

Date: 25 April 2016



**Please Note The Time and Location Of The Meeting**

Town Hall, Penrith, Cumbria CA11 7QF  
Tel: 01768 817817  
Email: [cttee.admin@eden.gov.uk](mailto:cttee.admin@eden.gov.uk)

Dear Sir/Madam

**Planning Committee Agenda - 4 May 2016**

Notice is hereby given that a meeting of the Planning Committee will be held at 10.00 am on Wednesday, 4 May 2016 at the Temple Sowerby Village Hall.

**1 Apologies for Absence**

**2 Declarations of Interest**

To receive any declarations of the existence and nature of any private interests, both disclosable pecuniary and any other registrable interests, in any matter to be considered or being considered.

**3 Planning Issues: Site Visit (Pages 3 - 10)**

To consider the following application which has been the subject of a site visit:

Application Number    Reserved Matters Application for Access, Appearance,  
16/0036                      Landscaping, Layout and Scale Relating to Outline  
                                    Planning Permission 14/1082

Site Adjacent to Whinfell Spinney, Temple Sowerby

JIW Properties Ltd

**4 Demolition of Shed and Erection of Single Detached Dwelling, Land at Elseghyll, Rear of Elseghyll Court, Melmerby (Pages 11 - 20)**

To consider the report of the Head of Planning Services which provides planning conditions for approval following Members initial indication that they may wish to approve the application considered at the meeting on 21 April 2016, contrary to officer advice.

**5 Any Other Items which the Chairman decides are urgent**

Yours faithfully



Robin Hooper  
Chief Executive

Democratic Services Contact: Charlotte Alderson

**Please Note: Access to the internet in the Council Chamber and Committee room is available via the guest wi-fi – no password is required**

Encs

### **Background Papers**

Item 3 and 4 Application files, letters of consultation, objection and support, internal memoranda and officers' notes.

### **For Attention**

All members of the Planning Committee, ie

**Chairman** – Councillor W Patterson (Independent Group)

**Vice Chairman** – Councillor J G Thompson (Conservative Group)

### **Councillors**

A Armstrong, Conservative Group  
I Chambers, Conservative Group  
Miss M Clark, Independent Group  
D Holden, Liberal Democrat Group  
Mrs V Kendall, Conservative Group

J C Lynch, Conservative Group  
Mrs E Martin, Conservative Group  
H Sawrey-Cookson, Independent Group  
J Tompkins, Liberal Democrat Group

### **Standing Deputies**

M Eyles, Liberal Democrat Group  
Ms P Godwin, Independent Group  
A Hogg, Conservative Group  
R Howse, Liberal Democrat Group

S Jackson, Conservative Group  
K Morgan, Independent Group  
Mrs S Orchard, Conservative Group  
M Smith, Independent Group

**Please note that only members who attended the meeting on 21 April 2016 can take part in the discussions and vote on item 4.**

**For information – All remaining members of the Council**

**Date of Committee:** 04 May 2016

**Planning Application No:** 16/0036 **Date Received:** 12 January 2016

**OS Grid Ref:** 361358 526641 **Expiry Date:** 8 March 2016

**Parish:** Temple Sowerby **Ward:** Kirkby Thore

**Application Type:** Reserved Matters

**Proposal:** Reserved Matters Application for Access, Appearance, Landscaping, Layout and Scale Relating to Outline Planning Permission 14/1082

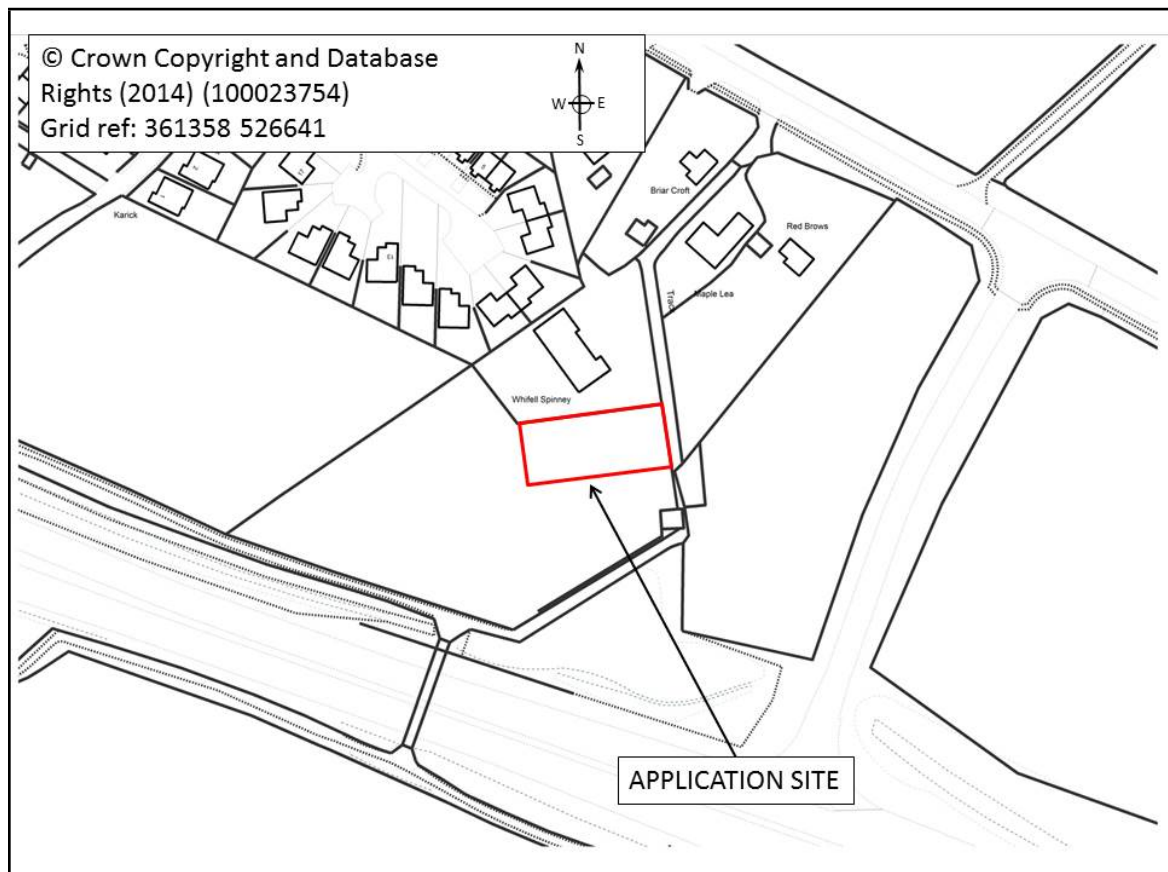
**Location:** Site Adjacent Whinfell Spinney, Temple Sowerby

