

Date: 11 March 2020



**District Council**

Town Hall, Penrith, Cumbria CA11 7QF

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Dear Sir/Madam

## **Planning Committee Agenda - 19 March 2020**

Notice is hereby given that a meeting of the Planning Committee will be held at 9.30 am on Thursday, 19 March 2020 at the Council Chamber, Town Hall, Penrith.

### **1 Apologies for Absence**

### **2 Minutes**

To sign the minutes:

- 1) Pla/125/02/20 to Pla/138/02/20 of the meeting of this Committee held on 13 February 2020; and
- 2) Pla/139/02/20 to Pla/144/02/20 of the site visit meeting of this Committee held on 27 February 2020

as a correct record of those proceedings (copies previously circulated).

### **3 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.

### **4 Appeal Decision Letters (Pages 7 - 14)**

To receive report PP13/20 from the Assistant Director Planning and Economic Development which is attached and which lists decision letters from the Planning Inspectorate received since the last meeting:

<b>Application No.</b>	<b>Applicant/Appeal</b>	<b>Appeal Decision</b>
19/0219	Mr Metcalfe Land adjacent to Hillside, Ruckcroft, Carlisle, CA4 9QR  The appeal is made under section 78 of the Town and Country	The appeal is allowed and planning permission granted subject to conditions.

	<p>Planning Act 1990 against a refusal to grant outline planning permission.</p> <p>The development proposed is described as 'outline consent for a single dwelling'.</p>	
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## 5 Planning Issues (Pages 15 - 24)

To note the attached lists of the Assistant Director Planning and Economic Development.

- a) Applications determined under office delegated powers for the month of February 2020
- b) Reasons for refusal on delegated decisions for the month of February 2020

## 6 Planning Issues - Applications for Debate (Green Papers) (Pages 25 - 156)

To consider the reports of the Assistant Director Planning and Economic Development on the following applications:

Item No	Application Details	Officer Recommendation	Page Number
1	<p><b>Planning Application No: 19/0566</b></p> <p>Retention of Existing Free Range Egg Laying Unit and Associated Infrastructure</p> <p>Land North-East of High Meadow Farm, Marton Moor</p> <p>RJ Armstrong</p>	<p>Recommended to:</p> <p>APPROVE Subject to conditions</p>	27
2	<p><b>Planning Application No: 19/0708</b></p> <p>Retrospective application for change of use of land to domestic, mitigation works carried out to the schedule ancient monument site, move existing gate to lane boundary and erect stone wall either side to boundary edge and restoration of stone building</p> <p>Land west of Castle Farm, Hardendale</p> <p>Mr Dawson</p>	<p>Recommended to:</p> <p>APPROVE Subject to conditions</p>	44
3	<p><b>Planning Application No: 19/0923</b></p> <p>Erection of building for ancillary uses associated with Heather Glen Country Hotel, including staff and management accommodation and ancillary storage</p>	<p>Recommended to:</p> <p>REFUSE With Reasons</p>	61

	Land adjacent to the Heather Glen Country House Hotel, Ainstable  Heather Glen Limited		
<b>4</b>	<b>Planning Application No: 19/0829</b>  Creation of new access  Fernwood, Edenhall  Mr T O'Malley	Recommended to:  APPROVE Subject to conditions	74
<b>5</b>	<b>Planning Application No: 19/0790</b>  Extensions and alterations to dwelling  The Lodge, Temple Sowerby  Mr and Mrs Clayton	Recommended to:  APPROVE Subject of Condition	82
<b>6</b>	<b>Planning Application No: 19/0724</b>  Change of use of workshop into two holiday apartments and associated alterations  The Band Room, Black Bull Yard, Market Street, Kirkby Stephen, CA17 4QW  Mr P Davenport	Recommended to:  APPROVE Subject to Conditions	92
<b>7</b>	<b>Planning Application No: 19/0875</b>  Conversion of barn to create three dwellings  Barn at High Galligill, Nenthead  Spenserscom Limited	Recommended to:  APPROVE Subject to Conditions	102
<b>8</b>	<b>Planning Application No: 19/0696</b>  Reserved matters application for access, appearance, layout, scale, design and landscaping in relation to planning permission ref. 17/0922 for residential development  Land off Kirkby Stephen Grammar School, Kirkby Stephen  Mr Colin Caldwellader – Maytree	Recommended to:  APPROVE Subject to Conditions	114

	Construction		
<b>9</b>	<b>Planning Application No: 19/0021</b>  Variation of condition No 5 (Accommodation Use) from guesthouse/holiday establishment to residential use attached to approval 04/0033  2 Primrose Court, Tebay CA10 3TR  Mrs J Spurling	Recommended to:  APPROVE Subject to Conditions	135
<b>10</b>	<b>Planning Application No: 19/0713</b>  Conversion of stone bank barn, reconstruction of stone byre to rear and re-modelling modern cow byre to form a dwelling  Town Head Farm, Kirkland Road, Skirwith  Mr T Smith	Recommended to:  APPROVE Subject to Conditions	142

## **7 Confirmation of Site Visits (if any)**

To confirm the date and location of any site visits that may have been agreed.

## **8 Any Other Items which the Chairman decides are urgent**

## **9 Date of Next Meeting**

The date of the next scheduled meeting be confirmed as 16 April 2020.

Yours faithfully



R Rouse  
Chief Executive

Democratic Services Contact: Karen Wyeth

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### **For Attention**

All members of the Council

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

**Vice Chairman** – Councillor I Chambers (Conservative Group)

### **Councillors**

M Clark, Independent Group  
M Eyles, Liberal Democrat Group  
D Holden, Liberal Democrat Group  
J C Lynch, Conservative Group  
A Ross, Green Group

H Sawrey-Cookson, Independent Group  
G Simpkins, Liberal Democrat Group  
J G Thompson, Conservative Group  
D Wicks, Conservative Group

### **Standing Deputies**

P G Baker, Liberal Democrat Group  
D Banks, Independent Group  
L Harker, Liberal Democrat Group  
S Lancaster, Independent Group  
D Lawson, Green Group

A Meadowcroft, Conservative Group  
G Nicolson OBE, Conservative Group  
D Ryland, Independent Group  
D Smith, Liberal Democrat Group

### **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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**Report No: PP13/20**

**Eden District Council**

**Planning Committee  
19 March 2020**

**Appeal Decision Letters**

**Report of the Assistant Director Planning  
and Economic Development**

Attached for Members' information is a list of Decision Letters received since the last meeting:

<b>Application Number(s)</b>	<b>Applicant</b>	<b>Appeal Decision</b>
19/0219	<p>Mr Metcalfe Land adjacent to Hillside, Ruckcroft, Carlisle CA4 9QR</p> <p>The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.</p> <p>The development proposed is described as 'outline consent for a single dwelling'.</p>	<p>The appeal is allowed and planning permission granted, subject to conditions.</p>

Oliver Shimell  
Assistant Director Planning and Economic Development



## Appeal Decision

Site visit made on 14 January 2020

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2020

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Appeal Ref: APP/H0928/W/19/3239768

Land adjacent to Hillside, Ruckcroft, Carlisle CA4 9QR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Metcalfe against the decision of Eden District Council.
  - The application Ref 19/0219, dated 21 March 2019, was refused by notice dated 22 May 2019.
  - **The development proposed is described as 'outline consent for a single dwelling'.**
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of a single dwelling at land adjacent to Hillside, Ruckcroft, Carlisle CA4 9QR, in accordance with the terms of the application, Ref 19/0219, dated 21 March 2019, subject to the conditions in the attached schedule.

### Procedural Matters

2. I have made a minor revision to the description of development in my formal decision **to omit the words 'outline consent for' and replaced them with 'erection of' as the former does not describe an act of development.**
3. The application was submitted in outline with all matters reserved for future consideration. I have therefore taken any indication of reserved matters shown on the submitted drawings to be illustrative, and only in so far as establishing whether it would be possible, in principle, to develop the site for a single dwelling.

### Main Issues

4. The main issues are:
  - Whether the site is a suitable location for residential development, having regard to the local development strategy for the area, and;
  - The effect of the proposal on the character and appearance of the area, and that of the surrounding landscape.

### Reasons

#### *Suitability of the location*

5. The appeal site is part of an agricultural field on the edge of the small village of Ruckcroft, immediately adjacent to Hillside Cottage and fronting the highway. The site is largely rectangular in shape with the land steadily rising from southwest to northeast, reflecting the general topography of the surrounding



- area. The proposal would see the development of a single dwelling within the site.
6. Policy LS1 of the Eden Local Plan 2014-2032 (the **ELP**) **sets out the Council's** locational strategy for the distribution of development across the district. It sets out a hierarchical approach to development and advises that within smaller villages and hamlets, such as Ruckcroft, development will be restricted to: infill sites, which fill a modest gap between existing buildings within the settlement; rounding off, which provides a modest extension beyond the limit of the settlement to a logical, defensible boundary, and; the reuse of traditional rural buildings and structures. This approach is also set out by ELP policy HS2 which in addition seeks to restrict the size of dwellings at these locations and, in the case of greenfield sites, requires a local occupancy restriction.
  7. The proposal would not fill a gap between existing buildings within the settlement. It cannot, therefore, be considered as infill development in the context of ELP policies LS1 and HS2.
  8. **In terms of 'rounding off', the ELP does not offer a conclusive definition as to what is meant by a 'logical, defensible boundary'.** In its statement and in its draft Housing Supplementary Planning Document (the draft SPD), the Council suggest that *"a defensible boundary is a longstanding feature such as, but not limited to, a road, wood, river, railway line or a significant rise or fall in topography, which **would prevent further extension of development**"* (my emphasis). I have also been provided with two appeal decisions<sup>1</sup> which support this view, one of which is a recent decision of my own.
  9. This definition continues to be a useful guide, yet I do not consider this to be a fixed or closed list, as to do so would be an overly prescriptive interpretation of the policy requirement. In forming this view I have been mindful of the supporting text to policy LS1, in relation to rounding off, which states *"... This approach will consider proposals on a case by case basis, based on their individual merits, and against other policies of relevance within the Local Plan, and is considered preferable to a prescriptive approach particularly given the **diversity of the Smaller Villages and Hamlets within the District**"* (ELP paragraph 3.1.5).
  10. The proposal would extend the built form of the village into the adjacent countryside. However, this would be a modest extension with the site being of a similar size to that of other residential plots within the village. Its north-western boundary would be well-defined by a mature hedgerow that forms the existing field boundary and contains a handful of mature and semi-mature trees. In this context, the existing longstanding field boundary represents a landscape feature that would offer a logical and defensible boundary that would contain the development and prevent any further incursion into the surrounding countryside. Thus, the proposal would amount to a modest rounding off of the settlement.
  11. I appreciate there is no physical boundary to the northeast of the site, which borders open agricultural land, but I note that the land rises steeply beyond the site to the northeast and therefore this would hinder the ability to develop beyond this point. In any case, policy LS1 does not require development to be enclosed on all sides by defensible boundaries but simply allows for *"a modest*

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<sup>1</sup> Appeal Ref. APP/H0928/W/18/3194233 and APP/H0928/W/18/3215922

*extension beyond the limit of the settlement to a logical, defensible boundary”* (my emphasis).

12. Taking the above points together, I find that the proposal would represent a modest rounding off of the settlement. It follows, therefore, that the site is a suitable location for residential development, having regard to the local development strategy for the area. Accordingly, subject to a local occupancy condition, the proposal would be compliant with ELP policies LS1 and HS2, the provisions of which are set out above.

#### *Character and appearance*

13. Ruckcroft is a small linear settlement perched on the eastern slopes of the Eden Valley, with properties predominantly fronting the highway. Dwellings vary in both design and scale, with a mix of traditional stone buildings and modern contemporary houses. Development is occasionally interrupted by stretches of unbuilt frontage which provide an open and spacious character to the village, emphasising its intrinsic rural character. The surrounding landscape is characterised by rolling countryside intersected by a mix of hedgerows and drystone walls.
14. The indicative site plan shows a dwelling positioned to the side of Hillside Cottage, with its footprint extending beyond the rear elevation of this neighbouring dwelling. The rear boundary of the plot would be in line with that of the rear boundary of Hillside Cottage. As such, a dwelling at this location would relate well to the existing built form, continuing the linear pattern of development along the road. I acknowledge the concerns relating to the positioning of the proposed dwelling beyond the rear of Hillside Cottage. However, this is indicative only at this stage and I see no reason why this matter could not be adequately addressed at the reserved matters stage to ensure that the dwelling is more closely aligned with the neighbouring built form. Given the shape of the site a slight step back from the roadside is to be expected but this would not be markedly out of character with the surrounding built form.
15. The dwelling would have a shorter roadside frontage than other properties in the village due to the position of the side garden of Hillside Cottage, which shares part of the **site's** roadside frontage. However, this merely emphasises the historic character and evolution of the settlement and would not be markedly out of step with the existing street scene.
16. The site currently contributes to a large stretch of undeveloped frontage within the village. However, I have found that the proposal would be a modest extension of the village that would round off the settlement to an existing field boundary that would contain the development. In doing so, it would not interrupt the existing pattern of field boundaries nor, given the limited size of the site, would it amount to a significant intrusion into the adjacent countryside. Therefore, the proposal would not result in a significant erosion of the rural character of the settlement or its landscape setting.
17. I have had regard to the previous appeal decision<sup>2</sup> for housing development on the site, where the Inspector found that a dwelling at this location would adversely affect the character and amenity of this part of the settlement. However, this decision is almost 20 years old and since then the local and

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<sup>2</sup> Appeal Ref: T/APP/H0928/A/00/1038033

national policy context has changed substantially. As such, this previous decision is afforded little weight in my determination. I have, in any case, reached my own conclusions on the appeal proposal on the basis of the evidence before me and in light of current planning policy provisions.

18. Consequently, the proposed development would not harm the character and appearance of the area, or that of the surrounding landscape. Therefore, I find no conflict with policies DEV5 and ENV2 of the ELP or the associated provisions of the National Planning Policy Framework (the Framework). Together these policies require new development to show a clear understanding of the form and **character of the district's built and natural environment and to conserve and enhance distinctive elements of landscape character.**

#### Other Matters

19. Concerns have been raised regarding drainage for the site with residents drawing my attention to existing surface water problems in the village. Nevertheless, the Lead Local Flood Authority (LLFA) does not object to the proposal and I have no substantive evidence before me to suggest that I should take an alternative view. Therefore, subject to a suitable condition, I have no reason to believe that surface and foul water drainage could not be adequately dealt with.
20. Objectors raise concern with the design and scale of the proposed dwelling and its positioning within the plot. It has also been stated that the proposal would overlook and overshadow neighbouring residents. However, the appearance, layout and scale of the dwelling are all matters which are reserved for future consideration. Only the principle of developing the site for housing is under consideration at this stage. Having considered the size of the site and its relationship with adjacent properties, I see no reason why a single dwelling designed to a high standard could not sit comfortably within the plot without causing significant harm to neighbouring occupiers. These details can be dealt with at the reserved matters stage.
21. Objectors are also concerned that the appellant will seek to develop more than one dwelling on the site and develop the adjacent land for housing. However, the proposal is for a single dwelling and I have considered it on that basis. I have imposed a condition restricting development to one dwelling in the interests of the character and appearance of the area. Any development beyond the site would be subject to a further application and considered on its own merits.
22. I accept that the highway adjacent to the site is narrow with no pavements or streetlighting, yet the proposal will not result in a significant increase in vehicle or pedestrian movements. The site already includes an access directly from the public highway and there is no objection from the Local Highway Authority. While access to the site is a reserved matter, there is nothing before me to suggest that a suitable and safe access could not be achieved. Furthermore, any disruption caused by construction vehicles would be short-term and, given that only one property is to be erected, would likely be limited and adequately mitigated by careful and considerate construction management.
23. Services and amenities in the village are very limited, yet the village is identified **within the Council's** settlement hierarchy (ELP Policy LS1) as a location where development of an appropriate scale is permitted. The Framework also advises that housing development in one village may support services in a village nearby.

24. A Unilateral Planning Obligation (UPO) has been submitted in support of the appeal to commit the site to being developed as a self-build project. However, given my findings on the main issues, this has not affected my decision.

#### Conditions

25. I have had regard to the conditions suggested by both the Council and the appellant and have considered these against the Framework and Planning Practice Guidance.
26. The appellant has suggested conditions in relation to site levels, landscaping, highways and parking, materials and the positioning of windows. However, as the proposal is in outline with all matters reserved, it is not necessary or reasonable to attach conditions relating to the reserved matters. Instead the correct approach is for such issues to be resolved at the reserved matters stage, and for appropriate conditions to be applied at that stage if necessary.
27. I have undertaken some minor editing and rationalisation of the conditions proposed by the Council in the interests of precision and clarity. I have also limited the number of pre-commencement clauses to those cases where this is essential for the condition to achieve its purpose. In such circumstances, and in accordance with the regulations<sup>3</sup>, the appellant has been consulted over the wording of the condition and has provided their written agreement.
28. I have attached conditions relating to the submission of reserved matters and the time limits associated with this. I have also included a condition specifying the relevant plans as this provides certainty. In order to protect the character and appearance of the surrounding area I have included conditions to restrict the development to that of a single dwelling and for the submission of, and adherence to, measures to protect the existing hedgerow and trees.
29. To comply with the requirements of ELP policy HS2 I have attached conditions to restrict the gross internal floorspace of the dwelling and to limit its occupation in **line with the Council's local** occupancy criteria. Finally, I have included a condition relating to drainage details to ensure that surface and foul water are appropriately dealt with.

#### Conclusion

30. I have found that the appeal site is a suitable location for residential development, having regard to the local development strategy for the area. As a modest extension of the existing settlement that would suitably round it off to a logical point, I have not found the proposal to be harmful in any way to the character and appearance of the area, or that of the surrounding landscape.
31. I therefore conclude that, subject to the conditions set out in the attached schedule, the appeal is allowed.

*J M Tweddle*

INSPECTOR

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<sup>3</sup> The Town & Country Planning (Pre-commencement Conditions) Regulations 2018

### Schedule of Conditions

- 1) Details of the layout, scale, appearance, access and landscaping **(hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.**
- 2) Application for the approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved documents and plans: Application Form (Dated 21 March 2019), Location Plan (Drawing No 00233/01), Site Plan (Drawing No 00233/Site Plan) & Block Plan (Drawing No 00233/02).
- 5) The development shall comprise one dwelling only.
- 6) No development hereby permitted shall commence until tree and hedgerow protection measures have been put in place in accordance with details submitted to and approved in writing by the Local Planning Authority. The approved protection measures shall be retained for the duration of the construction phase of the development.
- 7) The hereby approved dwelling shall have a maximum gross internal floor area of 150sqm.
- 8) No building hereby permitted shall be occupied until a scheme for foul and surface water drainage has been implemented in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority. Before any details are submitted to the Local Planning Authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent replacement standards), and the results of the assessment shall have been provided to the Local Planning Authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
  - Provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; and,
  - Include a timetable for its implementation; and,
  - Confirm that no surface water shall discharge into the public sewerage system either directly or indirectly.
- 9) The occupation of the dwelling shall be limited to a person with a local connection to the locality, or a widow or widower of such a person, or any resident dependants. Locality refers to the parish and surrounding parishes in the first instance. If a property has been actively marketed for at least 6 months and an occupier cannot be found then the definition of locality will

be extended out to include the County of Cumbria. A person with a local connection means a person who meets one of the following criteria:

- The person lives in the locality and has done for a continuous period of at least three years
- The person works permanently in the locality for a minimum of 16 hours per week. Where a person is employed in an established business that operates in multiple locations, their employment activities should take place predominantly inside the locality.
- The person has a firm offer of permanent employment, for a minimum of 16 hours per week in an already established business within the locality.
- The person has moved away but has a strong established and continuous links with the locality by reason of birth or long term immediate family connections.
- The person needs to live in the locality because they need substantial care from a relative who has lived in the locality for at least three years, or needs to provide substantial care to a relative who has lived in the locality at least three years. Substantial care means that identified as required by a medical doctor or relevant statutory support agency.

# PLANNING COMMITTEE

# Agenda Item No.

## APPLICATIONS DETERMINED UNDER OFFICER DELEGATED POWERS FOR THE MONTH OF FEBRUARY 2020

App No	App Type	Parish	Description	Location	Applicant	Decision
19/0349	Reserved by Cond	Bolton	Discharge of conditions 3 (surface water drainage), 4 (surface water discharge), 5 (carriage, foot and cycleways) and 6 (sample materials) attached to approval 15/0728.	EDEN GROVE, BOLTON, APPLEBY-IN-WESTMORLAND, CA16 6AJ	Y Bhailok	APPROVED
19/0544	Full Application	Hesket	Variation of condition 2 (plans compliance) to include new site layout plan and condition 4 (surface water drainage) attached to approval 17/0476.	STATION BRIDGE BUILDING, PLUMPTON, PENRITH, CA11 9NU	Mr R Thompson	APPROVED
19/0583	Reserved by Cond	Alston	Discharge of condition 3 (landscaping), 5 (Boundaries), 6 (Visibility Splays) and 9 (Surface water Drainage) attached to approval 15/0832.	LAND ADJACENT FELL VIEW, NENTHEAD, ALSTON, CA9 3PS	Mr J R Edgar	APPROVED
19/0672	Full Application	Ainstable	Subdivision of residential annex to form 2 residential annexes.	ARMATHWAITE PLACE, ARMATHWAITE, CARLISLE, CA4 9PB	Mr & Mrs Maclellan	APPROVED
19/0673	Listed Building	Ainstable	Listed building consent to enable subdivision of residential annex to form 2 residential annexes.	ARMATHWAITE PLACE, ARMATHWAITE, CARLISLE, CA4 9PB	Mr & Mrs Maclellan	APPROVED
19/0674	Full Application	Newby	Change of use of barn to dwellinghouse and proposed extension.	CROSS HOUSE BARN, NEWBY, PENRITH, CA10 3EX	Mr & Mrs G Murchie	APPROVED
19/0712	Full Application	Alston	Erection of polytunnel.	VALLEY VIEW, NENTHEAD, ALSTON, CA9 3NA	Mr J & Mrs P Baker	APPROVED
19/0758	Full Application	Appleby	Removal of Condition 3 (Studio Apartment shall not be sold, let, disposed of or used as separate living accommodation) attached to approval 06/0159.	STUDIO APARTMENT REAR OF REDSTONES, THE SANDS, APPLEBY-IN-WESTMORLAND, CA16 6XR	Mr P Leach	APPROVED
19/0784	Outline Application	Newby	Demolition of farm buildings and erection of three self build/custom build dwellings with all matters reserved.	LAND AT NEWBY HEAD, NEWBY, CA10 3EX	Mr & Mrs I Willan	REFUSED
19/0791	Full Application	Winton	Variation of condition 2 (plans compliance) to use render for the south, east and west elevations, north elevation only to be stone faced, attached to approval 18/0482.	LAND BETWEEN HILL TOP AND MYRTLE COTTAGE, MAIN STREET, WINTON, CA17 4HS	Mrs M Longden	APPROVED

App No	App Type	Parish	Description	Location	Applicant	Decision
19/0808	Reserved by Cond	Kirkby Stephen	Discharge of condition 2 (access road, drainage and utility services) and condition 4 (colour and type of stone, render and slate) attached to approval 18/0045.	LAND AT LEVENS HOUSE FARM, NATEBY ROAD, KIRKBY STEPHEN, CA17 4AA	Mr A Davis	APPROVED
19/0817	Advertisement	Penrith	Advertisement consent for replacement non-illuminated fascia sign.	Eden Animal Rescue, 37 GREAT DOCKRAY, PENRITH, CA11 7BN	Mr R Holder- Eden Animal Rescue	APPROVED
19/0821	Outline Application	Catterlen	Erection of a self-build / custom build dwelling with all matters reserved.	LAND ADJ LITTLETHWAITE, CATTERLEN, PENRITH, CA11 0BQ	Mr & Mrs A Bircher	REFUSED
19/0832	Full Application	Melmerby	Retrospective application for demolition of existing dwelling and erection of replacement dwelling.	BROAD MEADOWS, MELMERBY, PENRITH, CA10 1HA	Messrs Awde	APPROVED
19/0843	Full Application	Kirkby Stephen	Siting of bronze statue/sculpture.	PAVEMENT OUTSIDE OF TOURIST INFORMATION CENTRE, MARKET SQUARE, KIRKBY STEPHEN, CA17 4QN	Kirkby Stephen Town Council - Mr C Barnes	APPROVED
19/0846	Advertisement	Langwathby	Retention of 2 no. roadside advertisement signs.	LAND NORTH WEST OF B6412/A686, NR. EDENHALL, PENRITH,	Mr J Beard	APPROVED
19/0849	Listed Building	Hesket	Listed building consent for replacement of bay window frames to front.	SOUTHWAITE HILL, SOUTHWAITE, CARLISLE, CA4 0EW	Mr A Gosling	APPROVED
19/0850	Full Application	Skelton	Proposed general purpose agricultural building.	BRAITHWAITE MILL, IVEGILL, CARLISLE, CA4 0NG	Mr D & C Pollock	APPROVED
19/0857	Full Application	Appleby	Proposed garage with store room above.	HILL TOP COTTAGE, BONGATE, APPLEBY-IN-WESTMORLAND, CA16 6HW	Mr J Dinsdale	APPROVED
19/0863	Full Application	Alston	Variation of condition 2 (plans compliance) in respect of siting and design of plot 2 dwelling attached to approval 14/0178.	2 JOSEPH GARDENS, NENTHEAD, ALSTON, CA9 3LU	Mr S Richardson	APPROVED
19/0867	Listed Building	Penrith	Listed Building Consent for retention of replacement windows and condenser units to 26 Cornmarket and retention of replacement doors and windows and proposed internal alterations, door and balustrades to 5A White Hart Yard.	26 CORNMARKE / 5A WHITE HART YARD, CORNMARKE, PENRITH, CA11 7HR	Mr F Proudfoot - Fred Proudfoot Ltd	APPROVED
19/0871	Listed Building	Kirkby Stephen	Listed Building Consent for the addition of information plaque adjacent to front door.	HALLS NEWSAGENTS,, 8 MARKET SQUARE, KIRKBY STEPHEN, CA17 4QT	Kirkby Stephen Walkers Are Welcome - Mrs A Sandell	APPROVED
19/0873	Full Application	Skelton	Change of use to form holiday lodge park and access.	LAND ADJ THE LIMES, FIELDHEAD, CALTHWAITE, PENRITH, CA11 9PU	Mr A Porter	APPROVED



App No	App Type	Parish	Description	Location	Applicant	Decision
19/0877	Full Application	Kirkby Stephen	Proposed rear two storey extension.	THE GRANARY, SILVER STREET, KIRKBY STEPHEN, CA17 4RB	Mr C Wearmouth & Mrs Z Barnett	APPROVED
19/0879	Listed Building	Dufton	Listed building consent for replacement front door.	BROW FARM, DUFTON, APPLEBY-IN-WESTMORLAND, CA16 6DF	Mrs W Swinbank	APPROVED
19/0887	Full Application	Culgaith	Erection of first floor side extension for additional living accommodation.	1 KIRKHILL, BLENCARN, PENRITH, CA10 1TZ	Mr & Mrs Laker	APPROVED
19/0889	Full Application	Newby	Proposed dayroom extension.	WHITE STONE, NEWBY, PENRITH, CA10 3HQ	Mr & Mrs Brendon	APPROVED
19/0891	Listed Building	Penrith	Listed Building Consent for the removal of 4no. Skylights from roof and replacement of roof tiles.	ROWCLIFFE HOUSE, CROWN SQUARE, PENRITH, CA11 7AB	Mrs S Boye	APPROVED
19/0893	Listed Building	Newby	Listed Building Consent for proposed dayroom extension.	WHITE STONE, NEWBY, PENRITH, CA10 3HQ	Mr & Mrs Brendon	APPROVED
19/0897	Full Application	Alston	Change of use of redundant agricultural barn to holiday accommodation and installation of micro wind turbine.	LITTLE GHYLL COTTAGE, GARRIGILL, ALSTON, CA9 3HB	Mr I Grey	APPROVED
19/0899	Full Application	Long Marton	Replacement livestock and machinery storage building with lean-to cover for midden.	LAND AT RISING SUN, CROFT ENDS, APPLEBY-IN-WESTMORLAND, CA16 6JL	Mr M Huschka	APPROVED
19/0902	Full Application	Penrith	Retrospective replacement windows and condenser units to 26 Cornmarket and retrospective replacement windows and proposed door and balustrades to 5a White Hart Yard.	26 CORNMARKE / 5A WHITE HART YARD, CORNMARKE, PENRITH, CA11 7HR	Mr F Proudfoot- Fred Proudfoot LTD	APPROVED
19/0905	Full Application	Penrith	Replacement of the existing stand-by electrical generator and associated fuel tank and external alterations to building.	PENRITH HOSPITAL, BRIDGE LANE, PENRITH, CA11 8HX	Mr M Armstrong- North Cumbria Intergrated Care Foundation Trust	APPROVED
19/0906	Full Application	Sockbridge & Tirril	Proposed single storey front porch.	2 CROFT FOOT, SOCKBRIDGE, PENRITH, CA10 2JW	Mr & Mrs Stewart	APPROVED
19/0914	Notice of Intention	Dacre	Proposed excavation of land.	MEG BANK FARM, STANTON, PENRITH, CA11 0EE	D & H Brass Farming	APPROVED
19/0915	Notice of Intention	Dacre	Proposed excavation of land.	MEG BANK, STANTON, PENRITH, CA11 0EE	D & H Brass Farming	APPROVED
19/0916	Full Application	Orton	Extension to existing butchers.	Westmorland Ltd, TEBAY SOUTH SERVICE AREA, ORTON, PENRITH, CA10 3SB	Mr John France- Westmorland Limited	APPROVED

App No	App Type	Parish	Description	Location	Applicant	Decision
19/0919	Full Application	Penrith	Variation of Condition 2 ( plans compliance) to include a reduction of the footprint from 980m2 to 882m2 and increase in height of eaves from 10m to 11.5m and ridge height from 11.4m to 12.9m, attached to approval 17/0821.	OMEGA PROTEINS LTD, GREYSTOKE ROAD, PENRITH, CA11 0BX	Omega Proteins Limited	APPROVED
19/0921	Full Application	Penrith	The erection of a single storey extension to the side of the property plus some landscaping works and tree removal.	7 JUBILEE LODGE, BEACON EDGE, PENRITH, CA11 7SQ	Mr & Mrs Richardson	APPROVED
19/0922	Full Application	Penrith	Retrospective application for the construction of two storey gatehouse building.	OMEGA PROTEINS, GREYSTOKE ROAD, PENRITH, CA11 0BX	Omega Proteins Limited	APPROVED
20/0012	Advertisement	Kirkby Stephen	Advertisement consent for 3 no. fascia signs, 1 no. illuminated hanging sign, 2 no. amenity boards and 2 no. illuminated menu cases.	THE BLACK BULL, MARKET STREET, KIRKBY STEPHEN, CA17 4QW	Punch Partnerships Ltd	APPROVED
20/0015	Listed Building	Kirkby Stephen	Listed Building Consent for 3 no. fascia signs, 1 no. illuminated hanging sign, 2 no. amenity boards and 2 no. illuminated menu cases.	THE BLACK BULL, MARKET STREET, KIRKBY STEPHEN, CA17 4QW	Punch Partnerships Ltd	APPROVED
20/0018	Tree Works (CA)	Great Salkeld	Coppice bedgerow of 24 field Maples to manage in future as a hedge; Great Salkeld Conservation Area.	CARRICKMORE, GREAT SALKELD, PENRITH, CA11 9NA	Mrs Alison Thurgood	APPROVED
20/0019	Tree Works (CA)	Penrith	Acer: Remove the trunk of the multi-stemmed Acer which is crushing guttering on the shed and reduce the height of remaining tree to 3m; Reduce Pear tree back to previous cutting points and crown thin by up to 20%; Penrith New Streets Conservation Area.	BRACKENBAR, GRAHAM STREET, PENRITH, CA11 9LG	Brian Convey	APPROVED
20/0031	Non-Material Amend	Penrith	Non Material Amendment for the addition of window to east elevation attached to approval 19/0744.	43 CROFT TERRACE, PENRITH, CA11 7RU	Mr M Kersey	APPROVED
20/0042	Non-Material Amend	Penrith	Non Material Amendment to replace approved materials with material to match existing dwelling attached to approval 19/0824.	14 SYCAMORE DRIVE, PENRITH, CA11 8UG	Mr J Holdsworth	APPROVED
20/0051	Tree Works (CA)	Brough	Take out Sycamore tree due to rot /danger to building; Church Brough Conservation Area.	ASH GARTH, BROUGH, KIRKBY STEPHEN, CA17 4EJ	Mr Stuart Wilkinson	APPROVED
20/0060	Tree Works (CA)	Penrith	Pear Tree - Reduce crown size to height shown on photographs 1-3 provided; Penrith New Streets Conservation Area.	RAVENSTONE, WORDSWORTH STREET, PENRITH, CA11 7QZ	Mr Ian White	APPROVED
20/0080	Tree Works (CA)	Appleby	Three Irish Yews in garden: Formally prune and re-shape by up to 0.5m; Appleby Conservation Area.	CRESTON MOUNT, GARTH HEADS ROAD, APPLEBY-IN- WESTMORLAND, CA16 6TR	Mrs D Cresswell	APPROVED

App No	App Type	Parish	Description	Location	Applicant	Decision
20/0113	Non-Material Amend	Warcop	Non Material Amendment for reduction in height, window and door amendments and internal layout changes, attached to approval 18/0888.	CARPOOL HOUSE, MASK ROAD, BLEATARN, APPLEBY-IN-WESTMORLAND, CA16 6PX	Mrs A Joynson	APPROVED

In relation to each application it was considered whether the proposal was appropriate having regard to the Development Plan, the representations which were received including those from consultees and all other material considerations. In cases where the application was approved the proposal was considered to be acceptable in planning terms having regard to the material considerations. In cases where the application was refused the proposal was not considered to be acceptable having regard to the material and relevant considerations. In all cases it was considered whether the application should be approved or refused and what conditions, if any, should be imposed to secure an acceptable form of development.

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# Notice of Decision



To: Addis Town Planning Ltd - Mr D Addis  
Greengage House  
Little Salkeld  
Penrith  
CA10 1NN

Mansion House, Penrith, Cumbria CA11 7YG  
Tel: 01768 817817

*Town and Country Planning Act 1990*  
*Town and Country Planning (Development Management Procedure) Order 2015*

Application No: 19/0821  
On Behalf Of: Mr & Mrs A Bircher

In pursuance of their powers under the above Act and Order, Eden District Council, as local planning authority, hereby REFUSE outline planning permission for the development described in your application and on the plans and drawings attached thereto, viz:

Application Type: Outline Application  
Proposal: Erection of a self-build / custom build dwelling with all matters reserved.  
Location: LAND ADJ LITTLETHWAITE CATTERLEN PENRITH CA11 0BQ

The reasons for this decision are:

1) The development is considered to be unacceptable on the grounds that the proposal conflicts with the spatial planning policies of the Council. The application site does not meet the criteria of infill or rounding off development as required for new housing within the Smaller Villages and Hamlets. Whilst it is acknowledged that the provision of one house for self-build and custom build would go a small way to meeting the requirement of providing enough permissions to meet the Self-build demand (thereby attracting some weight in favour), this would not outweigh the fundamental policy conflict of allowing market housing in this location. The proposal is therefore considered to be contrary to Policies LS1 and HS2 of the Eden Local Plan 2014-2032.

*Where necessary the local planning authority has worked with the applicant in a positive and proactive manner seeking solutions to problems arising in relation to dealing with the planning application and to implement the requirements of the NPPF and the adopted development plan.*

Date of Decision: 10 February 2020

Signed:

A handwritten signature in black ink, appearing to read "O Shimell", is written over a faint, circular official stamp.

Oliver Shimell LLB  
Assistant Director Planning and Economic Development

# Notice of Decision



To: ADDIS TOWN PLANNING LTD - Mr D Addis  
GREENGAGE HOUSE  
LITTLE SALKELD  
PENRITH  
CA10 1NN

Mansion House, Penrith, Cumbria CA11 7YG  
Tel: 01768 817817

*Town and Country Planning Act 1990*  
*Town and Country Planning (Development Management Procedure) Order 2015*

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Application No: 19/0784  
On Behalf Of: Mr & Mrs I Willan

In pursuance of their powers under the above Act and Order, Eden District Council, as local planning authority, hereby REFUSE full planning permission for the development described in your application and on the plans and drawings attached thereto, viz:

Application Type: Outline Application  
Proposal: Demolition of farm buildings and erection of three self build/custom build dwellings with all matters reserved.  
Location: LAND AT NEWBY HEAD NEWBY CA10 3EX

The reason(s) for this decision are:

The development is considered to be unacceptable on the grounds that the proposal conflicts with the spatial planning policies of the Council. The application site does not meet the criteria of infill or rounding off development as required for new housing within the Smaller Villages and Hamlets, and as such is considered to fall as development within the Rural Area. Market housing beyond the Main Towns, Key Hubs or Smaller Villages and Hamlets is not in accordance with planning policy. Whilst it is acknowledged that the provision of three houses for self-build and custom build would go a small way to meeting the requirement of providing enough permissions to meet the Self-build demand (thereby attracting some weight in favour), this would not outweigh the fundamental policy conflict of allowing market housing in the countryside. The proposal is therefore considered to be contrary to Policies LS1 and HS2 of the Eden Local Plan 2014-2032.

