

Date: 6 December 2017



District Council

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Dear Sir/Madam

Special Planning Committee Agenda - 14 December 2017

Notice is hereby given that a special meeting of the Planning Committee will be held at 9.30 am on Thursday, 14 December 2017 at the Council Chamber, Town Hall, Penrith to consider the following item which was deferred at an earlier meeting of this Committee.

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 17/0243 - Part Retrospective Application for Retention of 2 No. Stable Buildings and Proposed Feed Storage Building (Pages 3 - 16)

To consider report CD73/17 of the Deputy Director Technical Services which is attached and which was deferred at the meeting of this Committee held on 19 October 2017.

Yours faithfully

M Neal

Deputy Chief Executive (Monitoring Officer)

Democratic Services Contact: *John Greenbank*

Please Note:

- 1. Access to the internet in the Council Chamber and Committee room is available via the guest wi-fi – no password is required**
- 2. Under the Openness of Local Government Bodies Regulations 2014 this meeting has been advertised as a public meeting (unless stated otherwise) and as such could be filmed or recorded by the media or members of the public.**

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For Attention

All members of the Council

Chairman – Councillor J G Thompson (Conservative Group)

Vice Chairman – Councillor W Patterson (Independent Group)

Councillors

I Chambers, Conservative Group

M Clark, Independent Group

M Eyles, Liberal Democrat Group

D Holden, Liberal Democrat Group

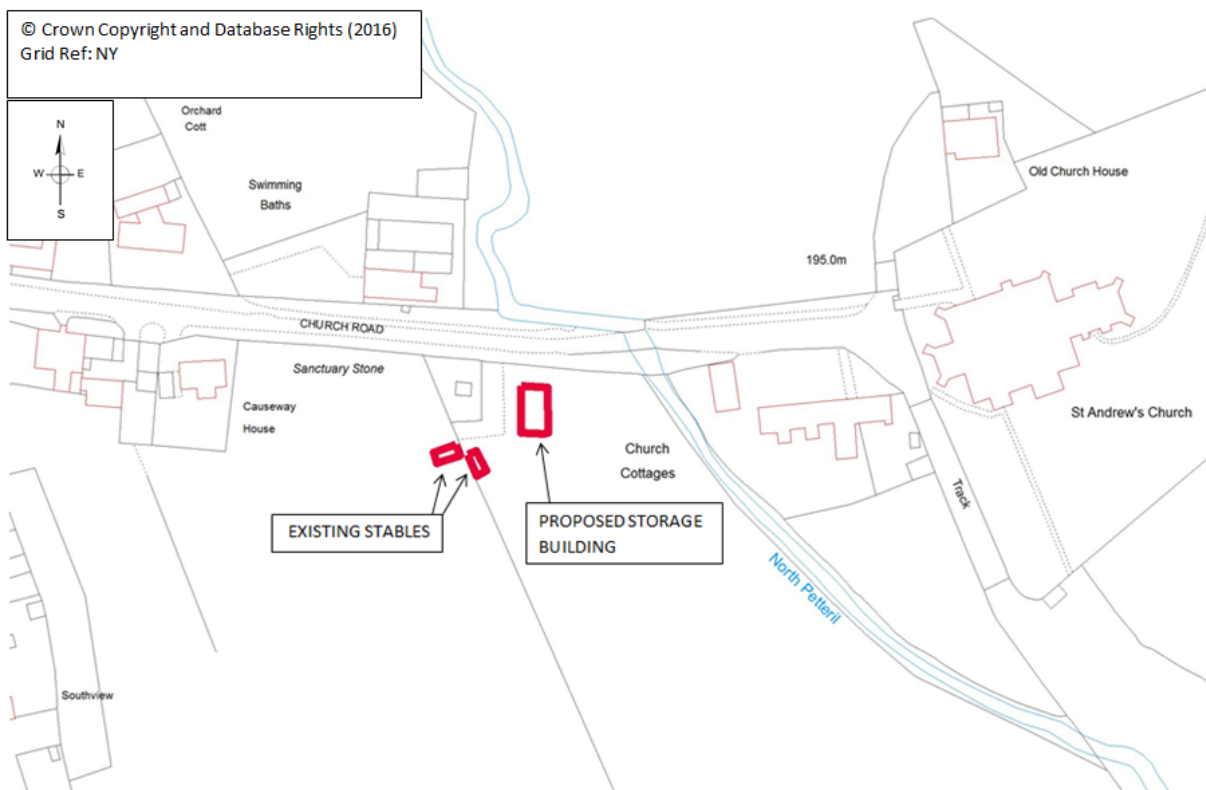
V Kendall, Conservative Group

J C Lynch, Conservative Group

R Sealby, Conservative Group

H Sawrey-Cookson, Independent Group

Date of Committee:	14 December 2017	Report No	CD73/17
Planning Application No:	17/0243	Date Received:	30 March 2017
OS Grid Ref:	NY 344216, 530758	Expiry Date:	16 November 2017
Parish:	Greystoke	Ward:	Greystoke
Application Type:	Full		
Proposal:	Part Retrospective Application for Retention of 2 No. Stable Buildings and Proposed Feed Storage Building		
Location:	Land at Church Road, Greystoke, Penrith		
Applicant:	Mr R Kellett		
Agent:	Daniel Addis, Burnetts		
Case Officer:	Caroline Brier		
Reason for Referral:	Recommendation contrary to that of the Parish Council and an Objector has requested to speak		



1. Recommendation

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

Time Limit for Commencement

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.

Approved Plans

2. The development hereby granted shall be carried out in accordance with the drawings hereby approved:
 - i) Location Plan Rev 04 received 21 August 2017
 - ii) Site Plan Rev 04 received 21 August 2017
 - iii) Proposed Elevations Rev 04 received 21 August 2017