**Applicant:** JIW Properties Ltd

**Agent:** Mr Graham Norman (Architect) Ltd

**Case Officer:** Ms Rachel Lightfoot

**Reason for Referral:** The officer recommendation to approve is contrary to the view of the Parish Council



## 1. Recommendation

It is recommended that planning permission be granted subject to the following conditions:

### Approved Plans

1. The development hereby granted shall be carried out in accordance with the drawings hereby approved:
  - i) Location Plan, drawing number 114-160A-01, received 12 January 2016
  - ii) Proposed Site Plan, drawing number 114-160B-05, received 26 February 2016
  - iii) Proposed Site Plan, drawing number 114-160A-02, received 12 January 2016
  - iv) Proposed Plan and Elevations, drawing number 114-160A-03, received 12 January 2016
  - v) Proposed Plan and Elevations, drawing number 114-160A-04, received 12 January 2016

**Reason:** To ensure a satisfactory development and to avoid any ambiguity as to what constitutes the permission.

### Pre-Occupancy or Other Stage Conditions

2. Prior to any construction works relating to the house are undertaken details of noise mitigation measures to be included with the design and construction of the house shall be submitted to and approved in writing by the Local Planning Authority.

**Reason:** to protect the amenity of the future occupiers of the house.

3. Prior to occupation, the entire access road shall be resurfaced in a hard bound material and passing places provided as shown on drawing 114-160B-05. The passing places shall be retained as such during the lifetime of the development at the access road maintained at the distances shown on drawing 114-160B-05.

**Reason:** In the interests of highway safety.

4. Full details of the drainage shall be submitted to and approved in writing by the local planning authority prior to the erection of any superstructure. Foul drainage shall be on a separate system with surface water being disposed of in the most sustainable way in accordance with the surface water hierarchy outlined in Building Regulation H3.

**Reason:** In the interests of achieving an acceptable form of development.

<b>Note to Developer:</b>	<p>PROW (number 368004) lies adjacent to/runs through the site. The Applicant must ensure that no obstruction to the footpath occurs during, or after the completion of the site works.</p> <p>As the construction method is likely to affect the footpath, the applicant may have to have it closed for the duration of the works by means of a temporary traffic regulation order. An application for this should be made to Sandra Pattinson email: Sandra.Pattinson@cumbria.gov.uk, Tel 01228 221884. A minimum notice period of 14 weeks is required to process any application.</p>
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## 2. Proposal and Site Description

### 2.1 Proposal

- 2.1.1 This application was originally scheduled to be heard at Planning Committee on 21 April 2016. At the Planning Committee meeting it was held that a site visit was necessary to consider the details of the application. This site visit was scheduled for 04 May 2016.
- 2.1.2 The proposal relates to the provision of a dwelling on a site which benefits from outline planning permission granted under 14/1082 for the erection of one dwelling.
- 2.1.2 The proposed dwelling is a two storey four bedroomed house. The proposed materials are brickwork to the walls and natural stone lintels and cills. Roofing is to be constructed in natural slate.

### 2.2 Site Description

- 2.2.1 The site is located towards the southern edge of Temple Sowerby and is relatively flat to the eastern edge however drops steeply towards to west of the field towards the A66. The site is not covered by any designations.
- 2.2.2 A public right of way runs along the access leading from the A66 to the site.

