

SCHEDULE A: Applications with Recommendation

12/0692

Item No: 03

Date of Committee: 19/07/2013

Appn Ref No:
12/0692

Applicant:
Church Commissioners
For England

Parish:
Cummersdale

Date of Receipt:
22/08/2012

Agent:
Smiths Gore

Ward:
Multiple Wards

Location:

Land At Morton Bounded By Wigton Road, Peter Lane And Dalston Road, Carlisle, Cumbria

Proposal: Development Of Land At South Morton Bounded By Wigton Road, Peter Lane And Dalston Road, Carlisle, For Residential (Maximum 825 Dwellings), Employment (40,000m2 Floorspace), And Public Open Space Purposes As Well As Associated Works (Reserved Matters For Infrastructure Development Including Vehicular Access, Drainage, Services And Landscaping Pursuant To Outline Permission 09/0413)

REPORT

Case Officer: Angus Hutchinson

1. Recommendation

- 1.1 Pending the awaited comments from the Highway Authority regarding the proposed bus gate, the recommendation is for approval in relation to the discharge of requirements regarding the main elements of site infrastructure (namely access, drainage, servicing arrangements and the landscape scheme), and the submission of information to discharge conditions 8 (part), 10, 15 (part), 21, 23 (part), 26 (part), 28 (part), 29 (part) and 30 (part) attached to the outline planning consent to develop the site.

2. Main Issues

- 2.1 Whether or not the submitted details comply with the reasons/underlying objectives of the imposed conditions
- 2.2 Whether there is any sustainable planning objection to the submitted reserved matters

3. Application Details

The Site

- 3.1 This application for approval of Reserved Matters relates to land located approximately 3 km south west of Carlisle City Centre, comprising undulating farmland associated with and incorporating Cummersdale Grange Farm steading. It is bounded by Dalston Road to the south-east, by Peter Lane to the south-west and by Wigton Road (A595) to the north-west. The north-eastern boundary backs onto existing suburban residential properties.
- 3.2 The site gently rises from the south-west to north-east and is generally characterised by open views interspersed by mature hedgerows and standard trees. A bridleway crosses the site from Dalston Road through the existing buildings of Cummersdale Grange Farm leading to Wigton Road/A595. An overhead power line traverses the north-western portion of the site. Access to a sub-station is achieved via a lane off Wigton Road.
- 3.3 Fairy Beck, a designated "Main River", also runs from the Peter Lane boundary to Dalston Road and the land lying to the east of Deep Dale and Winscale Way. A secondary watercourse joins Fairy Beck to the west of Cummersdale Grange Farm steading. The land to the south of Millbeck, Deep Dale and Winscale Way falls, in part, within Flood Zones 2 and 3. Low pressure gas pipelines run down Dalston Road and Wigton Road, and a medium pressure gas pipe along Peter Lane.
- 3.4 The majority of the application site is owned by the applicant with the remainder owned by the City Council. Neighbouring land that is part of the overall development allocation at Morton is owned by the City Council and other third parties.

Background

- 3.5 The site was originally allocated for development under the Carlisle District Local Plan adopted in 1997 and was later subject of the Morton Development Brief. In December 2000 the Morton Masterplan and Development Framework was adopted by the City Council as Supplementary Planning Guidance. Following the review of the Local Plan the land was, again, allocated for development under the Carlisle District Local Plan 2001-2016 (adopted September 2008). The adjoining area of land to the north-west was also allocated for development as a site for a District Centre including a retail food store and "Park & Ride" facilities. In 2011, under application 10/0917, outline planning permission was subsequently granted for the erection of a district centre.
- 3.6 Prior to 2001 the current application site, and neighbouring land at the junction of Peter Lane/Dalston Road, was the subject of three previous applications (reference numbers 98/0234, 00/0439 and 00/0748) that were "called in" by the Government Office for the North West (GONW) in July 2001. Early in June 2009 GONW confirmed that because of the change in circumstances, principally the re-allocation within the 2008 Adopted Local

Plan, it has been decided to cancel the July 2001 "call in" letters and that the determination of the previous applications reverted to the City Council.

- 3.7 In November 2010, under application 09/0413, outline planning permission was given for residential (maximum 825 dwellings), employment (40,000m² floor space), and public open space purposes as well as associated works regarding the current application site. The aforementioned permission is the subject of an associated Section 106 Agreement, and the imposition of relevant conditions. The outline application was accompanied by an Affordable Housing Statement; a Statement of Community Engagement; a Development Land Statement; a Planning Statement; a Flood Risk Assessment; an Environmental Statement; an Addendum to the Environmental Statement (ecology and air quality); a Design and Access Statement; and additional information on Transport including an upgraded Travel Plan.
- 3.8 In February 2013, under application 12/1024, condition 2 (phasing plan) imposed under 09/0413 was discharged in part pending implementation in accordance with the approved details.
- 3.9 This application is in the context that the Council are also considering two further applications relating to the same site, namely: 13/0207 - reserved matters for Phase 1A works; and 13/0283 - the installation of a rising main (sewage) pipeline; and the accompanying information inclusive of a Ground Investigation Report (November 2011) prepared by Johnson, Poole and Bloomer.
- 3.10 Members should also be aware that in October 2012, under application 00/0439, outline planning permission was given for residential development on land at the Peter Lane/Dalston Road junction. The consequent application seeking approval of the reserved matters for 103 dwellings, application 12/0855, has yet to be determined.

The Proposal

- 3.11 The current application is seeking approval of Reserved Matters for infrastructure development (namely the means of access, drainage, services and landscaping), and the submission of information to discharge conditions 8, 10, 15, 21, 23, 26, 28, 29 and 30.
- 3.12 In addition to the submitted plans the application is accompanied by a Planning Statement; Design and Access Statement; Biodiversity Enhancement and Protection Plan; Landscape Management Plan; and Ground Investigation Report. Further information has also been submitted in the form of: three emails from Dougall Baillie Associates Limited to United Utilities, sent on the 22 January 2013; a Summary Drainage Strategy Statement January 2012; an email from Dougall Baillie Associates Limited to United Utilities, sent on the 13 March 2013; and an email from Dougall Baillie Associates Limited to United Utilities, sent at 09:21 on the 16 April 2013. The applicant's agent has asked that this application, along with 12/0692, are considered against the original Environmental Statement that accompanied

09/0413.

