

Eden District Council

Planning Committee Agenda
Committee Date: 20 October 2022

INDEX

Item No	Application Details	Officer Recommendation
1	Planning Application No: 22/0335 Proposed alterations and extension 2 Sunny Bank, Icold Road, Greystoke Ms McDowell	Recommended to: APPROVE Subject to Conditions
2	Planning Application No: 22/0573 Alterations to farmhouse to include replacement of bothy with single storey extension, addition of car port and rear balcony and alterations to window fenestration. Re-submission of approval 21/0461 Town End, Penruddock, Penrith Mr and Mrs Carroll	Recommended to: APPROVE Subject to Conditions
3	Planning Application No: 22/0589 Construction of Bio Filter structure Omega Proteins, Greystoke Road, Penrith Omega Proteins Ltd	Recommended to: APPROVE Subject to Conditions
4	Tree Preservation Order No: 216, 2022 Land East of Stayngarth, Stainton	Proposal to: CONFIRM Without Modification

Agenda Index
REPORTS FOR DEBATE

Agenda Item 1
REPORTS FOR DEBATE

Date of Committee: 20 October 2022

Planning Application No: 22/0335 **Date Received:** 29 April 2022
(extension agreed to 21/10/22)

OS Grid Ref: NY 343991, 530801 **Expiry Date:** 24 June 2022

Parish: Greystoke **Ward:** Greystoke

Application Type: Householder

Proposal: Proposed alterations and extension

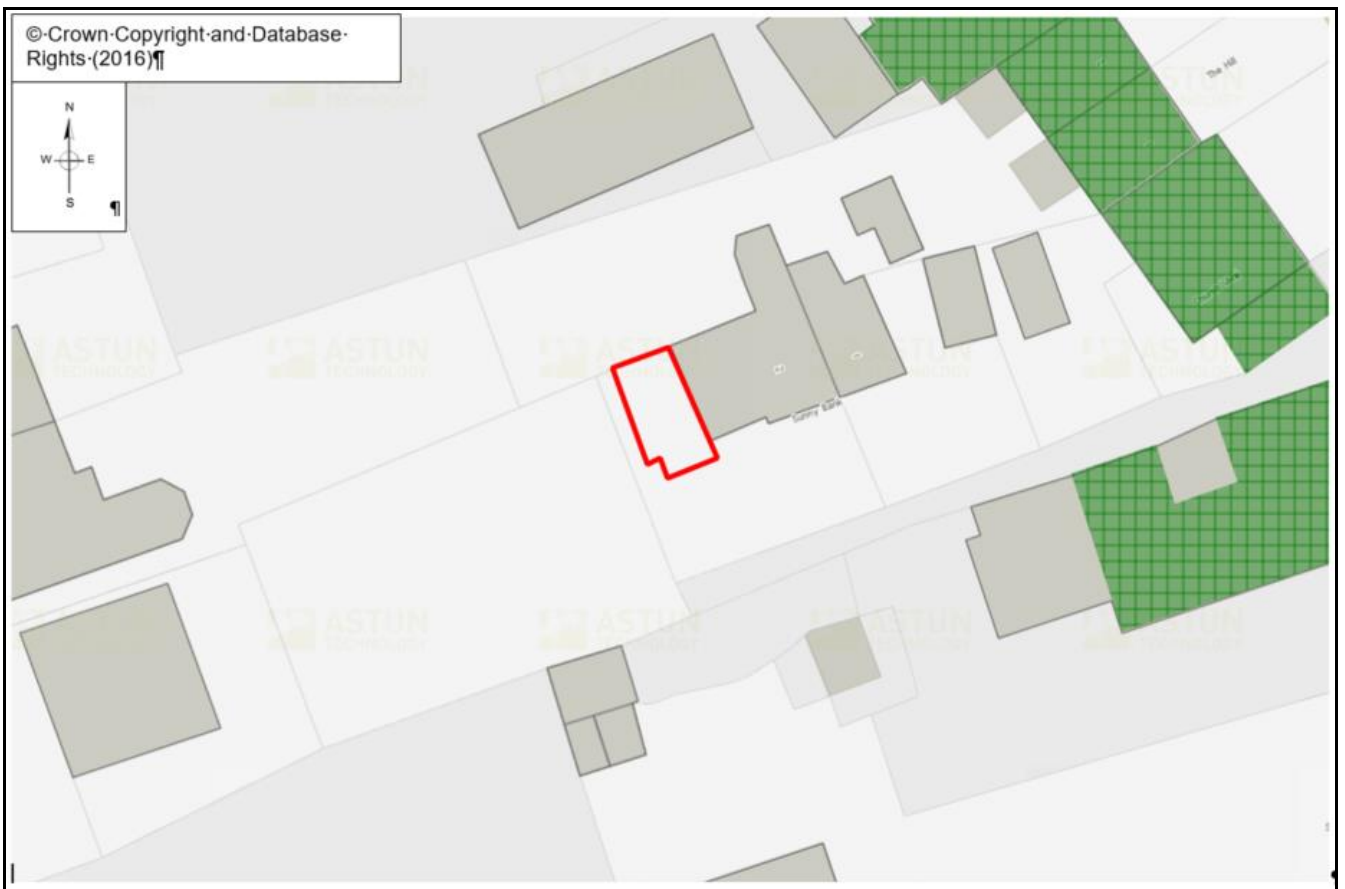
Location: 2 Sunny Bank, Icold Road, Greystoke

Applicant: Ms McDowell

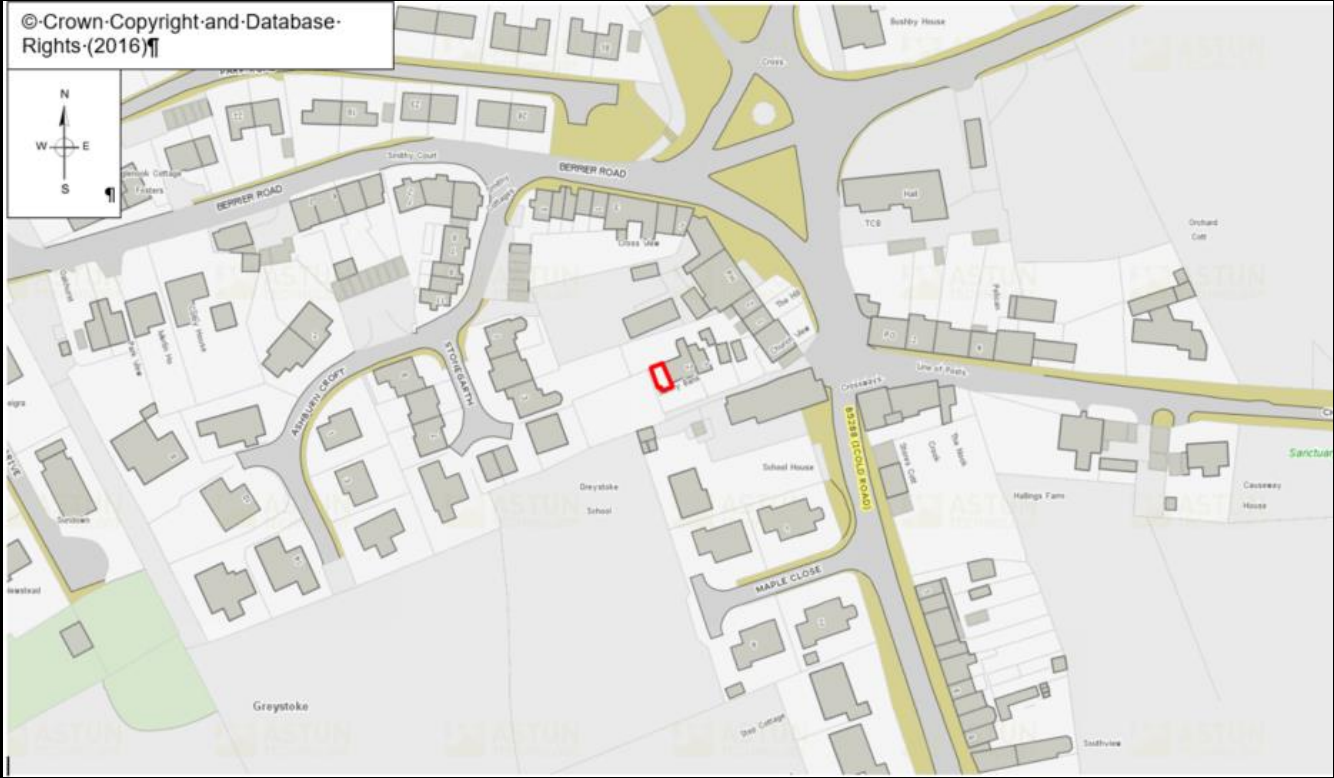
Agent: Graham K Norman (Architect) Ltd

Case Officer: Caroline Zalkind

Reason for Referral: Proposal has been called in on material planning grounds by the Parish Council.



Agenda Item 1
REPORTS FOR DEBATE



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 received
 - ii) Location Plan (122-109-01) received 29 April 2022
 - iii) As Proposed Plan and Elevations (122-109-04D) received 8 September 2022
 - iv) As Proposed Plan and Elevations (122-109-05D) received 8 September 2022

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

Ongoing Conditions

3. Construction works shall be carried out only between 0800 – 1800 hours Mondays – Fridays; 0900 – 1300 hours on Saturdays and there shall be no activity on Sundays and Bank Holidays.

Reason: To safeguard the amenity of residents living nearby.

Notes to Developer

1. This decision notice grants planning permission only. It does not override any existing legal agreement, covenant or ownership arrangement.
2. It is the applicant's responsibility to ensure all necessary agreements are in place prior to the commencement of development.
3. The granting of planning permission is separate from legal entitlements to work on others' trees/hedges. Any damage to crowns or roots (during development or otherwise) can result in legal action being taken by the owners of trees/hedges as a result of the actions of others.

2. Proposal and Site Description

2.1 Proposal

- 2.1.1 This proposal seeks to erect a single storey side extension to the western side of the host dwelling.