## 3. Consultees

### 3.1 Statutory Consultees

Consultee	Response
Local Highway Authority	No objection although a condition is required in relation to the PRow and also note that the minimum width required for an emergency vehicle (fire appliance) is 3.7m (the track does not meet this requirement).

### 3.2 Discretionary Consultees

Consultee	Response
Parish Council	Objection

## 4. Parish Council/Meeting Response

Parish Council/Meeting	Please Tick as Appropriate			
	Object	Support	No Response	No View Expressed
Temple Sowerby	✓			

- 4.1 “After consideration of the above two planning applications we would like to place an objection to both applications on the following grounds.

### **Width of access road and turning space**

*We are concerned that the width of the proposed new route to the properties will be inadequate and also that there is no provision for a turning head at the end of the cul-de-sac. There are certainly no passing places. We would like assurances from Cumbria County Council Highways Department that it will satisfy their access criteria. The current proposed access arrangement does not in our opinion provide sufficient provision for services such as refuse collection and recycling and more importantly emergency services in particular fire and ambulance.*

### **Safety for pedestrians**

*The extension of the current access road will result in a sharp right hand bend to the new properties. This is a popular and frequently used public footpath as it leads down to the River Eden. The proposed changes will increase the number of vehicles using the access but will also result in a potential danger spot at the area where the road will turn sharply. This section of the route will have poor visibility and, as it seems unlikely that there is adequate width to have a separate footpath, it will increase the risk of accidents.*

### **Noise**

*The maximum recommended noise level outside a residential property is 45dB, a passing HGV produces 90dB. Given the proximity of the A66, Temple Sowerby Parish Council feel it pertinent that noise levels within the proposed property be looked into before any application is determined in order to ensure the health of future residents is protected.”*

## 5. Representations

- 5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on 22 January 2016.

<b>No of Neighbours Consulted</b>	11	<b>No of letters of support</b>	0
<b>No of Representations Received</b>	3	<b>No of neutral representations</b>	0
<b>No of objection letters</b>	3		

5.2 Letters of objection raised the following material considerations to the application:

- Highway safety and lack of passing places;
- Increase in vehicles using the lane;
- The two storey house would be out of character with the adjacent bungalow;
- Concern over foul drainage;
- Impact on residential amenity.

5.3 Letters of objection raised the following non-material considerations:

- It may be used as a guest house

## **6. Relevant Planning History**

<b>Application No</b>	<b>Description</b>	<b>Outcome</b>
14/1082	Outline Application for a Residential Dwelling with all Matters Reserved	Approved with conditions

## **7. Policy Context**

### **7.1 Development Plan**

#### **Core Strategy DPD Policy:**

- CS7 - Principles for Housing
- CS18 - Design of New Development

#### **Supplementary Planning Documents:**

- Housing (2010)

### **7.2 Other Material Considerations**

#### **National Planning Policy Framework:**

- Delivering a wide choice of high quality homes
- Requiring good design

## **8. Planning Assessment**

### **8.1 Key/Main Planning Issues**

8.1.1 The main issues which arise as a consequence of this application are considered to be:

- Impact on neighbours;
- Acceptability of design.

### **8.2 Principle**

8.2.1 The principle of housing has been established through the granting of outline planning permission for a residential property. The application was made with all matters reserved but included a plan which showed the footprint of the dwelling which has formed the basis of this application.

8.2.2 As an extant outline is in place the principle is acceptable.

### **8.3 Landscape and Visual Impacts**

8.3.1 The site is located at the edge of an existing residential area with restricted public views from the road through Temple Sowerby. It would currently be visually accessible from the A66 Temple Sowerby by-pass but this will be lessened by the planting which is currently growing to mitigate views of the by-pass from the village.

8.3.2 It is considered that the site would not give rise to unacceptable visual impacts.

### **8.4 Residential Amenity**

8.4.1 The neighbouring property has raised issues of the proposed house being out of character with the adjacent bungalow. The area is mixed in terms of single and double storey with the predominant built form being two storey. The site is to the south of the existing bungalow known as Whinfell Spinney with approximately 9.9m separation at its nearest point and 13m at the extent of the two storey element. It is considered that the placing of the proposed dwelling will minimise any overshadowing. There are no proposed windows in the elevation which overlooks Whinfell Spinney with the exception of bathroom windows which would be obscured. It is therefore considered that residential amenity would be maintained.

8.4.2 A noise assessment has been carried out at the neighbouring site (proposed for housing under planning reference 16/0044). The noise report concluded that the house can be occupied with modifications to ensure that habitable rooms are not unacceptably impacted by the proximity of the A66. A condition has been added to this permission which requires a detail mitigation strategy to be submitted to and approved in writing by the Local Planning Authority demonstrating how the proposed house will be able to mitigate the noise impact from the A66.

### **8.5 Infrastructure**

8.5.1 The Highway Authority has no objection to the scheme as the application would not result in more than five dwellings being access via a private road.

8.5.2 The current access road is muddy and unsurfaced, the applicant has indicated that the road would be surfaced and that an access of not less than 3.542m at its narrowest point can be achieved. Areas wide enough for passing have been identified on a plan. A condition relating to the surfacing of the road has been placed on any approval.

