

DWELLING ON PLOT 3, TARN BANK, BRAYSTONES**Lead Officer:** T Pomfret – Development Services Manager**Informed by a site visit on 8 August 2007, Members are requested to consider amendments to the plans for the above development as originally approved.**

Recommendation: In the circumstances an officer recommendation would be inappropriate in this particular instance.

Resource Implications: Nil

1.0 BACKGROUND INFORMATION

- 1.1 Planning permission to construct three detached dwellings on land adjacent to Tarn Bank, Braystones was granted in July 2004 (4/04/2168/0F1 refers).
- 1.2 The dwellings on plots 1 and 2 are completed with the dwelling on plot 3 substantially under construction.
- 1.3 Planning permission for a large, detached garage on plot 3 was subsequently approved on 23 June 2006 (4/06/2257/0F1 refers) and is also substantially constructed.
- 1.4 Plot 3 adjoins Holme Croft Farm, the owner occupiers of which have submitted a formal complaint regarding the development on plot 3 and the manner in which the relevant planning applications have been handled. A copy of the complainants' letter and supporting information is appended together with a copy of the Development Services Manager's letter of response dated 5 July 2007.
- 1.5 The key planning consideration is whether or not Members would have approved the insertion of the 6 additional windows in the elevation facing the complainants' property had the matter been referred to the Panel for determination. To assist in the consideration of this matter a copy extract of the elevational drawing is appended together with a copy extract from the elevational drawings and floor plans for plot 3 as originally approved.
- 1.6 At the last meeting Members accepted my recommendation for a site visit to look at the issues in question. This site visit took place on Wednesday, 8 August 2007 when Members were afforded the opportunity to inspect the additional window openings from the application site and also from the complainants' property.
- 1.7 It was noted at the site visit that the window openings in question are set within stone surrounds and comprise 2 utility room and a hallway window at ground floor level and 2 bedroom windows and a stairwell window at first floor level in addition to the first floor landing and second floor stairwell/master bedroom windows as shown on the originally approved plans although the latter would now appear larger than the originally approved window opening.

- 1.8 The key planning consideration is the impact of these additional window openings on the residential amenity of the neighbouring residents in the context of Policy HSG 8 of the adopted Copeland Local Plan 2001-2016. This requires a minimum separation distance of 21m between habitable room windows in facing elevations. The relevant window in the complainants' property is a velux roof window serving the bathroom. The windows in the gable elevation of the dwelling under construction on Plot 3 Tarn Bank are obliquely angled to the complainants' property and sited some 40m distant.
- 1.9 In the light of the above and with the benefit of the site visit Members are requested to consider whether, had the matter been referred to the Planning Panel for determination, the revision to incorporate the 6 additional window openings would have been:-
- approved
 - approved, subject to conditions
 - refused

Contact Officer: Tony Pomfret, Development Services Manager

Background Papers: Planning application files 4/04/2168/0F1 and
4/06/2257/0F1

Holme Croft Farm,
Braystones,
Beckermet,
Cumbria
CA21 2YL
01.06.07
H-6-07

Re. Plot 3 Tarnbank, Braystones Planning Application 4/04/2168/0

Dear Mr. Pomfret,

Having spoken to Simon Blacker on 31.05.07 he was unable to answer many of my questions and referred to you as the next port of call. I was unable to contact you by phone on Friday, 1.06.07 and hence this letter. Could you please respond to our concerns on the following matters?