 - iv) Proposed Layout Plan Rev 04 received 21 August 2017
 - v) Flood Risk Assessment received 21 August 2017

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

Before the Development is Commenced

3. No development shall take place until full details of both hard and soft landscape works, including a phased programme of works, have been submitted to and approved in writing by the Local Planning Authority. The approved landscaping scheme shall be carried out within 6 months of the date of the first occupation of the feed store building or completion of the development whichever is the sooner; any trees or plants/grassed areas which within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planning season with others of similar size and species and quality.

Reason: To ensure that the development is landscaped in the interest of the visual character and appearance of the area. It is necessary for the condition to be on the basis that "No development shall commence until" as compliance with the requirements of the condition at a later time would result in unacceptable harm contrary to the policies of the Development Plan.

Ongoing Conditions

4. The Food Storage Building and 2 No. Wooden Stables hereby approved shall be used solely for non- commercial purposes only.

Reason: For the avoidance of doubt and to secure a satisfactory form of development on the site.

Informative:

Manure should be managed in accordance with The Code of Good Agricultural Practice (COGAP) for the protection of water, soil and air (produced by DEFRA).

Permanent stores for solid horse manure should have bases that do not let liquids pass through and the bases should slope such that liquid run-off is contained within the store. Applicants should consider providing a roof to keep rainfall off the manure to minimise the volume of liquids produced and reduce odour by keeping the manure as dry as possible.

Manure should not be stored or applied:

- Within 10 metres of any ditch, pond or surface water
- Within 50 metres of any spring, well, borehole or reservoir that supplies water for human consumption or for farm dairies

Manure is not subject to waste controls whenever it is used as a fertiliser on land for benefit. It can be used as a fertiliser without the need to register an exemption and moved without a waste carrier registration. The Code of Good Agricultural Practice (COGAP) for the protection of water, soil and air recommends that manure should not be applied when:

- The soil is waterlogged
- The soil is frozen hard
- The field is covered in snow
- The soil is cracked down to field drains or backfill
- The field has been pipe or mole drained or sub-soiled over drains in the last 12 months
- Heavy rain is forecast within the next 48 hours
- On very steep slopes where run-off is a high risk throughout the year