### **8.6 Natural Environment**

8.6.1 There are no implications on the Natural Environment which have been identified.

### **8.7 Built Environment**

8.7.1 The proposal is for a two storey dwelling with a two storey double garage which takes a lower ridge line than the house. Whilst the adjacent house is single storey, other houses in the vicinity are two storey and in an area which displays a mixture of character, design, materials and storey height, it is considered that the use of a two storey property is acceptable.



## **9. New Homes Bonus**

- 9.1 The prospect of receiving a Bonus is, in principle, capable of being taken into account as a 'material consideration' in determining a planning application. Whether potential Bonus payments are in fact a material consideration in relation to a particular application will depend on whether those payments would be used in a way which is connected to the application and to the use and development of land. For example, potential Bonus payments could be a material consideration if they were to be used to mitigate impacts resulting from development. But if the use to which the payments are to be put is unclear or is for purposes unrelated to the development concerned a decision maker would not be entitled to take them into account when making a decision on a planning application. In this particular case, there are no plans to use the New Homes Bonus arising from this application in connection with this development.

## **10. Implications**

### **10.1 Legal Implications**

- 10.1.1 The following matters have been considered but no issues are judged to arise.

### **10.2 Equality and Diversity**

- 10.2.1 The Council must have regard to the elimination of unlawful discrimination and harassment, and the promotion of equality under the Equality Act 2010.

### **10.3 Environment**

- 10.3.1 The Council must have due regard to conserving bio-diversity under the Natural Environment and Rural Communities Act 2006.

### **10.4 Crime and Disorder**

- 10.4.1 Under the Crime and Disorder Act 1998, the Council must have regard to the need to reduce crime and disorder in exercising any of its functions.

### **10.5 Children**

- 10.5.1 Under the Children Act 2004, the Council has a duty to safeguard and promote the welfare of children in the exercise of any of its functions.

### **10.6 Human Rights**

- 10.6.1 In determining applications, the Council must ensure that all parties get a fair hearing in compliance with the provisions of Article 6 under the European Convention on Human Rights, as now embodied in UK law in the Human Rights Act 1998.

## 11. Conclusion

11.1 It is considered that the proposal accords with the Development Plan for the following reasons which are not outweighed by material considerations:

- The proposal benefits from outline planning permission which establishes the principle of development and the detailed design submitted at this reserved matters stage is considered acceptable.

Gwyn Clark  
Head of Planning Services

Checked by or on behalf of the Monitoring Officer	✓
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**Background Papers:** Planning File

**Date of Committee:** 04 May 2016

**Planning Application No:** 16/0017 **Date Received:** 7 January 2016

**OS Grid Ref:** 361687 537257 **Expiry Date:** 4 March 2016

**Parish:** Ousby **Ward:** Hartside

**Application Type:** Full

**Proposal:** Demolition of Shed and Erection of Single Detached Dwelling

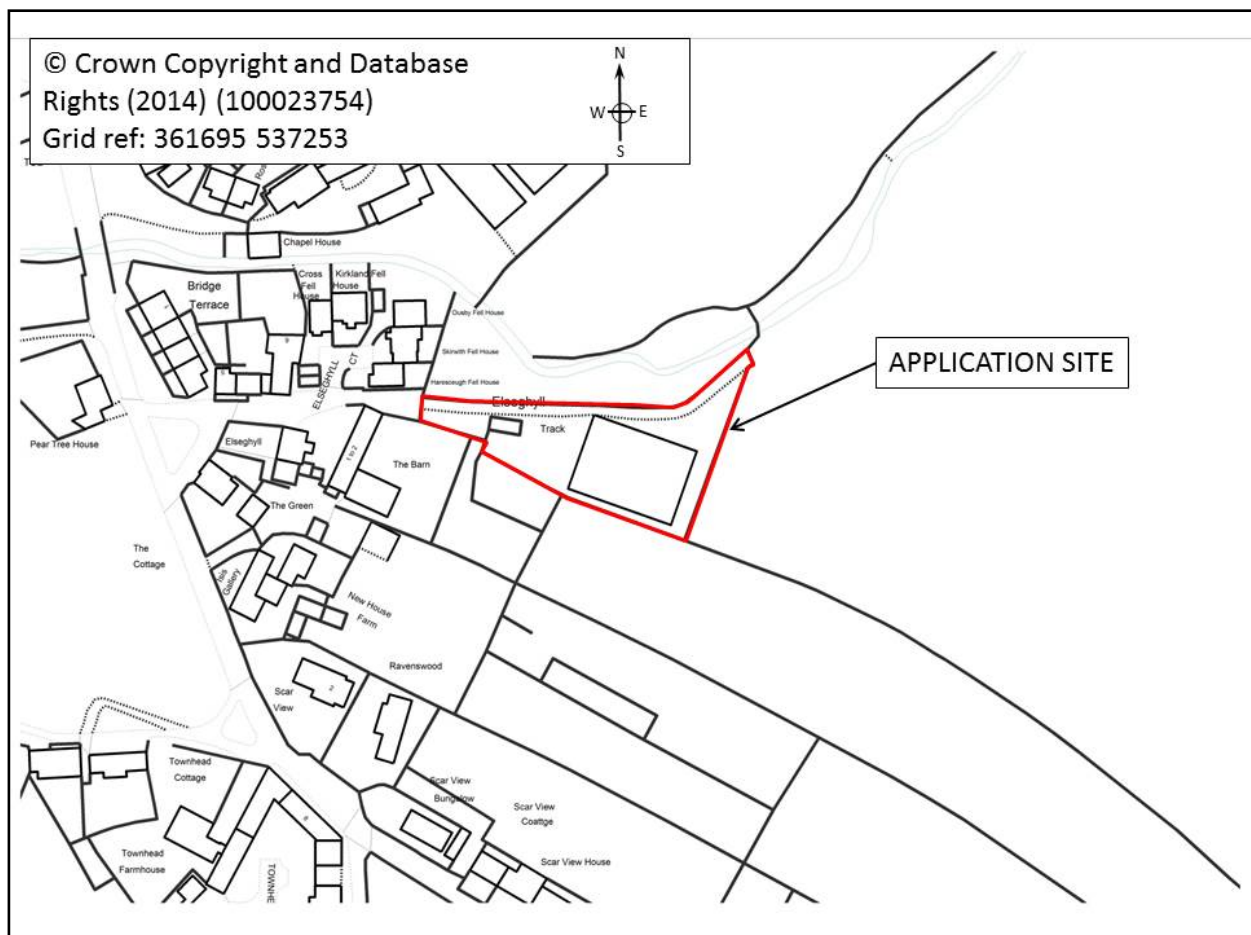
**Location:** Land at Elseghyll, Rear of Elseghyll Court, Melmerby