1. Referring to your letter of 23.05.03 NOTICE OF APPROVAL OF RESERVED MATTERS No.3 refers to a scheme for the disposal of surface water to be submitted before development is commenced – this is not in the file
2. No. 7 measures to prevent surface water discharging onto the highway to be submitted to the Local Planning Authority for approval prior to development being commenced – not in the file.
3. How did front, rear and side views of a house get stamped with approval when only an enlargement of a garage was applied for?
4. When I contacted Simon Blacker on 30.04.07 to inform him about four window openings on the second floor, which deviated from the one opening, we were expecting from plan 4/04/2168/OF1 and he said he would look into it - what happened?
5. As building commenced, why did Simon Blacker not return any phone messages? This necessitated the intervention from Councillor David Moore.
6. Why did Simon Blacker tell Cllr. Moore he was going to send a “stop” letter until the matter was investigated and then not send one?
7. Why did it take until 03.05.07 and many, many phone calls before Simon Blacker confirmed that there had been a misunderstanding and he needed to pass it on to you?
8. Throughout the entire month of May we made numerous calls and several man hours were spent (affecting our health) trying to find out what was happening – nothing. This led to the involvement of Yvonne Clarkson and John Jackson.
9. Why did Simon Blacker tell John Jackson that he had sent a “stop letter” on 23rd and 25th of May when one had not been sent?
10. Why did Simon Blacker tell my wife on 31.05.07 that the building work could not be stopped because CBC did not have an Enforcement Officer when John Jackson tells me that Simon Blacker has “adopted” the role?
11. Is it right that David Southward and his family can live in a caravan “on site” without any services? This also means that the letter sent to him was actually sent to his previous address.
12. In the letter to David Southward on 29.05.07, why have you requested amended plans when substantial changes call for a full application to be submitted allowing the Parish Council and all parties to view them?

13. Why was this building not stopped when unplanned window openings were brought to your attention instead of allowing the house to reach a stage where they are about to put the roof on? Surely, it would have been less painful all round to address this issue at a time when the windows could have been bricked up and returned to the agreed plans.
14. On what dates did Building Inspectors inspect the development?

I would appreciate your response in writing followed by a meeting as soon as possible with yourself and Martin Jepson to discuss the issues raised in this letter and the responses received from it.

Thank you in anticipation.



A.T. SHARP.

Copies to: Yvonne Clarkson
Norman Clarkson
John Jackson
David Moore
Liam Murphy
Martin Jepson

Date

Chronology

- Feb. 03 First saw plans of all three developments and had serious concerns over drainage and run off water.
We phoned Michael Sandelands who said "nothing to do with me, I'm just a planner, anything to do with water is up to the people building the houses". We went to see our solicitor.
- 26.02.03 Bleasdale & Co. wrote to CBC with our concerns.
- 06.03.03 Letter of acknowledgment from T Pomfret
- 17.04.03 Letter from Mr. Sandelands stating that there are amendments for foul water to go into mains.
- 23.05.03 Letter from Mr. Pomfret to Bleasdale including nine reserved matters placed on development. One of these being "before development Commences a scheme for the disposal of surface water to be submitted"
- June 06 We saw amendments to garage for plot 3. We objected to window in gable end. Contacted Simon Blacker who did not reply to nine phone calls. Sue Lancaster (neighbour) phoned wrote a letter of objection and arranged a meeting. Simon Blacker viewed and hopefully recorded concerns. David Southward came to see us agreed to remove window and replace with velux roof lights. We expressed concerns over the height of the garage/aircraft hanger and he said he would "dig it in and you would probably not see it over your hedge"
- 30.04.07 Saw four window openings being built on second floor (we were expecting one)
Phoned Simon Blacker who said he would look into it and get back to us, he didn't.
- Pm. We phoned Cllr. David Moore. He agreed to talk to S. Blacker the following day and get back to us - didn't.
- 01.05.07 Phoned S Blacker and asked what was happening nothing yet.
- 03.05.07 Phoned S. Blacker. He said "the planning application for the enlargement of the garage had been attached to the house plans and only the garage had been considered and passed automatically Due to the amendments to the windows. From there ALL the plans had somehow been stamped accidentally". He was to speak to T Pomfret the following day and we arranged to phone him.
- 08.05.07 We phoned S. Blacker. He admitted "cock-up" and said they would look into it.
- 18.05.07 phoned Cllr. Moore and left message to return call - didn't
- 19.05.07 phoned Cllr Yvonne Clarkson and asked for a visit
- 20.05.07 phoned Cllr. Moore who told us that S. Blacker had told him he was going to put a 'stop' on the building until it was sorted out. Obviously hadn't because no letter in the file and roof trusses arrived.