REPORTS FOR DEBATE

- 2.1.2 The proposal would be constructed of Natural masonry sandstone with a Westmorland green slate roof to match the existing. It would see blank elevations to the gable side and rear, with patio doors to the front.
- 2.1.3 Originally the property was a small one bedroom cottage. A two storey side extension was approved under planning application 15/0531, creating a two bedroom property. This proposal would add a sunroom to the property.
- 2.1.4 This application has been amended from its original submission for a two storey extension, which provided an additional bedroom at first floor, to a single storey extension following objections received from the Parish Council and members of the public.
- 2.1.5 Following the reduction in scale from two storey to single storey, re-consultations took place on the revised scheme, however the objections remain standing, and are discussed below.

2.2 Site Description

- 2.2.1 2 Sunny Bank is a traditional stone built semi-detached cottage with a slate roof.
- 2.2.2 The site is accessed from a private track leading from the nearby public highway and adjacent to Greystoke Primary School in the centre of the village.
- 2.2.3 The site is not and does not affect the setting of any listed buildings; it is not in a conservation area and is within a flood zone 1.

3. Consultees

3.1 Statutory Consultees

Consultee	Response
Local Highway Authority	A response was received on the 17 May 2022 advising that highway implications are to be decided by the LPA. No issues arise.
Lead Local Flood Authority	A response was received on the 17 May 2022 advising that drainage implications are to be decided by the LPA. No issues arise.

3.2 Discretionary Consultees

Consultee	Response
Tree Officer	<p>A response was received on the 27 September 2022 advising <i>'Having reviewed the application in the light of all information available, I would conclude that the development would be highly unlikely to cause detriment to the structural health of either the hedging vegetation or the Silver Birch in the adjacent garden. The reasons for concluding in this manner are:</i></p> <ul style="list-style-type: none"> • <i>The width of the extension is almost identical to that of the existing extension – it is evident that adequate space is available to accommodate the footprint of the extension within an area of the curtilage already impacted by</i>

Consultee	Response
	<p><i>excavation/levelling and creation of a hardsurfaced area.</i></p> <ul style="list-style-type: none"> • <i>The crown of the Birch is almost entirely within the curtilage of the adjacent property rather than on the boundary between the 2 properties; therefore, although there would be the potential for disturbance of roots in creating the space to facilitate the development, any such disturbance would be low magnitude and relate only to roots towards the outside of the root zone. The Birch is young enough to be able to tolerate any minor additional damage caused; most of its root zone would remain undisturbed.</i> • <i>Whether the hedge is owned by the adjacent property or by the applicants, it would be reasonable management to cut it back regularly; having regard to the nature of the vegetation it would appear that it could easily accommodate trimming back and, at the time the photos were taken in May this year it already looked like it was in good vigour.</i> <p><i>I note that the sectional information contained within the most up-to-date drawings identifies that the hedge and tree are on significantly higher ground than the proposed floor level of the extension (south elevation, drawing 04(D)). With that in mind, any likely root disturbance, or co-relationship between the hedge, the tree and the area of hardstanding is already likely to have been established. I would therefore be of the view that any further disturbance would be incidental and not 'new'.</i></p>

4. Parish Council Response

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

4.1 A response was received on the 31 May 2022 advising that the PC object to the application for the following reasons:

- Overdevelopment of the site.
- Out of character.
- Parking issues.

A re-consultation took place following the reduction of the scheme from a two storey to a single storey side extension. The PC responded on the 28 July 2022 advising that they still object for the same reasons as above.

5. Representations

5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on 19 May 2022.

No of Neighbours Consulted	8	No of letters of support	0
No of Representations Received	5	No of neutral representations	0
No of objection letters	5		

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

- Tall Birch tree's roots would be affected by digging foundations and if it fell it would certainly cause damage.
- No.1 Sunny Bank also has a separate garden adjacent to the western side of No.2 nearest to the proposed extension. There is a very large tree in this garden which, contrary to what is stated on the Application form, should clearly be regarded as being within falling distance from the proposed development.
- The proposed development is relatively close to the hawthorn hedge between No.2 and No.1's separate garden. The ground level of the proposed extension is also significantly lower than the garden, with the possibility that the hedge could be destabilised during excavation/construction.
- This second extension is likely to bring it in very close proximity to the existing boundary hedge. As there is likely to be substantial excavation of the ground required, the existing boundary hedge could potentially suffer root damage, as could the very large silver birch tree just on the other side of the boundary hedge. If the roots of this tree are undermined and it falls, it is likely to destroy a considerable portion of neighbouring property.
- The excavation has the potential to cause undermining to neighbouring garden which is now at a higher ground level after the previous extension. There is no indication how the excavation will be retained and as such concerns are raised that this development has the potential to detrimentally affect and destabilise neighbouring established garden.
- The application states that there are no trees within falling distance, however there is an approximately 18m Silver Birch in the adjoining garden approximately 7m to the west of the proposed extension, and the plans show that pruning of the hedge is likely. The proximity of the planned excavation is also likely to disturb and damage the roots of the mature hedge which runs between the two gardens. There is a shrub in close proximity to the proposed new back door which would also almost certainly require pruning to allow for construction and continued access.
- Scale/Size - These traditional cottages, built around 1833, started out as two small semi-detached premises. Whilst No.1 remains the same size, the proposed extension would increase the footprint of No.2 to almost three times its original size, and almost three times the size of No.1 which objectors consider to be overbearing and completely out of scale with No.1.
- Overdevelopment - Given No. 2 has already been extended once in recent years, objectors believe an additional extension represents overdevelopment of a relatively small site.

REPORTS FOR DEBATE

- The proposed extension will make this cottage almost three times the size of the original which is already out of scale with the neighbouring cottage and represents an over development of this small site and reduces valuable garden area.
- The property was recently extended in 2016. The approval of this application and subsequent implementation of the proposed plans would be very nearly treble the footprint of the original building, meaning that the size and scale is overbearing, out-of-scale and not in line with the neighbouring building (1 Sunny Bank), and does not maintain the character of these small cottages. Objectors believe that a further extension represents over-development of the small site, and additional loss of garden and detriment to the open aspect of the area.

5.3 Letters of objection also raised matters which are not material planning considerations and should therefore not influence the assessment of the proposed development:

- Issues of scale, design, overlooking and overshadowing from the original two storey proposal including a glass canopy projecting from the front (now removed).
- Lack of vehicular access to the property and access restrictions for construction plant and equipment.
- Potential impacts on access to the allotment land during the construction.
- Disruption arising during construction.
- Overlooking from an existing window.
- New extension would bring property boundary nearer to neighbouring property.
- Lack of parking for the property [the proposal will not increase parking demand].
- Use of the cottage as a self-catering holiday let.

5.4 The above responses were received prior to the amendments to the plans, reducing the proposed two storey side extension to a single storey side extension. A re-consultation was carried out on the 14 July 2022 and responses from objectors confirmed that their previous concerns remain.

6. Relevant Planning History

Application No	Description	Outcome
15/0531	Two storey side extension	FA 17/09/15

7. Policy Context

7.1 Development Plan

Eden Local Plan (2014-2032):

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

7.2 Other Material Considerations

National Planning Policy Framework 2021:

- Achieving well-designed places

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
- Streetscene and Visual Impacts
- Scale and Design
- Residential Amenity

8.2 Principle

- 8.2.1 This proposal seeks approval for the erection of a single storey side extension.
- 8.2.2 Within the Eden Local Plan, Policy DEV1 'General Approach to New Development' advises that the Council will always work proactively with applicants to find solutions, which mean that proposals can be approved wherever possible.
- 8.2.3 Policy DEV5 'Design of New Development' requires developments (inter alia) to show a clear understanding of the form and character of the districts built and natural environment, complementing and enhancing the existing area. It also looks for proposals to reflect the existing street scene through use of appropriate scale, mass, form, layout, high quality architectural design and use of material.
- 8.2.4 It is considered that the proposal meets the aims and requirements of the above mentioned policies in principle due to the small nature of the proposal, within a residential curtilage. This is subject to further considerations discussed in the following sections of the report.

8.3 Streetscene and Visual Impacts

- 8.3.1 Policy DEV5 (inter alia) requires that proposals show a clear understanding of the form and character of the district's built and natural environment.
- 8.3.2 The proposed single storey side extension would be sited to the western side of the host dwelling.
- 8.3.3 In terms of the streetscene and visual impacts, the proposed single storey side extension would be seen within the context of a domestic curtilage. Due to its location, it would not be visible in the wider public realm.
- 8.3.4 The proposal is considered to show a clear understanding of the form and character of the area. It also reflects the existing street scene through the use of appropriate scale, massing, form and layout. As such, the proposal is considered to meet the aims and requirements of policy DEV5 of the Eden Local Plan in terms of impacts on the built environment.

8.4 Scale and Design

- 8.4.1 Policy DEV5 seeks to ensure that all new development is of a high quality design which reflects local distinctiveness.
- 8.4.2 The proposal would project from the side of the previously granted two storey side extension by approximately 3 metres, be marginally stepped in at the rear and have a height of approximately 4 metres. The proposed ridgeline of the roof would sit below the existing eaves of the two storey extension.
- 8.4.3 The rear and side elevations would be blank and patio doors are proposed to the front.
- 8.4.4 The Parish Council have objected to this application on the grounds of overdevelopment of the site and out of character. The original objection was to a

REPORTS FOR DEBATE

proposed two storey extension. The applicant/agent amended the proposal following the objections from the Parish Council and members of the public to a single storey extension. Following re-consultation with interested parties, the reduction from two storey to single storey extension did not remove or address any of the objections received and all previous comments remained.

- 8.4.5 Members of the public raised objections to the size and scale of the proposal, expressing concern that the footprint of the property would be 3 times its original size which would be overbearing and out of scale with No. 1. Concern was raised that the proposal represents an overdevelopment of the site due to it already being extended, and that the design would not maintain the traditional character of the cottages.
- 8.4.6 It should be noted that discussions regarding the design of the proposal, between Planning Officers and the applicant/agent resulted in triple bi-fold doors being changed to double patio doors and a proposed glass canopy removed.
- 8.4.7 The objections received from the Parish Council and members of the public are acknowledged but, in light of the revisions made to the proposal, are not considered to merit weight in the planning balance. In terms of policy support for this type of development, there is no policy that would resist development close to a domestic boundary or that restricts the number of extensions that can be added (subject to planning approval). Each planning application is considered on its own merits and individual circumstances.
- 8.4.8 The existing two storey extension has been built to a high quality, clearly showing a legible evolution of the property; the proposed single storey extension would represent a further development that respects the primacy of the original cottage. As such, the traditional character of the original cottage remains intact and is preserved.
- 8.4.9 Due to the constraints of the site, which sees the rear of the property very close to the northern boundary, with garden area to the side and front, it is considered that the proposed location of the single storey side extension is sympathetic in both scale and design and would not be seen as overbearing or the overdevelopment of the site.
- 8.4.10 As such, it is Planning Officers' opinion that the proposal is of an acceptable scale and design and is in accordance with policy DEV5 of the Eden Local Plan.

