

# AGENDA

## Development Control Committee

**Friday, 08 January 2021 AT 10:00**

**This meeting will be a virtual meeting and therefore will not take place in a physical location.**

### **Virtual Meeting - Link to View**

This meeting will be a virtual meeting using Microsoft Teams and therefore will not take place at a physical location following guidelines set out in Section 78 of the Coronavirus Act 2020.

This meeting will be held in two sessions, please see overleaf details of the items that will be considered in each session.

### **Session 1**

#### **Register of Attendance and Declarations of Interest**

A roll call of persons in attendance will be taken and Members are invited to declare any disclosable pecuniary interests, other registrable interests and any interests, relating to any item on the agenda at this stage.

#### **Apologies for Absence**

To receive apologies for absence and notification of substitutions

#### **Public and Press**

To agree that the items of business within Part A of the agenda should be dealt with in public and that the items of business within Part B of the agenda should be dealt with in private.

## **Minutes of Previous Meetings**

**5 - 16**

To note that Council, at its meeting of 5 January 2021, received and adopted the minutes of the Development Control Committee meetings held on 7 October (site visits), 9 October and 6 November 2020. The Chair will sign the minutes at the first practicable opportunity.  
[Copy minutes in Minute Book 47(4)].

To approve the minutes of the meetings held on 4 December 2020 and 6 January 2021 (site visits).

## **PART A**

### **To be considered when the Public and Press are present**

#### **A.1 CONTROL OF DEVELOPMENT AND ADVERTISING**

To consider applications for:

- (a) planning permission for proposed developments
- (b) approval of detailed plans
- (c) consents for display of advertisements.

## **Explanatory Notes**

**17 -  
22**

### **Item 01 - 20/0580 - Low Meadow, Kirklington, Carlisle, CA6 6BT**

**23 -  
38**

### **Item 02 - 20/0600 - Green Meadows Country Park, Blackford, Carlisle, CA6 4EA**

**39 -  
52**

**Item 03 - 20/0326 - The Old Sawmill, Linstock, Carlisle, CA6 4PY** 53 -  
70

**Item 04 - 20/0709 - Land to Rear of 46 Broomfallen Road, Scotby, Carlisle, CA4 8DE** 71 -  
88

**Item 05 - 20/0735 - Site Adjacent Sandy Hill, Faugh, Heads Nook, Brampton, CA8 9EG** 89 -  
102

**A.2 AFFORDABLE HOUSING CONTRIBUTION - LAND AT CARLISLE ROAD BRAMPTON** 103 -  
114

The Corporate Director of Economic Development to submit a report which sets out the position regarding Section 106 contributions relating to affordable housing following an independent viability assessment of the site, and provides an update to Members on issues raised during consideration of the original report (ED.46/20).  
(Copy report ED.02/21 herewith).

## **Session 2**

**A.3 CONTROL OF DEVELOPMENT AND ADVERTISING**

To consider applications for:

- (a) planning permission for proposed developments
- (b) approval of detailed plans
- (c) consents for display of advertisements.

**Item 06 - 19/0840 - Land off Warwick Road, Carlisle**

**115 -  
154**

**PART B**

**To be considered when the Public and Press are excluded from the meeting**

- NIL-

**Members of the Development Control Committee**

**Conservative** – Christian, Collier, Meller, Morton, Nedved, Shepherd, Mrs Bowman (sub), Mrs Finlayson (sub), Tarbitt (sub)

**Labour** – Alcroft, Birks, Mrs Glendinning (Vice Chair), Miss Whalen, Patrick (sub), Dr Tickner (sub)

**Independent** - Tinnion (Chair), Paton (sub)

Enquiries, requests for reports, background papers etc to:

Jacqui Issatt, Committee Clerk - [jacqui.issatt@carlisle.gov.uk](mailto:jacqui.issatt@carlisle.gov.uk)

To register a Right to Speak at the committee contact [DCRTS@carlisle.gov.uk](mailto:DCRTS@carlisle.gov.uk)

**DEVELOPMENT CONTROL COMMITTEE**

**FRIDAY 4 DECEMBER 2020 AT 10.00 AM**

**PRESENT:** Councillor Tinnion (Chair), Alcroft, Birks, Christian, Finlayson (as substitute for Councillor Collier), Meller, Morton, Nedved, Shepherd and Whalen.

**OFFICERS:** Corporate Director of Economic Development  
Development Manager  
Legal Services Manager  
Planning Officer x 3  
Mr Allan – Flood Development Officer, Cumbria County Council

**DC.102/20 APOLOGIES FOR ABSENCE**

Apologies for absence was submitted on behalf of Councillors Collier and Glendinning.

**DC.103/20 DECLARATIONS OF INTEREST**

In accordance with the Council's Code of Conduct the following declarations of interest were submitted:

Councillor Alcroft declared a Registrable Interest in respect of application 19/0905 - Land at Deer Park (land between Kingmoor Industrial Estate and Saint Pierre Avenue, Kingmoor Road). The interest related to her membership of Cumbria Wildlife Trust which had objected to the application. Councillor Alcroft indicated that she would not take part in the discussion nor determination of the application.

Councillor Christian declared an interest in respect of application 20/0279 - Land at Rookery Park (South of Alders Edge), Scotby, Carlisle CA4 8EH. The interest related to objectors being known to him. Councillor Christian indicated that he would not take part in the discussion nor determination of the application.

Councillor Morton declared an interest in respect of application 20/0279 - Land at Rookery Park (South of Alders Edge), Scotby, Carlisle CA4 8EH. The interest related to an objector being known to him.

Councillor Nedved declared an interest in respect of application 20/0279 - Land at Rookery Park (South of Alders Edge), Scotby, Carlisle CA4 8EH. The interest related to an objector being known to him.

Councillor Shepherd declared an interest in respect of application 20/0279 - Land at Rookery Park (South of Alders Edge), Scotby, Carlisle CA4 8EH. The interest related to an objector being known to him.

Councillor Tinnion declared an interest in respect of application 20/0279 - Land at Rookery Park (South of Alders Edge), Scotby, Carlisle CA4 8EH. The interest related to an objector being known to him.

Item A.1 (1) – application 19/0905 - Land at Deer Park (land between Kingmoor Industrial Estate and Saint Pierre Avenue, Kingmoor Road), Carlisle:

- had been considered by the Committee at its meeting of 9 October 2020. Councillors Finlayson and Whalen indicated that they had not been present at that meeting, therefore they would not take part in the discussion nor determination of the application;
- Councillor Shepherd had been present at the meeting on 9 October 2020, but had lost connection to the virtual meeting during discussion of the item. He stated that he had subsequently watched the video of the meeting relating to that item and therefore was aware of all matters raised. Councillor Shepherd indicated that he would participate in the discussion and determination of the application.

#### **DC.104/20 PUBLIC AND PRESS**

RESOLVED – That the Agenda be agreed as circulated.

#### **DC.105/20 AGENDA**

RESOLVED – That items 2 and 3, applications 20/0245 and 20/0246: 4 – 14 Victoria Place, Carlisle, CA1 1ER be considered together as they related to the same site.

#### **DC.106/20 MINUTES OF PREVIOUS MEETINGS**

RESOLVED – That the minutes of the meetings held on 6 November and 2 December 2020 (site visits) be approved.

#### **DC.107/20 CONTROL OF DEVELOPMENT AND ADVERTISING**

That the applications referred to in the Schedule of Applications under A be approved/refused/deferred, subject to the conditions as set out in the Schedule of Decisions attached to these Minutes.

##### **1. Erection of 80no. Dwellings, Land at Deer Park (land between Kingmoor Industrial Estate and Saint Pierre Avenue, Kingmoor Road), Carlisle (Application 19/0905).**

*Councillor Alcroft, having declared an interest in the item of business took no part in the discussion nor determination of the application*

The Principal Planning Officer submitted the report on the application which had been deferred by the Committee at its 9 October 2020 meeting in order that Members could be provided with a clear indication of the timing of primary and secondary school provision north of the river.

Slides were displayed on screen showing: location plan; site location aerial photograph; proposed site plan; proposed street scene schematics; landscape plan; footpath plans and, photographs of the site, an explanation of which was provided for the benefit of Members.

The Principal Planning Officer advised that a virtual meeting had taken place with Cumbria County Council regarding school places in Carlisle, following on from this the authority has sent a letter which set out its position. The full letter was included within the Addendum report on pages 19 and 20 of the Main Schedule, the Principal Planning Officer summarised the main points for

the benefit of Members. The Committee were reminded that Cumbria County Council, as Local Education Authority, had requested education contributions of £508,596 (£213,948 for infant and junior places and £294,648 for secondary school places) to be secured through a Section 106 agreement.

Details of an online petition opposing the scheme had been received, as of 3 December 2020 there were 611 signatories, 76% of whom were from Carlisle. The Principal Planning Officer understood that Members have received some additional drainage information from an objector. He reminded the Committee that drainage was discussed at the earlier consideration of the scheme with an Officer from the Lead Local Flood Authority answering Members questions. The Lead Local Flood Authority and United Utilities had been consulted on the application and had requested the imposition of conditions requiring the submission of the proposed surface water drainage scheme including details of future management and maintenance for approval.

In conclusion, the Principal Planning Officer recommended that:

1) The application be approved with conditions, subject to the completion of a Section 106 legal agreement to secure:

- a) the provision of 20% of the units as affordable (in accordance with the NPPF definition);
- b) and off-site open space contribution of £22,364 for the upgrading and maintenance of open space;
- c) a financial contribution of £27,409 to support off-site maintenance and improvement of existing play area provision;
- d) a financial contribution of £15,561 to support the off-site improvement of existing sports pitches;
- e) a financial contribution of £3,500 to upgrade the footpath north of the site (which is to become a PROW);
- f) the maintenance of an informal open space within the site by the developer;
- g) a financial contribution of £508,596 to Cumbria County Council towards education provision (£213,948 for infant and junior places and £294,648 for secondary school places);

2) That should the legal agreement not be completed, delegated authority be given to the Corporate Director of Economic Development to refuse the application.

The Committee then gave consideration to the application.

In response to questions from Members, Officers confirmed:

- There were several informal paths at the site, but only one Public Right of Way (PROW). The application proposed the re-routing and lengthening of the PROW which had been agreed by Cumbria County Council as the responsible authority, the new PROW would link to the Permissive Path at the northern end of the site and form part of the PROW network;
- The process of allocating a site for housing development in the Carlisle District Local Plan 2015 – 30 (Local Plan) required ecological assessments to be undertaken. Delaying determination of the application until the Environment Bill was passed in parliament was not feasible. There was a body of case law in respect of prematurity which made clear that legislation must be imminent for it to be applied, that was not the case with the Bill, therefore, it was not reasonable to impose measures contained therein for example biodiversity net gain, on the proposed scheme;
- Plots 64 - 66 would be at a higher level than the SUDS pond and were sited at a sufficient distance to mitigate flood risk, the pond would only contain water in times of heavy rain.

Cumbria Constabulary had indicated it was satisfied with a number of properties overlooking the pond. The Chair remained concerned about the proximity of the fence at plot 64 to the SUDS pond, the Corporate Director undertook to raise the matter with the applicant;

- The scale of the proposed development did not meet the trigger for the provision of a play area, however, there was a number of amenity spaces provided at the site and access to Kingmoor Nature Reserve. As part of the Section 106 Agreement, the Council's Green Spaces team had requested monies to improve existing play area, open spaces and sports pitches in the area;
- Section 106 monies were held in a type of account specified in accountancy rules, and was index linked. Any monies not spent within the specified timescale for use were returned to the developer along with any interest accrued.

A number of Members expressed strong dissatisfaction regarding Cumbria County Council's, as Local Education Authority, response to the education provision issues raised at the Committee's previous consideration of the application. The following concerns were expressed:

- There appeared to be mixed messages from Cumbria County Council in relation to the number of available school places in the district. In the Officer's report on the application submitted to the October 2020 meeting of the Committee, the County Council had stated that there were "... *no places at any school across the spectrum.*" whereas, its letter (reproduced on pages 19/20 on the Main Schedule) stated it expected to be able to accommodate admissions for the next two intakes (September 2021 and 2022);
- Lack of school provision north of the river had been an issue for a number of years. Despite Cumbria County Council having collected £4,841,000 of education contributions (primary and secondary) in the preceding decade, in addition to a £3.5M bond from the developer of the Crinkledyke scheme, only small extensions to existing schools had been provided, no proposals for a new school had been submitted;
- 800 new homes were currently being constructed north of the river, without adequate school provision to meet demand, which was contrary to Local Plan policy CM 2 – Educational Needs, particularly criteria 8.5 and 8.7 therein.

Given the foregoing, a Member moved that the application be refused on the grounds that it was not compliant with Local Plan policy CM2 – Educational Needs.

The Principal Planning Officer responded that the Section 106 agreement required contributions to education provision which the applicant had undertaken to make, as such it had fulfilled the requirements of policy CM 2. Whilst acknowledging the Committee's frustration regarding the progression of delivering a new school north of the river, policy CM 2 was not an appropriate reason to refuse the application. Given that the granting of permission was subject to a Section 106 agreement, the requirement to re-direct the PRoW, and the construction of the development may take up to five years for the development to reach completion, during which time education provision would change.

