposals would result in less than substantial harm to the site's Outstanding Universal Value, this harm will need to be assessed against the public benefit by way of reference to the above objectives".

- 7.30 Historic England has been consulted on the application and has not raised any concerns about the impact of the proposals on the Hadrian's Wall WHS Buffer Zone. Historic England has, however, expressed concerns about the impact on the proposals on archaeology and this is covered in Section 11 below.

## 5. Layout, Scale And Design

- 7.31 Policy HO3 (Housing in Residential Gardens) states that proposals for housing development in existing gardens will be permitted providing that a number of a number of criteria are met including: 1. the scale, design and siting of the proposal would not result in a cramped form of development out of character with the surrounding environment; 2. a safe and attractive garden area, which reflects that predominant in the area, can be created for both the proposed new house and the existing house; and 4. there is no unacceptable loss of living conditions to surrounding properties by overlooking, loss of light, overbearing nature of the proposal or increase in on street parking.
- 7.32 Two dwellings would be located to the front of Marsh House, with two being located to the rear. Unit 1 would be located in the north-east corner of the site, with Plot 2 being located in the north-west corner. Unit 1 would be a three-bedroom dwelling, with the ground floor containing a kitchen/ dining area, a living area, a bedroom/ study, a utility and a WC, with the first floor containing two en-suite bedrooms. The front elevation would contain a two-storey gable, the main entrance which would be covered by a catslide roof and a flat roof dormer window. The rear elevation would contain a two-storey gable, that would have patio doors, with a single window being located at first-floor level. Units 4 and 5 would be the same design as Unit 1, but Unit 5 would have two rooflights in place of a flat roof dormer in the front elevation and the ground floor bedroom/ study window would be relocated from the front elevation to the side (east) elevation.
- 7.33 Unit 2 would have two-storey gable to the front and rear elevations, with the front elevation containing two flat roof dormer windows. The rear elevation would contain patio doors that would be angled to face south-east and an oriel window
- 7.34 The dwellings would be constructed of a combination of Burgh colour brick (orange to red brown) and render, with buff sandstone and buff brick surrounds under Welsh blue slate roofs, laid in diminishing courses. Windows would be timber sliding sash double glazed units painted light grey, with the dormer windows being constructed of Western Red Cedar. Gutters would be extruded aluminium with rainwater pipes being cast aluminium, powder coated in black.

- 7.35 A new access would be created onto the C2042 and this would be located between Units 1 and 2. The access would run adjacent to the western side elevation of Marsh House and would provide access to a parking area to the rear of Marsh House and to Units 4 and 5. Each dwelling would have two in-curtilage car parking spaces. A visitor parking area for 5 cars would also be created to the west of Marsh House.
- 7.36 The proposals also include the repair and renovation of Marsh House. The application makes reference to the removal of dilapidated outbuildings at Marsh House.
- 7.37 The existing holly and laurel hedgerow that forms the front boundary of the property would be cut back with additional planting to extend the hedgerow around the radius of the new entrance. The two holly trees that would lie to the front of Unit 2 would be retained and crown lifted so that a path could be created beneath the trees. The existing red horse chestnut, yew and holly that lie near to the boundary with Station Road would be retained. A large number of the existing trees would be removed and would be replaced by new planting.
- 7.38 The Council's Heritage Officer and the Solway Coast AONB Unit have raised concerns about the layout and scale of the proposed development and their concerns are set out above. The Heritage Office considers that whilst the individual proposed dwellings appear to be well-composed and with a sympathetic palate of materials, there are concerns over the density of the proposed development, in particular to the poor relationship of outdoor space afforded to each unit. Units 2 and 5 in particular have very limited external space, with Marsh House having limited private enclosed space, with its rear aspect separated by a small lawn and hedge from the access road serving Units 4 and 5. The overall impression is of a site crammed to maximum density, inappropriate within the context of Burgh-by-Sands, and with the host villa subsumed among the new units and their access road.
- 7.39 The AONB Unit also considers that new development which largely obscures the façade and frontage of Marsh House would be detrimental to the special character of the built environment of the village. Furthermore, the number of new buildings proposed would class as over-development on this site. As well as being in an Area of Outstanding Natural Beauty the development site is in a Conservation Area, so new development of this scale would be likely to adversely affect the significance of the character of the wider village setting.
- 7.40 In light of the above, the proposal would lead to an over-development of the site, contrary to Policies HO3 and SP6 of the adopted Local Plan.