2. Proposal and Site Description

2.1 Proposal

- 2.1.1 This application seeks permission for the part retrospective retention of two stable buildings and the proposed erection of a feed storage building.
- 2.1.2 This application was previously heard before the Planning Committee in October 2017. Members requested it be deferred so that further detail could be provided regarding the enforcement investigation which concluded that no change of use of the land had occurred, this is addressed at Appendix A.
- 2.1.3 On 16 November 2017 Planning Committee considered the application and resolved to approve the application subject to the conditions. However a planning permission does not come into effect until the decision notice is signed. The decision notice was not signed in this case. The Deputy Chief Executive in his capacity as Monitoring Officer may in exceptional cases determine that it is appropriate to return an application back to the Planning Committee for re-consideration. This is one such occasion. The exceptional circumstances relate to the medical condition at the time of one of the Councillors who participated in the vote. Given those circumstances, particularly in the context of the very narrow margin by which members voted to approve, the decision is considered by the Deputy Chief Executive to be legally challengeable. He has therefore directed that members shall be given the opportunity to re consider the matter at the next available Planning Committee.

- 2.1.4 The two stable buildings have been on site for several years and the Council has been working on an ongoing enforcement investigation since 2013 regarding the stables permanence. Appeal Decision APP/H0928/C/15/3141454 provided the Council with further clarity on the classification of horse stables as buildings and the potential degree of permanence created by them. Following this appeal decision a retrospective planning application was requested in an attempt to regularise the established breach in planning control.
- 2.1.5 The stable buildings are of a typical build for this type of structure, measuring 7.3 x 3.7 metres. The ridge height is 2.96 metres; with a corrugated bitumen sheet roof and tanilised timber elevations.
- 2.1.6 In addition to the retention of the two stable buildings, this application also seeks permission for a feed storage building on the site.
- 2.1.7 The feed storage building would measure 14 x 8 metres and have a height of 4.65 metres. It would be a steel frame construction and clad with Yorkshire boarding externally with an anthracite grey fibre cement sheet roof. This is a reduction in height and increase in floor area from the originally proposed building that measured 12 x 8 metres with a height of 5.16 metres.

2.2 Site Description

- 2.2.1 The site is located off Church Road and is central in the village of Greystoke.
- 2.2.2 It is accessed off Church Road and the land in the applicant's ownership stretches some 3.88 hectares and also runs adjacent to Icold Road.
- 2.2.3 Access to the site is through a double gate and leads straight onto a hardstanding. The two existing stable buildings are located at the south end of the hard standing and sit at angles for use in separate paddocks.
- 2.2.4 The proposed feed storage building would be located to the east of the hardstanding, directly opposite a United Utilities building which is sited to the west of the adjoining hardstanding, thus creating a contained yard area.

3. Consultees

3.1 Statutory Consultees

Consultee	Response
Highway Authority	No Objection
Environment Agency	No Objection
Historic England	No Comment
Lead Local Flood Authority	No Objection
Conservation Officer	No Objection

The following are detailed responses as outlined above:

- 3.1.1 **Highway Authority** – *'The access from the Church Road the U3146 Highway maintainable at public expense 30mph speed road to the private existing field entrance. Taking into account of the existing use, it is considered the proposal will be unlikely to have a material effect on the existing highway conditions'*.
- 3.1.2 **Environment Agency** – The Environment Agency initially advised that they are not required to formally comment on this application because a Flood Risk Standing Advice (FRSA) should have been applied.

A number of objections were received stating that the Flood Risk Assessment (FRA) was inaccurate, the Environment Agency were re-consulted and concluded that some key issues regarding the flood risk had not been satisfactorily assessed and requested further information.

Following the submission of a new FRA, final comments were received from the Environment Agency stating *'as a result of the amended plans and the revised FRA we are satisfied we can now remove our objection. I can confirm that the Environment Agency has no objection to the proposals as submitted'* however they requested an informative be attached requiring manure management.

A further letter was received from the Environment Agency advising *'The Environment Agency has recently undertaken updated flood risk modelling at the location of the development site which means that the information the current Flood Risk Assessment (FRA) is based on is no longer based on the latest information.'*

Whilst the above does not change our position on the application and may not change anything fundamentally, the applicant should be made aware and may be best advised to revisit their FRA to ensure they remain satisfied that the impact of any flooding will not adversely affect their proposals.

The Flood Map is due to be updated with the latest modelling information in October 2017'.