- 22.05.07 Cllr. Clarkson and John Jackson made site visit. Agreed to find out what they could and keep in touch.
- 23.05.07 Cllr. Clarkson told us that a fee of £135.00 had been paid for the application in April 06 proving that only the garage had been considered.
- 29.05.07 Phoned Cllr. Jackson who said that S. Blacker had told him that he had sent a 'stop' letter on the 23rd so John was surprised when we told him Building was still going on. He had checked on 25th and had been told again by S. Blacker that he would send a 'stop' letter. John phoned us back to say that S. Blacker had again told him that he would send a 'stop' letter.
- 30.05.07 We phoned S. Blacker – left message asking him to reply- didn't. Sue Lancaster phoned him and he told her a letter had been sent to David Southward.
- 31.05.07 Sue Lancaster and Morag Sharp went to CBC. Looked at plans and spoke to Simon Blacker. Asked for site plan- didn't have one. Asked for Drainage plan- didn't have one. Asked to speak to Enforcement Officer- was told they didn't have one. Did see a letter sent to David Southward but pointed out it had been sent to his old house and he was now living in a caravan on site. The letter only asked for amended plans, then it would go to planning committee in a month's time and when pressed S. Blacker said he "might need legal advice". Later when on phone to John Jackson he told me that S. Blacker is the Enforcement Officer.
- 01.06.07 After taking legal advice we wrote a letter to T. Pomfret at CBC expressing all our concerns and sent copies to Liam Murphy, Martin Jepson, Cllr. Moore, Cllr. Clarkson and Cllr. Jackson. Letter asked for written response followed by meeting.
- 04.06.07 Hand delivered letters to CBC.
- 12.06.07 Received letter from T. Pomfret saying he had gone on leave the previous day and would contact us after 25th June and hoped this was acceptable definitely not.
- 13.06.07 Phoned CBC asked for M. Jepson- on holiday. Liam Murphy – unavailable. Spoke to Mike Tichford, Head of Regeneration and T. Pomfrets Manager. Explained our situation and he agreed to look into the matter and phone us back the following day.

Concerns not mentioned in chronology

Flooded — sked + sad at front of house

Wall — holding up development

Business — farm
 \ holiday cottages.

Bill to agent — snubbed by P10r 1203

Money spent to Solicitor.

Privacy to us + cottages.

Caravan with no services.

Door in end of garage — with letterbox.

Mr & Mrs A.T. Sharp
Holme Croft
Braystones
BECKERMET
CA21 2YL

Our Ref: TP/SC/4/06/2257/0E1

4/04/2168/OF1

5th July 2007

Dear Mr & Mrs Sharp,

Dwelling on Plot 3, Tarn Bank, Braystones.

Further to your letter dated 1st June and our subsequent meeting at your house on 28th June 2007 I would respond to your concerns and queries as follows:-

1. Technical details required by virtue of a condition attached to a planning consent are not necessarily kept on the planning file. In this particular case, for example, surface and foul drainage details were submitted to and approved by our Building Control Officers. The Building Regulations file records on 9th February 2007 "foul and surface water pipes laid as per plan. O.k. to be covered with pea gravel and backfilled". A note dated 17th May 2007 further records "small section of drainage adjacent garage o.k. to backfill".
2. As explained, the additional windows in the elevation of the new dwelling facing your property have, in effect, been approved by default insofar as an elevational drawing accompanying the application for the garage has been stamped "approved under the provisions of the Town and Country Planning Act 1990". Clearly this should have been dealt with separately as an amendment to the planning approval for the house. Given that the elevation is well in excess of 21 metres distant from and at an oblique angle to your house I am of the firm opinion that such an amendment meets the requirements of the adopted Copeland Local Plan 2001 - 2016 and, as such, there are no material planning grounds for refusing the amendment. As discussed, however, I will submit a report to the Council's Planning Panel on 25th July 2007 recommending that Members carry out a site visit and, at the following meeting on 22nd August 2007 to determine whether they agree that the amended scheme would have been approved had it been referred to them for consideration in the light of your objections. I will keep you informed of the Panel's decisions.