**Applicant:** Ms E Mark

**Agent:** Mr A Willison-Holt

**Case Officer:** Ms Rachel Lightfoot

**Reason for Referral:** To allow Members to consider the application further and to provide conditions should Members remain minded to approve the application contrary to Officer advice.



## 1. Recommendation

### Either

(a) That planning permission be refused for the following reason as originally recommended to Members at Planning Committee on 21 April 2016.

1. The proposed dwelling is considered to be outside the village boundary, physically and visibly distinct from Melmerby and within the open countryside. No exceptional justification for the dwelling has been made to override planning policy which seeks to control housing in the open countryside and the proposal is therefore contrary to Core Strategy policies CS2, CS7 and CS9 of the Eden Core Strategy and Para 55 of the National Planning Policy Framework.

### Or

Should Members remain minded to approve the application, that the application be approved subject to the provision of a Unilateral Undertaking to secure a 3% financial contribution to the Council's affordable housing fund and subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.  
**Reason:** In order to comply with the provisions of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development hereby granted shall be carried out in accordance with the drawings hereby approved:
  - i. Location Plan reference L1/15/0612 received February 2016
  - ii. Proposed Elevations reference L2/15/1610 received February 2016
  - iii. Proposed Floor Plans and Section reference L5/16/0102 received February 2016**Reason:** To ensure a satisfactory development and to avoid any ambiguity as to what constitutes the permission.

## 2. Report Details

- 2.1 At the Planning Committee meeting on 21 April 2016 Members were recommended to refuse planning application 16/0017 for the reasons set out above and based on the assessment of the application as set out in the original committee report included as Appendix A to this report.
- 2.2 The application seeks to demolish an existing shed on the site and construct a two storey detached dwelling. The proposal includes parking/turning area and an area of garden ground.
- 2.3 Justification for the location and provision of the dwelling is put forward on the basis that the site is within the village of Melmerby where new housing is supported in principle.
- 2.4 There have been no changes to the application since it was originally considered by Members at the Planning Committee on 21 April.
- 2.5 Officers remain of the opinion that the application fails to comply with the development plan as it relates poorly to village of Melmerby – it being physically and

visibly distinct from Melmerby and within the open countryside. In addition to not complying with the development plan officers are of the view that there are no material planning considerations which would outweigh this and therefore the reason of refusal provided is appropriate in this case.

### **3. Reason for refusal**

- 3.1 The application is recommended for refusal on the basis that the site is considered to be outside the village boundary, physically and visibly distinct from Melmerby and within the open countryside.

### **4. The Development Plan and Material Considerations**

- 4.1 Members are reminded that they are entitled to depart from the professional advice of officers but only where there is good reason to do so based on clear and legitimate material considerations and the Committee is required to provide clear justification on planning grounds for their decision.
- 4.2 Members are reminded that the personal circumstances of applicants insofar as they relate to their local connection to the village, their desire to live in the village etc are not relevant to the consideration of this application.

### **5. Implications**

#### **5.1 Legal Implications**

- 5.1.1 The following matters have been considered but no issues are judged to arise.

#### **5.2 Equality and Diversity**

- 5.2.1 The Council must have regard to the elimination of unlawful discrimination and harassment, and the promotion of equality under the Equality Act 2010.

#### **5.3 Environment**

- 5.3.1 The Council must have due regard to conserving bio-diversity under the Natural Environment and Rural Communities Act 2006.