8.5 Residential Amenity

- 8.5.1 Policy DEV5 requires that (inter alia) development shall protect the amenity of existing residents and provide an acceptable amenity for future occupiers.
- 8.5.2 Adjoining the host property to the east is No. 1 Sunny Bank. This property would not be impacted upon by this proposal.
- 8.5.3 To the south, approximately 25 metres away is the blank side elevation of School House. The proposed patio doors would face this direction.
- 8.5.4 To the west, between 25 and 30 metres away are the rears of properties on Stonegarth. The blank side elevation of the proposal would face this direction.
- 8.5.5 To the north of the proposal is a garden area and beyond that a large building within the pub's rear garden area. The blank rear elevation of the proposal would face this direction.
- 8.5.6 Given the scale and design of the proposed development, for a single storey side extension, it is not considered that it would cause any adverse impacts on amenity to any neighbouring properties resulting from loss of privacy, loss of light or appear

overbearing due to its positioning. As such, the proposal meets the aims and requirements of policy DEV5 of the Eden Local Plan.

- 8.5.7 To protect the amenity of neighbouring properties during the construction phase, it is considered reasonable and necessary to include a construction hours condition (see recommendation).

8.6 Natural Environment

- 8.6.1 Policy ENV1 of the Local Plan requires 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'*.
- 8.6.2 The proposal is not within a designated site, however, objections have been received, raising concerns that the root system of a Birch tree in the neighbouring garden could be damaged and is within falling distance of the host property.
- 8.6.3 Concern is also raised by objectors that the proposed development would be close to the hedge between the garden areas of No.1 and No. 2 Sunny Bank and could be destabilised and damaged during the excavation/construction phase.
- 8.6.4 The Council's Tree Officer has provided comments in this regard and has concluded that *'the development would be highly unlikely to cause detriment to the structural health of either the hedging vegetation or the Silver Birch in the adjacent garden'*. The Tree Officer's full conclusions are provided at section 3.2 of this report.
- 8.6.5 The objector's concerns are acknowledged and their comments considered against the advice provided by the Tree Officer.
- 8.6.6 The Birch tree is considered to be young enough to be able to tolerate any minor additional damage caused and most of its root zone would remain undisturbed. The hedge meanwhile is considered to be in good vigour, capable of being trimmed back. It is therefore concluded that the proposals would not result in a level of harm which might warrant its refusal.
- 8.6.7 A 'note to developer' has been included in the recommendation advising the applicant that the granting of planning permission is separate from legal entitlements to work on others' trees/hedges. Any damage to crowns or roots (during development or otherwise) can result in legal action being taken by the owners of trees/hedges as a result of the actions of others. It should however be borne in mind that this is governed by legislation outside the control of planning.
- 8.6.8 The proposal will not create a net loss of biodiversity and whilst it does not propose any net gain, it is considered to meet the aims and requirements of policy ENV1 of the Eden Local Plan concerning the Protection and Enhancement of the Natural Environment.

8.7 Nutrient Neutrality

- 8.7.1 On the 17 March 2022 Eden District Council received nutrient neutrality notifications from Natural England, which form a material consideration for planning applications. Guidance has been provided that householder extensions/applications are exempt from the nutrient neutrality advice as they do not lead to a material increase in population.

8.8 Other considerations

- 8.8.1 The Parish Council and objectors have raised concern regarding parking for the proposal site, due to there being no vehicular access to the property and no onsite parking. It is advised that current parking arrangements are on the street to the east of the proposal site.
- 8.8.2 In this regard, it is duly noted that the proposal seeks to erect a single storey sunroom. This is not considered to alter the current existing parking arrangements for the property in any way and is not a material planning matter for consideration under this planning application.
- 8.8.3 Concern is also raised regarding disruption during the construction period if approval is granted, and potential trespassing on neighbouring land during construction. It is the applicant's responsibility to ensure that the development can be carried out without trespass or otherwise seeking permission from neighbouring landowners to enter third party land during the construction. Some disruption may be expected during the construction period of any works however given the minor nature of the works, this does not attract significant weight against the proposal, and furthermore a condition of approval is proposed to control construction hours, thereby protecting neighbouring amenity (see recommendation).

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 The application is for a single-storey extension of modest proportions which, the previous extension notwithstanding, is considered to be in keeping with the character and proportions of the original cottage. The design, scale and materials proposed for the single storey side extension will not have a negative impact on the character or

Agenda Item 1
REPORTS FOR DEBATE

appearance of the built environment and would not adversely impact on amenity or privacy for the occupiers of adjacent residential properties.

- 10.2 Overall, the proposal is considered to be in accordance with the development plan, and as such it is recommended that the proposal be granted.

Tracking Information

Governance Check	Date Considered
Assistant Director Development	30 September 2022

Background Papers: Planning File 22/0335

Agenda Item 2
REPORTS FOR DEBATE

Date of Committee: 20 October 2022

Planning Application No:

22/0573

Date Received:

25 July 2022

OS Grid Ref:

342894 528004

Expiry Date:

19 September 2022

Parish:

Hutton

Ward:

Ullswater

Application Type:

Householder – full application

Proposal:

Alterations to farmhouse to include replacement of bothy with single storey extension, addition of car port and rear balcony and alterations to window fenestration. Re-submission of approval 21/0461

Location:

Town End, Penruddock, Penrith

Applicant:

Mr and Mrs Carroll

Agent:

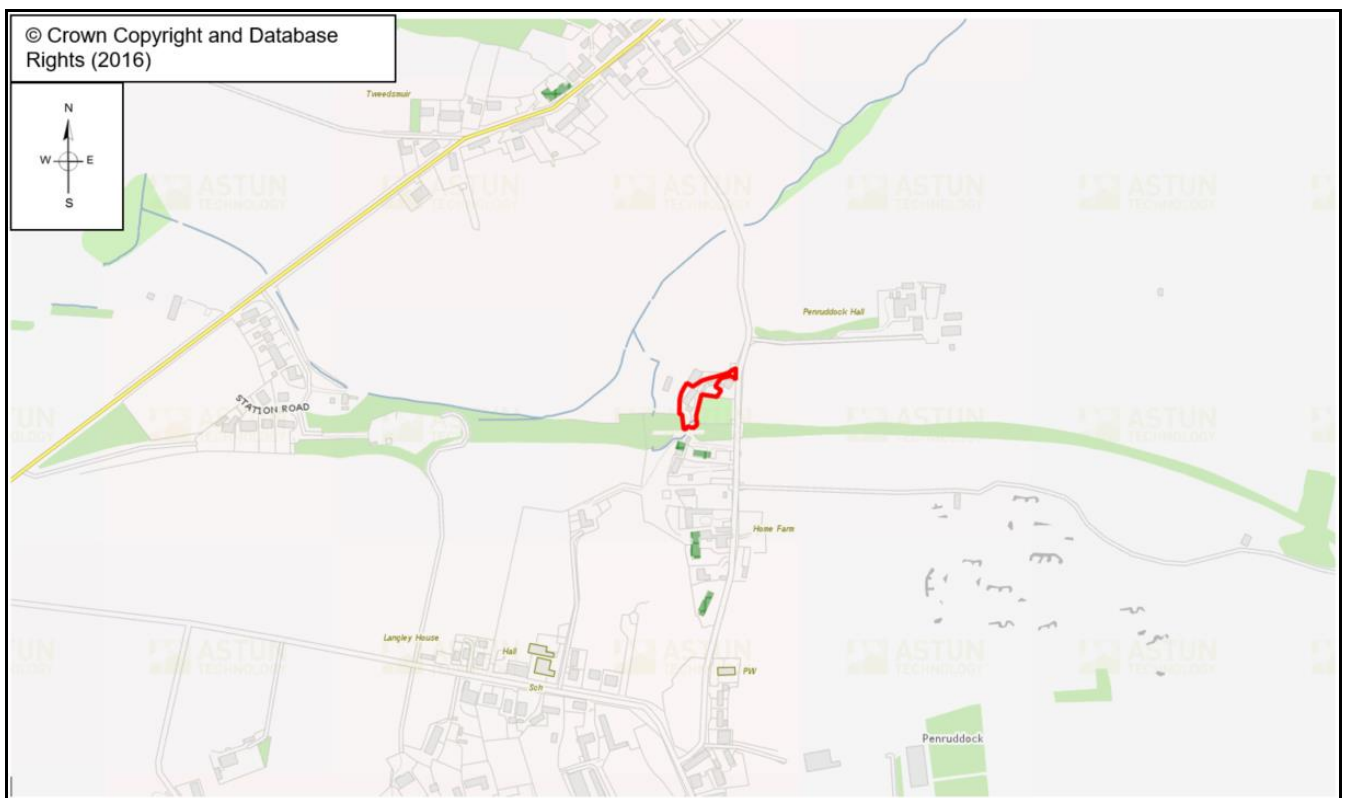
Mr S Woodall, Green Swallow North Limited

Case Officer:

Karen Thompson

Reason for Referral:

The Parish Council object to the application which is contrary to the recommendation of the local planning authority.



Agenda Item 2
REPORTS FOR DEBATE



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 received 25 July 2022
 - ii) Site plan, drawing no. 09 Rev B received 15 September 2022
 - iii) Proposed ground floor plan, drawing no. 03 Rev D received 25 July 2022
 - iv) Proposed first floor plan and north and south elevations, drawing no 04 Rev E received 25 July 2022
 - v) Proposed east and west elevations, drawing no. 07 Rev C received 25 July 2022

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

Pre-occupancy or other stage conditions

3. Construction works shall be carried out only between 0800 – 1730 hours Mondays – Fridays; 0800 – 12.30 hours on Saturdays and there shall be no activity on Sundays and Bank Holidays.