(Cont'd)

3. Failure by any member of staff to return phone calls and generally to keep interested parties informed of the progress of a planning application is indefensible and unacceptable in terms of our commitment to provide an efficient and transparent service to all our customers, whether they be applicants, agents or objectors. I sincerely apologise that the service you have received has fallen well short of what you could reasonably have expected from us.
4. The Council does not employ a planning enforcement officer and this role is carried out by the individual case officers. Service of a Stop Notice would only be appropriate in extreme cases, usually where there is a physical threat to people or property as a result of unauthorised development, and would not have been appropriate as regards development at Plot 3, Tarn Bank.
5. Planning permission is not required for the temporary siting and occupation of a residential caravan associated with the construction of the new dwelling provided it is removed following completion and occupation of the house. Such development is, therefore, not controlled under the Town and Country Planning Acts. However, I would imagine that the Council's Environmental Health Department would be concerned if, for example, the caravan was not provided with adequate water supply and sanitation facilities.
6. Building Control Officers inspections were as follows:

Foundations excavated	-	8 th November & 21 st December 2006.
Foundations concreted	-	2 nd January 2007.
Oversite concreted	-	5 th February 2007.
Damp proof course	-	6 th February 2007.
Drainage	-	as per 1 above.
7. Further to my telephone discussion with Mrs Sharp on 4th July 2007 please find enclosed copy of approved floor plans in respect of the house on Plot 3. I can also confirm that I have requested the owner of Plot 3, Mr Southward, to contact me with a view to arranging a site meeting with him to discuss his development in detail.

I will keep you informed of the Planning Panel's decisions and Mr Southward's response but in the meantime I hope you find the above comments helpful. Please do not hesitate to contact me (tel. 01946 598416) should you have any further queries at this stage. Finally, thank you for your hospitality when I visited your house.

Yours sincerely,

Tony Pomfret
Development Services Manager

Cc: Mike Tichford, Head of Regeneration.
Martin Jepson, Head of Legal & Democratic Services.
Marissa Joyce, Customer Relationships Officer.