*Where necessary the local planning authority has worked with the applicant in a positive and proactive manner seeking solutions to problems arising in relation to dealing with the planning application and to implement the requirements of the NPPF and the adopted development plan.*

Date of Decision: 26 February 2020

Signed:



Oliver Shimell LLB  
Assistant Director Planning and Economic Development



## Eden District Council

**Planning Committee Agenda**  
**Committee Date: 19 March 2020**

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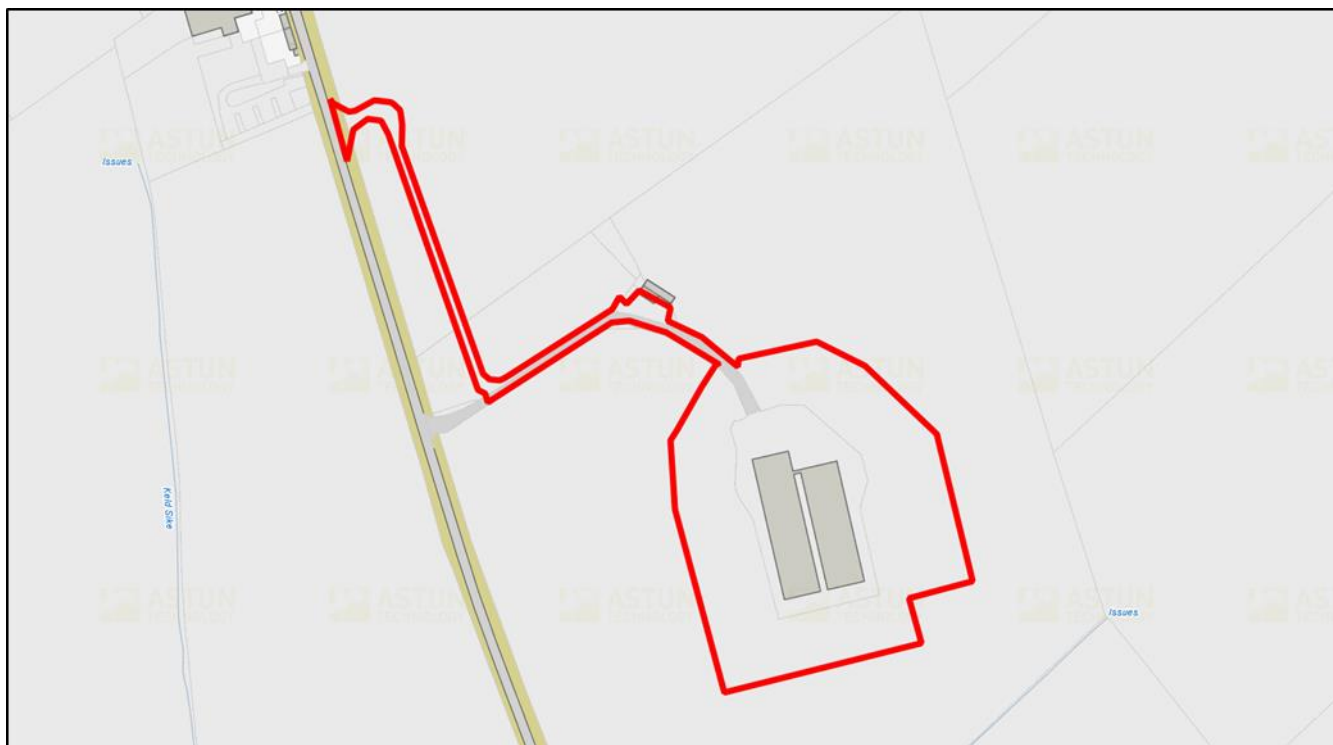
<b>Item No</b>	<b>Application Details</b>	<b>Officer Recommendation</b>
<b>1</b>	<b>Planning Application No: 19/0566</b> Retention of Existing Free Range Egg Laying Unit and Associated Infrastructure Land North-East of High Meadow Farm, Marton Moor RJ Armstrong	Recommended to:  <p style="text-align: center;"><b>APPROVE</b> Subject to Conditions</p>
<b>2</b>	<b>Planning Application No: 19/0708</b> Retrospective application for change of use of land to domestic, mitigation works carried out to the schedule ancient monument site, move existing gate to lane boundary and erect stone wall either side to boundary edge and restoration of stone building Land west of Castle Farm, Hardendale Mr Dawson	Recommended to:  <p style="text-align: center;"><b>APPROVE</b> Subject to Conditions</p>
<b>3</b>	<b>Planning Application No: 19/0923</b> Erection of building for ancillary uses associated with Heather Glen Country Hotel, including staff and management accommodation and ancillary storage Land adjacent to the Heather Glen Country House Hotel, Ainstable Heather Glen Limited	Recommended to:  <p style="text-align: center;"><b>REFUSE</b> With Reasons</p>
<b>4</b>	<b>Planning Application No: 19/0829</b> Creation of new access Fernwood, Edenhall Mr T O'Malley	Recommended to:  <p style="text-align: center;"><b>APPROVE</b> Subject to Conditions</p>
<b>5</b>	<b>Planning Application No: 19/0790</b> Extensions and alterations to dwelling The Lodge, Temple Sowerby Mr and Mrs Clayton	Recommended to:  <p style="text-align: center;"><b>APPROVE</b> Subject to Conditions</p>

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**REPORTS FOR DEBATE**

<b>6</b>	<b>Planning Application No: 19/0724</b> Change of use of workshop into two holiday apartments and associated alterations The Band Room, Black Bull Yard, Market Street, Kirkby Stephen, CA17 4QW Mr P Davenport	Recommended to:  <b>APPROVE</b> Subject to Conditions
<b>7</b>	<b>Planning Application No: 19/0875</b> Conversion of barn to create three dwellings Barn at High Galligill, Nenthead Spenserscom Limited	Recommended to:  <b>APPROVE</b> Subject to Conditions
<b>8</b>	<b>Planning Application No: 19/0696</b> Reserved matters application for access, appearance, layout, scale, design and landscaping in relation to planning permission ref. 17/0922 for residential development Land off Kirkby Stephen Grammar School, Kirkby Stephen Mr Colin Caldwellader – Maytree Construction	Recommended to:  <b>APPROVE</b> Subject to Conditions
<b>9</b>	<b>Planning Application No: 20/0021</b> Variation of condition No 5 (Accommodation Use) from guesthouse/holiday establishment to residential use attached to approval 04/0033 2 Primrose Court, Tebay CA10 3TR Mrs J Spurling	Recommended to:  <b>APPROVE</b> Subject to Conditions
<b>10</b>	<b>Planning Application No: 19/0713</b> Conversion of stone bank barn, reconstruction of stone byre to rear and re-modelling modern cow byre to form a dwelling Town Head Farm, Kirkland Road, Skirwith Mr T Smith	Recommended to:  <b>APPROVE</b> Subject to Conditions

**Agenda Item 1**  
**REPORTS FOR DEBATE**

<b>Date of Committee:</b>	<b>19 March 2020</b>		
<b>Planning Application No:</b>	19/0566	<b>Date Received:</b>	31 July 2019
<b>OS Grid Ref:</b>	366453 526456	<b>Expiry Date:</b>	05 November 2019 extension of time agreed until 25 March 2020
<b>Parish:</b>	Long Marton	<b>Ward:</b>	Long Marton
<b>Application Type:</b>	Full		
<b>Proposal:</b>	Retention of Existing Free Range Egg Laying Unit and Associated Infrastructure		
<b>Location:</b>	Land North-East of High Meadow Farm, Marton Moor		
<b>Applicant:</b>	RJ Armstrong		
<b>Agent:</b>	Ian Pick Associates Ltd		
<b>Case Officer:</b>	Ian Irwin		
<b>Reason for Referral:</b>	A request has been made by an objector to speak at Planning Committee		



## **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 application form, dated 15 July 2019 and the drawings hereby approved:
  - i. Design and Access Statement, received on the 31 July 2019;
  - ii. Location Plan, dated July 19;
  - iii. Elevations Plan, entitled Proposed New Poultry Unit, dated 14 June 2019;
  - iv. Floor Plan, entitled Proposed New Poultry Unit, dated 14 June 2019;
  - v. Highway Access Plan, dated July 19;
  - vi. Plant Noise Assessment, Acoustics Report M1717/R03b, dated 20 June 2019;
  - vii. Site Plan, as built, dated July 19;
  - viii. Surface Water Management Plan, ref. L0076A, Version 1, dated 10 July 2019;
  - ix. Ammonia Modelling Report, dated 21 June 2019;
  - x. Odour Report, dated 21 June 2019;
  - xi. Soft Landscape Proposals, ref. IPA1037-SL Rev. A, dated 7 May 2019.

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

### **Ongoing Conditions**

2. The development shall proceed at all times in accordance with the Plant noise assessment, Acoustics report M1717/R03b, dated 20 June 2019 supplied in support of the application.

**Reason:** To safeguard the amenity of the area.
3. No works, including deliveries, the unloading/ loading of equipment and materials, including poultry, shall take place on the site between the hours of 22:00-07:00 daily.

**Reason:** In the interests of the amenity of the area.
4. No other form of ventilation system shall be utilised on or in the hereby approved development other than that approved by the Plant noise assessment, Acoustics report M1717/R03b, dated 20 June 2019.

**Reason:** To safeguard the amenity of the area.

## **2. Proposal and Site Description**

### **2.1 Proposal**

- 2.1.1 The proposal seeks full planning permission for the retention of an existing free range egg laying unit and associated infrastructure on land North East of High Meadow Farm, Marton Moor.

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- 2.1.2 The units have already been constructed and have been operational for some time, since their approval under planning permission ref. 17/0544. However, it has come to light that the units have been constructed in the wrong place. As such, this application seeks to regularise their retention along with a different ventilation system to that originally approved and to which complaints have been received.
- 2.1.3 The units are polyester coated steel profile sheeted structures (coloured Juniper Green, BS12B29). Each unit is 68.4 metres in length and 20.1 metres in width and 2.941 metres in height to the eaves – 5.775 metres to the ridge of the roof.
- 2.1.4 Each unit holds 16,000 laying hens (32,000 free range laying hens in total). The buildings are linked via an egg packing area and control room (located to the north of the building 1). This is 11.76 x 20.1 metres in size with a height to the eaves of 4.12 metres and a ridge height of 6.981 metres. The development also involved improvements to the existing access (via its relocation), visibility splays and landscaping. Egg collections will be by HGV twice weekly, feed delivery once every week, bird delivery and collection by 2 lorries every 60 weeks. This equates to 6 vehicle movements (3 into site, 3 out of site) per week.
- 2.1.5 As part of the originally approved development, a ventilation system was permitted which in itself had been modelled to produce a certain level of noise emissions (and to which the Environmental Health Officer supported). However, during construction the approved system was not implemented. Instead, a different approach was taken which has resulted in noise emissions in excess of what was predicted via the aforementioned noise assessment.
- 2.1.6 It is noted that the site has been the subject of an enforcement investigation as a consequence of complaints being received. The original ventilation system involved roof mounted fans, these, instead, have been located in the southern gable end of the building. The proposed solution is to disable the gable fans and replace them with a bank of roof mounted fans in the southern end of the building. There are therefore, x 6 roof mounted extractor fans per shed (x 4 Big Dutchman FF091-6DT and x 2 Big Dutchman FF091-6ET fans). These fans are located on the southern end of each of the egg laying units.
- 2.1.7 The agent has advised that due to significant cost implications their client (the applicant) has confirmed that they do not intend to remove the unauthorised fans out of the southern gable end of the unit. Instead, the fans have been disconnected and are being sheeted over with the same materials as the existing shed to prevent their future use.
- 2.1.8 Accordingly, this represents the applicant's proposal to resolve this outstanding issue of ventilation fans and the units being constructed in the wrong location.

**2.2 Site Description**

- 2.2.1 The proposed development site is located on existing agricultural land to the north-east of High Meadow Farm near Milburn and Long Marton. The farm is located approximately 1.7 kilometres to the north-east from Long Marton and approximately 2.7 kilometres to the south-east from Milburn.
- 2.2.2 The application site does undulate with a rise in land form to the south-west of the site, whilst falling away to the north-east.
- 2.2.3 The nearest residential properties to the application site are located in the following locations:

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- High Meadow Farm – at a distance of approximately 280 metres to the south west of the application site.
- Galliber Farm - at a distance of approximately 350 metres to the north west of the application site.
- Glebelands Farm – at a distance of approximately 500 metres to the east of the application site.
- Glebelands Cottages – at a distance of approximately 570 metres to the east of the application site.

2.2.4 Access to the site is obtained off the unclassified road which runs parallel to the site, on its western boundary. The proposal site is approximately 0.3 hectares in size. The site is located within a Flood Zone 1.

2.2.5 There are no other constraints relevant to the determination of this planning application.

### 3. Consultees

#### 3.1 Statutory Consultees

Consultee	Response
Highway Authority – Cumbria County Council	<p>Responded on the 20 August 2019 noting the comments raised to the previous planning application 17/0544. This raised no objections but did request conditions be attached to any decision notice that may be issued relating to:</p> <ul style="list-style-type: none"> <li>- Surfacing of the access road;</li> <li>- Access and turning spaces to be constructed prior to the commencement of construction.</li> </ul> <p>A further response was received on the 30 January 2020 which confirmed that <i>'It is noted that the application is retrospective and as such prior to commencement conditions cannot be incorporated into any planning consent. Looking at the location of the facility and that there is a long private access road from the public highway to the Egg laying facility, and the plans provided indicates that there should be adequate space available to access and park vehicles associated with the day to day operations off of the public highway network. As such CCC as Local Highway Authority would have no concerns with the proposed access and parking arrangement associated with the facility'</i>.</p>
Lead Local Flood Authority – Cumbria County Council	<p>Responded on the 20. August 2019 noting that records indicate minor surface water flooding occurring at the site which has 1 in 1000 chance of occurring each year. The Environment Agency Flood Maps do not indicate that the site is in an area of flood risk. It was requested that a condition be attached to any decision notice as may be issued requiring a scheme of surface</p>

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**REPORTS FOR DEBATE**

Consultee	Response
	<p>water drainage be provided prior to the commencement of the development.</p> <p>It is considered reasonable to include a requirement for the submission of a scheme of surface water drainage, however as this is a retrospective application, it is not possible for this to be submitted prior to commencement.</p> <p>A further response was received on the 30 January 2020 which stated, <i>'Cumbria County Council as Lead Local Flood Authority have evaluated the Surface Water Management Plan produced by Hydro International been looking over the drainage design and would have the following comments with regards to the proposed drainage design.</i></p> <p><i>The Surface Water Management Plan does not demonstrate that the site will prevent flooding in a 1-100 plus 40% climate change event.</i></p> <p><i>They have suggested two potential drainage options.</i></p> <p><i>First is the geo-cellular as mentioned in section 3.3 which would accommodate the 1-30 rainfall event however would flood onto land in the 1-100 event but be contained on the site by 500mm high bunds, and the second option is a Dry Swale as mentioned in section 3.4 again would store the 1-30 but would allow flooding on the site in a 1-100 rainfall event, It is appreciated that both drainage options look to deal with roof water discharge by utilising infiltration techniques, although the Surface water Management Plan has not incorporated the additional storage to for Climate Change (40%) the site is not located in an area known for surface water flooding issue and the proposed facility and gradients on the land around the egg laying units are a considerable distance from any properties and are current Greenfields with the ability store the overflow from the development. As such the development does not increase the risk of flooding off of the site and as such CCC as LLFA would have no objection to the proposed drainage plan provided, however we would need to see a clear indication of which option has been utilised on the development'.</i></p> <p>The applicant has confirmed that the geo-cellular solution has been installed. On the 4 March 2020 the Lead Local Flood Authority confirmed that <i>'Cumbria County Council as Lead Local Flood Authority would have no concerns that the applicant has looked to utilise the option to install geo-cellular drainage crates</i></p>

**Agenda Item 1**  
**REPORTS FOR DEBATE**

<b>Consultee</b>	<b>Response</b>
	<i>to attenuate the roof and surface water discharge from the development site. The information which has been provided has indicate that the development would not increase the risk of flooding off of site'.</i>
Environment Agency	No response has been received to date.
Natural England	Responded on the 06 September 2019 raising no objection to the proposal. It was noted that there is no exceedance of critical limit or load for any designated sites alone or in combination.
Environmental Health	<p>Responded on the 22 August 2019 confirming that there were no concerns with regards to the noise report submitted by the applicant.</p> <p>It was recommended that as the fans that have been previously installed within the building are not to be removed, that a condition be attached to any decision notice as may be issued confirming that consent is only granted for the roof mounted extractor fans and no other fans are to be used to prevent the continued use of the previous fans which will result in adverse noise impacts.</p> <p>In relation to odour it was initially noted that the odour assessment related to the wrong location and as such this required amendment. The applicant therefore amended the reports in relation to this to ensure no confusion in relation to the assessment and the site it related to.</p>
United Utilities	No response has been received to date.
Arboricultural Officer – Eden District Council	Responded on the 16 August 2019 raising no objection to the proposal. It was noted that the soft landscaping proposed are suitable to help soften the appearance of the proposal within the landscape.
Minerals & Waste – Cumbria County Council	Responded on the 09 August 2019 and noted that there is no mineral safeguarding issue with the proposal.

#### 4. Parish Council/Meeting Response

	<b>Please Tick as Appropriate</b>			
<b>Parish Council/Meeting</b>	<b>Object</b>	<b>Support</b>	<b>No Response</b>	<b>No Objection</b>
Long Marton Parish Council				✓

#### 5. Representations

- 5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on the 13 August 2019.



**Agenda Item 1**  
**REPORTS FOR DEBATE**

<b>No of Neighbours Consulted</b>	3	<b>No of letters of support</b>	0
<b>No of Representations Received</b>	0	<b>No of neutral representations</b>	0
<b>No of objection letters</b>	1		

5.2 One letter of objection raised the following material considerations to the application:

- the Ammonia Report, Odour Assessment and Surface Water Management Plan all make reference to the egg laying unit being constructed at High Meadow Farm, which is not the case.
- each document provides different postcodes and addresses for the site, none of which are correct.
- There is no association between High Meadow Farm and the development.
- The noise report notes that the distance from the unit to High Meadow Farm is approximately 350 metres, however as the unit is not physically located in the same location as the plans, the distance is closer to 280 metres.
- The application site can be viewed from the adjacent roadside and neighbouring properties despite the application form stating otherwise.
- Neighbouring properties have experienced significant disturbance and distress from the use of the ventilation system which operates most hours of the day and throughout the night.
- The roof mounted fans will still be located at the southern end of the building and continue to disturb neighbouring properties.
- The noise assessment is incorrect and contains inaccuracies such as distances to nearest properties and there being an unobstructed noise path between the unit and neighbouring dwellings. Noise has a significant impact upon neighbouring dwellings and also an organic chicken farm.
- The location of the egg laying unit causes biosecurity issues for the nearby organic chicken farm.
- The egg laying unit has resulted in loss of production, stock and earnings for the nearby organic chicken farm due the close proximity and the prohibited use of antibiotics which are used in non-organic egg laying units.

## 6. Relevant Planning History

<b>Application No</b>	<b>Description</b>	<b>Outcome</b>
15/0908	Proposed Solar Farm with ancillary infrastructure.	Refused
17/0544	Erection of a free range egg laying unit with associated feed bins, hardstanding, access tracks and upgraded highway entrance.	Approved
19/0194	Variation of condition 2 (plans compliance) for revised ventilation system attached to approval 17/0544.	Withdrawn

## **7. Policy Context**

### **7.1 Development Plan**

#### **Eden Local Plan (2014-2032):**

- LS1 – Locational Strategy
- RUR2 – New Agricultural Buildings
- RUR4 – Employment Development and Farm Diversification in Rural Areas
- DEV1 – General Approach to New Development
- DEV2 – Water Management and Flood Risk
- DEV3 – Transport, Accessibility and Rights of Way
- DEV5 – Design of New Development
- ENV1 – Protection and Enhancement of the Natural Environment, Biodiversity and Geodiversity

### **7.2 Other Material Considerations**

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

- Building a strong, competitive economy
- Supporting a prosperous rural economy
- Requiring good design
- Meeting the challenge of climate change, flooding and coastal change
- Conserving and enhancing the natural environment

#### **National Design Guide (2019)**

- 7.3 The policies and documents detailed above are the most relevant policies relating to the determination of this application.

## **8. Planning Assessment**

### **8.1 Principle**

- 8.1.1 Policy RUR2 entitled 'New Agricultural Buildings' supports the principle of new agricultural buildings. The explanation text for the policy confirms that's *'agriculture is a fundamental part of Eden's economy, culture and landscape. The Local Plan needs to support the rural economy and ensure that the right balance is struck between new development and the protection of the special characteristics of Eden's rural landscape'*.
- 8.1.2 Chapter 6 of the National Planning Policy Framework (NPPF) entitled 'Building a strong, competitive economy' states that planning should help create the conditions in which businesses can invest, expand and adapt. It goes on to say that *"significant weight should be placed on the need to support economic growth and productivity"*.
- 8.1.3 When specifically referring to rural areas, Chapter 6 Building a strong, competitive economy of the NPPF states that planning should enable the sustainable growth and expansion of all types of business in rural areas and the development and diversification of agricultural and other land-based rural businesses.
- 8.1.4 Paragraph 83 of the NPPF refers to *'Supporting a prosperous rural economy'* and affirms the specific support for rural areas and how decisions should assist in that. It specifically states, *'Planning policies and decisions should enable:*

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- a) *the sustainable growth and expansion of all types of business in rural areas both through conversion of existing buildings and well-designed new buildings;*
- b) *the development and diversification of agricultural land and other land-based rural businesses;*
- c) *sustainable rural tourism and leisure developments which respect the character of the countryside; and*
- d) *the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship’.*

8.1.5 Policy RUR2 specifically offers support for agricultural buildings and recognises the very important role that agriculture plays in the district. Not just from an economic point of view, but culturally too. However, the Policy also recognises that the special characteristics of the districts Landscape must also be respected and protected.

8.1.6 Given the support of Policy RUR2 for new agricultural buildings throughout the district, the principle of this development is considered acceptable, subject to the further consideration of relevant material matters referred to within this report.

## **8.2 Landscape, Visual Impacts and Design**

8.2.1 A significant consideration in relation to this application is the Landscape and Visual Impact of the proposal. In this case, such impacts can be assessed as the development is for retrospective permission and as such the buildings are already constructed upon site.

8.2.2 Policy DEV5 entitled ‘Design of New Development’ of the Local Plan require development to demonstrate a clear understanding of the form and character of the district’s built and natural environment.

8.2.3 The Policy states, *‘New development will be required to demonstrate that it meets each of the following criteria:*

- *Shows a clear understanding of the form and character of the district’s built and natural environment, complementing and enhancing the existing area.*
- *Protects and where possible enhances the district’s distinctive rural landscape, natural environment and biodiversity.*
- *Reflects the existing street scene through use of appropriate scale, mass, form, layout, high quality architectural design and use of materials.*
- *Optimises the potential use of the site and avoids overlooking.*
- *Protects the amenity of the existing residents and business occupiers and provides an acceptable amenity for future occupiers.*
- *Use quality materials which complement or enhance local surroundings.*
- *Protects features and characteristics of local importance.*
- *Provides adequate space for the storage, collection and recycling of waste.*
- *Can be easily accessed and used by all, regardless of age and disability’.*

8.2.4 Paragraph 127 of the NPPF states that, *‘Planning policies and decisions should ensure that developments:*

- a) *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) *are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) *are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) *establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) *optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) *create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience’.*

8.2.5 The previously referred to Policy RUR2 itself supports the principal of new agricultural buildings but also seek to *‘ensure that the right balance is struck between new development and the protection of the special characteristics of Eden’s rural landscape’*. So whilst the principal is supported, it recognises the need to also protect the special characteristics of the rural landscape too.

8.2.6 The application site is not located within a designated landscape but is rural in character. This expansive landscape, consisting of arable and grazed fields is punctuated by agricultural holdings and their associated built development. This proposal would seek the retrospective approval of two hen egg-laying units which are finished in juniper green.

8.2.7 The landscape undulates and the buildings are sat slightly into the land, affording an element of natural screening. However, there is no doubt that the units are visible from the nearby public highway. This view is intermittent though as the rise in land prevents direct views for part of the western boundary. This natural topography flattens out to the southern end of the site though and the site can be seen, clearly, from the south-western corner.

8.2.8 Even though the structures are visible from the public realm, they are considered very much in-keeping with the agricultural buildings seen throughout the district of this type. Such agricultural type structures, within an agricultural setting are not considered significantly harmful and indeed in the context of the district, are a familiar type of development.

8.2.9 The proposals location, whilst not precisely the same as previously approved, still utilises elements of the natural landscape to afford it ‘landscaping’. Landscaping is acknowledged as an inappropriate way to ‘screen’ inappropriate development when it is proposed or exists in the ‘wrong’ place. However, in this instance, the proposal site is considered an acceptable location for the development.

8.2.10 In this case, the proposal site is set within an agricultural setting with other agricultural holdings in the wider landscape. These units are noted to be large but designed for a specific purpose and as such, their size is ultimately a consequence of this use. Given

## REPORTS FOR DEBATE

that the use is for agricultural purposes and they are in an agricultural setting and the site is not located within any special landscape designation, it is not considered that such development can be significantly detrimental, in Landscape terms in that circumstance.

- 8.2.11 The buildings as previously advised are large, but function as units for hens to lay eggs – these units are therefore of a size relevant to their use. Whilst functional in appearance and utilising functional materials, in the context they are used, they are considered to reflect the agricultural character of the area for similar type development and as such, the proposal is considered to accord with Policy DEV5 in terms of design.
- 8.2.12 It is recognised that the applicant has proposed a landscaping scheme which is considered acceptable in this instance. The principal of further landscaping, to enhance existing planting along the western boundary is considered appropriate and helps to soften the development proposed in terms of its visual impact. The proposals intend to ensure that planting comprising hazel, silver birch, hawthorn, blackthorn, goat willow and guelder rose would be planted to create the landscaping proposed.
- 8.2.13 It is noted that the Council's own Arboricultural Officer considers the landscape proposals are acceptable. It is also noted that the plans incorporate some areas outside of the red line boundary (the existing hedgerows) however, such can be considered acceptable given that the proposal areas are within the ownership of the applicant and they themselves are proposing the works.
- 8.2.14 Accordingly, the proposal is considered to have a low landscape impact and accords with both Policy DEV5 and the NPPF.

### 8.3 Residential Amenity

- 8.3.1 Within the Local Plan, existing and future amenity of occupants of dwellings is considered in Policy DEV5 of the Local Plan, entitled 'Design of New Development' (referred to above) which states, *'New development will be required to demonstrate that it meets each of the following criteria:*
- *Shows a clear understanding of the form and character of the district's built and natural environment, complementing and enhancing the existing area.*
  - *Protects and where possible enhances the district's distinctive rural landscape, natural environment and biodiversity.*
  - *Reflects the existing street scene through use of appropriate scale, mass, form, layout, high quality architectural design and use of materials.*
  - *Optimises the potential use of the site and avoids overlooking.*
  - *Protects the amenity of the existing residents and business occupiers and provides an acceptable amenity for future occupiers.*
  - *Use quality materials which complement or enhance local surroundings.*
  - *Protects features and characteristics of local importance.*
  - *Provides adequate space for the storage, collection and recycling of waste.*
  - *Can be easily accessed and used by all, regardless of age and disability'.*
- 8.3.2 Paragraph 127 also relates in part, to amenity, and states that *'Planning policies and decisions should ensure that developments:*

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- a) *will function well and add to the overall quality of the area, not just for the short terms but over the lifetime of the development;*
- b) *are visually attractive as a result of good architecture, layout and appropriate an effective landscaping;*
- c) *are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) *establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) *optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) *create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience’.*

8.3.3 Policy DEV5 of the Eden Local Plan states that development should “*protect the amenity of existing residents*”. This is supported by Chapter 12 of the NPPF entitled ‘Achieving well-designed places’ which states that new development should provide “*a high standard of amenity for existing and future users*”.

8.3.4 There is no doubt that the scheme installed, which was not in accordance with what was approved has failed to protect the amenity of existing residents. However, this scheme before the Planning Authority, can ensure that amenity is protected. Importantly, it should be noted that the Environmental Health Officer confirmed ‘*Based on the information in the report, we have no issues with the application*’.

8.3.5 The objector has raised concerns regarding their amenity being impacted detrimentally and it is noted that the objection letter submitted on their behalf refers to the impacts upon their health due to the original plans not being followed. Officers are mindful of the impacts of the development, when not constructed in compliance with the approved plans and how it has impacted their health. It is understood that the objectors have had a stressful and distressing period as a consequence of the errors in construction in relation to this matter.

8.3.6 Because of this, officers have checked again with the Environmental Health Officers to be assured that the issue has been reviewed again and assurance can be given that the amenity of the area will not be significantly or detrimentally affected. The Environmental Health response remains that as long as conditions are imposed and adhered to, the newly installed fans will preserve the amenity of the area whilst equally allowing the business to operate. Ultimately, this is the balance the planning system seeks to achieve in scenarios such as this. It is also recognised that the Environmental Health Officer has been involved with this matter at the time that the enforcement case was ongoing. As such, they have been involved at various steps of this process.

8.3.7 It is also important to understand what Policy DEV5 is aiming to achieve. Amenity is important and ensuring it is protected to an appropriate level is something that planning decisions seek to consider and achieve in the planning balance. If amenity is considered likely to be impacted by a development proposal, simply having that

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amenity being impacted is not considered necessarily a sufficient justification or reason to refuse a proposal. It is the extent and severity of that impact which must be considered in this instance.

- 8.3.8 In this instance, whilst the previously approved plans were not adhered to, these newly installed fans can assure officers that the amenity of the area will not be significantly affected. The planning process endeavours to deal with numerous competing agendas and seeks to consider each fairly and reasonably in the determination process. In this instance the key question is whether or not amenity would be so significantly harmful as to merit the refusal of the development.
- 8.3.9 On the basis of the analysis of the technical data supplied by the Councils own Environmental Health team, the conclusion is that, no, the amenity is so significantly impacted as to merit the refusal of this proposal.
- 8.3.10 As such, the proposal is considered to accord with Policy DEV5 and NPPF.

### 8.4 Infrastructure

- 8.4.1 Paragraph 109 of the NPPF affirms that *'development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'*.
- 8.4.2 The Highways Authority have been consulted upon the application and confirmed their thoughts upon it. The up-to-date response confirms that *'there should be adequate space available to access and park vehicles associated with the day to day operations off of the public highway network. As such CCC as Local Highway Authority would have no concerns with the proposed access and parking arrangement associated with the facility'*.
- 8.4.3 As such there is no concern in relation to the proposal from a highway perspective.
- 8.4.4 In terms of drainage, Policy DEV2 of the Local Plan, entitled 'Water Management and Flood Risk' confirms that *'new development' should 'meet the sequential approach to development in flood risk areas'*.

The Policy confirms that *'new development must incorporate sustainable drainage systems (SUDs), where practicable, to manage surface water run-off. All applications for major development, defined in Appendix 2, will be subject to review by the Lead Local Flood Authority. Surface water should be discharged in the following order of priority:*

1. *To an adequate soakaway or some other form of infiltration system.*
2. *By an attenuated discharge to a watercourse.*
3. *By an attenuated discharge to a public surface water sewer.*
4. *By an attenuated discharge to a public combined sewer.*

*Applicants will need to submit clear evidence demonstrating why there is no alternative option but to discharge surface water to the public sewerage system and that the additional discharge can be accommodated. The presumption will be against the discharge of surface water to the public sewerage network'.*

- 8.4.5 Paragraph 158 of the NPPF states that, *'The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk*

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*assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding’.*

- 8.4.6 The Lead Local Flood Authority (LLFA) have also considered the application. The response acknowledges that the applicant has submitted a surface water management plan and that this does not demonstrate how the site would prevent a 1 in 100 year plus 40% climate event. However, the LLFA did confirm that the applicant had indicated two potential solutions. They added that, *‘First is the geo-cellular as mentioned in section 3.3 which would accommodate the 1-30 rainfall event however would flood onto land in the 1-100 event but be contained on the site by 500mm high bunds, and the second option is a Dry Swale as mentioned in section 3.4 again would store the 1-30 but would allow flooding on the site in a 1-100 rainfall event, It is appreciated that both drainage options look to deal with roof water discharge by utilising infiltration techniques, although the Surface water Management Plan has not incorporated the additional storage to for Climate Change (40%) the site is not located in an area known for surface water flooding issue and the proposed facility and gradients on the land around the egg laying units are a considerable distance from any properties and are current Greenfields with the ability store the overflow from the development. As such the development does not increase the risk of flooding off of the site and as such CCC as LLFA would have no objection to the proposed drainage plan provided, however we would need to see a clear indication of which option has been utilised on the development’.*
- 8.4.7 It is also noted that the LLFA sought clarification as to which option had been implemented on the ‘ground’. The applicant confirmed that the geo-cellular option had been implemented. The LLFA have subsequently confirmed that the geo-cellular option is acceptable and would not increase the risk of flooding off of site.
- 8.4.8 It is noted that therefore that the Lead Local Flood Authority are satisfied with the surface water drainage proposals implemented on site. As such, it is not considered that there are any drainage issues with the application to merit its refusal.
- 8.4.9 On that basis, the proposal is, given the position of the Lead Local Flood Authority and Local Highway Authority, it is considered that the proposal complies with the requirements of Policy DEV2, DEV 3 and the NPPF.

## 8.5 Natural Environment

- 8.5.1 Policy ENV1 entitled ‘Protection and Enhancement of the Natural Environment, Biodiversity and Geodiversity’ confirmed that *‘new development will be required to avoid any net loss of biodiversity, and where possible enhance existing assets. Should emerging proposals identify potential impacts upon designated sites, regard should be given to the objectives for each of the hierarchy of sites’.*
- 8.5.2 Section 15 of the National Planning Policy Framework (NPPF) entitled ‘Conserving and enhancing the natural environment’ confirms the national guidance on such matters. In this instance, it is noted that the application site is not located within a designated landscape nor a site designated by any ecological or habitat designation.
- 8.5.3 Natural England have been consulted with in relation to this application. They have confirmed no objection to the proposal. It is noted that the applicants propose further planting with which to ‘screen’ the site. Whilst the principal of this is acceptable, the proposed plan is not and as such, a condition requiring the submission of a scheme



within 3 months of any potential subsequent approval would need to be submitted to the Local Planning Authority.

- 8.5.4 This scheme would need to utilise native species as per the plan suggests but in a more sensitive manner in terms of layout. Screen planting, when implemented in such a way can in its own right appear out of place. As such a more refined scheme would be anticipated in line with the requirements of the condition. Nevertheless, the principal of a landscaping scheme is readily supported as it will inevitably enhance the biodiversity of the area compared to the piece of agricultural land it currently is.
- 8.5.5 Notwithstanding the thoughts on the landscaping scheme, it is noted that the application is retrospective and with the comments of Natural England accounted for, the proposal is not considered to have any significant impact in terms the natural environment, to such a degree that merit its refusal. As such the proposal is not considered being contrary to Policy ENV1 of the Local Plan.

## **8.6 Other Matters**

- 8.6.1 It is noted that the objectors have raised concerns over the site address. It is understood that during the original application they received contact from residents in the locality as to the proposal despite it being located elsewhere. It should be noted no comments were received in relation to that proposal.
- 8.6.2 It is understood that the applicant chose to alter the address of the forms submitted (but not the site) in order to try and resolve this particular issue. Whilst the concerns raised are noted, it is not considered so fundamental as to undermine the application and its determination. The Planning Authority is aware of the site and can determine the application accordingly. Consultees have also been able to scrutinise the information supplied albeit it would be preferable that formal reports submitted did not require the need to be updated with more accurate address information.
- 8.6.3 The critical concern is whether the site is located in the proposed location, which in this particular instance, is the case. The change in address, in an effort to resolve an issue the objectors have with the proposal address does not prejudice anyone wishing to make comments upon it. The applicant has done all it can to resolve these particular concerns.
- 8.6.4 The objectors also raise concerns that outstanding conditions (that were pre-commencement conditions) attached to Planning Permission ref. 17/0544 have yet to be discharged. These related to landscaping and surface water drainage. These details have been submitted as part of this proposal.
- 8.6.5 The enforcement investigation had already highlighted this issue and this along with the breach in terms of noise as a result of the ventilation system not being as 'approved'.
- 8.6.6 The enforcement case resulted in counsel's advice being sought and whilst it would be inappropriate to refer this privileged advice too much, the overall approach of the Council was to allow the determination of this application, which deals with those matters not previously dealt with.
- 8.6.7 However, this does serve as a reminder to all developers, that failure to comply with conditions could invalidate their planning permission and potentially be subject of more formal action. This issue is not lightly dismissed but ultimately the Planning Authority is not here to subject applications and applicants to punitive action. It must be reasonable in its approach. The applicant has submitted the information to rectify these matters

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and it is considered that it is reasonable to allow the application to be subjected to the determination process. Given that the details are considered acceptable, the application, if approved, would resolve these outstanding matters.

**9. Implications**

**9.1 Legal Implications**

- 9.1.1 The following 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.

**11. Conclusion**

- 11.1 In this case, a previously approved scheme has been built in the wrong location. The difference is approximately 30 metres and as such the egg units are located closer to some of the nearest residential property in the immediate area.
- 11.2 To compound this error, the applicant then failed to implement the approved ventilation scheme. This scheme was less able to mitigate noise and as such the objector to this application has been affected by this development.
- 11.3 Officers are very disappointed that an approved scheme was not implemented according to those plans previously considered acceptable and as such it is deeply troubling that the objectors have reported the consequences of those decisions, namely, a detrimental impact upon their own amenity. These impacts are acknowledged and officers are unhappy that such impacts have been suffered by the objectors in this case.
- 11.4 However, the planning system is not intended to be punitive. Whilst it is understandable that there will be concern amongst Members over how the applicant has acted, planning applications can be submitted retrospectively to rectify errors and improve the circumstances that have been previously experienced.
- 11.5 In this case, the location of the egg units is acceptable. The material difference in terms of the location of the units within the site is not significant, albeit, they are more visible than they would have been had they been constructed in their originally intended

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positions. That being said, the original location would not have prevented views of the egg units – they are large in scale and ultimately, difficult to not be seen wherever they are located.

- 11.6 Of critical importance is whether the ventilation system can operate to a level that is acceptable and would not significantly affect the amenity of the area. In relation to this issue the location of the units can impact amenity because ultimately, the closer they are to residential dwellings, the less tolerance there is in terms of noise levels etc. that would be sought by the Environmental Health Officers and Planners alike. The distances referred to in the reports had been noted as inaccurate and newly submitted reports, with accurate measurements have been assessed by the Environmental Health team.
- 11.7 In this instance, the applicant has replaced the ventilation system originally installed and replaced it with a new system, akin to the one they were originally meant to install and previously approved. Because the system they installed originally is effectively built into the unit it cannot be removed, but it would be disconnected and non-operational. Whilst in itself this is not ideal, it is a reasonable solution and has been conditioned to remain dormant for the duration of the development.
- 11.8 This new system has been assessed by the applicants own noise consultant. As has been confirmed, this information has subsequently been reviewed by the Council's own Environmental Health Officers who have closely scrutinised the data provided. In their opinion, the scheme can achieve a noise level that is acceptable and would not be detrimental to the amenity of the area. In that regard then, this newly submitted application will assure that the amenity of the area is protected and will be an enhancement than that which the applicant originally installed.
- 11.9 It is frustrating that this application is even necessary as the system installed is similar to that they were originally intended to provide and had they done so, the impacts on the objectors could have been avoided. But, again, it must be remembered that the decision before Members is whether or not the proposal is an appropriate use of land. Not one to punish the applicants who have tried to make right, as best they can, an error of their own creation.
- 11.10 In that spirit and acknowledging the response received by the Environmental Health Officer it is considered that the amenity of the locality and those nearest residents would be protected appropriately by operations on site and would not result in a development contrary to Policy DEV5. It is also recognised that this type of development is important to the rural economy and contributes towards it and this is something the Local Plan also seeks to support.
- 11.11 Given that the landscape and amenity of the area would therefore not be significantly, detrimentally impacted it must follow that the only conclusion should be to support and approve this application.
- 11.12 Accordingly, the proposal is recommended for approval and considered compliant with the Local Plan, in particular Policy DEV5 and the NPPF.