- 3.13 As already indicated, the Council are considering two further applications relating to the same site, namely: 13/0207 - reserved matters for Phase 1A works; and 13/0283 - the installation of a rising main (sewage) pipeline. Whilst application 12/0692 highlights the overall strategy for the site infrastructure, application 13/0207 provides further context of how Phase 1A sits within the site wide infrastructure as well as providing the context for a series of statutory consents for drainage, roads, ecology and landscaping. Application 13/0283 seeks approval for a section of the rising main that is outside of the site boundary.
- 3.14 The applicant's agent has also confirmed that once a contractor is appointed, a Construction Method Statement dealing with the outstanding pre-commencement conditions (numbers 8:part iii, 17, 19 and 25) will be submitted separately.

4. Summary of Representations

- 4.1 This application has been advertised in the form of press and site notices, and the direct notification of the occupiers of 144 neighbouring properties. In response one letter of objection has been received from the occupiers of 50 Peter Lane on the following grounds:
1. there is a small cluster of three houses on Peter Lane and one of the new entrances is placed in the middle of these allegedly causing unnecessary safety issues to these existing properties due to the creation of the ghost lane;
 2. to access the drive serving 50 Peter Lane will involve crossing two lanes of traffic one often accelerating at speed and the view being blocked by traffic in the ghost lane;
 3. there are no other areas on Peter Lane with houses or drives other than where the proposal is placed and it is felt that it would be safer and more appropriate to place the entrance further up Peter Lane where these safety problems would not be an issue as there are no houses or drives to be affected.

5. Summary of Consultation Responses

Cumbria County Council - (Highway Authority): - the actual road constructions will be covered by a Section 38 Agreement(s) and works within existing Highways by a Section 278 Agreement(s), so revisions to drawings can take place as part of these processes. The exception is the "bus gate" where as this has an "appearance" on site and will be of considerable local interest to existing residents in the vicinity of it, a detailed drawing should be provided as part of the Reserved Matters application.

Dalston Parish Council: - at its meeting held on the 11th September 2012,

the Council resolved to make the following comments:

- to avoid the eventual joining of the suburbs of Carlisle with the outskirts of Dalston, an area of green belt should be considered to the west of the NDR route. If this area is not protected there is a real danger that these defined areas of historic settlement will be lost and merged into a larger Carlisle.
- it is essential that the infrastructure to accommodate the size of development is in place before it is commenced.
- the school should be built as part of the first phase of the development to avoid unnecessary pressure on existing schools in the area.
- the opening of the CNDR has increased the volume of traffic using the Dalston Road/Peter Lane junction, subsequently increasing the waiting time at this junction. Many drivers joining Peter Lane from Carlisle cut the corner greatly increasing the accident risk particularly considering the increase in traffic from the CNDR. It is therefore essential that a roundabout is constructed at this junction, as the volume of traffic will increase again from residents and workers from this development.
- the proposed development is only 2 miles from Dalston therefore, where provided, residents will use Dalston services with consequential impact on traffic and parking - up to 970 additional daily vehicle movements indicated on Peter Lane, Dalston Road and Wigton Road. A proportion of these will travel through Dalston to the south end of Carlisle and J42 on M6.
- note should be taken that Dalston has a HGV restriction which must continue to apply to all heavy goods vehicles - particularly those of contractors accessing the proposed development site.
- the Morton development brings Carlisle much closer to Dalston and erodes the intervening green field land.
- an opportunity should be taken to connect this development to the Dalston to Carlisle Cycle Track.
- the inclusion of a large scale supermarket as part of the development instead of the original neighbourhood store, deemed adequate by the planning inspector at the public inquiry, would seem to be out of balance and scale with the requirements of the area.
- provision of adequate drainage must be made for a potential increase in surface water displaced by the creation of large hard surface areas.
- the development of this large residential and employment area would put pressure on the policing resources in this rural area or will the City boundary be moved to encompass this development.
- the junction from the development onto Dalston Road opposite the junction to Cummersdale village would appear to also benefit from the construction of a roundabout.

Cummersdale Parish Council: - on the 10th September 2012 the Council resolved to make the following observations:

- the opening of the CNDR has increased the volume of traffic using the Dalston Road/Peter Lane junction, subsequently increasing the waiting time at this junction. It is therefore essential that a roundabout is constructed at this junction.

- concerns with Phase 4 that the road will be used by drivers from Peter Lane to Dalston Road avoiding the T junction. It is essential that the infrastructure to accommodate the size of the development is in place before it is commenced.
- the school should be built as part of the first phase of the development to avoid unnecessary pressure on existing schools in the area.
- the proposed development is only 2 miles from Dalston, therefore, where provided, residents will use Dalston services with consequential impact on traffic and parking - up to 970 additional daily vehicle movements indicated on Peter Lane, Dalston Road and Wigton Road. A proportion of these will travel through Dalston to the south end of Carlisle and J42 on M6.
- The junction from the development onto Dalston Road opposite the junction to Cummersdale village would appear to benefit from the construction of a roundabout.

Environment Agency (N Area (+ Waste Disp & Planning Liaison Team): - our Fisheries and Biodiversity experts have discussed the situation with the applicant's consultant and we are now satisfied that the proposed re-grading and native aquatic/emergent planting is the best realistic enhancement likely to be achieved for Fairy Beck and its tributary.

Combating ash tree dieback disease (*Chalara fraxinea*) has become a regional priority for forestry management. As such it is recommended that the Forestry Commission are consulted prior to planting any ash trees on site; the scheme should be amended to reflect their advice.

We do not have any biodiversity or ecology objections to the proposal subject to adding an informative note regarding the location for the planting of crack willow; and a condition ensuring that *Glyceria maxima* (referred to in section 4.2 of the Biodiversity Enhancement and Protection Plan) is omitted from the scheme and shall not be planted on site.

Cumbria County Council - (Archaeological Services): - the site has been the subject of an archaeological evaluation which has revealed the archaeological remains of a Roman road surviving in one area. The proposed development will disturb these remains. It is therefore recommended that the archaeological remains are investigated and recorded in advance of development.

Department for Transport (Highways Agency): - no objections;

Cumbria County Council (Strategic Planning Authority): - under the phasing plan the construction of the access road and associated servicing should be at least provided within the third phase of the site to enable delivery of the school at a point where the need is triggered.

Cumbria Constabulary - Crime Prevention: - no comments received.

Environmental Services - Green Spaces: - our specification for amenity green space may be different from the County's verge specification.

Housing Strategy & Support: - no comments regarding this particular planning application as it is concerned with the infrastructure of the site and not the contribution to affordable housing.

Ramblers Association: - no comments.