Enc: 01946 598416

tpomfret@copelandbc.gov.uk

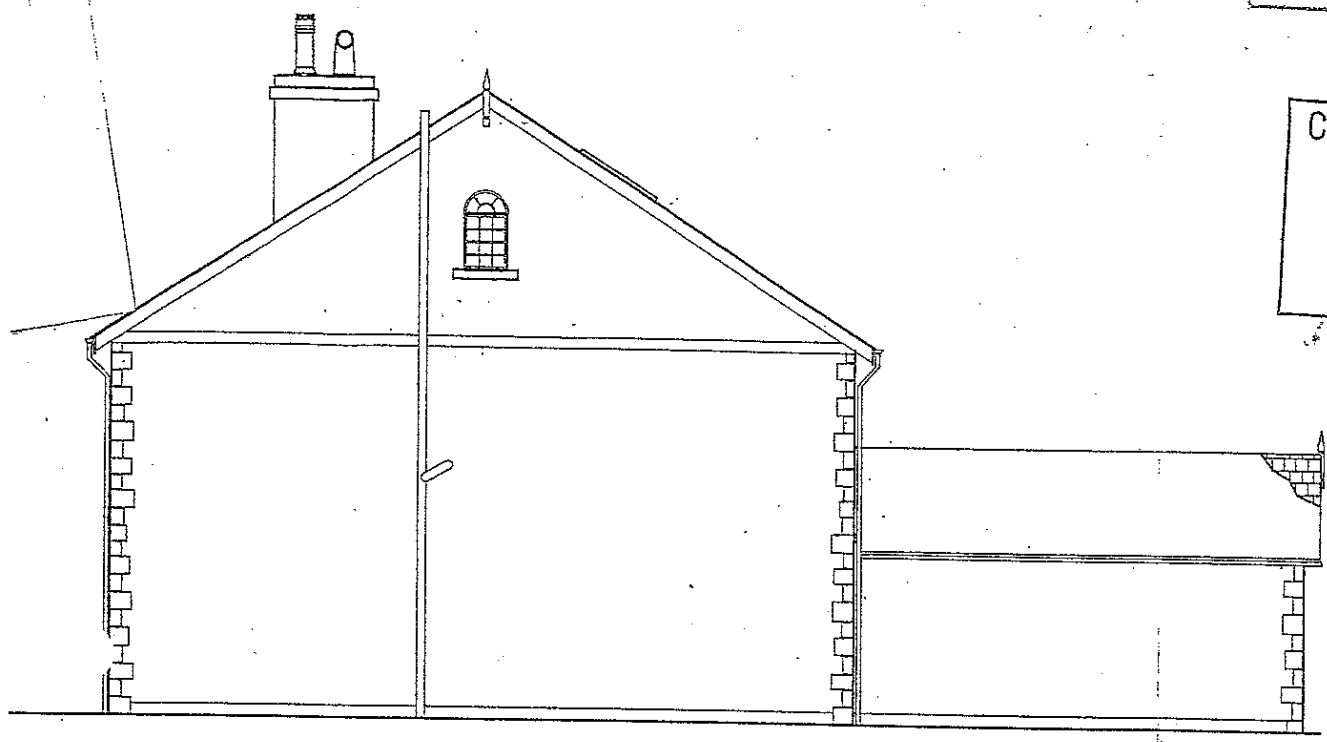
4/04

AMENDED

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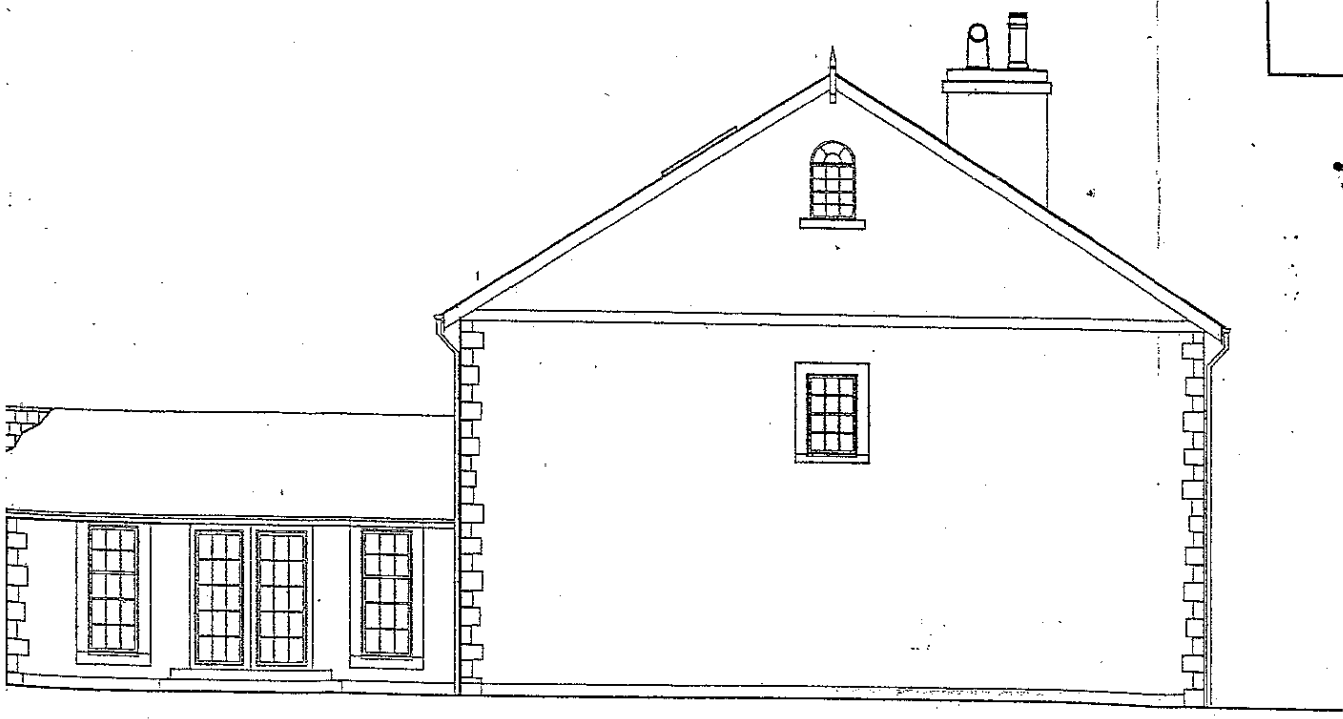
REC