#### **5.4 Crime and Disorder**

- 5.4.1 Under the Crime and Disorder Act 1998, the Council must have regard to the need to reduce crime and disorder in exercising any of its functions.

#### **5.5 Children**

- 5.5.1 Under the Children Act 2004, the Council has a duty to safeguard and promote the welfare of children in the exercise of any of its functions.

#### **5.6 Human Rights**

- 5.6.1 In determining applications, the Council must ensure that all parties get a fair hearing in compliance with the provisions of Article 6 under the European Convention on Human Rights, as now embodied in UK law in the Human Rights Act 1998.

### **6. Conclusion**

- 6.1 It is considered that the proposal does not accord with the Development Plan for the following reasons which are not outweighed by material considerations:

The proposed dwelling is considered to be outside the village boundary, physically and visibly distinct from Melmerby and within the open countryside. No exceptional justification for the dwelling has been made to override planning policy which seeks to control housing in the open countryside and the proposal is therefore contrary to Core Strategy policies CS2, CS7 and CS9 of the Eden Core Strategy and Para 55 of the National Planning Policy Framework.

Gwyn Clark  
Head of Planning Services

Checked by or on behalf of the Monitoring Officer	✓
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**Background Papers:** Planning File

Appendix A: Original Committee Report Dated 21 April 2016

**Date of Committee:** 21 April 2016

**Planning Application No:** 16/0017 **Date Received:** 7 January 2016

**OS Grid Ref:** 361687 537257 **Expiry Date:** 4 March 2016

**Parish:** Ousby **Ward:** Hartside

**Application Type:** Full

**Proposal:** Demolition of Shed and Erection of Single Detached Dwelling

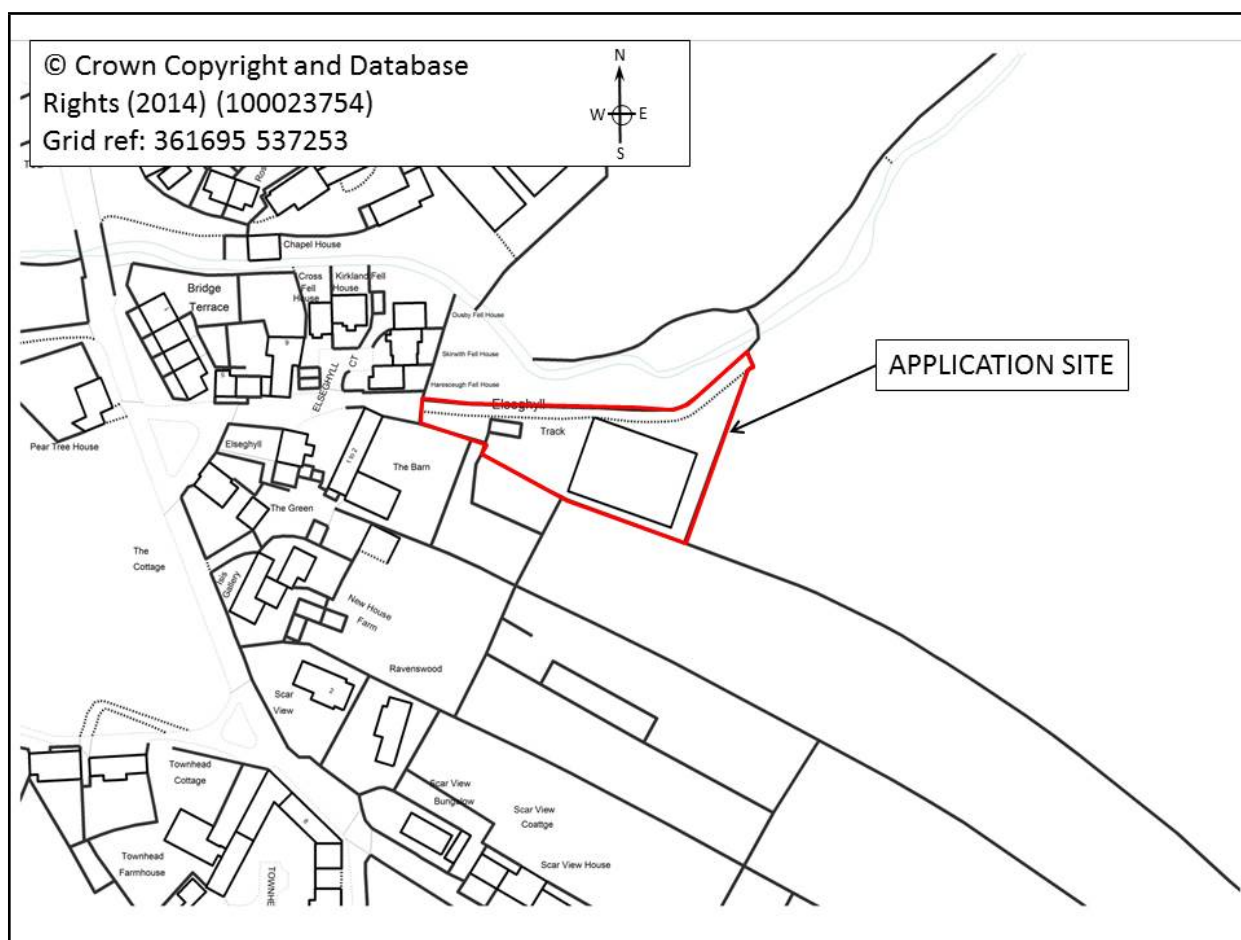
**Location:** Land at Elseghyll, Rear of Elseghyll Court, Melmerby