## 6. Impact On Residential Amenity/ Future Occupiers

- 7.41 Criterion 7 of Policy SP6 (Securing Good Design) states that proposals should "ensure that there is no adverse effect on the residential amenity of existing areas, or adjacent land uses, or result in unacceptable conditions for

future users and occupiers of the development. Criterion 4 of Policy HO3 seeks to ensure that there is no unacceptable loss of living conditions to surrounding properties by overlooking, loss of light, overbearing nature of the proposal or increase in on street parking. The Council's SPD on Achieving Well Designed Housing indicates that there should be a 21m separation distance between primary windows and 12m between primary windows and blank gables.

- 7.42 In the plans originally submitted, Unit 2 had a first floor primary window within a rear elevation which would be less than 16m away from the front elevation of Marsh House, with Unit 4 having a first floor primary window within 18m of the rear elevation of 2 Station Road Cottages. Whilst Unit 5 would not lie directly to the rear of Marsh House, it originally had a dormer window approximately 12m away from the rear elevation of Marsh House which would allow overlooking.
- 7.43 The plans have been amended to change the internal layout of Unit 2 so that there are no primary windows at first floor level facing Marsh House; to remove the dormer window in the front elevation of Unit 5 and to replace it with two rooflights; and to move the ground floor bedroom/ study window from the front elevation to the side elevation. Whilst the first floor primary window within Unit 4 would be retained, a condition could be added to any consent to ensure this window was obscure glazed.
- 7.44 The separation distances between existing and proposed dwellings would now be acceptable and the proposal (subject to the imposition of conditions) would not have an adverse impact on the living conditions of the occupiers of any neighbouring properties through loss of light, loss of privacy or over-dominance.
- 7.45 The occupiers of neighbouring dwellings have raised concerns about the impact of the derelict Marsh House and the overgrown trees on their properties. It is acknowledged that the granting of this permission would lead to the renovation of Marsh House and maintenance works to the trees. However, a revised scheme which reduced the number of dwellings on site would also have these benefits whilst improving the amenity of neighbouring properties (when compared to the existing proposals) and without causing harm to the Conservation Area and AONB.

## 7. Impact On Trees

- 7.46 There are 33 trees to the front of the property that are protected by a Tree Preservation Order (TPO-214 - T1 a Wellingtonia, T2 a Lime and 31 trees that lie within Group G1 - 5 Sycamore, 12 Holly, 1 Cherry, 1 Hemlock, 2 Red Horse Chestnut, 3 Western Red Cedar, 1 Birch, 2 Ash, 1 Lawson Cypress, 1 Lime, 1 Yew and 1 Beech). To the rear of the dwelling 9 trees are protected by TPO-208 (T1 & T4 Fir, T2 & T3 Wellingtonia, T5-T8 Sycamore and T9 Lime. There are also other trees within the site that are protected by their siting within a conservation area.