Side elevation
View A - A (1st. angle)

COPELAND BOROUGH
APPROVED
UNDER THE PROVISIONS OF
THE BUILDING ACT 1930
AND COUNTRY BY ARRANGEMENT
28 JUL 20

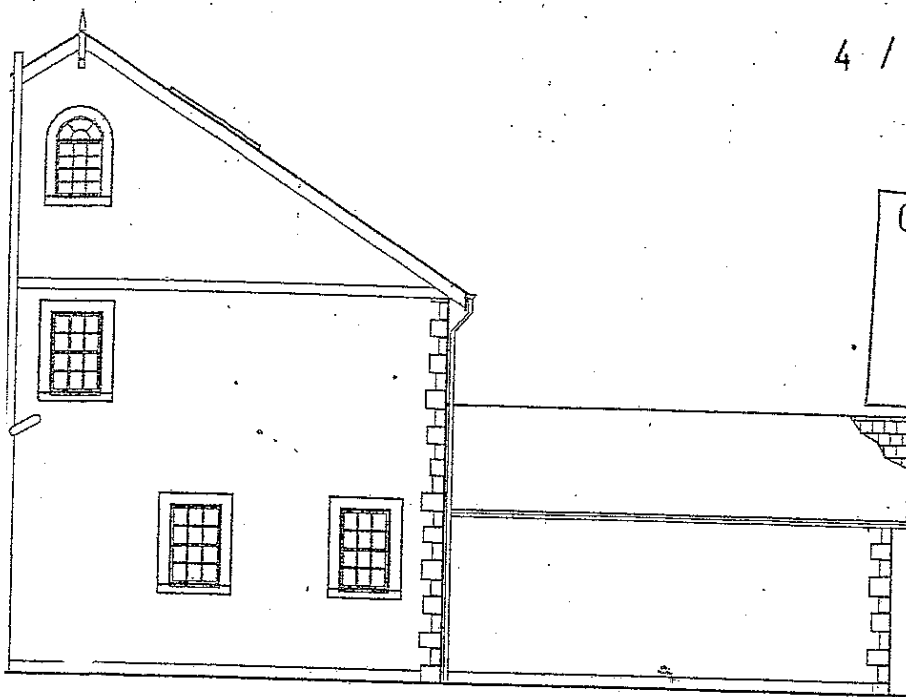
J. A. P.



