

RECONSIDERATION OF PLANNING APPLICATION REF. 4/05/2231/0F1 RE. CHANGE OF USE TO RESIDENTIAL OCCUPATION OF REDUNDANT FARM BUILDINGS TO CREATE TWO DWELLINGS, ROTHERSYKE FARM, EGREMONT.

Lead Officer: Tony Pomfret, Development Services Manager

Purpose of Report: Pursuant to a complaint to the Local Government Ombudsman it has been agreed that the above planning application be reconsidered to take account of objections raised by neighbouring residents at a Members site visit on 21 February 2007 and to be presented verbally at today's meeting.

Recommendation: Members are requested to reconsider this application in the light of this report; the appended documents; the site visit held on 21 February 2007 and verbal and written representations received from the complainant.

Resource Implications: Should not be taken into consideration. The planning application should be reconsidered solely in the context of material planning issues.

1.0 BACKGROUND INFORMATION

1.1 At the last meeting Members resolved to carry out a site visit in association with the reconsideration of the above planning application. This is in response to a complaint by neighbouring residents to the Local Government Ombudsman. Details of the complaint and the Local Government Ombudsman's findings are set out in the attached letters dated 5 January (Appendix 1) and 30 January 2007 (Appendix 2) respectively.

2.0 SUPPORTING INFORMATION

2.1 An application for full planning permission to change the use of redundant farm buildings to create two dwellings at Rotherseyke Farm, Egremont was received by the Council on 31 March 2005 (4/05/2231/0F1 refers).

2.2 The application was advertised by way of a site notice; a notice in the local press (*Whitehaven News*) and individual letters to nearby residents. Regrettably, the complainant, whose property adjoins one of the subject barns, was not sent a letter and failed to see the site and press notices and was therefore unaware of the proposed development which was subsequently granted planning permission, subject to conditions, at the Planning Panel meeting on 25 May 2005. A copy of the Planning Officer's report is attached (Appendix 3).

- 2.3 The complainant's concerns relate specifically to the more southerly of the two barns which is physically linked to his house (Merry Hill House) and, in particular, the impact of existing openings and a proposed new window opening in the east facing elevation of the barn which overlooks the complainant's courtyard. Copies of the complainant's letters dated 12 June and 16 June 2005 are attached (**Appendix 4**).
- 2.4 In the light of the complainant's concerns the applicant, via his agent, was subsequently requested to consider amending his approved scheme to ensure that the windows in the east facing elevation of the barn would be non-opening and glazed with obscure glass. This was agreed to, the attached letters from the applicant's agent dated 8 September and 21 November 2005 refer (**Appendix 5**). The complainant's letters in response dated 10 September and 29 November 2005 respectively are also attached (**Appendix 6**). The amended scheme was approved under delegated authority on 16 December 2005,
- 2.5 Extract drawings showing the relevant east facing elevation as originally approved and as subsequently amended are also attached (**Appendix 7**).

3.0 SUMMARY

- 3.1 The impact of the proposed development on the complainant's residential amenity is a material planning consideration. Given that the complainant was unaware of the planning application and, therefore, not in a position to submit representations I fully support the Ombudsman's proposal that the Planning Panel reconsider the application with the benefit of all relevant information including written and verbal representations from the complainant.
- 3.2 With the benefit of the information contained in and appended to this report together with the site visit and verbal representations from the complainant Members are now requested to decide whether:
- (a) planning permission would still have been granted for the proposals as considered at the Planning Panel meeting on 25 May 2005, or
 - (b) whether permission would only have been granted subject to amendments relating to the east facing elevation of the barn adjacent to the complainant's property, principally in relation to the window openings, or
 - (c) whether planning permission would have been refused.
- 3.3 In the particular circumstances no specific Officer recommendation is made and Members are requested to reconsider the planning application solely in relation to material planning considerations, irrespective of any possible financial implications.

Contact Officer: Tony Pomfret, Development Services Manager

Background Paper: Planning application file 4/05/2231/0F1



The Commission for
Local Administration in England

5 January 2007

FIRST CLASS

Mr S Whittaker
Merry Hill House
Rothersyke
EGREMONT
Cumbria
CA22 2US

Anne Seex
Local Government Ombudsman

Neil Hobbs
Deputy Ombudsman

Our Ref: 06/C/05497/AJR

(Please quote our reference when contacting us and, if using email, please put the reference number in the email subject header)

If telephoning contact: Ms Reynolds' secretary on 01904 380234

If e-mailing: st2york@lgo.org.uk

Dear Mr Whittaker

Complaint against Copeland Borough Council

1. I write further to my letter of 14 December. As you are aware, on considering the information so far available it is my provisional view that there is evidence of fault by the Council. I have put these views to the Council and have its response, a copy of which is enclosed. This letter sets out the reasons for my provisional view and my suggested settlement. I invite your comments on this letter before I reach a final view.
2. ~~You complain that the Council made an unreasonable decision on the planning application for Rothersyke Farm (04/5/2231/0) and in particular that it:-~~
 - a. failed to consult you on the application;
 - b. failed to notice that the plans were incorrect;
 - c. failed properly to take your residential amenity into account when assessing the application; and
 - d. failed to keep you properly informed of progress of an amended application for the development.
3. You say that due to the Council's fault you now have to live in extremely close proximity to residential development which severely affects your property.

/...

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Consideration of the Complaint

4. The Council put a notice in a local paper about the development and erected a site notice. You saw neither at the time. The Council also sent out postal notifications to nearby residents but not to you. As you were the closest neighbour to the proposed development you should have been notified. The Council says that this did not happen because Merry Hill House is not named on the ordnance survey map. However, the actual building is on the ordnance survey and a site visit should have picked up its existence. It is, therefore, my provisional view that the Council is at fault for not sending a notification letter to you.
5. There are two issues with regard to the accuracy of the plans. The first is that the case officer did not notice that the wrong orientation had been used and the east and west elevations incorrectly identified. The second issue is the roof light windows in the barn roof. Some of the plans describe these as pre-existing, when photographs provided by you show they are not. I can see no mention of the roof lights in the report provided to committee. It is, therefore, my provisional view that the Council failed to notice inaccuracies on the plans.
6. There is no evidence from the case file, or the report to Committee, that your residential amenity was considered when deciding the application. The Council says that a site visit may have been undertaken. If a site visit was undertaken I would expect to see notes from this. I would also anticipate that during this site visit Merry Hill House would have been identified.
7. Merry Hill House is attached at right angles to the barn that that is the subject of the application. The effect of the proposal on your residential amenity should have been considered, it was not. Therefore, the Planning Committee was not in possession of all relevant information when it reached a decision on the application. It is my provisional view that this constitutes a serious fault on the part of the Council.
8. You became aware of the application after permission had been granted. You made a complaint. In response to this the Council invited the applicant to submit an amended application. This application was dealt with under delegated authority rather than by the Planning Committee. The applicant was told in December 2005 that the amended application had been approved. However, from the information I have seen you were not told this until May 2006.
9. For the above reasons it is my provisional view that there is fault by the Council.