3.1.3 **Historic England** – *'We do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant'.*

3.1.4 **Lead Local Flood Authority** – *'The Lead Local Flood Authority (LLFA) have records of surface water flooding to the site indicate a 0.1 percent (1 in 1000) chance of occurring each year and the Environment Agency (EA) surface water maps indicate Flood Zones 2 - These outlying areas are likely to be affected by a major flood with up to a 0.1 per cent (1 in 1000) chance of occurring each year indicate the area at risk and Flood Zone 3 a 1 per cent (1 in 100) or greater criteria of happening each year. The Local Planning Authority (LPA) should consult with the Environment Agency (EA) regarding further advice with being in a Flood zone'.*

3.1.5 **Conservation Officer** – *'The proposals will not directly harm the special architectural or historic interest of the grade II* listed Church of St Andrew or the grade II listed memorial bridge. The proposed new buildings have been carefully sited and landscaping has been included to reduce any impact on the setting and views which contribute to the aesthetic value of the Church. Therefore the proposals are considered to meet the above policy of the Planning (LBCA) Act 1990 and CS17 of the Eden District Core Strategy.*

4. Parish Council Response

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

4.1 Comments on original location of proposal - Object – Many issues:

- Equestrian business not agricultural
- No change of use applied for
- Out of character, building not consistent with intended use

- Business use
- 4.2 Comments following a re-consultation due to the proposed Feed Storage Building being relocated – Object – Many issues:
- Out of character in a sensitive area (near to Church)
 - Building size too big for proposed use
- 4.3 Comments following the new Flood Risk Assessment and amendment in size to the Feed Storage Building – Object:
- Equestrian business, not agricultural, no proof of agricultural usage
 - Out of character, near to church
 - Increased size from original application, size not in keeping with the intended use
 - The land has flooded in the past, photographic evidence can be provided.

5. Representations

- 5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on 25 April 2017.

No of Neighbours Consulted	3	No of letters of support	0
No of Representations Received	14	No of neutral representations	0
No of objection letters	14		

- 5.2 Of the 14 objections received, 1 includes a petition signed by 30 people.
- 5.3 Following an updated FRA and amendment in size to the feed storage building being submitted to the Council, all interested parties were re-consulted. This led to a further 13 objections being received, 7 from people who had already raised objection to the application and 6 new objections. A further petition signed by 34 people was also received.
- 5.4 Letters of objection raised the following material considerations to the application:
- Proposed building and two existing stables are not in-keeping with agricultural nature of the site.
 - Proposed building too large.
 - The land is water logged and partly floods every winter.
 - The building is out of character with the surrounding, predominantly stone built residential houses between the main road and the church.
 - Flood water would be pushed back further down road and perhaps worsen the situation for houses down Church Road.
 - Road safety, as road used for playing field, swimming pool and Church (Weddings, Funerals, Christenings).
 - Impact on St Andrews Church.
 - Proposed building only 25 metres from Greystoke's War Memorial.
 - Important historic approach to St Andrews Church which hasn't changed for decades.

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

- Over the last 50 years the land has been used solely for grazing and growing grass for hay or silage.
- Over development, as new houses currently being built adjacent to a flood plain.
- May lead to future applications for residential and/or commercial properties.
- Would like to see a condition attached requiring the replacement of previously removed trees.
- Water supply has been tapped into from mains.
- Field shelters have not been moved for at least two years.
- Application is inappropriate and should be for a change of use from agricultural land to equestrian usage.
- Currently untidy land with black plastic sacks and an assortment of jumps, which shows horses are being exercised.
- The establishment of an equestrian business would lead to disturbance from horse boxes and 4x4 cars parking on Church Road.
- Feel that the store will become neglected, leading to an eyesore that will be demolished and lead to permission being given for a house.
- Bedding is regularly burnt on the site creating smoke and smell in the area.
- Mud on the road due to vehicles coming out of the site.
- The applicant has made it well known around the village that the intention is to make the field into a housing estate.
- Told by PF&K when property purchased that this land was solely for grazing.
- In the past livery has been advertised and it has been proven that charges have been made to clients.