Local Environment - Environmental Protection (former Comm Env Services- Env Quality): - this section has no objections in principle to the above planning application. It should be noted however that as no investigations have been carried out close to Cummersdale farm buildings, and lead and benzo(a) pyrene were found adjacent to this area it is essential that once the present buildings are removed further testing should be carried. The investigation should also include gas monitoring. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Site investigations should follow the guidance in BS10175.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

Stagecoach Cumberland - Local bus services: - no comments received.

Northern Gas Networks: - no objections however there may be apparatus in the area that may be at risk during construction works and should the planning application be approved, then we require the promoter of these works to contact us directly to discuss our requirements in detail.

Natural England: - this application is in close proximity to River Eden and Tributaries Site of Special Scientific Interest (SSSI) and the River Eden Special Area of Conservation (SAC). However, given its distance from these and the nature of the proposed development we advise your authority that, if undertaken in strict accordance with the details submitted, the proposal is not likely to have a significant effect on the interest features for which these designated sites have been classified.

This proposal presents the opportunity to incorporate features into the site which are beneficial to wildlife such as the incorporation of roosting opportunities for bats, the installation of bird nest boxes or the use of native species in the landscape planting. Should the Council be minded to grant planning permission, measures to enhance the biodiversity of the site are secured from the applicant.

With regard to the specific proposals outlined in the Landscape Management Plan, NE are in support of the consultation response made by the Environment Agency that Reed sweet grass (*Glyceris maxima*) should not be

planted near to the watercourses on site as there is the potential for the seeds to be transported downstream to the River Eden SAC, and this is not a native species for this catchment.

Natural England is satisfied that the Green Infrastructure proposals submitted with this application conform to the requirements as set out in your authority's Green Infrastructure Strategy. However NE would be interested in obtaining more detail with regards how much of the proposed enhanced grasslands are to be habitat, and if this would be Priority Habitat that could count towards England Biodiversity Strategy targets.

Open Spaces Society: - no comments received.

British Horse Society: - no comments received.

Cumbria Bridleway Society: - no comments received.

United Utilities:- regarding the surface water and foul drainage strategy in principle, the developer requires to submit the following:

- the surface water and foul drainage statement
- surface water and foul sewers proposed drainage layout
- the size of the proposed surface water and foul sewers shown in the "Schematic Drainage Overview"
- the pumping station details, pump specification and method of preventing septicity at low flows
- the size and route of the rising main, the pumped foul flow rate to the connection point, and the foul connection point.

6. Officer's Report

Assessment

- 6.1 As Members are aware, the current application is seeking approval of Reserved Matters for infrastructure development (namely the means of access, drainage, services and landscaping), and the submission of information to discharge conditions 8, 10, 15, 21, 23, 26, 28, 29 and 30. Article 5 of the DMPO 2010 states that "*An application for approval of reserved matters—*

(a) shall be made in writing to the local planning authority and shall give sufficient information to enable the authority to identify the outline planning permission in respect of which it is made;

(b) shall include such particulars, and be accompanied by such plans and drawings, as are necessary to deal with the matters reserved in the outline planning permission; and.

(c) except where the authority indicate that a lesser number is required, or where the application is made using electronic communications, shall be accompanied by 3 copies of the application and the plans and drawings

submitted with it.”

- 6.2 Further relevant advice is contained in Circular 11/95 “The Use of Conditions in Planning Permissions”, and Circular 03/09 “Costs Awards in Appeals and Other Planning Procedures”.
- 6.3 When assessing this application the two main issues are considered to be: i) whether or not the submitted details comply with the reasons/underlying objectives of the imposed conditions; and ii) whether there is any sustainable planning objection to the submitted reserved matters.
- 6.4 Following a request to Dalston Parish Council, traffic count data undertaken on their behalf has been submitted to the City Council. The City Council has also sought independent advice from iPRT Transport Planning.

Condition 8

- 6.5 Condition 8 states:

“All carriageways, means of access, footways, footpaths and cycleways shall be designed, constructed, drained and lit to a standard suitable for adoption. Applications for Reserved Matters for such infrastructure shall be accompanied by the following details to be approved in writing by the Local Planning Authority prior to commencement of the relevant works:

- i) longitudinal/cross sections;*
- ii) means of surface water drainage;*
- iii) specification of the works; and*
- iv) construction programme.*

These details shall be in accordance with the standards laid down in the current Cumbria Design Guide (or such amendments to the Guide as may subsequently apply at the time of such application).”

- 6.6 In order to discharge this condition the applicant has submitted the following drawings: 11035-100-100 Rev E (“Road Profiles Sheet 1”); -101 Rev F (“Road Profiles Sheet 2”); -102 (“Road Profiles Sheet 3”); -104 Rev G (“General Arrangement Wigton Road/Internal Road 1”); -105 Rev H (“General Arrangement Peter Lane West Internal Road 2”); -106 Rev G (“General Arrangement Peter Lane East Internal Road 3”); -107 Rev G (“General Arrangement Dalston Road/Internal Road 4”); -108 Rev F (“General Arrangement Spine Road”); -109 Rev G (“Spine Road Cross Sections”); -110 Rev F (“Internal Road 1 Cross Sections”); -111 Rev G (“Internal Road 2 Cross Sections”); -112 Rev F (“Internal Road 3 Cross Sections”); -113 Rev G (“Internal Road 4 Cross Sections”); -114 Rev D (“Bus Route Cross Sections”); -115 Rev D (“Dalston Road Crossing Facility”); 116 Rev J (“Roads Overview”); 118 Rev N (“Phasing Plan”); and 119 Rev C (“Adoption Plan”).
- 6.7 In response to these plans the Highway Authority has not raised any

objections apart from with regard to the proposed "bus gate" the design of which is the subject of on-going discussions.