Proposed Settlement

10. Proposing a suitable settlement for this complaint poses certain difficulties. I am aware that in response to your complaint the Council encouraged the applicant to submit an amended application. This applicant agreed that the windows closest to Merry Hill House will be non opening and obscure glass, which

mitigates some of the concerns you raised. However, what I cannot know is if the Planning Committee would have approved the original or amended application if it had been aware of the proximity of your home and of your objections.

11. In view of the above, I proposed that the Council considered settling your complaint in the following manner.

- That the Planning Committee be asked to reconsider the application with the benefit of all relevant information including your objections. You should also be invited to address the Committee. The Planning Committee can then reach a view on whether it would have approved the application as it is, approved with certain amendments, or disallowed the application.
- Once the Committee has reached a view it will then be possible to come to a full view on an appropriate settlement for you. If the Committee decides it would have disallowed the application, or allowed it with certain conditions or amendments, the District Valuer should then be instructed to come to a view on any diminution of value of Merry Hill House between what is allowed under the existing permission and what would have been allowed if all the relevant information had been available to the Planning Committee.
- The Council should in any event pay you £250 for you time and trouble and the Council's failure to keep you properly informed.

12. The Council has responded to say it accepts the above proposals. I enclose a copy of its letter. I have checked with the Council and it also accepts the payment of £250.

13. As you will note the Council has also agreed to you attending the site visit and addressing the Committee; although objectors addressing the Committee is not normally allowed under its policy. I understand your concerns about how objective this process can be. As you will be able to address the Committee, I hope this helps to allay your concerns.

14. A further point is that the Council wish to initially report the matter in February as a part II matter (i.e. in the non public part of the agenda). However, it will report the matter in the normal way in the March agenda. Given the unusual circumstances, it is my view, and the view of my manager, that this is a reasonable way of dealing with the matter.

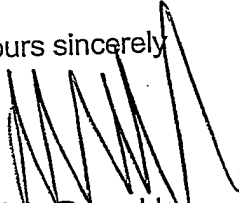
Provisional View

15. For the above reasons it is my provisional view that the above constitutes a fair and reasonable settlement of your complaint and so it should not be pursued further by the Ombudsman.

Next steps

16. This is not my final view on the matter but my view as it stands today. Anything else you send will be considered.
17. If you have information I have not seen that you think could affect this decision, please send it to me within the next two weeks. After two weeks I will consider all the information I hold and either confirm my decision or take further appropriate action. If my decision is confirmed, I will discontinue my investigation and notify the Authority's Chief Executive as required by the Local Government Act 1974. I will also send him a copy of this letter.
18. If you would like more time, please let me know as we normally assume that you have no comments if you have not written or contacted us within two weeks. However, as the Council intends to begin this process on 7 February it would be useful to have your comments as soon as possible.
19. If you want any papers you sent returned to you, please let us know as soon as possible. Our policy is normally to destroy original paper files six months after we have decided the complaint.

Yours sincerely



Adele Reynolds
Senior Investigator

Encl: copy of Council's letter



The Commission for
Local Administration in England

30 January 2007

Mr S Whittaker
Merry Hill House
Rothersyke
EGREMONT
Cumbria
CA22 2US

Anne Seex
Local Government Ombudsman

Neil Hobbs
Deputy Ombudsman

Our Ref: 06/C/05497/AJR
(Please quote our reference when contacting us)

If telephoning contact: Ms Reynolds' secretary on 01904 380234
If e-mailing: st2york@lgo.org.uk

Dear Mr Whittaker

Complaint against Copeland Borough Council

I have been considering the information collected during my investigation of your complaint against Copeland Borough Council.

I sent you my provisional findings on 5 January and asked you for any comments or views you had, so that I could take them into account when making my final decision. You were kind enough to respond in a letter dated 10 January and I thank you for your time and trouble.

In your letter you ask for some clarification which I will provide.

You say that although I have mentioned certain inaccuracies in the plans provided to the Council, I have not mentioned that the plans show your garden as a field. When the Council reconsiders the application you can draw this to its attention so that it can be properly considered.

You ask when the complaint will be closed. I have now closed the complaint. The Council should go ahead with the agreed settlement. If this does not happen you must let us know and we will take this up with the Council.

You brought to my attention that the wording of the settlement could be more specific. Although it was implicit in my suggestion that if the matter needed to be referred to the District Valuer and he or she considered you had suffered a loss, the Council should reimburse you this, I agree that this could have been clearer in my letter. I told you I would write to the Council to ensure that its understanding was the same as mine. I have done so and have its response. I enclose a copy for you.

/...

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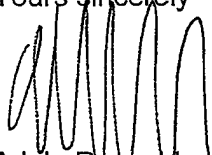
Page 2
Mr S Whittaker

The Council has now confirmed with you that both you and Mrs Whittaker are welcome at the site visit and at the Panel meeting on 7 March.

In view of the above, I consider that I have no grounds on which to change my provisional finding that the local settlement agreed with the Council provides a fair and reasonable outcome for your complaint. The Ombudsman will not, therefore, be conducting any further investigations.

The Local Government Act 1974 requires the Ombudsman to inform the Council of the decision on your complaint and so I am sending a copy of this letter and my letter of 5 January to the Council's Chief Executive.

Yours sincerely

A handwritten signature in black ink, consisting of several vertical, wavy lines that resemble the letters 'A', 'R', 'E', 'Y', 'N', 'O', 'L', 'D', 'S'.

Adele Reynolds
Senior Investigator

Encl: Copy of Council's letter dated 29 January

MAIN AGENDA

In the interests of highway safety.

Reason for decision:-

An appropriate mixed use conversion scheme for the reuse of this vacant building within the Millom Town Conservation Area compliant with Policies HSG 15 and TCN 5 of the Copeland Local Plan 2001-2016 2nd Deposit Version.