The Corporate Director reiterated that the applicant had complied with policy CM 2 by its agreement to provide education contributions, therefore, that policy was not sufficient grounds for refusal. Were Members minded to refuse the scheme on those grounds, the applicant had a right to appeal the Council's decision. The appeal may be successful and the Council was likely to have costs awarded against it.

Members remained concerned that school provision would not meet the needs of the development. A Member seconded the proposal to refuse the application on the grounds that it



was not compliant with Local Plan policy CM2 – Educational Needs. The matter was put to the vote and it was:

RESOLVED: 1) The application be refused as it was not in accord with Local Plan policy CM2 – Educational Needs.

**2. Change of Use of redundant office building to form 6No. Houses of Multiple Occupation, 4 – 14 Victoria Place, Carlisle, CA1 1ER (Application 20/0245)**

**&**

**3. Change of Use of redundant office building to form 6No. Houses of Multiple Occupation together with various internal and external alterations (LBC), 4 – 14 Victoria Place, Carlisle, CA1 1ER (Application 20/0246)**

The Planning Officer submitted the report on the applications. Slides were displayed on screen showing the location and block plans, an explanation of which was provided for the benefit of Members.

The applications had been deferred at the 6 November 2020 meeting of the committee in order to:

1. request the submission of a Management Plan;
2. obtain a consultation response from Cumbria Constabulary;
3. seek further clarification regarding the provision of cycle facilities;
4. clarify any proposed improvements and repair of foul drainage infrastructure;
5. clarification of the provision of any external lighting;
6. identify security measures to access of the rear lane;
7. clarify any repairs to the external stonework.

In response the applicant had submitted: a Management Plan; a CCTV Drain Survey; a Supporting Statement; illustrations of the standard of conversion, and a detailed assessment of these documents together with how they address the issues raised by members was outlined in the Addendum report (pages 83-89 of the Main Schedule).

Cumbria Constabulary were consulted and had responded with a number of advisory comments which had been noted, however, no objection to the proposed scheme had been submitted.

During the Committee's earlier consideration of the application, Members posed a question with regard to proposed bedroom sizes. In response, the agent confirmed that:

1. the minimum requirement for a bedroom in an HMO was 6.5m<sup>2</sup> for a single person;
2. the smallest room in the development was in House No. 14 room 3 and the bedroom area was 10.3m<sup>2</sup> however that room also had an ensuite which was not included in the area;
3. the smallest room in the development with a shared bathroom was House No. 14 room 10 and the bedroom room area was 10.5m<sup>2</sup>;
4. the average bedroom size in the development is 15.18m<sup>2</sup>, with most bedrooms in the size bracket of 10.3 - 16.5m<sup>2</sup>.

The Planning Officer considered the comprehensive array of information that had been submitted addressed the issues raised by Members. He recommended the applications for approval, subject to the conditions detailed in the reports. He further recommended:

1. condition 2 be amended to include references to the additional documents received:

2. an additional condition be imposed requiring the development be undertaken in accordance with the Management Plan;
3. a condition be imposed requiring all new external doors to be certified to PAS 24:2016.

The Committee then gave consideration to the application.

In response to concerns expressed by Members about the small amount of external space at the site limiting the storage of equipment and refuse during the construction phase of the development, the Planning Officer advised that, the applicant had a responsibility to manage the site in a safe manner. The use of skips and the storage of any items on the highway was managed by permit.

A Member asked whether it was reasonable, given the busy adjacent highway, to restrict delivery times during the construction phase to before 9:00am and/or after 5:00pm.

The Development Manager suggested that consideration be given to the addition of a condition requiring the submission of a Construction Management Plan as it would enable Officers to negotiate with the developer on the areas of concern raised by Members. The condition would be applicable to the planning permission only (application 20/0245). The Committee indicated its agreement.

A Member moved the Officer's recommendations, along with the imposition of a further condition requiring the submission of a Construction Management Plan in respect of application 20/0245. The proposal was seconded and following voting it was:

RESOLVED: That applications be approved, subject to the implementation of relevant conditions as indicated on the Schedule of Decision attached to these minutes.

**4. Conversion of barns to form 3no. dwellings, Change of Use of land of the siting of 8no. camping pods, partial demolition and remodelling of agricultural building and associated development, Garthside, Walton, Brampton, CA8 2JP (Application 20/0563).**

The Planning Officer submitted the report on the application. Slides were displayed on screen showing: location plan; block plan; existing site plan; proposed site plan; proposed floor plans of main building; elevation plans; section plans; proposed entrance plan; landscape analysis and, photographs of the site, an explanation of which was provided for the benefit of Members.

Members were advised that the height of the pods stated in paragraph 3.29 was incorrect: instead of 2.3m the correct height was 2.8m. The increased height was not considered to constitute a significant change to the overall development impact in the context of the scheme.

Burtholme Parish Council had raised a number of concerns which had been considered and responded to within information submitted by the applicants and Officer report.

The Planning Officer recommended that the application be approved, subject to the conditions detailed in the report.

The Committee then gave consideration to the application.

In response to questions from Members, Officers confirmed:

- Regulations were in place to control discharge from hot tubs for which the Environment Agency was the responsible body. In response to Members concerns, the Corporate Director suggested that consideration be given to the inclusion of a further condition in the permission regarding the management of discharge from the hot tubs;
- Natural England and the County Council's Heritage Officer, as Statutory Consultees in relation to archaeology, had stated that no underground investigations were required at the site which was located in the vicinity of the Hadrian's Wall World Heritage Site. However, they required a Level II recording of the buildings at the site.

A Member moved the Officer's recommendation, along with the inclusion of an additional condition to manage the discharge from the 11 no hot tubs. The proposal was seconded and following voting it was:

RESOLVED: That application be approved, subject to the implementation of relevant conditions as indicated on the Schedule of Decision attached to these minutes.

#### **5. Change of Use of agricultural land to garden (Retrospective/Revised application), 25 Whiteclosegate, Carlisle, CA3 0JA (Application 20/0669)**

The Planning Officer submitted the report on the application. Slides were displayed on screen showing the location plan and, photographs of the site, an explanation of which was provided for the benefit of Members.

A previous application at the site (19/0588) was refused as the applicant had insisted on enclosing the proposed garden area with non-agricultural style fencing varying in height up to 1.8m, which was considered inappropriate and intrusive to the open countryside. The Planning Inspectorate Appeal was also dismissed the proposal for the same reason. The applicant had agreed to revise the style and height of the proposed enclosure to match those of the previously approved garden extensions along Whiteclosegate.

The Planning Officer recommended that the application be approved, subject to the conditions detailed in the report.

A Member moved the Officer's recommendation which was seconded and following voting it was:

RESOLVED: That application be approved, subject to the implementation of relevant conditions as indicated on the Schedule of Decision attached to these minutes.

#### **DC.108/20 MODIFICATION OF S106 PLANNING OBLIGATION – AFFORDABLE HOUSING CONTRIBUTION – LAND AT CARLISLE ROAD, BRAMPTON**

The Planning Officer submitted the report which sets out the position regarding S106 contributions relating to affordable housing following an independent viability assessment of the site. The site location plan was displayed on screen.

The applicant had submitted an application to vary the amount of affordable housing that was required to be provided on the site by way of the S106 Agreement. The applicant advised that it was struggling to meet the 30% affordable housing requirement for sites in Affordable Housing Zone C on the application site for the following reasons:

- a reduced demand for larger 4 & 5-bedroom houses since construction of the site in September 2019, which had been further exacerbated since COVID-19, with many of these larger homes falling within the first sales release;
- economic uncertainty surrounding COVID-19;
- forecast increased BCIS construction costs, partly linked to supply chain challenges related to COVID-19.

Members were advised that when the current application was submitted, the proposal was to provide no affordable housing on the site. In accordance with the Council's procedures for such applications, Officers engaged the services of an independent consultant whose conclusions were set out in section 2.6 of the report. Although the current proposal did not fulfil the entire 30% affordable housing requirement, it would provide 21%. This was considered to be an appropriate compromise under the financial circumstances which had been robustly assessed.

A letter of representation had been received which requested that the Committee reject the application. The Planning Officer read out the letter in its entirety, for the benefit of Members.

The Planning Officer recommended that the S106 Agreements be modified for delivery of 22 affordable units (20.75% of the overall scheme) incorporating:  
a tenure mix of 12 discounted sale units – 6 no. 2 bed Bailey houses (plots 26-29 & 43-44) and 6 no. 3 bed Fraser houses (plots 24-25; 41-42 & 53-54) and 10 no. affordable rent units - 6 no. 2 bed Bailey houses (plots 49-52 & 68-69) and 4 no. 3 bed Fraser houses (plots 45-48).  
Discounted sale units will be sold at 70% of market value to customers on the Council's Low-Cost Home Ownership register. Affordable/ social rent units will transfer to a Registered Provider/ Social Landlord based on 50% of market value.

Mr Hayward (Applicant) spoke in support of the proposal in the following terms:

- At the time the original permission was granted in 2018, the approved scheme was financially viable. Since then, a number of factors – decreased demand for 4 and 5 bedroomed properties, increased construction materials costs and impacts to the construction materials supply chain as a result of Covid 19 had negatively impacted the viability of the development;
- Initially, a request to provide no affordable housing at the site had been submitted to the Council. Following assessment by the Council's independent consultant and negotiations with Officers, it was now proposed to provide 21% affordable units within the development;
- Resources had been committed to the development and, to date, both show homes, and 6 dwellings were complete, with a further 3 being substantially complete. It was anticipated that occupation of those dwellings may begin in the new year;
- The developer wanted to deliver the scheme which would provide 106 new homes contributing to the Council's housing delivery supply, a stalling or cessation of the development would undermine the Council's Plan Led approach;
- With reference to the letter of objection, Mr Hayward confirmed that affordable housing provision at the would retain the 50/50 split between Shared Ownership and rental homes as per the original Section 106 agreement.

The Committee then gave consideration to the proposal.

In response to questions from Members, Officers confirmed:

- Any future applications of the same nature would be determined on a case by case basis and subject to the Council's assessment processes, as such approval of the current application would not set a precedent;

- Were the application to be rejected it was likely that work on the site would stall with no further work being undertaken. Approval of the application would allow for the continuation of the development, with Affordable Housing being provided in accordance with the terms of the amended Section 106 agreement.

Members expressed concern at the reduction of affordable housing when, given the impact of the pandemic, they considered such provision was particularly needed. Consideration was given as to whether the level of profit afforded to the developer by the proposal of 17% was appropriate as many businesses had been required to absorb financial impacts related to the pandemic restrictions. Furthermore, Members requested reassurance that the proposal before them constituted the greatest provision of affordable housing from the scheme.

The Development Manager explained that central government was clear that affordable housing was a key factor in the stalling of developments nationally due to viability issues. As such it allowed for planning obligations to be challenged in order for developments to remain viable.

Developer profit was appropriate and necessary as it supported the industry. The 17% proposed in the report had been arrived at following an assessment of the market in the district and other factors such as Appeal Decisions (which had permitted proportionally higher levels) and consideration of what amounted to a reasonable return.

The Development Manager assured the Committee that the Council's consideration of such applications was robust, noting that a number of similar applications had been challenged and rejected by Officers. He reminded Members that the Committee had considered a similar application for a site elsewhere in the district, at which development had stalled, the process of varying the Section 106 agreement sought to avoid that outcome.

The Corporate Director noted that it was a complex issue, she suggested that Officers deliver a session for Members covering the Council's processes for dealing with applications which sought to amend planning obligations on the grounds of viability. The Committee agreed the suggestion.

A Member moved that determination of the proposal be deferred in order to allow further consideration of the level of developer profit. The proposal was seconded and following voting it was:

RESOLVED: 1) That determination of the proposal be deferred in order to allow further consideration of the level of developer profit.

2) That the Corporate Director of Economic Development arrange a session, at a future date, for Members to provide an overview of the Council's processes for dealing generally with applications which sought to amend planning obligations on the grounds of viability.

*The meeting adjourned at 12:31pm and reconvened at 2:00pm*

*Councillor Christian left the meeting at 12:31pm*

## **DC.109/20 CONTROL OF DEVELOPMENT AND ADVERTISING**

That the applications referred to in the Schedule of Applications under A be approved/refused/deferred, subject to the conditions as set out in the Schedule of Decisions attached to these Minutes.

**6. Erection of 90no. dwellings, public open space, landscaping and sustainable drainage system (SUDS) and vehicular access point from the Scotby to Wetheral Road, Land at Rookery Park (South of Alders Edge) Scotby, Carlisle, CA4 8EH (Application 20/0279).**

*Councillor Christian, having declared an interest in the item of business was not present at the meeting and took no part in the discussion nor determination of the application.*

The Development Manager submitted the report on the application. Slides were displayed on screen showing: location plan; development framework plan; proposed access strategy plan and, photographs of the site, an explanation of which was provided for the benefit of Members.

Outline applications were usually accompanied by an indicative layout or masterplan however, the applicant had submitted a parameters plan. Should the application be approved, the parameter plan would be used to establish key principles for a Reserved Matters application. Were Members minded to approve the application, the permission would need to be accompanied by a legal agreement covering matters such as affordable housing, open space provision, management and maintenance and education contributions.

The applicant had previously submitted a similar proposal for the site which had been refused, the current application sought to address refusal reasons by establishing key landscaping differences, in particular the green swathe from north west to south east across the site which would provide a visual acknowledgement and open link to the views of the countryside beyond.