- 6.8 Dalston and Cummersdale Parish Councils have both alleged that the opening of the Carlisle North Development Route has led to an increase in traffic, and that the required solution involves the construction of a roundabout at the Peter Lane/Dalston Road junction.
- 6.9 The applicant's agent has pointed out that the fundamental access requirements for the site were agreed as part of the original outline approval under 09/0413 and set out in various parameter plans, such as the "Access Points/Movement Framework Parameter Plan (Revision A)", which do not include the provision of a roundabout at the junction of Dalston Road and Peter Lane. Under the wording of condition 3 "all applications for Reserved Matters shall be based upon the design and layout principles set out within the 'parameter plans'". As such it is considered inappropriate for the principles of the scheme agreed as part of the outline approval to be revisited at this stage. In addition, the agent queries whether the comments/observations of the respective Parish Councils constitute formal objections to the application. The applicant's transport consultant has confirmed that a roundabout in this location was not supported by the County Council due to issues in relation to third party land being required to construct the roundabout and also due to doubts over whether the required visibility could be achieved. In addition, in terms of pedestrian safety, it was allegedly agreed that crossroads were preferable to a roundabout. Furthermore, when this solution was in the process of being agreed, the principle of the CNDR was factored into the decision making in respect of South Morton. It is the applicant's understanding that if a roundabout were deemed necessary it would be funded by Persimmon Homes in respect of their adjacent site that is currently the subject of a separate Reserved Matters application (reference number 12/0855). The applicant's agent concludes on this matter by saying that the outline approval and its parameters have been determined and cannot now be challenged; and that such comments cannot be considered to carry any weight.
- 6.10 In response to both the comments of the Parish Councils and the applicant's agent it is recognised that the indicative Masterplan (as revised) accompanying the outline approval under 09/0413 identifies five points of vehicular access namely: one from Wigton Road serving the employment land in particular; two from Peter Lane; and two from Dalston Road. Two of the proposed accesses via Peter Lane and Dalston Road would also serve land designated for residential purposes under the Local Plan (subject to application 12/0855) at the junction of Peter Lane and Dalston Road. The layout takes account of the roundabout now formed at the junction of Peter Lane with Wigton Road with the Carlisle Northern Development Route (CNDR), and links in to an indicative junction and road that is envisaged would serve the District Centre and Park and Ride site. No roundabout is proposed at the Peter Lane/Dalston Road junction, and/or its provision identified as a "reserved matter".

6.11 Although not actually expressed, the implicit approach of the Parish Councils is one based upon the outline planning permission (and the subsequent approval of reserved matters) constituting, as a whole, a multi-stage development consent. Accordingly, the rationale is that until such time as the relevant reserved matters have been approved, development on the site is not completely authorised; and thus it would be necessary to assess effects if not effectively done so at the outline stage.

6.12 Conversely, paragraph 45 of Circular 11/95 explains that once an outline planning permission has been granted, it cannot be withdrawn except by a revocation order, and any subsequent approval of reserved matters does not constitute the granting of a further permission. The only conditions which can be imposed when the reserved matters are approved are conditions which directly relate to those matters....

“So, where certain aspects of the development are crucial to the decision, local planning authorities will wish to consider imposing relevant conditions when outline permission is granted.”

6.13 Paragraph 46 of Circular 11/95 goes on to say that:

“If the local planning authority consider that whatever the precise form the development is to take, access to the buildings should be from a particular road (or alternatively, that there should be no means of access from a particular road), then a condition to this effect must be imposed on the outline permission. Approval of the details of the means of access to the permitted buildings can be refused on the grounds that there should not be access to the site from a particular road only if the need for such a restriction arises from the details of the development which have been submitted for approval (e.g. from the density which is indicated by submitted details of the design and siting of the buildings).”

6.14 Furthermore, paragraph B29 of Circular 03/2009 highlights a number of examples of circumstances which may lead to an award of costs against a planning authority, one of which is where approval of reserved matters is refused when the objections relate to issues that should already have been considered at the outline stage.

6.15 The traffic data collected on behalf of Dalston Parish Council was forwarded to iPRT Transport Planning and their independent views sought on the predicted traffic flows at the Dalston Road/Peter Lane junction with reference to the potential changes in traffic flow and modelling since the submission and subsequent approval of the outline permission. The subsequent report (dated 28th June 2013) highlights, amongst other things, that:

- In the PM peak hour the traffic flows currently observed on Dalston Road are very similar to those quoted as being observed in 2008. In the AM peak on Dalston Road current traffic flows are observed to be 18.3% to 22.9% higher than traffic flows observed in 2008.

- On Peter Lane the increases in traffic flows observed are 27% to 28.3% in the AM peak hour; and 33.5% to 35.2% in the PM peak hour.
- Analysis of current 2013 traffic flow data in and around the Dalston Road/Peter Lane junction thus indicates significantly higher traffic flows than those forecast from 2008 to 2014 in the Amey TA submitted in support of application 09/0413.
- iPRT Transport Planning applied a sensitivity test to the 2030 forecast with committed and full development traffic flows added. The test applied a 10% increase in forecast traffic flows to the 2030 traffic flows stated in the Amey TA. The results of the test indicate that the operation of the Dalston Road/Peter Lane junction is, at best, close to its practical capacity by 2030.
- iPRT Transport Planning consider that traffic flows forecast in this sensitivity analysis will be reached given that growth applied in the Amey TA from 2008 to 2030 has already been outstripped by 2013.
- There are three separate impacts at play on the Dalston Road/Peter Lane priority junction: i) the impact of committed development traffic; ii) impact of the development proposal; and iii) impact of the CNDR.
- Whether or not the development impacts can be disentangled is likely to be immaterial. The current application is one for reserved matters. Any powers of compulsion for mitigating transport measures through conditions or legal agreement would probably need to have been exercised on the original outline application; probably as a result of a request from the highway authority to the planning authority.
- iPRT Transport Planning conclude that it is not clear whether a junction improvement at this location would have been justified on the basis of the development impact but, even if it was, the cost of any upgrade to the junction (say to a roundabout layout), is unlikely to now be borne by the developer.

6.16 In relation to this matter it is evident that the need for a roundabout at the Dalston Road/Peter Lane junction was considered when processing the outline application and not deemed necessary and therefore not the subject of a condition/reserved matter. The submitted details are in accord with those accompanying the outline permission. As such it is considered that no sustainable planning objection can be raised to the submitted reserved matters on this matter. To do so would be contrary to advice contained in Circulars 11/95 and 03/2009, and make the Council vulnerable to an application for costs at any consequent appeal.

6.17 A copy of the iPRT Transport Planning report has already been forwarded to the Highway Authority and their comments awaited. On the basis that there is agreement over the findings of this report, the opportunity exists for the Highway Authority (with assistance where possible from the City Council) to monitor the situation, timetable any necessary works, and allocate resources.

6.18 A neighbouring resident (50 Peter Lane) has raised concerns regarding the

point of vehicular access along Peter Lane. The applicant's traffic consultant has responded by explaining that significant volumes of right turn vehicles are not anticipated (nor the associated queues); vehicles exiting 50 Peter Lane turning right would have to give way to Peter Lane traffic whether the junction is constructed or not; the presence of the right turn storage lane will not result in increased risk to the road user - in fact it could be argued that vehicle speeds on Peter Lane may be reduced due to the narrower lane widths; and left turning traffic will be unaffected by the right turn lane. In such circumstances, and in the context that the indicative layout of the road network and access points to/from the highway have already been considered and determined at the outline stage, it is considered that this is not a sustainable objection to this reserved matters application.