Reason: To safeguard the amenity of residents living nearby.

Note to Developer

1. This decision notice 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. 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

2. Proposal and Site Description

2.1 Proposal

- 2.1.1 This is a householder planning application for revisions to a previously approved application under reference 21/0461 which was for alterations to farmhouse including the replacement of a bothy with a single storey extension.
- 2.1.2 The proposed revisions to the single storey extension include changing a high level window in the southeast facing gable to a circular window; substitution of four roof lights with an array of 12 solar panels; and changes to the fenestration details on the south facing elevation. The finishing material would be the same as previously approved and comprise of oak, stone and slate.
- 2.1.3 This new application introduces a new oak framed car port to the rear of the dwelling with the flat roof over being utilised as a balcony, which would be accessible from the bedroom. The size of the balcony would measure 4.2 metres x 2.9 metres. A glazed balustrade would wrap around the balcony on two sides (south and west facing) while the remaining side (north) would be flanked by the rear side of a new mono-pitched roof which would be over the entrance to the carport.

2.2 Site Description

- 2.2.1 The application property is a farmhouse which is undergoing renovation. The site lies within the village of Penruddock in a courtyard of barns which are undergoing conversion. Access to the property is off the Penruddock to Motherby road, and along the former Town End farmstead access track. The property is set back from the village road behind a paddock and Sawmill Cottage.
- 2.2.2 Immediately to the south is the embankment of the former Penrith to Keswick railway line, which is also the Eden District Council/Lake District boundary.
- 2.2.3 To the north, and set back slightly behind the application property is Old Workshop which is currently being converted to a dwelling. The property will have a garden to the rear.
- 2.2.4 To the rear of the property, where the proposed car port and balcony would be located, face over open fields with the nearest public view point being from the public right of way No. 332021 which is 240 metres to the west, and the properties in Motherby being 350 metres away.

3. Consultees

3.1 Statutory Consultees

Consultee	Response
Highway Authority	5 August 2022 – no objections raised
Local Highway Authority	5 August 2022 – no objections raised

4. Parish Council/Meeting Response

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

4.1 **RESOLVED THAT:**

'The Council has no issues with the additional window, but objections to the balcony are:

1. It is very out of character with the type of farmhouse dwelling – a glass fenced balcony would stand out of place against the stone finish of the adjoining farmhouse.
2. Contrary to the application form, the proposed balcony can be seen from the public footpath over Yakka Dodd, between the Station and Rookins Motherby.
3. The balcony will overlook the neighbouring property, compromising the privacy of the garden.
4. There is no mention of where the run-off water from the balcony will be disposed of. Will it be drained into the neighbouring River Petteril? If so, will it have any impact on the nutrient neutrality of the water course?

As the latter is hot topic currently, an independent report should be carried out to ensure that compliance is met.

Townend Farmhouse already has a car port for 2 vehicles and ample parking for more if needed'.

5. Representations

- 5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on 10 August 2022.

No of Neighbours Consulted	3	No of letters of support	0
No of Representations Received	1	No of neutral representations	0
No of objection letters	1		

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

- The site plan is incorrect as it does not show the correct dimensions of our garden to the rear of our property – an amended site plan was submitted on 15 September 2022.
- We had no objection to the previously approved Juliet balcony however, feel the size and positioning of the balcony is imposing and will overlook our whole garden area.
- The balcony is not in keeping with the traditional style of the other surrounding buildings.

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

- Received no notification of the application – a letter was sent to the objectors property on 3 August 2022.

6. Relevant Planning History

Application No	Description	Outcome
21/0461	Alterations to farmhouse including demolition of bothy to replace with a single storey extension	Approved 26 August 2021

7. Policy Context

7.1 Development Plan

Eden Local Plan (2014-2032):

- DEV5 – Design of New Development

7.2 Other Material Considerations

National Planning Policy Framework:

- Requiring good design

8. Planning Assessment

8.1 Key/Main Planning Issues

- Principle
- Scale and Design
- Infrastructure
- Nutrient Neutrality

8.2 Principle

8.2.1 This is a householder planning application for revisions to a previously approved application under reference 21/0461 which was for alterations to the farmhouse including the replacement of a bothy with a single storey extension. This new application is for changes to the design of the new single storey extension and the addition of a car port with a balcony above.

8.2.2 There are no particular planning policies that specifically relate to household extensions. Such applications are considered against the wider policies within the Eden Local Plan relating to design, visual impacts and impacts on the amenity and privacy of nearby occupiers, and will be assessed on their individual merits. In principle, extensions to dwelling houses are considered acceptable.

8.3 Scale and Design

8.3.1 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. The policy 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 street scene through use of appropriate scale, mass, form, layout, high quality architecture design and use of materials.

REPORTS FOR DEBATE

- 8.3.2 The design, fenestration detailing and finishing materials of the proposed single storey extension are considered high quality and sympathetic to the form and character of the district's built environment.
- 8.3.3 However, concerns have been raised by a nearby residential occupier and the Parish Council about the design and finishing materials proposed for the proposed balcony at the rear of the dwelling being out of character with the traditional style of the host dwelling and other surrounding buildings.
- 8.3.4 The application property is positioned within a small group of three dwellings. Sawmill Cottage which fronts the village road is an old cottage which has been upgraded, extended and rendered/painted; the adjacent Old Workshop is currently being converted to a dwelling and is a traditional stone built barn; and the application property comprises an attached stone barn, with the front of the house painted white and the rear being rendered. There are also some other outbuildings and sheds between the main buildings.
- 8.3.5 Although the neighbouring properties do not have balconies, there are many examples of balconies being added to dwellings throughout Eden and the adjacent Lake District. It is considered that balconies are not incongruous architectural features, providing their design, scale, positioning and finishing materials respect the character of the host dwelling.
- 8.3.6 The proposed balcony will be on the rear elevation of the former farmhouse attached to a two storey projecting gable end which has been rendered for many years. The proposed car port and the balcony has been designed to follow the design threads of the new single storey extension, with the main structure of the car port being finished in oak to complement the extension. The balustrade to the balcony will be clear glazed on the south elevation (facing the former railway embankment) and to the west (facing the open fields). Although a modern feature, the balustrade is a transparent, lightweight feature that will not obstruct any views through to the host building and would be barely visible due to the nature of the material. It is considered that the carport and balcony design is high quality that would harmonise and complement the existing building and provide an acceptable contrast to the dwelling.
- 8.3.7 The Parish Council has commented that the balcony will be seen from the public footpath over Yakka Dodd, between the Station and Rookins Motherby. However, given that the footpath is 250 metres away, it is not considered that there would be any impact on the users of that route.
- 8.4.8 Overall, the proposed development would not introduce any new features that would result in a substantively adverse impact upon the character and appearance of the application building or the surrounding area, and therefore is considered to be in accordance with the aims of Policy DEV5 of the Eden Local Plan.

8.4 Residential Amenity

- 8.4.1 Policy DEV5 – Design of New Development – within the Eden Local Plan – it states that new development is required to protect the amenity of existing residents and provides an acceptable amenity for future occupiers.
- 8.4.2 Concerns have been received from the Parish Council and a neighbour that the size and positioning of the balcony will overlook the neighbouring property, compromising the privacy of the garden.

REPORTS FOR DEBATE

- 8.4.3 The application property is alongside but set back slightly from Old Workshop where conversion works are under construction. The proposed carport with balcony over would be in line with, and 16 metres from the neighbour's gable end. The front section of the balcony would be approximately 20 metres, on an angle, from the neighbour's rear garden.
- 8.4.5 The size of the balcony has been determined by the size of the car port which would be able to accommodate a small vehicle and therefore, it is considered that the size of the balcony is reasonable in this instance.
- 8.4.6 The north facing side of the balcony, which faces the neighbours property, will be flanked by a minimum of 1.5 metre high wall which will be the rear side of a mono-pitched roof over the entrance to the carport. Notwithstanding the 20 metre distance between the balcony and neighbours garden, this wall/roof will provide additional screening to reduce any perceived overlooking from either parties.
- 8.4.7 Due to the positioning of the balcony and the distance from the neighbours rear garden area, it is considered that the development would not introduce features or design elements which would result in any significant adverse overlooking or loss of privacy to any neighbouring property. The proposal is considered to be an appropriate extension to the existing property which would have no substantive detrimental impacts on the amenity of any neighbouring property in accordance with the requirements of Policy DEV5 of the Eden Local Plan.
- 8.4.8 To protect the amenity of neighbouring properties during the construction phase, it is considered reasonable and necessary to include a construction hour's condition.

8.5 Infrastructure

- 8.5.1 No issues or objections have been raised by Cumbria County Council as Highway Authority or Lead Local Flood Authority.
- 8.5.2 The Parish Council has commented on how the surface water from the balcony will be dealt with. The surface water will be treated in the same way as the rest of the dwelling and will go in to the existing surface water drains.

8.6 Nutrient Neutrality

- 8.6.1 The Parish Council has requested that an independent report should be carried out to ensure that the development is nutrient neutrality compliant. However, guidance has been provided from Natural England that household extensions are exempt from the nutrient neutrality advice as extensions do not lead to a material increase in population.

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.

9.7 Economic Impact

9.7.1 The Corporate Plan promotes the well-being of future generations, and the post pandemic recovery of our communities. There are no specific or wider economic impacts arising from this development beyond those set out within Section 8 of this report.

10. 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 It is considered that the design, scale and use of finishing material used in the proposed development will not have a negative impact on the character or appearance of the built environment and would not adversely impact on the amenity nor privacy of the occupiers of adjacent residential properties.

11.3 Overall, the proposed development is considered to be in accordance with the aims of the Eden Local Plan Policy DEV5 – Design of New Development.