- 7.47 The agent has submitted an updated Tree and Hedgerow Survey. This notes that Marsh House occupied a much larger plot of approximately 1.2 hectares and this contained exotic tree species of a scale to match (e.g. Wellingtonia/ Giant Redwood, Noble Fir and Hemlock). The garden has been significantly reduced in size, with part being redeveloped for housing at Station Road, Marsh House Gardens and Southfield. This has resulted in a high degree of overshadowing arising from the over-scale and maturity of the trees. Something needs to be done to address the age, size and condition of the trees in relation to the safety of residents, neighbours and users of the roads. The Tree and Hedgerow Survey notes that what was once neat hedging to the boundaries has almost entirely grown into fairly large individual trees that have become deformed due to planting constriction and competition. The new scheme would remove overgrown hedge trees and be replanted to regain visual control.
- 7.48 The Tree and Hedgerow Report concludes that the TPO's do not give sufficient regard to the condition of the individual trees and seeks to preserve the visual environment by general designation only. This is a short sighted option because sooner or later pruning/removals will be required. When there are 33 trees in a garden this can be unreasonable and onerous for a resident to manage. The combination of overgrown hedging, poor tree condition, age and growth beyond original intended planting effect supports the application as removals and re-planting will be inevitable with or without a development approval. The visual environment can be enhanced by a suitable new planting scheme with replacement hedging, retention of selected existing healthy trees and the planting in new gardens of native tree species.
- 7.49 The agent has also submitted a Pre-development Arboricultural Report (dated August 2011) that was submitted with the planning application in 2012 that sought to extend Marsh House to create two dwellings and to erect two new dwellings within the gardens of Marsh House. This noted that there are 33 trees growing in the grounds of Marsh House, some of which are relatively large and many are growing along the site boundary and the majority of these would be retained. To implement the proposals in the 2012 application, ten trees would have had to be removed but these were mainly relatively small and obscured from public view by the boundary trees that were to be retained. The tree report noted that many of the trees growing within grounds of Marsh House are poor specimens and it may be prudent to remove up to another nine trees and replace them where appropriate.
- 7.50 The Council's Tree Officer has been consulted on the application. This application, provides an excellent opportunity to reflect on the current tree condition. Developed/ planted presumably in the mid to late 1800 the original garden area was apparently much larger and for 75 years plus, the trees were proportional to the surrounding landscape. Since then, a combination of excessive growth by non-native imports such as Giant Redwoods and additional natural regenerated trees has created somewhat of a mis-managed eyesore, at difference to the beauty of Burgh-by-Sands. The visual impact has grown worse over years as the larger area diminished through



time. A report in 2011, by Treescapes Consultancy Ltd., appears to identify the need for substantial tree and shrub management including felling and the situation has not improved over the subsequent 13 years. This application serves a useful purpose in identifying this tree problem and an opportunity to pursue tree management, irrespective of the planning outcome.

- 7.51 Since the trees were planted, albeit with good intention, their lack of maintenance combined with growth will inevitably cause concerning problems to the local original houses such as Marsh House, Marsh Cottage, The Old Orchard, Marsh Terrace, 1 & 2 Station Road Cottages and Walton House. Problems such as damage to property and people from falling branches, problems with United Utilities services and BT overhead cables and continuing flooding possibilities at the bottom of Station Road due to leaves in the gullies, are possibly inevitable. If the application is not approved, authorities need to address the tree management issues along with the renovation of Marsh House, by the owner. The introduction of additional Tree Preservation Orders in 2006, should not be an excuse to support and allow the area to visually deteriorate, whilst creating a possible safety risk to those who live there.

## 8. Highway Matters

- 7.52 The proposal is seeking to close the existing vehicular access on to Station Road and to introduce a new access midway along the site frontage on to the C2042. The Design & Access Statement notes that the proximity of the new access and Station Road may be closer than design guidance would ideally require but given the improved arrangement, the good visibility and the low numbers of dwellings served it is considered that this would be acceptable. A closer configuration was approved for the new development at West End Croft it appears without issue. The available exit sight lines are good and sit within the recommendations of the Cumbria Development Design Guide 2017. The proposed internal layout would comprise a shared access way of 5m in width and car parking provision would be two spaces per dwelling, with five additional visitor spaces also being provided within the site.