Side elevation
View B - B

Elevations	
Reference:	Mr & Mrs Mort
Drawing:	11 of 12
Scale:	1:150
Dimensions:	mm

4 / 0 6 / 2 2 5 7 / 0 F 1

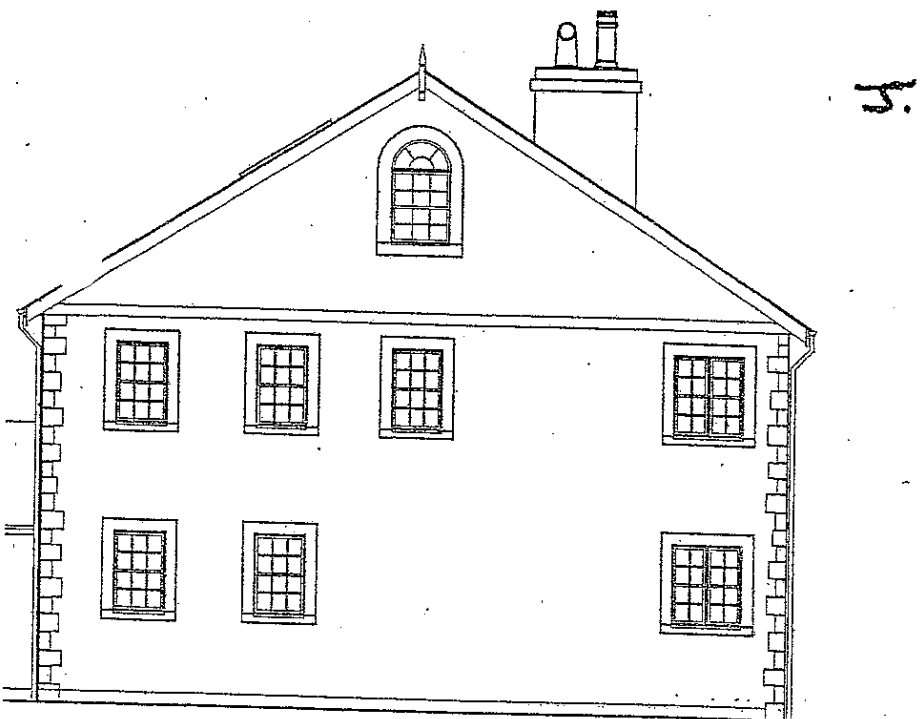


COPELAND BOROUGH COUNCIL
12 APR 2006
RECEIVED

Side elevation
View A - A (1st. angle)

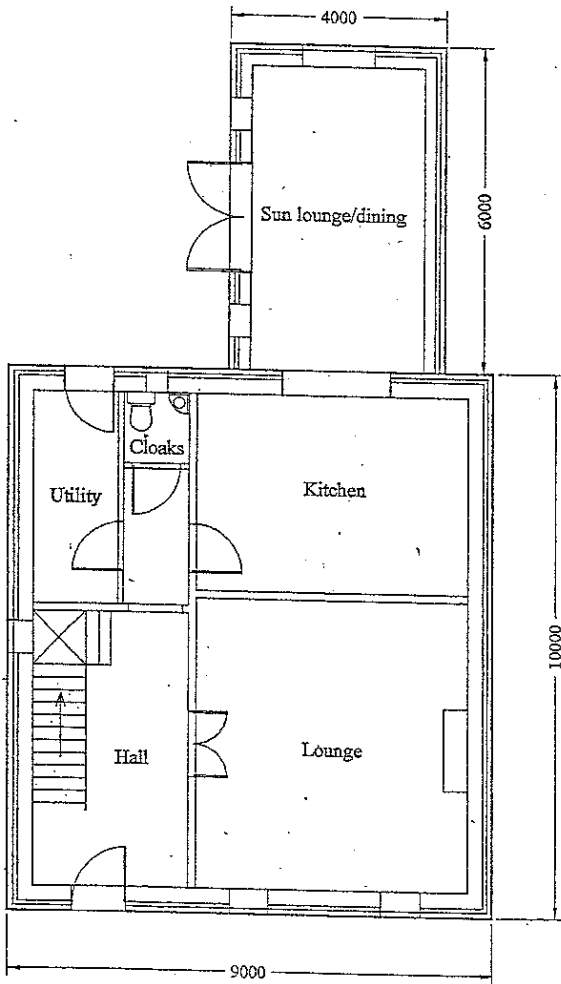
COPELAND BOROUGH COUNCIL
APPROVED
UNDER THE PROVISIONS OF THE TOWN
AND COUNTRY PLANNING ACT 1990
23 JUN 2006