Tracking Information

Governance Check	Date Considered
Assistant Director Development	30 September 2022

Background Papers: Planning File 22/0573

Agenda Item 3
REPORTS FOR DEBATE

Date of Committee: 20 October 2022

Planning Application No: 22/0589 **Date Received:** 01/08/2022

OS Grid Ref: 4992 2962 **Expiry Date:** 26/09/2022

Parish: Penrith **Ward:** Penrith West

Application Type: Full

Proposal: Construction of Bio Filter structure

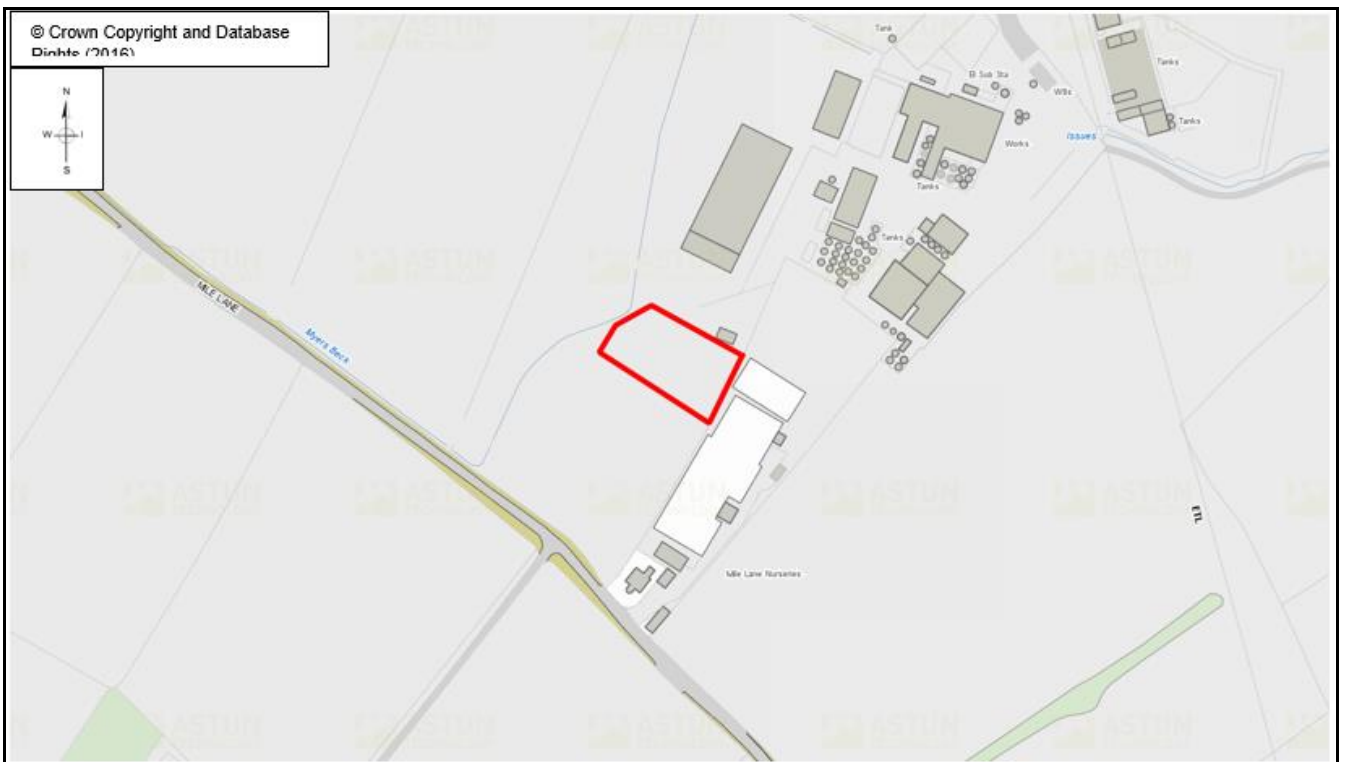
Location: Omega Proteins, Greystoke Road, Penrith

Applicant: Omega Proteins Ltd

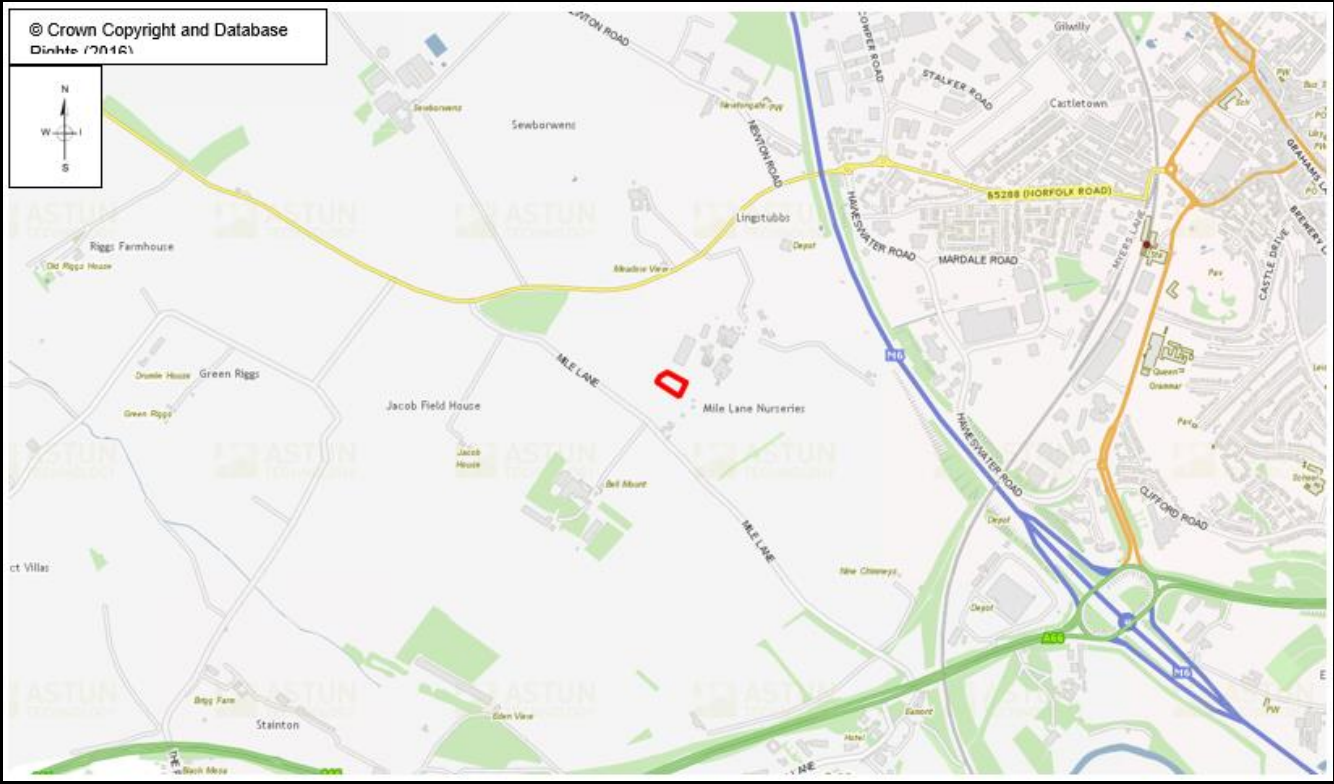
Agent: Mr Andrew Watt, Maze Planning

Case Officer: Mat Wilson

Reason for Referral: Objector request to speak at Committee



Agenda Item 3
REPORTS FOR DEBATE



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.

- Planning Statement ref F240.ZM dated 28 July 2022
- Location Plan ref 1943-22-117 rev D dated June 22
- Proposed Plans and Elevations ref 1943-22-118 dated June 22

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

3. The landscaping bund shall be planted up with a mix of shrubs and native trees within one year of the decision date. Any trees or shrubs which die or are removed within the first five years shall be replaced during the next appropriate planting season.

Reason: In the interests of securing the benefits of the bund which are to improve the visual appearance of the area.

2. Proposal and Site Description

2.1 Proposal

2.1.1 A new biofilter bed is proposed in order to provide additional mitigation for low-odour room air, extracted from buildings within the plant which processes animal by-products.

2.1.2 The new construction would be a concrete tank of 20m x 48.5m enclosed by walls 2.5m high, situated toward the south side of the complex. The biofilter bed would be located adjacent to commercial glasshouses of Mile Lane Nurseries, screened from the north by the existing biomass tipping shed. A landscaped bund already in situ directly south of the biofilter bed, about 3m high, is to be planted up with trees.

2.1.3 The supporting statement sets out that '*There are three existing biofilters at Omega. Each provides odour abatement by passing low-odour air through a woodchip media containing bacteria that breaks down odour before the treated air is released to atmosphere.*' It further describes the application as follows:

At the Penrith plant, the most odorous air from raw material receiving and processing spaces is treated thermally in the site's oxidisers to destroy odour molecules using very high temperatures. The site has a new multifuel oxidiser approved by the Council in November 2017 and gas-powered oxidisers that provide additional capability when required.

The site's biofilters treat low-odour room air from other raw material processing and milling areas. Room odour is captured and contained within the site's managed airflow

REPORTS FOR DEBATE

systems to be treated in biofilters that break down odour molecules before air is released to atmosphere. The technology is tried and tested at this site.

The woodchip filter media must be kept moist to support healthy growth of the odour-fighting bacteria. In periods of dry weather a sprinkler system applies water. At other times rainfall will do the job of wetting the woodchip naturally. Like other filters on the site Biofilter 4 would be a sealed concrete tank, so any excess sprinkler or rainwater collects in the bottom. From there it would be piped away for cleansing in the site's effluent treatment plant.

2.2 Site Description

2.2.1 The application site is currently used for external storage of plant and equipment on an area of hardstanding. The site is located to the south west of Penrith, at a distance of approximately 430 metres, and is bordered by the glasshouses of Mile Lane Nurseries immediately to the east.

2.2.2 The application site would be accessed via the existing access point and road to the north leading from Greystoke Road through to the plant site.

3. Consultees

3.1 Statutory Consultees

Consultee	Response
Highway Authority/ Lead Local Flood Authority	<i>Cumbria County Council as the Local Highways Authority (LHA) and the Lead Local Flood Authority (LLFA) has reviewed the details provided in support of the above planning application. I can confirm that Cumbria County Council as both the Local Highway Authority and Lead Local Flood Authority has no objection to the proposed development as it is considered that the proposal will not have a material effect on existing highway conditions, nor does it increase the flood Risk on the site or elsewhere.</i>

3.2 Discretionary Consultees

Consultee	Response
County Council Minerals and Waste	Cumbria County Council as minerals planning authority does not object to this application.
Environmental Health Officer	Regarding planning application 22/0589 we have concerns that if there is a surge in room air odour the bio filter will be overloaded causing potential odour problems for Mile Lane. What procedures are in place to prevent this? [Officer Note: The applicant has responded to this query but due to time constraints the EHO was unable to provide further comments prior to the writing of this report].