Oliver Shimell

Assistant Director Planning and Economic Development

Checked by or on behalf of the Monitoring Officer	✓
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**Background Papers:** Planning File 19/0566

**Agenda Item 2**  
**REPORTS FOR DEBATE**

**Date of Committee:** 19 March 2020

**Planning Application No:** 19/0708

**Date Received:** 27/09/19

**OS Grid Ref:** 5826 1473

**Expiry Date:** 14/12/19

Extension of time to  
20/3/2020 requested

**Parish:** Shap

**Ward:** Shap

**Application Type:** Full

**Proposal:** Retrospective application for change of use of land to domestic, mitigation works carried out to the scheduled ancient monument site, move existing gate to lane boundary and erect stone wall either side to boundary edge and restoration of stone building

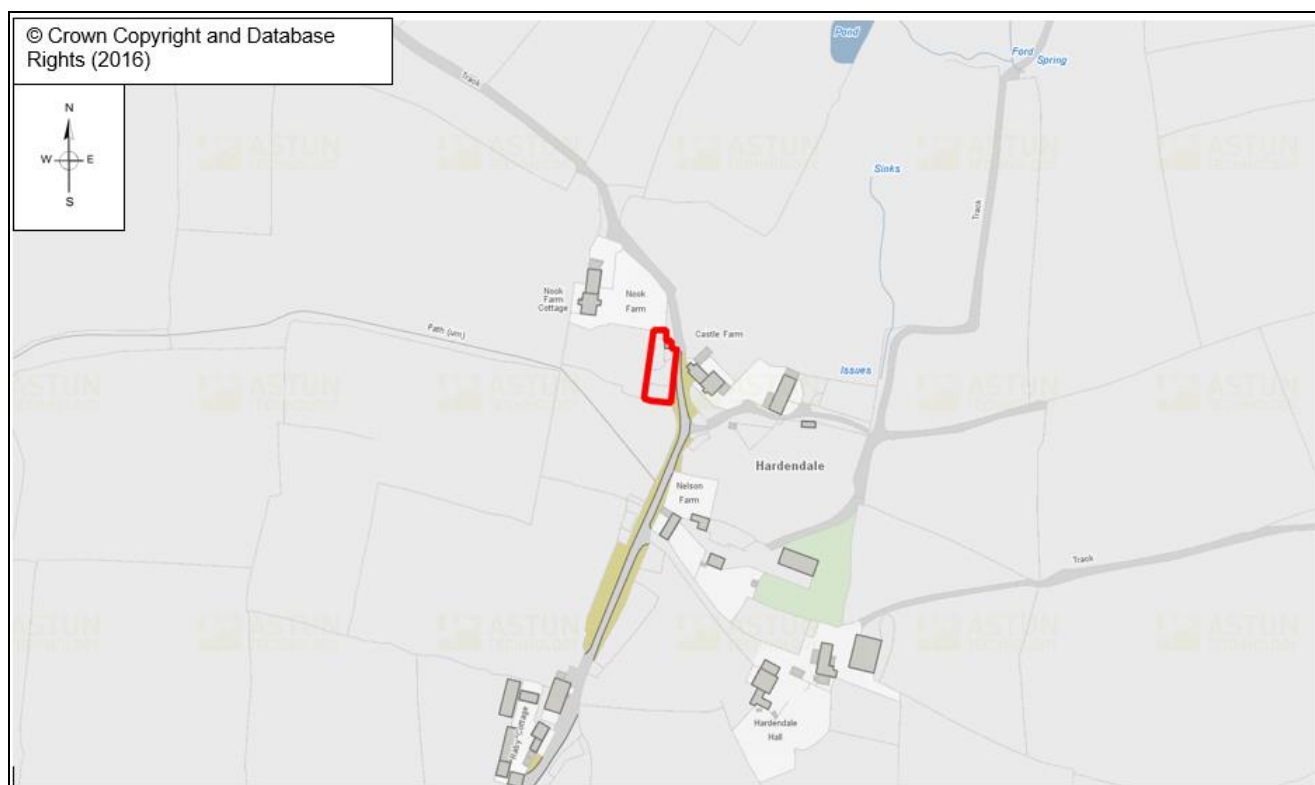
**Location:** Land west of Castle Farm, Hardendale

**Applicant:** Mr Dawson

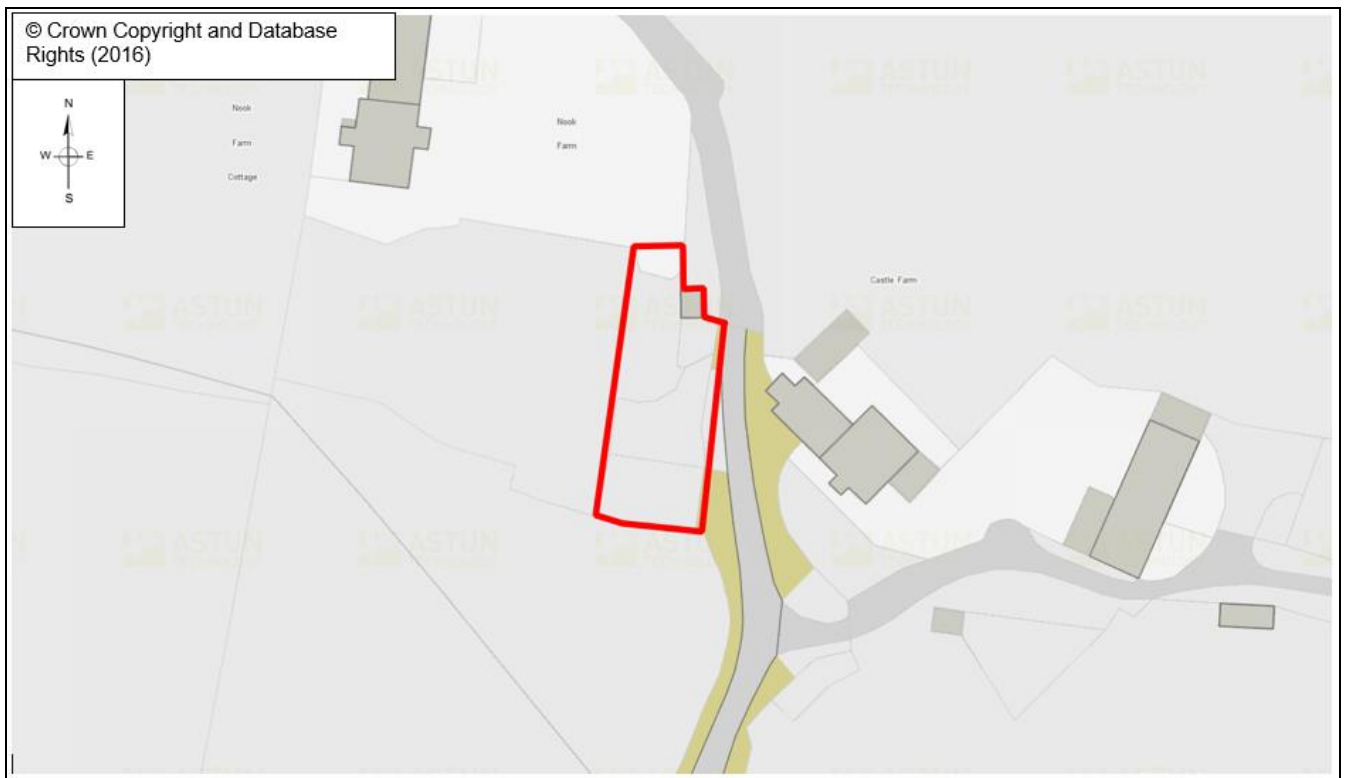
**Agent:** n/a

**Case Officer:** Mat Wilson

**Reason for Referral:** An objector has requested to address the Committee and the Parish Council object to the application.



**Agenda Item 2**  
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## **1. Recommendation**

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

- 1) The development hereby granted shall be carried out strictly in accordance with the application form and following details and plans hereby approved:

- Site Location plan dated 6/12/18
- Block plan date-stamped 27 Sep 2019
- Elevations Plan date-stamped 27 Sep 2019
- Archaeological Remediation Survey dated 23/7/19
- Heritage, Design and Access Statement dated September 2019

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

- 2) Within 12 months of this decision, an Interpretation board shall be installed at the site with text to be agreed in conjunction with Historic England to provide information on the history of the Scheduled Ancient Monument at Hardendale. The interpretation board shall be retained as such thereafter.

**Reason:** To provide a public benefit to mitigate the harm arising to the setting of a designated heritage asset.

- 3) Change of use of land for domestic use is granted for the parking area and storage shed only. Within the red line boundary of the application site, no domestic use or storage of domestic paraphernalia is permitted outside these areas.

**Reason:** To ensure the pastoral character of the countryside is not eroded through inappropriate use of the field for domestic purposes.

### **Note to applicant**

Advertisement Consent is required for the installation of the interpretation board and an application shall be submitted to the Planning Authority prior to its installation.

## **2. Proposal and Site Description**

### **2.1 Proposal**

- 2.1.1 The proposal is for retrospective planning permission for the retention of change of use of land for domestic use and a parking area, realignment of a highway boundary wall, and retention of a stone outbuilding erected for domestic storage. The description of the proposal stated on the application form is as follows:

*Application to regularise mitigation work carried out to the SAM [Scheduled Ancient Monument] site as instructed by Historic England. Rebuilding of a small stone outbuilding. Move existing gate to land boundary and erect a stone wall either side to boundary edge. Change of use of the area marked in red from agricultural to domestic use. Installation of a SAM interpretation sign constructed of two timber posts supporting a sloping screen-printed laminated board explaining about the SAM area.*

- 2.1.2 The Scheduled Ancient Monument [SAM] interpretation board would require Advertisement Consent and as such is not considered within this planning application.

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- 2.1.3 The application was requested following the earlier refusal of planning permission for the retention of works carried out to create a gravel hardstanding, a gas canister enclosure, and erection of a domestic storage shed, together with the material change of use of land to a domestic use (ref 18/0980). The works, on land within a field opposite the applicant's dwelling at Castle Farm, directly affect a site which is scheduled as an Ancient Monument: Hardendale medieval dispersed settlement and site of a medieval monastic grange.
- 2.1.4 Following the refusal of the retrospective 2018 application for the unauthorised development, the applicant has carried out modifications to the works reducing the extent of land proposed to be brought within domestic use. The gravel hardstanding has been removed and replaced with a grasscrete area, for parking. The gravel hardstanding had been cut into the slope of the land, retained with walls to three sides; two of the walls have been removed along with the gas canister store, and the remaining wall is now grassed over. Additionally a further gravel-covered area adjacent to the excavated parking area is to be restored to grass. New gates have been erected on the west side of the road, to access the parking area and the retained stone-built shed/store.
- 2.1.5 The application is accompanied by a Heritage, Design and Access Statement and an Archaeological Remediation Survey.

## 2.2 Site Description

- 2.2.1 The proposal relates to land on the opposite side of the road from the applicant's dwelling Castle Farm, in the rural hamlet of Hardendale. Drystone walls run along each side of the road, and opposite Castle Farm the wall encloses a narrow grazing field sloping up from the highway. A public footpath runs along the south field boundary, beside a recently reconstructed stone wall.
- 2.2.2 The site is in open countryside and is a designated Scheduled Ancient Monument. The land is within Flood Zone 1 (least vulnerable). The site is not within a Conservation Area or a Coal Risk Zone.

## 3. Consultees

### 3.1 Statutory Consultees

Consultee	Response
Highway Authority (Cumbria County Council)	Taking into account our previous response to application 18/0890 [in which no objections had been raised], it is considered that the proposed alterations will not have a detrimental effect on the highway. I can therefore confirm that the Highway Authority has no objection to the proposed development.
Historic England	Raise no objections; response set out in full below.

- 3.1.1 Historic England Responded as follows:

*'Thank you for your letter of 21 October 2019 regarding the above application for planning permission. On the basis of the information available to date, we offer the following advice to assist your authority in determining the application.'*

### **Summary**

*The works for which retrospective planning permission is sought affect a site which is*

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*scheduled as an ancient monument, Hardendale medieval dispersed settlement and site of medieval monastic grange (National Heritage List for England entry number 1016759), which survives as well-preserved earthworks in pasture. Works were carried out at the North East corner of the scheduled monument in 2017 without the benefit of planning permission or of Scheduled Monument Consent. A retrospective application for planning permission for these works, made in December 2018, was refused.*

*The works for which retrospective planning permission is now sought arise out of discussions between the applicant, Eden District Council, and Historic England, which identified a programme of mitigation for the impact of the unauthorised works, including removal of visually intrusive hardstanding and the majority of the stone walls enclosing it, restoration of the wall along the roadside boundary, and removal of a raised patio. Scheduled Monument Consent was subsequently obtained from the Secretary of State, and the removal of the hardstanding, the walls surrounding it, and the raised patio carried out under archaeological supervision, as required by a condition placed upon the Consent. A report on the archaeological work concludes that the area which now forms the application site was severely affected by localised quarrying for stone in the late 19th century, which removed any features or deposits of medieval date in this part of the scheduled monument.*

*In the light of the archaeological evidence, Historic England has no objection to the use of this area for parking. The use of 'groundguard' will be much less visually intrusive than the use of stone chippings to form a hardstanding. Similarly, Historic England has no objection to the moving of the existing gate as part of the restoration of the lane boundary, or to the restoration of the stone building, which occupies a site which was previously that of a ruined stone structure. The package of works for which retrospective planning permission is being sought will go a long way towards mitigating the impacts of the previous unauthorised works on the appearance and setting of the scheduled monument. The erection of an interpretation board will provide public benefits in terms of public awareness of the existence of the scheduled monument, and understanding of its significance, and we support this initiative by the applicant.*

**Historic England Advice**

*The application is for retrospective planning permission for change of use of part of the field to the west of Castle Farm to domestic use, for works carried out to mitigate the impact of works carried out previously to a scheduled ancient monument, for moving an existing gate and erecting a stone wall either side of it on the lane boundary, the restoration of a stone building, and the erection of an interpretation panel.*

*The works affect a site which is scheduled as an ancient monument under the provisions of the Ancient Monuments and Archaeological Areas Act 1979 (as amended). This is Hardendale medieval dispersed settlement and site of medieval monastic grange (National Heritage List for England entry number 1016759), which survives as well-preserved earthworks in pasture, spread across a number of fields to the west and south of the current settlement of Hardendale. The earthworks can be expected to contain buried archaeological remains of buildings, boundaries and roadways, together with archaeological deposits which will provide evidence to the origins, use, and decline of the settlement. The scheduling recognises the outstanding significance of the site, as a particularly well-preserved example of a relatively rare form of rural settlement type.*

*Works were carried out at the North East corner of the scheduled monument in 2017 without the benefit of planning permission or of the prior written Consent of the*



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*Secretary of State for Digital, Culture, Media and Sport ('Scheduled Monument Consent'), necessary because the site is a scheduled monument. These works included removal of the roadside boundary wall of the field to the west of Castle Farm, levelling of an area of earthworks within it, the laying of a layer of stone chippings to form a hardstanding, the erection of new boundary walls around it, creation of a raised patio, and erection of a small stone building on the site of a previous structure. A retrospective application for planning permission for these works, made in December 2018 (Eden DC reference 19/0980), was objected to by Historic England because of the very harmful impact of the hardstanding on the appearance and setting of the scheduled monument, and planning permission was refused.*

*The works for which retrospective planning permission is sought arise out of discussions between the applicant, Eden District Council, and Historic England, in which it was agreed that mitigation for the impact of the unauthorised works should include removal of the visually intrusive hardstanding and the majority of the stone walls enclosing it, restoration of the wall along the roadside boundary, and removal of the raised patio. Removal of the hardstanding would be carried out under archaeological supervision, in order that any evidence from surviving archaeological deposits and features could be recorded. Scheduled Monument Consent was subsequently obtained from the Secretary of State, and the removal of the hardstanding, the walls surrounding it, and the raised patio, carried out under archaeological supervision, as required by a condition placed upon the Consent. A report on the archaeological work, carried out by Gerry Martin Associates on behalf of the applicant, accompanies the current application. The report concludes that the area which now forms the application site was severely affected by localised quarrying for stone in the late 19th century, which removed any features or deposits of medieval date in this part of the scheduled monument.*

*In the light of the archaeological evidence recovered during the archaeological supervision of the removal of the hardstanding, Historic England has no objection to the use of this area for parking. The use of 'groundguard' to form a firm surface for the proposed parking area, with grass allowed to grow through it, will be much less visually intrusive than the use of stone chippings to form a hardstanding. The archaeological work has demonstrated that the earthworks which were previously visible in this corner of the scheduled site, and which were removed to create hardstanding, were the result of relatively modern quarrying. We do not, therefore, consider that it is necessary to 'restore' or replicate them.*

*Similarly, Historic England has no objection to the moving of the existing gate as part of the restoration of the lane boundary, or to the restoration of the stone building. This occupies a site which was previously that of a ruined stone structure. Small stone buildings at the edge of fields are a feature of the historic landscape in this part of Cumbria, and we do not consider that it will have any harmful impact on the appearance or setting of the scheduled monument. Taken as a whole, the package of works for which retrospective planning permission is being sought will go a long way towards mitigating the impacts, particularly the visual ones, of the previous unauthorised works on the appearance and setting of the scheduled monument. The erection of an interpretation board, as also proposed, will provide public benefits in terms of public awareness of the existence of the scheduled monument, and understanding of its significance, and we support this initiative by the applicant.*

**Recommendation**

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*Historic England has no objection to the application on heritage grounds. We consider that the package of works proposed will mitigate to a considerable extent the harmful impact of the works previously carried out without the benefit of planning permission or of Scheduled Monument Consent.*

*Your authority should take these representations into account in determining the application.'*

**3.2 Discretionary Consultees**

Consultee	Response
Local Lead Flood Authority (Cumbria County Council)	The Lead Local Flood Authority has no objection to the proposed development.
Cumbria Minerals & Waste (Cumbria County Council)	<p>Thank you for consulting us on the above application which falls within a Minerals Safeguarding Area for Sand and Gravel, and also Limestone. It is anticipated that additional sand and gravel resources will be required before the end of the Plan period (2030), especially in the south and west of the county.</p> <p>The application site is land affecting the setting of a Scheduled Ancient Monument. Mineral extraction on or close to the application site would therefore not be environmentally acceptable.</p> <p>The site is located near the edge of the safeguarding area which extends across a significant area of surrounding open land so the development will not prevent access to this mineral resource for extraction in the future.</p> <p>I consider that criteria 2 and 4 of Policy DC15 (Minerals Safeguarding) in the adopted Cumbria Minerals and Waste Local Plan are satisfied.</p> <p>Cumbria County Council as minerals planning authority therefore does not object to this application.</p>

**4. Parish Council/Meeting Response**

Parish Council/Meeting	Please Tick as Appropriate			
	Object	Support	No Response	No Objection
Shap Parish Council	✓			

**4.1** The Parish Council responded as follows:

*'While considering planning application guidelines the Parish Council cannot disregard the history of development and lack of proper permissions on this site. The rebuilding an extension of an old animal shelter in the field some years ago being one example. There is no recollection at SPC that permission was ever sought for this.'*

*While making wider enquiries for information on which to base their decision Shap Parish Council find that an accepted right of way over the applicants land to Nook Cottage has been extinguished with the applicant creating an alternative access by an accommodation lane into Nook Cottage's own land. While this may seem an obvious move agreed between consenting parties it must be concluded that there was a lack of research which would have indicated that this new access was unusable by the occupants of Nook Cottage which now has no access at all. This is of course a civil matter and may be the subject of legal action.*

*Shap Parish Council is disappointed with the decision by Historic England to let this retrospective application go unchallenged rendering the firm decision taken in January 2019, regarding unauthorised developments, considerably less effective, and may cause difficulties when considering any future plans the applicant may have for this land.*

*In view of the history of the planning relating to this property Shap Parish Council have no confidence in the reliability of details in this retrospective planning.*

### **Proposal**

*In Section 3 of the of the Application for Planning Permission, Town and Country Planning Act 1990, the applicant states that no building work or change of use has already started.*

*On a visit to the site by Parish Councillors, it was noted that the majority of the work included within this application has already been completed.*

### **Rebuilding of a small stone outbuilding**

*The design of the storage building is not in keeping the vernacular architecture of the settlement. The sandstone and roofing slates introduced into its construction are totally unsuitable and Shap Parish Council object strongly to the use of these materials.*

### **Moving existing gate**

*In Section 6 of the application it states that no altered vehicle access is proposed. However existing wall boundaries and a new access is proposed in this retrospective application and has been partly completed.*

### **Vehicle parking**

*On a visit to the site, Parish Councillors questioned the need for the creation of a car park on land which is open countryside and more importantly a protected historical site. The suggestion in the supporting statement that farmers often park vehicles and machinery in the corners of fields holds no weight here as this is not a working farm. What this practice is referring to is an informal and temporary use of land and does not involve moving existing boundaries, landscaping and hard or semi hard surfacing.*

*Therefore the Parish Council find no proven need for extra car parking which would justify the application as there would seem to be alternative provision available within the environs of Castle Farm and on a field already domesticated.*

### **Conclusion**

*Shap Parish Council wish to object to the application by Mr Paul Dawson for change of use of land to domestic, moving existing gate, erecting a stone wall to the boundary edge and restoration of stone building for the reasons stated above.*

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*The Parish Council would urge Eden District Council Planning Committee to give this application full investigation, not the least of which should be a site visit and consideration by the full Planning Committee. In addition the Parish Council wish to support other objections to this application.'*

### 5. Representations

- 5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on 31 October 2019.

<b>No of Neighbours Consulted</b>	3	<b>No of letters of support</b>	0
<b>No of Representations Received</b>	2	<b>No of neutral representations</b>	0
<b>No of objection letters</b>	2		

- 5.2 Local residents submitted letters raising the following material considerations:

- The unauthorised works have resulted in physical harm to the scheduled monument through the levelling of around 100 square metres of the earthworks and adversely affected its appearance, without any justification or wider public benefit.
- The formal private car park is inappropriate in the context of the site and its presence damaging to the local landscape character.
- The 'rebuilding of a small stone outbuilding' – there has never been a building (other than a small lean-to shelter against the field wall for housing ducks, reduced to rubble for 80 years) at this site and its features (quoins, rooflight) and the materials in which it has been constructed (foreign slates, sandstone) are out of character for the area. It stands out as completely alien to the rest of the hamlet and is not in keeping with the historical architecture of the settlement.
- The boundary wall has not been rebuilt in its original place but 3ft out from its original footings onto the land, thereby restricting width of the highway.
- The remedial works to the parking area have not in any way subdued its appearance and the addition of the new 14ft wide double access gates have made it yet more conspicuous and visible to the public.
- The retained hardstanding, whether or not covered in grass, has a very detrimental impact on the site as it fails to fit in with the contours of the surrounding land.
- The retaining walls around the hardstanding have not been lowered and therefore the remediation work has not been carried out correctly.
- The erection of an interpretation board will not outweigh the harm that has been caused to the ancient monument. The character of the landscape has been changed dramatically in a way that is a clear domestication of the open countryside.
- The very presence of an interpretation board will have an adverse impact on the hamlet. Hardendale is not a tourist attraction.

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- The archaeological work and the interpretation board offer extremely little benefit to the scheme and do not bring it within compliance of the National and Local planning policies.
- The archaeological investigation did not encompass a large hole previously excavated by the applicant to a depth of some 10ft which may have caused damage to the scheduled monument, and is therefore incomplete.
- Discrepancies in the application form:
  - The assertion that works have not started is incorrect.
  - The access into the site has been moved, contrary to the application form.
  - Existing use is stated as parking area and domestic storage shed. These are unauthorised developments and therefore the existing use should read open countryside.
- Discrepancies in the supporting statements:
  - The assertion that the western wall of the excavated parking area is to be removed, and the southern wall partly dismantled, is incorrect.
  - The landscape has not been restored to its former level as stated.
  - The stone store/shed is on the edge of the SAM contrary to the Supporting Statement stipulating that it lies beyond its limits.
  - The stated use of the 'original field access' is wrong; it has been relocated by approximately 20ft. The objector provides photographs to support this.
  - The Archaeological Remediation Survey incorrectly ascribes a photograph of the site as showing its condition prior to the unauthorised works. The land was pasture grazed by livestock and the photograph with the topsoil excavated is therefore misleadingly showing the site *after* the unauthorised works had commenced.
  - Contrary to the supporting statement, it is extremely uncommon for farm-related vehicles to be left in fields due to the high number of thefts of agricultural vehicles.
  - The assertions in the supporting statement that the hardstanding could have been implemented as a permitted development had the field remained within agriculture is irrelevant because Nook Farm is no longer a working farm.

5.3 Local residents submitted letters raising the following issues which are not to be treated as material considerations:

- The applicant purchased the adjacent field and then closed off the right of way to Nook Cottage. The outbuilding has been constructed on the right of way and so the access to Nook Cottage has been lost.
- The applicant can comfortably accommodate the parking requirement within his own land and there is therefore no need to provide additional parking. The applicant has failed to demonstrate a real and genuine need for this parking facility,

when he could accommodate this requirement on land which is not part of the Ancient Monument.

- The applicant has installed pipework under the carriageway which was intended to connect to the propane gas bottle storage facility previously erected.
- Land ownership is disputed.
- The statement in the Archaeological Remediation Survey that the previous construction had inadvertently transgressed into the scheduled area must be incorrect as the applicant must have known the works would require planning permission [and indeed Scheduled Ancient Monument Consent] before commencing development.
- The decision by Historic England not to prosecute the applicant for unauthorised works on the scheduled monument is flawed and distasteful, and a dereliction of duty on behalf of Historic England.
- Eden District Council must enforce against the applicant to remove the unauthorised inappropriate development.
- The impartiality of the reports commissioned by the applicant is questioned.

## **6. Relevant Planning History**

### **6.1 Site History:**

- 18/0980 Retention of 7m x 13m gravel hardstanding, enclosure for gas canisters, and domestic storage shed, together with proposed change of use of land to a domestic use – Refused on 12/2/19 for the following reasons:
  - 1) The works carried out have materially damaged a designated heritage asset without adequate justification or wider public benefit. The development has caused harm to the remains, the setting, and the physical interpretation of Hardendale medieval dispersed settlement, a Scheduled Ancient Monument. The development is therefore in conflict with Policy ENV10 of the Eden Local Plan and Paragraphs 184, 189, 193 and 194 of the National Planning Policy Framework.
  - 2) The proposed change of use of land to domestic use applies to a substantial parcel of land which is distinctly agricultural in character. The proposed use could result in a large tract of land being used in a domestic context, including the domestic paraphernalia one would normally expect in a garden, which would be inappropriate in the context of the site and damaging to the local landscape character. To grant permission would be contrary to Policy ENV2 of the Eden Local Plan.
- 74/0408: Private dwellinghouse – refused 16/8/74
- 74/0409: Construction of dwelling – refused 16/8/74

## **7. Policy Context**

### **7.1 Development Plan**

#### **Local Plan 2014-2032**

##### *Relevant Policies*

- LS1 Locational Strategy
- DEV1 General Approach to New Development
- DEV5 Design of New Development
- ENV2 Protection and Enhancements of Landscapes and Trees
- ENV10 The Historic Environment

## **7.2 Other Material Considerations**

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

- Chapter 4 - Decision-making;
- Chapter 15 - Conserving and enhancing the natural environment.
- Chapter 16 - Conserving and enhancing the historic environment.

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

## **8. Planning Assessment**

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

- Principle
- Heritage Impact
- Landscape Impact
- Residential amenity
- Infrastructure/Drainage

### **8.2 Principle**

- 8.2.1 The proposal constitutes a material change of use of land which is acceptable only where the impact of that change does not result in significant harm to the character of the area, amenity, highway safety or other matters of material consideration.
- 8.2.2 Policy DEV1 of the Eden Local Plan sets out that the Council will take a positive approach when considering development in accordance with the presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF). DEV1 specifies that the Council will always work proactively with applicants to find solutions which mean that proposals can be approved wherever possible.
- 8.2.3 For the reasons detailed above, the principle of the proposed development is considered to be acceptable subject to further consideration of the material considerations listed in paragraph 8.2.1 of this report.

### **8.3 Heritage Impact**

- 8.3.1 The Local Plan stipulates at Policy ENV2 that new development shall be permitted only where it conserves and enhances distinctive elements of landscape character and function. Policy ENV10 states that development proposals that would result in substantial harm to or total loss of significance of a designated heritage asset or its setting will only be permitted where it can be clearly demonstrated that the public benefits of the proposal would outweigh the harm or loss, and that the harm or loss is necessary to achieve those benefits. Paragraph 194 of the NPPF instructs that substantial harm to or loss of assets of the highest significance, including scheduled monuments, should be wholly exceptional. 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 (Para 196).

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- 8.3.2 The principle objector provides a useful précis of the Scheduled Monument in question. His letter informs us that Hardendale was first mentioned as a settlement in documentary sources in 1235 as a monastic grange, a farm owned and run by a monastic community to supply food and materials to the main monastic house. Of the several thousand which existed until the Dissolution, only a fraction can be today be identified on the ground. All sites exhibiting good archaeological survival are identified as nationally important. Hardendale, whilst partly overlain by post-medieval development, contains earthworks and buried remains of a medieval dispersed settlement, recognised by Historic England as a particularly well-preserved example of a relatively rare form of rural settlement type.
- 8.3.3 The Scheduled Monument listing from Historic England reveals that Hardendale belonged to Byland Abbey, Yorkshire, until the Dissolution in the 16th century and is considered to have been a monastic grange specialising in cattle farming (a vaccary) or sheep farming (a bercary). The scheduling includes those parts of the settlement which were abandoned but are still identifiable, including tofts or house platforms, and crofts or garden areas and associated small enclosures. Other surviving features include the earthwork remains of a back lane running approximately parallel with the main street and a boundary bank.
- 8.3.4 The works originally undertaken by the applicant and submitted for retrospective planning application were refused permission in part due to the material harm caused to the remains, setting and the physical interpretation of the Scheduled Ancient Monument (18/0980). In commenting on the application, Historic England recommended measures to mitigate the damage incurred:
- Removal of the limestone surfacing in this area would at least remove the visual intrusion into the scheduled area. It would be preferable for the new wall enclosing the turning head to be removed as well, the roadside wall reinstated, and the footprint of the turning head put down to grass in order to restore, as far as possible, the appearance of the scheduled monument, although we would not advise attempting to replicate the earthwork bank which previously ran through this part of the site. We recommend that enforcement action is taken to ensure that the hardstanding and its boundary walls are removed... [which] would require Scheduled Monument Consent.*
- 8.3.5 Following the refusal, the Council considered whether enforcement action was appropriate at that time. It was determined that the works would in any case require remedial action. The applicant was therefore advised following the refusal of the first planning application to remove the gravel hardstanding and the walls enclosing it, the gas bottle storage structure and the raised patio area; to reinstate the roadside wall; and to resubmit the application for the modified vehicle parking area and the stone outbuilding, once Scheduled Monument Consent had been obtained from Historic England. The development initially carried out without either planning permission or Scheduled Monument Consent, resulting in harm to a designated heritage asset of significant importance, is a serious transgression and the Council will take action against the flouting of planning legislation where it is in the public interest to do so. Enforcement against the applicant would certainly have been the only course of action here in the absence of remedial works and a further application to regularise the developments. The applicant has however complied in carrying out the mitigation works as advised. The application must be determined on the facts of the case and the planning judgement should not take into account previous indiscretions, nor add weight



to the retrospective nature of this application which must still be considered against the policies within the Eden Local Plan.

- 8.3.6 Following the mitigation works it is considered that the visual impact upon the scheduled monument is significantly reduced. Whereas previously the incursion into the protected area of the gravel hardstanding and the ornamental stone retaining walls around it, the gas bottle store and pedestrian gate, and the raised patio all substantially impacted upon the character of the scheduled monument, the remedial works have addressed the visual harm through removal of the offending elements, the restoration of the highway boundary wall, and the use of grasscrete. The south retaining wall remains but this is now screened by the restored drystone wall running parallel with the highway. The stone outbuilding is at the edge of the scheduled monument and is not considered materially harmful to the setting of the designated heritage asset.
- 8.3.7 The Archaeological Remediation Survey reveals that the earthworks previously found in this corner of the scheduled monument resulted from 19<sup>th</sup> Century quarrying for stone in local construction or for lime as a fertiliser, and that backfilling of pits in the late 19<sup>th</sup> or early 20<sup>th</sup> Centuries unknowingly truncated the scheduled monument. It is a somewhat fortunate happenstance that the works carried out by the applicant transpire to have been conducted in an area of the scheduled monument where its archaeological and historic value had already been compromised by previous quarrying activity. As such, the physical harm caused to the heritage asset as specified in the refusal of the earlier planning application has been shown through archaeological investigations to have affected only relatively recent activity without compromising the historic fabric of the scheduled monument, therefore causing only limited harm to this important heritage asset.
- 8.3.8 The retention of the parking area within the site of the scheduled monument, even with the mitigation works, is still considered to adversely affect its setting. The National Planning Policy Framework requires that where harm arises, the level of harm must be determined. Development that leads to substantial harm should be refused permission except where it can be shown that the harm is necessary to achieve substantial public benefit. Where the proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against any public benefits of the proposal.
- 8.3.9 The evidence provided with the application tells us that any medieval archaeological remains of this corner of the scheduled monument had long since been lost to former quarrying. There is still a visual impact on the setting of the monument, but Officers do not consider that this can be equated to substantial harm. Historic England raise no objection to the proposal, and as such it is difficult to demonstrate that harm is being caused to the Scheduled Ancient Monument for which Historic England are the responsible authority. The level of impact is adjudged to be less than substantial; the parking area and retaining wall visually compromise the heritage asset and detract from its setting, but *substantial* harm would incur with *significant* loss of the historic fabric of the monument or considerable detrimental impact upon its setting. That does not arise here.
- 8.3.10 In order to mitigate the harm which is incurred, the erection of an interpretation board to aid the public's understanding of the existence of the scheduled monument, and its significance, would provide a public benefit. A condition is therefore recommended should the application be approved requiring the applicant to erect an interpretation

board, the details of which are to be agreed, for which advertisement consent will be required.

- 8.3.11 Taking into consideration the harm previously inflicted by the 18<sup>th</sup>/19<sup>th</sup> Century intrusive quarrying works, and the remediation work carried out by the applicant to mitigate its visual impact, it is concluded that the development does not result in significant or sufficiently adverse harm to the heritage asset.

#### **8.4 Landscape Impact**

- 8.4.1 Notwithstanding the impact the works previously carried out had on the scheduled monument, the initial development was deemed previously to have adversely affected the character of the area significantly enough to warrant a reason for refusal in its own right. The mitigation works to address the harm to the heritage asset also serve to resolve the harmful landscape impact of the development which previously occurred.
- 8.4.2 The rebuilding of the wall along the highway and especially the replacement of the gravel hardstanding with grasscrete have substantially softened the visual impact of the previous works. It no longer has the jarring appearance of an inappropriately-sited parking bay and amenity area encroaching into open countryside. The grasscrete is very effective in alleviating the visual impact of the hardstanding, and the removal of the paraphernalia associated with gas bottle storage has restored the pastoral character of the area.
- 8.4.3 That said, we are still left with a formal parking area and a stone domestic outbuilding in the open countryside. The building may be in stone with a slate roof, but they aren't reflective of local building materials, somewhat disappointingly given the quarrying activities in the local area. Development will be permitted according to Policy ENV2 provided it takes account of and complements local styles and materials of buildings and the tranquillity of the countryside. The building is divergent in its materials but its scale, design and siting all serve to mitigate its appearance. The gates and walls adjacent to the highway, the tree immediately behind the building, and its siting in the corner of the field, reduce its visual prominence. As regards the parking bay, the creation of a levelled area excavated from the field is incongruous in its setting but this is moderated by the new surface allowing grass to grow through, and the restoration of the highway wall. Taken together, these factors balance against the inappropriateness of a domestic use in the countryside.
- 8.4.4 This matter is considered to be incredibly finely balanced, however the harm arising is considered, marginally, to fall within acceptable limits, only because of the mitigating factors described above and only if these elements bring a conclusion to the creeping incursion of domestic uses on the land opposite the applicant's property. Any planning permission so granted should therefore make clear through a condition of approval that no further domestic use or the siting of any domestic paraphernalia beyond the accepted outbuilding and parking bay would be permitted and may lead to enforcement action.

#### **8.5 Residential Amenity**

- 8.5.1 The development is on agricultural land and does not immediately impact on any surrounding properties (notwithstanding the alterations to the Nook Cottage access, which is a private civil matter). The proposal does not affect the amenity of neighbours.

#### **8.6 Infrastructure/Drainage**

- 8.6.1 The relocated access is onto an unclassified road which is essentially a farm track at the point of access. The parking bay allows for turning space so vehicles do not reverse onto the carriageway. No harm is considered to arise in respect of highway safety. The Highway Authority and Lead Local Flood Authority raise no objections to the proposal.

## **8.7 Other Considerations**

- 8.7.1 The issue of need is raised by objectors. In this case need is not a material consideration. The applicant may well have space within their existing domestic land to accommodate the parking requirement, but they have created the parking bay and erected the stone outbuilding on the land across the highway, submitted an application for their retention, and it is only that which can be assessed in determining the proposal. The planning judgement is whether the parking bay and stone outbuilding are acceptable in the location they have been sited, when considered against the policies within the Eden Local Plan, not whether the applicant has a need for them.
- 8.7.2 The applicant's actions in affecting the access to Nook Cottage are not material to the determination of this planning application.
- 8.7.3 Regarding the issues raised with discrepancies in the application form, the applicant had indicated that building, work or change of use had not started; this is evidently a simple error as the very next question is answered that the works were completed in July 2019. The application form stating that no new or altered vehicle access is proposed is incorrect but the access does not in its own right require planning permission under the Town and Country Planning Act 1990, as the road onto which it connects is an unclassified public highway (County Council Highway Authority approval may be required under separate legislation). Finally the existing use stated as parking area and domestic storage shed; that is the current use - the application form does not make a distinction between authorised or unauthorised use. It is self-evident that the application is seeking the retention of these uses.
- 8.7.4 The applicant does appear to have realigned the highway boundary wall further toward the carriageway but this is not considered to have a materially harmful impact. The applicant has made a small realignment of the wall in one section adjacent to the access. It does not affect the visual amenity of the site or infringe upon the highway carriageway.
- 8.7.5 The Archaeological Remediation Survey is misleading in ascribing a photograph of the site as prior to the unauthorised works; clearly an excavation of the site has commenced in the photograph and this act alone would have required Scheduled Monument Consent. The archaeologist has included the photo to demonstrate the land levels around the excavation and the depth of material removed.