- 7.53 The Local Highways Authority (LHA) has been consulted on the application. The LHA has no objections to the proposals subject to the imposition of conditions (provisions of visibility splays; construction details of carriageway/footway etc; no vehicular access or egress other than via the approved access; provision of vehicular access and turning areas prior to occupation of the dwellings; and provision of footways to link to the nearest existing footways).

## 9. Drainage Matters

- 7.54 The application is accompanied by a Surface & Foul Water Strategy. The site slopes in the order of 4.8m over a distance of 78m north to south and the drainage schemes would utilise this gradient. Rainwater from roofs would be guttered to gulleys which would feed individual crated soakaway

chambers under the dwellings respective lawn areas. Roadway and patio surfacing would be porous. Overflow from the soakaways would be piped to an area at the south of the site with provision for SuDS chambers. It is intended to restrict the surface water flows to a rate to be agreed with the LLFA if required.

- 7.55 The main village sewer passes through the southern part of the site, east to west, to the treatment works 400m to the north west. To proposed layout would be necessary to divert the main sewer which would be undertaken in conjunction with the requirements of United Utilities. Discharge to the existing foul network could be achieved entirely on-site.
- 7.56 The Lead Local Flood Authority (LLFA) has been consulted on the application. The LLFA is aware that there is a minor surface water flooding issue in the area. The developer is proposing to use soakaways and these should not be installed within 5m of the property or highway. The surface water discharge rate should not be bigger than existing. The surface water run-off should be restricted to greenfield run off only. The drainage would be dealt with by Building Control as the application falls below the threshold.
- 7.57 The LLFA has confirmed that it has no objections to the proposals subject to the imposition of a condition to require the submission of full details of the surface water drainage system (incorporating SUDs features as far as practicable) and a maintenance schedule (identifying the responsible parties) to approval by the LPA.
- 7.58 United Utilities has requested that the applicant provides a detailed drainage plan and that United Utilities has the opportunity to review and comment on this plan prior to the determination of this application. Should planning permission be granted without the provision of this information United Utilities request that a condition is attached to any permission to require details of a sustainable surface water drainage scheme and a foul water drainage scheme to be submitted to and approved in writing by the Local Planning Authority (prior to the commencement of development). This condition requires the drainage scheme to provide details of: existing ground conditions and the potential for infiltration of surface water; a restricted rate of discharge of surface water; levels of the proposed drainage systems, including proposed ground and finished floor levels; and mitigation measures to manage the risk of sewer surcharge where applicable. United Utilities has also requested that the Local Authority should include a condition relating to SuDS management and maintenance for the lifetime of the development.
- 7.59 United Utilities note that a public sewer crosses the site and it would not permit building over this. United Utilities requires an access strip for maintenance or replacement and this access must not be compromised in any way. The minimum distances that might be acceptable to United Utilities are detailed within Part H of the Building Regulations however, United Utilities recommend the applicant determines the precise location, size, depth and condition of the pipeline as this is likely to influence the required stand-off distance from any structure. Based on the information currently

available, it is unclear whether sufficient distance is provided between proposed development features and our wastewater asset. The developer is advised to contact United Utilities Developer Services team to ensure existing wastewater assets, along with its required access widths, can be accommodated in the proposed layout. If the applicant fails to investigate and resolve any concerns prior to a positive determination, there is a risk that as the scheme progresses, the applicant, or any subsequent developer, may discover that their plans are not implementable in their existing form or that diversion of assets is required.

#### 10. Biodiversity

- 7.60 This application was submitted before the statutory requirement to provide 10% biodiversity net gain came into force. Policy GI3 of the adopted Local Plan does, however, require biodiversity across the District to be protected and, where possible, enhanced.
- 7.61 The site contains a number of trees, some of which are in urgent need of maintenance. The proposals would lead to the removal of a number of the trees in the front and rear gardens. A number of new trees would need to be planted to compensate for the loss of any existing trees and a landscaping condition could be added to any permission to secure new tree planting within the site. Conditions could also be added to the permission to ensure that tree protection fencing is installed on site prior to the commencement of development.