4. Parish Council/Meeting Response

Parish Council/Meeting	Please Tick as Appropriate			
	Object	Support	No Response	No Objections
Penrith Town Council				✓

5. Representations

5.1 A site notice was posted at the site and letters of consultation were sent to all nearby neighbours.

No of Neighbours Consulted	3	No of letters of support	0
No of Representations Received	1	No of neutral representations	0
No of objection letters	1		

5.2 Letters of objection have been submitted from the representative for a local pressure group, Fresh AIR for Penrith. The key concerns raised are summarised as follows:

- Not a required development; there are already three biofilter beds onsite, one of which is not functioning correctly.
- Further intensification of overdeveloped site on edge of the Lake District.
- Harmful visual impacts.
- Alleges that the proposal is designed to increase the plant's production capacity rather than improving odour control.
- Local residents do not want to see Omega Proteins continue to develop and to cause further environmental discomfort.
- Impacts upon a human right to fresh air, not air polluted by the stench of animal rendering.
- Further expansion of the site will exacerbate the congestion on Penrith's already overcrowded road infrastructure. Increased risk of haulage spillages.

6. Relevant Planning History

Application No	Description	Outcome
05/0457	Erection of plant building	Approved 18 August 2005
06/0697	Erection of building for a new bio filter treatment plant to serve existing plant.	Approved 24 November 2006
06/0922	Erection of building for storage following demolition of existing building.	Approved 05 January 2007
10/0686	Retrospective permission for siting of pipework on south western/western elevation. Plant room extension to electrical store, upgraded effluent treatment building and change of use of agricultural land.	Approved 23 December 2010

Agenda Item 3
REPORTS FOR DEBATE

Application No	Description	Outcome
12/1046	Retrospective application for the erection of a boiler house building.	Approved 11 February 2013
15/0025	Outline application for effluent treatment tanks and associated plant and hardstandings with approval sought for access, appearance, layout and scale.	Approved by Planning Committee on 16 July 2015
15/0495	Outline application for erection of a storage building and all associated hardstandings, with approval sought for access, appearance, layout and scale.	Refused 04 December 2015
16/0261	Retrospective application for 21 cylindrical storage tanks on concrete base with concrete band wall enclosure.	Approved by Planning Committee 19 May 2016.
16/0357	Erection of a storage building and hardstanding, relocation of existing SRU tank and pipework to enable formation of vehicular access, formation of a fishing pond associated car park and pathways, landscape planning scheme	Approved by Planning Committee 20 April 2017
17/0821	Development of a Class B2 industrial building and associated demolition works.	Approved 18 December 2017
18/0048	Erection of a tipping shed and hardstanding, relocation of existing SRU tank and pipework to enable formation of vehicular access, formation of a pond and associated car park, pathways and landscape planting scheme.	Approved by Planning Committee 19 April 2018
18/0041	Variation of condition 2 (plans compliance) to reduce the length of the building, alter access arrangements to the building attached to approval 16/03	Approved by Planning Committee 19 April 2018
19/0004	Development of a Class B2 industrial building and service yard.	Approved 10 April 2019
19/0342	Development of a Class B2 industrial building.	Approved 29 July 2019
19/0919	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.	Approved 18 February 2020

Agenda Item 3
REPORTS FOR DEBATE

Application No	Description	Outcome
20/0383	Retention of engineering works to form landscape planting bund	Approved 10 June 2021
20/0659	Development of a Class B2 industrial building	To be determined
20/0660	Development of a Class B2 industrial building and associated concrete surfaced yard	To be determined
20/0661	Formation of services yard (part retrospective).	To be determined
20/0662	Erection of shelter roof structure to cover multi-fuel oxidizer plant and adjacent service yard area on the west side of the Oxidiser connecting to the existing Trailer Shed roof.	To be determined
20/0663	Formation of helicopter landing pad and footpath connecting to Omega Proteins plant	Approved by Planning Committee 22 December 2020
21/0201	Development of a storage building Class B8.	To be determined
21/0752	Solar farm and associated development including inverter units, substation and switchgear housing, battery storage container and landscape planting.	To be determined
21/0870	Formation of trailer parking area utilising existing Myers Beck crossover.	To be determined
22/0497	Installation of 25m chimney stack. Part retrospective.	To be determined

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

ENV9 Other Forms of Pollution

RUR4 Employment Development and Farm Diversification in Rural Areas

8. Planning Assessment

8.1 Key/Main Planning Issues

- Principle
- Landscape and Visual Impacts
- Residential amenity
- Infrastructure/Flood Risk/Drainage
- Natural Environment

8.2 Principle

8.2.1 The main policy basis for considering proposals to develop existing industrial sites situated outside the existing main settlements is provided for at Policy RUR4 of the Eden Local Plan. This sets out a number of criteria as follows:

Employment developments of an appropriate scale (including new build and live/work units) will be supported in rural areas where they meet the following criteria:

- *Wherever possible they involve the re-use of suitable redundant traditional rural buildings.*
- *Help towards the diversification of the rural economy.*
- *Do not have a significant transport impact.*
- *Are of a scale and type sympathetic to the area within which they are proposed.*
- *Would respect and reinforce local landscape character, the historic environment and not cause harm to the natural environment, through the use of good design.*

8.2.2 Omega Proteins is a long-established industrial complex set beyond the limits of Penrith, and is thus within the rural area. The application is to provide a means to allow for further odour abatement following recent expansion of the complex. As such it will facilitate the operational running of the site, maintaining its role as a significant employer in the local rural economy.

8.2.3 Specific considerations of scale and design, and impacts on landscape character, residential amenity and transport are assessed in following sections of the report. In principle however, the proposal is considered to be acceptable.

8.3 Landscape and Visual Impacts

8.3.1 Local Plan Policy DEV5 requires that development shall demonstrate a clear understanding of the form and character of the district's built and natural environment, complementing and enhancing the existing area.

8.3.2 Policy ENV2 'Protection and Enhancement of Landscapes and Trees' confirms that *'new development will only be permitted where it conserves and enhances distinctive elements of landscape character and function'*. It also confirms that as per criterion 5, the *'tranquillity of the open countryside'* should be taken account of in any development proposals.

8.3.3 The development will have very limited visibility due to its relatively low-lying dimensions and more particularly its siting, discretely situated behind the recently developed landscape bund, which itself is included within this application. A high hedgerow will entirely screen the proposal from the adjacent Mile Lane Nurseries and any views beyond from the east, whilst existing Omega site infrastructure prevents

views from the north and west. The design is entirely functional and is the type of development one would expect on an industrial site.

8.3.4 Therefore the proposed development is considered to have very limited landscape impact and meets with the requirements of policies DEV5 and ENV2 of the Local Plan.

8.4 Residential Amenity

8.4.1 Policy DEV5 of the Eden Local Plan requires that developments shall protect the amenity of existing residents and provides an acceptable amenity for future occupiers. Developments that might give rise to potential sources of odour meanwhile are addressed under Policy ENV9, which requires that proposals only be permitted where resultant odours will not impact on nearby development.

8.4.2 The entire rationale behind the proposal is to mitigate odours that are produced from the industrial processes onsite, and to limit its impacts on wider residential amenity. Since the biofilter bed achieves odour abatement through natural processes, it is not subject to potential technical issues which can compromise the operation of mechanical odour mitigation processes.

8.4.3 The objections raised in respect of problem odours emanating from the site are acknowledged, however this is a development proposed solely to mitigate the very issues raised by the objector. Without the biofilter beds, there would be more significant impacts of unpleasant odours on neighbouring amenity.

8.4.4 As to the query raised by the Environmental Health Office regarding a potential surge in room air odour overloading the bio filter and causing odour problems, the agent has responded in full. It is important to note that the bio filter bed is in no way connected to any recent developments on the Omega site which have not yet been granted planning permission. The agent confirms that this Biofilter will serve the Poultry Process lines that are now being installed in a new building constructed pursuant to planning permission 19/0919, which itself is a variation of the scheme permitted under 17/0821 for a Class B2 industrial building.

8.4.5 Omega has provided further detail on the use of the bio filter bed. They comment: "The biofilter takes air from the processing area for abatement. This is a 'low odour' air stream. The stronger odours from the cooker and other processing equipment is extracted to the thermal oxidiser for abatement. Processing and movement of material within the area is fully enclosed".

8.4.6 A potential surge in room air odour as identified as a possible concern by the EHO could only happen in the event of either a substantial leak or total collapse of integrity from the processing equipment/pipework, or a fault in the room air extraction causing the stronger odour to be released into the room. The further information received details that *the 'leak' of odour would have to be substantial to overcome the dilution effect of the total room air and the treatment capacity of the bio filter. Controls in these areas include maintenance programmes and automated controls on processing. The extraction to the thermal oxidiser is also controlled so there is no 'backflow' into the room should there be an issue with this unit. A 'surge' would be related to a serious breakdown and would therefore not be a common issue.*

8.4.7 The applicant further asserts that *the Biofilters work best when they are dealing with consistent odour streams. [The scheme as now proposed] means each of the main processing areas at Penrith would have its own biofilter, to maximise their effectiveness. A more detailed breakdown of how the biofilters operate in concert is set out as per Omega's recent application to the Environment Agency as the permitting*

REPORTS FOR DEBATE

authority. The applicant concludes by confirming that the biofilters are constantly monitored for efficiency and their capacity to treat air is measured. This proposal provides additional capacity and, in the event of an issue, the air stream can be diverted to alternative units.

- 8.4.8 The information provided in response to the EHO's query is considered satisfactory and demonstrates that a) the development is to mitigate existing, consented processes and b) sufficient controls are in place to ensure the concern raised by the EHO is appropriately addressed.
- 8.4.9 In view of the above, it is considered the scheme will have a positive impact on amenity for residents and visitors to the immediate and wider area, and so would meet the requirements of Policies DEV5 and ENV9 insofar as they relate to amenity.