APPROVED AS ABOVE

10/4/05/2231/0

CHANGE OF USE TO RESIDENTIAL OCCUPATION OF
 REDUNDANT FARM BUILDINGS TO CREATE TWO DWELLINGS
 ROTHERSYKE FARM, EGREMONT, CUMBRIA.
 MR T DIXON

Parish Lowside Quarter - *No objections*

- ~~No comments received.~~

This application seeks consent to convert two redundant agricultural buildings into two dwellings. A statement in support of the application is annexed to this report which explains that the traditional farm buildings and house at RotherSyke Farm have become surplus to requirements due to a farm amalgamation. An accompanying structural engineer's report confirms that the buildings are structurally capable of conversion.

One barn immediately adjoins the existing farmhouse. It is proposed to convert this building to create a four bedroomed dwelling over three levels. Externally, the building has traditional sandstone elevations and a local slate roof. The front elevation contains a large loading door with a bridge access ramp.

It is proposed to create four new window openings in the front elevation. These reflect the character of the barn and the proposed windows will be of dark stained timber construction. External doors are vertically boarded.

The proposed south (gable) elevation will incorporate three windows. One window will have a ledge and brace door to give the effect of a hay loft. The proposed north (gable) elevation incorporates two new window openings. It is proposed that each window and door will have a sandstone surround.

The second barn is currently attached to a disused modern agricultural

building. It is proposed to remove this modern building to expose a sandstone elevation. The building has been modified in the past to allow for modern agricultural use. This includes an asbestos sheeting roof and a smooth rendered elevation facing the farmyard.

It is proposed to replace the roof with a local slate covering. The sandstone elevation will be altered to provide a window and door opening together with a large arched window opening. The proposed farm yard elevation will include four new window openings. Due to restricted height on the first floor of the dwelling it is proposed to include two "cottage style" dormer windows. Whilst dormer windows are not normally appropriate on barn conversions the design and location of the windows are not considered to compromise the scheme.

Two detached garages are proposed adjacent to the second barn. The proposed garages have sandstone elevations except the hidden elevations adjacent to the barn which will be wet dash rendered. It is proposed to cover the roofs with local slate.

The proposal is considered to be an acceptable scheme to convert these rural buildings to residential use.

Recommendation

Approve

2. Permission in respect of site layout shall relate solely to the amended drawing No. roth/pl/07 B received by the Local Planning Authority on 13 May 2005.
3. Permission in respect of the design of the dwellings shall relate solely to the amended drawing Nos. roth/pl/04 A, roth/pl/05 A and roth/pl/06 A received by the Local Planning Authority on 10 May 2005.
4. Before development is commenced a scheme to provide owl nesting boxes and bat roosts shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed and made operational before any dwelling is occupied and shall be retained thereafter.
5. A representative sample of the proposed local roofing slate shall be submitted to and approved in writing by the Local Planning Authority. All the dwellings and garages shall be roofed using the approved slate.
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), the dwellings and garages shall not be extended or externally altered other than as expressly authorised by this permission.

COPELAND BOROUGH COUNCIL

31 MAR 2005

RECEIVED

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Planning Appraisal in support of Planning Application for change of use to residential occupation of redundant farm buildings at Rothersyke Farm, Egremont, Cumbria, CA22 2US

Our Client: Messrs Dixon

Background:

Rothersyke Farm has been in the same family ownership and worked as an active agricultural dairy and livestock rearing unit for the last 35 years, since 1970, and has been handed down, within the family, from father to son.

Mr T Dixon retired from active farming in 1998, and is now domiciled in Aspatria, north of Cockermouth. Mr D Dixon now manages the agricultural unit.

Rothersyke Farm is a dairy farm and livestock rearing unit of 125 acres, with old traditional Cumbrian sand stone buildings, which in today's modern agricultural economic environment are unviable economically, structurally and in size, due to the advancement in technology of agricultural equipment and modern farming techniques.

Mr D Dixon, since the beginning of 2004, has been forced by economic circumstances to take the additional Agricultural Tenancy of Pickett How Farm, Egremont, a neighbouring agricultural unit of 315 acres, in order to continue farming in a solvent manner. Pickett How provides more modern and larger agricultural buildings, and economies of scale now provide a more profitable agricultural business.

Under the Agricultural Tenancy agreement Mr D Dixon now has a new agricultural base with offices, and also has to reside at Pickett How. Mr Dixon has been divorced since 1988, is single without a partner, and has therefore no need of two substantial residences within $\frac{3}{4}$ of a mile of each other.

Mr D Dixon now does not want to retain or need an interest in Rothersyke's farmstead, and it is his intention, due to the economic circumstances of having continued farming a small un-economic agricultural unit for several years, to sell the farm house and two old redundant agricultural sand stone buildings at Rothersyke Farm, but to retain the land and other associated

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dairy unit buildings, and invest the money back into the now larger and more profitable, but under funded, farming activity.

Consultation:

Pre-planning consultation was requested with Mrs Rebecca Wilson, Area Planning Officer for Copeland Borough Council, and an on site meeting was arranged for the 6th October 2004, with Messrs Dixon and the writer of this report.

Various suggestions and proposals were discussed with Mrs Wilson, during the detailed site inspection, and Mrs Wilson further responded with written advise on the 12th October (see Appendix), and enclosed a copy of Policy HSG 29 of the adopted Copeland Local Plan 2001.

Further to this written correspondence and additional telephone consultation, Structural Inspection Reports by White Young Green Consulting Limited were commissioned, and accompany the Planning Application, confirming that the redundant agricultural sandstone barns are structurally in a good condition and could be retained in residential conversion.

A second pre-planning consultation with Mrs Rebecca Wilson took place on Tuesday 8th March.

The Proposal:

The Planning Application proposal is for the remainder of the existing partially residential converted attached barn adjacent Rothersyke Farmhouse, to form a new residential dwelling, and for the vacant former piggery block associated with the application for use as garaging or stabling, and for the former detached sandstone barn to form a new residential property.

The attached barn adjacent Rothersyke Farmhouse has already been partly developed, in that the existing dwelling has been extended into the barn on two floors. The current residential accommodation, which is fully modernised and includes double glazed window units and oil fired central heating, is as follows:

Ground Floor

The existing external door leads into the rear Hallway, leading to a large area currently utilised as an Utility Room/ 2nd Kitchen, with office/ study room off, and a further Shower Room off.

Second Floor

Two Double Bedrooms

The attached barn is of a traditional Cumbrian sandstone construction, with full sandstone elevations, under a twin pitched slate roof. The proposal makes full use of the internal dimensions and of the existing external openings and access points, yet retains the traditional appearance and character of the building and its surroundings.