Condition 10

- 6.19 Condition 10 stipulates that.... *“The phasing plan to be approved under condition 2 shall include, for each phase, a footpath and/or cycleway connecting the boundary of the phase to the School Site (the "School Link"). Following the opening of the school on the School Site, no housing in a phase shall be occupied until the School Link for that phase has been provided.”*
- 6.20 In regard to this condition, the originally submitted plan (drawing number 11035/100/118 Revision G has been superseded in response to the concerns raised by the County Council (Strategic Planning) i.e. that under the phasing plan the construction of the access road and associated servicing is provided at least within the third phase to enable delivery of the primary school at a point when the forecasted need should be met.
- 6.21 The details of the aforementioned plan are in accord with the plan already approved under application 12/1024, but can only be discharged in part pending implementation.

Condition 15

- 6.22 Condition 15 requires that... *“No development shall be commenced on a Phase until a scheme to deal with any site contamination within that Phase has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include investigation and assessment to establish the extent of contamination and measures to be taken to avoid risk to people, buildings and the environment. The approved scheme shall be fully implemented and completed before occupation of any unit of that Phase.”*
- 6.23 In response to the submitted Ground Investigation Report, the City Council's Environmental Protection Services has not raised any objections but highlighted that once the Cummersdale Farm buildings are removed further testing should be carried out adjacent to this area; the investigation should include gas monitoring; and in the event that contamination is found not previously identified it must be reported immediately to the Local Planning Authority.

- 6.24 As such the discharge of this condition is also in part in that it does not (out of necessity) relate to the all of the site, and requires implementation.

Conditions 21 and 23

- 6.25 Condition 21 states:

“No development shall take place until a detailed Biodiversity Enhancement and Protection Plan has been submitted to and approved in writing by the Local Planning Authority. This shall include, but not be limited to, the mitigation measures proposed in Chapter 4 of the South Morton Carlisle Bat Survey Report (Church Commissioners) September 2009 (Environmental Statement Addendum September 2009).

The Biodiversity Enhancement and Protection Plan shall be implemented in accordance with the approved details and development phasing, unless otherwise agreed in writing by the Local Planning Authority.”

- 6.26 Condition 23 stipulates:

“Applications for Reserved Matters for landscaping shall be accompanied (where appropriate) by the following details to be approved in writing by the Local Planning Authority prior to commencement of the relevant works:

- i) identification of those trees/shrubs to be retained;*
- ii) identification of the crown spread of retained trees, including those that overhang the boundary; and*
- iii) a scheme for wetland planting along the course of Fairy Beck.*

These works shall be carried out either contemporaneously with the completion of the associated housing or employment development or, in the alternative, by not later than the end of the planting and seeding season following the completion of the Phase of the development to which the landscaping relates (unless an alternative programme is agreed with the Local Planning Authority or under the accompanying Section 106 Agreement).”

- 6.27 The plans submitted address these conditions are: L01 Rev D (“Fairy Beck Park – Overall Plan”); L02 Rev D (“Fairy Beck Park – Area A”); L03 Rev D (“Fairy Beck Park – Area B”); L04 Rev D (“Fairy Beck – Area C”); L05 Rev E (“Hedge Removal Plan”); L06 Rev D (“Fairy Beck Park – Suggested Implementation Zoning Plan”); L07 Rev D (“Fairy Beck Park – Levels of Maintenance Plan”); L08 Rev D (“Street Hierarchy Plan”); L09 Rev B (“Spine Road Section A-A”); L10 Rev B (“Residential Streets Section B-B”); L11 Rev B (“Residential & Employment Streets Section C-C”); L12 Rev B (“Employment Streets Section D-D”); L13 Rev D (“Tree/Hedgerow Retention/Removal Plan”); L14 Rev D (“Biodiversity Enhancement & Protection Plan”); and L15 Rev A (“Typical Tree Pit Details”).

- 6.28 In relation to the above Natural England and the Environment Agency have both requested that Reed sweet grass (*Glyceria maxima*) is omitted from

the scheme and not planted on the site. The Environment Agency has also raised concerns over the planting of Ash trees if it takes place; and that an informative note is included concerning the location for the planting of crack willow.

- 6.29 The applicant's agent (e-mail sent 08.11.12) has subsequently confirmed that the reference to Reed sweet grass only occurs within the Biodiversity Enhancement and Protection Plan and not on any of the submitted drawings. The concern of the Environment Agency is noted and this species will not be included as part of the final planting plan proposals. On this basis it is considered that condition 23 can be discharged in part.

Condition 26

- 6.30 Condition 26 makes it necessary that:

“A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for a period of not less than 5 years from the commencement of the work for all landscape areas (other than domestic gardens) within each Phase of the housing development and in relation to the employment land shall be submitted to and approved in writing by the Local Planning Authority. The approved landscape management plan shall thereafter be fully implemented unless otherwise agreed to in writing by the Local Planning Authority.”

- 6.31 No objections have been received regarding the submitted Landscape Management Plan, although any discharge is partial dependent upon implementation.

Conditions 28 and 29

- 6.32 Condition 28 asks that:

“No part of the development shall commence until details for that part of the surface water drainage and means of disposal, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development (inclusive of how the scheme shall be maintained and managed after completion and any necessary off-site improvements for that part) have been submitted to and approved in writing by the Local Planning Authority.

No housing or non-residential unit hereby permitted shall be occupied until the approved works to connect that unit to the surface water drainage system have been completed.”

- 6.33 Condition 29 requires that:

“No part of the development shall commence until details of the foul drainage, including any necessary off-site improvements, for that part have been submitted to and approved in writing by the Local Planning Authority.

No housing or non-residential unit hereby permitted shall be occupied until the approved works to connect that unit to the foul drainage system(s) have been completed."

- 6.34 In response to the further details received, United Utilities confirmed in April 2013 that they were now happy. On this basis conditions 28 and 29 can be discharged in part pending completion.

Condition 30

- 6.35 Condition 30 needs the development to " *be carried out in accordance with the approved Flood Risk Assessment (FRA) produced by Mouchel and dated 2009, together with the following mitigation measures detailed within the FRA:*

i) limiting the surface water run off generated by the 1 in 100 year plus climate change rainfall event, in accordance with section 7.5 of the Flood Risk Assessment Report, so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site;
ii) in accordance with section 7.2 and 7.4 page 18 of the Flood Risk Assessment Report, all development inclusive of the proposed attenuation ponds shall be located outside the 100 year with climate change outline;
iii) confirmation of the opening up of any culverts across the site; and
iv) in accordance with section 7.3 of the Flood Risk Assessment Report and Appendix E finished floor levels shall be set no lower than 600 mm above the modelled 1 in 100 year flood level plus an allowance for climate change."