#### 11. Archaeology

- 7.62 The site has a high archaeological significance as the presumed course of the Roman vallum of Hadrian's Wall passes directly underneath Marsh House and exists the site in a westerly direction. An archaeological evaluation of the site has previously been carried out and the results revealed no remains of interest within the garden located to the south of Marsh House and probable boundary ditches dating to the Roman and medieval periods located in the garden to the north of the house. Historic England have previously indicated that these archaeological remains are not of sufficient importance to warrant preservation in situ, but are significant enough to merit a full record through the implementation of a programme of archaeological excavation before they are disturbed by the proposed development.
- 7.63 The predicted course of the Roman vallum was not investigated by the earlier archaeological evaluation but, as no evidence of it was found in the evaluation to the north or to the south of Marsh House, it is reasonable to assume that it is located where it is shown on current maps - on a course running underneath Marsh House and exiting the site in a westerly direction. Although not legally protected as a scheduled monument, any buried remains of the vallum that do survive below ground here would be directly associated with the World Heritage Site and would be considered to be of equivalent significance as the scheduled sections of the vallum. Given that

the archaeological assets on the site are potentially of the highest significance, there is a need to understand through the provision of clear information the impact that the proposed scheme will have on them.

- 7.64 The proposed development includes a road, a parking area and new services that cross the predicted course of the Roman vallum. It is uncertain from the submitted information to what extent the construction ground works will disturb the buried remains of the Roman vallum. The Historic Environment Officer, therefore, recommended that further information is supplied by the applicant or their agent to demonstrate the level of impact that the proposed development will have on the significance of the Roman vallum prior to the determination of the application. This information should comprise the depths below existing ground level of all the construction ground works that will be located within the predicted course of the Roman vallum lying to the west of Marsh House including: the proposed road; the parking area and the service trenches.
- 7.65 The additional information submitted shows that the construction of the proposed road and car parking is unlikely to affect any remains of the Roman vallum. The proposed service trenches require a greater depth and may cause a degree of harm to the Roman vallum. Taking in to account the following points, the limited area of impact given the narrow width of the two service trenches and the disturbance that is likely to already have occurred from the buildings which previously stood on the Roman vallum, as shown on historic maps, the Historic Environment Officer considers the degree of harm to be at a tolerable threshold provided a suitable archaeological mitigation scheme is implemented to record any finds or deposits that may be uncovered. The Historic Environment Officer, therefore, recommends that, in the event planning consent is granted, the archaeological remains surviving on the site are subject to archaeological investigation and recording in advance of development. This programme of archaeological work should be commissioned and undertaken at the expense of the developer and can be secured through the inclusion of conditions in any planning consent.
- 7.66 In light of the above, subject to conditions (implementation of a programme of archaeological excavation in accordance with a written scheme of investigation and a programme of archaeological post-excavation assessment and analysis, preparation of a site archive ready for deposition at a store, completion of an archive report, and submission of the results for publication in a suitable journal within one year of the date of commencement of development or otherwise agreed in writing by the LPA) the proposals would not have an adverse impact on archeology.

## 12. Nutrient Neutrality

- 7.67 Alongside other local planning authorities, Carlisle City Council has received a letter dated 16th March 2022 from Natural England about nutrient pollution in the protected habitats of the River Eden Special Area of Conservation (SAC). The letter advised that new development within the catchment of

these habitats comprising overnight accommodation (which includes holiday accommodation and ancillary residential accommodation) can cause adverse impacts to nutrient pollution.

- 7.68 Whilst the council assesses the implications of these matters, it cannot lawfully conclude that development within the catchment of the River Eden SAC will not have an adverse effect. Therefore, until these matters are resolved, the council will not be able to grant planning permission for developments comprising overnight accommodation within the affected catchments.
- 7.69 The site lies outside the nutrient neutrality zone and so this issue does not need to be addressed.

