SCHEDULE A: Applications with Recommendation

21/0328

Item No: 14 Date of Committee: 23/07/2021

Appn Ref No:Applicant:Parish:21/0328Mr FaxonBrampton

Agent: Ward:

Ashton Design Brampton & Fellside

Location: Land adjacent Oakfield, Milton, Brampton, CA8 1HX

Proposal: Erection Of 1 No Dwelling House With Detached Garage; Access

Improvements At Junction With A689; Upgrading Of Drainage

Arrangements (Revised Application)

Date of Receipt: Statutory Expiry Date 26 Week Determination

13/04/2021 08/06/2021 26/07/2021

REPORT Case Officer: Stephen Daniel

1. Recommendation

1.1 It is recommended that this application is approved with conditions.

2. Main Issues

- 2.1 Whether The Proposal Is Acceptable In Principle
- 2.2 Whether The Scale And Design Of The Proposals Would Be Acceptable
- 2.3 Impact Of The Proposal On Residential Amenity
- 2.4 Highway Matters
- 2.5 Drainage Issues
- 2.6 Impact On Listed Buildings
- 2.7 Trees and Hedgerows
- 2.8 Biodiversity

3. Application Details

The Site

3.1 The application site, which measures 0.14 hectares, is currently over grown with a number of trees being located around the southern and eastern

edges of the site. The site slopes uphill away from the adjacent track that runs to the south of the site, with the top of the site being approximately 3m higher than the track to the south. The track continues to the east of the site and starts to slope uphill. The site also slopes gently from west to east. There is an existing access at the western end of the site.

- 3.2 The track, which is a BOAT (byway open to all traffic), provides access to a number of dwellings and agricultural land. The track, which is surfaced in hardcore, is unadopted and is adjoined by an open watercourse for part of its length. Where the track meets the main road through the village it is adjoined by a stone wall, which restricts visibility to the east.
- 3.3 A residential property (Oakfield) adjoins the site to the west beyond which lies Moss Row, which appears to be in residential and commercial use. A further dwelling (New Inn) lies to the south of Moss Row. These buildings all sit at the same level as the track, although Oakfield does have a rear section that sits higher than the track and its garden area is elevated above the track. Numbers 15 and 16 The Village, which are Grade II Listed, lie to the west of Moss Row at the junction of the track and the A689. The land to the north of the site is in agricultural use, with a paddock lying to the south of the site on the opposite side of the track. A railway line lies to the south of the paddock.

Background

In November 2015, planning permission was granted for the erection of one dwelling with integral double garage; access improvements at junction with A689 (lowering of existing wall, installation of railing to top and straightening of carriageway); upgrade of drainage arrangements to access road (revised application) (15/0815). This permission was never implemented and has now expired.

The Proposal

- 3.5 The proposal is seeking to erect one dwelling and a detached garage on the site. The application form makes reference to a self-build/ custom build dwelling. The property would be one-and-a-half storey (ridge height of 7.2m) with rooms in the roofspace. The ground floor would contain a living room, dining room, kitchen, utility, conservatory, two bedrooms and a shower, with the upper floor containing three bedrooms (one en-suite) and a bathroom.
- 3.6 The front and rear elevations would have a two-storey projecting gable which would be adjoined by a pitched roof dormer window which would be sited at eaves level. The east (side) elevation would also have two pitched roof dormer windows at eaves level. A single-storey section would be attached to the western side of the dwelling and this would contain the living room and a conservatory. Solar panels would be attached to the front (south) roofslope of the single-storey section. A detached double garage would be sited to the west of the dwelling and this would sit at a lower level than the dwelling. Solar panels would also be attached to the south facing roofslope of the garage.

- 3.7 The ground floor of the dwelling and the garage would be constructed of red facing brick, with the upper floor of the dwelling be finished in self coloured render. Windows would be wood effect upvc. The roof would be finished in grey Redland Cambrain composite slate, with rainwater goods being plastic cast iron style.
- 3.8 A large parking/ turning area would be provided to the front of the garage and this would be accessed from the existing track. A small garden would be provided to the rear of the dwelling with larger gardens being provide to the front (south) and east. The existing trees that lie along the southern and eastern edges of the site would be retained.