## **9. Implications**

### **9.1 Legal Implications**

- 9.1.1 The following matters have been considered but no issues are judged to arise. Each application is determined on the planning merits.

### **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 Officers acknowledge that this is a very finely balanced decision as the works have incurred harm to a Scheduled Ancient Monument and affect the open character of the countryside. The comments from objectors and the Parish Council are acknowledged and their concerns with the proposal are taken into consideration.
- 10.2 In reaching a fair and balanced decision Officers must weigh the level of harm, taking into account any wider public benefits of the scheme, and determine the application according to local and national policy. There is harm but so too will there derive a public benefit in increasing awareness and understanding of a Scheduled Ancient Monument. On balance it is considered that the level of harm is not sufficiently adverse so as to warrant the refusal of this application.
- 10.3 It is therefore considered that the proposal accords with the Development Plan for the following reasons which are not outweighed by material considerations.
- 10.4 The creation of the parking bay, associated operations and erection of an outbuilding harm the setting of the Scheduled Ancient Monument but the level of harm is not substantial. The less than substantial harm will be mitigated through the provision of an interpretation board to aid the public understanding of this designated heritage asset. The development does not unduly create an adverse change in character of the open countryside. As such the proposal is considered to be acceptable.

Oliver Shimell  
Assistant Director Planning and Economic Development

Checked by or on behalf of the Monitoring Officer	✓
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**Background Papers:** Planning File 19/0708

**Agenda Item 3**  
**REPORTS FOR DEBATE**

**Date of Committee:** 19 March 2020

**Planning Application No:** 19/0923      **Date Received:** 24 December 2019

**OS Grid Ref:** 353360 546197      **Expiry Date:** 4 March 2020

**Parish:** Ainstable      **Ward:** Kirkoswald

**Application Type:** Full

**Proposal:** Erection of building for ancillary uses associated with Heather Glen Country Hotel, including staff and management accommodation and ancillary storage

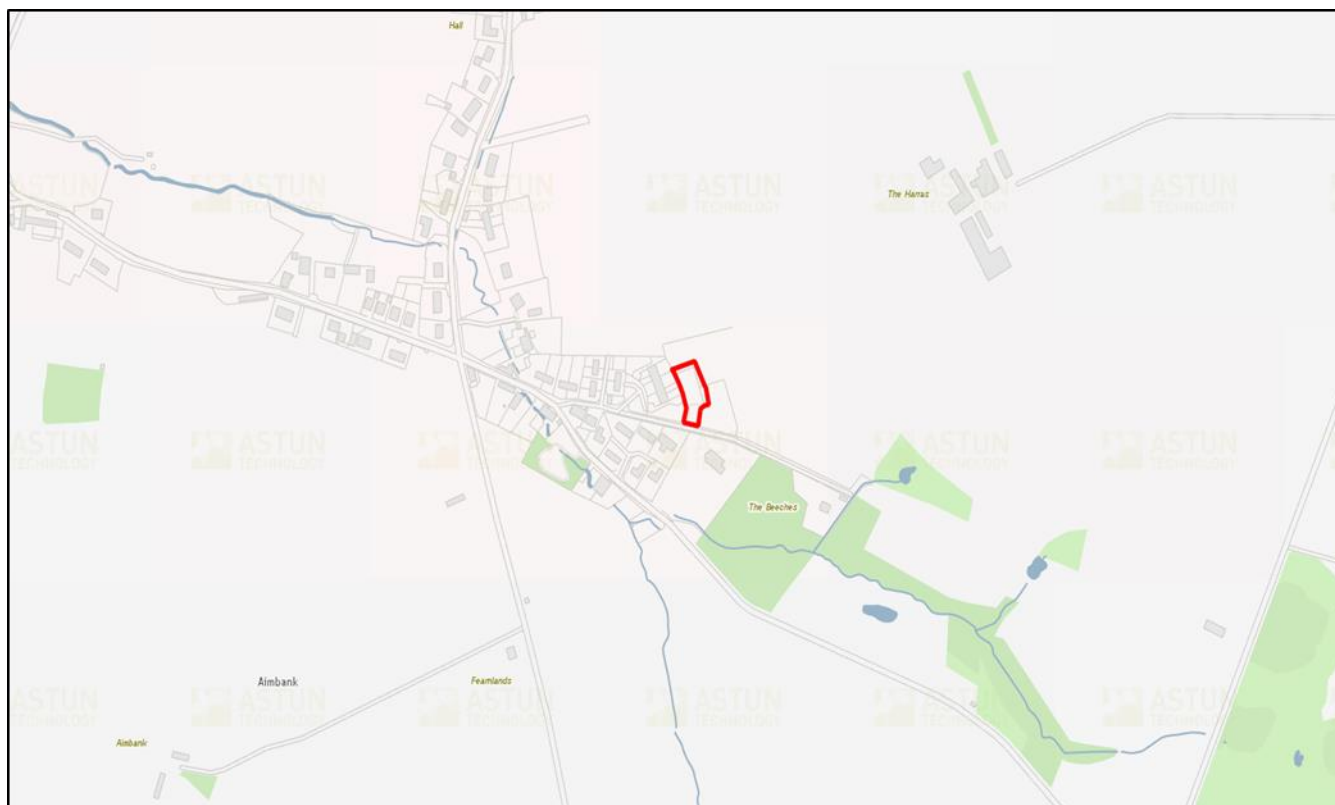
**Location:** Land adjacent to the Heather Glen Country House Hotel, Ainstable

**Applicant:** Heather Glen Limited

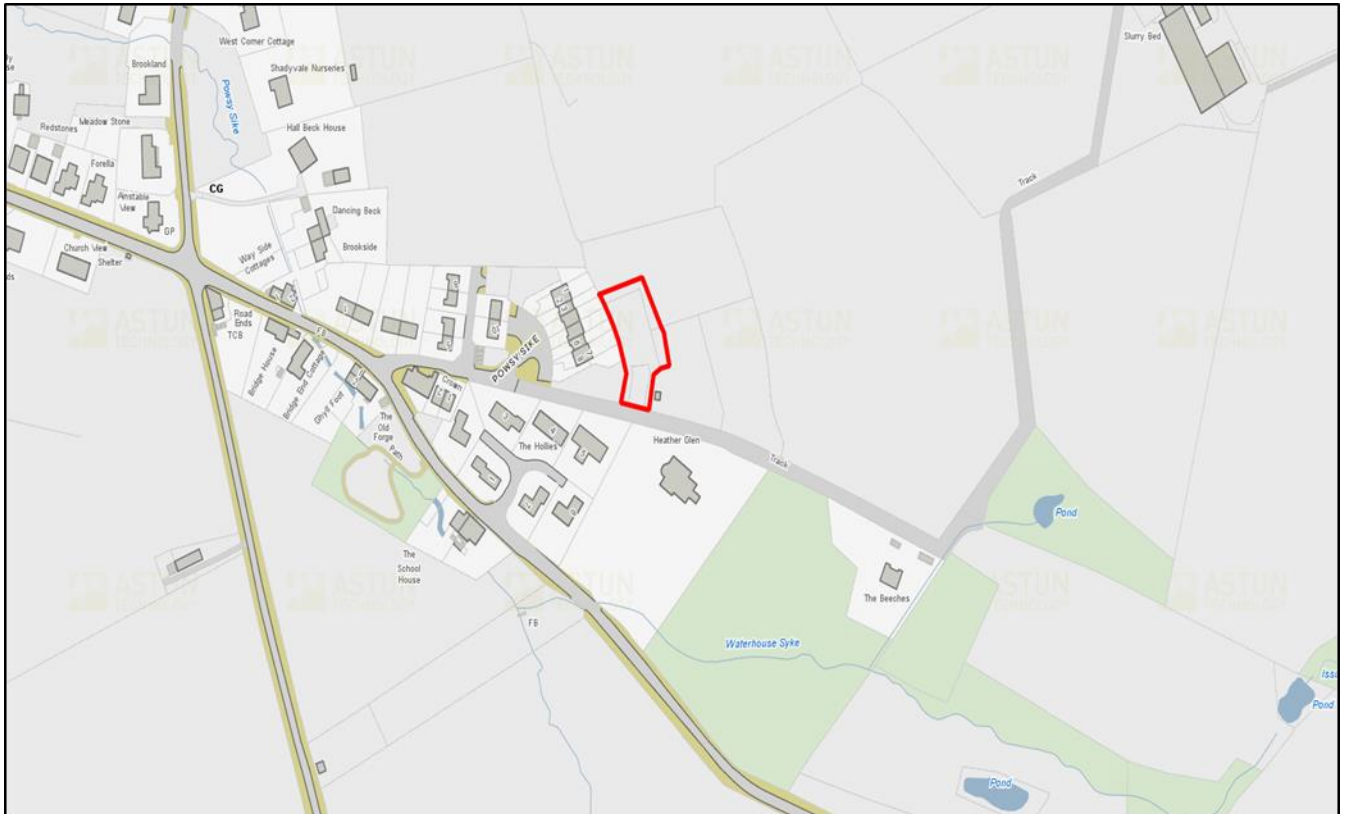
**Agent:** Mr Julian Handy – Mason Gillibrand Architects

**Case Officer:** Karen Thompson

**Reason for Referral:** The recommendation to refuse is contrary to the views of the Parish Council who are in support of the proposed development and also due to the amount of public interest this application has received.



**Agenda Item 3**  
**REPORTS FOR DEBATE**



## **1. Recommendation**

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

- The proposed development would have an unacceptable harm on the character of the local landscape and the village in that it cannot be construed as an infill or rounding off development site, contrary to Policy LS1 and HS2 of the Eden Local Plan 2014 – 2032.
- The proposal development would not comply with the aims and objectives of Policy HS3 - Essential Dwellings for Works in the Countryside – as no substantiated evidence has been submitted to demonstrate a need for the dwelling of this size and for it to be located on the site adjacent to the hotel.

## **2. Proposal and Site Description**

### **2.1 Proposal**

- 2.1.1 This is a full planning application for a new build dwelling house which would be used to accommodate the managers and some staff of the Heather Glen Country House Hotel (the hotel).
- 2.1.2 The dwelling would be a two storey building of a contemporary modern design, built partly on land currently occupied by the hotel's polytunnel and partly within the adjacent agricultural field. The building would have a flat roof with elevations comprising large sections of glazing; sandstone; wooden cladding; and louvres. The building would feature a covered balcony along the entire south and east elevations where the flat roof would extend over.
- 2.1.3 The ground floor would provide for a double garage; service ginnel across the full rear side of the building; 2 no. en-suite staff bedrooms with connecting staff kitchen and living area; plant room; laundry; entry level wc; store rooms; hall; and staircase and lift to the first floor.
- 2.1.4 The first floor would provide an open plan kitchen/dining/living area; bedroom/study; bathroom; bedroom; and en-suite bedroom; and covered balcony to the south and east elevations.
- 2.1.5 The building would have a footprint measuring 241 sqm (approximately) which would include the entire building, including the garage and service ginnel. The building is approximately 29 metres x 8.5 metres wide.
- 2.1.6 In terms of usable internal floor area, including the garage, but excluding the balcony and service ginnel, this would measure a total of 313 sqm.
- 2.1.7 Externally, there would be three car parking spaces; vehicle turning area/driveway; and some green areas.
- 2.1.8 A supporting statement submitted with the application advises that although the hotel successful attract wedding bookings and other large gatherings, it presently only has 7 guest bedrooms and is therefore ill-equipped to meet the needs of guests who wish to stay overnight. With little other available overnight accommodation in the area, the proposal seeks to unlock this potential by providing further guest accommodation within the hotel by relocating the manager's accommodation (2 bedrooms plus living accommodation) and reconfigure the layout to provide an additional 4 bedrooms within the hotel for guests.

### **2.2 Site Description**

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- 2.2.1 The application site relates to an area of land north of the hotel, on the opposite side of a private lane, where there is a small parking area, storage area and large polytunnel used by the hotel (no longer used by the hotel to grow its own produce). Immediately east of the site is an agricultural field which rises in an easterly direction.
- 2.2.2 Along the western boundary of the site are some large trees and vegetation before the land falls very steeply to the rear gardens of a row of eight residential properties at Powsy Sike. The first floor level of these properties are almost at the ground level with the application site but are set back approximately 18 metres from the boundary with the application site.
- 2.2.3 Other nearby residential properties are bungalows within Broomrigg Crescent which lie south of the private lane and on lower land.
- 2.2.4 The application site is not located within a conservation area nor is it close to any listed buildings.

**3. Consultees**

**3.1 Statutory Consultees**

<b>Consultee</b>	<b>Response</b>
Highway Authority	24 January 2020 - No objection, the proposed development does not affect the highway
British Gypsum	22 January 2020 - No objection
Minerals and Waste	17 January 2020 - No objection
Lead Local Flood Authority	24 January 2020 - No objection, the proposed development does not increase the flood risk on the site or elsewhere. The application form states that surface water will be drained via a soakaway however this has not been demonstrated on a plan. Surface water should not be greater than that already existing on the site.

**3.2 Discretionary Consultees:**

<b>Consultee</b>	<b>Response</b>
United Utilities	17 February 2020 – the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way ie to the ground (infiltration); to a surface water; to a surface water sewer, highway drain or another drainage system; or a combined sewer, in that order of preference.
Arboriculturist	31 January 2020 - The Treescape tree report is an accurate assessment of the trees in accordance with BS5837:2012 and the recommended management work is appropriate. Therefore no objections to the proposal.



#### 4. Parish Council/Meeting Response

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

##### 4.1 Parish Council comments received are as follows:

‘The application was discussed at the Parish Council’s recent meeting. Concerns were expressed that the proposal is very different to any other building in the village and occupies a prominent position. However, it was also noted that the site is not in a conservation area and will help to safeguard local employment as its primary purpose is to provide staff accommodation. The Parish Council supports this application.’

#### 5. Representations

##### 5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on 16 January 2020.

<b>No of Neighbours Consulted</b>	11	<b>No of letters of support</b>	93
<b>No of Representations Received</b>	96	<b>No of neutral representations</b>	0
<b>No of objection letters</b>	3		

##### 5.2 Letters of support (86 of which were standard/pre-written comments) were received which provided the following comments:

- In light of the ‘Fell Foot Forward’ scheme having been successful in a bid for £2,064,000 for the promotion of fell side area, having a high quality hotel in the area is very important.
- Staff are a vital part of the success of the business and rely heavily on students at school, university and other further education. This restricts the growth of the business as having to mainly open at weekends.
- The proposed development will go some way to helping address the problems of providing accommodation for staff as well as providing additional letting bedrooms within the hotel itself.
- Support development as there is no regular public transport to the Heather Glen for staff.
- Hotel provides jobs and tourism in the village but struggles to keep staff as public transport is limited and the hotel currently has minimal accommodation.
- In-keeping with the area and is aesthetically pleasing.

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

- The application site is elevated above residential properties.
- Overlooking of residential properties and gardens leading to loss of privacy.
- Very large property.
- Concerned if the property accommodates wedding parties that are very noisy on a weekend and cause additional disturbance and noise.

- Extra noise due to increase in guests, cars, traffic for increased letting rooms.
- New building will not fit with the area.

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

- There are empty properties for sale in the village which could be used as a family home.
- Armathwaite, 2 miles away, has two pubs with accommodation.

## 6. Relevant Planning History

Application No	Description	Outcome
09/0695	Addition of function room, kitchen extension, detached office/welfare, store, garage & laundry building. Location of 3, 2 bedroom holiday lodges.  <i>This planning application has been implemented however the detached office building/garage/laundry building and the three holiday lodges have not been commenced.</i>	Approved 18 November 2009
12/0330	Siting of three double units and one single units to provide bedroom accommodation and the retention of beauty salon.  <i>Applicant advised that works have commenced and that a commencement certificate was obtained from Eden District Council.</i>	Approved 23 August 2012
14/0544	Retrospective application for a polytunnel.	Approved 5 August 2014
15/1007	Demolition of existing rear dining/function room and erection of replacement dining/function room to include 3no. first floor en-suite bedrooms.  <i>Completed.</i>	Approved 22 December 2015

## 7. Policy Context

### 7.1 Development Plan

#### Eden Local Plan (2014-2032):

- LS1 – Locational Strategy
- DEV5 – Design of New Development
- HS2 – Housing in the Smaller Villages and Hamlets
- HS3 – Essential Dwellings for Workers in the Countryside
- EC4 – Tourism Accommodation and Facilities

- ENV2 – Protection and Enhancement of Landscapes and Trees

## **7.2 Other Material Considerations**

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

- Building a strong, competitive economy
- Supporting a prosperous rural economy
- Delivering a wide choice of high quality homes
- Requiring good design

- 7.3 The policies and documents detailed above are the most relevant policies relating to the determination of this application.

## **8. Planning Assessment**

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

- Principle
- Landscape and Visual Impacts
- Scale and Design
- Residential Amenity
- Infrastructure

### **8.2 Principle**

- 8.2.1 This is a full planning application for a new dwelling on land to the north of the Heather Glen Country House Hotel, Ainstable (the hotel) to be used as living accommodation for the manager and staff of the hotel, along with some ancillary accommodation such as storage and laundry room, and to be used in association with the hotel. At present, the manager's accommodation is located in the hotel – this proposal would allow for that accommodation to be reconfigured to provide four letting rooms for hotel guests. The applicant has advised that they would accept an appropriately worded condition that the dwelling would remain entirely ancillary to the operation of the hotel.
- 8.2.2 The application site comprises of a large polytunnel and external storage area, which is enclosed with a post and rail fence. Immediately to the north and east, and partly included in the application site, is an agricultural field and to the immediate south is a private lane that leads to a residential property, and separates the hotel from the application site. To the immediate south and west are residential properties positioned at the bottom of a steep banking (Powsy Sike) and separated from the application site by some trees and shrubs which line the top side of the banking.
- 8.2.3 Policy LS1 Locational Strategy of the Eden Local Plan, identifies the village of Ainstable as being a Smaller Village and Hamlet where development of an appropriate scale reflecting the built form of the settlement etc will be permitted where it re-uses previously developed land or where it delivers new housing on greenfield sites in accordance with local connection criteria.
- 8.2.4 The large polytunnel has become surplus to requirements and has not been used for some time for growing produce for the hotel. It is a large structure and although it could be removed with relative ease, its size and scale has a level of permanence that warrants it a permanent structure. It is considered that this land can be classed as previously developed land as defined within National Planning Policy Framework by reason of the polytunnel being considered to be development.

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- 8.2.5 However, Policy LS1 goes on to state that ‘All development must be of a high quality design and will be restricted to infill sites, which fill a modest gap between existing buildings within the settlement; rounding off, which provides a modest extension beyond the limit of the settlement to a logical, defensible boundary....’. It is considered that the location of the proposed building would not meet the requirements of Policy LS1 as it would does not have buildings on either side of it therefore it could not be considered as infill development. Furthermore, as the site is only enclosed by a post and rail fence with the agricultural field beyond, and although there is a private lane adjacent to the site, there are no other physical landscape features that would allow for the scheme to be considered as an extension of the settlement to a defensible boundary (ie *a road, river, railway line, steep rise in land*).
- 8.2.6 Policy HS3 Essential Dwellings for Works in the Countryside advises that permission for the development of a dwelling needed to support an agricultural or rural business, will be permitted in exceptional circumstances, providing the proposal meets set criteria including - demonstrating the need for the dwelling; providing evidence that the business is financially profitable; limiting the size of the dwelling to 150 sqm internal floor space; and appropriate siting being well related to existing buildings and the design respects and complements local tradition and setting.
- 8.2.7 The proposal as submitted would not comply with the Policy HS3 criteria due to, firstly, the size of the proposed building - approx. 313 sqm internal floorspace - being significantly greater than that specified in the policy. Secondly, the planning application submission does not include information on the existing business including details on whether it is financial profitable business nor any substantive details to justify the need for such a dwelling in that particular location. The location of the proposed building is across the other side of a private lane at the rear of the hotel and while the site is not a great distance from the hotel, consideration should firstly be given to locating the dwelling within the grounds of the hotel.
- 8.2.8 Notwithstanding the above assessment, the applicant has advised that rather than the proposal being assessed against Policy HS3, they consider that ‘the proposal as now submitted is better considered a tourism development (*Under Policy EC4*) insofar as it decants the managers/owners accommodation from the hotel to the adjacent land in order to free up additional guest rooms, along with providing two additional staff bedrooms. It is anticipated that the proposed relocation of the managers/owners accommodation would free up space for 4 no. additional guest bedrooms within the hotel’.
- 8.2.9 Policy EC4 – Tourism Accommodation - supports small scale tourism which includes the re-use of an existing building to create new tourism accommodation - and in the case of the Heather Glen Hotel, support under this policy would be given in principle to the reconfiguration of the hotel, along with extensions and new builds, to provide additional holiday/letting/managers accommodation. However, while the proposal for a new dwelling would allow the existing manager’s accommodation to be freed up and used as guest rooms, it is not agreed that Policy EC4 –Tourist Accommodation – is the most appropriate tool for assessing this planning application.
- 8.2.10 There are extant planning permissions (see Planning History section above) for a range of buildings within the grounds of the hotel which allows for additional holiday let/guest accommodation which amount to three 2-bed holiday lodges (Application Reference 09/0695) along the south east boundary and for 3 double units and one single units (Application Reference 12/0330) to the rear – north east – side of the hotel,

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along with a detached two storey building which has permission to accommodate a garage, laundry and staff welfare/office building (Application Reference 09/0695). It is felt that where new development is sought, consideration should be given to locating development within the actual site of the hotel before supporting a new building on land which is outside of the settlement and also outwith the hotel site for which the proposed development is intended to provide accommodation for. The application as submitted does not demonstrate why the extant planning permissions within the grounds of the hotel cannot be utilised.

- 8.2.11 Therefore the principle of development in this location cannot be supported as there is no substantiated justification or need for the dwelling house; and cannot be considered to be an infill development or a modest extension beyond the limits of the village to a logical defensible boundary.

**8.3 Landscape and Visual Impacts**

- 8.3.1 Policy ENV2 – Protection and Enhancement of Landscapes and Trees – within the Eden Local Plan states that new development will only be permitted where it conserves and enhances distinctive elements of landscape character and function, including form of settlements, local styles, views and the openness of the countryside.
- 8.3.2 The application site is rectangular in shape and is positioned at the lower end of an agricultural field and includes the site where there is an existing polytunnel. The site is relatively level except for where it extends into the sloping field.
- 8.3.3 The site is elevated above a row of houses in Powsy Sike by approximately 6 – 8 metres. There are some mature trees (2 ash trees and a holly tree) along the western edge of the site where lies the boundary between the residential properties and the application site.
- 8.3.4 There is a private unadopted lane that lies between the application site and the Hotel, and provides access to a residential property further up the lane – The Beeches. This is not a public right of way although it is used for short walks and the hotel staff cross it to access the polytunnel/storage area.
- 8.3.5 The nearest public road is the C Class road that runs through the village and crosses in front of the main access to the Hotel. The distance between this road and the application site is in excess of 100 metres which has limited views through the site and towards the application site, due to mature trees to the front and within the hotel site, along with trees along the boundary with Powsy Sike.
- 8.3.6 It is considered that when viewed from the nearest public vantage points, the site would be partially screened by the existing buildings and mature trees that existing within and close to the site. The limited landscape and visual impacts that this proposal would create are localised to the immediate area and would not cause a detrimental harm to the wider character of the area, although the proposal would result in an unjustified residential sprawl and intrusion beyond the existing limits of the settlement.

**8.4 Scale and Design**

- 8.4.1 Policy DEV5 – Design of New Development – within the Eden Local Plan states that support will be given to schemes that are of high quality design, which reflects local distinctiveness. This requires new development to show a clear understanding of the form and character of the district's built and natural environment and reflects the

existing streetscene through use of appropriate scale, mass, form, layout, high quality architecture design and use of materials.

- 8.4.2 Concerns raised by local residential occupiers that the proposed development is very large in an elevated position and will not fit into the area, have been fully considered.
- 8.4.3 The proposed building would measure 29 metres x 9 metres x 5.5 metres high (flat roof) and would be built partly over the site of the existing polytunnel which measures 29 metres x 9 metres and at the highest point of the curved structure it would measure 3.9 metres.
- 8.4.4 At first glance, the proposed building appears to be a very large dwelling house and it is agreed that its scale is much greater than the average domestic property. Therefore, given the location of the building on a higher level of land to the rear of Powsy Sike, consideration has been given to how the building would impact on the amenity of residents and whether the building would appear unduly overpowering.
- 8.4.5 The building, which is built into the slope of the field, is not much larger than the polytunnel that is on the site in terms of its footprint (measurements given above). The proposed building would be higher and have straight external walls rather than the curvature that the polytunnel has. However, the building would be set back further into the site than the polytunnel and would be angled away from the boundary with Powsy Sike by approximately 9 metres (at the northern end) and 17 metres (at the southern end of the building). Furthermore, although, there is a steep slope down to the properties in Powsy Sike, the properties are set back by a further 17 metres behind their rear gardens. It is agreed that the scale of the building is large, but it is considered that the proposed building, which is not significantly larger than the polytunnel, and the distance between the new building and the dwellings in Powsy Sike, along with the mature trees that provide some screening between the two sites, the proposed building would not be unduly over dominant on the adjacent occupiers sufficient to warrant the refusal of planning permission on these grounds.
- 8.4.6 The proposed development comprises a two storey, flat roof, contemporary designed dwelling. The main façade of the property highlights the horizontal emphasis and separation of floors through the use of lightweight materials in the form of large sections of glazing, sandstone, wooden cladding and louvres. The applicant has advised that the idea behind the design is for 'the property to be filled with natural light and have minimal impact on its surroundings'.
- 8.4.7 The applicant has advised that 'the proposed building has been deliberately designed so as not to appear unduly residential in nature but would appear subservient to the main hotel itself. In common with the hotel, the building sits comfortably within the existing landscape as levels fall from east to west. In common with the polytunnel, it will have a linear form with its gable addressing the adjacent lane'.
- 8.4.8 The design of the building, particularly having a flat roof along with a range of modern materials, reflects modern day, contemporary design. Although it isn't a design that it's used commonly in this area, it does consider local design features – ie the flat roof that exists at the hotel, along with local sandstone finishes with wooden elements that complement the surrounding geology and wooded local environment.
- 8.4.9 Overall, the design of the proposed building is welcomed and would comply with the aims of Policy DEV5 – Design of New Development.

## **8.5 Residential Amenity**

**REPORTS FOR DEBATE**

- 8.5.1 Policy DEV5 of the Eden Local Plan supports scheme that protect the amenity of existing residents and provides an acceptable amenity for future occupiers.
- 8.5.2 Concerns have been raised by some nearby residential occupiers that the proposed development would result in overlooking of gardens and dwellings and how the proposed dwelling may result in noise and disturbance.
- 8.5.3 The nearest residential properties to the application site are 1 – 8 Powsy Sike which are located at the bottom of a steep banking and partly screened by the two ash trees which are proposed to be retained.
- 8.5.4 The proposed building has been set back into the site and is angled so that the building is between 9 metres and 17 metres from the boundary with Powsy Sike. The elevation facing the properties comprises some large glazed areas to habitable rooms (bedroom, living areas). However, given the proposed angle of the building which turns away from the rear elevations at Powsy Sike, with no direct facing windows; the existing trees and vegetation on the boundary; and the distance between buildings being in excess of 21 metres (suggested guidance on inter-facing windows), it is considered that the proposed development would not result in overlooking to the extent that it would adversely impact on the amenity and privacy of occupiers of Powsy Sike.
- 8.5.5 A hedge is proposed across the north eastern boundary (rear side) which would be welcomed and would further protect the amenity of adjacent residential occupiers. Should the application be approved, it is recommended that a condition be attached to deal with landscaping, trees and the design of boundary treatments.
- 8.5.6 An additional concern raised related to noise and disturbance from the house if it was used by guests of the hotel, but also, additional or cumulative noise and disturbance, from having extra guest bedrooms in the hotel. The comments have been fully considered, however, the provision of a further 2 additional bedrooms within the existing hotel would not require planning permission and the occupation of the proposed house whether by the managers, staff or visitors would not amount to any greater noise and disturbance than that which exists from any dwelling house. For these reasons, it would be unacceptable to refuse the application on these grounds.

**8.6 Infrastructure**

- 8.6.1 The Highway Authority and Lead Local Flood Authority have raised no objections to the scheme.
- 8.6.2 Therefore, it is considered that appropriate drainage can be engineered for the site and safe and appropriate access can be achieved.

**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:

11.2 The overall design of the residential building being of a contemporary modern day design is very much welcomed. The scale of the building, while being large, is not significantly larger than the size of the polytunnel. The impact of the building on the occupiers of the adjacent residential properties by reason of scale and overlooking is considered acceptable given the siting and location of the building being set sufficiently from the boundary and there being some screening from the existing trees on the joint boundary.

11.3 However, the proposed dwelling, which is proposed to be used as the manager's and staff accommodation, is in a location which does not comply with Policy LS1 – Locational Strategy in the Eden Local Plan – in that it does not fill a modest gap between existing buildings within the settlement nor does it constitute a rounding off site, which provides a modest extension beyond the limit of the settlement to a logical, defensible boundary'.

11.4 The proposal would not comply with the aims and objectives of Policy HS3 - Essential Dwellings for Works in the Countryside – as there are no substantiated evidence that there is a need for the dwelling of this size and for it to be located on the site adjacent to the hotel and why the development could not be accommodated or sited within the existing curtilage of the hotel.

11.5 For these reasons, the application is recommended for refusal.



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**REPORTS FOR DEBATE**

Oliver Shimell  
Assistant Director Planning and Economic Development

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

**Agenda Item 4**  
**REPORTS FOR DEBATE**

<b>Date of Committee:</b>	<b>19 March 2020</b>		
<b>Planning Application No:</b>	19/0829	<b>Date Received:</b>	19 November 2019
<b>OS Grid Ref:</b>	NY 354928, 531040	<b>Expiry Date:</b>	13 March 2020
<b>Parish:</b>	Langwathby	<b>Ward:</b>	Langwathby
<b>Application Type:</b>	Full		
<b>Proposal:</b>	Creation of new access		
<b>Location:</b>	Fernwood, Edenhall		
<b>Applicant:</b>	Mr T O'Malley		
<b>Agent:</b>	Mr C Harrison		
<b>Case Officer:</b>	Nicholas Unwin		
<b>Reason for Referral:</b>	The recommendation is contrary to the view expressed by the Parish Council.		





## **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) Application Form dated 10 October 2019
- ii) Site Location Plan (19/060 LP) received 18 November 2019
- iii) Proposed Access (19/0060/002) received 18 October 2019
- iv) Visibility Splays (19/0060/PP1) received 18 November 2019
- v) Tree Survey (0033) dated 21 January 2020

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

### **Prior to First Use**

3. Prior to first use of the hereby approved access, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented so that planting is carried out no later than the first planting season following the occupation of the building(s). All planted materials shall be maintained for five years and any trees or plants removed, dying, being damaged or becoming diseased within that period shall be replaced in the next planting season with others of similar size and species to those originally required to be planted.

**Reason:** To ensure there is no loss in biodiversity.

### **Ongoing**

4. The access drive shall be surfaced in bituminous or cement bound materials, or otherwise bound and shall be constructed and completed before the development is brought into use. This surfacing shall extend for a distance of at least 5 metres inside the site, as measured from the carriageway edge of the adjacent highway.

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

## **2. Proposal and Site Description**

### **2.1 Proposal**

- 2.1.1 The proposal is for the creation of a vehicular access onto the A686 for the use of Fernwood, Edenhall. The proposed access is approximately 4.1 metres in width with

concrete kerbs adjoining the highway with a tarmac surfacing connecting to the existing driveway.

- 2.1.2 The proposed access would require the removal of two Norway Spruce trees and a 4.1 metres section of hedge adjacent to the road.

## **2.2 Site Description**

- 2.2.1 Fernwood is located within a small cluster of dwellings approximately 1.6 km west of the settlement of Edenhall and 1.7 km East of Penrith.
- 2.2.2 The curtilage of Fernwood is adjacent to the A686 road, set back to the North by approximately 75 metres. The curtilage adjacent to the road is bordered by a hedgerow and mature trees. There is an existing driveway that connects Fernwood with an entrance on to the A686 (approximately 75 metres South-West of the proposed entrance) which is shared with another dwelling and some farm buildings/ workshops.

## **3. Consultees**

### **3.1 Statutory Consultees**

<b>Consultee</b>	<b>Response</b>
Cumbria County Council - Highway Authority	A response was received on the 9 January 2020 advising of no objections to the proposed development.  “Now that visibility splays of 160m in both directions measured 2.4m from the carriageway edge have been submitted, we feel that this access would be an improvement to the existing arrangement”.
Cumbria County Council - Lead Local Flood Authority	A response was received on the 9 January 2020 advising of no objections to the proposed development.

### **3.2 Discretionary Consultees**

<b>Consultee</b>	<b>Response</b>
Arboriculturist	A response was received on the 21 February 2020 advising of no objections to this proposal.

## **4. Parish Council**

	<b>Please Tick as Appropriate</b>			
<b>Parish Council</b>	<b>Object</b>	<b>Support</b>	<b>No Response</b>	<b>No View Expressed</b>
Langwathby	✓			

- 4.1 The Langwathby Parish Council responded on the 30 December 2019 objecting to the proposal with the following comments:

*“The proposed new entrance is located on a busy, fast and dangerous section of the A686, nearly opposite the turn off to Edenhall.*

*The junction to Edenhall is already a major road safety hazard, this new access would greatly aggravate the situation.*

## REPORTS FOR DEBATE

*Vehicles traveling from Penrith and wishing to turn right, off the A686 to Edenhall, whilst indicating their intention, find vehicles, coming from behind, seeing a clear stretch of road before them, overtaking them as they turn right, oblivious to their signalling.*

*There have been many 'near misses' and residents of Edenhall have raised this safety issue a number of times with the Parish Council, over many years. The Parish Council have, as a consequence, raised this matter with CC Highways Department on a number of occasions, without any action being taken, the granting of this proposed new access will aggravate the problem.*

*The Parish Council strongly urges that the double white lines be extended from 'Whins Pond' to past the Edenhall junction to alleviate the problem.*

*Whilst the visibility is good on this section of road, this, in itself, aggravates the safety issue, as it encourages overtaking past the Edenhall junction; further, vehicles slowing to turn into the proposed new access will encourage any vehicles behind, to overtake, further increasing the safety hazard.*

*Another point to raise is that this area is very prone to flooding, further adding to the hazard issue.*

***As a consequence of the above mention concerns, as it stands at present, the Parish Council would object most strongly to this proposal. This is duplication of an existing access which is unnecessary.***

*Should the Planning Committee, though, be mindful of granting permission, the Parish Council would ask that before doing so the following safety points are noted:*

- 1) A full Highways Safety review is undertaken of this junction and the implications a further access would have on road safety on this busy and fast section of the A686*
- 2) The Parish Council would also state, very forcibly, that it is their opinion that the double white lines be extended from the 'Whins Pond' entrance to past the Edenhall junction, to deter vehicle overtaking, on this section of road.*

*As previously stated, the clear visibility is contributing to ill judges overtaking and is not a reason to justify the granting of permission for this duplication of an existing access.*

- 3) The area of the proposed new entrance is prone to flooding and before support is considered a requirement must be included, for CC Highways, to resolve the flooding issue.*

***Without the above three points being actioned, the Parish Council reiterates its total objection to this proposal."***

## 5. Representations

- 5.1 Neighbour notification letters were sent out on the 10 December 2019 and a site notice was posted on 19 December 2019.
- 5.2 There were no letters/e-mails of response received to this proposal.

## 6. Relevant Planning History

- 6.1 None.

## **7. Policy Context**

### **7.1 Development Plan**

#### **Eden Local Plan (2014-2032):**

- DEV5 – Transport, Accessibility and Rights of Way
- ENV1 – Protection and Enhancement of the Natural Environment, Biodiversity and Geodiversity
- ENV2 – Protection and Enhancement of Landscapes and Trees

### **7.2 Other Material Considerations**

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

- Chapter 4 – Decision Making
- Chapter 12 – Promoting Sustainable Transport

7.3 The policies and documents detailed above are the most relevant policies relating to the determination of this application.

## **8. Planning Assessment**

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

- Principle
- Highways Impact
- Environmental Impact

### **8.2 Principle**

8.2.1 There are no policies within the National Planning Policy Framework (NPPF) or Local Development Plan that directly relate to the creation of a new access. Paragraph 11 of the NPPF states that *“where there are no relevant development plan policies... granting permission unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”*.

8.2.2 In conjunction with Paragraph 11 of the NPPF, the principle of the proposal is considered acceptable, subject to material planning considerations.

### **8.3 Highways Impacts**

8.3.1 Policy DEV3 of the Local Development Plan states that *“development will be refused if it will result in a severe impact in terms of road safety”*, going on to say that development will not be supported if *“evidence shows that there would be a severe, unmitigated impact of the surrounding highway network”*.

8.3.2 Paragraph 109 of the NPPF states that *“development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety”*.

8.3.3 The Parish Council believe the proposed new access would pose a highway safety risk and object to the proposal.

8.3.4 The proposed access is on a straight section of road providing good visibility in both directions. This is confirmed by the 160 metre visibility splays in both directions

## REPORTS FOR DEBATE

provided by the applicant. The Parish Council themselves state within their objection that *“the visibility is good on his section of road”*.

8.3.5 The Highway Authority were consulted on the application, confirming their lack of objection to the application and stating that *“this access would be an improvement to the existing arrangement”*.

8.3.6 Based on the 160 metre visibility splays, the Highway Authority’s lack of objection and improvement on the existing shared access, the proposal is considered to be acceptable from a highway perspective.

### 8.4 Environmental impact

8.4.1 Policy ENV1 of the Local Development Plan states that *“new development will be required to avoid any net loss of biodiversity”*. This is supported by Paragraph 15 of the NPPF which states that developments should *“minimise impacts on and provide net gains for biodiversity”*.

8.4.2 The proposed development would result in the loss of two Norway Spruce trees. A tree report was submitted in support of the application which assessed the trees and provided a tree protection plan to mitigate any impacts on trees to be retained during the construction phase. The Council’s Arboriculturist assessed these documents and raised no objections to the proposal.