The detached barn, currently has an old steel and concrete framed agricultural shed, with elevations and roof clad with corrugated sheeting materials which are past their useful economic age, located adjacent the front elevation. This agricultural shed is to be demolished. This in turn will expose the attractive feature sandstone wall frontage of the barn to the road, and the proposal will further include the replacement of the

asbestos sheeted roofing material, with slate to correspond with the existing roof on Rothersyke Farmhouse and attached barn, making for a much more attractive property.

Other Uses:

Other uses have been considered for the redundant sandstone barns.

B1 Use Classes Order for commercial, light industrial and holiday home uses have been investigated, and in turn rejected.

Rothersyke, located 1 mile within the proximity of Egremont, is not the natural choice as an economic centre for light commercial uses.

Egremont currently has a plentiful supply of industrial, commercial and retail accommodation, and with far superior logistical transport and employment facilities. As does Whitehaven and Cleator Moor.

Mitchells Estate Agency office has currently on its books For Sale, two former industrial properties in rural locations. One has been on the market for almost 18 months, and the other for approximately 6 months with no interest as economic commercial or industrial use. Commercial properties in larger urban conurbations, such as Egremont, Cleator Moor and Whitehaven, have a successful record for levels of interest and commercial viability.

It was also considered that the re-instatement of the redundant stone buildings, in order to facilitate modern commercial use, was beyond economic viability.

Tourism and Holiday Home use has also been considered. However, with the close proximity of the adjacent caravan park, and St Bees, it was felt that this sector in the locality was sufficiently serviced. Not with standing that the Owner, Mr Dixon is a single dairy and livestock farmer, who does not have the time, finances, understanding or wish to develop Holiday Homes.

Conclusion:

The Planning Application for the proposed re-development of the redundant traditional Cumbrian sandstone barns at Rothersyke has taken into account the above mentioned factors and further considerations.

The proposed future sale of Rothersyke Farm steading as residential properties, and the re-investment of the sale proceeds into the farm business will enable the farm to continue to operate profitably, and secure the financial future of those employed.

The two additional barn conversions have the benefit of their existing individual accesses from the public highway, and domestic utilities already facilitate the site.

The dwellings will form part of a development that would provide three residential dwellings, including Rothersyke Farmhouse, of high quality individual accommodation around an existing courtyard, in the proximity of the other dwelling houses surrounding Rothersyke.

CC
The alternative is that the redundant Cumbrian sandstone buildings would simply deteriorate, as there is no other practical use for them, and will have a future of dereliction, if the potential is not fully utilised for residential re-development.

MAIN AGENDA

- 7. The whole of the access area bounded by the carriageway edge, entrance gates and the splays shall be constructed and drained to the specification of the Local Planning Authority in consultation with the Highway Authority.
- 7. Details of all measures to be taken by the applicant to prevent surface water discharging onto or off the highway shall be submitted to the Local Planning Authority for approval prior to development being commenced. Any approved works shall be implemented prior to the development being completed and shall be maintained operational thereafter.

The reasons for the above conditions are:-

For the avoidance of doubt.

To protect and conserve existing wildlife present on site.

To safeguard the amenities of the locality.

To retain control over the external appearance of the buildings in the interests of amenity.

Reason for decision:-

An acceptable scheme to convert redundant rural buildings to residential use compliant with Policy HSG 17 of the Copeland Local Plan 2001-2016 2nd Deposit Version.

APPROVED AS ABOVE

11 4/05/2237/0

EXTENSION TO FORM THREE DWELLINGS
ROSENEATH, LOW MORESBY, WHITEHAVEN, CUMBRIA.

Parish . Moresby

- No comments received.

Planning permission is sought to extend Roseneath House at Low Moresby to form three new dwellings.

Roseneath, which has been subdivided into eight flats, is set in its own grounds and is accessed to an unadopted and unsurfaced single track access road which also serves approximately 30 more dwellings. It is proposed to build a block of 3 dwellings at right angles from

Merry Hill House
Rothersyke
Egremont
Cumbria
CA22 2US

Mr T Pomfret
Principal Planning Officer
Copeland Borough Council
The Copeland Centre
Catherine Street
Whitehaven
CA28 7SJ

12 June 2005

Dear Mr Pomfret

Planning Application for Rothersyke Farm, Rothersyke, Egremont

I have just been informed by my neighbour, Mr. David Dixon of Rothersyke Farm, that he has applied for, and obtained, planning permission for the development of three properties at Rothersyke farm on land adjoining my property. I understood that the Council informed property owners in writing when planning applications were submitted that may impact on their property so that they could consider whether they wished to lodge an objection to the proposal. The Council has not informed me of this planning application although it has informed other property owners in the area. Of all the properties in the local area I will be the one most affected by the development and am most disappointed in the failure of the Council to inform me of the planning application.

Mr. Dixon has outlined his proposals to me and I have a number of concerns regarding the proposed development and wish to review the detailed planning proposals submitted to consider whether I have any objection to the proposals. My concerns are:

1. I share services, Septic Tank and TV Aerial, with the existing dwelling at Rothersyke Farm. The costs of servicing and maintaining these services are shared equally by the owners of the two properties, which is a condition of the deeds to the properties. I understand the proposal includes dividing the farm dwelling in two and extending one side into the adjacent barn which is to be converted for residential use. Which of these properties will retain use of the septic tank? What action is being taken to ensure the requirement to contribute equally to the costs of maintaining and servicing the septic tank is included in the deeds of the relevant property?
2. It is a condition of my Deeds that I retain the use of the septic tank and the drains connecting my property to the septic tank. I also have right of access for servicing and maintaining the tank and associated drains. This tank and the drains are located on the land being developed. What action is being taken to ensure these rights are included in the Deeds for the property on which the tank and drains will be located?