4. Summary of Representations

4.1 This application has been advertised by means of a site notice and notification letters sent to seven neighbouring properties. In response, four letters of objection have been received which raise the following concerns:

Access

- concerned about the safety of access to the site and the damage that will inevitably be caused to the unadopted lane that would be used for this access:
- access from the lonning onto the A689 is a visibility hazard due to the incline and requirement to encroach onto the road in order to check for oncoming traffic from both sides;
- the exit on to the road in the vicinity of a busy level crossing, which include a blind corner, is not (and will not be fit with changes to the wall) for heavy wagons to pass safely - there is an immediate pinch point in the lane;
- reducing the wall will make no difference for traffic coming from the right. With only 20 metres before a rail crossing on a blind bend, delivery lorries represent a particular hazard due to size, weight and being less manoeuvrable in the tight access:
- removal of the wall adjacent to the A689 seems to make no sense at all and not sure how this will help with access. Drivers leaving the lane cannot make the turn left towards Hallbankgate in a single turn given the angle of approach. Drivers need to nudge out of the lane for visibility to see the oncoming traffic which is a bigger risk than from traffic coming from Hallbankgate. The proposal to remove the wall and replace with a timber post and wire fence will not impact the safety aspect of the lane at all;
- there are no turning points on the lonning other than residents driveways, and delivery vans already tend to existing drives which would definitely not be acceptable to lorries;
- the lonning is not a metaled surface. It has ruts and pot holes consistently created from water run off from Milton Rigg woods and is maintained solely at existing residents expense and time. Any additional vehicle access, particularly heavy plant and delivery lorries would further deteriorate the surface causing additional cost and inconvenience;
- the restricted access to the BOAT from the A689 is difficult for large vehicles - one dwelling has been struck twice by large vehicles, one of which

was a council refuse collection vehicle which no longer accesses the lane;

- the delivery of materials and plant machinery will be very difficult and we have experienced this when the applicant built the property at Oakfield. The lane is simply not designed to be able to cope with the addition of further traffic that another family home will bring;
- the lane already serves as main access to 6 properties. Access is required 24/7 and the lane is only wide enough to allow one vehicle to pass at any one time:
- the lane is in adequate repair to provide access to the existing homeowners however it is not in a fit state to allow for the repeated passage of construction traffic that would be required to remove the considerable amount of spoil from the site;
- in order for the current plan to be within the roof lines of the village then it is estimated that between 1.5m to 2.0m depth would need to be excavated from the entire site in order to provide sufficient area for the building footprint and this will require the passage of an estimated 50 to 100 wagon loads of which access via the lane at the moment is not really possible;
- the frequency of this heavy traffic in and out of the lane entrance will undoubtedly cause safety issues for the main A689 route to Alston;
- the current plans and method statements do not adequately address the removal of this spoil;
- the lane is unadopted and continually suffers from potholes. Every year it is repaired two additional cars in the lane will only make this position worse;
- if the council were prepared to adopt the lane and make the necessary upgrades to the surface of the lane, then perhaps another family home would be tolerable, but if the lane continues to be unadopted then the burden will fall on the existing residents;
- understand that any Temporary Closure Order requires 'reasonable facilities to allow access to adjacent premises, but there is simply no other way properties at the end of the lonning could be reached;

Drainage/ Flooding

- the application states that the proposal is not within 20m of a watercourse. This is not true as the culvert and stream run directly adjacent to the property hence the discussion on the re-siting of the existing culvert;
- the lane is subject to flooding during times of heavy rainfall this has been exacerbated by the less than sympathetic treatment of the site in the recent past. The removal of vegetation from the site has served to significantly limit the ability of the stream to cope with the drainage water that flows from the Milton Rigg Woods area causing the stream to silt up and block the flow of water under the site this had to be repaired by the current residents;
- when cutting back the vegetation from the site the machinery used (large tractor with cutting gear) caused significant damage to the stream, collapsing the sides and damaging the lane and this has not been repaired fear that on completion of the work and sale of the property there will be no obligation by current or future owner to make adequate repairs to the lane;
- additional rainwater that will run off from the proposed development will go into the beck and will increase the flooding within the lane which currently impacts two houses on the lane;
- the drains have had major issues in the past and they cannot cope with another property;