8.4.3 It is acknowledged that the proposed development would remove two non-native trees and therefore result in a net loss to biodiversity. It is also worth noting that these existing trees are not within a Conservation area, nor are they protected by any TPO’s. A condition has been attached requiring the submission of a landscaping scheme prior to the first use of the proposed access to ensure that replacement native trees are secured and the sites existing biodiversity is retained. On the basis that a replacement planting scheme is secured through condition and satisfactorily implemented on site, the proposed development will result in no adverse impacts upon the Natural Environment.

## 9. Implications

### 9.1 Legal Implications

9.1.1 The following matters have been considered but no issues are judged to arise. Each application is considered on the particular planning merits.

### 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 for the Protection of Human Rights and Fundamental Freedoms 1950, as now embodied in UK law in the Human Rights Act 1998.

**10. Conclusion**

- 10.1 The proposed new access can demonstrate the required visibility splays and is considered an improvement to the existing shared access which is echoed by the Highway Authority.
- 10.2 The proposed development would remove two Norwegian Spruce trees resulting in an initial net loss of biodiversity, however a condition is proposed for the submission of a landscaping scheme to secure replacement trees, mitigating this.
- 10.3 The application is supported by a tree report which includes a tree protection plan to mitigate any impacts on trees to be retained during the construction phase. The Council's Arboriculturist reviewed the document and raised no objections to the application.
- 10.4 There are no relevant policies within the NPPF or Local Development Plan that relate directly to the proposal. The proposal would result in an improvement from a highways safety perspective to the existing access and a landscaping scheme condition can secure no net loss of biodiversity. In accordance with Paragraph 11 of the NPPF the proposed development is recommended for approval.

Oliver Shimell  
Assistant Director Planning and Economic Development

Checked by or on behalf of the Monitoring Officer	✓
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**Background Papers:** Planning File 19/0829

**Agenda Item 5**  
**REPORTS FOR DEBATE**

**Date of Committee:** 19 March 2020

**Planning Application No:** 19/0790

**Date Received:** 31/10/19

**OS Grid Ref:** 3610 5271

**Expiry Date:** 1/1/2020

Extension of time to  
20/3/2020 requested

**Parish:** Temple Sowerby

**Ward:** Kirkby Thore

**Application Type:** Householder

**Proposal:** Extensions and alterations to dwelling

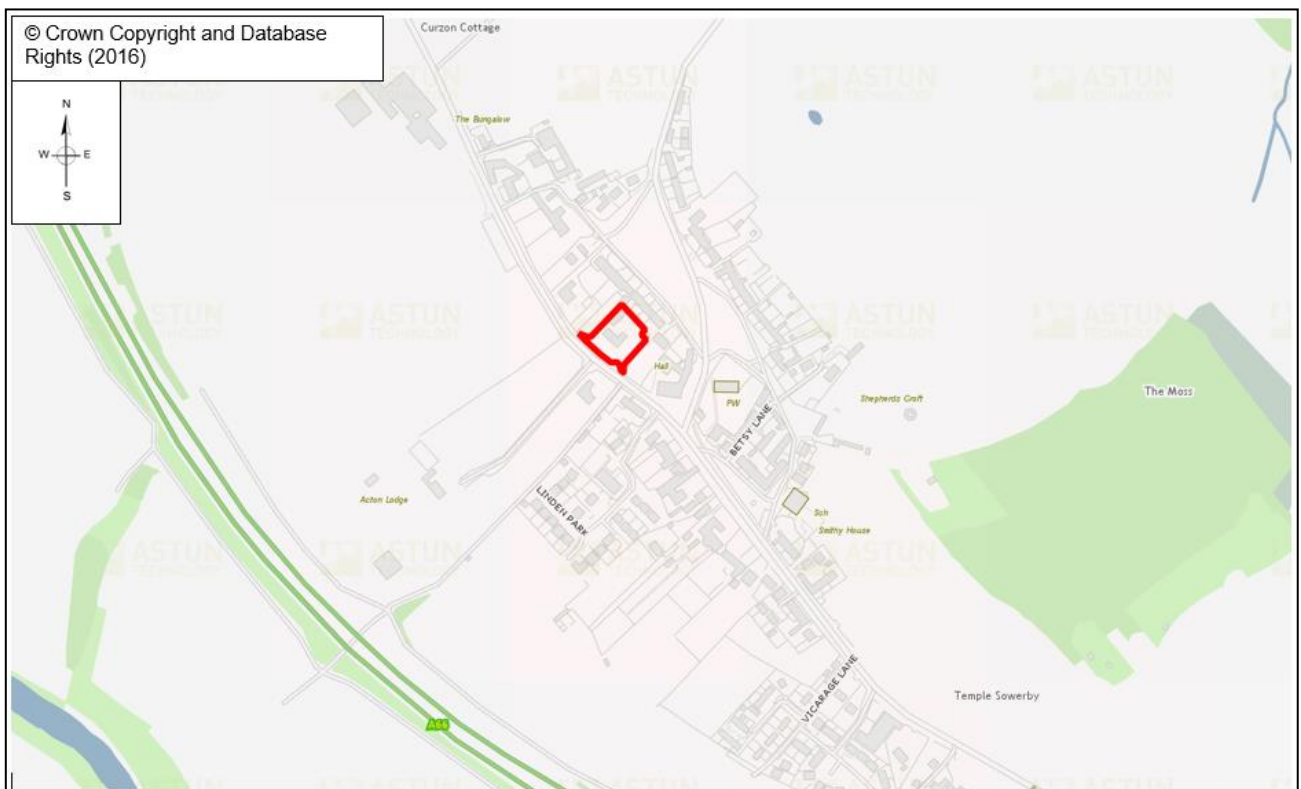
**Location:** The Lodge, Temple Sowerby

**Applicant:** Mr and Mrs Clayton

**Agent:** Alastair Davis

**Case Officer:** Mat Wilson

**Reason for Referral:** The Parish Council raises material grounds on which to object to the proposal





## **1. Recommendation**

It is recommended that planning permission be granted 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 strictly in accordance with the application form and following details and plans hereby approved:

- Site Location plan ref L5/19/3007 dated Sept 2019
- Proposed Ground Floor Plan ref L2/19/2307 date-stamped 6/1/2020
- Proposed First Floor / Sections Plan ref L3/19/2407 date-stamped 6/1/2020
- Proposed Elevations ref L4/19/2507 dated 7/1/2020

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

- 3) Samples of the materials to be used for the external surfaces of the development shall be submitted to and approved in writing by the Local Planning Authority prior to their first use on site. Development shall be carried out in accordance with the approved details.

**Reason:** To ensure that the materials harmonise with the surroundings. The condition is considered necessary to be complied with prior to construction as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

### **Informative**

1. This property is within a Conservation Area. All building works should, therefore, be completed with great care. External facing work and detailed treatment should be finished in a manner sympathetic to the existing building. If there is any doubt about the way in which work should be carried out, you should seek formal pre application advice from the planning department of Eden District Council through their pre-application advice service. For further information on seeking pre application advice visit <http://www.eden.gov.uk/planning-and-development/planning/advice-before-making-a-planning-application/>
2. Separate approval for the works hereby granted permission/consent may be required by the Building Act 1984 and the Building Regulations 2000 (as amended), and the grant of planning permission does not imply that such approval will be given. The Council's Building Control Team should be consulted before works commence. You contact the team directly at [building.control@eden.gov.uk](mailto:building.control@eden.gov.uk)
3. Please note that as your property is within a conservation area then any replacement windows or doors cannot be carried out under a competent person scheme and you must notify the Council's Building Control team directly at [building.control@eden.gov.uk](mailto:building.control@eden.gov.uk)

## **2. Proposal and Site Description**

### **2.1 Proposal**

- 2.1.1 The application proposes to add first-floor accommodation over the whole ground floor area of this property to create a dormer bungalow. The eaves will be lifted by a little over 1m and the ridge by 2.5m. Two dormers are proposed in the front elevation. A new set of exterior stone stairs are proposed to the side of the flat-roofed attached garage at the back of the dwelling, to access a new first floor room under a pitched roof which will match the height of the main dwelling.
- 2.1.2 Existing outbuildings including a swimming pool at the northwest corner of the plot will be retained.
- 2.1.3 The plans have been twice revised in order to address issues raised during the course of the application of overlooking, design and appearance.

### **2.2 Site Description**

- 2.2.1 The Lodge is a fairly extensive bungalow set back from, and considerably above, the village through-road at the western end of Temple Sowerby. A 2m retaining wall at the rear of the pavement supports a landscaped garden inclining up to the property, 20m back from and around 4m higher than the road.
- 2.2.2 This property backs onto Ivy House, which is also owned by the applicant. In 2019 planning permission was granted for a new double garage to an existing detached annexe at The Lodge, which was then incorporated into Ivy House so changing the boundary between the properties.
- 2.2.3 The Lodge is for the most part rendered but a feature sandstone gable projects off the front elevation, which enhances its composition. The plot is within Temple Sowerby Conservation Area although no other specific constraints apply to the site in planning terms.

## **3. Consultees**

### **3.1 Statutory Consultees**

<b>Consultee</b>	<b>Response</b>
Highway Authority (Cumbria County Council)	<p>Reiterated their comments from the previous application 18/0940:</p> <p><b>‘Access and Visibility’</b></p> <p>The applicant has stated that this will not change and remain the same.</p> <p><b>Surface water/drainage</b></p> <p>The applicant has stated that this will not change and remain the same.</p> <p><b>Parking</b></p> <p>A minimum of 2 spaces for this proposed dwelling will need to be provided, it clear on the plans that even though the applicant is proposing garages there is enough room on the hard surfaced court yard for two vehicle spaces with turning.</p>

### 3.2 Discretionary Consultees

Consultee	Response
Local Lead Flood Authority (Cumbria County Council)	<p>Reiterated their comments from the previous application 18/0940:</p> <p>‘The LLFA do not have any records of flooding on this site and the Environment Agency (EA) surface water maps do not indicate that the site is in an area of risk. Therefore I can confirm that we have no objections’.</p>
United Utilities	<p>No objections; conditions relating to foul and surface water should be attached to any subsequent grant of planning permission.</p> <p>Surface water drainage scheme, with evidence of an assessment of the site conditions, should be approved by the Local Planning Authority prior to development commencing.</p> <p>[Officer note: since the proposal is for extensions to an existing dwelling which will use the existing drainage system, it is not considered reasonable or necessary to require intrusive site investigations for drainage].</p>
Conservation Officer	<p>The proposal to alter and extend the existing building includes adding a second storey to the main bungalow and an additional storey above the adjoining garage to the rear. The proposed scale, height and density of the extension forming a two storey house fronting the road is considered to be appropriate and sympathetic to the nature of the site and its location within the historic village. It is not considered to have potential to affect the setting of the row of historic buildings to the east that front the village green.</p> <p>The high number of openings and the dormer windows as proposed are not a common feature of buildings in the conservation area but examples can be found. Also the proposed materials of red sandstone, render and natural slate are sympathetic to the traditional materials found in the village. Overall it is felt that the proposed design is not of a considerable high quality but has potential to be considered an enhancement to the current development.</p> <p>On balance the proposed development is considered to be in accordance with conservation policies outlined within the Planning Act 1990, NPPF 2019, and Eden Local Plan ENV10 for a high quality development which enhances the appearance of the conservation area.</p>

#### 4. Parish Council/Meeting Response

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

##### 4.1 First response received 22/12/19

*‘Comment Type: Object*

*The plans show a significant increase in the number of windows all round. Whilst this is to some extent inevitable in a much larger building, there is a very significant increase in window apertures on the east and west sides, both at ground and first-floor levels. The Design and Access Statement says “ovoids [sic] overlooking” which cannot be the case in this application. It appears that the windows will potentially overlook a number of neighbouring properties*

*TSPC also have concerns about the two proposed windows (one at the rear and one on a gable end) described as “combined roof window system”. These seem to be an area of glass the size of a door in the vertical elevation, connecting directly to an area of glass of a similar size in the sloping roof. To the knowledge of the parish council, there are no similar windows in the TS Conservation Area and the council do not consider them suitable for such an area. They are of an ultra-modern appearance rather than a traditional one.*

*Temple Sowerby Parish Council would therefore like to object to this application on the above grounds. At the very least, the parish council would request that any of the proposed windows that overlook the neighbouring properties are glazed in frosted opaque glass and that the proposed “combined roof window system” be replaced with roof lights only, so as to reduce the glazed area in the walls concerned and be more in keeping with other properties in the Conservation Area.’*

##### 4.2. Second response received 28/1/2020

*‘Whilst the parish council notes the alterations to the original plans, they still object on the following grounds:*

*- the external steps leading to an upper door on the gable end still significantly overlook the adjacent property.*

*- it is felt that the combi velux window is inappropriate for a property in a conservation area such as Temple Sowerby and is felt that as much light could be obtained from a velux window in the roof.’*

#### 5. Representations

##### 5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on 20 November 2019.

<b>No of Neighbours Consulted</b>	5	<b>No of letters of support</b>	0
<b>No of Representations Received</b>	2	<b>No of neutral representations</b>	0

<b>No of objection letters</b>	<b>2</b>
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- 5.2 Local residents submitted letters of objection raising the following concerns:
- Perceived overlooking of adjacent neighbouring properties' gardens through introduction of first-floor side-facing windows. A reduction in the number of windows and doors on the upper storey and frosted glazing would prevent intrusive overlooking.

## **6. Relevant Planning History**

- 6.1 The following planning history is considered relevant to the determination of this planning application:
- 07/0931 New front vehicular access to replace rear access - Approved 17/12/07.
  - 18/0940 Erection of replacement dwelling – Approved 6/3/19.
  - 19/0690 Formation of double garage to existing detached annexe incorporated [from The Lodge] into new boundary - Approved 2/12/19 (Ivy House, Temple Sowerby).

## **7. Policy Context**

### **7.1 Development Plan**

#### **Local Plan 2014-2032**

##### *Relevant Policies*

- DEV1 General Approach to New Development
- DEV5 Design of New Development

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

- Housing SPD incorporating Residential Development Guidelines

### **7.2 Other Material Considerations**

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

- Chapter 12 - Achieving well designed places

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

## **8. Planning Assessment**

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

- Principle
- Landscape and Visual Impacts
- Residential amenity
- Built Environment

### **8.2 Principle**

- 8.2.1 The principle of a householder extension of an existing property within the Smaller Villages and Hamlets is considered to be acceptable and in accordance with Policy LS1 of the Eden Local Plan subject to further considerations of the landscape and visual impacts, impacts upon residential amenity and the built environment.



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

- 8.3.1 The dwelling occupies a reasonably prominent position set above the road into Temple Sowerby, although being set well back from the highway and at single-storey the property itself is recessive in terms of visual impact. The proposed extensions and alterations will increase its prominence and should therefore be designed to ensure the scheme does not have any detrimental impact on the streetscene.
- 8.3.2 Officers sought revisions to the proposals during the course of the application to achieve a more complementary design, and to this end the plans have been redrawn to accommodate a full sandstone frontage, uniformity in window design, the use of render on the dormers in lieu of cladding, removal of the big white plastic fascia on the front gable, realignment of windows, and removal of partial cladding to the garage elevations. Of the two unconventional combined roof windows initially proposed, only that to the south side elevation was potentially within public view (and then only glimpsed), and this has been deleted from the scheme. The combined roof window in the rear elevation cannot be seen other than from the applicant's land, and whilst it may be an unusual building feature, Officers have no issues with this being retained in the proposal in a discrete location.
- 8.3.3 The existing central sandstone gable will be retained and adapted to create a feature window under the apex of the roof. Front-facing dormers either side of the gable will be a relatively uncommon addition to the built environment of Temple Sowerby but are not considered to be inappropriate in the context of the site, set back from the road in a large plot. The addition of dormers to this property will not adversely affect the character of the wider locality. Local Plan Policy DEV5 requires that development reflects the existing streetscene through its scale, form, layout and materials. The scheme as revised is considered to be acceptable in this respect.

### **8.4 Residential Amenity**

- 8.4.1 The impact upon the amenity of neighbouring residents arising from new development is a material consideration addressed through Policy DEV5, which states that proposals will be required to protect the amenity of existing residents and avoid overlooking. Concerns were raised by neighbours and by the Parish Council that the extensions would result in overlooking of adjacent properties. The scheme as submitted proposed new first-floor windows in the side-facing gables, to a bedroom and a lounge, although the bedroom window has now been omitted. The development still proposes at first-floor the side-facing lounge window, and windows to bedrooms and a craft room in the front and rear elevations. The craft room, over the garage, is accessed by external steps with a small landing to the entrance into the craft room.
- 8.4.2 Whilst the concerns raised in respect of potential overlooking are acknowledged, the impression one has whilst at the property is that this is actually a highly secluded and private site, being screened from any of the surrounding dwellings by substantial planting on all boundaries. The intervening distances from the property to the adjacent dwellings are also significant, far in excess of the standard minimum 21m normally sought between habitable room windows in facing dwellings. Particular mention has been made of the small landing of the external steps leading to the room over the garage; it is evident however that this landing could not conceivably overlook any neighbouring garden or look the windows of any other dwellings, due to the substantial boundary planting, its siting against the inner wall of the extension which screens views to the east, and the presence of the existing swimming pool building which blocks off views of the neighbour's garden to the north and northeast.

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- 8.4.3 A combined roof window is proposed at the eaves of the rear elevation of the property. This will open out to provide a pseudo recessed balcony. Again the swimming pool building precludes any overlooking from the balcony of the neighbour's garden. There is no issue of overlooking or impact upon neighbouring privacy and amenity. The proposal is therefore considered to be in accordance with Policy DEV5, since it respects the amenity of existing residents and provides an acceptable amenity for future occupiers.

**8.5 Built Environment**

- 8.5.1 Aside from its sandstone feature gable, the existing dwelling does not make a significant contribution to the character of the Conservation Area, not least because of its low stature and rendered walls. The redevelopment of the bungalow will result in a more striking property which will be viewed as an enhancement of the Conservation Area, remodelling a bungalow of modest standing with a development which will clearly be more in keeping with the traditional vernacular of Temple Sowerby, whilst also introducing subtle contemporary design elements. As such the proposal complies with Policy ENV10 of the Local Plan, wherein Development proposals in Conservation Areas will be required to be of a high quality and sensitive design and should be based on a careful consideration of issues such as scale, density, height and materials (paragraph 4.33.4).

**8.6 Infrastructure/Drainage**

- 8.6.1 The redevelopment of this dwelling will utilise the existing vehicular access and provides ample parking and turning space. No impact arises in terms of highway safety or capacity as no alteration or intensification of the use of the site is proposed.
- 8.6.2 Drainage will be as per the existing dwelling and no particular issues arise in respect of surface water and foul water drainage. No objections are raised by the Lead Local Flood Authority. The request from United Utilities for a surface water drainage scheme is not appropriate; the development is for first-floor extensions over the existing footprint of the dwelling and as such it has a neutral impact the drainage of surface water.

**8.7 Natural Environment**

- 8.7.1 No harm is likely to arise to protected species or habitat: the dwelling is currently occupied and does not offer potential habitat for protected species.

**9. Implications**

**9.1 Legal Implications**

- 9.1.1 The following matters have been considered but no issues are judged to arise. Each application is determined on the planning merits.

**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**

**REPORTS FOR DEBATE**

- 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 The proposed extensions are considered to be appropriate in terms of scale and design. The development has no harmful impact on the neighbouring properties. As such the proposal is considered to be acceptable.

Oliver Shimell  
Assistant Director Planning and Economic Development

Checked by or on behalf of the Monitoring Officer	✓
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**Background Papers:** Planning File 19/0790

**Agenda Item 6**  
**REPORTS FOR DEBATE**

**Date of Committee:** 19 March 2020

**Planning Application No:** 19/0724      **Date Received:** 01/10/19

**OS Grid Ref:** 377462 508655      **Expiry Date:** 20/03/2020

**Parish:** Kirkby Stephen      **Ward:** Kirkby Stephen

**Application Type:** Full

**Proposal:** Change of use of workshop into two holiday apartments and associated alterations

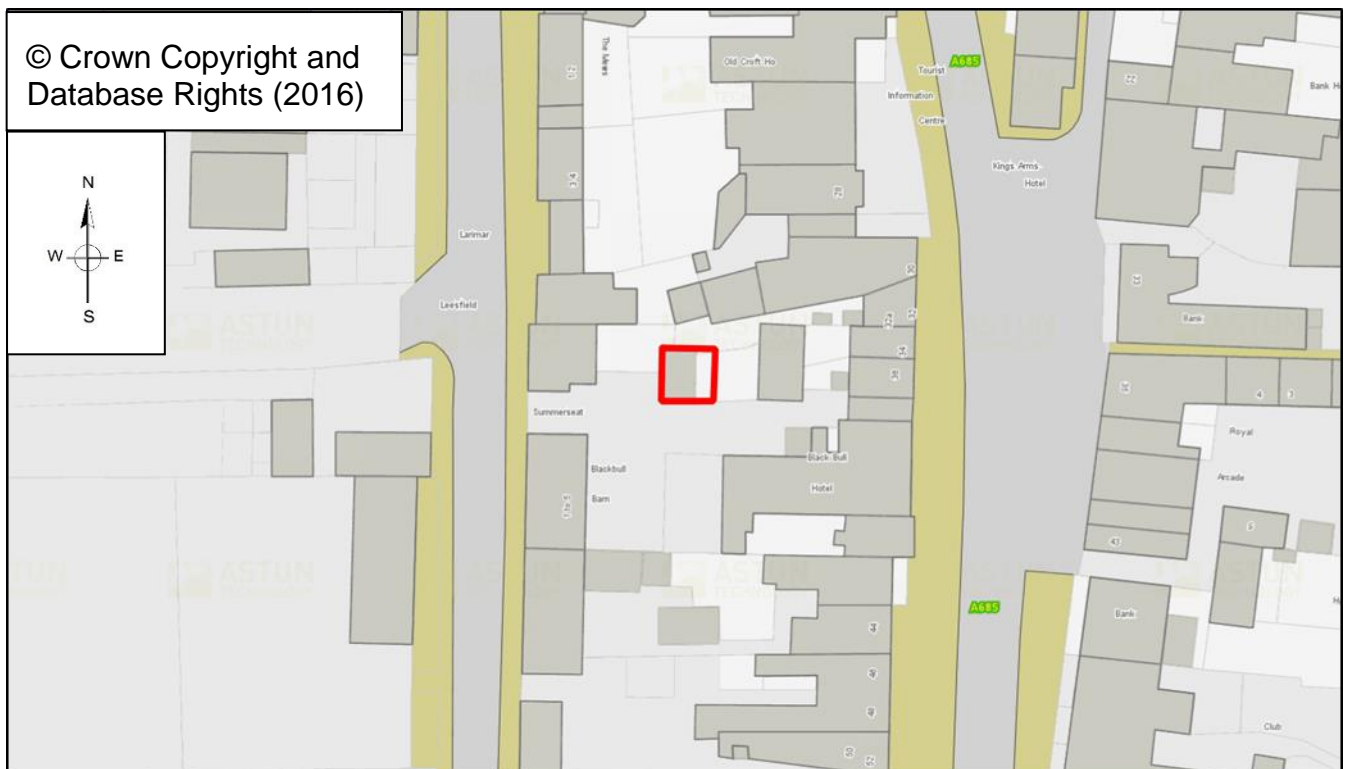
**Location:** The Band Room, Black Bull Yard, Market Street, Kirkby Stephen, CA17 4QW

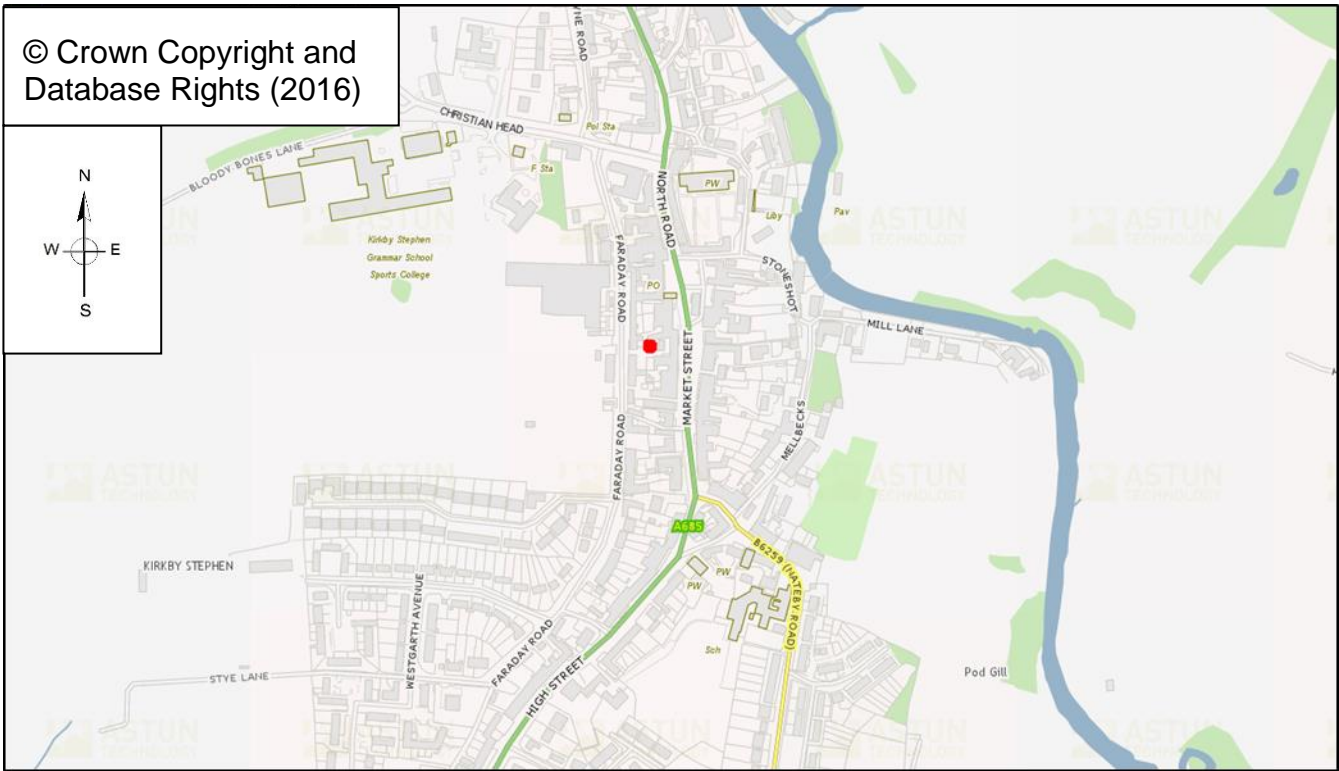
**Applicant:** Mr P Davenport

**Agent:** As above

**Case Officer:** Miss G Heron

**Reason for Referral:** The recommendation is contrary to the view expressed by Kirkby Stephen Town Council.





## **1. Recommendation**

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

### **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. Application Form received by the Local Planning Authority on 1 October 2019.
  - ii. Location Plan received by the Local Planning Authority on 1 October 2019.
  - iii. Site Plan, Drawing Number: 1/15 received by the Local Planning Authority on 1 October 2019.
  - iv. Proposed North Elevation, Drawing Number: 7/15 B received by the Local Planning Authority on 22 November 2019.
  - v. Proposed South Elevation, Drawing Number: 9/15 received by the Local Planning Authority on 22 November 2019.
  - vi. Block Plan, Drawing Number: 2/15 received by the Local Planning Authority on 1 October 2019.
  - vii. Proposed Ground Floor, Drawing Number: 6/15 received by the Local Planning Authority on 1 October 2019.
  - viii. Proposed First Floor, Drawing Number: 4/15 received by the Local Planning Authority on 1 October 2019.
  - ix. Proposed West Elevation, Drawing Number: 11/15 received by the Local Planning Authority on 1 October 2019.
  - x. Proposed East Elevation, Drawing Number: 13/15 received by the Local Planning Authority on 1 October 2019.
  - xi. Proposed Cross Section, Drawing Number: 15/15 received by the Local Planning Authority on 1 October 2019.
  - xii. Grant UK Aeron<sup>3</sup> R32 Heat Pump Range Specification relating to HPID10R32.
  - xiii. Heritage Assessment received by the Local Planning Authority on 22 November 2019.

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

### **Ongoing Conditions**

3. The development hereby approved shall be used for holiday use only and should not be used as a sole or principle residence by any person.

**Reason:** To ensure that the holiday lets are occupied as holiday accommodation only and not used for unauthorised permanent residential occupation.

## **2. Proposal and Site Description**

### **2.1 Proposal**

## REPORTS FOR DEBATE

- 2.1.1 The proposal seeks full planning permission to change the use of the existing workshop to provide two holiday let apartments; one at ground floor level and one at first floor, with associated alterations. The proposal does not include or propose any off-street parking. The proposal includes the insertion of integrated solar panels into the east and west elevations, the insertion of glass panels to the existing external stair case, a new door and window to the south elevation to be finished in Brown UPVC to match the existing windows, an air source heat pump to the east elevation and a new door to the ground floor on the east elevation.

## 2.2 Site Description

- 2.2.1 The site relates to an existing two storey outbuilding located in Black Bull Yard in Kirkby Stephen. To the east of the application site are existing residential properties and other commercial properties along Market Street, to the south east and south is Black Bull Hotel and associated outdoor seating area, to the north and west is an existing yard and residential properties.
- 2.2.2 The building has existing ground floor and first floor windows to the west elevation and a first floor door with an external staircase to the east elevation. The site is bound by an existing wall and existing access gate with a small area of amenity space to the immediate east.
- 2.2.3 The site is located in Kirkby Stephen Town Centre and outside the Primary Shopping Area of the town. The site is accessed via an unclassified road, Faraday Road, to the west of the application site. There is a Public Right of Way (PROW) under Footpath: 335027 immediately to the south of the building which provides pedestrian access between Market Street and Faraday Road.
- 2.2.4 The site is located in Kirkby Stephen Conservation Area, within the setting of Grade II Listed Black Bull Hotel (List Entry: 1326932) to the south east and within the setting of Grade II 32, 34 and 36 Market Street (List Entry: 1145039) to the east.

## 3. Consultees

### 3.1 Statutory Consultees

Consultee	Response
Local Highway Authority	<p>Responded on 11 December with no objection and recommendation of a condition relating to:</p> <ul style="list-style-type: none"> <li>Access, parking and turning requirements</li> </ul> <p>It was subsequently clarified that the application does not include any off-street parking.</p> <p>Responded on 22 January 2020 with the following:</p> <p><i>'The plans indicate that there is a parking area on site. I appreciate that this is not designated to the holiday lets however, we feel that is within the best interest of the applicant to try and provide off-street parking for the occupants of the holiday lets. We are aware that there is no parking restrictions in the area and that on-street parking is therefore available however, this should be made clear when advertising accommodation. We have been</i></p>

<b>Consultee</b>	<b>Response</b>
	<i>informed by our parking enforcement team that the area is regularly congested and there are on-going parking concerns. Hypothetically, if the applicant relies on on-street parking and a parking permit scheme was introduced to Kirkby Stephen, the occupants of the holiday lets would not be eligible.</i>  <i>Whilst we still have no objections to this proposal, I can confirm that the previously attached condition can be removed.'</i>
Lead Local Flood Authority	Responded on 11 December 2020 with no objection.
United Utilities	No response received.

### 3.2 Discretionary Consultees

<b>Consultee</b>	<b>Response</b>
Conservation Officer	Responded on 11 December 2019 with no objections to the application and no comments or recommendations to make.
Environmental Health Team	Responded on 3 March 2020 with the following: <i>'I have had a look at the noise levels for the proposed air source heat pump, and the distance to the boundary of the nearest noise sensitive premises. Based on this, I think it is unlikely that the heat pump will cause any issues. However, I can't offer any absolute guarantees as it will depend on how it is installed, whether it generates any 'tonal' noise etc. However, I can't see that it will be a problem based on the information provided.'</i>

## 4. Parish Council/Meeting Response

<b>Parish Council/Meeting</b>	<b>Object</b>	<b>Support</b>	<b>No Response</b>	<b>No View Expressed</b>
Kirkby Stephen Town Council	✓			

- 4.1 'Councillors resolved to object to the application on the grounds of there being insufficient parking/road access. Parking congestion was a particular problem in this area and the development does nothing to mitigate the impact of the development in displacing town centre parking.'

## 5. Representations

- 5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on 6 December 2019.

<b>No of Neighbours Consulted</b>	14	<b>No of letters of support</b>	0
<b>No of Representations Received</b>	0	<b>No of neutral representations</b>	0



<b>No of Neighbours Consulted</b>	14	<b>No of letters of support</b>	0
<b>No of objection letters</b>	0		

## **6. Relevant Planning History**

There is no relevant planning history.

## **7. Policy Context**

### **7.1 Development Plan**

#### **Eden Local Plan (2014-2032):**

- Policy LS1: Locational Strategy
- Policy KS1: A Town Plan for Kirkby Stephen
- Policy DEV1: General Approach to New Development
- Policy DEV3: Transport, Accessibility and Rights of Way
- Policy DEV5: Design of New Development
- Policy EC4: Tourism Accommodation and Facilities
- Policy ENV5: Environmentally Sustainable Design
- Policy ENV10: The Historic Environment

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

- Management of Conservation Areas (2011)

### **7.2 Other Material Considerations**

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

- Chapter 2: Achieving sustainable development
- Chapter 12: Achieving well-designed places
- Chapter 14: Meeting the challenge of climate change, flooding and coastal change
- Chapter 16: Conserving and enhancing the historic environment

#### **Planning (Listed Buildings and Conservation Areas) Act 1990**

- 7.3 The policies and documents detailed above are the most relevant policies relating to the determination of this application.

## **8. Planning Assessment**

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

- Principle
- Landscape and Visual Impacts
- Residential Amenity
- Infrastructure
- Natural Environment
- Built Environment

### **8.2 Principle**

- 8.2.1 Policy LS1 of the Eden Local Plan 2014-32 sets out the locational strategy for the Eden District. The application site is located within Kirkby Stephen which identified under Policy LS1 as a 'Market Town'. Policy LS1 states: *'Market towns will be the focus for moderate development appropriate to the scale of the town, including new housing, the provision of new employment and improvements to accessibility.'*

## REPORTS FOR DEBATE

8.2.2 Policy EC4 of the Eden Local Plan 2014-32 relates to tourism accommodation and facilities. It states: *'Small scale tourism development will be permitted for permanent structures (e.g. new holiday cottages) where it meets one of the following criteria:*

- *Any proposed new-build development is located within a Town or Key Hub.*
- *The proposal involves the re-use of an existing building, or previously developed land.*
- *The proposed development forms part of a farm diversification scheme.*
- *The development proposed is located outside of a Town or Key Hub, but due to the nature of the development proposed it relies upon a specific geographic resource or countryside location, and the specific location selected for the development can be justified.'*

8.2.3 In considering the above, the proposal is located within a market town which under Policy LS1 will be the focus of moderate development appropriate to the scale of the town. The proposal also meets two of the criteria highlighted above under Policy EC4; it is located within a market town and it involves the re-use of an existing building, or previously developed land. Therefore, the principle of development is considered to comply with both Policy LS1 and Policy EC4 of the Eden Local Plan 2014-32.

### 8.3 Landscape and Visual Impacts

8.3.1 Policy DEV5 of the Eden Local Plan sets out that the Council will support high quality design which reflects local distinctiveness. Policy ENV5 seeks to promote environmentally sustainable design within proposals with Paragraph 148 of the NPPF 2019 seeking to support renewable energy and low carbon energy.

8.3.2 The proposal involves the re-use of an existing building and retains the fabric of the building, proposing alterations primarily focused on renewable energy provision; the integrated solar panels and the air source heat pump. As part of the proposal there will be internal conversion works taking place which does not require planning permission. The siting of the air source heat pump, positions it to be screened by the existing boundary wall and therefore, it will not be visually prominent from wider public views. Whilst the solar panels will be visible from wider public views, they are integrated in the roof slopes and will not be prominent features. The proposal includes the replacement of the door and window to the south elevation, insertion of a ground floor door to the east elevation and glass panels to the existing external staircase which are all considered to be acceptable alterations.

8.3.3 In terms of landscape impacts, the proposal is an existing building within the town of Kirkby Stephen and is an existing element of this built environment. Also, the site is located to the rear of neighbouring properties and the main high street, Market Street. Given this, the site is not visually prominent which reduces the impact of the development on the character of the area. The proposal is not considered to cause any harm to landscape.

8.3.4 Overall, the proposal will not cause harm to the visual amenity of the site or surrounding area. The proposal introduces renewable energy provision to the building. Therefore, the proposal is considered to comply with Policy DEV5 and Policy ENV5 of the Eden Local Plan 2014-32.

### 8.4 Residential Amenity

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- 8.4.1 In relation to the residential amenity, the proposal involves the re-use of an existing building and proposes to use its existing openings with the insertion of a ground floor door into the east elevation. The insertion of a ground floor door will have an outlook into the immediate amenity space of the building and towards an existing single storey outbuilding in third party ownership. All other openings on the building are existing. It is considered that the proposal will not cause any issues in relation to overlooking. Therefore, given this existing situation on the site and the considerations of the ground floor door, the proposal is not considered to cause any issues in relation to an overbearing impact, overshadowing or overlooking. The proposal is considered to comply with Policy DEV5 of the Eden Local Plan in this regard.
- 8.4.2 The proposal includes an air source heat pump to be sited on the east elevation on the property, immediately adjacent to the existing high boundary wall. It is deemed that the air source heat pump has some potential for noise to be caused. However, when considering this further, although there are residential properties in the surrounding area, the application site is sited adjacent to the Black Bull Hotel which is a public house with an existing outdoor seating area immediately adjacent. In Officer's opinions, the air source heat pump is unlikely to cause adverse harm to the residential amenity in relation to noise, especially given the existing public house and associated external seating area within the surrounding area.
- 8.4.3 Also, the Council's Environmental Health Team have been consulted as part of the application and have no objections or issues with the air source heat pump.
- 8.4.4 Overall, the proposal is not considered to cause any issues in relation to the residential amenity and is considered to be acceptable under Policy DEV5 of the Eden Local Plan 2014-32.

**8.5 Infrastructure**

- 8.5.1 The proposal does not include the provision of off-street parking and it is understood that the proposal will use on-street parking which is provided on Faraday Road to the west of the application site.
- 8.5.2 Kirkby Stephen Town Council have objected to the application as there is no provision of off-street parking with the proposal.
- 8.5.3 However, as part of the application Cumbria County Council as the Local Highways and Lead Local Flood Authority have been consulted and have no objection to the application. Also, there is parking available along Faraday Road to the immediate west of the application site in this town centre location. Therefore, although parking issues have been highlighted by Kirkby Stephen Town Council, as the Local Highways Authority have no objection to the proposal, this would not be grounds for the refusal of the application. The proposal is considered to comply with Policy DEV3 of the Eden Local Plan 2014-32.