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
- CS4 - Flood Risk
- CS16 - Principles for the Natural Environment
- CS17 - Principles for the Built (Historic) Environment
- CS18 - Design of New Development

7.2 Other Material Considerations

National Planning Policy Framework:

- Requiring good design
- Meeting the challenge of climate change, flooding and coastal change
- Conserving and enhancing the natural environment
- Conserving and enhancing the historic environment

National Planning Practice Guidance

Eden Local Plan 2014-2032:

- LS1 – Locational Strategy
- RUR1 – New Agricultural Buildings
- DEV1 – General Approach to New Development
- DEV5 – Design of New Development
- ENV10 – The Historic Environment

This is the emerging local plan for Eden District Council; due to the end of the Major Modification consultation these policies are afforded more weight in the determination of this application although not full.

7.3 The policies detailed above are the most relevant policies relating to this application.

8. Planning Assessment

8.1 Key/Main Planning Issues

- Landscape and Visual Impacts
- Flooding

8.2 Principle

- 8.2.1 Core Strategy policy CS2 focuses new development firstly in Key Service Centres and then in Local Service Centres, of which Greystoke is included. This position is supported within the emerging Eden Local Plan in which Greystoke is designated as a Key Hub under draft Policy LS1. It must be noted that, in accordance with paragraph 216 of the National Planning Policy Framework the emerging local plan has only limited weight at present. However that weight has increased since the completion of the major modification consultation period on the 21 August 2017 as the plan is now at a more advanced stage. Furthermore on reviewing the consultation responses on the major modifications on the draft local plan they were no unresolved objections specifically to Greystoke being designated as a Key Hub under draft policy LS1.
- 8.2.2 Core Strategy policy CS4 requires suitable flood protection measures to be used to reduce flood risk overall and to ensure that the risk of flooding is not increased elsewhere.
- 8.2.3 Core Strategy policy CS18 seeks to protect and where possible enhance the District's distinctive rural landscape, natural environment and biodiversity.
- 8.2.4 The principle of the retention of two stables and the erection of a feed storage building in association with the agricultural land is considered to be acceptable in principle.

8.3 Landscape and Visual Impacts

- 8.3.1 Objection has been raised regarding the landscape and visual impacts that this proposal would have on the village.

- 8.3.2 Originally the proposed feed storage building was to be erected behind the stable buildings; however this was considered to unacceptably protrude into the open countryside.
- 8.3.3 The current proposed positioning for the feed storage building is considered to be the most acceptable location due to it creating a yard area and following the building line along Church Road.
- 8.3.4 Landscaping is proposed to the east of the storage food building which would soften the impact on the landscape.
- 8.3.5 The proposal would be seen from Icold Road, and although an equestrian building, the design is of an agricultural appearance which viewed from a distance is not an uncommon feature in villages and indeed another agricultural building can be seen in the vicinity from Icold Road.
- 8.3.6 The approach to the site along Church Road provides clear views of St Andrews Church located at the end of the road and passes a mixture of stone and rendered dwellinghouses, the rendered swimming pool building and the stone faced United Utilities building before reaching the site. It is noted that the United Utilities building is completely screened by trees and due to the location of the proposed feed storage building being set back from the road it would not be seen until passing these trees.
- 8.3.7 The proposed Yorkshire boarded feed storage building is not considered to pose any more or less of a harm to the visual amenity than that of the swimming pool building or United Utilities building. As such it is not considered that the approach to St Andrews Church would be harmed through this proposal.

8.4 Flooding

- 8.4.1 The site is located approximately 40 metres to the west of the river and is currently shown within a flood zone 2. However this has been disputed by objectors and subsequently shown in the FRA that the site has moved into a flood zone 3 following new information released by the Environment Agency on the 14 August 2017. The Environment Agency have confirmed that the Flood Map is due to be updated with the latest modelling information in October 2017 and this means that the area that could be affected by flooding from a river raises to a 1 in 100 or greater chance of happening each year as opposed to a 1 in 1000 chance (flood zone 2).
- 8.4.2 Land and buildings used for agriculture and forestry are classed as 'less vulnerable' under the Flood Risk Vulnerability Classification. Development on this type of land is considered to be appropriate in flood zones 2 and 3a, but not on a flood zone 3b which are 'functional flood plains'. Due to the location/proposed location of the buildings being generally within the line of existing properties, it is not considered to be land where water has to flow or be stored in times of flood and as such is not classed as a functional flood plain.
- 8.4.3 Photographs provided by objectors show the site is prone to flooding in extreme weather events and it is accepted that the existing two stables and proposed feed store would be at a higher risk of flooding than a development in a flood zone 1. However, due to the 'less vulnerable' nature of the buildings it is considered that if flooding was to occur it would be to the detriment of the owner of the buildings as opposed to creating additional flooding elsewhere.
- 8.4.4 The information provided within the FRA from the Environment Agency dated the 14 August 2017 shows that almost the entirety of the field is within a flood zone 3. As such the applicant would be unable to reasonably locate the existing stable buildings and proposed feed store to an area of lower flood risk on the site. The sequential test