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

- 8.1 The site is located within Burgh-by-Sands and is well related to existing housing. The provision of four additional dwellings, the repair and renovation of Marsh House and the management of the existing trees and shrubs on the site should be given significant weight in the determination of the application.
- 8.2 The harm created by the proposal would, however, outweigh the benefits of the proposals. Marsh House is a period dwelling set within landscaped grounds which has a prominent position located within the Burgh-By-Sands Conservation Area and the Solway Coast Area of Outstanding Natural Beauty. The proposal would lead to a cramped development and the introduction of four new dwellings would be an over-development of the site. The proposed redevelopment, by virtue of the number and siting of the dwellings and the removal of trees, would be detrimental to the character of the area contrary to Paras 205-208 of the NPPF; Criteria 1,2 and 3 of Policy HE7 (Conservation Areas), Policy GI2 (Areas of Outstanding Natural Beauty), Policy GI6 (Trees and Hedgerows), Criteria 1 and 2 of Policy HO3 (Housing in Residential Gardens) and Criteria 1 and 4 of Policy SP6 (Securing Good Design) of the Carlisle District Local Plan 2015-2030; the Trees and Development SPD; and the Burgh-By-Sands Design Statement.

## **Recommendation**

It is recommended that this application is refused.

## Appendix 1

### List of Conditions and Reasons

#### Refuse Permission

1. **Reason:** Marsh House is a period dwelling set within landscaped grounds which has a prominent position located within the Burgh-By-Sands Conservation Area and the Solway Coast Area of Outstanding Natural Beauty. The proposal would lead to a cramped development and the introduction of four new dwellings would be an over-development of the site. The proposed redevelopment, by virtue of the number and siting of the dwellings and the removal of trees, would be detrimental to the character of the area contrary to Paras 205-208 of the NPPF; Criteria 1,2 and 3 of Policy HE7 (Conservation Areas), Policy GI2 (Areas of Outstanding Natural Beauty), Policy GI6 (Trees and Hedgerows), Criteria 1 and 2 of Policy HO3 (Housing in Residential Gardens) and Criteria 1 and 4 of Policy SP6 (Securing Good Design) of the Carlisle District Local Plan 2015-2030; the Trees and Development SPD; and the Burgh-By-Sands Design Statement.

#### List of Informatives/Advisory Notes

The development is refused on the basis of the following documents which comprise:

1. the Planning Application Form received 22nd February 2024;
2. the Location Plan (drawing reference PA19/717/04A) received 22<sup>nd</sup> February 2024;
3. the Block Plan (drawing reference PA19/717/03) received 22nd February 2024;
4. the Site Analysis Plan (drawing reference PA19/717/01B) received 22nd February 2024;
5. the Proposed Layout (drawing reference PA19/717/02B) received 16th August 2024;
6. the Historic Mapping (March 2024) received 5th April 2024;
7. the Sections, Plans & Elevations Plan (drawing reference PA19/717/05A) received 19th August 2024;
8. the Pre-development Arboricultural Report received 22nd February 2024;
9. the Archaeological Evaluation received 22nd February 2024;
10. the Ecological Appraisal for Bats received 22nd February 2024;
11. the Contamination Assessment received 22nd February 2024;
12. the Design & Access Statement received 22nd February 2024;
13. the Heritage Statement and Archaeological Assessment received 22nd February 2024;
14. the Nature & Ecological Assessment (revised August 2024) received 16th August 2024;
15. the Surface & Foul Water Strategy received 22nd February 2024;
16. the Tree & Hedgerow Survey received 22nd February 2024;
17. the Draft Written Scheme of Investigation for Archaeological Excavation

received 11th July 2024.  
Reason: To define the refusal.

## **Appendix 2**

Copy of the plans/drawings including red line boundary.