3. What are the drainage arrangements for the development? The existing septic tank is appropriate for use by two properties. The proposed development will add a further two dwellings in the area. These will need to make separate arrangements.
4. It is a condition of my Deeds that I retain the use of the TV Aerial. I also have right of access for servicing and maintaining the TV aerial and associated cabling. It is also a condition of my Deeds that the costs of servicing and maintaining the aerial and any insurance of it are shared equally between the users. What are the plans for the TV Aerial? If it is to be used to service all the new properties is sufficiently powerful to do so? I do not want to suffer any degradation in TV reception as a consequence of the development. What action is being taken to ensure these requirements are included in the Deeds for the properties which will be connected to the TV aerial?
5. What are the arrangements to allow me, or a solicitor acting for me, to confirm that appropriate easements/covenants have been included in the deed for the new properties? Who pays for this? My deeds will need to be amended to be consistent with those of the new properties. Who pays for this? I consider this should not be me as I should not have to bear costs imposed by the actions of others.
6. The back wall of the barn to be converted forms the boundary between my property and Rothersyke Farm. Is it proposed to put any windows in this back wall as part of the conversion? I would object to any such window as it would directly overlook my property. I note there is an existing window in the back wall of the barn. This is acceptable as the barn is a normally unoccupied building. Please confirm this will be bricked up as part of the conversion.
7. The back wall of the barn is currently constructed of red sandstone. Is there any proposal to render or paint this wall as part of the conversion? Any such treatments would have a strong visual impact from my property and I would object to anything unsuitable being used.
8. At the end of the barn to be converted there is a sectional concrete single garage, sited parallel to the end of the barn. This is on a level with the land on my property. From the end of the barn to the rear boundary the ground level on the farm side is approximately 1 metre lower than it is on my land. The ground level on my side is supported by a retaining wall which also supports the ground on which the garage is sited. The retaining wall follows the outline of the garage and then runs parallel to boundary between the two properties but approximately 2.4 metres inside the boundary on the farm side. I understand as part of the barn conversion the garage will be demolished. Is the ground also to be lowered? The retaining wall will need to be maintained to ensure there is no subsidence of land on my side of the boundary and in a location and form sufficient to allow the erection of a fence along the boundary at the ground level on my side of the boundary.
9. How are the services, water, electricity, telephone, etc, to be connected to the new properties? I do not want such services to be fed, underground or

* looks as if front + garden are obscured.

clarity

Send for plans.

overground, across my property. Such services need to be routed sympathetically to avoid adverse visual impact.

10. I understand that for the plot adjacent to the road that an existing corrugated sheet building will be demolished and a second outbuilding is to be converted to a dwelling. I also understand a garage is to be erected on the plot. This plot adjoins my front garden and I am concerned about the visual impact the conversion of the outbuilding will have. Is there any proposal to extend the building or increase its height? Where is the garage to be sited and how big will it be? The existing buildings are currently over 8 metres from my boundary. I would be concerned if there is any proposal to site buildings any closer than this as the plot is extensive and allows for development away from my property. Will any restrictions be placed on future development of this plot, e.g. erection of further garages, extension to the dwelling?

Given the number of concerns I have and the failure of the Council to inform me of the Planning Application I ask that the Planning permission be suspended until I have received satisfactory responses in writing to the above concerns and have had an opportunity to review the plans for the development. I will then be in a position to determine whether or not I wish to lodge a formal objection to the proposals.

I would welcome a telephone call from you to discuss this matter further. I can be contacted at work on 019467 76154 between 0810 and 1620, at home, 01946 824191 after 1645 or on my mobile 07759193316.

Yours sincerely

S J Whittaker

Merry Hill House
Rothersyke
Egremont
Cumbria
CA22 2US

Mr T Pomfret
Principal Planning Officer
Copeland Borough Council
The Copeland Centre
Catherine Street
Whitehaven
CA28 7SJ

16 June 2005

Dear Mr Pomfret

Planning Application for Rothersyke Farm, Rothersyke, Egremont

Following my letter of 12 June 2005 I have spoken with Mr Sandelands who informed me that once Planning permission has been granted it cannot be revoked and I have no opportunity to lodge an objection. I wish to register the strongest complaint that the Council has failed in its duty to inform me of the planning application, thus depriving me of a chance to lodge any objection to the proposed development. I now have to live with the consequences of these failings.

The reason I have been given that I was not informed is that my property was not identified on the information systems used by the Council to identify adjoining properties when planning applications are submitted. This suggests the Council is failing in its duty of care to maintain accurate records and information systems since my property has been separate from Rothersyke farm for 14 years. Indeed the Planning Department even granted planning permission for a garage on my property as recently as May 2001. Additionally, I am informed that there were three separate visits by Planning Officers to the site which would have clearly identified the location of my property. On at least one of these visits the Planning officer came on to my property to view the impact of the proposed development. It would have been a relatively simple matter for the officer to confirm that I had been informed of the application. Clearly this was not done. All of this indicates a poor approach by the Planning Department to ensuring they discharge their obligation to fully inform affected parties.

Please will you inform me, in writing, of the actions you are taking to prevent any recurrence of this failure, particularly with respect to updating your records and ensuring the information systems you use are accurate.

Mr Sandelands has provided me with copies of the drawings showing the existing layout of Rothersyke Farm and the proposed development. This package was incomplete as it did not include the proposed development of the farmhouse. There are a number of errors in the drawings particularly with respect to the boundaries of my property and the omission of my

garage from the plans. Whilst these do not materially affect the proposed development they would have been immediately obvious from a site visit and I would have expected the errors to be corrected. I find it poor that planning permission could be granted based on plans that are incorrect. The plans, as supplied, include two different arrangements for the new garage for the proposed cottage. Both arrangements are stamped as approved. Clearly only one of these is right. Please confirm in writing which version is correct. The drawing for the proposed development of the barn does not state what the wall finish of the rear wall will be. Mr Sandelands has stated this will remain sandstone. Please can you confirm in writing this is the case.

I understood that the Rules stated that windows in dwellings could not directly overlook adjoining property and walls with windows had to be at least 1 metre from the boundary between adjoining properties. This appears to have been enforced by the positioning of the boundary between the rear of the proposed cottage and the farmhouse. However it has not been enforced in the proposed development of the barn. The rear wall of the barn forms the boundary between Rothersyke Farm and my property. The proposed development proposes a window in this wall which will overlook my property. Whilst the existing barn has a window in it the building is unoccupied. The location of the proposed window is different to the present location of the window. When the barn is converted it will be an occupied dwelling and I object to having a window overlooking my property. Please will you explain why planning permission has been granted even though this apparently contravenes the Regulations.

I have not yet received a written response to my letter of 12 June 2005, although this was requested in the letter. Please will you ensure that a written response is provided.

Please inform me in writing if there are any other avenues I can follow to challenge the planning permission and have the window removed from the proposed barn development.