**Applicant:** Ms E Mark

**Agent:** Mr A Willison-Holt

**Case Officer:** Ms Rachel Lightfoot

**Reason for Referral:** The application has been requested to be heard at Planning Committee by a local Councillor.



## 1. Recommendation

It is recommended that planning permission be refused for the following reasons:

- 1) The proposed dwelling is considered to be outside the village boundary, physically and visibly distinct from Melmerby and within the open countryside. No exceptional justification for the dwelling has been made to override planning policy which seeks to control housing in the open countryside and the proposal is therefore contrary to Core Strategy policies CS2, CS7 and CS9 of the Eden Core Strategy and Para 55 of the National Planning Policy Framework.

## 2. Proposal and Site Description

### 2.1 Proposal

- 2.1.1 The proposal seeks to replace an existing barn with a new house. The barn as existing is used as a private storage area having previously been in agricultural use. The applicant's agent advises that the building has been used for storage since 2003 although no planning application has been received for a change of use.
- 2.1.2 The proposed house is a three bed two storey building. It is situated partly within the footprint of the existing building. The proposed house is open market ie no restriction on occupation or use.

### 2.2 Site Description

- 2.2.1 The site is currently occupied by an agricultural building and external hardstanding area. Access to the site is achieved via an existing track between houses. The site is considered to be separated from the village by the existence of the gap of approximately 70m from the rear of the property known as the Barn and approximately 100m from the rear boundary of the property known as Harescuegh House.
- 2.2.2 The site is adjacent to Elseghyll stream and is partially within Flood Zone 2. The site itself is relatively level with the land rising to the rear. The site is within the North Pennines Area of Outstanding Natural Beauty (the AONB).

## 3. Consultees

### 3.1 Statutory Consultees

Consultee	Response
Highway Authority	No response.
Environment Agency	The site lies within Flood Zone 2 and therefore will need to adhere to the Agency's standing advice.

### 3.2 Discretionary Consultees

Consultee	Response
Parish Council	Objection (set out fully below)
AONB	Comments only (set out fully below)

The following are detailed responses as outlined above:

- 3.2.1 **AONB** - The proposed development falls within the protected landscape of the North Pennines AONB (though the D&A statement infers otherwise - a common mistake in Melmerby) so section 85 of CROW, 115 of the NPPF apply. If approved, the dwelling should follow best practice found in the specific planning documents for the AONB (adopted as SPD for Eden District)



#### 4. Parish Council Response

Parish Council	Please Tick as Appropriate			
	Object	Support	No Response	No View Expressed
Ousby Parish Council	✓			

- 4.1 “The Parish Council considered the detailed application for construction of a single dwelling at its meeting on 3 February 2016.

The Council agreed the site as being suitable for development for a single dwelling.

It was however, resolved to **OBJECT** to the detailed planning application on the following grounds:

1. Concern as to surface water and foul sewage consequent on construction of a dwelling. It was understood that the surface water and foul sewage drainage serving the Elsegthyll houses already constructed flood the yard, including with foul sewage, especially when there has been heavy rainfall. It was felt that this issue for a new property needed to be addressed as part of the Application.
2. The scale of the proposed dwelling being too large in the context of the immediate and general housing in the village.”

Amended plans were consequently received following discussion however the meeting at which it was due to be discussed was cancelled. Comments from the following meeting 06-04-16 were not available at the time of report however these will be provided to Planning Committee verbally when the application is heard.

#### 5. Representations

- 5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on 22 January 2016.

<b>No of Neighbours Consulted</b>	6	<b>No of letters of support</b>	8
<b>No of Representations Received</b>	10	<b>No of neutral representations</b>	0
<b>No of objection letters</b>	2		

- 5.2 Letters of support were received which provided the following comments:

- It will use a brownfield site;
- It is intended for a local person;
- It will keep a young person in the village;
- It does not overlook neighbours;
- It has not flooded; and
- House prices are out of reach of local people

- 5.3 Letters of objection raised the following material considerations to the application:

- Drainage and the potential to block existing drains;
- Potential for the soakaway to increase contamination to Elsegthyll Beck;
- The development is too large and out of keeping with Melmerby;
- Negative impact on the aspect and amenity of Haresceugh Fell House

## **6. Relevant Planning History**

There is no relevant planning history.