**8.6 Natural Environment**

- 8.6.1 The application re-uses an existing building within Kirkby Stephen and is a part of the existing built environment of the town. The proposal is not considered to cause any issues in relation to the natural environment and is considered to be acceptable in this regard.

**8.7 Built Environment**

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- 8.7.1 Policy ENV10 of the Eden Local Plan 2014-32 sets out that great weight should be attached to the conservation and enhancement of the historic environment, heritage assets and their settings.
- 8.7.2 The application site is located within the Kirkby Stephen Conservation Area and within the setting of Grade II Listed Black Bull Hotel and Grade II Listed 32, 34 and 36 Market Street.
- 8.7.3 The Council's Conservation Officer has been consulted as part of the application and confirms they have no objections, comments or recommendations to make. The proposal seeks to re-use an existing building and proposes alterations which are not considered to cause harm to the Conservation Area or the setting of the Listed Buildings. The site is located to the rear of existing buildings and is not considered to be visually prominent within the Conservation Area. The installation of the air source heat pump will be sited behind an existing wall and will be screened from views within the wider Conservation Area and Listed Buildings. The insertion of integrated solar panels means they will not protrude from the roof slope and will be integral to the roof, they will not cause harm to the character of the Conservation Area or the setting of the Listed Buildings. The proposal is not considered to cause harm to the character of the Conservation Area or the setting of the Listed Buildings.
- 8.7.4 Overall, the proposal is considered to comply with Policy ENV10 of the Eden Local Plan, NPPF 2019 and the Planning (LBCA) Act 1990.

## **9. Implications**

### **9.1 Legal Implications**

- 9.1.1 The following 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 Overall, the principle of two holiday let apartments within the Market Town of Kirkby Stephen is supported under Policy LS1 and Policy EC4. The Conservation Officer has

**REPORTS FOR DEBATE**

no objections to the application and it is considered the proposal does not cause any harm to the character of the Kirkby Stephen Conservation Area or the setting of any Listed Buildings in accordance with Policy ENV10. The design of the proposal is considered to be acceptable under Policy DEV5 with the inclusion of renewable energy resources supported under Policy ENV5. The Environmental Health Team have been consulted and have no objections to the installation of the air source heat pump and the proposal does not cause any other issues in relation to the residential amenity, being acceptable under Policy DEV5. Although concerns have been raised by the Kirkby Stephen Town Council in relation to parking, Cumbria County Council as Local Highways Authority have no objection to the proposal. As such, the proposal complies with Policy DEV3.

- 10.2 Therefore, the application is considered to comply with Policy LS1, Policy EC4, Policy DEV3, Policy DEV5, Policy ENV5 and Policy ENV10 of the Eden Local Plan, NPPF 2019 and the Planning (LBCA) Act 1990. As such the application is recommended for approval.

Oliver Shimell  
Assistant Director Planning and Economic Development

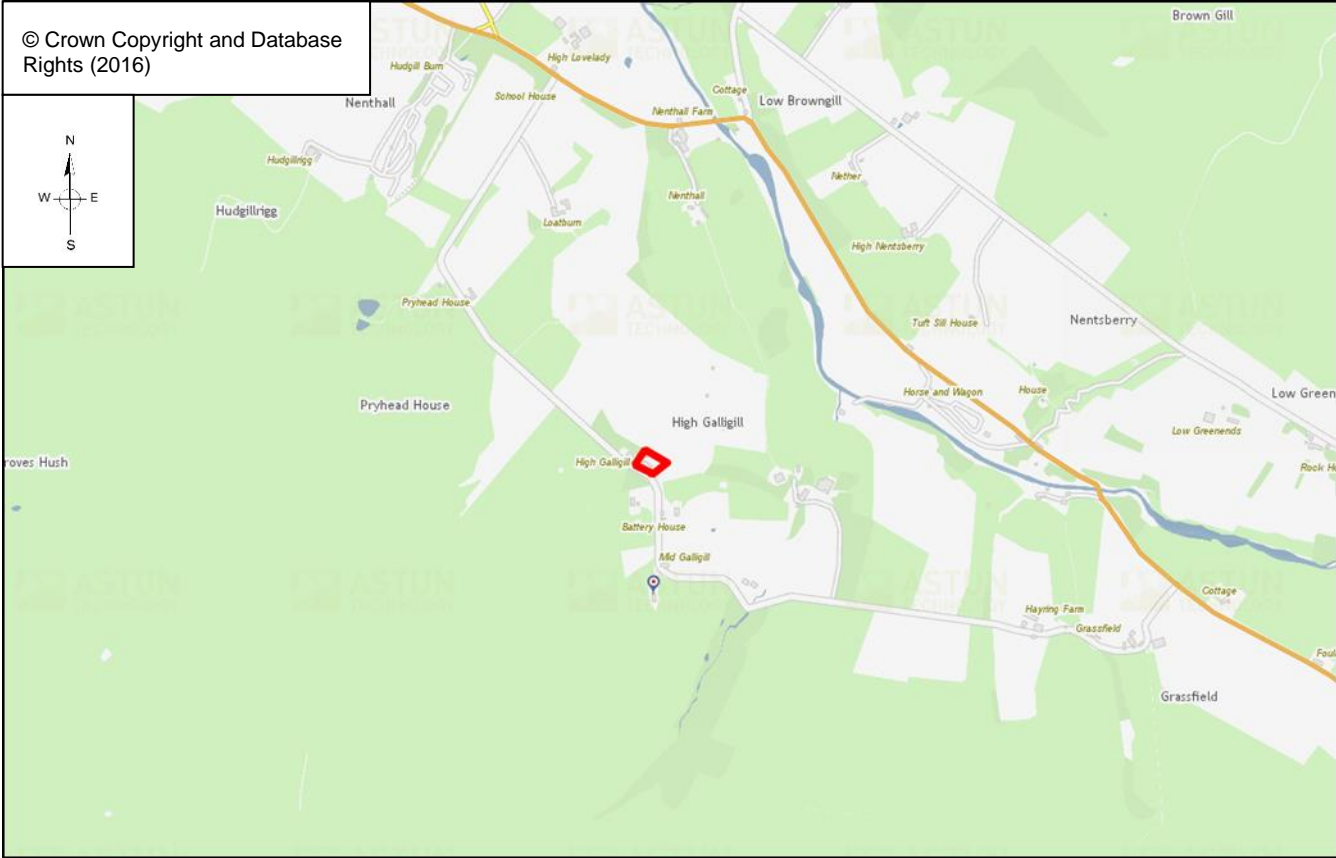
Checked by or on behalf of the Monitoring Officer	✓
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**Background Papers:** Planning File 19/0724

**Agenda Item 7**  
**REPORTS FOR DEBATE**

<b>Date of Committee:</b>	<b>19 March 2020</b>		
<b>Planning Application No:</b>	19/0875	<b>Date Received:</b>	6 December 2019
<b>OS Grid Ref:</b>	NY 375714, 544974	<b>Expiry Date:</b>	13 March 2020
<b>Parish:</b>	Alston Moor	<b>Ward:</b>	Alston Moor
<b>Application Type:</b>	Full		
<b>Proposal:</b>	Conversion of barn to create three dwellings		
<b>Location:</b>	Barn at High Galligill, Nenthead		
<b>Applicant:</b>	Spenserscom Limited		
<b>Agent:</b>	Mr D Addis		
<b>Case Officer:</b>	Nicholas Unwin		
<b>Reason for Referral:</b>	The recommendation is contrary to the view expressed by the Parish Council.		





## **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) Application Form dated 6 December 2019
  - ii) Bat Survey received 6 December 2019
  - iii) Site Location Plan (119-121-01) received 6 December 2019
  - iv) Proposed Plans and Elevations (2) (119-121-05 A) received 6 December 2019
  - v) Proposed Plans and Elevations (119-121-04 A) received 6 December 2019
  - vi) Proposed Plans and Elevations (119-121-04 A) received 6 December 2019
  - vii) Visibility Splays (119-121-06 G) received 19 February 2019

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

### **Prior to Commencement**

3. Prior to the commencement of development, full details of the proposed package treatment plant shall be submitted to and agreed in writing by the Local Planning Authority. The development shall then be completed in accordance with the approved details.

**Reason:** To prevent the risk of pollution of land and watercourses and to prevent harm to protected species.

4. Notwithstanding the submitted plans, prior to the commencement of any development, a surface water drainage scheme informed by evidence of an assessment of the site conditions shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the Local Planning Authority, no surface water shall discharge to the public sewerage system either directly or indirectly. The development shall then be completed in accordance with the approved details.

**Reason:** To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution. The condition is considered necessary to be complied with pre-commencement as compliance with the requirements of



the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

**Ongoing Conditions**

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order with or without modification), no development permitted by Part 1, Schedule 2 to the Order shall be carried out.

**Reason:** In order to preserve the character of the area.

6. The hereby approved development shall only be constructed during the following times –

Monday to Friday – 08.00 – 17.00

Saturday – 08.30 – 12.00

No construction works are permitted during Sundays, Bank and Public Holidays.

**Reason:** In the interests of the general amenity of the area.

7. The access drive shall be surfaced in bituminous or cement bound materials, or otherwise bound and shall be constructed and completed before the development is brought into use. This surfacing shall extend for a distance of at least 5 metres inside the site, as measured from the carriageway edge of the adjacent highway.

**Reason:** In the interests of highway safety. To support Local Transport Plan Policies: LD5, LD7, LD8.

8. Any existing highway fence/wall boundary shall be reduced to a height not exceeding 1.05m above the carriageway level of the adjacent highway in accordance with details submitted to the Local Planning Authority and which have subsequently been approved (before development commences) (before the development is brought into use) and shall not be raised to a height exceeding 1.05m thereafter.

**Reason:** In the interests of highway safety. To support Local Transport Plan Policies: LD7, LD8.

## **2. Proposal and Site Description**

### **2.1 Proposal**

- 2.1.1 The proposal is for the conversion of a traditional agricultural barn to three dwellings with associated works at High Galligill, Nenthead.
- 2.1.2 The South-West elevation facing an unclassified road retains the existing openings with the addition of an arch over the main barn opening and reinstatement of door openings which have previously been partly blocked up to form windows. There is a single additional door in the centre of the South-West elevation, a small roof light on the right roof section and a black flue in the centre.
- 2.1.3 The North-West elevation retains the existing openings whilst blocking one window and inserting an additional door and window. The South-East elevation is to remain blank, blocking up one small window opening.
- 2.1.4 The North East elevation is to undergo the greatest amount of change. The right side of the single storey section has been reduced in width by approximately 2 metres

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permitting a ground floor glazed door and first floor window to be inserted in the two storey left side section. Two double glazed doors and four roof lights have been inserted within the right section. Natural stone and slate to match the existing will be used for the conversion with grey/ green UPVC windows and doors.

- 2.1.5 The proposal will create three dwellings. The first dwelling in the North-West section of the barn will comprise three bedrooms (one en-suite) with a bathroom on the first floor. The ground floor will comprise a living room/kitchen, dining room and W/C. The second dwelling in the central section will comprise a bedroom and bathroom on the first floor. The ground floor will comprise a living room, kitchen/diner bedroom and W/C. The third dwelling forming the South-East section of the barn will comprise two bedrooms and a bathroom on the first floor. The ground floor will comprise a bedroom, W/C and living/dining/kitchen.
- 2.1.6 Part of the drystone wall is to be removed adjacent to the road to widen the access. The proposal will utilise a combined package treatment plant.

### 2.2 Site Description

- 2.2.1 The proposed site is located within a relatively isolated location, approximately 2.13 km North-West of Nenthead and 3.29 km South-East of Alston within the North Pennines AONB.
- 2.2.2 The existing barn is approximately 27 metres South-East of High Galligill the closest dwelling. The next closest dwelling to the proposed development is Old Battery House, approximately 100 metres to the South. The South-West boundary of the site is adjacent to the unclassified road and the North-West and South-West are adjacent to open agricultural land.
- 2.2.3 The barns are in a poor condition with the pitched roof sagging in places. The barn is constructed of sandstone rubble walls with sandstone quoins in the corners and around openings. There is a drystone wall adjacent to the unclassified road approximately 1 metre in height. There is an existing gated access onto the unclassified road.

## 3. Consultees

### 3.1 Statutory Consultees

Consultee	Response
Cumbria County Council - Highway Authority	A response was received on the 2 March 2019 advising of no objections to this proposal.
Cumbria County Council - Lead Local Flood Authority	A response was received on the 2 March 2019 advising of no objections to this proposal.

### 3.2 Discretionary Consultees

Consultee	Response
Minerals and Waste	A response was received on the 20 December 2019 advising of no objections to this proposal.
Environmental Health	A response was received on the 11 February 2020 advising of no objections to this proposal. A prior to commencement condition requiring the submission of details of the package treatment plant was requested.

Consultee	Response
Housing	A response was received on the 7 January 2019 advising of no objections to this proposal.
Environment Agency	No response received.
United Utilities	No response received.
North Pennines AONB	No response received.

#### 4. Parish Council

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

- 4.1 The Alston Moor Parish Council responded on the 9 January 2020 objecting to the proposal with the following comments:

*“Recommended for refusal on the grounds that three properties on the barn site is excessive, and out of keeping with the surrounding very rural environment within the North Pennines AONB. The council also supports residents’ concerns about the entrance to the site being on a blind bend, along a single track road. The impact the proposed waste treatment plant will have on the watercourse it is to discharge into, this watercourse is prone to flooding during heavy rainfall and drying out during dry periods. In addition the building in its current condition supports a variety of wildlife”.*

#### 5. Representations

- 5.1 Neighbour notification letters were sent out on the 12 December 2019 and a site notice was posted on 19 December 2019.
- 5.2 There were two letters/e-mails of objection received to this proposal raising the following material planning considerations:
- Landscape Impact
  - Impact on the character of the area
  - Impact on biodiversity
  - Highways Impact

#### 6. Relevant Planning History

- 6.1 None.

#### 7. Policy Context

##### 7.1 Development Plan

##### **Eden Local Plan (2014-2032):**

- LS1 – Locational Strategy
- DEV1 – General Approach to New Development
- DEV3 – Transport, Accessibility and Rights of Way
- DEV5 – Design of New Development
- RUR3 – Re-use of Redundant Buildings in Rural Areas

- ENV1 – Protection and Enhancement of the Natural Environment, Biodiversity and Geodiversity
- ENV2 – Protection and Enhancement of Landscapes and Trees
- ENV3 – The North Pennines Area of Outstanding Natural Beauty

## **7.2 Other Material Considerations**

### **National Design Guide (2019)**

#### **AONB Design Guide**

#### **Housing SPD**

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

- Chapter 4 – Decision Making
- Chapter 5 – Delivering a Sufficient Supply of Homes
- Chapter 9 – Promoting Sustainable Transport
- Chapter 12 – Achieving Well-designed Places
- Chapter 15 – Conserving and Enhancing the Natural Environment

- 7.3 The policies and documents detailed above are the most relevant policies relating to the determination of this application.

## **8. Planning Assessment**

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

- Principle
- Scale and Design
- Highways Impact
- Impact on the AONB

### **8.2 Principle**

- 8.2.1 Policy RUR3 of the Local Development Plan supports the re-use of redundant traditional rural buildings and structures for housing when it meets the following criteria:

- *“The building is capable of conversion without the need for extension, significant alteration or full reconstruction”.*

The proposed conversion of the existing barn is considered sensitive with the majority of the existing openings utilised and minimal new openings proposed. The greatest alteration is the reduction in width of the existing rear single storey element by 2 metres which in the context of the existing barn is not considered significant.

- *“It can be demonstrated that the building is of sufficient architectural quality to make it worthy of retention”.*

The existing barn is traditional in design and materials with architectural features such as sandstone quoins and sandstone blocks around openings. The barn is considered a good example of traditional agricultural architecture for the area.

- *“The proposal is of a high quality design, retaining the design, materials and external features that contribute positively to the character of the building and its surroundings”.*

The proposed design is considered to be sensitive and of high quality utilising stone and slate to match the existing building. Architectural features such as the large barn

opening in the front elevation adjacent to the road have been retained and innovatively incorporated into the proposed design.

- *“The building and its curtilage can be developed without having an adverse effect on the historic environment, the character of the local landscape or its setting”.*

The proposal will mostly retain the form and design of the existing barn with few additional window openings proposed. No extensions to the existing structure are proposed. The access will be widened with a small proportion of the drystone wall removed to facilitate this. Although the proposal for three dwellings (two three bed and one two bed) would result in 7 parking spaces, due to their positioning in the North-West corner of the site this is not considered to detract from the character of the area.

- *“It can be demonstrated that there is no significant impact on local biodiversity, including protected habitats and species”.*

The proposal would not result in the removal of any hedgerows or trees. A bat and barn owl survey was submitted in support of the application. The survey concluded that *“bats have not been found to be roosting within the barn and therefore bat roosts will not be affected by the proposed works”*. The impact of the proposal on biodiversity is therefore considered negligible.

- *“The building can be serviced by existing utilities, or where the provision of new utilities is necessary, such provision can be achieved without resulting in unacceptable adverse impacts on the landscape or rural character of the area”.*

The existing barn is approximately 27 metres from High Galligill and therefore services are in existence within the area. The proposal will additionally utilise a combined package treatment plant, the details of which will be submitted prior to the development of the proposal.

- *“The building is adjacent to or in close proximity to an existing habitable dwelling and the public road network, or where this is not the case and the conversion of such a building is justified, the building is capable of being converted without causing adverse harm to the landscape or rural character of the area”.*

The existing barn is 27 metres from High Galligill and adjacent to an unclassified road. This section of road is characterised by sporadic traditional agricultural buildings and dwellings adjacent to it. The proposal is therefore considered to retain the existing character of the area.

- *“Access is in place or can be created without damaging the surrounding area’s rural character”.*

The existing access to the site is to be retained and widened to achieve the required 35 metre visibility plays. A traffic survey was submitted in support of the application demonstrating that within an average 24 hour period, 33 vehicles pass the site entrance at an average speed of 19mph. The Highway Authority were consulted on the proposal and raised no objections.

- *“The proposal will not conflict with existing land uses”.*

The proposed site is relatively well self-contained and is separated from the surrounding agricultural land by a drystone wall. The proposed site is adjacent to an existing dwelling and open agricultural land and therefore is not considered to conflict with existing land uses.

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- 8.2.2 Based on the above the proposed development is considered to comply with Policy RUR3 of the Local Development Plan and therefore the principle of development is considered acceptable.

### 8.3 Scale and Design

- 8.3.1 Policy DEV5 of the Local Development Plan 2014-32 which state that new development should show a clear understanding of the form and character of the district's built and natural environment. This is supported by Chapter 12 Achieving well-designed places of the NPPF which states that good design is a key aspect of sustainable development, going on to say that development should be sympathetic to local character and history, including the surrounding built environment and landscape setting.
- 8.3.2 The National Design Guide (2019) states that well designed places are based around an understanding of the features of the site and the surrounding context, integrating into the surroundings.
- 8.3.3 When referencing conversions the AONB Design Guide states that "*existing openings should be used where possible*" and "*external structural alterations should be kept to a minimum*".
- 8.3.4 The proposed development is considered to be a high quality and respectful conversion of the existing traditional barn. The existing openings are utilised with new openings kept to a minimum to preserve the existing character. This is particularly evident from the front (South-West) elevation with the archway above the main barn opening fully restored and glazed. Slit vents that have previously been closed are to be re-opened and glazed. The Proposal additionally utilises high quality materials in sandstone and slate to match that of the existing structure. No extensions are proposed.
- 8.3.5 One of the public objections states that "*the proposal to create 3-dwellings is deemed excessive and unnecessary and does not reflect the style of its neighbouring properties which are individual detached family properties*".
- 8.3.6 Although the proposal would create three dwellings, the existing openings would remain largely unchanged and therefore the character of the barn is considered to be preserved.
- 8.3.7 The proposal is considered to be of a high quality design and materials, respectful of the character of the existing structure. The proposed development is considered to comply with Policy DEV5 of the Local Development Plan and Chapter 12 of the NPPF.

### 8.4 Highways Impacts

- 8.4.1 Policy DEV3 of the Local Development Plan states that "development will be refused if it will result in a severe impact in terms of road safety", going on to say that development will not be supported if "evidence shows that there would be a severe, unmitigated impact of the surrounding highway network".
- 8.4.2 Para 109 of the NPPF states that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety".
- 8.4.3 The Parish Council and the two letters of objections raise concerns over highway safety.
- 8.4.4 The proposed development is supported by a traffic survey demonstrating that within an average 24 hour period 33 vehicles pass the site entrance at an average speed of

19mph. The Highways Authority used these traffic survey results to calculate that visibility splays of 35 metres in both directions of the site entrance are required. The applicant has demonstrated that through widening the existing access, visibility splays of 35 metres can be achieved. The Highways Authority therefore have no objection to the proposal.

- 8.4.5 Given the low levels of traffic utilising this section of road and the low speeds they are traveling, the 35 metre visibility splays and lack of objection from the Highways Authority, the proposal is considered to be acceptable from a highways safety perspective. The proposal is considered to comply with Policy DEV3 of the Local Development Plan and Chapter 9 of the NPPF.

## **8.5 Impact on the AONB**

- 8.5.1 Paragraph 172 states that “great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty”.

- 8.5.2 Policy ENV3 of the Local Development Plan requires new development within the North Pennines AONB to meet the following criteria:

- *“Individually or cumulatively it will not have a significant or adverse impact upon the special qualities or statutory purpose of the AONB”.*

The North Pennines AONB Planning Guidelines define the primary purpose for the AONB’s designation as the conservation and enhancement of its natural beauty. The proposal is considered to be a sympathetic renovation and conversion of an existing barn into three dwellings. The barn is currently in a poor condition, the proposed renovation and repurposing is considered to conserve and enhance the special qualities of the area.

- “It does not lessen or cause harm to the distinctive character of the area, the historic environment, heritage assets and their setting”.

The area is defined by isolated traditional dwellings and farm buildings, some of which are clustered together. The proposal utilises an existing barn adjacent to a dwelling. The conversion would incorporate the majority of existing openings as doors and windows with few additional openings required, retaining the character of the building. The proposal involves seven parking spaces however these are located to the North-West of the site set back from the road in a linear fashion further minimising any impact on the character of the area.

- “It adheres to any formally adopted design guides or planning policies, including the North Pennines Management Plan, the North Pennines AONB Planning Guidelines and the North Pennines AONB Building Design Guide”.

The proposal is considered to be a sensitive conversion of an existing traditional barn, preserving its existing character. The proposal uses materials to match the existing structure, the majority of existing openings and minimises the use of additional openings. The proposal is therefore considered to comply with the above guidance.

- 8.5.3 The proposed development is considered to be a sensitive conversion of an existing barn in a poor condition. The proposal retains the character of the barn and therefore

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the character of the AONB and surrounding area. The proposal is considered to comply with Policy ENV3 of the Local Development Plan and Chapter 15 of the NPPF.

**9. Implications**

**9.1 Legal Implications**

- 9.1.1 The following matters have been considered but no issues are judged to arise. Each application is considered on the particular planning merits.

**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 for the Protection of Human Rights and Fundamental Freedoms 1950, as now embodied in UK law in the Human Rights Act 1998.

**10. Conclusion**

- 10.1 The Parish Council and two objectors describe the proposal as being 'excessive' and out of keeping with the North Pennines AONB. One objector describes the proposed development as "*excessive and unnecessary and does not reflect the style of its neighbouring properties which are individual detached family properties*".
- 10.2 The proposed development is for the conversion of a traditional redundant barn. The proposal utilises the majority of existing openings with few new openings proposed and the rear single storey section reduced in width by approximately two metres. Whether the proposal was an eight bedroom single dwelling or the two, three bed and one, two bed dwellings proposed, the design of the proposal, existing openings and levels of glazing would remain. There would therefore be no difference in the character of the existing structure if it were to be used for a large single dwelling or three modest dwellings.
- 10.3 The above comments regarding the surrounding dwellings being large detached properties is accurate. It is considered that the addition of three modest dwellings in this area would result in a diversity in the existing local housing stock and should be viewed as beneficial.
- 10.4 The conversion of these traditional rural buildings permitted under Policy RUR3 of the Local Development Plan allows for their repurposing and renovation. Many examples



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of these traditional barns throughout the district have become redundant and fallen into disrepair. This repurposing, in the case of the proposed three dwellings, ensures its maintenance and longevity, preserving the structures for future generations.

- 10.5 Highways impacts were additionally raised by both the Parish Council and two objections received. It is acknowledged that visibility from the existing access is limited. However, the access is to be widened to achieve visibility splays of 35 metres in both directions. A speed survey was submitted in support of the application demonstrating that within an average 24 hour period, 33 vehicles pass the existing site entrance at an average speed of 19 mph. These vehicle movements are considered infrequent and average speeds low. The visibility splays and speed survey results were reviewed by the Highway Authority who deemed them acceptable and raised no objections to the application.
- 10.6 Para 109 of the NPPF states that *“development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety”*.
- 10.7 The proposed development is considered acceptable from a highway safety perspective which is confirmed by the Highway Authority.
- 10.8 The proposed development is considered to be a sensitive conversion of an existing traditional barn, providing three modest dwellings to the Council’s housing stock. The proposal additionally benefits from the renovation and repurposing of a traditional rural building, preserving it for the future. The proposal is considered acceptable from a highway safety perspective. The proposed development is recommended for approval.

Oliver Shimell

Assistant Director Planning and Economic Development

Checked by or on behalf of the Monitoring Officer	✓
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**Background Papers:** Planning File 19/0875

**Agenda Item 8**  
**REPORTS FOR DEBATE**

**Date of Committee:** 19 March 2020

**Planning Application No:** 19/0696      **Date Received:** 24 September 2019

**OS Grid Ref:** 377209 508972      **Expiry Date:** 25 December 2019  
extension of time  
agreed until 21  
March 2020

**Parish:** Kirkby Stephen      **Ward:** Kirkby Stephen

**Application Type:** Reserved Matters

**Proposal:** Reserved matters application for access, appearance, layout, scale, design and landscaping in relation to planning permission ref. 17/0922 for residential development.

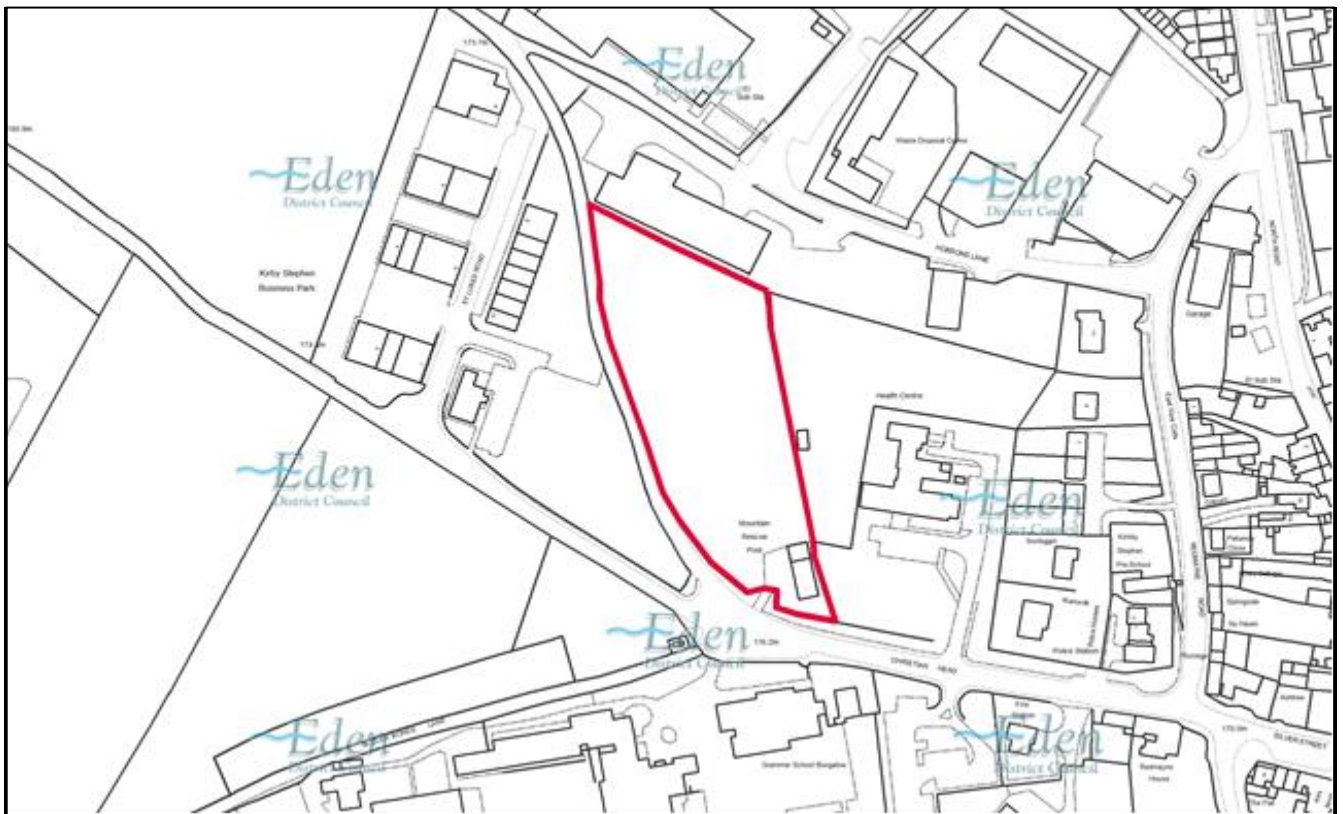
**Location:** Land off Kirkby Stephen Grammar School, Kirkby Stephen

**Applicant:** Mr Colin Caldwellader – Maytree Construction

**Agent:** Mr John Dickinson – The Intelligent Design Centre

**Case Officer:** Mr Ian Irwin

**Reason for Referral:** The recommendation is contrary to view of the Town Council



## **1. Recommendation**

It is recommended that Planning Permission is granted subject to the following conditions:

### **Time Limit for Commencement**

1. The development permitted shall be begun before the expiration of two 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 strictly in accordance with the application form dated 20 September 2019 and the following details and plans hereby approved;
  - i. Location Plan, ref. 18071-LP, dated Sept 2019;
  - ii. Design and Access Statement, ref. 18071-DA v 1.0, dated September 2019;
  - iii. Proposed Site Plan, ref. 18071-SP-102 Rev. E, dated 12 November 2019;
  - iv. Acoustic Survey, ref. R1441-T01B-PB, dated 12 February 2018;
  - v. Technical Note, ref. R1441-T01-SJW, dated 8 January 2018;
  - vi. Technical Note, ref. R1441-T01C-PB, dated 19 March 2018;
  - vii. Environmental Noise Study, ref. R1441-REP01-JR, dated 14 November 2017;
  - viii. Proposed Site Plan – Acoustic Fence, ref. 10871-SP-104-A Rev. A, dated Jan 2020;
  - ix. Existing Ground Level Site Survey, ref. 18071 – EcGL Survey – 101, dated August 2019;
  - x. Speed Survey and Assessment of Site Access, ref. A3614, dated 15 February 2018;
  - xi. Phase 1 Site Investigation Report, ref. 4494/R01/1, dated 8 May 2019;
  - xii. House Type 3A, ref. 18071-3A-104-A, dated 27 September 2019;
  - xiii. House Type 4A, ref. 18071-4A-105-A, dated 26 September 2019;
  - xiv. House Type 2A, ref. 18071-2A-103-A Rev. A, dated Jan 2020;
  - xv. House Type 4B, ref. 18071-4B-106-A, dated 26 September 2019;
  - xvi. House Type 4C, ref. 18071-4C-107-A, dated 27 September 2019;
  - xvii. House Type 4D, ref. 18071-4D-108-A, dated 26 September 2019.

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

### **Prior to commencement**

3. The development shall not commence until visibility splays as shown within the Speed Survey, ref. A3614, dated 15 February 2018. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grow within the visibility splay which obstruct the visibility splays. The visibility splays shall be constructed before the development of the hereby approved dwellings so that construction traffic is safeguarded.

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

4. The hereby approved development shall not be commenced until the access has been formed with 6metre radius kerbs, to give a minimum carriageway width of 4.8metres, and that part of the access road extending 15metres into the site from the existing highway has been constructed in accordance with details submitted to and approved by the Local Planning Authority.

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

5. Prior to the commencement of the development of any of the hereby approved dwellings, samples of external finishes for walls, roofs, windows, doors and hard surfaces shall be submitted to the Local Planning Authority for written approval. Once approved, these materials shall be utilised in the construction of the site.

**Reason:** In the interests of the character and amenity of the area.

**Ongoing Conditions:**

6. Foul and surface water shall be drained on separate systems.

**Reason:** To secure proper drainage and to manage the risk of flooding and pollution.

7. The development shall adhere to the 'Initial Site Set up' plan, ref. 18071 – CFP, dated October 2019 throughout the construction works undertaken on site. This approved plan shall be used for or be kept available for these purposes at all times until completion of the construction works.

**Reason:** In the interests of highway safety and to protect vulnerable road users.

**Note to developer:**

1. This decision notice grants planning permission only. It does not override any existing legal agreement, covenant or ownership arrangement. It is the applicant's responsibility to ensure all necessary agreements/consents are in place prior to the commencement of development and to take appropriate advice thereon if required.
2. If the applicant intends to offer wastewater assets forward for adoption by United Utilities, the proposed detailed design will be subject to a technical appraisal by an Adoptions Engineer as we need to be sure that the proposal meets the requirements of Sewers for Adoption and United Utilities' Asset Standards. The detailed layout should be prepared with consideration of what is necessary to secure a development to an adoptable standard. This is important as drainage design can be a key determining factor of site levels and layout. The proposed design should give consideration to long term operability and give United Utilities a cost effective proposal for the life of the assets. Therefore, should this

- application be approved and the applicant wishes to progress a Section 104 agreement, we strongly recommend that no construction commences until the detailed drainage design, submitted as part of the Section 104 agreement, has been assessed and accepted in writing by United Utilities. Any works carried out prior to the technical assessment being approved is done entirely at the developers own risk and could be subject to change.
3. Our water mains may need extending to serve any development on this site and the applicant may be required to pay a contribution.
  4. Our standard conditions document includes details of trees and shrubbery suitable for planting in the vicinity of a water main. The applicant should consult this document to ensure their landscaping proposals meet with the advice provided in the document.
  5. We also recommend the use of root barriers to afford additional protection to the water main. It is the applicant's responsibility to demonstrate the exact relationship between any United Utilities' assets and the proposed development. We recommend the developer contacts United Utilities for advice on identifying the exact location of the water main. If the applicant intends to obtain a water supply from United Utilities for the proposed development, we strongly recommend they engage with us at the earliest opportunity. If reinforcement of the water network is required to meet the demand, this could be a significant project and the design and construction period should be accounted for. To discuss a potential water supply or any of the water comments detailed above, the applicant can contact the team at [DeveloperServicesWater@uuplc.co.uk](mailto:DeveloperServicesWater@uuplc.co.uk)
  6. Please note, all internal pipework must comply with current Water Supply (water fittings) Regulations 1999.
  7. Where United Utilities' assets exist, the level of cover to the water mains and public sewers must not be compromised either during or after construction.
  8. For advice regarding protection of United Utilities assets, the applicant should contact the teams as follows:  
Water assets – [DeveloperServicesWater@uuplc.co.uk](mailto:DeveloperServicesWater@uuplc.co.uk)  
Wastewater assets – [WastewaterDeveloperServices@uuplc.co.uk](mailto:WastewaterDeveloperServices@uuplc.co.uk)
  9. It is the applicant's responsibility to investigate the possibility of any United Utilities' assets potentially impacted by their proposals and to demonstrate the exact relationship between any United Utilities' assets and the proposed development.
  10. A number of providers offer a paid for mapping service including United Utilities. To find out how to purchase a sewer and water plan from United Utilities, please visit the Property Searches website; <https://www.unitedutilities.com/property-searches/>
  11. You can also view the plans for free. To make an appointment to view our sewer records at your local authority please contact them direct, alternatively if you wish to view the water and the sewer records at our Lingley Mere offices based in Warrington please ring 0370 751 0101 to book an appointment.
  12. Due to the public sewer transfer in 2011, not all sewers are currently shown on the statutory sewer records and we do not always show private pipes on our

plans. If a sewer is discovered during construction; please contact a Building Control Body to discuss the matter further.

13. Should this planning application be approved the applicant should contact United Utilities regarding a potential water supply or connection to public sewers. Additional information is available on our website  
<http://www.unitedutilities.com/builders-developers.aspx>

## **2. Proposal and Site Description**

### **2.1 Proposal**

- 2.1.1 The application is for the reserved matters relating to access, appearance, layout, scale and design as well as landscaping attached to the outline planning permission for residential development previously approved for the site (ref. 17/0922). That proposal was granted permission by Planning Committee in May 2018 subject to a legal agreement which was subsequently agreed and confirmed.
- 2.1.2 That permission granted outline planning permission for the site to be developed for housing. This application therefore seeks to provide the more specific details related to that outline development. A number of conditions were attached to the outline permission and the applicant is seeking to discharge those conditions as part of a separate application.
- 2.1.3 The plans provided illustrate that the site would be subject to a development of 16 dwellings. These dwellings would vary in size and comprise;
- x 4 – 2 bedroom semi-detached dwellings;
  - x 2, 3 bedroom semi-detached dwellings;
  - x 2 – 4 bedroom detached dwellings with separate double garages; and
  - x 8 – 4 bedroom detached dwellings with integral single garages.
- These particular dwellings would comprise a mix of differing house types in terms of outward design and appearance.
- 2.1.4 As the proposal is for 16 dwellings, a 30% affordable housing contribution was required (and was secured by Section 106 agreement at the outline stage). Therefore, x 4 dwellings are proposed to be affordable houses on this development. Those would be comprised of the x 4 – 2 bedroom semi-detached dwellings.
- 2.1.5 Access is proposed onto the 'Soulby Road' in the south-west of the site. Amenity space is proposed to be created mainly in the south-western part of the site and would comprise a 'green yard' with planting and a footpath which would lead into the wider Kirkby Stephen network. A further area of amenity space is proposed in the north-west corner of the site, adjacent to the proposed site access.
- 2.1.6 The consideration of the relevant matters of this application are considered later in this report.

### **2.2 Site Description**

- 2.2.1 The site which is subject of this planning application is located to the west of Kirkby Stephen. It is a former playing field which the applicant advises has not been utilised in this manner for over 15 years.