Although the applicant had proposed changes from the original submission, it was the Development Manager's view that they were not sufficient to counter the impacts on the landscape. Many issues had been raised by objectors and it was generally the opinion of Statutory Consultees that those may be overcome at the Reserved Matters stage by appropriate detail. They had therefore proposed a number of planning conditions.

Whilst provision of detail may overcome some issues, it remained the case that the principal issues in relation to the proposal were location and its proposed development for housing. The application did not accord with the Council's Local Plan policy HO2 - Windfall Development, the applicant had not demonstrated the need to be in the particular location and the proposed development would cause significant harm to the landscape character of this part of the village. On that basis, the Development Manager recommended the application be refused, in line with the reasons set out in the report.

Mr Morris (Objector – on his own behalf and on behalf of Mr Mills, Ms Wigmore, Mr Marriott and Mr Johnston) spoke against the application in the following terms:

- There was a significant level of opposition to the proposal as evidenced by the fact that 798 individuals had signed the online petition opposing this application, an increase on the number that objected to the 2019 application;
- Both the Officer and the applicant acknowledged (in the report and Landscape and Visual Assessment document respectively) the significant views out of the settlement that the proposed development site, with the applicant noting that the development would have an adverse impact thereon;
- The Carlisle District Local Plan 2015 – 30 (Local Plan) had been adopted following the usual statutory processes, including formal examination by the Planning Inspectorate who was satisfied that the housing allocations for Scotby Village were appropriate, with no

additional or alternative sites being required. The application site was not allocated for housing as part of the Local Plan, the National Planning Policy Framework, whilst presuming in favour of sustainable development was clear that the Plan may only be departed from “... *only if material considerations in a particular case indicate that the plan should not be followed*”.

- The application site had not been overlooked in the Local Plan adoption process, it had been considered in the Strategic Housing Land Availability Assessment (SHLAA) as recently as 2014. In response to representations requesting that it be put forward as an housing allocation site, the Council was unequivocal in its response – “*this site is so prominent that it would be highly unlikely that a design could be put forward that would reduce its impact to acceptable levels*”. The application site was discarded from the SHLAA on the grounds of “*unacceptable landscape impact*”.
- In the submitted Planning Statement, the applicant asserted “*Gladman consider that due to the lack five year supply, policies that are most important for determining the application are not up-to-date*” (paragraph 4.6.2). However, no evidence had been submitted to support the assertion which contradicted the Council’s Five Year Housing Land Supply Position Statement of April 2020. In Scotby permission for the development of 125 dwellings, at various sites, which were recently built or in progress, additionally, two further allocated sites in the vicinity with yields totalling 130 dwellings were yet to be developed in part or in whole;
- The applicant had failed to demonstrate an overriding need for additional housing at the site, as such, the proposed scheme was not in accordance with Local Plan policy SP 2 – Strategic Growth and Distribution;
- Approving development of the site may prejudice the delivery of allocated sites such as Hillhead (R 15) and the Plains and as such was contrary to Local Plan policy HO 2 – Windfall Housing Development. Moreover, the Council’s proposals for St Cuthbert’s Garden Village, which sought to protect the overdevelopment of the villages around Carlisle. Granting permission for development such at the application site would ‘chip away’ at the viability of that proposal;
- The proposal further failed to accord with policy HO 2 in that the scale and design of the development was not appropriate to the scale, form, function and character of Scotby (criteria 1). The site was on the edge of Scotby and was not well contained within existing landscape features, as demonstrated by the Officer’s assessment contained in the report, a making the proposed scheme not in accord with criteria 3 of Policy HO 2 and also policy GI 1 - Landscapes. The scale of the development would also create pressure on existing services and infrastructure which was contrary to criteria 2 of policy HO 2, Mr Morris suggested that the matter be added to the reason for refusal;
- The current application was not significantly different to the previously submitted one. The submitted Planning statement was by and large the same document, with the notable removal of the following statements - “*the site lies in the open countryside*” and “*The scheme is compliant with Policy HO2 ....*”
- The current application stated that it would create “*a broad swathe of public open space*” in the centre of the site which it was would “*effectively extend open space from the village green, thereby maintaining key views from the village*”. No amount of public open space within a substantial housing estate with an average of some 45 two and two and a half storey houses on each side of it would come close to the present unadulterated agricultural landscape beyond, not least because the main access to the site lay directly between the village green and the views beyond;
- As the current application was for Outline permission, the applicant had submitted an indicative layout, which may be amended at the Reserved Matters stage;

- The submitted Statement of Community Involvement stated that the applicant had *“completed a comprehensive programme of community engagement”* and *“re-engaged with the community prior to the submission of this second application”*. Mr Morris contended that was not true. Although the Parish Council and a few local councillors may have been written to directly there had been absolutely no engagement with the local community as such. Neither was it correct, as the applicant asserted, that the previous consultations produced “some level of support”.

In conclusion Mr Morris stated that the proposed development would be an intrusion into the open countryside, was out of character with the form of Scotby Village, would have a negative impact on the open nature of the local landscape and no overriding need has been demonstrated to justify disregarding those important planning policy considerations.

The Committee then gave consideration to the application.

A Member stated that he saw no justification for contradicting the Committee’s earlier decision to refuse development at the site, he felt that the application was without merit.

A Member moved the Officer’s recommendation which was seconded and following voting it was:

RESOLVED: That application be refused for the reasons on the Schedule of Decision attached to these minutes.

[The meeting closed at 2:27pm]



# **Development Control Committee Main Schedule**

## **Schedule of Applications for Planning Permission**

8<sup>th</sup> January 2021

## The Schedule of Applications

This schedule is set out in five parts:

**SCHEDULE A – Applications to be determined by the City Council.** This schedule contains full reports on each application proposal and concludes with a recommendation to the Development Control Committee to assist in the formal determination of the proposal or, in certain cases, to assist Members to formulate the City Council's observations on particular kinds of planning submissions. Officer recommendations are made, and the Committee's decisions must be based upon, the provisions of the Development Plan in accordance with S38(6) of the Planning and Compulsory Purchase Act 2004 <http://www.legislation.gov.uk/ukpga/2004/5/contents> unless material considerations indicate otherwise.

In order to reach a recommendation the reports have been prepared having taken into account the following background papers:-

- relevant planning policy advice contained in Government Circulars, National Planning Policy Framework, [https://www.gov.uk/government/publications/national-planning-policy-frame work--2](https://www.gov.uk/government/publications/national-planning-policy-frame-work--2),
- Planning Practice Guidance <http://planningguidance.planningportal.gov.uk/> and other Statements of Ministerial Policy;
- Carlisle District Local Plan 2015-2030 <http://www.carlisle.gov.uk/planning-policy/Local-Plan/Carlisle-District-Local-Plan-2015-2030>
- Conservation Principles, Policies and Guidance - <https://historicengland.org.uk/advice/constructive-conservation/conservation-principles/>
- Enabling Development and the Conservation of Significant Places <https://historicengland.org.uk/images-books/publications/enabling-development-and-the-conservation-of-significant-places/>
- Flood risk assessments: climate change allowances <https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances>

- Consultee responses and representations to each application;  
<http://publicaccess.carlisle.gov.uk/online-applications/>
- Cumbria Landscape Character Guidance and Toolkit  
<http://www.cumbria.gov.uk/planning-environment/countryside/countryside-landscape/land/landcharacter.asp>
- Natural Environment and Rural Communities Act (2006)  
<http://www.legislation.gov.uk/ukpga/2006/16/contents>
- Wildlife and Countryside Act 1981  
<http://www.legislation.gov.uk/ukpga/1981/69>
- Community Infrastructure Levy Regulations 2010  
<http://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents>
- EC Habitats Directive (92/43/EEC)  
[http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index\\_en.htm](http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index_en.htm)
- Equality Act 2010  
[http://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga\\_20100015\\_en.pdf](http://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga_20100015_en.pdf)
- Manual For Streets 2007  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/341513/pdfmanforstreets.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/341513/pdfmanforstreets.pdf)

Condition 2 of each application details the relevant application documents; except the following where the associated documents are located at –

20/0580 - <https://publicaccess.carlisle.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>

**SCHEDULE B – Applications determined by other authorities.** This schedule provides details of the decisions taken by other authorities in respect of those applications determined by that Authority and upon which this Council has previously made observations.

The officer recommendations made in respect of applications included in the Schedule are intended to focus debate and discussions on the planning issues engendered and to guide Members to a decision based on the relevant planning considerations. The recommendations should not therefore be interpreted as an intention to restrict the Committee's discretion to attach greater weight to any

planning issue when formulating their decision or observations on a proposal.

If you are in doubt about any of the information or background material referred to in the Schedule you should contact the Development Management Team of the Planning Services section of the Economic Development Directorate.

This Schedule of Applications contains reports produced by the Department up to the 18/12/2020 and related supporting information or representations received up to the Schedule's printing and compilation prior to despatch to the Members of the Development Control Committee on the 08/01/2021.

Any relevant correspondence or further information received subsequent to the printing of this document will be incorporated in a Supplementary Schedule which will be distributed to Members of the Committee 5 working days prior to the day of the meeting.

Applications Entered on Development Control Committee Schedule

Item No.	Application Number/ Schedule	Location	Case Officer
1.	20/0580 A	Low Meadow, Kirklington, Carlisle, CA6 6BT	SO
2.	20/0600 A	Green Meadows Country Park, Blackford, Carlisle, CA6 4EA	BP
3.	20/0326 A	The Old Sawmill, Linstock, Carlisle, CA6 4PY	AC
4.	20/0709 A	Land to Rear of 46 Broomfallen Road, Scotby, Carlisle, CA4 8DE	BP
5.	20/0735 A	Site Adjacent Sandy Hill, Faugh, Heads Nook, Brampton, CA8 9EG	AC
6.	19/0840 A	Land off Warwick Road, Carlisle	CH

## SCHEDULE A

Applications to be  
determined by the  
City Council.

## SCHEDULE A

## SCHEDULE A: Applications with Recommendation

20/0580

Item No: 01

Date of Committee: 08/01/2021

**Appn Ref No:**  
20/0580

**Applicant:**  
Mr A Smith

**Parish:**  
Kirklington Middle

**Agent:**  
Planning Branch Ltd

**Ward:**  
Longtown & the Border

**Location:** Low Meadow, Kirklington, Carlisle, CA6 6BT

**Proposal:** Erection Of Agricultural Workers Dwelling (Outline)

**Date of Receipt:**  
25/09/2020

**Statutory Expiry Date**  
23/11/2020

**26 Week Determination**

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### REPORT

**Case Officer:** Suzanne Osborne

#### 1. Recommendation

- 1.1 It is recommended that this application is refused.

#### 2. Main Issues

- 2.1 The principle of development
- 2.2 Whether the scale and design of the proposal is acceptable;
- 2.3 Impact of the proposal on the character of the area;
- 2.4 Impact of the proposal on the living conditions of neighbouring properties;
- 2.5 Impact of the proposal on highway safety;
- 2.6 Proposed methods of foul and surface water drainage; and
- 2.7 Impact of the proposal on biodiversity.

#### 3. Application Details

##### The Site

- 3.1 This application seeks outline planning permission for the erection of an agricultural workers dwelling at Low Meadow, Kirklington, Carlisle. The farm steading, which comprises of 2no.steel portal framed farm buildings, a timber hay barn and a number of brick/timber built buildings, lies in the open countryside approximately 383 metres south of the village of Smithfield.

- 3.2 The steading is located on the eastern side of the C10212 (which leads from Scaleby Hill towards Smithfield) and is bounded by a mature hedge along the road frontage. The application site is situated on the southern edge of the farmstead on the site of a disused building.
- 3.3 The site is surrounded to the north, east and west by fields. The nearest residential property is Westwinds which is a bungalow located approximately 42 metres to the south of the application site.

### **The Proposal**

- 3.4 The application seeks outline planning permission with all matters reserved for the erection of an agricultural workers dwelling.
- 3.5 Although all matters are reserved the submitted documents indicate the existing disused building which is in situ on the application site will be demolished to enable construction of the dwelling. It is proposed to utilise the existing farm access to the site with surface water discharging to a soakaway and foul drainage via a treatment plant.
- 3.6 The application is accompanied by a range of documents including a speed survey, an agricultural appraisal as well as letters from the applicant's vet and accountant.