for flooding has been met and the nature of the development is unlikely to increase the risk of flooding in the field or any adjacent land. Therefore, the existing stable buildings and proposed feed store are considered to be an appropriate development within a flood zone 3. It is also duly noted that the Environment Agency do not raise objection to this application.

8.5 Residential Amenity

- 8.5.1 The closest neighbouring properties are to the east and west and are approximately 37 and 70 metres away respectively. To the east of the feed storage building landscaping is proposed which would provide screening between the proposal and the dwellinghouse. To the west is a United Utilities building between the proposal and dwellinghouse. To the west of the United Utilities building are trees/bushes screening this building from the closest dwellinghouse. The proposal site is not considered to affect the amenity or living conditions of these neighbouring properties.
- 8.5.2 There are a number of properties along Icold Road which have views over this flat open field, however the closest is approximately 150 metres away and as such is considered to be a substantial distance away and would not affect or impact upon the living conditions or amenity of these residents.
- 8.5.3 Objectors and the Parish Council have raised concern with the use of the land being for Equestrian use and the impacts that an Equestrian business would have on the residential amenity. This matter was investigated under enforcement case 17/5063. A Planning Contravention Notice (PCN) was served on the owner(s) of the land. It is an offence to knowingly or recklessly give information which is false or misleading. The PCN provided a number of questions to be answered to assist with the investigation.
- 8.5.4 The conclusion of the enforcement case was that the land in question is operating lawfully as agricultural land and that no breach in planning control has been established in terms of an unlawful change of use to the keeping of horses and there was no evidence of a business being run.
- 8.5.5 For information, it has been acknowledged that on occasions the land has been used for the riding and exercising of the horses (including jumping), this is a temporary use and as such is permitted under The Town and Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 4. The owner is aware of the limitations associated with this legislation. Should this application be approved, the use of the land would not be changed.

8.6 Impact on character and appearance of the built environment (LBs/CA)

- 8.6.1 CS17 requires proposals to conserve and enhance listed buildings and their settings. The Planning (Listed Buildings and Conservation Areas) Act 1990 s 66(1) requires a decision-maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Paragraph 134 of the NPPF states that '*where a development proposal would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits of the proposal*'.
- 8.6.2 The proposal site is located approximately 100 metres to the west of St Andrews Church which is a grade II* listed building and approximately 30 metres to the south west of the War Memorial Bridge which is grade II listed.
- 8.6.3 Historic England have stated that they do not wish offer any comments of the proposal.

- 8.6.4 The Conservation Officer has commented that *'the proposals will not directly harm the special architectural or historic interest of the grade II* listed Church of St Andrew or the grade II listed War Memorial Bridge'*.
- 8.6.5 The Conservation Officer also comments that the *'proposed use of the buildings and field for housing and grazing horses is not considered to be a considerable change of use to the historic arable nature of the area. The proposals are not considered to cause significant harm to the aesthetic value of the two listed buildings'*.
- 8.6.6 Taking into account the Conservation Officers comments and given the United Utilities building and Swimming Pool building within the vicinity, it is considered that the development would lead to a less than substantial harm to the significance of the heritage assets.

9. Implications

9.1 Legal Implications

- 9.1.1 Notwithstanding the resolution of Planning Committee on 16 November 2017 it is considered by the Deputy Chief Executive in his capacity as Monitoring Officer that it is appropriate to return the application back to the Planning Committee for re-consideration for the reasons set out in paragraph 2.1.3 of this report.
- 9.1.2 The following other matters have been considered but no issues are judged to arise.