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- 2.2.2 To the south the site has an access onto the nearby Christian Head public highway where the Eden Mountain Rescue building is located. To the south and beyond the opposite side of the nearby highway is Kirkby Stephen Grammar School.
- 2.2.3 To the north the site is bounded by the Kirkby Stephen industrial estate and to the east by the Kirkby Stephen Health Centre. To the west is a public highway and beyond that more industrial units associated with the aforementioned industrial estate.
- 2.2.4 The site is approximately 0.70 hectares in size and is approximately 125 metres in length. It 'runs' in a north to south direction and has a limestone boundary wall on its western boundary beyond which is the public highway (known as the 'Soulby Road').
- 2.2.5 The site is confirmed to be located within a Flood zone 1. The site is not located in an area subject to any 'special' designation in terms of landscape or heritage zones. There are no other constraints considered relevant to the determination of this application.

### 3. Consultees

#### 3.1 Consultees

Consultee	Response
Cumbria County Council - Local Highway Authority	Responded on the 21 October 2019 and confirmed that from a Highways Perspective, the layout details are satisfactory. Conditions related to access, visibility splays, layout design, footpaths, construction parking, construction phase traffic management plan and fencing be attached to any subsequent decision notice which approves the proposals.
Cumbria County Council - Lead Local Flood Authority	Responded on the 21 October 2019 and confirmed that the applicant would need to provide details of drainage to the BRE 365 standards. As such, the Lead Local Flood Authority requested that were this application approved a condition related to surface water drainage be submitted for approval prior to the commencement of any approved development.
Environment Agency	Were consulted on the 30 September 2019, no response has been received.
Natural England	Responded on the 2 October 2019 and confirmed no objection to the proposal. They confirmed that <i>'Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes'</i> .
United Utilities	Were consulted on the 30 September 2019, no response has been received.
Environmental Health	Responded on the 24 January 2020 and requested that further information was required in relation to the proposed acoustic barrier and how the development would be constructed to ensure internal noise levels are achieved.  Further information was provided by the applicants in response to this request. The information was

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	considered by the Environmental Health Officer and on the 19 February 2020 confirmed that the details submitted were acceptable.
Housing Officer	<p>Responded on the 29 October 2019 and confirmed that, <i>'In terms of affordable housing need and demand for Kirkby Stephen, analysis of data from Cumbria Choice Based Letting indicates there are 53 active applicants in affordable need who have listed Kirkby Stephen as their first choice preference area to live. Of these applicants the preferred property type is a house or bungalow, with a preferred room size of between 1-3 bedrooms and preferred tenure listed as affordable/social rent.</i></p> <p><i>Based on the above housing need, I'm supportive of the 4 2-bed semidetached affordable houses proposed and find the site layout to be satisfactory from an affordable housing perspective. However, I do note that the gross internal floor area of the 2-bed semidetached house type is 65.92 sq m, this falls slightly below the national minimum space standards for a 2 bed, 3 person home (set at 70 sq m); we would ask therefore that this be considered in context of Policy DEV5 (Design of New Developments) in ensuring that this house type can be easily accessed and used by all, regardless of age and disability.</i></p> <p><i>With regards to tenure, based on local needs evidence our preference would be for affordable/social rent through a registered provider (RP), I would be happy to provide the applicant with contact details of local RP's on request. If it can be evidenced by the applicant that there is no demand from RP's for rental on this site we would be accepting to the tenure of the affordable units being for discounted market sale housing, allocated through the Council's Homeseekers Register and subject to discounted sale at 60% open market value subject to the price being capped in any event at 60% of the mean open market price of property in the area (affordable price cap)'</i></p>
Sport England	Responded on the 21 October 2019 and submitted a holding objection based upon concerns that the development would not ensure the monies received from the sale of the land be utilised in sporting provision on the school site. The case officer liaised with Sport England and confirmed that objections upon the principle of development (upon which the s.106 legal agreement was based) could not stand in relation to the 'reserved matters' associated with the development. In addition, the s.106 agreement did secure the sale of funds of the land for sporting



	provision on the school site. A copy was forwarded to Sport England. A further response was received on the 20 December 2019 and which confirmed that Sport England had no objection to the reserved matters application.
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#### 4. Parish Council/Meeting Response

Town Council/Meeting	Object	Support	No Response	Comments
Kirkby Stephen	✓			

4.1 The Town Council responded on the 15 November 2019 as follows:

*'please note the council's very strong objections to the proposed layout in respect of road safety. It is considered that the proposed Soulby Lane entrance is very dangerous and that the entrance to the site should not be positioned in the proposed location. Further development is anticipated at Dargue's Field and future development of adjacent sites should be considered. As this area serves as the drop off point for coaches at Kirkby Stephen Grammar School. The council believes that road traffic engineers should ultimately redesign the layout of the junctions in this area. The road survey did not take place during a period when auction traffic was using the road and a false picture of the extent of congestion/hazard has been obtained'.*

#### 5. Representations

5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on site on the 3 October 2019. A press notice was also published in the Herald on the 21 September 2019.

<b>No of Neighbours Consulted</b>	32	<b>No of letters of support</b>	0
<b>No of Representations Received</b>	1	<b>No of neutral representations</b>	0
<b>No of objection letters</b>	2		

5.2 **The two objection letters received have raised the following concerns;**

- There are numerous near misses in the area and the proposed access is of severe concern;
- Business that operate on the industrial estate 7 days a week and make noise which may interfere with occupants of the houses;
- The proposed buildings look the wrong type;
- The consideration of the proposed access is ridiculous and dangerous;
- There should be a new roundabout which should incorporate the entrance to this development;
- Speed limits on Waitby and Soulby road should also be considered for reduction;
- Additional screening is required to the Mountain Rescue 'side' which is used 24 hours night and day, proposed trees should be compulsory once suggested;
- Affordable housing must be compulsory and not waived later;

**The one letter of observation stated that;**

- The road to the south-west of the site (Soulby Road) should be widened to a minimum of 6 metres;
- Cumbria County Council will back up observations regarding the road being too narrow as they have had to repair damage by vehicles exceeding the width of the surfaced highway in many places on this road;
- The road is also subject to flooding, the development of this site may be an appropriate time to address this also.

## **6. Relevant Planning History**

<b>Application No</b>	<b>Description</b>	<b>Outcome</b>
17/0922	Outline application for residential development	Approved by Planning Committee

## **7. Policy Context**

### **7.1 Development Plan**

#### **Eden Local Plan 2014-2032:**

The specific policies considered relevant in the determination of this particular application are as follows;

- Policy DEV1: General Approach to New Development;
- Policy DEV2: Water Management and Flood Risk;
- Policy DEV3: Transport, Accessibility and Rights of Way;
- Policy DEV5: Design of New Development;
- Policy ENV1: Protection and Enhancement of the Natural Environment, Biodiversity and Geodiversity;
- ENV2 – Protection and enhancement of landscape and trees;
- ENV5: Environmentally Sustainable design;
- Policy HS1: Affordable Housing;
- Policy HS4: Housing Type and Mix;
- Policy HS5: Accessible and Adaptable Homes;
- Policy COM3: Provision of New Open Space.

### **7.2 Other Material Considerations**

#### **National Planning Policy Framework February 2019:**

- Chapter 2 - Achieving sustainable development;
- Chapter 4 - Decision-making;
- Chapter 11 - Making effective use of land;
- Chapter 12 - Achieving well designed places;
- Chapter 14 - Meeting the challenge of climate change, flooding and coastal change;
- Chapter 15 - Conserving and enhancing the natural environment.

## **8. Planning Assessment**

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

- Principle of development
- Landscape and Visual Impacts
- Layout and Design

- Affordable Housing
- Residential Amenity
- Highways/Highway Safety
- Drainage

## **8.2 Principle of development**

- 8.2.1 The principle of development does not formally apply as a consideration of this application due to the proposal being for 'reserved matters'. However, for clarity, it is confirmed that the principle of developing this site has been established by the grant of planning permission, by Planning Committee, under Planning Permission ref. 17/0922.
- 8.2.2 As such, then, the principle of development is established and Members can therefore focus on the 'reserved' aspects of the proposal as referred to in paragraph 2.1.1 of this report.

## **8.3 Landscape and Visual Impacts**

- 8.3.1 A further consideration in relation to this application is the Landscape and Visual Impact of the proposal. The site remains as was when outline permission was granted – a disused playing field which is located on the edge of the town, opposite the Grammar School. The outline report referred to the site then as *'its loss is not considered significantly harmful. Indeed, the land currently has a rather 'tired' appearance and any development would likely improve its appearance'*.
- 8.3.2 The site is not subject to any landscape designation and it is acknowledged to be located adjacent to the Kirkby Stephen Business Park (which are located to the north and west). To the east is a Medical Centre whilst to the south, on the opposite side of Christian Head is the aforementioned Kirkby Stephen Grammar school.
- 8.3.3 The topography of the site is generally flat. It comprises a small number of trees and varying types of hedgerow and shrubs located on most boundaries of the site.
- 8.3.4 Policy ENV2 entitled 'Protection and Enhancements of Landscapes and Trees' confirms that new development will only be permitted where it conserves and enhances distinctive elements of landscape character and function.
- 8.3.5 Policy DEV5 as referred to above also applies to the landscape and amenity impacts consideration relative to a proposal. The policy specifically requires development proposals to *'reflects the existing street scene through use of appropriate scale, mass, form, layout, high quality architectural design and use of materials'*.
- 8.3.6 Planting is proposed in the more southern part of the site to incorporate a 'green yard' with landscaping adjacent to a footpath leading out of the site to adjoin the existing public footpath network leading into the town centre.
- 8.3.7 In this case, the development of the site is considered an enhancement of the area and indeed this particular site which has been effectively 'scrub land' for some time. Nevertheless, it should also be recognised that the site is not considered to be of significance in this particular part of the district set against the neighbouring industrial estate. It is also not located within a designated landscape area.
- 8.3.8 It is noted that one objector has referred to trees being 'compulsory' if and once suggested. Whilst it is difficult to reconcile how an objection letter could then request trees form part of the development that they do not wish to see proceed as proposed, this would be an impossible requirement to impose on any developer. Proposals can be altered and can change for a myriad of reasons. As such, no condition or legal

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agreement related to a planning permission can be confirmed to be impossible to vary once approved. Accordingly, no such requirement could be reasonable imposed upon either this or any developer as part of the planning application process.

8.3.9 The dwellings proposed would, of course, alter the appearance of the site and to some degree the wider area but this was clearly considered acceptable at the outline stage which established housing was appropriate for the site. Therefore, it is not considered reasonable now to view the development as having such a significantly detrimental impact on the local landscape that it would merit the applications refusal.

8.3.10 On this basis, it is considered that the proposal could be acceptable in landscape and visual impact terms given the sites setting. Accordingly, the proposal is considered compliant with Policies DEV5 and ENV2 of the Local Plan.

### 8.4 Layout and Design

8.4.1 The proposed layout would result in 16 dwellings being constructed upon the site. These would be located across the site, either side of an access road which is proposed to adjoin the adjacent 'Soulby Road'.

8.4.2 Policy DEV5 of the Eden Local Plan states '*New development will be required to demonstrate that it meets each of the following criteria:*

- *Shows a clear understanding of the form and character of the district's built and natural environment, complementing and enhancing the existing area.*
- *Protects and where possible enhances the district's distinctive rural landscape, natural environment and biodiversity.*
- *Reflects the existing street scene through use of appropriate scale, mass, form, layout, high quality architectural design and use of materials.*
- *Optimises the potential use of the site and avoids overlooking.*
- *Protects the amenity of the existing residents and business occupiers and provides an acceptable amenity for future occupiers.*
- *Use quality materials which complement or enhance local surroundings.*
- *Protects features and characteristics of local importance.*
- *Provides adequate space for the storage, collection and recycling of waste.*
- *Can be easily accessed and used by all, regardless of age and disability'.*

8.4.3 Paragraph 127 of the NPPF states that, '*Planning policies and decisions should ensure that developments:*

- a) *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) *are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) *are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*

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- d) *establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) *optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) *create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users<sup>46</sup>; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience’.*

8.4.4 Paragraph 130 of the NPPF states that, *‘Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used)’.*

8.4.5 Policy ENV5 entitled *‘Environmentally Sustainable Design’* states that *‘proposals for commercial development and for major residential development, defined in Appendix 2, should demonstrate, where it is practical for them to do so, that they have considered each of the following criteria:*

- *Maximising daylight and passive solar gain through the orientation of buildings.*
- *Integrating sustainable urban drainage systems.*
- *Designing and positioning buildings to minimise wind funnelling, frost pockets and uncomfortable microclimates.*
- *Integrating renewable energy technology into the scheme, and in schemes comprising over 50 dwellings or on sites over 1.5 hectares, exploring the scope for direct heating.*
- *Minimising construction waste, through for example designing out waste during the design stage, selecting sustainable and efficient building materials and reusing materials where possible.*
- *Providing well-designed and visually unobtrusive outdoor waste storage areas to promote cycling.*
- *Promoting sustainable transport modes, through for example careful layout and road design to ensure it is conducive to walking and cycling and prioritises the pedestrian and cyclist over the car’.*

8.4.6 In terms of Policy ENV5 it is recognised that the Policy states ‘should’ demonstrate, rather than ‘must’ but despite this, it is considered important that development endeavours to provide as strong an environmentally sustainable design as possible. Notwithstanding, the requirements of the policy must be recognised in the consideration of this application.

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- 8.4.7 The applicant confirms that Environmentally Sustainable design is an important part of their design principles. They confirm that in an effort to meet these ambitions, they propose to construct the dwellings using 'Flitcraft' injected timber frames, which reduces U levels far in excess of extant building regulations.
- 8.4.8 They also suggest that the lightweight nature of the timber frames allow for more airtight construction, allowing for a reduction in heat loss and assuring lower energy bills for future occupants.
- 8.4.9 The applicant also proposes roof mounted solar panels (on appropriate elevations) to ensure the dwellings generate an element of their own power to increase the sustainability of the properties.
- 8.4.10 There is no empirical data in support of these proposals, but it is noted that the policy does not require such. The policy only requires that they have considered relevant criteria (where practical for them to do so). On the basis of that policy consideration, the sustainable design proposals are considered appropriate.
- 8.4.11 The inclusion of solar panels in the design of the development is a particularly welcome feature. Officers are supportive of the environmentally sustainable design features and intent and as such consider the proposals accords with the requirements of policy ENV5. For clarity, the applicant has confirmed that each dwelling will incorporate solar panels onto the most appropriate roof slope dependent upon its location on the site to reduce any perceived negative visual impact.
- 8.4.12 It is noted that the development would comprise of 4 x 2 bedroom semi-detached dwellings, 2 x 3 bedroom semi-detached dwellings and 10 x 4 bedroom dwellings. All four bedroom dwellings proposed would incorporate garages (either detached or integral), achieving a varied and appropriate housing type and mix for the site in line with Policy HS4 of the Eden Local Plan.
- 8.4.13 The proposed layout is considered acceptable as are the numbers proposed for the site so as to make the best and most effective use of the available land in accordance with Chapter 11 of the NPPF. . It would represent an appropriate utilisation of the available land as well as provide for an element of amenity space within the site too. Whilst it would be preferable if a centralised amenity area was also included, not only for an area of play, but to enhance the feel and appearance of the site, it is noted the site, in this instance, as a windfall development, is constrained by its size. As such, an element of pragmatism must apply given to seek such a centralised area, would reduce the number of dwellings the site could deliver.
- 8.4.14 The applicants, in this case, propose a green 'yard' to the south-west of the site which forms a focal point to allow a footway to allow pedestrians or bicycle users access to the wider road and footpath network, leading into Kirkby Stephen. Specifics in terms of the landscaping plan to augment this 'green yard' would need to be submitted prior to the development being commenced as per the condition detailed in section 1 of this report. Whilst more specific details would be required by the condition, it is acknowledged that this yard would function as a meeting place and potentially allow residents to have an allotment area for their collective enjoyment. Such a communal space is supported by officers in this instance.
- 8.4.15 Under the requirements of the Eden Local Plan, new major housing developments are required to provide sufficient open space provision in any new development. Policy COM3 of the Eden Local Plan entitled 'Provision of New Open Space', would require the provision of appropriate levels of open space for future residents to enjoy.

However, the Policy acknowledges that there can be circumstances where such provision is unviable. In this case, no such viability concerns exist. The applicant has advised that the total amount of amenity space proposed is, across the two elements on site, 490 sq. metres.

- 8.4.16 The notion of this combination of incorporating a footway and a 'green yard' with landscaping planting around it is a more innovative way of providing such space. But it represents an interesting alternative approach. In this case, the requirements of Policy would require a minimum of one of the following; 600 sq. metres of outdoor sporting space, 400 sq. metres of urban parks and gardens, 100 sq. metres of playground, 300 sq. metres of general amenity space or allotment space which the calculator confirms would be required to be less than 100 sq. metres.
- 8.4.17 Although the space is split over two areas of the site, the space proposed is considered to be acceptable in terms of the requirements of Policy COM3 in this case. The green 'yard' area is an innovative way to incorporate amenity space which is communal and functional as a linkage point into the wider footpath network of Kirkby Stephen. The other area, whilst generic at present has been confirmed by the applicant to be an area they would also be willing to install play equipment on. As such, the site would deliver an area for allotments, playground and general amenity space. This approach is readily supported by officers as the ultimate consequence is that the site gets a varied and useable range of amenity areas within it, for future residents to utilise.
- 8.4.18 The materials proposed in the development are to comprise of Burlington grey slate effect roof tiles, walls comprising of limestone random walling and buff multi-facing bricks with rendered panels. Some of the dwellings are proposed to include dressed stone quoins with stone window and door surrounds.
- 8.4.19 Windows and door frames would be anthracite grey, upvc rainwater and waste pipes would be black and composite doors and garage doors would be finished in varying pastel colours.
- 8.4.20 The use of quoins as 'dressing' for properties are not considered necessary where such is not genuinely needed as it can appear ungenuine. However, in this case, it is recognised that the proposals seek to give a 'nod' to and better harmonise with the wider built environment of the area where such features are regularly observed within the wider locality of the town.
- 8.4.21 Overall then, the proposal is considered to represent an appropriate use of the land in terms of the scale of development proposed. Furthermore, the design of the proposed dwellings are considered acceptable, as are the materials. Samples of such will be required to be submitted prior to construction works beginning on site (where this application to be approved).
- 8.4.22 The development provides a mix of 2, 3 and 4 bedroom dwellings and additionally, provides dwellings that seek to be environmentally sustainable in their design via use of materials, orientation and solar panels on appropriate elevations. Open space is a necessity of any development and it must form part of any scheme that is put forward to the Local Planning Authority.
- 8.4.23 In this case, the applicant has endeavoured to blend the amenity space into the footpath network and create a 'green yard' which would be a public space, dominated by landscaping. The precise details of the planting proposed is still to be confirmed by virtue of the approval of the condition related to landscaping attached at the outline stage.

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8.4.24 Overall then, given the considerations above, the proposal is considered compliant with the requirements of the Eden Local Plan and specifically policies, DEV5, ENV5, COM3 and the NPPF. As such it is therefore considered to merit support.

**8.5 Affordable Housing**

- 8.5.1 The Eden Local Plan confirms the requirements for affordable housing contributions. Policy HS1, entitled, 'Affordable Housing' confirms that *'the council will seek to secure the provision of 30% of all new housing as affordable homes on schemes with 11 or more units where the on-site contribution does not equate precisely to a whole number of units, the contribution will be rounded down to the nearest unit'*.
- 8.5.2 The affordable housing element has, in this case, been met as per the requirements of Policy HS1 and as has been confirmed by the Housing Officer, the proposed contribution is agreeable. This has already been established by the legal agreement that attached the outline permission.
- 8.5.3 Once again, it is noted that an objector has suggested that once such a contribution is made, it must be 'compulsory' and 'not waived later'. It is confirmed that such is already 'compulsory' by virtue of the requirements of the Local Plan. However, to suggest that such could not be 'waived' is again inappropriate and suggests a failure to appreciate the scope of planning policy and indeed the planning system.
- 8.5.4 Whilst any attempt to deliver under the aims of the Local Plan for affordable housing would initially be resisted, as this in itself would mean the proposal was non-compliant with the Local Plan, there has to be flexibility in the process to at least allow the possibility to be acceptable. Extant policy acknowledges this potential eventuality for some sites.
- 8.5.5 There can be circumstances when build costs, due to abnormal costs, are such that they are too high to allow for all of the requirements of the Local Plan to be met. In those circumstances, applicants provide an assessment of these costs and they are independently reviewed by the Council's own experts. If such abnormal costs are considered reasonable then the affordable housing contributions can be relaxed in said circumstances. To simply refuse to even consider such circumstances if they became reality for a developer would be unreasonable and draconian. Such an approach could not be enshrined by either legal agreement or condition as they would fail to meet the tests being unnecessary, unreasonable and unenforceable.
- 8.5.6 Nevertheless, it should be reiterated that the developer in this case would be committed to delivering 30% of the dwellings constructed upon the site as 'affordable units' in perpetuity, fully in compliance with extant Local Plan Policy, HS1 and can therefore be supported in full in specific relation to this matter.

**8.6 Residential Amenity**

- 8.6.1 The setting of the site has been confirmed earlier in this report above and it is noted that the site would be located next to an existing industrial estate. This consideration was taken into account by officers and Members of the Planning Committee when the outline proposals were determined.
- 8.6.2 Policy DEV5 of the Eden Local Plan states *'New development will be required to demonstrate that it meets each of the following criteria:*
- *Shows a clear understanding of the form and character of the district's built and natural environment, complementing and enhancing the existing area.*



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- *Protects and where possible enhances the district's distinctive rural landscape, natural environment and biodiversity.*
- *Reflects the existing street scene through use of appropriate scale, mass, form, layout, high quality architectural design and use of materials.*
- *Optimises the potential use of the site and avoids overlooking.*
- *Protects the amenity of the existing residents and business occupiers and provides an acceptable amenity for future occupiers.*
- *Use quality materials which complement or enhance local surroundings.*
- *Protects features and characteristics of local importance.*
- *Provides adequate space for the storage, collection and recycling of waste.*
- *Can be easily accessed.*

- 8.6.3 The aim of this policy in relation to amenity is to ensure that a proposal protects the amenity of any existing residents and business occupiers as well as preserving the amenity of future occupiers. This can be a difficult balance to achieve at times as any development can alter the environment existing residents experience. However, this should not be enough to deny further development where such impacts are not significantly harmful, and can be demonstrated to be impacted to that degree.
- 8.6.4 The location of the site, relative to the siting of the neighbouring industrial estate was well considered at the outline stage and conditions were requested by the Environmental Health Officer (EHO) which sought details related to the acoustic barrier proposed along with the design measures that would be taken in the dwellings to ensure appropriate noise levels would be achieved.
- 8.6.5 As has been referred to earlier in this report, the applicant has submitted details in relation to those conditions which has been considered by the EHO. Additional information was requested. In relation to this application, given that it seeks further detail, the EHO has requested further information again, based upon the acoustic data submitted.
- 8.6.6 The applicant has provided additional information in relation to this response. The EHO reviewed such and was satisfied with the technical data supplied which related to improved data in relation to the acoustic fence and the building design techniques to assure that future residents of the development would have their amenity protected from nearby potential noise sources.
- 8.6.7 It is noted that one of the letters of objection refers to the industrial estate being open '7 days a week'. This is acknowledged and was acknowledged at the outline stage. In reality, comments like this really relate a little more to the 'principle' of development and how appropriate this site was to be subject to a permission, permitting a housing development. As has been established, that has already been determined. However, the houses have needed to be designed in such a way to ensure that amenity of any future residents are protected whilst the businesses of the industrial estate operate.
- 8.6.8 The EHO comments received are such that they are now satisfied that the design principals the applicant has demonstrated will achieve the required amenity standards. It should be borne in mind that the EHO was agreeable to the principal of the development and had they felt it not possible to achieve the technical solutions to ensure future occupants amenity could be achieved, they would not have supported it.

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- 8.6.9 Accordingly, given the EHO has accepted the additional information provided, the design of the dwellings in terms of ensuring residential amenity is protected. Therefore, the proposal is supported.
- 8.6.10 It is noted that an objector considers that planting should be located on the boundary between the site and the mountain rescue centre to the south due to it being used 24 hours a day. Access solutions offered by objectors would have to utilise this boundary too and it is difficult to see how both of these suggestions could be accommodated (notwithstanding land ownership issues etc.) Officers do not believe the building is in use 24 hours a day. As such, no further 'screening' is considered necessary between these two pieces of land.
- 8.6.11 Having taken the relevant factors in account on this case and indeed the views of the EHO, the proposal is considered to be compliant with Policy DEV5 and is acceptable in terms of amenity and the protection of such for future occupants.

**8.7 Highways/Highway Safety**

- 8.7.1 The sites access is proposed onto the adjacent highway and would be located in the north-western corner of the site. This road is known locally as the 'Soulby Road' and is noted to be narrow in part as it leads into Kirkby Stephen. It is so narrow that a vehicle can struggle to pass oncoming traffic.
- 8.7.2 Policy DEV3 of the Eden Local Plan, entitled 'Transport, Accessibility and Rights of Way' states that *'development will be refused if it will result in a severe impact in terms of road safety and increased traffic congestion. Development should provide safe and convenient access for pedestrians, cyclists and disabled people'*.
- 8.7.3 Chapter 9 of the NPPF is entitled 'Promoting sustainable transport'. Paragraph 103 states that *'significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making'*.
- 8.7.4 Paragraph 109 of the NPPF states *'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'*.
- 8.7.5 It is noted that both objectors and the town council as well as the single set of comments received as 'observations' all cite the proposed access solution as an area of concern. One suggests that even the 'consideration' of the proposed access is 'ridiculous'. Of course, the consideration cannot be ridiculous as we, as the Local Planning Authority cannot dictate what proposals are made by applicants. We can, however, determine whether such is acceptable or otherwise and it is our statutory duty to do so.
- 8.7.6 As was detailed at the time of the original outline determination, officers had some concerns over how the site would be accessed. At that stage, only indicative plans existed and these mirror, to some degree what has been formally proposed at this reserved matters stage. Whilst such plans were only indicative, it was clear that unless other land could be acquired, the only real access solution was as these indicative plans suggested.

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- 8.7.7 Despite these concerns, at the outline stage, the Highway Authority raised no objection to the proposal. As is standard, they have been consulted once again at this reserved matters stage for further consideration of the formal plans now submitted.
- 8.7.8 The access would be located in the north-western corner of the site, onto the 'Soulby Road'. As has been established within this report, this road becomes narrow as you enter into Kirkby Stephen and can result in conflict between vehicles travelling in opposite directions. However, the Highways Authority have no objection to this proposed access and have requested a number of conditions to be attached to any subsequent grant of planning permission in relation to its formation.
- 8.7.9 Whilst concerns from the aforementioned members of the public and the Town Council (who raise 'very strong' objections) based upon road safety, the Highway Authority clearly do not share this view. Officers acknowledge the concern, given they too, at the outline stage had reservations as to how such would be achieved. But, in light of this, it is considered unreasonable to disregard the professional advice of highways engineers in this particular case. In order to refuse the application on such grounds officers would need to be able to demonstrate how this proposal would be contrary to Policy DEV3 and paragraph 109 of the NPPF.
- 8.7.10 Given the Highways Authority do not believe that such 'severe' impact would result in the approval of this proposed layout, the ability to demonstrate such impacts feels difficult to achieve. Indeed, the views of the Highway Authority are directly contrary to the suggestions of the one observation letter which suggested Cumbria County Council would 'back up' the assertion that the road was too narrow.
- 8.7.11 Some objectors have suggested a design solution, which upon reading could only be achieved by accessing the site from the neighbouring mountain rescue site to the south. However, the applicant does not own this land and such could not be imposed by condition. The same objector considers additional planting should be located on this boundary anyway, so it is difficult to see how both of those objectives could be achieved even if landownership issues were not prohibitive to such a solution. Even so, it remains the view of the Highway Authority that the proposals offered, which ultimately are the matters for consideration, are acceptable.
- 8.7.12 On this basis then, there is no justification to refuse the proposal on the basis of highway impact and/or concerns. Therefore, the proposal is considered to be acceptable in terms of Highways and compliant with Policy DEV3 and the NPPF.

## 8.8 Drainage

- 8.8.1 Another significant aim of the Local Plan is to ensure that flood risk is not exacerbated as well as protecting the natural environment. The application site is located within a Flood Zone 1 which is a location that has a low probability of flooding (less than 1 in 1000 chance annually), with no evidence of historical flooding even during recent storm events.
- 8.8.2 Policy DEV2 of the Local Plan, entitled 'Water Management and Flood Risk' confirms that '*new development*' should '*meet the sequential approach to development in flood risk areas*'.

The Policy confirms that '*new development must incorporate sustainable drainage systems (SUDs), where practicable, to manage surface water run-off. All applications for major development, defined in Appendix 2, will be subject to review by the Lead Local Flood Authority. Surface water should be discharged in the following order of priority:*

1. *To an adequate soakaway or some other form of infiltration system.*
2. *By an attenuated discharge to a watercourse.*
3. *By an attenuated discharge to a public surface water sewer.*
4. *By an attenuated discharge to a public combined sewer.*

*Applicants will need to submit clear evidence demonstrating why there is no alternative option but to discharge surface water to the public sewerage system and that the additional discharge can be accommodated. The presumption will be against the discharge of surface water to the public sewerage network’.*

- 8.8.3 Paragraph 158 of the NPPF states that, *‘The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding’.*
- 8.8.4 Paragraph 163 states that, *‘When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*
- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
  - b) the development is appropriately flood resistant and resilient;*
  - c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
  - d) any residual risk can be safely managed; and*
  - e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan’.*
- 8.8.5 Paragraph 165 states that, *‘Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:*
- a) take account of advice from the lead local flood authority;*
  - b) have appropriate proposed minimum operational standards;*
  - c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and*
  - d) where possible, provide multifunctional benefits’.*
- 8.8.6 In this case, the Lead Local Flood Authority have confirmed that they have assessed the information supplied and have had discussions with the applicants drainage consultants.
- 8.8.7 Given the discussions the Lead Local Flood Authority are satisfied that a condition in relation to a surface water drainage scheme being attached to any subsequent grant of planning permission. As such a requirement was attached to the outline planning

permission, there is no need to replicate the condition. However, construction cannot commence until such a surface water drainage scheme is approved by the Local Planning Authority to prevent any inappropriate development.

- 8.8.8 On that basis, the proposal is, given the position of the Lead Local Flood Authority, considered to comply with the requirements of Policy DEV2, the NPPF in this instance and can be supported.

## **9. Implications**

### **9.1 Legal Implications**

- 9.1.1 The following 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 Article 6 under the European Convention on Human Rights and Fundamental Freedoms 1950, as now embodied in UK law in the Human Rights Act 1998.

## **10. Conclusion**

- 10.1 This reserved matters details how a site, previously approved at the outline stage for a residential development could accommodate 16 residential dwellings. The principal of such, was therefore approved by the Local Planning Authority at that stage. The application now, is for the 'reserved matters' and as such the factors under consideration relate to layout, design, density of development, access, drainage and other specific issues to the detailed proposals for the site.
- 10.2 In this case, it is considered that the development would result in a site that would not have a detrimental impact on the character and setting of the area but in many ways improve an area of scrub land that has no obvious future use available to it at this stage.
- 10.3 The housing mix and design is considered acceptable as is the provision of amenity space on site. Such space is not being offered in a more orthodox manner or an entirely satisfactorily way, but it is recognised that the site is constrained by its own size and therefore the proposal is considered to be satisfactory on this regard. The solution offered by the applicant is considered to be a fair one and would provide

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varying amenity space types, in a fairly constrained site, in terms of space for future residents. Such variation in amenity space is considered particularly positive and is readily supported by officers.

- 10.4 Access has been considered as dangerous by the Town Council and objectors to the scheme. Whilst these concerns are noted, the Highway Authority does not concur with such views and as such to refuse the proposal based upon these views would not, in the view of officers, stand scrutiny in the absence of any technical assessment to the contrary. Anecdotal comments are noted, but do not represent such technical assessment and should not be used to base a refusal of a scheme in light of the comments received by the Local Highway Authority.
- 10.5 Therefore, the proposed development is considered to be in accordance with the development plan which is not outweighed by material considerations and accordingly the application is recommended for approval.

Oliver Shimell  
Assistant Director Planning and Economic Development

Checked by or on behalf of the Monitoring Officer	✓
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**Background Papers:** Planning File 19/0696

**Agenda Item 9**  
**REPORTS FOR DEBATE**

**Date of Committee:** 19 March 2020

**Planning Application No:** 20/0021      **Date Received:** 13 January 2020

**OS Grid Ref:** NY 361687, 504750      **Expiry Date:** 10 March 2020

**Parish:** Tebay CP      **Ward:** Orton with Tebay

**Application Type:** Removal/Variation of Condition

**Proposal:** Variation of condition No 5 (Accommodation Use) from guesthouse/holiday establishment to residential use attached to approval 04/0033

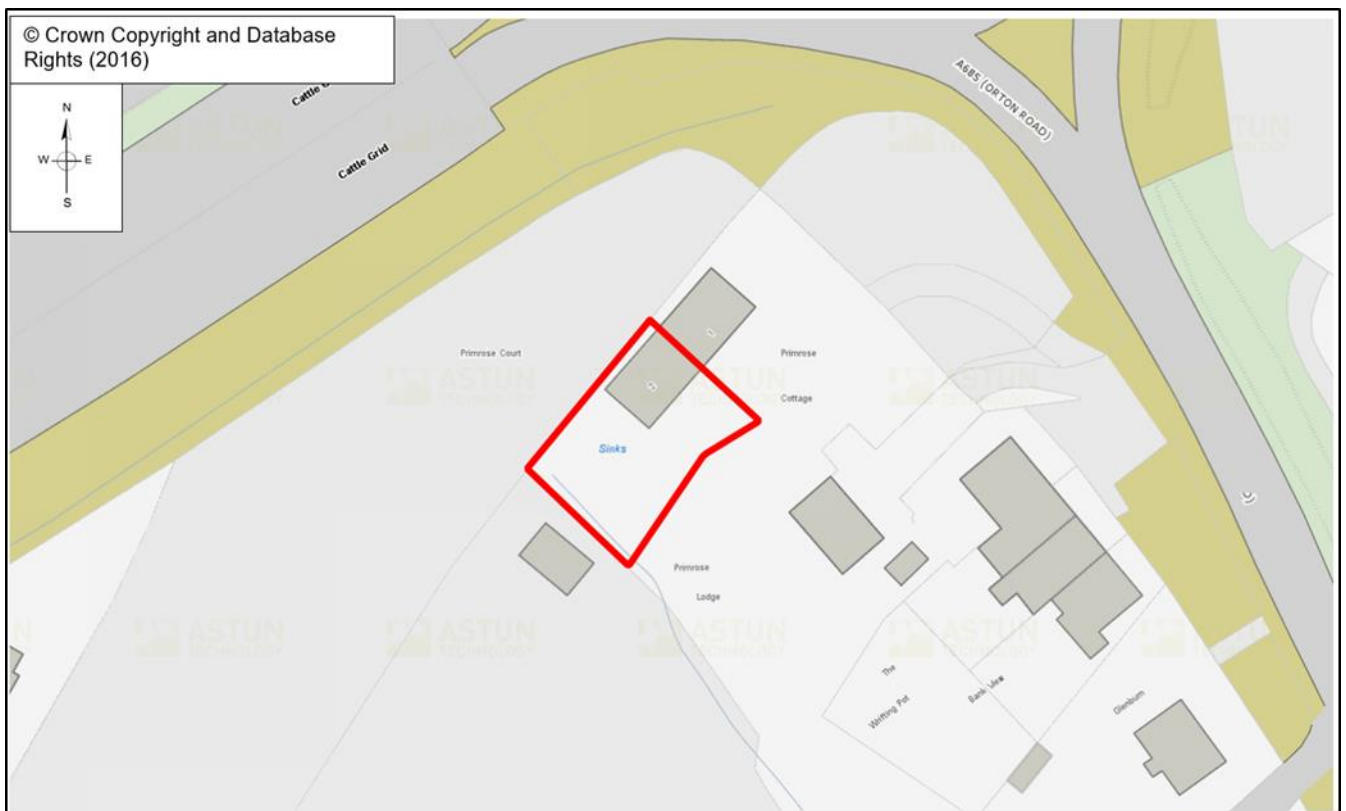
**Location:** 2 Primrose Court, Tebay CA10 3TR

**Applicant:** Mrs J Spurling

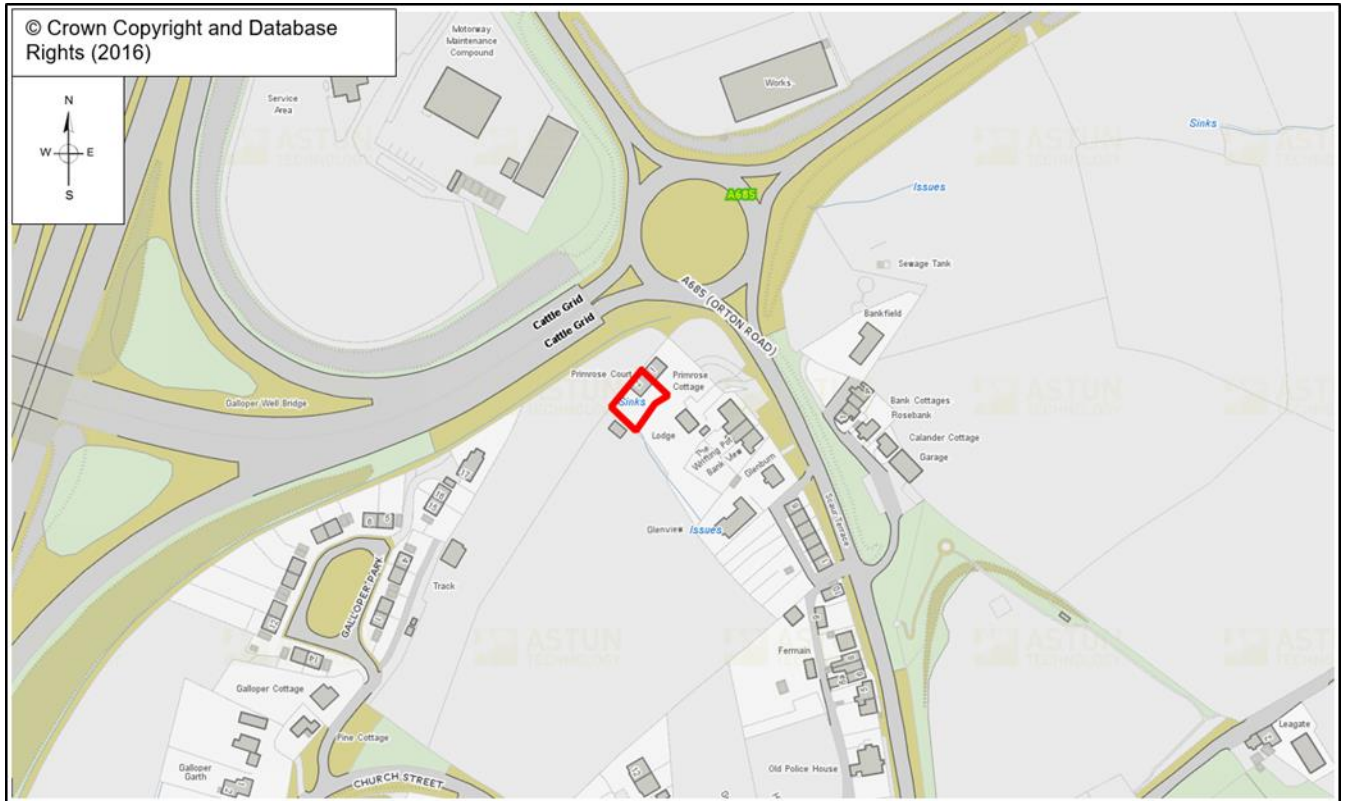
**Agent:** None

**Case Officer:** Mr D Cox

**Reason for Referral:** The recommendation is contrary to the view expressed by the Parish Council.



**Agenda Item 9**  
**REPORTS FOR DEBATE**





## 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) Application Form and supporting detail as received by the Local Planning Authority on the 13 January 2020.
  - ii) Site Location Plan Ref No 1 as dated received by the Local Planning Authority on the 13 November 2019, and
  - iii) Proposed Plan, Drawing No 03.37/P/03 as dated received by the Local Planning Authority on the 13 January 2020.