- at the point the beck reaches Moss Row it cuts across the lane by means of a concrete pipe. The pipe regularly reaches capacity and the overflowing water then fills the area between 16 The Village and Moss Row. Given that 16 The Village is at the low point on the lane the water has nowhere to go other than through the garden and then rejoining the beck;
- the capacity of the pipe will not accommodate any additional surface water from the proposed development;
- every time there is flooding (at least 6-10 times during the winter months) the surface of the lane is further eroded and the debris from the erosion ends up the garden of 16 The Village;
- there have been a number of occasions when the drains have not coped with the volume of waste United Utilities operatives have stated that the existing drain was never designed to accommodate to volume of waste which now makes its way into the drain;
- what evaluation has been undertaken to establish whether the drain will accommodate another family home;
- when the drain does become overburdened the waste fills a 6 foot sump in the garden of 16 The Village and spills onto the lawn;
- during the construction of Oakfield which was carried out by the applicant, the drain blocked many times;
- if the council were prepared to adopt the lane and make the necessary upgrades to assist with the egress of surface water and the drainage then perhaps another family home would be tolerable, but if the lane continues to be unadopted then the burden will fall on the existing residents;

Other Issues

- residents of the lane have to bring their wheelie bins, recycling bins and garden waste to the end of the lane;
- need to maintain the roof height of the planned "cottage" within the limits of the rest of the roof heights within the village;
- the application states that there would be minimal requirement to remove material from the site.

5. Summary of Consultation Responses

Cumbria County Council - (Highways & Lead Local Flood Authority): - no objections, subject to conditions surface water drainage scheme; survey of existing surface water pipe; use of banksman during construction phase); Brampton Parish Council: - has no observations to make;

Cumbria County Council - (Highway Authority - Footpaths): - Public Byway open to all traffic 105030 follows an alignment to the south side of the proposed development and must not be altered or obstructed before or after the development has been completed. The Highway authority will not allow an open Ford to be created across the Byway as this will obstruct pedestrian access, therefore a culvert will need to be installed and a temporary closure of the Byway will be required to allow for the installation;

The Ramblers: - no comments received;

United Utilities: - the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way.

6. Officer's Report

Assessment

- 6.1 Section 70(2) of the Town and Country Planning Act 1990/ Section 38(6) of the Planning and Compulsory Purchase Act 2004, requires that an application for planning permission is determined in accordance with the provisions of the development plan, unless material considerations indicate otherwise.
- The relevant planning policies against which the application is required to be assessed are the National Planning Policy Framework (NPPF), the Planning Practice Guidance (PPG), Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 and Policies SP1, SP2, SP6, HO2, GI1, GI3, GI5, GI6, IP3, IP6 and CC5 of the Carlisle District Local Plan 2015-2030. The Supplementary Planning Document (SPD) Achieving Well Designed Housing and Trees and Development are also material considerations.
- 6.3 The proposal raises the following planning issues:
 - 1. Whether The Proposal Is Acceptable In Principle
- In November 2015, planning permission was granted for the erection of a dwelling on this site. The site lies within Milton, which is a small village with limited services, but which lies less than 3km from the centre of Brampton. Milton is a location that is considered acceptable for some additional rural housing, due to its proximity to Brampton. The proposal is, therefore, acceptable in principle.
 - 2. Whether The Scale And Design Of The Proposals Would Be Acceptable
- The finished floor level of the dwelling would be approximately 3m higher than track that adjoins the site to the south but at a similar level to the track as it passes to the east of the site. The property would be one-and-a-half storey (ridge height of 7.2m) with rooms in the roofspace which would reduce its impact. The ground floor would contain a living room, dining room, kitchen, utility, conservatory, two bedrooms and a shower, with the upper floor containing three bedrooms (one en-suite) and a bathroom.
- The front and rear elevations would have a two-storey projecting gable which would be adjoined by a pitched roof dormer window which would be sited at eaves level. A single-storey section would be attached to the western side of the dwelling and this would contain the living room and a conservatory. Solar panels would be attached to the front (south) roofslope of the single-storey section. A detached double garage would be sited to the west of the dwelling and this would sit at a lower level than the dwelling. Solar panels would also be attached to the south facing roofslope of the garage.
- 6.7 The ground floor of the dwelling and the garage would be constructed of red