9.2 Equality and Diversity

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

9.3 Environment

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

9.4 Crime and Disorder

- 9.4.1 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.

9.5 Children

- 9.5.1 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.

9.6 Human Rights

- 9.6.1 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.

10. Conclusion

- 10.1 It is considered that the proposal accords with the Development Plan for the following reasons which are not outweighed by material considerations.
- 10.2 Whilst finely balanced due to the potential flooding implications, it is considered to be acceptable to retain the two stable buildings and erect an agricultural style building on this land along with appropriate landscaping to assist in mitigating future extreme weather events.

Jane Langston
Deputy Director Technical Services

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

Appendix A

Planning Background and Case Law

The Town and Country Planning Act 1990 section 336 sets out that;

“agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and “agricultural” shall be construed accordingly;

This definition includes the keeping of livestock and the use of land as grazing land.

Planning permission is needed when a material change of use takes place. There is no statutory definition of ‘material change of use’; however, it is linked to the significance of a change and the resulting impact on the use of land and buildings. Whether a material change of use has taken place is a matter of fact and degree and this will be determined on the individual merits of a case.

There are six types of horses in planning terms.

- Working horse
- Racehorse
- Grazing horse
- Horse for meat
- Recreational horse
- Residentially incidental horse

The working horse and the grazing horse both fall within the definition of agriculture. The main issue which causes planning issues is the difference between a grazing horse and a recreational horse. The use of agricultural land for the keeping of a recreational horse would amount to a material change of use.

The courts have considered this issue on numerous occasions, but there are no clear rules and each case has to be decided on its fact. The court decisions do however provide the factors to consider when determining whether a material change of use has taken place;

- **Are the horses fed?** If the horses are being given significant amounts of bucket feed to the extent that any grazing is secondary, the use of the land is unlikely to be considered agricultural.
- **Use of the field:** Where the horses are being exercised in the field, the use of the land will not be considered agricultural.
- **Other animals in the field:** When analysing the use of a field, the local planning authority will also consider whether the land is used primarily for horses or whether other animals such as sheep also graze in it.
- **Structures on the land:** Any structures related to the horses’ welfare or training, such as jumps, horse exercisers or a round pen or schooling surface, will clearly point to the horses being kept there for leisure rather than agricultural purposes.

One of the key cases on this matter is *Sykes v Secretary of State for the Environment* (1981). A relevant section of the court decision is provided below.

"If horses are simply turned out onto the land with a view to feeding them from the land, clearly the land is being used for grazing. If, however, horses are being kept on the land and are being fed wholly or primarily by some other means so that such grazing as they do is completely incidental and perhaps achieved merely because there are no convenient ways of stopping them doing it, then plainly the land is not being used for grazing but merely being used for keeping the animals".

Case Specifics

During the enforcement investigation into this site the use of the land was considered. A Planning Contravention Notice (PCN) was served on the land owner. This is a formal means of gathering evidence to help establish whether a breach of planning control has occurred. Based on the reply to the PCN and observations of officers the following has been established;

- The horses primarily graze the land. During the winter they are feed haylage which has been harvested from the land. They do not receive significant amounts of additional 'bucket feed'.
- Occasionally the land is used for riding and exercising of the horses. This use is limited to no more than 28 days per year. There is no equestrian business (livery, riding school) operating from the land.
- There was no evidence of other livestock grazing the land.
- There are no training structures such as schooling surfaces or horse exercises on the land. Occasionally temporary jumps are set out to exercise the horses, but these are limited to no more than 28 days per years. The two stable buildings which are the subject of application 17/0243 are the only other structures on the land and these are required to provide shelter for welfare purposes. These stable buildings could be used as shelter by any livestock grazing the agricultural land.

The primary use of the land is still for the grazing of livestock. The fact that the livestock in this case are horses rather than cows or sheep, does not result in a material change of use.

The occasional use of the land for exercising the horses is not considered to be significant as it has been occurring for no more than 28 days per year. The temporary use of land at that level is permitted development under Part 4 Class B of the General Permitted Development Order 2015.

Based on the facts of this case the horses on this site are grazing horses. The land is being used for the grazing of livestock and so still falls within the definition of agriculture. There has been no material change of use of the land.