### **4. Summary of Representations**

- 4.1 This application has been advertised by the display of a site notice and by means of notification letters sent to one neighbouring property and one interested party. In response to the consultation undertaken 24 representations of support (two of which are from the same household) have been received.
- 4.2 The representations of support are summarised as follows:
1. dwelling will be a positive addition to the area;
  2. dwelling will fit well with the landscape and farm at Low Meadow;
  3. dwelling will enable applicants to carry out their farming business more effectively and they need to be on site for the proper care of their animals;
  4. there is some outstanding agricultural buildings on the site;
  5. applicants are producing outstanding stock with a view for growth;
  6. dwelling will allow better husbandry and welfare to the livestock;
  7. area lends itself to this type of development and will tidy the outlook of agricultural buildings;
  8. good thing to have another farmer as they will be needed and have to be beside their stock;
  9. welcome extra business it would bring to local businesses and dwelling will help the local economy;
  10. it is practicable to reside next to the land and stock



11. will enhance site and will allow farming business to be ran from an on site family home;
12. farmers need to be living on the farm to look after stock especially at lambing time and to protect equipment from theft etc
13. applicant is a caring and experienced stockman;
14. in taking over the family farm applicant is attempting to secure family's future;
15. Kirklington is a rural community and depends on indigenous farming enterprises to survive;
16. proposal will secure not only the future of one family but the greater family of the local community;
17. proposal will support local area and agricultural community;
18. proposal will enable people from local community to remain and maintain the farming industry in the rural setting;
19. applicants come from well established farming backgrounds;
20. already agricultural buildings there and living at the site will improved daily care and attention to the animals and the site itself;
21. enhancement to the area as there is only part used farm buildings on site at present;
22. village needs more young local people to be able to reside in the area;
23. will help applicant support family members who have health problems; and
24. family has been building business up for over 15 years and a new home will allow them to continue to expand.

## 5. Summary of Consultation Responses

**Cumbria County Council - (Highways & Lead Local Flood Authority):** - no objection subject to the imposition of three conditions relating to visibility splays, details of surface water drainage and no occupation of dwelling until vehicular access and turning requirements have been provided.

Standing advice has also been provided regarding highway permits, surface water drainage and no obstruction to public footpaths.

**Kirklington Parish Council:** - do not wish to make any representation;

**United Utilities - (for water & wastewater comment) see UUES for electricity dist.network matters:** - 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 in accordance with the NPPF surface water drainage hierarchy. Standing advice has also been received in relation to assets for adoption, water supply and United Utilities' property, assets and infrastructure.

## 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.

- 6.2 The relevant planning policies against which the application is required to be assessed are the National Planning Policy Framework (NPPF), the Planning Practice Guidance (NPPG) together with Policies SP1, SP2, SP6, HO2, HO6, IP3, IP4, IP6, CM5, CC5, GI1, GI3 and GI6 of the Carlisle District Local Plan 2015-2030 (CDLP). The City Council's Supplementary Planning Documents on 'Achieving Well Designed Housing' (SPD) and 'Trees and Development' are also material planning considerations.

## **1. The Principle Of Development**

- 6.3 The NPPF outlines that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 78 of the NPPF states 'to support sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby'.

- 6.4 Paragraph 79 of the NPPF goes on to state that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;
- d) the development would involve the subdivision of an existing residential dwelling; or
- e) the design is of exceptional quality in that it:
  - is truly outstanding or innovative, reflecting the highest standards in architecture and would help to raise standards of design more generally in rural areas; and
  - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

- 6.5 The NPPG provides guidance on how can the needs for isolated homes in the countryside for essential workers be assessed (Paragraph 10, Reference ID.67-010-20190722). The NPPG states that considerations that may be

relevant to take into account when applying paragraph 79a of the NPPF could include:

- evidence of the necessity for a rural worker to live at, or in close proximity, to their place of work to ensure the effective operation of an agricultural, forestry or similar land-based rural enterprise (for instance, where farm animals or agricultural processes require on-site attention 24-hours a day and where otherwise there would be risk to human or animal health or from crime, or to deal quickly with emergencies that could cause serious loss of crops or products).
- the degree to which there is confidence that the enterprise will remain viable for the foreseeable future
- whether the need could be met through improvements to existing accommodation on the site, providing such improvements are appropriate taking into account their scale, appearance and local context; and
- in the case of new enterprises, whether it is appropriate to consider granting permission for a temporary dwelling for a trial period.

6.6 The aims of the NPPF are reiterated in Policy HO2 of the Carlisle District Local Plan (CDLP) which allows for windfall housing development other than those allocated within or on the edge of Carlisle, Brampton, Longtown, and villages within the rural area provided that the development would not prejudice the delivery of the spatial strategy of the Local Plan and subject to satisfying five criteria. The site subject of this application is not located within or at the edge of a settlement, therefore, a dwelling for unrestricted occupation would not be supported.

6.7 The application seeks outline planning permission, with all matters reserved, for the erection of an agricultural workers dwelling. Accordingly, the application has to be assessed under Policy HO6 of the CDLP which allows for the principle of a dwelling in the open countryside where there are special circumstances including where there is an essential need for a rural worker to live at or near their place of work, and evidence is provided to demonstrate the need for a full time worker to be available at all times for the business to function properly, provided that:

- a) the business is established, has been profitable for at least one year, is currently financially sound, and has a clear prospect of remaining so;
- b) the housing need cannot be met by other housing nearby; and
- c) the house would be appropriate in terms of scale, size and design for its location.

6.8 The application is accompanied by an agricultural appraisal as well as letters from the applicant's vet and accountant. The agricultural appraisal, undertaken by the applicant's agent, confirms that the applicant has farmed the site since 2002, the present workforce consists of the applicant and his wife, there is no property on site, and, the applicant therefore has to travel to the site a number of times a day. The appraisal notes that there is a static caravan on site to provide facilities when the applicants are working on the

farm.

- 6.9 The appraisal goes on to state that the farm extends to 16.9ha (41.7 acres) consisting of owned and rented land. At the time of the report the farm was stocked with 82 ewes, 75 lambs, 18 replacement ewes, 4 tups, 25 cows, 30 calves, 9 heifers and 1 stock bull. Lambing time is February to the end of April with lambs sold as fat which takes between 3-9 months to finish the lambs which are lambed in doors. Cattle are calved all year round to allow a steady number of cattle to finish. Additional cattle to finish are purchased. Each year 6.7Ha of meadow are conserved for silage/hay with 2 cuts taken dependant on the season and 1.5ha reseeded annually. Existing buildings on the site consist of 2 loose housing buildings and a sheep building.
- 6.10 The appraisal undertaken by the applicants agent states that there is a established functional need as the farm business has existed since 2002 with a full time labour requirement of 1.09 workers. Due to animal welfare there is a need. The appraisal goes on to state that the holding is financially sound and profitable and due to recent investment made to increase the efficiency of the unit and building improvements the holding has clear prospects to remain profitable. The appraisal also states that there are no building on the farm that are suitable for conversion, and there are few properties which become available in the immediate locality to buy or rent and when marketed they range from £191,000 to £224,000 which are outside the price range of an agricultural worker therefore the need cannot be met on the holding.
- 6.11 The accompanying letter from the applicant's accountant is a statement confirming that applicant has been trading since 2002 and during the time the business has been trading it has generated profits from the farming activities and continues to trade normally. In summary the letter from the veterinary practice confirms that the applicant travelling a significant distance to the farm is far from ideal and for the provision of animal care and welfare it is better when stock persons live on site.
- 6.12 The aforementioned information provided by the applicant has been independently assessed by a land agent commissioned by the Council which considered that there was a functional need for the dwelling (which is discussed further in paragraphs 6.14 of this report) and initially a need for a full time worker. On the absence of financial information provided the independent land agent concluded that based on calculations of new farm income on the holding on a gross margin basis the profit level is likely to be modest and the farm would therefore struggle to support a full time worker and meet the annualised cost of providing the proposed dwelling from farm revenue. The Land Agent didn't considered further whether the functional need of the dwelling could be met elsewhere given that the financial test was not met.
- 6.13 Following publication of the first report by the independent land agent the applicant's agent produced further information in relation to livestock numbers, farming practices and the finances of the farm business. The independent land agent subsequently provided an updated second report based on the further information submitted.

- 6.14 In terms of whether there is a functional need for the dwelling the independent report by the land agent confirms that the suckler cows will give birth over a period of several weeks each spring and autumn and some of these births may occur outside of normal working hours and some may need assistance from a worker/s. The off-spring from these cattle, when reared on the land holdings, will need close supervision and checks. The breeding ewes will lamb each spring. Some of these births will occur outside of normal working hours and may need attention from a worker. Again their off-spring may need close supervision. The independent land agent is therefore satisfied that there is clearly an established existing functional need for the proposed dwelling with the intensity of need being in relation to the period when the suckler cows and breeding ewes are giving birth. The functional need is deemed to be proportionate to the number of animals kept on the holding.
- 6.15 When looking at whether the need for the dwelling relates to a full time worker who is primarily employed in a rural enterprise and does not relate to a part time requirement the independent land agent has noted that the Agricultural Appraisal undertaken by the applicant's agent has calculated the labour requirement as just over 1 full time worker. The independent land agent however disagrees with the figures provided and has confirmed that the labour requirement for the land at 204.5 has been overstated and is actually calculated at 189 hours based on the size of the farm. The independent land agent has also confirmed that the number of hours allocated to the cows have been overstated and should be 325 hours per annum (as the applicant's agent has since clarified that the cows are kept on the holding for only about 6 months), the number of hours allocated to the 30 young stock has also been overstated and should be 180 hours (as they are shown at 0-6 months but have been taken at the full annual rate of 12 hours per annum). The land agent also believes that the labour requirement for lambs has been overstated and should be 54 hours (this is because it should be calculated at 3 months not a full annual requirement).
- 6.16 Based on the applicant's livestock numbers and hours per annum (1900 hours as stated by the applicant's agent) the independent land agent has stated that this equates to about 0.7 of a full time worker. The independent land agent however goes on to confirm that there will not be many farm workers on Cumbrian livestock farms that only work 1900 hours per year and most will exceed 45 hours per week plus extra at busy times including lambing, calving and silage. An accepted total by most Agents and Inspectors is 2200 hours per annum therefore the labour requirement for the holding is 0.6 of a full time worker. The independent land agent is therefore of the view based on existing livestock numbers and cropping practices that the need does not relate to a full time worker.
- 6.17 In terms of financial viability the independent land agent is aware that since the removal of the tests outlined in PPS7 the only formal test for rural workers dwellings is that of essential need and is of the view that a Planning Authority may have regard to the financial position of a business to establish if it is a sustainable business but the authority needs to decide how much weight to

attach to those financial aspects. The assessor however confirms that guidance in the NPPG amends this position and requires consideration of the degree to which there is confidence that the enterprise will remain viable for the foreseeable future.

- 6.18 In terms of the financial aspects the independent land agent states that for many years to establish financial viability, he has required a net farm income after all expenses such as feed, fertiliser and property maintenance, be at least equivalent to an average agricultural workers minimum wage. In 2013 the Agricultural Wages Board was disbanded and therefore minimum wages are no longer set for the industry. As alternative source of evidence figures are produced given the current gross earnings of agricultural workers at around £22,000 per annum (source - SAC Farm Management Handbook 2019/20 edition). The land agent notes that the applicant has been operating the business at Low Meadow for the last 18 years and has occupied most of the land for that length of time. There appears to be no significant expansion of the land holdings during this period of time. The area of land owed lies next to the farm buildings at Low Meadow and extends to only 6.5ha (16 acres) which is 35% of the total 18.6ha (46 acres). The rest of the land holdings are rented and are at some distance from Low Meadow.
- 6.19 The land agent goes on to state that it is understood that the 2 portal framed farm buildings were in place when the applicant took over in 2002, the timber hay barn is dated and most of the other buildings are in a state of disrepair and are not useable. There therefore appears little evidence of investment in the buildings on the holding since 2002. The land agent is therefore of the view that there is little evidence of sustainable growth or expansion of the business in recent years.
- 6.20 Following publication of the first initial report by the independent land agent the applicant provided financial accounts for the last two years. In summary the accounts show a loss in the year end April 2019 and a profit in the year end April 2020 however the profit shown is substantially below the agricultural wage as discussed in paragraph 6.18 above and is also below the minimum wage, including the proportionate agricultural wage (based on the hours calculated by the land agent).
- 6.21 The independent land agent states that it is understood that the cost of the sale of the applicant's existing assets and savings is to fund the new dwelling therefore the applicant's agent deems it unnecessary for the holding to generate income to fund the dwelling. The independent land agent however remains of the view that the agricultural holding should be capable of generating sufficient income to meet the annualised cost of providing a new dwelling and this has been agreed in previous appeal decisions such as that at Fell View Nursery, Hethersgill (Ref.APP/E0915/A/13/2191262).
- 6.22 The independent land agent therefore concludes that there is no confidence, based on the information provided, that the business will be generating sufficient income to support a full time worker and fund a new dwelling.
- 6.23 In terms of whether the functional need for the dwelling could be met by

another dwelling on the unit or other accommodation in the area the independent land agent confirms that there is clearly no existing dwelling on the holding to meet the existing functional need. The existing dwelling servicing the holding is about 4 miles away and this situation appears to have operated for a number of years. It is appreciated that it is difficult to deal with animal births outside of normal working hours but a relatively small dispersed area of land is being farmed with relatively small numbers of livestock and there does not appear to be any evidence of expansion of the business or investment in farm infrastructure. In addition the land agent does not have confidence that the returns from the business would support a full time worker and the cost of providing the new dwelling and has therefore not considered further whether the functional need could be met elsewhere.