facing brick, with the upper floor of the dwelling be finished in self coloured render. Windows would be wood effect upvc. The roof would be finished in grey Redland Cambrain composite slate, with rainwater goods being plastic cast iron style. The proposed materials are considered to be acceptable.

- A large parking/ turning area would be provided to the front of the garage and this would be accessed from the existing track. A small garden would be provided to the rear of the dwelling with larger gardens being provided to the front (south) and east. The existing trees that lie along the southern and eastern edges of the site would be retained.
- 6.9 In light of the above, the scale and design of the proposed dwelling would be acceptable.
 - 3. Impact Of The Proposal On Residential Amenity
- Oakfield adjoins the site to the west. The proposed dwelling would have a conservatory attached to the western end of the dwelling and this would have windows in the west elevation. These would, however, be approximately 33m from the side elevation of Oakfield and 19m from the nearest part of the garden of Oakfield.
- 6.11 A double garage would be erected to the west of the dwelling near to the boundary with Oakfield but this would be approximately 20m from the nearest part of the dwelling. Whilst this might lead to overshadowing of part of the garden of Oakfield, this would not be significant given the height of the garage (ridge height 4.5m). Parts of the garden would be unaffected and given the orientation, there would be no overshadowing of the garden in the afternoon/ evening.
- 6.12 In light of the above, the proposal would not have an adverse impact on the occupiers of any neighbouring properties through loss of light, loss of privacy or over-dominance.
 - 4. Highway Matters
- 6.13 The previous application (15/0815) established the principle of development in this location. The proposed layout provides for adequate parking and turning facilities within the site boundary.
- 6.14 Under the previous application, the wall at the junction of the byway and the A689 was to be reduced in height, with metal fencing than added to the top of the wall. During a recent site visit by highways, measurements were taken in the presence of the consultant to determine the extent the wall to the east impacts on visibility at the junction onto the A689. It was determined that the wall to the east had little to no impact on the visibility to the east. Therefore, the Highways Authority does not now require the wall to be reduced in height.
- 6.15 During the site visit it was noted that the visibility to the west would not reach the requirements of the Cumbria Development Design Guide, however, after

further consideration of crash map data and the junction location (close to the network rail crossing where traffic will be reducing speed) it was considered for the one dwelling that the impact to the highway network is unlikely to be severe.

- 6.16 However, it was noted that the byway open to all traffic (BOAT) is narrow next to 16 The Village. Therefore, it is considered that a banksman should be available to ensure construction / delivery traffic can safely move through the narrow section and exit safely onto the A689. A condition has been added to deal with this issue.
- 6.17 The current condition of the lane has been raised by objectors. On site, whilst the road is clearly unmade, it does not appear to be in such a state of disrepair that would rule out a modest increase in use from the approval of a single new dwelling. Objectors have questioned how the unadopted lane would continue to be maintained in the event that the new dwelling is approved presumably similar agreements can be reached with the new owner as were reached after the construction of the relatively modern Oakfield, though this would be an issue for residents to pursue outwith the planning process.
- 6.18 There are concerns that construction vehicles would damage the lane. This is, however, a civil matter, rather than a planning matter. The applicant and current residents would need to discuss this privately, though it would stand to reason that as the applicant would need to use the lane to access their dwelling, they would wish to see the lane remain usable.
- Other concerns raised by objectors include the lack of passing places and turning space along the lane. The proposal would include space to the front that would allow for a vehicle to turn around. The Highways Authority has requested that the access and turning space are provided before work on the main dwelling commences. This has been included as a condition for the planning permission.
- 6.20 The current state of the lane is considered to be able to support an additional dwelling, provided the junction improvements are carried out before work commences on this development. A condition has been included, at the Highways Authority's request, to ensure that work to the junction wall is completed before construction of the new dwelling commences.