Yours sincerely

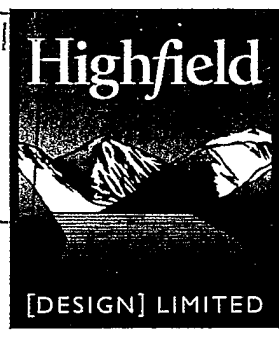
S J Whittaker

Vat Registered No. 809 4683 02

05 / 2 2 3 1 / OF 1 --

40 High Brigham
Cockermouth
Cumbria
CA13 0TE

COPELAND BOROUGH COUNCIL
- 8 SEP 2005
RECEIVED



Tel: 01900 821347 Mob: 07795 425534
E Mail: highfield.cumbria@tiscali.co.uk

AMENDED PLAN

FAO Mr T. Pomfret
Planning Department
Copeland Borough Council
Catherine Street
Whitehaven
Cumbria

Dear Sir

Ref: Rothersyke Farm -- Development Scheme

Following our recent telephone conversations, please find enclosed revised drawings for the barn conversion at the above property.

My client is in agreement that the following alterations have been made to the drawings:-

1. The existing window to the utility room of the existing farmhouse to the west elevation shall remain as part of the proposals. This shall become a window to the kitchen of the barn conversion.
2. The existing window openings at low level to the barn west elevation have also been added to both the existing and proposed drawings.
3. ALL wall windows to the West Elevation of the barn are to glazed with Obscure Glass.

Please contact me should you require any further information.

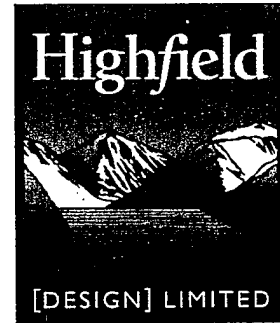
Yours faithfully

Andrew McNeil
Director

40 High Brigham
Cockermouth
Cumbria
CA13 0TE

Tel: 01900 821347 Mob: 07795 425534
E Mail: highfield.cumbria@tiscali.co.uk

21 November 2005



FAO Mr T. Pomfret
Planning Department
Copeland Borough Council
Catherine Street
Whitehaven
Cumbria

Dear Sir

Ref: Rothersyke Farm – Development Scheme

Following receipt of your letter ref: TP/PP/4/05/2281/0F1 and our recent telephone conversation, I confirm the following points which have been discussed with, and agreed by, my client.

1. Correction: It is the East elevation of the barn that is being discussed and not the west.
2. The existing low level windows are not sealed but have been boarded up. My client has agreed that these windows, which are intended to be used simply to allow an element of light into the lower ground floor storage rooms, will be glazed with obscure glass and will be non opening.
3. Confirmation: Existing utility room window (east elevation) will remain and will be fixed (non-opening) and glazed with obscure glass.
4. Confirmation: All windows in the east elevation of the barn will be glazed with obscured glass. This is limited to windows relating to the current planning approval. My client is not in a position to make any statements with respect to the possible future development of the barn – I assume any such development would become the subject of a future application in any case.

I hope this will bring the matter to a suitable conclusion. However, should you have any further queries, please do not hesitate to contact me.

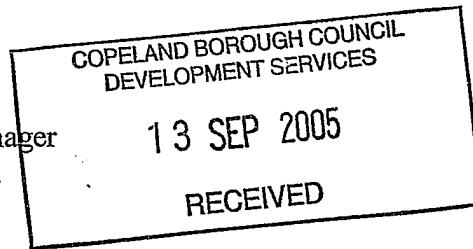
Yours faithfully

A handwritten signature in black ink, appearing to read "Andrew McNeil".

Andrew McNeil
Director

Merry Hill House
 Rothersyke
 Egremont
 Cumbria
 CA22 2US

Mr T Pomfret
 Development Services Manager
 Copeland Borough Council
 The Copeland Centre
 Catherine Street
 Whitehaven
 CA28 7SJ



10 September 2005

Dear Mr Pomfret

Planning Application for Rothersyke Farm, Rothersyke, Egremont

Thank you for your letter of 8 September, your reference TP/PP/4/05/2231/0F1, regarding the proposed amendments to the planning proposal for Rothersyke farm. I have reviewed the amendments put forward in the applicant's agents' letter and have the following comments against the items raised in that letter. The numbering follows that of the agents' letter.

1. I have no objection to the existing window of the utility room of the existing farmhouse being retained as a window for the kitchen in the barn conversion so long as this is retained in its current form as a fixed, i.e. un-opening, window glazed with obscure glass.
3. I have no objection to, and positively endorse, all windows in the West Elevation being glazed with obscure glass. I would ask that this applies not only to the initial conversion but is extended to include any future replacement windows.
3. I strongly object to the existing low level windows being included in the proposed barn conversion. There are two reasons for this. First, there is a Covenant in my Deeds which prevents me doing anything which will in any way diminish, reduce or interfere with light and air enjoyed by the buildings of Rothersyke Farm and in particular any windows in those buildings either existing or to be opened up. The Covenant is appended for your information. These existing low level window openings are currently sealed and are situated either behind established shrubs or in an area I use for vehicle parking. If they were to be opened up, under the covenant I may be forced to remove established shrubs and park my cars elsewhere. This would not be easy as the arrangement of my Courtyard does not allow vehicles to be parked elsewhere without restricting access. Thus inclusion of these windows restricts the free use of my own land with consequent loss of amenity.

The second reason is that were these windows to open outwards they would open over my land presenting a trip hazard. These windows would need to be either non-

**Fourth Schedule of the Deeds of Merry Hill House, Rothersyke, Egremont
Covenants by the Purchasers item(iv)**

Item (iv) of the fourth Schedule places a requirement on the owner of Merry Hill House as follows:

- (iv) Not to do anything on the Property which will in any way diminish reduce or interfere with light and air enjoyed:
 - a. By the buildings currently on the Retained Land
 - b. Any building to be erected on the Retained Land along the boundary marked B-C-D on the said plan number 1 within 80 years of the date hereof.
 - c. Any windows in the buildings on the Retained Land or any windows to be opened up within eighty years of the date hereof.

Notes

‘Retained Land’ are the buildings and land currently known as Rothersyke farm.

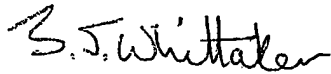
‘boundary B-C-D’ is the boundary between Merry Hill House and Rothersyke Farm running from a point on the boundary directly in front of the North elevation of the existing farmhouse along the west elevation of the barn to the rear (south) boundary of the property.

opening or open inwards. I therefore support the current Approved proposal which indicates these openings will be permanently bricked up.

The only way I could agree to the inclusion of these low level windows is if the applicant and successors in title to the proposed Barn Conversion and existing farmhouse agreed to the withdrawal of the attached Covenant regarding light and air from my Deeds. The restrictions on opening of the windows would also need to apply.