- 6.24 It is noted that applicant has provided some information regarding expenditure however the information on expenditure provided are not deemed to be exceptional items and the majority are general repairs and maintenance which you would normally expect to take place on an agricultural holding.
- 6.25 When assessing the application against the aforementioned policies outlined in paragraphs 6.3-6.7 it is clear from the evidence provided that there is an established existing functional need in relation to the landholdings that make up Low Meadow but this is limited due to the relatively small area farmed and the number of livestock kept on the landholding's. The labour requirement on the land does not equate to a full time worker and is calculated in the region of 0.6-0.7 of a full time worker.
- 6.26 The viability of the farm business is a material planning consideration and the level of profit the farm generates is therefore a consideration when looking into how financially viable the farm enterprise is. It is clear from the evidence provided that the business made a profit year ending the 5th of April 2020 with a loss the previous year. The level of profitability made was however low and substantially below the £22,000 per annum wage suggested by the Independent Consultant (even taken at a proportion based on a 0.6 of a full time worker labour requirement). The level of profitability is also substantially below the latest median annual salary figure for a full time-worker in Carlisle District of £29,223 (based on ONS ASHE data for 2020). Based on the profit levels provided in the last tax year and the anticipated labour hourly requirement per week, taken on a proportional basis, it is clear that the business would only be able to afford to pay an agricultural worker the national living minimum wage of £8.91/hr for only 19 weeks of the year. The financial figures therefore clearly show that the farm enterprise cannot support a living wage for a full time worker or the labour requirement of 0.6-0.7 of a full time worker which has been calculated.
- 6.27 The independent land agent has confirmed that the agricultural holding should be capable of generating sufficient income to meet the annualised cost of providing a new dwelling and it is clear that the business is not providing a sufficient profit to sustain future investment in the holding including the financing of the new dwelling. Inspectors in appeal decisions post NPPF publication consider it a reasonable expectation that a business

should be able to support living costs and annualised costs of a new dwelling. Whilst the applicant's agent has confirmed that the applicant will finance the construction of the dwelling by other means evidence of this has not been submitted. Notwithstanding the lack of evidence to support the applicants claim that the dwelling will be financed by other means it is common practice for a farm business to finance a dwelling which is required in relation to that business. For example, if the applicants other assets do not sell for the expected values it is clear from the accounts submitted that the business which only made a small profit last year cannot support the financing of the new dwelling. In such circumstances it has not been demonstrated that a permanent dwelling can be justified and supported by the enterprise in relation to the functional requirements of the business. The application therefore does not meet the requirements of Policy HO6 of the Carlisle District Local Plan 2015-2030 which seeks to ensure that there is a need for a full time worker on the land and that the business is financially sound and has a clear prospect of remaining so. The principle of the development is therefore not acceptable.

## **2. Whether The Scale And Design Of The Proposal Is Acceptable**

- 6.28 Policies seek to ensure that development proposals are appropriate in terms of quality to that of the surrounding area and that development proposals incorporate high standards of design including siting, scale, use of materials and landscaping which respect and, where possible, enhance the distinctive character of townscape and landscape. This theme is identified in Policy SP6 of the local plan which requires that development proposals should also harmonise with the surrounding buildings respecting their form in relation to height, scale and massing and make use of appropriate materials and detailing.
- 6.29 The application seeks outline planning approval with all matters reserved. The details of any building would therefore be considered on their merits during any subsequent reserved matters application. Accordingly, this would ensure that the scale and massing of the proposed dwelling would appear comparable to the existing properties within the immediate vicinity and would not result in a discordant feature within the area as a whole.

## **3. Impact Of The Proposal On The Character Of The Area**

- 6.30 The Cumbria Landscape Character Guidance and Toolkit (March 2001) identifies that the site falls within the Cumbria Landscape Character Sub-Type 5b "Low Farmland". The toolkit advises that key characteristics of this landscape are: undulating and rolling topography; intensely farmed agricultural pasture dominates; patchy area of woodland provide contrast to the pasture; woodland is uncommon west towards the coast; fields are large and rectangular; and hedges, hedgerow trees and fences bound fields and criss cross up and over the rolling landscape.
- 6.31 The application site is located on the edge of the farmstead and requires the demolition of an existing disused building to provide the proposed dwelling. It is inevitable that the erection of the new dwelling would have some visual



impact on the landscape character of the area. In mitigation, however the application site is located on the edge of the farm steading and will replace an existing unsightly disused building with the site frontage delineated by mature hedgerows. Any perceived visual impact would be controlled at Reserved Matters stage by the submission of details in respect of appearance, layout and scale of the proposed dwelling together with a landscaping scheme. Accordingly, there would not be such a significant detrimental impact on the character of the area to warrant a refusal of the application.

#### **4. Impact Of The Proposal On The Living Conditions Of Neighbouring Properties**

- 6.32 Policies within the Local Plan seek to ensure that development proposals should be appropriate in terms of quality to that of the surrounding area. One of the criterion of Policy SP6 being that the living conditions of the occupiers of adjacent residential properties are not adversely affected by proposed developments. This is echoed and reinforced in the City Council's Supplementary Planning Document (SPD) 'Achieving Well Designed Housing'. The SPD outlines that in order to protect against privacy loss a minimum of 21 metres between primary facing windows and 12 metres between any walls and primary windows should be achieved.
- 6.33 The nearest non-associated dwelling to the application site is Westwinds which is located approximately 42 metres to the south of the application site. Given the orientation and location of the application site in relation to Westwinds there would be no detrimental impact on the living conditions of the occupiers of that property through unreasonable loss of daylight or sunlight nor would it be over-dominant; however, as the application seeks only to establish the principle of development, these issues can't be established at this stage.

#### **5. Impact Of The Proposal On Highway Safety**

- 6.34 The submitted Design and Access Statement confirms that although the application seeks outline permission with all matters reserved it is proposed to utilise the existing farm access to the site which is onto a C classification road.
- 6.35 The application is accompanied by a speed survey which demonstrates that although the speed limit on the C road is 60mph the speeds of vehicles travelling are actually 48mph.
- 6.36 Cumbria County Council, as Highway Authority have been consulted on the proposal and confirmed no objections subject to the imposition of conditions. Accordingly, the proposal is unlikely to have a detrimental impact on highway safety.

#### **6. Proposed Method Of Foul And Surface Water Drainage**

- 6.37 There is a clear policy requirement to provide adequate provision for foul and surface water facilities; however, due to the fact that only outline planning

permission is sought by this application, there is no requirement to provide comprehensive details of the method for the disposal of either surface water or foul drainage provision at this stage.

- 6.38 Accordingly, should the application be approved, relevant conditions would be imposed within the decision notice requiring the submission of foul and surface water drainage details accompany the reserved matters application. These details would then be assessed by the relevant Statutory Consultees. If such details prove to be unacceptable, it may be that the residential development would stall as a result.

## **7. Impact Of The Proposal On Biodiversity**

- 6.39 The Councils GIS Layer has identified that there is the potential for several key species to be present within the vicinity. Using the guidance issued by Natural England, the development would not harm protected species or their habitat; however, should the application be approved it is recommended that an Informative has been included within the decision notice ensuring that if a protected species is found all work must cease immediately and the Local Planning Authority informed. A further informative should also be included involving the removal of section of the hedgerow and trees are undertaken out with the bird nesting season unless the absence of nesting birds has been established through a survey

## **Conclusion**

- 6.40 The application site is not located within or at the edge of a settlement and lies within the open countryside with the nearest settlement being Smithfield, located approximately 383 metres to the north. In such a location Paragraph 79a of the NPPF and Policy HO6 of the Carlisle District Local Plan 2015-2030 sets out a presumption against new dwellings other than those essential for a rural worker and supported by an essential need. Whilst there is a need for a worker to reside on site this need does not equate to a full time worker and the financial information submitted on behalf of the applicant does not demonstrate that a permanent dwelling can be justified and supported by the enterprise in relation to the functional requirements of the business. The application therefore does not meet the requirements of Policy HO6 of the Carlisle District Local Plan 2015-2030 which seeks to ensure that there is a need for a full time worker on the land and that a business is financially sound and has a clear prospect of remaining so. The application is therefore recommended for refusal.

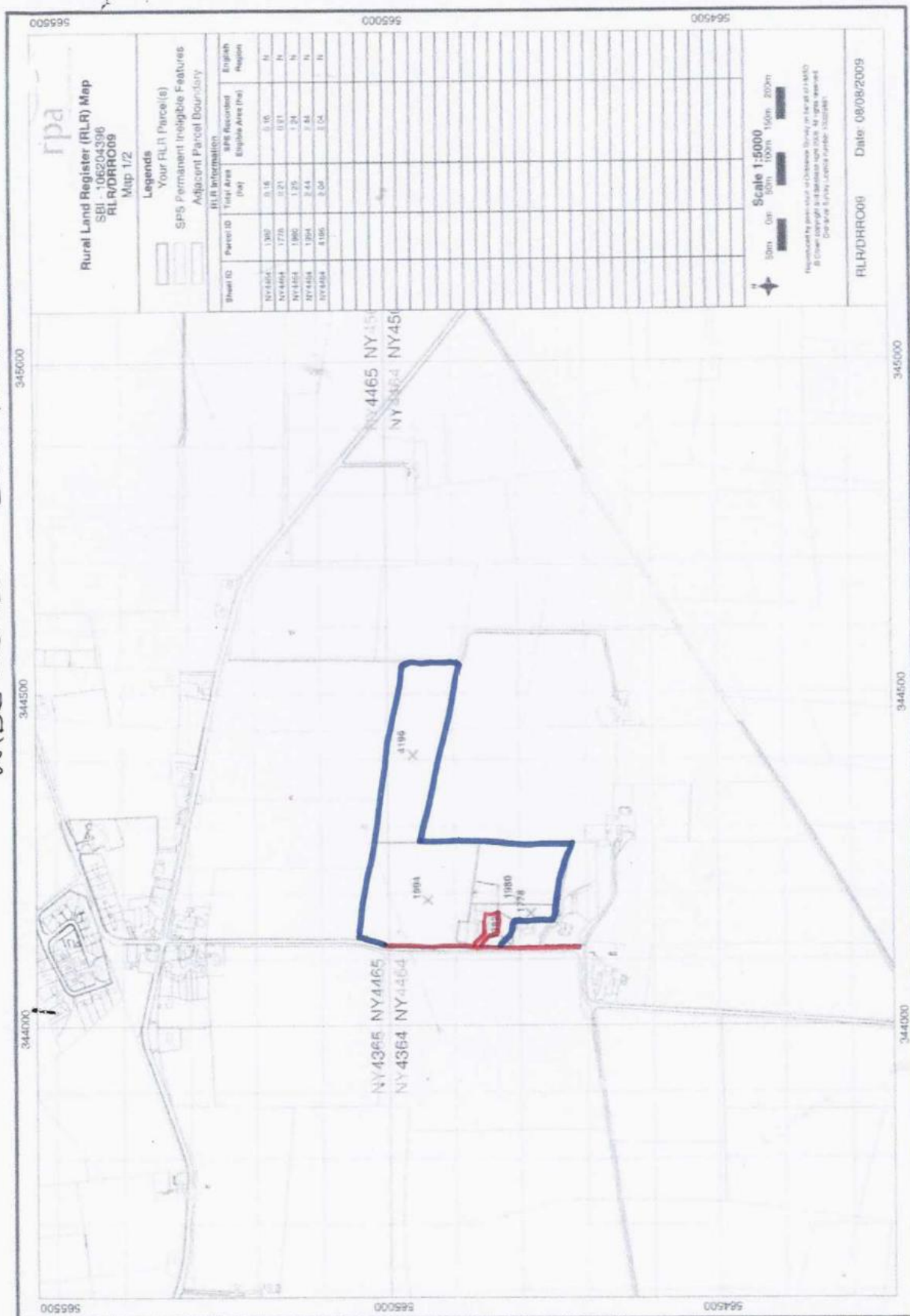
## **7. Planning History**

- 7.1 In 1997 Full Planning Permission was granted for the erection of a dry sow unit (reference 97/0582); and
- 7.2 In 1959 Full Planning Permission was granted for the erection of a farrowing house at High Meadow (reference BA2234).