Drainage Issues

- During the site visit the drain under the BOAT was also observed. It currently appears to be blocked. Further discussions have taken place with the County's Countryside Access Officer who has confirmed that it is satisfactory to clean the drain and ensure there are no collapses on the existing pipe under the BOAT rather than replace it.
- 6.22 During the site visit the consultants questioned who would maintain any pipe under the BOAT. It should be noted that responsibility for 'private roads' is

normally carried out by 'frontagers' ie those with land adjacent to the private road. Therefore, the developer in this particular instance would be responsible unless there is evidence to prove otherwise. As such the developer or their successor should continue to maintain the drain as part of the fabric of the private road.

- 6.23 Information was provided during the site visit that the lane downstream of the site during heavy events can become flooded. In order to reduce the possibility of increasing this flood risk the surface water should be limited to greenfield runoff rates or to a discharge not likely to impact on those located downstream. A condition has been added to deal with this issue.
- 6.24 Objectors have raised concerns about the impact of the proposed dwelling on flooding in the area. The surface water from the site would be attenuated before discharging into the adjacent watercourse and this should improve the current flooding problems.
 - 6. Impact On Listed Buildings
- 6.25 Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 highlights the statutory duties of Local Planning Authorities whilst exercising of their powers in respect of listed buildings. The aforementioned section states that:
 - "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses".
- 6.26 Policy HE3 of the adopted Local Plan seeks to ensure that Listed Buildings and their settings will be preserved and enhanced.
- 6.27 Numbers 15 and 16 The Village, which lie at the junction of the byway and the A689, are Grade II Listed. The proposed dwelling would be sited over 80m from these dwellings and would be separated from them by Oakfield and Moss Row. The new dwelling would not, therefore, have an adverse impact on the setting of the listed buildings.
- 6.28 In light of the above, the proposal would not have an adverse impact on any listed buildings.

7. Trees and Hedgerows

- 6.29 An Arboricultural Statement and an Arboricultural Method Statement have been submitted with the application. The majority of the trees on the site would be retained. Two trees would be removed due to their location/condition and two replacement trees would be planted within the site.
- 6.30 The Arboricultural Method Statement provides details of the locations and

specification of the tree protection fencing which is to be erected on site prior to building works commencing. Less than 4% of the root protection areas (RPAs) of the retained trees would be effected by the development which would be acceptable. All excavation works within the RPAs would be carried out using hand tools taking care not to damage any roots.

6.31 In light of the above, the proposal would not have an adverse impact on the majority of the existing trees. Two replacement trees would be planted to replace the two existing trees that would be removed.

8. Biodiversity

- Planning Authorities in exercising their planning and other functions must have regard to the requirements of the EC Habitats Directive (92/43/EEC) when determining a planning application as prescribed by regulation 3 (4) of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended). Such due regard means that Planning Authorities must determine whether the proposed development meets the requirements of Article 16 of the Habitats Directive before planning permission is granted. Article 16 of the Directive indicates that if there is reasonable likelihood of a European protected species being present then derogation may be sought when there is no satisfactory alternative and that the proposal will not harm the favourable conservation of the protected species and their habitat.
- 6.33 The Councils GIS Layer has identified that the site has the potential for protected species to be present on or in the vicinity of the site. It is not anticipated that the development would significantly harm a protected species or their habitat; however, an Informative should be included within the decision notice to ensure that if a protected species is found all work must cease immediately and the Local Planning Authority be informed.

Conclusion

6.34 The proposal would be acceptable in principle. The scale and design of the dwelling would be acceptable and it would not have an adverse impact on the living conditions of the occupiers of any neighbouring properties, on listed buildings, on trees or on any protected species. The proposed access and drainage arrangements would be acceptable. In all aspects, the proposal is considered to be compliant with the relevant polices in the adopted Local Plan.