Please confirm that, for item 3, the use of obscure glass applies to both the original conversion and any future replacement glass.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. J. Whittaker'. The signature is written in a cursive, slightly slanted style.

S J Whittaker

Merry Hill House
Rothersyke
Egremont
Cumbria
CA22 2US

Mr T Pomfret
Development Services Manager
Copeland Borough Council
The Copeland Centre
Catherine Street
Whitehaven
CA28 7SJ

29 November 2005

Dear Mr Pomfret

Planning Application for Rothersyke Farm, Rothersyke, Egremont

Thank you for your letter of 24 November, your reference TP/SC/4/05/2231/0F1, appending the responses from the applicant's agent to my comments on the proposed amendments to the planning proposal for Rothersyke farm. I have reviewed the responses provided and have the following further comments:

1. I note the correction that it is the east elevation of the barn that is being discussed. I would point out that all the drawings provided, both for the original approved application and the proposed amendments, identify the elevation of concern as the west elevation. Please provide correct drawings so that there is no misunderstanding as to which elevation is being discussed.
2. I welcome the confirmation that all windows in the east elevation of the barn will be glazed with obscure glass. I further welcome the confirmation that the existing utility room window and the proposed low level windows will be non-opening.
3. I would point out that my courtyard is gravelled. It is the responsibility of the applicant to suitably protect any low level windows from damage. The courtyard is used by both private and delivery vehicles. I will not accept any responsibility for damage to these windows.
4. I must point out that the responses do not address my key concerns regarding the inclusion of the low level windows or the future replacement of any of the windows in the east elevation of the barn. I therefore continue to strongly object to the low level windows being included in the proposed barn conversion. As stated in my previous letter there are two reasons for this. First, there is a Covenant in my Deeds which prevents me doing anything which will in any way diminish, reduce or interfere with light and air enjoyed by the buildings of Rothersyke Farm and in particular any windows in those buildings either existing or to be opened up. The Covenant was appended to my previous letter of 10 September 2005. These existing low level window openings are currently boarded up and are situated either behind established shrubs or in an area I use for vehicle parking. They were not included in the original

planning application that has been approved. If they were to be opened up, under the covenant I may be forced to remove established shrubs and park my cars elsewhere. This would not be easy as the arrangement of my courtyard does not allow vehicles to be parked elsewhere without restricting access. The courtyard provides access to the main entrance to my house and is a turning area for visitors and delivery vehicles. Thus inclusion of these windows would restrict the free use of my own land with consequent loss of amenity.

Secondly, there is no guarantee that if any of the windows in the east elevation of the barn were to be replaced in the future they would be replaced on a like for like basis. As these windows are situated directly on my property boundary, and some have views into my conservatory and living room, in order to protect my privacy and prevent obstructions from open windows a restriction is required to ensure that any replacement windows would be glazed with obscure glass and either non-opening or open inwards.

I therefore support the current Approved Application which shows these low level openings will be permanently bricked up.


The only way I could agree to the inclusion of the additional windows, including the existing utility room window, is if:

- i. The applicant and successors in title to the proposed Barn Conversion and existing farmhouse agreed to the removal of the Covenant regarding light and air from my Deeds (Item (iv) of the Fourth Schedule of my Deeds.)
- ii. A Restriction was attached to the Amendment which required any replacement windows to be glazed with obscure glass and either non-opening or open inwards. (I note from our telephone conversation on the 29 November that the Council Planning Committee could readily make such a restriction a Condition of approval of the proposed amendment.)

Until such time as I receive satisfactory responses to items (i) and (ii) above I strongly object to the amendment to include any additional windows, including the existing utility room window, in the east elevation of the barn.

I support the currently approved application with an amendment to glaze windows in the east elevation of the barn conversion with obscure glass, the amendment to include a restriction to ensure any replacement windows in the east elevation are also glazed with obscure glass and either non-opening or open inwards in line with item (ii) above.

Yours sincerely



S J Whittaker

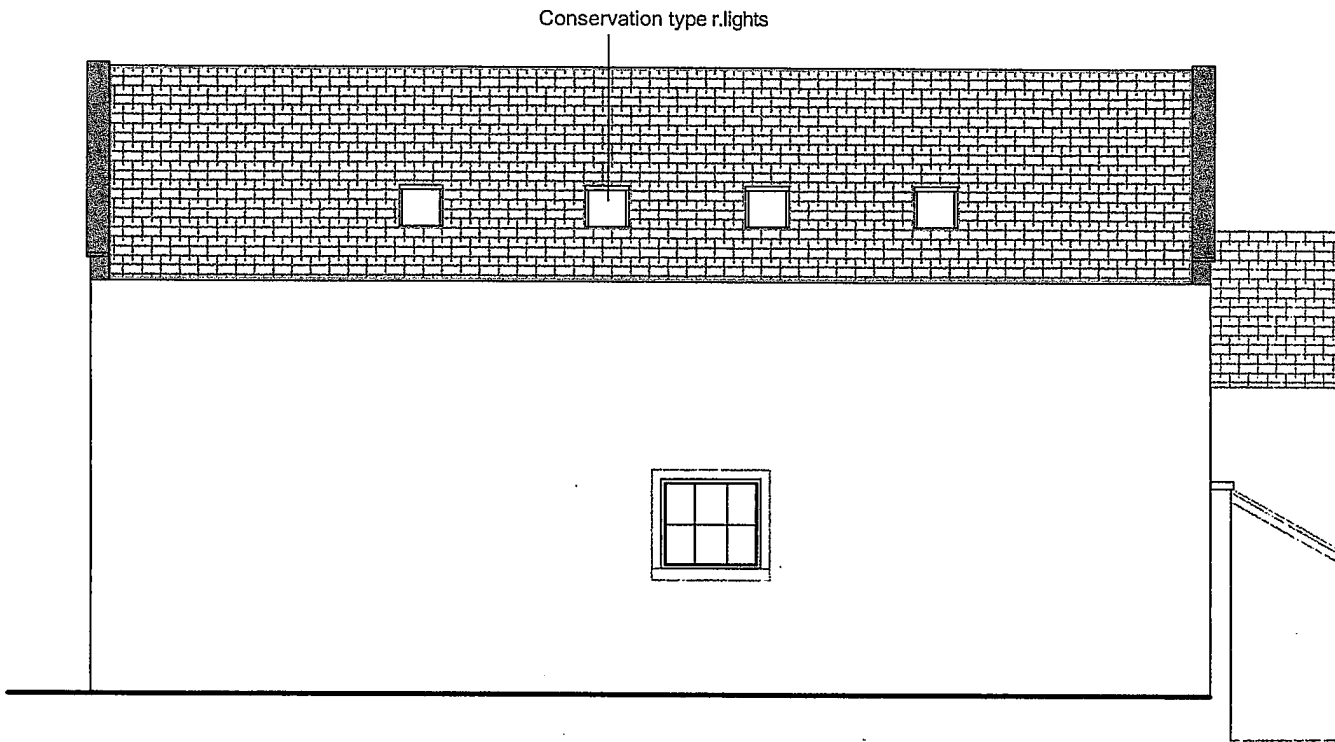
Extract from Drawing No.