## **8. Recommendation: Refuse Permission**

- 1. Reason:** The application site is not located within or at the edge of a settlement and lies within the open countryside with the nearest settlement being Smithfield, located approximately 383 metres to the north. In such a location Paragraph 79a of the NPPF and Policy HO6 of the Carlisle District Local Plan 2015-2030 sets out a presumption against new dwellings other than those essential for a rural worker and supported by an essential need. Whilst there is a need for a worker to reside on site this need does not equate to a full time worker and the financial information submitted on behalf of the applicant does not demonstrate that a permanent dwelling can be justified and supported by the enterprise in relation to the functional requirements of the business. The application therefore does not meet the requirements of Policy HO6 of the Carlisle District Local Plan 2015-2030 which seeks to ensure that there is a need for a full time worker and a business is financially sound and has a clear prospect of remaining so.
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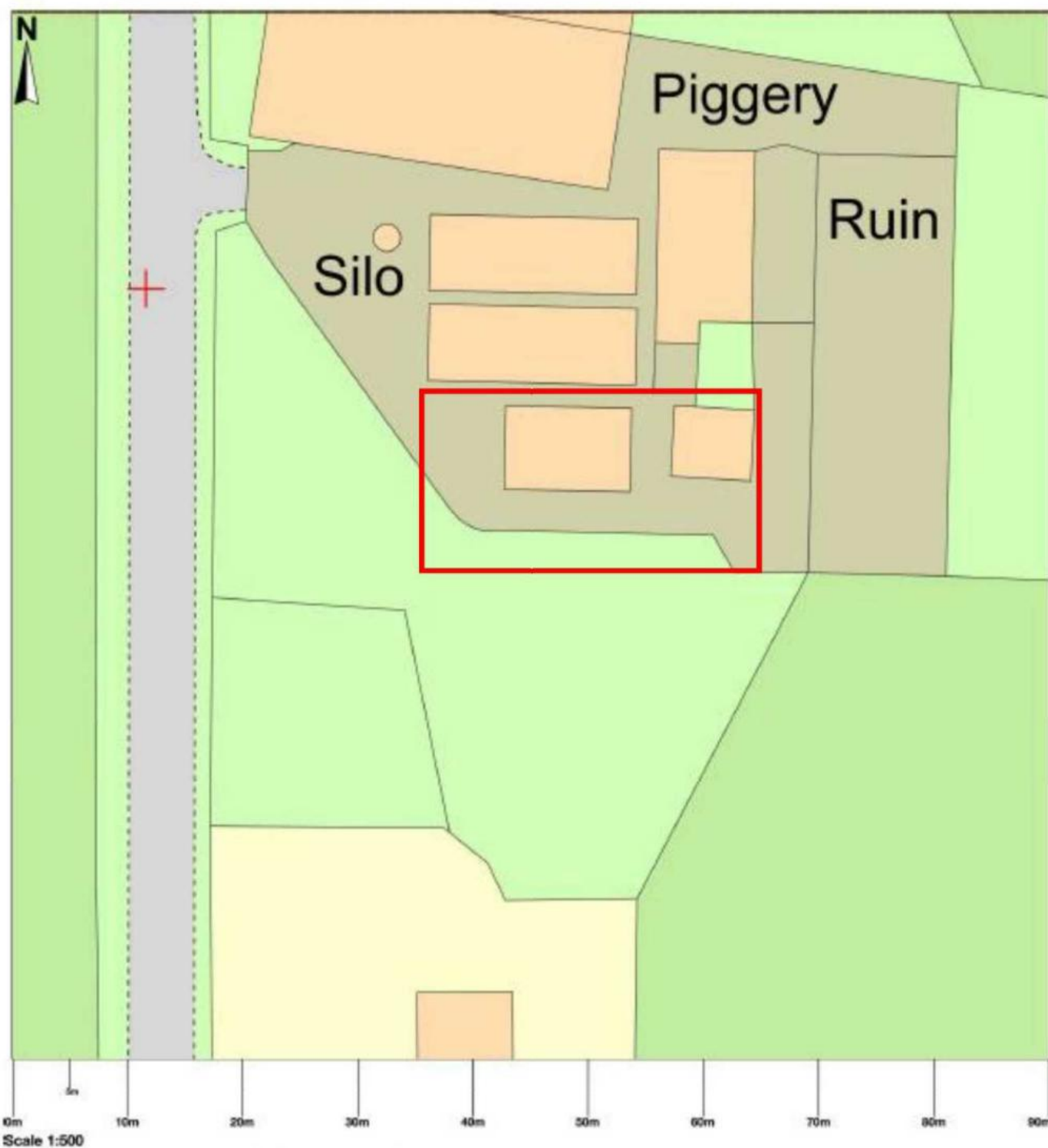
# LOW MEADOW, KIRKLETON WIDE SCALE LOCATION PLAN



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## Low Meadow, Kirklington, Carlisle, CA6 6BT



## SCHEDULE A: Applications with Recommendation

20/0600

**Item No: 02**

Date of Committee: 08/01/2021

**Appn Ref No:**  
20/0600

**Applicant:**  
Mr Patrick Lee

**Parish:**  
Westlinton

**Agent:**  
Sam Greig Planning

**Ward:**  
Longtown & the Border

**Location:** Green Meadows Country Park, Blackford, Carlisle, CA6 4EA

**Proposal:** Variation Of Condition 2 (Approved Documents) And Condition 8 (Landscaping Scheme) Of Previously Approved Application 20/0309 (Change Of Use Of Land To Provide Extension To Existing Caravan Park) To Amend The Approved Layout

**Date of Receipt:**  
07/09/2020

**Statutory Expiry Date**  
02/11/2020

**26 Week Determination**  
11/01/2021

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### REPORT

**Case Officer:** Barbara Percival

#### 1. Recommendation

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

#### 2. Main Issues

- 2.1 Principle of development
- 2.2 Impact of the proposal on landscape character
- 2.3 Scale and design of the proposal
- 2.4 Impact of the proposal on the living conditions of the occupiers of neighbouring properties
- 2.5 Proposed drainage methods
- 2.6 Impact of the proposal on highway safety
- 2.7 Impact of the proposal on biodiversity
- 2.8 Other matters

#### 3. Application Details

##### The Site

- 3.1 The built form of Blackford is that of dispersed residential properties, farms and a plant hire business arranged around the highway network. Blackford Church of England School and St John the Baptist Church are located to the west of the A7 Carlisle to Longtown trunk road.
- 3.2 The application site, Green Meadows Country Park, is located to the east of the A7 with vehicular access to the site via a 200 metre driveway from the U1074 county highway. Green Meadows is primarily a holiday caravan park, however; there are also 15 permanent residential units within the site together with a managers bungalow.

## **Background**

- 3.3 The site has a long planning history which has been reproduced for Members in Section 7. The most recent application was in July last year. Members of the Development Control Committee granted full planning permission for the change of use of land to provide an extension to existing caravan park (application 20/0309).
- 3.4 Conditions, amongst others, attached to application 20/0309 specifically restricts the total number of static units to be stationed on the application site at any one time to not more than 25no. with the total number of tent pitches/touring pitches not exceeding 20no. and 27no. respectively.
- 3.5 A further condition restricts the occupancy of the static holiday units, touring caravan pitches and tent pitches solely for holiday use only.
- 3.6 The application seeks planning permission for the variation of condition 2 (approved documents) and condition 8 (landscaping scheme) of previously approved application 20/0309 (change of use of land to provide extension to existing caravan park) to amend the approved layout. The originally submitted application form also included the variation of condition 5 (number of units) attached to 20/0309, however; this condition has subsequently been omitted following the receipt of a further revised layout scheme for the application site.
- 3.7 The land subject of this application equates to approximately 1.75 hectares. The revised block plan now, however; illustrates the static holiday stances located in the northern section of the application site and along its western boundary as opposed to along the application site's northern, southern and western boundaries. The southern section of the application site would provide an informal area to accommodate 27no. touring caravan pitches and / or 20no. tent pitches.
- 3.8 The existing northern hedgerow would be reinforced with Holly and Beech whips with 4no. Wild Cherry trees planted within the proposed extended caravan park itself. Three large water features, as opposed to the originally consented two, would also be formed within the application site with pockets of planting around the periphery of two of them.
- 3.9 Internal access roads, utilising the existing driveway from the U1074 county



highway, would be formed within the application site. Foul drainage from the proposed 25no. holiday static units would be connected to an additional package treatment plant located adjacent to the existing package treatment plant within the existing caravan park close to the owner's bungalow.

#### **4. Summary of Representations**

- 4.1 This application has been advertised by the direct notification of the occupiers of fourteen neighbouring properties and the posting of a site notice. No verbal or written representations have been made during the consultation period.

#### **5. Summary of Consultation Responses**

**Cumbria County Council - (Highways & Lead Local Flood Authority): -**

the planning application currently under consideration is seeking to change the approved layout of the static caravans which includes 'clusters' of caravans. Further to this the application seeks to relocate the easternmost pond more centrally within the site and to incorporate additional landscaping between the proposed two 'clusters'. It is noted that this application does not propose any other alterations to the consented scheme, or the remaining conditions imposed by the Council. The Highways Authority do not have any objections with regards to the discharge of conditions 2 and 5 as they do not impact upon the highway. The drainage conditions associated with planning approved 20/0309 are still to be discharged and agreed upon by the LLFA. As such the LLFA have no objections with regards to the layout alterations as they do not increase flood risk on site or downstream. The Highway Authority and Lead Local Flood Authority has no objection with regards to the proposed discharge of condition 8 (landscaping) as it is considered that the proposal does not affect the highway, nor does it increase the flood risk on the site or elsewhere;

**Westlinton Parish Council: -** wish to make the following comments;

1. if the planning department felt that certain conditions had to be met for the application to be successful, then these conditions should be adhered to and not removed at a later date. It makes a mockery of the whole system;
2. even with the number of units in place now the site cannot cope with surface water. After any rain the water flows out of Green Meadows drive and crosses both lanes of the A7. This is an accident waiting to happen;
3. in all adverts for the site the word " holiday " is never mentioned in the context of homes. As we were assured that the original expansion was only allowed as they were not permanent residences. Other local residents were told that they would not get planning consent for projects as this is a planning sensitive area. Surely, we should have consistency!
4. any increase in numbers will increase the number of vehicles using the junction next to The Old Post Office, which has seen a number of fatal accidents. There were 2 accidents on that road last week.

Given these points, the parish council could not support this application and hope the planning dept. will actually take note of the parish councils objections on this occasion;

**Cumbria Constabulary - North Area Community Safety Unit (formerly Crime Prevention):** - no observations or comments;  
**Local Environment - Environmental Protection:** - no objections but applicant would have to vary the site licence to reflect the increase in units.

## **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.
- 6.2 The relevant planning policies against which the application is required to be assessed is the National Planning Policy Framework (NPPF), the Planning Practice Guidance (PPG), and Policies SP2, SP6, EC9, EC10, EC11, IP2, IP6, CC5, CM5, GI1, GI3 and GI6 of the Carlisle District Local Plan 2015-2030. The City Council's Supplementary Planning Document 'Trees and Development' is also material planning consideration. The Cumbria Landscape Character Guidance and Toolkit (March 2001) is a further material consideration.
- 6.3 The proposal raises the following planning issues:

#### **1. Principle of Development**

- 6.4 Paragraph 7 of the NPPF outlines that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraphs 8 and 9 explaining that achieving sustainable development means that the planning systems has three overarching objectives: economic, social and environmental. All of which are interdependent and need to be pursued in mutually supportive ways. Economic growth can secure higher social and environmental standards with planning decisions playing an active role in guiding development towards solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.
- 6.5 To support a prosperous rural economy, paragraph 83 outlines that planning policies and decisions should enable: *"a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings; b) the development and diversification of agricultural and other land-based rural businesses; c) sustainable rural tourism and leisure developments which respect the character of the countryside; and d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship"*.
- 6.6 Paragraph 84 recognises that: *"sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing*

*settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist".*

- 6.7 The aforementioned paragraphs of the NPPF are reiterated in Policies EC9, EC10 and EC11 of the local plan all of which seek to support sustainable rural tourism and leisure developments where they respect the character of the countryside and where identified needs are not met by existing facilities in rural services centres. Specifically, in relation to caravan, camping and chalet sites, Policy EC10 of the local plan highlights that proposals for the development of caravan sites and the extension of caravan sites will be supported subject to compliance with the criteria identified within the policy.
- 6.8 As Members will be aware, the principle for the use of the land as an extension to Green Meadows Country Park for the siting of 25no. static holiday units and 27no. touring pitches and / or 20 tent pitches has been established since July 2020. This application now seeks permission for the variation of condition 2 (approved documents) and condition 8 (landscaping scheme) of previously approved application 20/0309 (change of use of land to provide extension to existing caravan park) to amend the approved layout.
- 6.9 The proposal would be an expansion of an existing sustainable rural tourism business and would ensure the continued viability of the enterprise. The permission is extant, and the principle of development remains in accordance with the objectives of the NPPF and relevant local plan policies.
- 6.10 The impact of the proposal on the remaining issues is discussed in the following paragraphs.

## **2. Impact Of The Proposal On Landscape Character**

- 6.11 The Cumbria Landscape Character Guidance and Toolkit (March 2001) (CLCGT) describes the character of different landscape types across the county and provides guidance to help maintain their distinctiveness. The CLCGT identifies that the application site falls within the Cumbria Landscape Character Sub-Type 5b "Low Farmland". The toolkit advises that key characteristics of this landscape are: undulating and rolling topography; intensely farmed agricultural pasture; hedges, hedgerow trees; and fences bound fields and criss cross up and over the rolling landscape.
- 6.12 The supporting guidance in respect of access and recreational development outlines that: *"small scale sensitive farm-based tourism/recreational businesses should be well sited close to or within existing farm buildings and appropriate landscaping should be included to integrate new facilities into the landscape".*

- 6.13 The submitted drawings now illustrate the reconfiguration of the layout of the 25no. static holiday units and 27no. touring pitches and / or 20 tent pitches within the application site. The revised drawing illustrates that the existing hedgerows along the northern boundary of the site would be retained and reinforced with further landscaping within the application site itself. This would mitigate for any perceived visual impact from the limited public viewpoints of the application site. Accordingly, the revised proposal is unlikely to have a significant detrimental impact on the character of the area. Should Members approve the application, a condition is recommended to ensure that the landscaping scheme is undertaken in the first planting period following the completion of the development.