J. A. Pompet

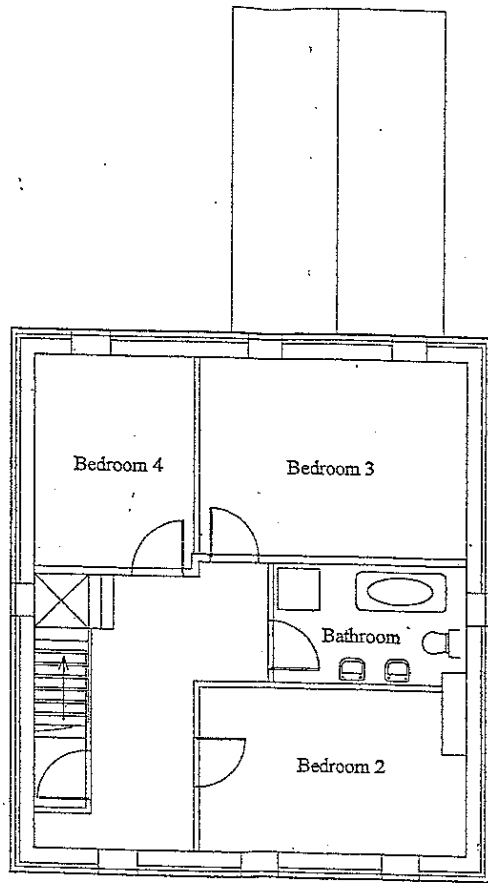


Side elevation
View B - B

General Elevations		Plot 3, Braystones Cumbria CA21 2YL
Reference:	4/04/2168/0 Mr & Mrs DJ Southward	
Drawing:	3 of 9	
Scale:	1:100	
Dimensions:	mm	Date: January 12, 2006



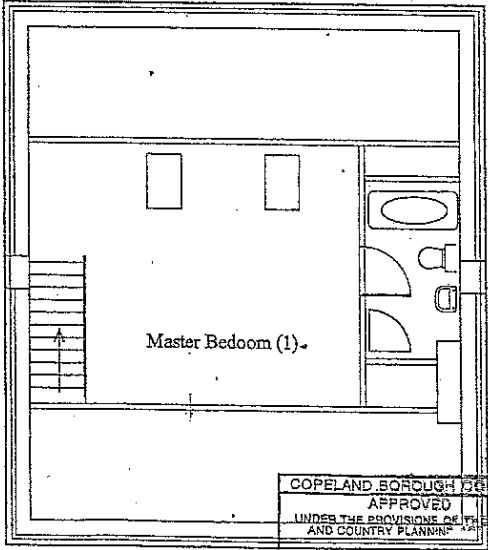
Ground floor



First floor

AMENDED PLAN

COPELAND BOROUGH COUNCIL
19 MAY 2004
RECEIVED



COPELAND BOROUGH COUNCIL
APPROVED
UNDER THE PROVISIONS OF THE TOWN
AND COUNTRY PLANNING ACT 1990
28 JUL 2004

J. A. Pompert

Attic

Floor Plans		Plot 3, Braystones Cumbria CA21 2YL
Reference:	Mr & Mrs Morton	
Drawing:	12 of 12	
Scale:	1:100	
Dimensions:	mm	Date: May 10, 2004