10th/pl/05A received

10.05.05

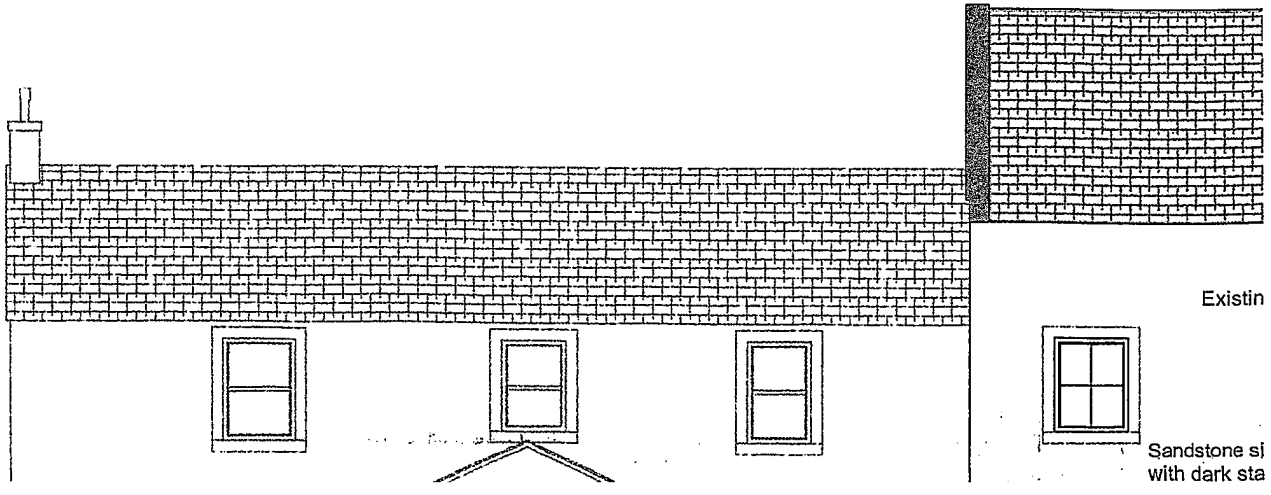
Approved 25.05.05.

Scale 1:100



West Elevation - As Proposed

EAST



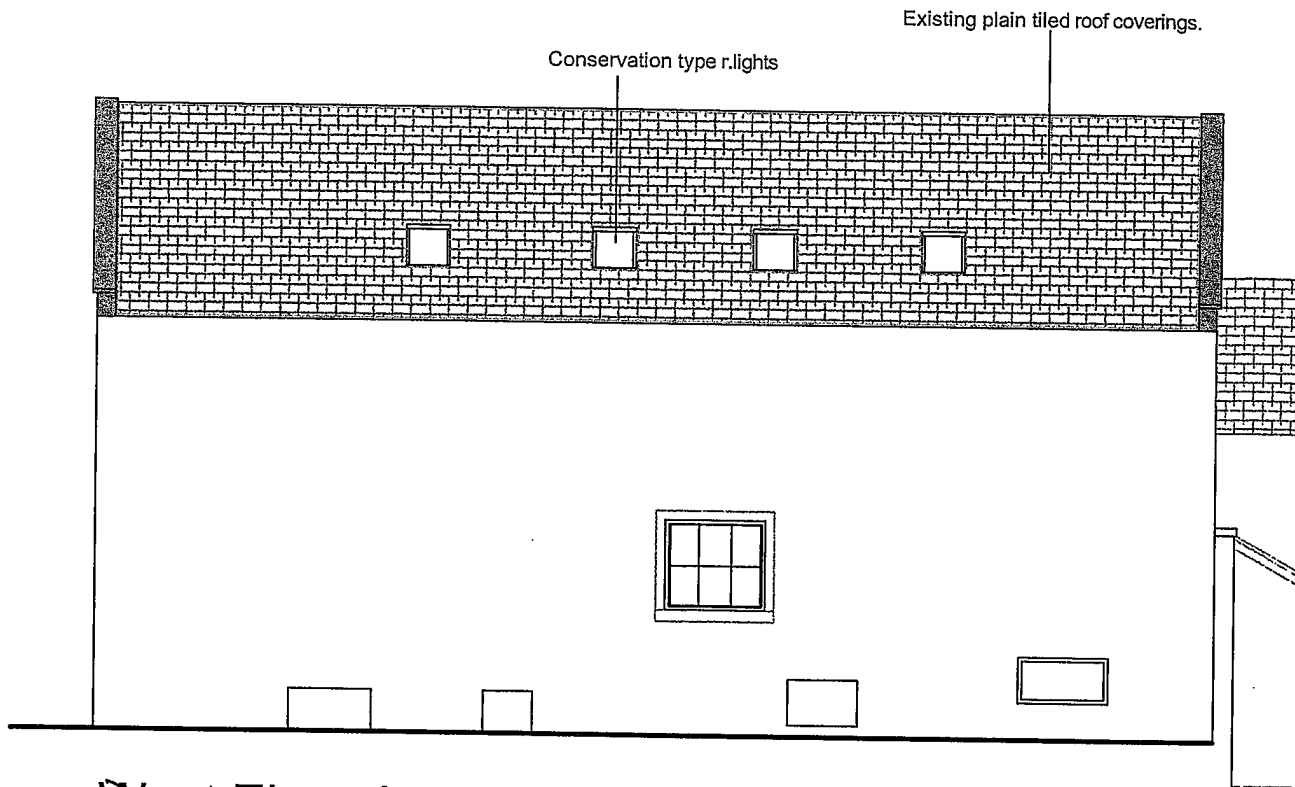
Extract from Drawing No

5077 / p1 / 05 c received

08.09.05.

Approved 16.12.05

Scale 1:100



~~West~~ Elevation - As Proposed

EAST