8.5 Infrastructure/Flood Risk/Drainage

- 8.5.1 Within the Eden Local Plan, Policy DEV3 seeks to ensure that all new development can be serviced by appropriate access and that developments likely to result in a severe impact in terms of road safety and congestion will be refused. This position is further supported by Paragraph 111 of the NPPF which confirms 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'*.
- 8.5.2 There are no highway considerations for this proposal beyond the construction phase. The operation of the biofilter bed will require only minimal vehicular movements for periodic maintenance. No concerns are raised by the Highway Authority, and there is no contention that the proposal will bring about any impacts on highway safety.
- 8.5.3 In terms of drainage, Policy DEV2 of the Eden Local Plan requires that appropriate drainage can be achieved for new development, and does not increase the risk of flooding at the site or to any surrounding land. This development will have a positive impact on surface water drainage, since the biofilter bed will absorb the rainfall which currently falls on impermeable made ground. Runoff from the tank will be cleansed in the site's effluent treatment tank.
- 8.5.4 The site is Flood Zone 1 and not subject to flood risk. As such, the proposal is considered acceptable in terms of impacts on infrastructure.

8.6 Natural Environment

- 8.6.1 Impacts on the natural environment are addressed under Policy ENV1 of the Local Plan, which requires that new development shall avoid any net loss of biodiversity and geodiversity, and where possible enhance existing assets.
- 8.6.2 The area proposed for the biofilter bed is storage of plant and machinery on a hardstanding, and has no ecological value. The existing landscaping (boundary screen hedge) will remain, and the earth bund created to screen the site will be planted with new trees.
- 8.6.3 The application therefore will result in a net gain in biodiversity, and is therefore acceptable as per Policy ENV1.

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 biodiversity under the Natural Environment and Rural Communities Act 2006.

9.4 Crime and Disorder

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

9.5 Children

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

9.6 Human Rights

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

10. Conclusion

10.1 It is considered that the proposal is acceptable. The development will provide additional mitigation for the acknowledged odour problem, through natural processes carried out within a low-profile tank of very limited visual impact.

10.2 In the absence of any significant or demonstrable material adverse impact the proposal is considered to be in accordance with the development plan, and as such it is recommended that the proposal be granted.

Tracking Information

Governance Check	Date Considered
Assistant Director Development	07 October 2022

Background Papers: Planning File 22/0589

Agenda Item 4
REPORTS FOR DEBATE

Date of Committee: 20 October 2022

Planning Ref No: TPO 216 **Date Issued:** 27 July 2022

OS Grid Ref: 348632,528169 **Expiry Date:** 27 January 2023

Parish: Dacre **Ward:** Dacre

Application Type: Tree Preservation Order – PROPOSAL TO CONFIRM

Proposal: N/A

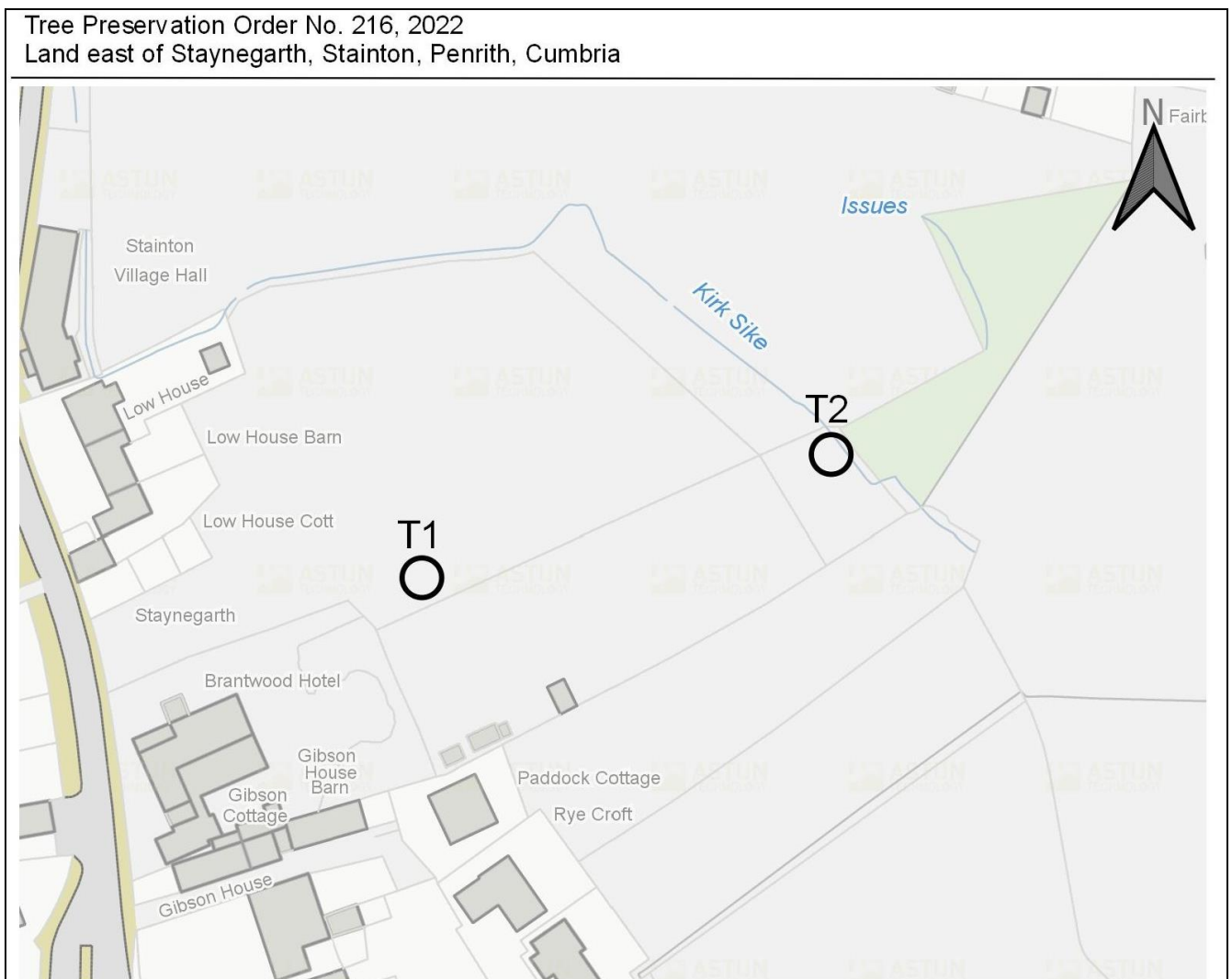
Location: Land East of Stayngarth, Stainton

Applicant: N/A

Agent: N/A

Case Officer: John Hiscox

Reason for Referral: Objection received from notified landowning party, being Atkinson Builders, in respect of T1 (Sycamore).



1. Recommendation

That the Order No TPO216, Land East of Stayngarth, Stainton, is CONFIRMED without modification.

2. Site Description

- 2.1 The Order, which is currently provisional and which was served on 27 July 2022 by letter, and by site notice on 4 August 2022, relates to two mature trees.
- 2.2 T1 is a mature, individual Sycamore located to the south/rear of a new dwelling (and its curtilage) being erected by Atkinson Builders – Plot 30, just inside to the right of the site access. It is a large tree with a domed crown spreading outwards on all sides, and is situated on higher ground than much of the overall site under development. Its base (level) is contiguous with that of a similar Sycamore in the ground of the nearby Brantwood Hotel. It is without doubt the best tree on the site in terms of appearance and potential future contribution to public amenity, especially as its visibility is being increased as a result of the housing development now taking place.
- 2.3 T2 is a triple-stemmed Alder a little over 80m east of T1, next to a copse of trees and a small watercourse called Kirk Sike. It is within the approved site area for outline planning permission 20/0134, which is not part of the Atkinson development.
- 2.4 T2 is undisturbed at this time and is not in an area being developed – it remains as open farmland/paddock.
- 2.5 T1 has been damaged by excavation of soil/ground on the northern side of the trunk to create a lower level garden platform for the new dwelling under construction on Plot 30. Approximately 35% of its roots have been severed by mechanical excavator in a swathe approximately 1.8m above the newly established lower ground level.
- 2.6 The recent excavation was observed by the case officer on 4 August 2022 when attending to put up the TPO site notice. Photographs were taken to enable the condition of the tree and the damage to the roots to be recorded by the case officer on 4 August 2022.
- 2.7 The damaged root area was the subject of a further relocation of soil from elsewhere on the development site by Atkinson on 10 August 2022, to 'bank up' the soil where the roots had been severed. This was done at the request of, and in agreement with the case officer to help protect the exposed roots. At the time of this undertaking, a very dry and hot period of weather was being encountered.
- 2.8 The Sycamore T1 and Alder T2 were the subject of a favourable qualitative assessment by the case officer on 15 June 2022, using the TEMPO evaluation method. Three other trees were evaluated (2 x Hawthorn, 1 x Sycamore) but all three failed to acquire an adequate score under the evaluation system to merit inclusion within the Order.
- 2.9 The Order was made to ensure that any pre-existing trees on the site, which was acknowledged as soon to be developed, we provided with satisfactory long-term protection for the future.

3. Parish/Town Council Response

Parish Council	Please Tick as Appropriate			
	Object	Support	No Objection	No View Expressed
Dacre Parish Council				✓

4. Representations

4.1 Letters representing formal service of the Order were issued to three landowners and the Parish Council. These were served on 2 August 2022.

No of Interested Parties Consulted	4	No of letters of support	0
No of Representations Received	1	No of neutral representations	0
No of objection letters	1		

4.2 The letter of objection, which is submitted on behalf of Atkinson Builders, proposes that the Order should not be confirmed. The reasons for this are stated within the objection:

- (i) due to damage to the rooting area, the structural stability is likely to have been negatively affected. As there is soon to be a dwelling beneath part of the tree, Atkinson feels that it would be imprudent to protect a tree with decreased stability in this scenario.
- (ii) as the tree now has a decreased ability to take up nutrients and water, this will likely result in the tree declining, mostly on the side of the development.
- (iii) Atkinson believes that selling the house beneath the tree will be troublesome; the majority of buyers may have concerns about having the tree adjacent to the property.