- 6.36 In seeking to discharge this condition the applicant has submitted details showing that the development will be carried out in accordance with the approved Flood Risk Assessment. In the absence of actually carrying out the development, it is premature to completely discharge this condition.

Other Matters

- 6.37 When processing previous applications relating to Morton reference has been made to the Cummersdale Enclosure Act of 1769. At the time the opinion of counsel was sought with reference to the specific allotments that were made by Commissioners in 1770 imposing various obligations as to fencing, ditching, maintenance of watercourses etc. The advice was as follows:

1) the legal obligations probably continue down to the present in the general location of the Wigton Road, Peter Lane and Dalston Road junction through their precise effect has yet to be classified;

2) the grant of planning permission (if Committee so decides) will not of itself have any effect on the status of the Act and the Award ie. the Committee will not be acting unlawfully if permission is granted in the context of the existence of the Enclosure Act;

3) if Members are minded to grant permission then it should be minuted that

note has been taken of the existence of the Enclosure Act provisions and attached appropriate weight to these and drawn the applicants attention to their existence.

- 6.38 The applicant's agent has subsequently explained that the hedgerows are not subject to the protection of the Enclosures Act. The current regulations that protect hedgerows are the Hedgerow Regulations 1997. Only three of the hedgerows on the whole site are to be entirely removed - the remainder are to be retained on site (with some small sections to be removed to allow for the provision of roads and drainage). The hedgerow removal at this site is to be undertaken as part of a development that will be supported by planning permission. The City Council's Landscape/Tree Officer has confirmed that a Hedgerow Removal Notice application for the removal of these hedges is not required.

Conclusion

- 6.39 Pending the awaited comments from the Highway Authority regarding the proposed bus gate, the recommendation is for approval in relation to the discharge of requirements regarding the main elements of site infrastructure (namely access, drainage, servicing arrangements and the landscape scheme), and the submission of information to discharge conditions 8 (part), 10, 15 (part), 21, 23 (part), 26 (part), 28 (part), 29 (part) and 30 (part) attached to the outline planning consent to develop the site.
- 6.40 The need for a roundabout at the Dalston Road/Peter Lane junction was considered and not deemed necessary when processing the outline application. It is not, therefore, the subject of a condition/reserved matter. The submitted details are in accord with those accompanying the outline permission. As such it is considered that no sustainable planning objection can be raised to the submitted reserved matters on this matter. To do so would be contrary to advice contained in Circulars 11/95 and 03/2009, and make the Council vulnerable to an application for costs at any consequent appeal. Nevertheless, the opportunity exists for the respective Authority (with assistance where possible from the City Council) to monitor the situation, timetable any necessary works, and allocate resources.

7. Planning History

- 7.1 In November 2010, outline planning permission was given under application reference number 09/0413 for residential (maximum 825 dwellings), employment (40,000m² floorspace), and public open space purposes as well as associated works.
- 7.2 In February 2013, under application 12/1024, condition 2 (phasing plan) imposed under 09/0413 was discharged in part pending implementation in accordance with the approved details.
- 7.3 This application is in the context that the Council are also considering two

further applications: 13/0207 - reserved matters for Phase 1A works; and 13/0283 - the installation of a rising main (sewage) pipeline.

7.4 In relation to neighbouring land, in 2011 (under application 10/0917) outline planning permission has been granted for the erection of a district centre. In October 2012, under application 00/0439, outline planning permission was given for residential development on land at the Peter Lane/Dalston Road junction. The consequent application seeking approval of the reserved matters for 103 dwellings, application 12/0855, has yet to be determined.

8. Recommendation: Grant Permission

1. In discharge of requirements for the submission of detailed particulars of the proposed development for the main elements of site infrastructure for the site (namely access, drainage, servicing arrangements and the landscape scheme) and the submission of information to discharge conditions 8 (part), 10, 15 (part), 21, 23 (part), 26 (part), 28 (part), 29 (part) and 30 (part) attached to the outline planning consent to develop the site.
2. The approved documents for this Reserved Matters comprise:
 1. the submitted planning application form;
 2. three emails from Nicholas Innes of Dougall Baillie Associates Limited to Josephine Wong of United Utilities, sent on the 22 January 2013; an email from Nicholas Innes of Dougall Baillie Associates Limited to Josephine Wong of United Utilities, sent on the 13 March 2013; and an email from Nicholas Innes of Dougall Baillie Associates Limited to Josephine Wong of United Utilities, sent on the 16 April 2013;
 3. the Summary Drainage Strategy Statement January 2012;
 4. Dougall Baillie Associates drawings 11035-500-100 rev E; 11035-500-200 rev F Spine Road Drainage Layout (Sheet 1 of 2); 11035-500-201 rev E Spine Road Drainage Layout (Sheet 2 of 2); drawing 11035-SK-42 rev C Development Drainage Connection Plan; 11035-500-101 rev A Eastern Drainage Network SUDS Detention Pond; 11035-500-103 rev B Western Drainage Network SUDS Detention Pond; 11035-500-120 rev D Wigton Road/Internal Road 1 Drainage Layout; 11035-500-140 rev D Peter Lane West Junction/Internal Road 2 Drainage Layout; 11035-500-160 rev E Peter Lane East/Internal Road 3 Drainage Layout; 11035-500-180 rev F Bus Lane/Internal Road 4 Drainage Layout April 2012; and 11035-500-113 rev F Indicative Foul Pumping Station Overview;
 5. drawings: 11035-100-100 Rev E ("Road Profiles Sheet 1"); -101 Rev F ("Road Profiles Sheet 2"); -102 ("Road Profiles Sheet 3"); -104 Rev G ("General Arrangement Wigton Road/Internal Road 1"); -105 Rev H ("General Arrangement Peter Lane West Internal Road 2"); -106 Rev G ("General Arrangement Peter Lane East Internal Road 3"); -107 Rev G

("General Arrangement Dalston Road/Internal Road 4"); -108 Rev F ("General Arrangement Spine Road"); -109 Rev G ("Spine Road Cross Sections"); -110 Rev F ("Internal Road 1 Cross Sections"); -111 Rev G ("Internal Road 2 Cross Sections"); -112 Rev F ("Internal Road 3 Cross Sections"); -113 Rev G ("Internal Road 4 Cross Sections"); -114 Rev D ("Bus Route Cross Sections"); -115 Rev D ("Dalston Road Crossing Facility"); 116 Rev J ("Roads Overview"); 118 Revision N ("Phasing Plan"); and 119 Rev C ("Adoption Plan");