### **3. Scale and Design Of The Proposal**

- 6.14 As highlighted earlier in the report, Policy EC10 of the local plan supports the extension of existing caravan sites subject to satisfying relevant criteria including: the siting, scale and appearance of caravan sites do not have an unacceptable adverse impact on the character of the local landscape; and that the site is contained within existing landscape features and if necessary, and appropriate is supplemented with additional landscaping.
- 6.15 The application seeks permission to vary the layout of an extant permission for the extension into an adjoining parcel of land to the west of the caravan park. This is a relatively large extension, however; the application site is enclosed by existing mature hedgerows with further landscaping proposed. Three large water features would also be formed within the application site. The permanent static holiday stances would be arranged around two of the water features with the remaining water feature centrally located within the informal caravan / tent area. The reimposition of a condition is also recommended which would restrict the size of the static holiday units together with the spacing of the static holiday units
- 6.16 The scale and design of the revised scheme remains acceptable and in overall terms the proposal accords with the objectives of Policy EC10 of the local plan.

### **4. Impact Of The Proposal On The Living Conditions Of Neighbouring Residents**

- 6.17 The nearest residential properties, excluding those 15 residential units within Green Meadows Caravan Park, are located approximately over 150 metres to the north west and south west. Given the existing use of the site and the distance from the development, the revised proposal is unlikely to have a significant impact on the living conditions of occupiers of neighbouring properties through intensification of use or unacceptable noise and disturbance.

### **5. Proposed Drainage Methods**

- 6.18 There is a clear policy requirement to provide adequate provision for foul and surface water facilities to ensure that enough capacity exists prior to

commencement of any development and that development proposal do not have an adverse impact on the environment. The submitted documents illustrating that foul drainage from the proposed development would be to a package treatment plant with surface water disposed of via an existing watercourse.

- 6.19 Westlinton Parish Council raise objections to the application as it is of the opinion that: *"Even with the number of units in place now the site cannot cope with surface water. After any rain the water flows out of Green Meadows drive and crosses both lanes of the A7. This is an accident waiting to happen"*. Photographic evidence illustrating water flowing from the northern side of the vehicular access of the owner's bungalow was also provided by the parish council.
- 6.20 In respect of the disposal of surface water drainage, the Lead Local Flood Authority (LLFA) raise no objections to the revised scheme subject to the re-imposition of pre-commencement conditions associated with planning approval 20/0309. This would require the submission of a further application to discharge details of the proposed surface water drainage scheme to serve the proposed extension. If these details prove unsatisfactory then the development would stall as a result. Furthermore, the proposed water features within the application site may require permission under LLFA legislation. Should Members approve the application, an informative is also recommended to be included within the decision notice, drawing the applicant's attention to the requirement to comply with LLFA legislation in respect of the proposed water features.
- 6.21 The views of the parish council as respected; however, considering the views of the LLFA it would be difficult to substantiate a refusal of this current application on surface water drainage.
- 6.22 The proposed foul drainage methods for this current application remain unchanged from that of the extant permission i.e. foul drainage from the proposed development would enter a new package treatment plant prior to its outfall entering a watercourse. Members will recall from the previous application, foul drainage methods for caravan sites falls outside the remit of the city council's Building Control Section. Nevertheless, to ensure that the proposed foul drainage system could adequately process the foul water from the increased number of caravans and tents the expertise of building control was called upon during the processing of the previous application. The city council's Building Control's Business Development Manager reviewed the submitted information and requested clarification on several minor issues. Accordingly, as the number of static holiday units and touring / tent pitches remain unchanged, should Members approve this current application, the re-imposition of a pre-commencement condition is recommended ensuring the submission of a foul drainage scheme to serve the proposed development. The subsequent details of which would be assessed by the council's Building Control Section and if these details prove unsatisfactory the development would stall as a result.
- 6.23 Subject to compliance with the recommended conditions in respect of foul

and surface water drainage, the proposal drainage methods are acceptable and remain in accordance with the objectives of the NPPF, PPG and relevant local plan policies.

## **6. Impact Of The Proposal On Highway Safety**

- 6.24 Policies EC10 and EC11 of the local plan seek to ensure that development proposals should normally be accessible by public transport, walking and cycling. However; for some developments in the rural area this may not be possible. In these cases, new development should be able to demonstrate that adequate access/parking is available and that proposals do not lead to an increase in traffic levels beyond the capacity of the surrounding local highway network.
- 6.25 Access to the proposed extended caravan park would be via an existing vehicular access from the U1074 county highway. Westlinton Parish Council has raised a further objection to the proposal citing: *"any increase in numbers will increase the number of vehicles using the junction next to The Old Post Office, which has seen a number of fatal accidents. There were 2 accidents on that road last week"*.
- 6.26 It is inevitable that there would be some increase in traffic to and from the caravan park through its extension, however; the number of static holiday units and touring caravans / tents remain that as previously approved under application 20/0309. Furthermore, Cumbria County, as Highway Authority, in its consultation response raise no objections to this current application as it does not propose any other alterations to the consented scheme and would not impact on the highway.
- 6.27 The concerns of the parish council are again respected, however; given the views of the Highway Authority it would be difficult to substantiate a refusal of the application on highway safety grounds.

## **7. Impact Of The Proposal On Biodiversity**

- 6.28 The Council's GIS Layer has identified that there is the potential for several key species to be present within the vicinity. Using the guidance issued by Natural England, the development would not harm protected species or their habitat. Furthermore, the proposal includes a landscaping scheme together with the formation of three water features within the site, thereby, providing an opportunity for net biodiversity gain. To protect biodiversity and breeding birds during any construction works, informatics are recommended within the decision notice drawing the applicant's attention to the requirement under conservation legislation such as the Wildlife and Countryside Act 1981, The Conservation of Habitats and Species Regulations 2010 etc.

## **8. Other Matters**

- 6.29 The parish council are of the opinion that: *"certain conditions had to be met for the application to be successful, then these conditions should be adhered to and not removed at a later date. It makes a mockery of the whole system"*.

A similar issue was also raised during the determination of the previous application (application 20/0309). No specific details have been provided in respect of this current application, however; Members will be aware that each application must be judged on its own merits and determined against the provisions of the development plan.

- 6.30 As highlighted earlier in the report, the parish council has questioned the capability of the caravan park to accommodate further holiday units due to existing problems with surface water run-off onto the adjacent highway network. It has also provided photographic evidence to demonstrate that surface water was flowing from the driveway of the owner's bungalow. This issue was previously raised during the determination of other applications for the caravan park (application references 19/0670 and 20/0309). The Agent at that time provided photographic evidence illustrating that the water was originating from an overgrown roadside ditch to the north of the entrance to the bungalow of Green Meadows. Further photographic evidence has also been provided during the determination of this application. Cumbria County Council, as Highway Authority, was / has been made aware of this on-going issue.
- 6.31 The location of the existing surface water problems is out with the application site and it should be noted that the LLFA do not raise any objections to this current proposal subject to the imposition of pre-commencement condition requiring the submission of a surface water drainage scheme for the development. Nevertheless, the planning officer has contacted Cumbria County Council with a view to resolving this ongoing issue. At the time of preparing the report, Cumbria County Council, has advised that investigations and repair works within the highway are currently being undertaken to try and resolve this issue.
- 6.32 A further issue raised by the parish council is the wording of advertisements for the sale of the holiday units as it makes no mention of holiday homes. This proposal seeks permission for an extension to an existing caravan park. Should Members approve the application, the re-imposition of conditions are recommended which would restrict the occupancy of the application site to that of holiday use only with no permanent residential occupancy.
- 6.33 The parish council's consultation concludes by stating: *"given these points we could not support this application and hope the planning dept. will actually take note of our objections on this occasion"*. As Members will be aware, the comments of statutory consultees are a material planning consideration in the determination of any planning application. In respect of this current application, the comments of the parish council are respected and have been addressed within the report. Furthermore, efforts have been made to try and resolve on-going surface water problems affecting the A7 county highway which fall out with the planning process.
- 6.34 This application has been submitted under section 73 of the Town and Country Planning Act 1990 to vary a condition associated with a planning permission.

- 6.35 Paragraph: 015 Reference ID: 17a-015-20140306 Revision date: 06 03 2014 of the Planning Policy Guidance states:

*"Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted".*

*A decision notice describing the new permission should clearly express that it is made under section 73. It should set out all of the conditions imposed on the new permission, and, for the purpose of clarity restate the conditions imposed on earlier permissions that continue to have effect. Further information about conditions can be found in the guidance for use of planning conditions.*

*As a section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission. If the original permission was subject to a planning obligation then this may need to be the subject of a deed of variation".*

- 6.36 In light of the foregoing, the original planning permissions continues to exist, therefore, to assist with clarity, those conditions that have not been either: discharged, part discharged; or are instructive are repeated within the conditions as part of this planning application.

## **Conclusion**

- 6.37 The permission is extant and the principle of development remains acceptable. The fundamental difference between this current application and the previously granted consent (application 20/0309) relates to the reconfiguration of the layout and landscaping of the application site.
- 6.38 The numbers and types of holiday stances remain unaffected by this application. The scale and design of the revised scheme remains consistent with the objectives of the development plan nor would it have a detrimental impact on landscape character.
- 6.39 The impact of the revised scheme on the: living conditions of neighbouring residents; proposed drainage methods; highway safety; and biodiversity are unaffected by this application.
- 6.40 Accordingly, the proposal accords with the objectives of the NPPF, PPG and relevant local plan policies with the application recommended for approval.

## **7. Planning History**

- 7.1 In 1984, full planning permission was granted for renewal of temporary permission for siting of 15 residential caravans (application reference



84/0826).

- 7.2 In 2016, full planning permission was granted for proposed reconfiguration of existing caravan park to allow siting of 37no. holiday static units (inclusive of 15no. residential units), 27no. touring pitches and 20no. tent pitches including associated landscaping (application reference 16/0625).
- 7.3 In 2017, an application for the variation of condition 2 of previously approved permission 16/0625 to revise location and details of package treatment plant was granted (application reference 17/0075).
- 7.4 Also in 2017, full planning permission was refused for variation of conditions 3 (the total number of permanent residential units to be stationed on the site at any one time shall not exceed 37no. plus 27no. touring caravan pitches and 20no. tent pitches) and condition 5 (the touring caravan pitches and tent pitches shall be used solely for holiday use and shall not be occupied as permanent accommodation) of previously approved planning permission 16/0625 (application reference 17/0094). A subsequent appeal was dismissed.
- 7.5 In 2018, advertisement consent was granted for a non-illuminated freestanding sign (application reference 18/0522).
- 7.6 Also in 2018, a variation of condition application was granted for reconfiguration of existing caravan park without compliance with conditions 2 & 3 imposed by planning permission 17/0075 to enable one of the approved holiday caravans to be occupied as a permanent residential unit following removal of unit 6 and the siting of a show holiday caravan (application reference 18/1139).
- 7.7 In 2019, a variation of condition application was granted for reconfiguration of existing caravan park without compliance with conditions 2 & 3 imposed by planning permission 18/1139 to secure flexibility regarding the size and position of the holiday caravans to be accommodated on the caravan park; to make modifications to the alignment of the northern extent of the eastern boundary of the site and to increase the approved number of holiday caravans from 21 units to 29 units (application reference 19/0360).
- 7.8 Earlier this year, an application for the removal of condition 7 of previously approved application 19/0360 for the requirement to install a package treatment plant to facilitate the increased number of pitches was approved (application reference 19/0670).
- 7.9 Again this year, an application for the variation of condition 1 (approved documents) of previously approved application 19/0670 to amend the approved site layout plan to provide flexibility in relation to the siting of the 15 permanent residential units was approved (application 20/0186).
- 7.10 Also this year, an application for the change of use of land to provide an extension to an existing caravan park was approved (application 20/0309).

**8. Recommendation: Grant Permission**

1. The development shall be begun not later than 17th July 2023.

**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 development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:

1. the submitted planning application form received 14th December 2020;
2. the submitted planning application form received 13th May 2020 as approved under planning reference 20/0309;
3. the site location plan received 13th May 2020 (Drawing No. GMCC/SLP 1 Rev A) as approved under planning reference 20/0309;
4. the proposed site block plan received 14th December 2020 (Drawing No. GMCC/PHASE 2 / SBP2 Rev H);
5. the Notice of Decision;
6. any such variation as may subsequently be approved in writing by the local planning authority.

**Reason:** To define the permission.

3. Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the Local Planning Authority.

The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the local planning authority, no surface water shall discharge to the public sewerage system either directly or indirectly.

**Reason:** To promote sustainable development, secure proper drainage and to manage the risk, of flooding and pollution in accordance with the National Planning Policy Framework and Policies CC4, CC5 and CM5 of the Carlisle District Local Plan 2015-2030.

4. Notwithstanding the submitted foul drainage details contained in the HiPAF Packaged Treatments Plants document together with foul drainage details annotated on drawing number GMCC / PHASE 2 / SBP2 Rev H full details of a foul drainage scheme to serve the development shall be submitted to and approved in writing by the local planning authority prior to the commencement of any development. Thereafter, the development shall be undertaken in strict accordance with the approved details.

**Reason:** To ensure that the development is served by an adequate method for the disposal of foul drainage in accordance with Policies IP6 and CM5 of the Carlisle District Local Plan 2015-2030.

5. The total number of static holiday units to be stationed within the application site at any one time shall not exceed 25no. The total number of tent pitches/touring pitches shall not exceed 20no. and 27no. respectively.

**Reason:** For the avoidance of doubt.

6. The static holiday units, touring caravan pitches and tent pitches shall be used solely for holiday use and shall not be occupied as permanent accommodation.