7. Planning History

4.1 In November 2015, planning permission was granted for the erection of 1no. dwelling with integral double garage; access improvements at junction with A689 (lowering of existing wall, installation of railing to top and straightening of carriageway); upgrade of drainage arrangements to access road (revised application) (15/0815).

8. Recommendation: Grant Permission

1. The development shall be begun not later than the expiration of 3 years beginning with the date of the grant of this permission.

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

- 2. The approved documents for this Planning Permission comprise:
 - 1. the submitted planning application form, received 8th April 2021;
 - 2. Site/ Block/ Location Plan (Dwg No. 2012/01B), received 5th July 2021;
 - 3. General Arrangement (Dwg No. 2012/02A), received 5th July 2021;
 - 4. Topographical Survey (Dwg 1), received 5th July 2021;
 - 5. Arboricultural Statement (Dwg 2012/03), received 8th April 2021;
 - 6. Design & Access Statement, received 8th April 2021;
 - 7. Arboricultural Method Statement, received 8th April 2021;
 - 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.

3. The access and parking/turning requirements shall be substantially met before any building work commences on site so that constructional traffic can park and turn clear of the highway.

Reason: The carrying out of this development without the provision of these facilities during the construction work is likely to lead to inconvenience and danger to road users and to support Local Transport Policy LD8.

4. The storage of building materials and vehicles needed for construction should be kept on-site during construction works, and must not block the bridleway/right of way. Any other areas for material/vehicle storage should only be used with clear, written approval from the Local Planning Authority.

Reason: To ensure that the materials and vehicles needed for construction do not block the bridleway/right of way and are not inappropriately located elsewhere.

5. Other than those trees identified for removal on the approved plan, no tree

or hedgerow existing on the site shall be felled, lopped, uprooted or layered without the prior consent in writing of the local planning authority. Prior to the commencement of any works or development on site tree protection fencing shall be installed in accordance with the details set out in the Arboricultural Method Statement (received 8th April 2021) and maintained to the satisfaction of the local authority for the duration of the development.

Within the fenced-off tree protection area:

- 1. No equipment, machinery or structure shall be attached to or supported by a retained tree or by the tree protection barrier;
- 2. No mixing of cement or use of other contaminating materials or substances shall take place within, or close enough to, a root protection area that seepage or displacement could cause them to enter a root protection area;
- 3. No alterations or variations to the approved tree and hedge protection schemes shall be made without prior written consent of the local planning authority;
- 4. The tree and hedge protection fencing must be maintained to the satisfaction of the local planning authority at all times until completion of the development

Reason: The local planning authority wishes to see existing

hedgerows/trees incorporated into the new development where possible and to ensure compliance with Policy GI6 of the

Carlisle District Local Plan 2015-2030.

6. The development shall be undertaken in strict accordance with the Arboricultural Method Statement (received 8th April 2021).

Reason: To ensure that existing trees are protected in accordance with Policy Gl6 of the Carlisle District Local Plan 2015-2030.

7. The landscape works shall be undertaken in strict accordance with the details shown on the Arboricultural Statement (Dwg No. 2012/03, received on 8th April 2021). Any trees or other plants which die or are removed within the first five years following the implementation of the landscaping scheme shall be replaced during the next planting season.

Reason: To ensure that a satisfactory landscaping scheme is prepared and to ensure compliance with Policies SP6 and Gl6 of the Carlisle District Local Plan 2015-2030.

8. Full details of the surface water drainage system (incorporating SUDs features as far as practicable) and a maintenance schedule 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 thereafter in accordance with the schedule.

Reason: To promote sustainable development, secure proper drainage

and to manage the risk of flooding and pollution. To ensure the surface water system continues to function as designed and that flood risk is not increased within the site or elsewhere.

9. Prior to commencement of the development, evidence of the surface water pipe running under the byway open to all traffic located at the proposed dwelling site entrance shall be provided to demonstrate it is clean and free from collapses or other obstructions.

Reason: To ensure free flow of surface water and reduce the risk of flooding and nuisance on the byway open to all.

Reason: To ensure the undertaking of the development does not adversely impact on the interests of highway and pedestrian safety.