## **7. Policy Context**

### **7.1 Development Plan**

#### **Core Strategy DPD Policy:**

- CS1 - Sustainable Development Principles
- CS2 - Locational Strategy
- CS3 - Rural Settlements and the Rural Areas
- CS4 - Flood Risk
- CS6 - Developer Contributions
- CS7 - Principles for Housing
- CS9 - Housing on Rural Exception Sites
- CS10 - Affordable Housing
- CS18 - Design of New Development

#### **Supplementary Planning Documents:**

- Housing (2010)
- North Pennines AONB Planning Guidelines (July 2011)
- North Pennines AONB Building Design Guide (2011)

### **7.2 Other Material Considerations**

#### **National Planning Policy Framework:**

- Delivering a wide choice of high quality homes
- Requiring good design
- Conserving and enhancing the natural environment

## **8. Planning Assessment**

### **8.1 Key/Main Planning Issues**

8.1.1 The key planning issues are considered to be:

- Acceptability of principle
- Acceptability of design
- Impact on the AONB

### **8.2 Principle**

8.2.1 The application seeks to provide an open market house. Whilst letters of support refer to it being for the daughter of a resident who cannot access housing on the open market due to house prices, the house is not proposed to be affordable under any mechanism or subject to a local occupancy clause. The consideration of the application does not therefore give any weight to the potential occupant of the house as this does not form part of the application and should be considered as an open market house only.

8.2.2 It is acknowledged that the site is currently occupied by a building. However, the site is considered to sit outwith the village envelope which is considered as defined by the rear gardens of the existing properties at Elseghyll. The existing shed is considered to lie within the open countryside and displays typical agricultural type development on the rural edge of a village. The site is separated from the rear garden areas by over 50m and this underlines the uncomfortable relationship any dwelling would have in being appreciated as part of the village envelope. The site does not form an infill plot.

8.2.3 It is considered that the development lies outside the village and with no exceptional justification being put forward it is considered that the principle of a dwelling on this location is contrary to the development plan.

### **8.3 Landscape and Visual Impacts**

8.3.1 The proposed dwelling lies within an area of localised public visibility due to the existence of housing along the public highway and the access through a pair of existing houses. The retained large trees would reduce any landscape impacts.

### **8.4 Residential Amenity**

8.4.1 Situated approximately 56m to the rear of the nearest property it is not considered that the proposed dwelling would cause any demonstrable harm to the residential amenity of existing properties.

### **8.5 Infrastructure**

8.5.1 The Environment Agency has confirmed that there are no objections but the Standing Advice in relation to Flood Zone 2 should be followed. It is confirmed that this is the case.

8.5.2 United Utilities has not provided a response. However, the issues which have been raised in relation to drainage relate to private surface water drain. SUDS are shown within the flood plain and this would be considered unacceptable as any system should be on land outside this. However, this is an issue which could be dealt with by way of planning condition and consequently would not be considered a reason for refusal.

### **8.6 Natural Environment**

8.6.1 There are no identified impacts on the natural environment.

### **8.7 Built Environment**

8.7.1 The dwelling has been altered since the application was received in order to reduce the size and simplify the design and it is considered that this represents an improvement on the original proposal and is more sympathetic to the surrounding development.

## **9. New Homes Bonus**

9.1 The prospect of receiving a Bonus is, in principle, capable of being taken into account as a 'material consideration' in determining a planning application. Whether potential Bonus payments are in fact a material consideration in relation to a particular application will depend on whether those payments would be used in a way which is connected to the application and to the use and development of land. For example, potential Bonus payments could be a material consideration if they were to be used to mitigate impacts resulting from development. But if the use to which the payments are to be put is unclear or is for purposes unrelated to the development concerned a decision maker would not be entitled to take them into account when making a decision on a planning application. In this particular case, there are no plans to use the New Homes Bonus arising from this application in connection with this development.

## **10. Implications**

### **10.1 Legal Implications**

10.1.1 The following matters have been considered but no issues are judged to arise.

### **10.2 Equality and Diversity**

10.2.1 The Council must have regard to the elimination of unlawful discrimination and harassment, and the promotion of equality under the Equality Act 2010.

### **10.3 Environment**

10.3.1 The Council must have due regard to conserving bio-diversity under the Natural Environment and Rural Communities Act 2006.

### **10.4 Crime and Disorder**

10.4.1 Under the Crime and Disorder Act 1998, the Council must have regard to the need to reduce crime and disorder in exercising any of its functions.

### **10.5 Children**

10.5.1 Under the Children Act 2004, the Council has a duty to safeguard and promote the welfare of children in the exercise of any of its functions.

### **10.6 Human Rights**

10.6.1 In determining applications, the Council must ensure that all parties get a fair hearing in compliance with the provisions of Article 6 under the European Convention on Human Rights, as now embodied in UK law in the Human Rights Act 1998.

## **11. Conclusion**

11.1 It is considered that the proposal does not accord with the Development Plan for the following reasons which are not outweighed by material considerations:

- The proposed dwelling is considered to be outside the village boundary, physically and visibly distinct from Melmerby and within the open countryside. No exceptional justification for the dwelling has been made to override planning policy which seeks to control housing in the open countryside and the proposal is therefore contrary to Core Strategy policies CS2, CS7 and CS9 of the Eden Core Strategy and Para 55 of the National Planning Policy Framework.

Gwyn Clark  
Head of Planning Services

Checked by or on behalf of the Monitoring Officer	✓
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**Background Papers:** Planning File