6. drawings: L01 Rev D Fairy Beck Park – Overall Plan; L02 Rev D Fairy Beck Park – Area A; L03 Rev D Fairy Beck Park – Area B; L04 Rev D Fairy Beck – Area C; L05 rev E Hedge Removal Plan; L06 Rev D Fairy Beck Park – Suggested Implementation Zoning Plan; L07 Rev D Fairy Beck Park – Levels of Maintenance Plan; L08 Rev D Street Hierarchy Plan; L09 Rev B Spine Road Section A-A; L10 Rev B Residential Streets Section B-B; L11 Rev B Residential & Employment Streets Section C-C; L12 Rev B Employment Streets Section D-D; L13 Rev D Tree/Hedgerow Retention/Removal Plan; L14 Rev D Biodiversity Enhancement & Protection Plan; and L15 Rev A Typical Tree Pit Details;
7. the submitted: Planning Statement; Design and Access Statement; Biodiversity Enhancement and Protection Plan; Landscape Management Plan; Ground Investigation Report; and the Environmental Statement that accompanied application 09/0413;
7. an email from Robert Murphy of Smiths Gore to Sam Greig of Carlisle City Council sent on 8th November 2012;
8. the Notice of Decision; and
9. any such variation as may subsequently be approved in writing by the Local Planning Authority.

Reason: To define the permission.

- Notes:
1. ALL CONSTRUCTION DETAILS TO COMPLY WITH CARLISLE CITY COUNCIL ROADS DEVELOPMENT GUIDE AND THE DESIGN MANUAL FOR ROADS AND BRIDGES.
 2. THE SPECIFICATION FOR THIS PROJECT IS THE SPECIFICATION FOR HIGHWAY WORKS.
 3. ACCESS POSITIONS ARE INDICATIVE ONLY AND ARE SUBJECT TO SITE LAYOUT PROPOSALS



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CHURCH COMMISSIONERS
FOR ENGLAND

SOUTH MORTON

ROADS OVERVIEW

Drawn	Checked	Date
GA	FCA	01.07.11

Scale	Drawn	Date
1:1000	@A0	11035-100-16

Project: PLANNING

DO NOT scale from this drawing

FOR DRAINAGE IN SHEET 1 REFER TO
DRAWING NUMBER 11035-500-120

FOR DRAINAGE IN SHEET 2 REFER TO
DRAWING NUMBER 11035-500-140

FOR DRAINAGE IN SHEET 3 REFER TO
DRAWING NUMBER 11035-500-200

FOR DRAINAGE IN SHEET 4 REFER TO
DRAWING NUMBER 11035-500-160

FOR DRAINAGE IN SHEET 5 REFER TO
DRAWING NUMBER 11035-500-201

FOR DRAINAGE IN SHEET 6 REFER TO
DRAWING NUMBER 11035-500-180

DENOTES PROPOSED SURFACE WATER
SEWER

DENOTES EXISTING FAIRY BECK
CULVERT

DENOTES DENOTES DEVELOPMENT PHASES AND CONNECTIONPOINTS

Project: SOUTH MORTON
CARLISLE

Drawing Title:
DEVELOPMENT DRAINAGE
CONNECTION PLAN



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Notes:

- DENOTES PROPOSED SURFACE WATER SEWER
- DENOTES PROPOSED FOUL SEWER
- DENOTES EXISTING FAIRY BECK CULVERT
- DENOTES DEVELOPMENT BOUNDARY
- DENOTES EXISTING WATERCOURSES.

E	COLOURS UPDATED TO SUIT UNITED UTILITIES REQUIREMENTS.	N.I.	F.G.A.
D	MINOR REVISIONS TO STORM PIPE DETAILS AT RETAIL SITE ACCESS	J.C	F.G.A.
C	DRAINAGE LAYOUT REVISED TO REFLECT AMENDMENTS TO ROADS LAYOUT AT EMPLOYMENT LAND	J.C	F.G.A.
B	DRAINAGE AMENDED TO SUIT ADDITIONAL EMPLOYMENT LAND.	N.I.	F.G.A.
A	PIPE DIAMETERS ADDED AS PER UNITED UTILITIES REQUEST.	N.I.	F.G.A.
Rev.	Revision details:	By:	Checked:
		Date:	Date:

Client:
**CHURCH COMMISSIONERS
FOR ENGLAND**

Project:
**SOUTH MORTON
CARLISLE**

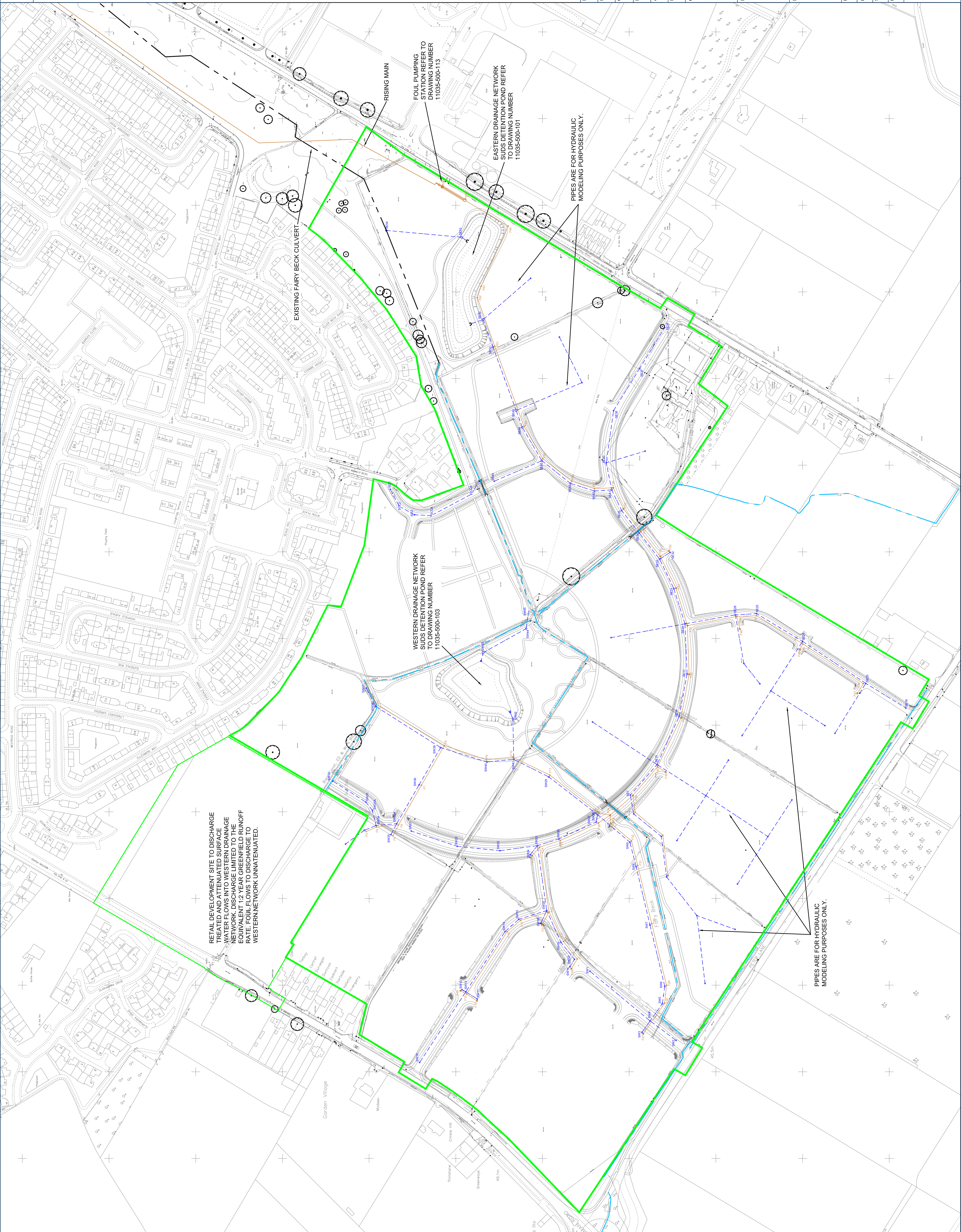
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SCHEMATIC DRAINAGE OVERVIEW