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

## 2. Proposal and Site Description

### 2.1 Proposal

- 2.1.1 This proposal seeks approval for the variation of condition 5 (accommodation use) from guesthouse/holiday establishment to residential use as attached to approval Application Ref No 04/0033.
- 2.1.2 Condition No 5) reads as follows:

“The buildings hereby permitted shall be used solely for accommodation ancillary to the use of Primrose Cottage as a guesthouse/holiday establishment and shall at no time be occupied as a separate dwelling with an independent curtilage.”

### 2.2 Site Description

- 2.2.1 The application site, an existing single storey semi-detached 2 bedroomed holiday let accommodation (restricted by condition, as attached to approval 04/0033) is located within the designated Key Hub village and settlement of Tebay.
- 2.2.2 The application site and building, which has been operated since approval as holiday let accommodation is located on the peripheral edge of, but within the settlement of Tebay, with existing ready shared access and onsite parking from the nearby A685.
- 2.2.3 There are no listed buildings that would be effected by this proposal. The site is within a flood zone 1 and is well related to existing surrounding residential development of Primrose Cottage (the applicants existing attached dwelling) and the Wrioting Pot (to the immediate south).

## 3. Consultees

### 3.1 Statutory Consultees

Consultee	Response
Cumbria County Council - Highway and LLF Authority	<p>A response was received on the 4<sup>th</sup> February 2020, as follows:</p> <p>“Similar to our response to 11/1062, our authority does not have any objection to the variation of this</p>

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Consultee	Response
	<p>condition as long as the access and parking arrangements remain available to both properties in any subdivision that may lead to sale to different proprietors.”</p> <p>In addition (the agent) is advised to note that a PROW (number 367011) 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 proposed development.</p>

**4. Parish Council**

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

- 4.1 The Tebay Parish Council responded on the 31 January 2020, with their objection being based on the following reasons:
- The disabled person's holiday bungalows have been well-used in the past and meet a need for such accommodation at this location.
  - The provision of holiday accommodation in Tebay enhances the economic viability of the village and brings tourists to the area.
  - There is no proven need for residential (as opposed to holiday) accommodation of this type in Tebay.

**5. Representations**

- 5.1 Neighbour notification letters were sent out on the 17 January 2020.
- 5.2 There were no letters/e-mails of response received to this proposal.

**6. Relevant Planning History**

- 6.1 Application Ref No 04/0033 – Construction of two No. disabled holiday bungalows – Approved with condition – 25 February 2004.
- Application Ref No 11/1062 – Removal of condition 7 (ancillary accommodation unit) of planning application Ref No 05/0945) – Withdrawn.

**7. Policy Context**

**7.1 Development Plan**

**Eden Local Plan (2014-2032):**

- Policy LS1 – Locational Strategy
- Policy RUR1 – A Plan for the Key Hubs
- Policy DEV5 – Design of New Development

**7.2 Other Material Considerations**

**National Planning Policy Framework:**

- Chapter 4 – Decision Making

**Supplementary Planning Documents:**

- “Housing” SPD

7.3 The policies and documents detailed above are the most relevant policies relating to the determination of this application.

## **8. Planning Assessment**

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

- Principle
- Landscape and Visual Impact
- Scale and Design
- Residential Amenity
- Access

### **8.2 Principle**

- 8.2.1 Policies LS1 “Locational Strategy” and RUR1 “A Plan for the Key Hubs” identify and designate Tebay as part of the settlement hierarchy and as a Key Hub and such location where as a focus the Authority is to “expect residential provision”.
- 8.2.2 As a location and existing dwelling within the designated Key Hub, the application site and proposal is considered to fit well into and comply reasonably with the aims of the above Plan Policy. The aim of the adopted Policy LS1 is that these Hubs are to “.. be the focus for development to sustain local services appropriate to the scale of the village and its hinterland, including new housing, the provision of employment and improvements to accessibility. Unless proposed in this plan, new housing developments which would increase the size of a village by more than 10% on a single site will not be supported. Proposals will only be acceptable where they respect the historic character and form of the village.
- 8.2.3 The objection and concerns of the Parish Council are noted, and whilst the present holiday let use has been of benefit to the community, the size, scale and proposed permanent unfettered residential use of the existing does also comply with the aims and concerns of the now relevant adopted Eden Local Plan Policy LS1.
- 8.2.4 Policy DEV5 ‘Design of New Development’ looks (inter alia) for proposals to show a clear understanding of the form and character of the district’s built and natural environment, complementing and enhancing the existing area. It also requires proposals to reflect the existing street scene and protect the amenity of existing and future residents. As an existing, albeit occupationally restricted dwelling, the aims and criteria concerns of this policy, as well as that of the supporting “Housing” SPD have already been considered as acceptable.
- 8.2.5 The principle of residential development has already been accepted for “restricted” residential development on this site, and in this location under application Ref No 04/0033. Against the backdrop of the compliant criteria concerns of adopted Policy LS1 and DEV5, this revised type of permanent and unrestricted residential proposal, via the removal of the previous restrictive condition is again considered acceptable and in accordance with the most recent Development Plan.

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

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- 8.3.1 As an existing dwelling, and with no external changes proposed otherwise, the proposal will remain policy neutral and therefore the proposal is considered to accord with adopted plan policy.

**8.4 Scale and Design**

- 8.4.1 The removal of the condition will require no other physical works to change and/or enhance the existing building in terms of design in accordance with policy DEV5 'Design of New Development'. The absence of works will result in no change in impact upon the character and appearance of the building within the village, to an extent that it would not result in any degree of harm that would warrant the refusal of this planning application in this aspect.

**8.5 Residential Amenity**

- 8.5.1 In terms of the potential impacts this development may have on neighbouring residential amenity, the existing dwelling is, as a semi detached property, attached to the applicants own dwelling "Primrose Cottage", and is set down, opposite and to the north of the other nearest associated dwelling "The Wrioting Pot". Separation distances and relationships remain as existing and are held to still reasonably accord with the aims and concerns of the relevant "Housing" SPD.
- 8.5.2 As such, it is not considered that this proposal would alter the amenity of existing residents, and is in accordance with policy DEV5 'Design of New Development'.

**8.6 Access**

- 8.6.1 Access to and parking within the site are to remain as existing. There are no objections to the development proposed, and the removal of the condition from either neighbours or the Highway Authority. As such the application is in accordance with policy DEV5 'Design of New Development'.

**9. Implications**

**9.1 Legal Implications**

- 9.1.1 The following matters have been considered but no issues are judged to arise. Each application is considered on the particular planning merits.

**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**

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- 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 for the Protection of Human Rights and Fundamental Freedoms 1950, 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 Policies LS1 “Locational Strategy” and RUR1 “A Plan for the Key Hubs” identify and designate Tebay as part of the settlement hierarchy and as a Key Hub and such location where as a focus the Authority is to “expect residential provision”.
- 10.3 As a location and existing dwelling within the designated Key Hub, the application site and proposal is considered to fit well into and comply reasonably with the aims of the above Plan Policies.
- 10.4 The objection and concerns of the Parish Council are noted, and whilst the present holiday let use has been of benefit to the community, the size, scale and proposed permanent unfettered residential use of the existing will also comply with the aims and concerns of the now relevant adopted Eden Local Plan Policy LS1.
- 10.5 As an existing, albeit occupationally restricted dwelling, the aims and criteria concerns of this policy, as well as that of the supporting “Housing” SPD have already been considered as acceptable.
- 10.6 Against the backdrop of the compliant criteria concerns of adopted Policy LS1 and DEV5, this revised type of permanent and unrestricted residential proposal, via the removal of the previous restrictive condition is therefore considered acceptable and in accordance with the most recent Development Plan, and relevant policies LS1, RUR1 and DEV5 and is thereby also considered to be in accordance with the National Planning Policy Framework and is therefore recommended for approval subject to the conditions set out in this report.

Oliver Shimell  
Assistant Director Planning and Economic Development

Checked by or on behalf of the Monitoring Officer	✓
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**Background Papers:** Planning File 20/0021

**Agenda Item 10**  
**REPORTS FOR DEBATE**

**Date of Committee:** 19 March 2020

**Planning Application No:** 19/0713

**Date Received:** 30/9/19

**OS Grid Ref:** 3620 5327

**Expiry Date:** 17/12/19

Extension of time to  
20/3/2020 agreed

**Parish:** Culgaith

**Ward:** Hartside

**Application Type:** Full

**Proposal:** Conversion of stone bank barn, reconstruction of stone byre to rear and re-modelling modern cow byre to form a dwelling

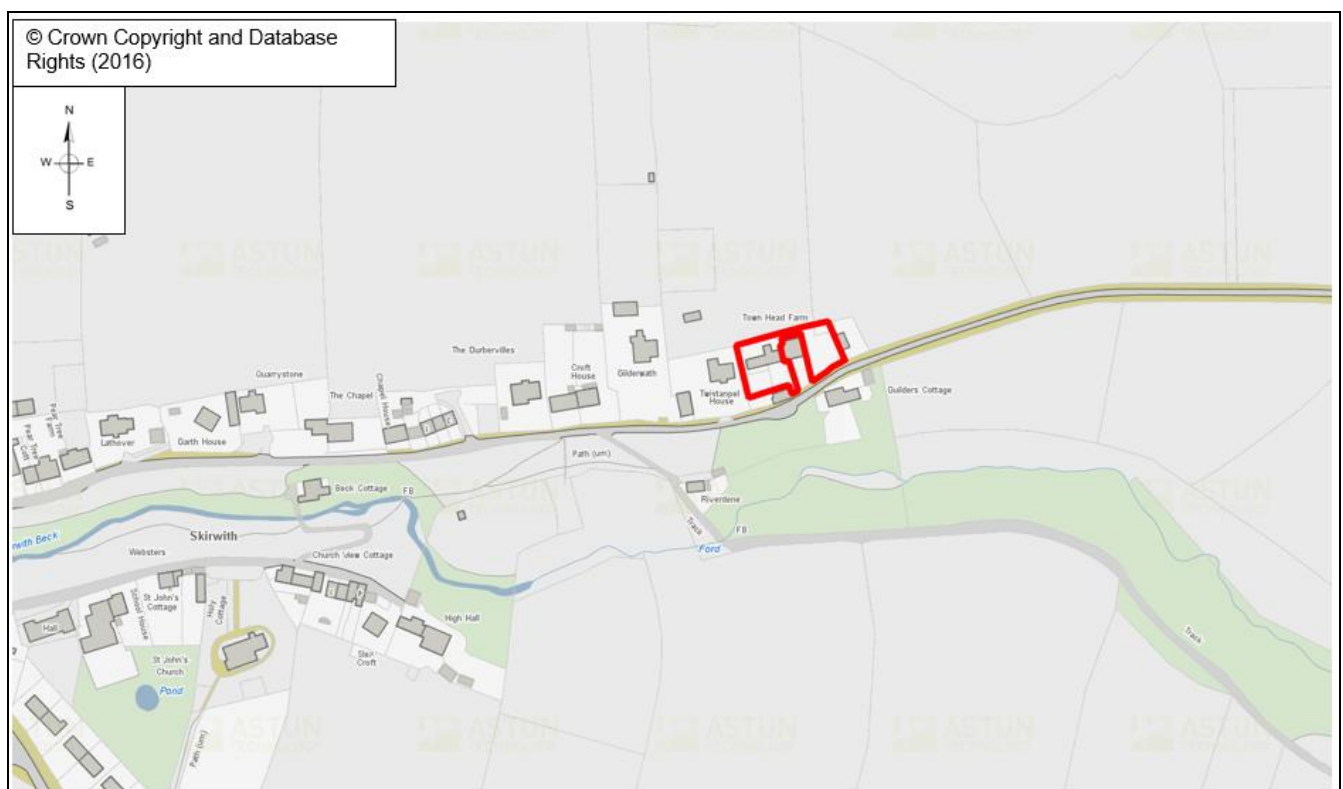
**Location:** Town Head Farm, Kirkland Road, Skirwith

**Applicant:** Mr T Smith

**Agent:** Tim Ellis Conservation Architect

**Case Officer:** Mat Wilson

**Reason for Referral:** The recommendation for approval is contrary to the material objection of a statutory consultee.



**Agenda Item 10**  
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## **1. Recommendation**

It is recommended that planning permission be granted 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 strictly in accordance with the application form and following details and plans hereby approved:

- Site Location plan ref p2buk/320778/436095 dated 18 Feb 2019
- Block Plan ref THFB/0618/05 dated October 2019
- Plans and Section as proposed ref THFB/0618/03 Rev D dated November 2019
- Elevations as proposed ref THFB/0618/04 Rev D dated November 2019
- Design and Heritage Statement Rev C date-stamped 29 Jan 2020
- Bat Survey from Flight Ecology ref Q101-D02 dated July 2019

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

### **Prior to Construction**

- 3) Prior to any other development commencing, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions shall be submitted to and agreed in writing with the Local Planning Authority. The scheme shall include a plan which demonstrates how the development will achieve a neutral or positive impact in permeability of surface water drainage. The approved surface water drainage scheme shall then be implemented in full before the occupation of the development.

The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards.

**Reason:** To promote sustainable development, secure proper drainage and to manage the risk of flooding. The condition is considered necessary to be complied with prior to development as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

- 4) The alterations to the building permitted, shall be executed wherever possible by re-using existing materials or similar second-hand materials or, if necessary, new materials to match the existing building. Samples of the materials to be used shall be submitted to and approved by the Local Planning Authority in writing prior to their first use on site. Development shall be carried out in accordance with the approved details.

**Reason:** To ensure that the materials harmonise with the surroundings. The



condition is considered necessary to be complied with prior to construction as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

- 5) Before any other operations, the temporary vehicular access through the stone wall to the east of Town Head Farmhouse shall be created in accordance with Block Plan ref THFB/0618/05 and the building materials excavated from the stone wall shall be set aside for reuse. Within 2 months of the first occupation of the barn conversion, the temporary vehicular access created to the east of Town Head Farmhouse shall be permanently closed and the dry stone wall rebuilt using the set aside stones.

**Reason:** In the interests of the appearance of the area and to respect the visual amenity and character of the street.

### **Highways**

- 6) Before the first occupation of the dwelling provided by the barn conversion, the access drive and parking and turning area shall be provided in full, and shall be retained as such thereafter.

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

- 7) Any vehicular access gates installed shall be set back from the highway by a minimum of 4m and shall open inwards only.

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

### **Ongoing Conditions**

- 8) The first-floor kitchen window in the west side-facing elevation of the rebuilt lean-to shall be non-opening and obscure glazed at level 4 or 5, and shall be retained as such thereafter.

**Reason:** In the interests of the privacy and amenity of neighbouring occupiers.

- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2018 (or any order revoking, re-enacting or modifying that Order with or without modification), no development falling within Classes A, B, C, D or E of Part 1 Schedule 2 to that Order shall be carried out.

**Reason:** To prevent the overdevelopment of the site and to safeguard the visual appearance of the building.

### **Informative**

1. This decision notice grants planning permission only. It **does not** override any existing legal agreement, covenant or ownership arrangement.  
It is the applicant's responsibility to ensure all necessary agreements are in place prior to the commencement of development.
2. All bats and their roosts are fully protected under the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000) and are further protected under Regulation 41(1) of the Conservation of Habitats and Species Regulations 2010. Should any bats or evidence of bats be found prior to or during development, work must stop immediately and in the first instance contact the National Bat Helpline on 0845 1300 228. Developers/ contractors may need to take further advice from Natural England on the need for a European

Protected Species Licence in order to continue the development in a lawful manner. Natural England can be contacted at [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk), or by calling 0300 060 3900, or Natural England, Consultation Service, Hornbeam House, Crewe Business Park, Electra Way, Crewe, Cheshire, CW1 6GJ.

3. Should any unexpected ground conditions, which could indicate the presence of land contamination (for example unusual colours, odours, liquids or waste materials) be encountered during development, the Environmental Protection Team (01768 212490) should be notified immediately. The Environmental Protection Team liaises with developers to achieve cost effective sustainable solutions to deal with contamination to safeguard the health of future occupants, building structures and the local environment. The responsibility for securing a safe development however, lies with the developer and /or landowner.
4. This property is within a Conservation Area. All building works should, therefore, be completed with great care. External facing work and detailed treatment should be finished in a manner sympathetic to the existing building. If there is any doubt about the way in which work should be carried out, you should seek formal pre-application advice from the planning department of Eden District Council through their pre-application advice service. For further information on seeking pre-application advice visit <http://www.eden.gov.uk/planning-and-development/planning/advice-before-making-a-planning-application/>.
5. Separate approval for the works hereby granted permission/consent may be required by the Building Act 1984 and the Building Regulations 2000 (as amended), and the grant of planning permission does not imply that such approval will be given. The Council's Building Control Team should be consulted before works commence. You contact the team directly at [building.control@eden.gov.uk](mailto:building.control@eden.gov.uk).
6. Please note that as your property is within a conservation area then any replacement windows or doors cannot be carried out under a competent person scheme and you must notify the Council's Building Control team directly at [building.control@eden.gov.uk](mailto:building.control@eden.gov.uk).

## **2. Proposal and Site Description**

### **2.1 Proposal**

- 2.1.1 The application seeks to convert an existing two-storey barn to create a dwelling. The internal levels are to be revised to provide a new ground floor level over the cobbled floor and channels, raising the first floor by approximately 350mm and equally raising the lintels over the existing doorways facing into the farmyard. Two stone buttresses are to be constructed on the front elevation in order to address movement in the south-facing wall of the main barn.
- 2.1.2 A dilapidated lean-to at the rear is to be rebuilt with a lowered ground floor and a raised roof to accommodate a ground floor bedroom with a kitchen above under a catslide roof. Additionally a modern cow byre built onto the north elevation is to be remodelled and reduced in size as an open-fronted flexible covered space for storage or other domestic purposes.
- 2.1.3 The plans have been revised during the course of the application in order to address issues raised over design, appearance and heritage impact.

## **2.2 Site Description**

- 2.2.1 The proposal relates to a bank barn adjoining Town Head Farmhouse at the eastern edge of Skirwith village.
- 2.2.2 The barn is a two-storey stone building under a pitched slate roof still in use for storage of agricultural materials. The attached Town Head Farmhouse, in separate ownership, is around 1m lower at the eaves. The modern single-storey cow byre on the opposite side of the barn is a concrete and brick construction under an asbestos roof. On the back edge of the highway immediately adjacent to the access into the partly cobbled courtyard is a detached stone building known colloquially as Ada Tinpott's Cottage, which is within the application site but does not form part of the proposal.
- 2.2.3 Skirwith is designated a Smaller Village and Hamlet in the locational strategy set out in Policy LS1 of the Eden Local Plan. The site is within Skirwith Conservation Area but is not subject to any other specific designation in terms of planning constraints.

## **3. Consultees**

### **3.1 Statutory Consultees**

<b>Consultee</b>	<b>Response</b>
Highway Authority (Cumbria County Council)	<p>First response received 8/11/19:</p> <p>Inadequate information has been submitted to satisfy the Local Planning Authority that the proposal is acceptable in terms of:</p> <ul style="list-style-type: none"> <li>a) access</li> <li>b) visibility splays</li> <li>c) off-street parking</li> </ul> <p><i>To support Local Transport Plan Policy: LD7, LD8</i></p> <p>The applicant is requested to provide a plan showing the above, for a 30mph road we would expect to see visibility splays of 60m in both directions, If the required visibility splays cannot be achieved, we would strongly recommend they carry out a speed survey or show speeds reflect the required visibility splays. Undertaking a speed survey would establish the actual speed of traffic on the highway, and this would therefore allow a lesser visibility splay to be used at the site entrance if traffic was found to be travelling at a lower speed. We would however need evidence of the speed of traffic (7 day speed survey). The visibility splays recommended at the site entrance would then be based on the 85th percentile speed of traffic on the highway.</p> <p>Second response received 2/3/2020:</p> <p>We would require a plan showing the appropriate visibility splays for the speed limit. If the required splays cannot be achieved, speed survey results</p>

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	should be submitted to justify a reduction of the required splays. If the applicant cannot supply this plan or information, we would have no alternative but to recommend refusal.
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### 3.2 Discretionary Consultees

Consultee	Response
Local Lead Flood Authority (Cumbria County Council)	<p>Inadequate information has been submitted to satisfy the Local Planning Authority that the proposal is acceptable in terms of:</p> <ul style="list-style-type: none"> <li>• surface water drainage</li> </ul>
Conservation Officer	<p>The proposed conversion of the building into residential use is considered to be a viable alternative that will enable the long term preservation of the building.</p> <p>The accommodation of the changes in the levels of the building and retention of the rear bank access to the cart door add character and promote this feature of the buildings form.</p> <p>The proposals to the principal elevation of the barn involves minimal structural alterations such as raising of the height of the door lintels, installation of new doors and glazing into the existing openings and construction of two stone buttresses. The resultant harm to the simplistic form and appearance of the elevation is outweighed by the benefit of the added structural support and preservation of the building.</p> <p>The internal alterations to the building will overall result in moderate harm to the building fabric but the original plan form and function of the building will remain readable and the alterations are reversible.</p> <p>The proposed rebuild and extension of the rear lean-to structure is considered to be sympathetic in height, scale, size and materials to the main barn resulting in an enhancement to the overall appearance of the building.</p> <p>The proposed reduction in size and remodelling of the modern byre is also considered to be sympathetic and an enhancement to the overall appearance of the traditional farmstead.</p> <p>Overall the proposed works to convert the barn into residential accommodation has potential to lead to less than substantial harm to the undesignated heritage asset. The potential harm is considered to be outweighed by the preservation of the building and its</p>

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	<p>long term use. The proposals will also improve the current external appearance of the building and its setting within the farmyard thus having potential to lead to an enhancement of its contribution to the appearance of the conservation area.</p> <p>Overall the proposals are in accordance with conservation policies outlined within the Planning (LBCA) Act 1990, NPPF 2019 and Eden Local Plan ENV10.</p>
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#### 4. Parish Council/Meeting Response

Parish Council/Meeting	Please Tick as Appropriate			
	Object	Support	No Response	No Objection
Culgaith Parish Council		✓		

- 4.1 The Parish Council wrote to confirm its support for the proposal.

#### 5. Representations

- 5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on 5 November 2019.

<b>No of Neighbours Consulted</b>	3	<b>No of letters of support</b>	0
<b>No of Representations Received</b>	2	<b>No of neutral representations</b>	2
<b>No of objection letters</b>	0		

- 5.2 Local residents submitted letters raising the following material considerations:

- Lack of information in the application relating to the heritage impact of the proposal which, whilst it will be positive for the village, is not informed by an appropriate analysis of the significance of the heritage assets.

*Officer response: the agent has provided a second and a third version of the Design and Access Statement to address the heritage impact of the proposals which has been considered satisfactory by the Council's Conservation Officer.*

- 5.3 Local residents submitted letters raising the following non-material considerations:

- Concern that the neighbour's soil pipe runs under the barn floor and across the yard. It has been damaged previously [and subsequently repaired] by a tractor entering the yard. We would like assurance that the integrity of the soil pipe, our chimney pot [which is on the barn roof], and our adjoining wall is maintained throughout.

*Officer response: this is a private civil matter between the parties and the agent has confirmed the adjoining owner will retain rights of support for the chimney and a wayleave for the drain.*

## **6. Relevant Planning History**

- 6.1 94/0780: Outline application for residential development (2 dwellings) on land west of and including Town Head Farm Barn – Conditionally Approved 15/12/94.

## **7. Policy Context**

### **7.1 Development Plan**

#### **Local Plan 2014-2032**

##### *Relevant Policies*

- DEV1 General Approach to New Development
- DEV5 Design of New Development
- RUR3 'Re-use of Redundant Buildings in Rural Areas'
- ENV10 'The Historic Environment'
- HS2 'Housing in Smaller Villages and Hamlets'

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

- Housing SPD incorporating Residential Development Guidelines.

### **7.2 Other Material Considerations**

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

- Chapter 12 - Achieving well designed places;

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

## **8. Planning Assessment**

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

- Principle
- Landscape and Visual Impacts
- Residential Amenity
- Built Environment
- Infrastructure – Highways Impact
- Ecology Impact

### **8.2 Principle**

- 8.2.1 Policy RUR3 of the Local Plan concerns rural conversions and states that '*the re-use of redundant traditional rural buildings and structures for housing, employment, tourism (including holiday accommodation), recreation and community uses will be supported in rural areas*' provided they meet certain criteria, as follows:

- *capable of conversion without the need for extension, significant alteration or full reconstruction.*
- *being of sufficient architectural quality to make it worthy of retention.*
- *the proposal being of high quality design retaining the building's character.*
- *the building and its curtilage being suitable for conversion without adversely affecting the historic environment, local landscape character or its setting.*

- *access being in place or capable of being created without damaging the rural character; and the conversion not significantly impacting on local biodiversity.*

- 8.2.2 The building does exhibit signs of movement and cracking, and some limited rebuilding may be necessary, particularly of the failed lean-to at the rear. Substantial reconstruction of the building will not be required as the addition of the stone buttresses will secure the front elevation, together with repointing all the walls.
- 8.2.3 Although not a listed building, the structure is an asset worth retaining within a Conservation Area and the scheme constitutes a sustainable form of development in terms of re-use of an existing building.
- 8.2.4 As revised, the scheme follows the best principles of barn conversion: it keeps new interventions into the fabric of the building to a minimum, with a subordinate extension which respects the scale and character of the existing building. The design retains the form of the original barn, and respects its historic function.
- 8.2.5 The conversion of the building is considered an appropriate use of the land and buildings, which could be implemented without detriment to the historic setting or landscape character. A limited rear garden would align with that of Townhead Farmhouse without encroaching into the countryside.
- 8.2.6 The site is served by an existing access. A temporary access through the adjoining property's land would be used during the construction phase, following which the occupants of the barn conversion would revert to using the existing farm access.
- 8.2.7 A bat survey submitted with the application concludes that the proposed conversion will not result in any loss of biodiversity habitat.
- 8.2.8 The proposed development will comply with the remaining requirements of Policy RUR3: it can be serviced by existing utilities, is adjacent to dwellings and the road network, and will not conflict with existing land uses. The development is therefore considered to be acceptable in principle.

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

- 8.3.1 The proposal is considered to be a sensitive conversion of the existing barn structure with a modest extension at the rear to replace a failed lean-to. The addition of stone buttresses to the front will have a degree of visual impact, but not an unduly detrimental one; they will be seen as a traditional method of improving the structural integrity of a long-standing building. The conversion makes appropriate use of existing openings with few interventions into the building fabric to create new openings.
- 8.3.2 It is considered that the conversion would have only a limited impact in terms of its landscape setting. The barn is set on rising ground and is a relatively prominent building seen against the horizon. It is no longer required for agricultural purposes, so its re-use to provide a new dwelling will ensure the long-term preservation of this building, improving its visual appearance and condition. The sympathetic treatment of the building results in a conversion that retains the agricultural heritage of the farm. The proposal has considerable benefits for the appearance and character of the Conservation Area in line with Policy ENV10 and the NPPF.
- 8.3.3 Local Plan Policy RUR3 requires that schemes for conversion shall not adversely affect local landscape character. The scheme as revised is considered to be acceptable in this respect.

## **8.4 Residential Amenity**

- 8.4.1 No harm is anticipated to arise from the conversion in respect of its impact upon the amenity of neighbouring residents. It is clear that the owners of the farmhouse adjoining the barn will have disposed of the property for a third party to develop it into a dwelling, and there is no reason why the conversion scheme as now proposed would create any conflict in amenity for either the existing farmhouse or the occupiers of the conversion. A small and secondary kitchen window in the rebuilt rear lean-to is the only window proposed facing the farmhouse; this being no more than a window light presents no concern in terms of overlooking.
- 8.4.2 To the immediate west of the Townhead Farm Barn stands Twistappel House. This presents a blank east gable to the application site. The boundary between the properties is formed by a 1.5m fence which reduces to a much lower fence at the point of the buildings' rear elevations, although the fence does rise with the upslope of the land, and thereby provides a modest degree of screening between the neighbour and the prospective barn conversion's rear garden. Bedroom and kitchen windows are however proposed in the west elevation of the rear lean-to, 13m from the boundary, facing the garden of Twistappel House. The ground floor window would be low-level; the first-floor window however would overlook the neighbour's garden and should be obscure glazed to avoid an adverse impact on this neighbour's privacy.
- 8.4.3 Provided this side-facing window is addressed as per the recommended condition requiring it to be non-opening and obscure-glazed, the proposal is considered to respect the amenity of existing residents and to provide an acceptable amenity for future occupiers, and is therefore in accordance with Policy DEV5.

## **8.5 Built Environment**

- 8.5.1 Town Head Farm is located on the northern side of Kirkland Road at the eastern end of Skirwith village and is one of a small number of 17<sup>th</sup> century dwellings that existed before the majority of the village was constructed in the 18<sup>th</sup> and 19<sup>th</sup> centuries. Guilders Cottage located on the opposite side of the road also dates to this period.
- 8.5.2 The farmstead is a linear range comprising of the farmhouse with attached barn to the left and a modern byre attached to the barn (of brick with asbestos roof). The house fronts onto a large garden and the outbuildings front a small partly cobbled courtyard. There is a small cottage at the southern end of the courtyard by the roadside. Collectively the buildings form an attractive farmstead with the exception of the modern byre which has a detrimental impact on the appearance of the traditional buildings.
- 8.5.3 The barn is a derivative of a bank barn which typically are rectangular stone barns with a central threshing area and storage bays to the upper floor; and byres, stables and cart shed to ground floor. The threshing barn on the upper floor is typically entered by a large door approached by a raised bank and has a winnowing door in the opposite elevation. These typical features reflect those found on the barn at Town Head Farm which lends to its high historical value. Town Head farmhouse and barn are not designated as listed buildings but they make a positive contribution to the character of the Skirwith Conservation Area and also contributes to our understanding of the development of bank barns in the county.
- 8.5.4 The agent's Heritage Impact Statement sets out that the development has been designed in accordance with best practice in converting historic buildings, stating that the conversion of the barn follows the local vernacular tradition with alterations being



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simple in form, openings being characteristically modest and the palette of materials being limited to those of the locality.

- 8.5.5 It is considered that the development will provide an enhancement of the farm grouping through the sympathetic conversion of a historic bank barn, which includes removal of poorer quality earlier interventions such as concrete lintels and concrete hard-standing, and the restoration of cobbled finishes. Redevelopment of the modern brick and asbestos-roofed byre to form an open-fronted slate-roofed store will make a positive contribution to the rural context of the farm grouping and thereby will enhance the character of Skirwith Conservation Area.
- 8.5.6 Policy ENV10 of the Local Plan states that the Council will support proposals that will better reveal the significance of heritage assets. In this instance the proposed change of use from agriculture to a residential use has clearly been conceived with the aim of enhancing the setting of the farmstead and improving its visual standing within Skirwith Conservation Area. Therefore, the proposal will have a positive impact upon the local built environment and the wider Conservation Area.

**8.6 Infrastructure/Drainage**

- 8.6.1 Upon completion of the works to convert the barn to a dwelling, the occupants of the conversion will utilise the existing farm access into the courtyard but for the duration of the construction works a temporary vehicular access is proposed to the east of Town Head Farmhouse. This will allow larger construction vehicles to access the site as the existing farm access is of restricted width.
- 8.6.2 The County Highway Authority commented that inadequate information has been submitted to satisfy the Local Planning Authority that the proposal is acceptable in terms of access and visibility splays. A speed survey is recommended if the expected visibility splays of 60m cannot be achieved.
- 8.6.3 This information would typically be requested from the applicant in order to determine whether the vehicular access for a proposed development is acceptable. In this instance however it is evident that the access is substandard in terms of visibility due to the presence of the stone building (Ada Tinpott's Cottage) immediately adjacent the front of the site. A speed survey would in all probability demonstrate average speeds at the point of access being well below 30mph and therefore a shorter visibility splay would be accepted, but such is the proximity of the stone building to the access, that no speed survey could equate to the compromised visibility splay, a situation which persists due to the presence of the stone building at the highway edge and immediately next to the access. It is not considered that a speed survey would be of any practicable use.
- 8.6.4 The development would utilise an existing access point onto the public highway, therefore, the principle and acceptability of the use of this access road is in planning terms already established. It should also be taken into consideration that as the lawful use of this building is for agriculture, then large agricultural vehicles and machinery can legally use this access point. It is not considered that the alternative proposed use of the access, of vehicles associated with one residential dwelling, would have a materially different impact on the highway.
- 8.6.5 Officers consider that a reasonable and pragmatic view should be taken in respect of the proposed use of this existing access for the barn conversion. The approach from the east into the village is a narrow, twisting road and within the 30mph zone. Visibility is very restricted due to the presence of Ada Tinpott's Cottage at the rear of the

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carriageway but this is a legacy of the pattern of development in the village (see also the building at Guilder's Cottage just to the east of this site) which have the effect of instinctively slowing down traffic. Given further that the new access will be temporary only, and that the conversion will then adopt the existing access presently used by slow-moving agricultural vehicles, then it is concluded that the proposal would not result in an unacceptable impact on highway safety.

- 8.6.6 Relocating the access to the west of Ada Tinpott's Cottage would result in a significantly improved visibility splay to the west but a compromised exit visibility in the critical direction of oncoming traffic from the east, and is therefore no better than the proposed use of the existing access. The proposed pedestrian access gate through the front boundary wall to the west of the Cottage presents no concerns.
- 8.6.7 The temporary access through the highway verge, stone wall and paddock for the duration of construction offers improved visibility but is still substandard and as such a condition of approval is recommended, requiring this to be permanently closed and the drystone wall restored upon occupation of the barn conversion.
- 8.6.8 The proposed scheme includes ample space for off-street parking and turning, so vehicles will not need to reverse onto the highway. A condition requiring any gates to be set back into the site would also ensure vehicles waiting at the gates do not impede other road users.
- 8.6.9 It is accepted that the access to the proposed development does not meet the visibility splay standards of the County Highway due to the proximity of the stone building to the access, which does significantly compromise visibility in the western, non-critical direction. This is an existing access however, used by agricultural vehicles, and whilst the residential conversion will result in a different nature of use of the access, it is not considered that the development would result in such a substantive material change that it would give rise to a severe impact in terms of road safety, which is the test set out in the relevant Eden Local Plan policy DEV3.
- 8.6.10 In terms of drainage, surface water is to be disposed to soakaways as per the existing situation. The cobbled courtyard between the barn and the highway is to be restored with areas of concrete hard-standing replaced with cobbles, which will have the effect of enhancing the site's permeability. There is no history of the site flooding, and it lies in the default Flood Zone 1 for areas not deemed to be at risk of flooding. There are however no details of the extant soakaway, or whether it would be adequate for the proposed end use. It is therefore considered that it would be reasonable and justified to require the applicant to demonstrate the suitability of soakaway drainage through a condition of approval. The condition shall stipulate that prior approval in consultation with the Lead Local Flood Authority will be required of a drainage plan, informed by onsite investigations, to demonstrate how the development will achieve a neutral or positive impact in permeability of surface water drainage.
- 8.6.11 Foul water is to be directed to mains drainage. The development is therefore considered acceptable in respect of its drainage.

**8.7 Natural Environment**

- 8.7.1 A bat survey has been submitted with the application. Whilst several species of bat commuted in and around the application site, and the habitat was shown to be highly suitable for bats, the survey found no evidence of bats in the barn itself. There is however potential for bats to roost in the barn.

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- 8.7.2 Ada Tinpott's Cottage was found to be a transient roost. 5 bats emerged from this building during the first survey but no bats were observed emerging from the building on the second inspection and the general lack of evidence of bats in the building supports the assertion that this is a transient roost. The ecologist sets out a range of recommendations should works to the Cottage be proposed; however no mitigation is required in connection with the conversion of the main barn.
- 8.7.3 In view of the above, it is considered the proposal will not have any significant harmful impact on the natural environment. Notwithstanding, the applicant's legal requirements under the Wildlife and Countryside Act 1990 should be set out as an informative note on the decision notice should planning permission be granted.

**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. Each application is determined on the planning merits.

**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**

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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.

11.2 The scheme will restore an undesignated heritage asset within a Conservation Area and provide it with a viable new use. It will enhance the visual aspect of the site through sensitive restoration and limited intervention into the historic fabric of the building. The scheme is considered acceptable in terms of scale, appearance, finished materials and landscape impact, and is deemed satisfactory as regards its impact on neighbouring amenity. It is determined that the proposal would not result in a significantly harmful highways impact over and above the existing situation, and the benefits of the proposal significantly outweigh the limited degree of harm that would be caused. In the absence of any significant or demonstrable material adverse impact the proposal is considered to be in accordance with the NPPF and the development plan.

Oliver Shimell  
Assistant Director Planning and Economic Development

Checked by or on behalf of the Monitoring Officer	✓
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**Background Papers:** Planning File 19/0713