4.3 To mitigate for the potential loss of the Sycamore due to the damage caused by Atkinson, a proposal has been tabled to provide a specimen Sycamore on a piece of ground elsewhere in the development.

4.4 The intention of the new tree is to help preserve the overall treescape.

4.5 The supporting text within the objection relating to the proposal to provide the replacement tree advises that the location chosen has been done so as it would allow the tree to become a large, open-grown specimen, to resemble the current tree in question, without any foreseeable issues occurring with the proposed development or neighbouring properties. It goes on to advise that this would be incorporated into the overall landscape plan.

4.6 It makes further reference to (i) planting and establishing the replacement tree in accordance with the relevant British Standard; (ii) providing adequate space to ensure it becomes an open-grown specimen; (iii) applying a new Tree Preservation Order to the replacement tree; (iv) including it in any future provision for landscape planting in the next development phase; and (v) the precise location proposed for the replacement tree.

4.7 The chosen location for the intended replacement tree is shown on an extract from one of the plans used by the developer in relation to a later phase of development. It would

be close to the intersection of pedestrian pathways amid an undeveloped small greenspace area south of Plots 8 and 9, and east of the existing Stainton Institute building.

- 4.8 It has been indicated that other planting previously intended for that specific area may be sacrificed to provide sufficient room for the replacement tree to grow as intended.

5. Relevant Planning History

Application No	Description	Outcome
22/0269	Variation of condition 2 (plans compliance) for design amendments to plots 1, 2, 27, 28, 29, 30 and 31, attached to approval 17/0150.	Approved 5.8.22
19/0254	Variation of condition 3 (carriageway, footways, footpaths and cycleways) and condition 8 (landscaping plan) attached to approval 17/0150.	Approved 4.7.19
17/0150	Reserved Matters application for appearance, landscaping, layout and scale attached to outline approval 14/0528.	Approved 11.10.17
14/0528	Outline planning permission for residential development with 30% affordable.	Approved 7.7.15 (Section 106)

6. Legislative Context

- 6.1 Tree Preservation Orders stem from Section 198 of the Town and Country Planning Act 1990. Paragraph 1 of this Section states:

If it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order”.

- 6.2 Paragraph 1 of the subsequent Section 199 states:

A tree preservation order shall not take effect until it is confirmed by the local planning authority and the local planning authority may confirm any such order either without modification or subject to such modifications as they consider expedient”.

- 6.3 Local Authorities have 6 months from the date of serving of the (provisional) Order, within which to confirm it.
- 6.4 If confirmation is not to be pursued or fulfilled, the provisional Order lapses.
- 6.5 Other Material Considerations:
- (i) The Town and Country Planning (Trees) Regulations 1999 (Part II)

7. Assessment by the Planning Service (Tree Officer)

7.1 Key/Main Planning Issues:

- (i) Amenity value of T1
- (ii) Implications of other planning consents
- (iii) Impact of root severance on condition of T1
- (iv) Adequacy of mitigation (replanting)
- (v) Future safety

7.2 Amenity value of T1

- 7.2.1 T1 is substantial, is situated in its own space (no competition with other trees), evenly spread, in apparent good vigour and now that the adjacent land area is being developed both to the north and the south, it has been revealed for potential appreciation by greater numbers of the public. It is unequivocally the best potential amenity tree within the overall area with planning permission for housing development, scoring 19 points in the TEMPO evaluation. Trees scoring 12 points or above tend to be suitable for protection via a TPO, with trees scoring 16 or more points definitely meriting a TPO.
- 7.2.2 For the sake of comparison, the relatively lesser quality Alder (T2) scored 12 points; and the three trees deemed not to be of sufficient value for protection scored 10 and 11 points.
- 7.2.3 For such a large overall development site, the number of trees protectable by TPO is very low, despite other trees being present. The development footprint has given rise to earlier felling of other trees (mainly Poplar, although some remain); furthermore, it will give rise to the removal of other trees further into the site in due course. These recent and future tree removal events are known and have been endorsed with the benefit of planning permission.
- 7.2.4 With so few good quality trees present, the perceived value of T1 in particular is elevated above the norm. It is a clear candidate for protection, notwithstanding the damage it has now sustained.

7.3 Implications of other planning consents

- 7.3.1 T1 is situated on what could be described as the rear curtilage boundary to Plot 30, as approved under planning history mentioned above.
- 7.3.2 Inclusion of the tree as part of this Plot was known when planning applications were considered previously. However, it was not clear what the intentions were in terms of the ground within its Root Protection Area (RPA).
- 7.3.3 It is considered that the excavation of the ground area under T1 to create a lower level rear garden for Plot 30 is not unlawful with regard to planning permissions granted. However, damage of this part of the root system by severing a substantial section of the roots on the north side was not anticipated by the case officer.
- 7.3.4 Action could not lawfully be taken against the developer at this time with regard to the excavation and associated root severance, in the light of related planning permissions for development.

7.4 Impact of root severance on condition of T1

- 7.4.1 Mature trees can survive damage to their root zones in some circumstances. Inevitably, impacts of damage are not known straight away (i.e. corresponding effects are not immediately evident within the crown) and tree condition must be monitored in following seasons by observing responses of the tree.
- 7.4.2 Mature trees can survive a surprising **amount** of damage, responding well in some situations to severance of around a third of the root area (or even more in some circumstances) – similar to what has happened in this instance with around 35% of the tree's root area having been removed, exclusively on the north side.
- 7.4.3 Factors that may contribute to a tree's ability to survive following root damage such as this include:
- (i) seasonal influences such as level of rainfall and temperature
 - (ii) species of tree (some are more resilient than others when damage occurs)
 - (iii) ground levels
 - (iv) resultant ability of trees to repair themselves
 - (v) ability of tree to continue to absorb adequate water and nutrients via the remaining roots
 - (vi) potential issues relating to future relationships of the tree with other entities e.g. adjacent roads, gardens, houses, paths, parking areas
- 7.4.4 On the 'plus' side further to the root incursion:
- Sycamore tend to be able to recover from damage well having regard to comparable other large types of tree e.g. Beech, conifers, ornamentals;
 - Sycamore generally tend to be able to regenerate and adapt to new circumstances;
 - There is plenty of undisturbed ground on the south side of the trunk, therefore approximately 65% of the root system remains intact.
- 7.4.5 On the 'negative' side:
- The damage was done during a prolonged spell of hot, dry weather, which would potentially increase stresses encountered by the tree and reduce its ability to adapt;
 - Intended future level of the ground on the north side where it forms part of the rear curtilage to Plot 30 is at the lower level established when the excavation took place so it would be challenging for the tree to find new areas of ground for its roots on that side (this potential deficiency may become visible in the corresponding area of the crown);
 - It is acknowledged that planning permission has been granted for the dwelling and curtilage to Plot 30 in such a manner that the co-relationship between the tree and the residence would already have been liable to promote requests for tree works to be undertaken in the future; the damage caused might now give rise to further challenges in terms of maintaining an appropriate relationship.
- 7.4.6 How these impacts relate to the overall balancing of the situation will be covered further in later sections of this report.

7.5 Adequacy of mitigation (replanting)

- 7.5.1 The proposal to provide a single replacement specimen tree by the developer (on the basis that the developer itself has caused significant damage to the Sycamore and wishes to compensate for the potential loss of T1) is **in context** and the principle could be considered; plus the opportunity to make this happen genuinely exists.
- 7.5.2 Arguably, however, landscape planting within the site should already provide a robust network of new trees and hedges and the location chosen for implementation of the single specimen was already targeted for tree planting. This potentially highlights inadequacy of proposed mitigation for what is the single outstanding tree on the whole development site, which is likely to include in excess of 65 dwellings if developed in accord with dwelling numbers known at this time.
- 7.5.3 Improved planting of new vegetation throughout the development would inevitably be welcomed and should not be deterred; however, in the specific context of this being potential mitigation for loss of the Sycamore, it does not represent adequate compensation.

7.6 Future safety

- 7.6.1 It is considered that T1 is not in imminent danger of collapse. It retains around two thirds of its root zone on relatively undisturbed ground mainly south, but also west and north of the trunk. It retains a significant 'anchor' due to the presence of roots that have not been disturbed. The potential for the tree to endure the damage sustained exists.
- 7.6.2 Health and condition of T1 would need to be the subject of cyclical monitoring to ensure it can safely be retained in the longer term. This would require the services of a fully insured, qualified (competent) arboricultural consultant.
- 7.6.3 However, there is no overriding reason why T1 cannot be retained safely if it is adequately monitored and continues to be found to be in retainable/sustainable condition.
- 7.6.4 The loss of the root area on the north side may influence the health and condition of the tree but the impacts of the severance will not be properly known until its response is observed in subsequent active seasons.

8. Implications

8.1 Legal Implications

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

8.2 Equality and Diversity

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

8.3 Environment

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

8.4 Crime and Disorder

- 8.4.1 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.

8.5 Children

8.5.1 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.

8.6 Human Rights

8.6.1 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.

9. Conclusion

9.1 It is considered that despite the damage sustained to T1, it could be safely retained with cyclical monitoring; moreover, every effort to retain it should be made because it is the only tree of genuine high quality and amenity value across the overall housing development sites.

9.2 The mitigation proposed is relevant, but does not adequately reflect the magnitude of the potential loss of T1. Neither does it propose sufficient compensation for the potential loss of T1. In essence, it simply reflects a mildly enhanced version of the approved landscaping scheme in that specific locale, but with fewer trees to be planted overall.

9.3 Not confirming the Order would allow the Sycamore to be felled, and although in the long term new trees would inevitably come to the fore and begin to both characterise the locality and add to its biodiversity value, it is concluded that the Sycamore should be continued to be protected so that it provides an ongoing resource, especially given how long it takes for new landscape planting to establish.

9.4 The balance of the circumstances is in favour of retention of T1 having regard to the aforementioned matters discussed in Section 7 above.

9.5 It is therefore requested that the Committee agrees to the confirmation of the Order, without modification.

Tracking Information

Governance Check	Date Considered
Assistant Director Development	07 October 2022

Background Papers: Planning File TPO 216