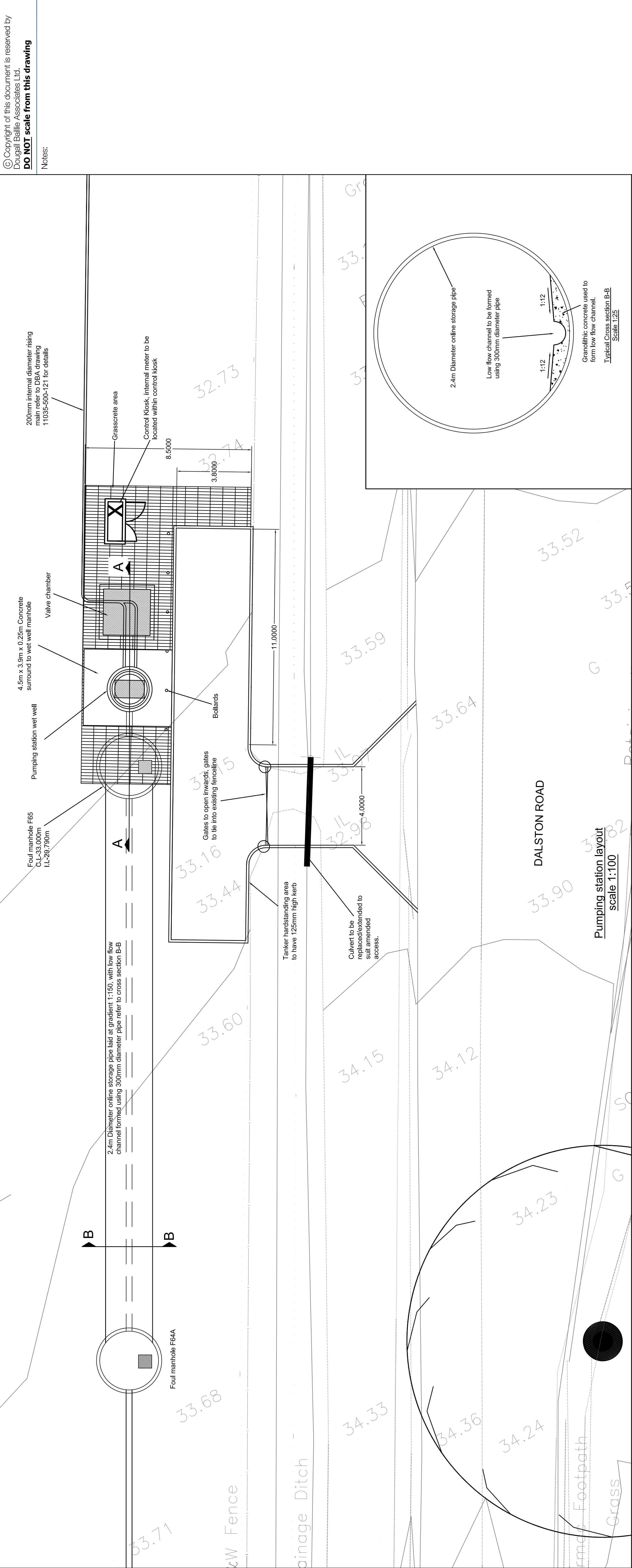
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Date:	11.07.12	Date:	11.07.12
Scale:	1:2000	Dwg. No:	11035-500-100

Dwg Status:
Draft

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DBA
DRAINAGE BOUNDARY ASSOCIATES





F	NOTED ADDED TO HIGHLIGHT METER LOCATION FOR ELECTRICITY SUPPLY	N.I.	F.G.A.	17.04.13	17.04.13
E	VEHICULAR ACCESS REISED	N.I.	F.G.A.	26.03.13	26.03.13
D	EMERGENCY STORAGE BROUGHT OUT OF THE PUMP CHAMBER THROUGH PUMPING STATION ADDED.	N.I.	F.G.A.	20.03.13	20.03.13
C	NOTE REGARDING PROPOSED FOUL FLOW REISED	J.C	F.G.A.	25.01.13	25.01.13
B	ALTERATIONS TO MANHOLE PIPE NUMBERS	J.C	F.G.A.	27.11.12	27.11.12
A	INTERNAL RISING MAIN DIAMETER ADDED TO DRAWING.	N.I.	F.G.A.	30.10.12	30.10.12
Rev.	Revision details:	By:	Checked:	Date:	Date:

Client: CHURCH COMISSIONERS FOR ENGLAND

Project: SOUTH MORTON CARLSLE

Drawing Title: INDICATIVE FOUL PUMPING STATION OVERVIEW

Drawn:	N.I.	Checked:	F.G.A.
Date:	05.07.12	Date:	05.07.12
Scale:	VARIES @A1	Drawn by:	11035-500-113
Draw Status:	Draft		

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