**Reason:** To ensure that the approved static units, touring caravans and tents are not used for unauthorised permanent residential occupation in accordance with the objectives of Policy EC10 of the Carlisle District Local Plan 2015-2030.

7. The static holiday units shall not exceed 12.2 metres by 6.1 metres in size or be positioned closer than 6 metres from one another unless otherwise agreed in writing by the local planning authority.

**Reason:** For the avoidance of doubt.

8. The site manager/owner shall keep a register to monitor the occupation of the static holiday units subject of this approval. Any such register shall be available for inspection by the local planning authority at any time when so requested and shall contain details of those persons occupying the units, their name, normal permanent address and the period of occupation.

**Reason:** To ensure that the approved holiday units are not used for unauthorised permanent residential occupation in accordance with the objectives of Policy EC10 of the Carlisle District Local Plan 2015-2030.

9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development and maintained thereafter to the satisfaction of the council; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

**Reason:** To ensure that a satisfactory landscaping scheme is implemented and maintained, in the interests of public and environmental amenity, in accordance with Policies SP6 and GI6 of the Carlisle District Local Plan 2015-2030.



## SCHEDULE A: Applications with Recommendation

20/0326

Item No: 03

Date of Committee: 08/01/2021

**Appn Ref No:**  
20/0326

**Applicant:**  
Richard Telford

**Parish:**  
Stanwix Rural

**Agent:**  
PlanB Building Drawing

**Ward:**  
Stanwix & Houghton

**Location:** The Old Sawmill, Linstock, Carlisle, CA6 4PY

**Proposal:** Demolition Of Existing Sawmill Building; Erection Of Contractors Office/Storage Unit

**Date of Receipt:**  
26/05/2020

**Statutory Expiry Date**  
21/07/2020

**26 Week Determination**

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### REPORT

**Case Officer:** Alanzon Chan

#### 1. Recommendation

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

#### 2. Main Issues

- 2.1 Whether The Principle Of The Development Is Acceptable
- 2.2 Whether The Scale And Design Of The Development Is Acceptable
- 2.3 Impact Of The Proposal On The Living Conditions Of The Occupiers Of Any Neighbouring Properties
- 2.4 Impact Of The Proposal On Highway Safety
- 2.5 Issues Regarding Surface And Foul Water Drainage
- 2.6 Issues Regarding Trees And Hedgerows
- 2.7 Impact Of The Proposal On Biodiversity
- 2.8 Impact Of The Proposal On The Frontiers of the Roman Empire (Hadrian's Wall)

#### 3. Application Details

##### The Site and Background Information

- 3.1 The application site is located to the south-west of Linstock off a private drive

adjacent to the M6 over-bridge and is approximately 75 metres from the M6 Northbound. The site is bounded to the north, east and south by tall ruderal and scrub vegetation.

- 3.2 The building was previously used as a sawmill. However, as the building fell into a state of disrepair over time, it ceased operating as a sawmill and has since primarily been used for storage of agricultural machineries and plants. The applicant owns a building / joinery business and he purchased this site a few years back and has continued to use this site for storage of machineries and plants.

## **The Proposal**

- 3.3 The proposal seeks outline planning permission to replace the existing sawmill building with a contractors office/storage unit.

## **4. Summary of Representations**

- 4.1 This application has been advertised by means of a site notice and notification letters sent to three neighbouring properties. No verbal or written representations have been made during the advertisement period.

## **5. Summary of Consultation Responses**

**Historic England - North West Office:** No comments

**Cumbria County Council - (Highways & Lead Local Flood Authority):** No objection subject to the imposition of a condition

**Stanwix Rural Parish Council:** raise concerns that the demolition of the existing building and the partial removal of the unkempt ruderal and scrub vegetation would have the potential to impact upon several taxa including bats and birds.

**United Utilities:** No objection

## **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.
- 6.2 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) and Policies SP1, SP2, SP6, CM4, CC5, IP3, IP6, GI3, GI6 and HE1 of the Carlisle District Local Plan (CDLP) 2015-2030.

The proposal raises the following planning issues:

## 1. Whether The Principle Of The Development Is Acceptable

- 6.3 One of the main issues to establish when assessing this application is the principle of development. The NPPF and CDLP Policy SP1 require development proposals to be considered in the context of a presumption in favour of sustainable development in order to secure development that improves the economic, social and environmental conditions of the district.
- 6.4 Paragraph 10 of the NPPF outlines that *"at the heart of the NPPF is a presumption in favour of sustainable development"*. This echoes with the objectives of the adopted CDLP Policy SP1, of which it advocates that when considering development proposals, Carlisle City Council should take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF.
- 6.5 Meanwhile, paragraph 117 of the NPPF encourages planning policies and decisions to reuse previously-developed or 'brownfield' land for development, except where this would conflict with other policies in this Framework.
- 6.6 Paragraph 118 of the NPPF advocates that planning decisions should 'give substantial weight to the value of using suitable brownfield land within settlements for [the] identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land' and 'allow upward extensions where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, is well designed (including complying with any local design policies and standards), and can maintain safe access and egress for occupiers.'
- 6.7 CDLP Policy SP6 states that proposal should:
- respond to local context and the form of surrounding buildings in relation to density, height, scale and massing;
  - ensure there is no adverse effect on the residential amenity of the existing areas, or adjacent land uses, or result in unacceptable conditions for future users and occupiers of the development; and
  - ensure all components of the proposal, such as buildings, car parking, open spaces and landscaping are accessible and inclusive to everyone, safe and well related to one another to ensure a scheme which is attractive and well-integrated with its surroundings.
- 6.8 CDLP Policy CM4 requires development to take careful consideration in design to ensure that they do not create secluded areas or impede surveillance opportunities. The policy recommends that 'developments should be laid out and buildings positioned with the intention of creating active and vibrant neighbourhoods and maximising natural surveillance opportunities.'
- 6.9 The application site was previously used as a sawmill. However, as the building fell into a state of disrepair over time, it ceased operating as a



sawmill and has since primarily been used for storage of agricultural machineries and plants. The applicant owns a building / joinery business and he purchased this site a few years back and has continued to use this site for storage of machineries and plant. The proposal aims to replace the existing dilapidated building with a new contractors office / storage unit. This would allow an underused brownfield site to be redeveloped. The proposal will also provide an opportunity to tidy up this unkempt area, contributing to the creation of a safer, more visually attractive environment for the local communities.

- 6.10 Given that the proposal would significantly enhance the overall character and appearance of the site, the proposal is considered to be a sustainable development. In light of the above, the proposal is considered to be compliant with the NPPF and the objectives of CDLP Policies SP1, SP6 and CM4, and the principle of the development is therefore considered acceptable.

## **2. Whether The Scale And Design Of The Development Is Acceptable**

- 6.11 Policies seek to ensure the development is appropriate in terms of quality to that of the surrounding area and that development proposals incorporate high standards of design including siting, scale, use of materials and landscaping which respect and, where possible, enhance the distinctive character of townscape and landscape. This theme is identified in Policy SP6 of the Local Plan which requires that development proposals should also harmonise with the surrounding buildings respecting their form in relation to height, scale and massing and make use of appropriate materials and detailing.
- 6.12 The height of the proposed contractors office / storage unit would be comparable to the height of the surrounding buildings. The walls of the proposed contractors office / storage unit would be clad in steel profiled cladding in mid grey colour whilst the roof would be clad in profiled insulated roof sheeting in dark grey colour. The windows and door would be finished in grey aluminium. The applicant mentions in the application form that the proposed boundary treatment would be green mesh security fencing. However, since no further details regarding the height and exact location of the fencing have been submitted, a pre-commencement condition is proposed which would require the submission of details of both soft and hard landscaping in writing for approval by the local planning authority.
- 6.13 Overall, the scale and design of the proposed contractors office / storage unit is considered acceptable. The type of fencing would also reflect the nature and use of the site. In comparison to the existing building, the proposal would tremendously enhance the appearance of the site. As such, subject to the prospective landscaping details being satisfactory, it is considered that the scale and design of the proposed development is acceptable, and the proposal will not be visual intrusive.

## **3. Impact Of The Proposal On The Living Conditions Of The Occupiers Of Any Neighbouring Properties**

- 6.14 Development should be appropriate in terms of quality to that of the



surrounding area and that development proposals incorporate high standards of design including siting, scale, use of materials and landscaping which respect and, where possible, enhance the distinctive character of the surrounding townscape and landscape. One criterion being that the living conditions of the occupiers of adjacent residential properties are not adversely affected by proposed developments. This is echoed and reinforced in Local Plan policies, which importantly requires that the suitability of any development proposal be assessed against the policy criteria.

- 6.15 There are several residential properties located to the northwest of the application site. Given that the scale of the proposed development, it is not considered that the proposal would lead to any unacceptable impact upon the living conditions of the occupiers of these properties. That being said, since the applicant runs a building/joinery business, to ensure that the residential amenity of the area is safeguarded, conditions are proposed to restrict the use of the building to a contractors office and storage only, and that no building or any kind of assembly works shall be carried out within this site at any time.
- 6.16 Whilst the applicant has not mentioned whether there will be any external lighting installed on site, a condition is proposed to restrict that the applicant must seek approval from the local planning authority prior to the installation of any external lighting within the application site.

#### **4. Impact Of The Proposal On Highway Safety**

- 6.17 The application site will have ample parking spaces available on site. According to the submitted details, the applicant will tarmac the access and will create five parking spaces at the north-western boundary of the site, three of which will be used by the contractors and the other two parking spaces will be reserved for use by occasional visitors.
- 6.18 Cumbria County Council, as the Local Highways Authority, were consulted on the application and they have no objection to the proposed development. Therefore, it is not considered that the proposal would have any adverse impact upon highway safety.

#### **5. Issues Regarding Surface And Foul Water Drainage**

- 6.19 The applicant has confirmed on the application form that surface water from the site would be disposed of via a sustainable drainage system and foul water will be discharged through a treatment plant. Whilst this arrangement is considered acceptable in principle, conditions are proposed to require the submission of details of both proposed surface and foul water drainage in writing for approval by the Local Planning Authority.

#### **6. Issues Regarding Trees And Hedgerows**

- 6.20 Policy GI6 of the local plan seeks to ensure that proposals for new development should provide for the protection and integration of existing trees and hedges where they contribute to a locality, and/or are of specific

natural of historic value. In respect of new development, proposals which would result in the unacceptable or unjustified loss of existing trees or hedges or which do not allow for the successful integration of existing trees or hedges will be resisted.

- 6.21 The application site is currently surrounded by tall ruderal and scrub vegetation. That being said, the applicant has confirmed that no trees would be felled as a result of the proposal. The applicant proposes to prune back the existing overgrown and tangled hedgerow to the north-western boundary of the site and to supplement any gaps with new beech hedgerow to allow for a dense screening growth.
- 6.22 Whilst the proposed arrangement is considered acceptable in principle, as suggested under paragraph 6.13 of this report, a pre-commencement condition is proposed which would require the submission of details of both soft and hard landscaping in writing for approval by the local planning authority, in order to ensure satisfactory landscaping of the site.

## **7. Impact Of The Proposal On Biodiversity**

- 6.23 A concern was raised that the demolition of the existing building and the partial removal of the unkempt ruderal and scrub vegetation would have the potential to impact several species including bats and birds. In response to this concern, the applicant has submitted an ecological impact assessment report undertaken by a qualified ecology surveyor, Envirotech. The Ecological Impact Assessment was carried out on site in October 2020, which is at a time of year when most plant and animal species are still easy to identify.
- 6.24 The submitted Ecological Impact Assessment suggests that there was no evidence of habitual use of the area by badgers or bats. However, there is potential for use of the site by reptiles, or birds to nest in or on the building. Whilst there were few ecological considerations noted at the site during the survey, the ecology surveyor confirmed that none would require direct action or licencing. The report contains some mitigation measures which are required to ensure that no loss of habitats or potential roosting opportunities for both reptiles and breeding birds. A condition and an advisory note are, therefore, proposed to ensure that the development is undertaken in accordance with these mitigation measures.
- 6.25 Overall, the details enclosed within the submitted ecological impact assessment are considered acceptable. The level of survey, methods and recommendations are considered proportionate to the species, habitats and the levels of risk identified.

## **8. Impact Of The Proposal On The Frontiers Of The Roman Empire (Hadrian's Wall)**

- 6.26 Policy HE1 of the local plan states that proposed development in the buffer zone of the Wall World Heritage Site should be assessed for its impact on the site's Outstanding Universal Value and particularly on views into and out of it. Development that would result in substantial harm will be refused.

- 6.27 Taking into consideration the scale and design of the proposal, it is considered that the proposal is unlikely to have a detrimental visual impact on the character or setting of the buffer zone on the World Heritage Site. Historic England was consulted and has raised no objection to the application

## **Conclusion**

- 6.28 The proposal is acceptable in principle as it will allow an underused brownfield site to be redeveloped. The proposal will also provide an opportunity to tidy up this unkempt area, contributing to the creation of a safer, more visually attractive environment for the local communities. Subject to the details in respect of surface and foul water drainage, soft and hard landscaping and external lighting installation being satisfactory, the proposal will positively contribute to the visual amenity of the area and will not have a detrimental impact upon the living conditions of any nearby residents, biodiversity or the setting of the setting of the Frontiers Of The Roman Empire (Hadrian's Wall).
- 6.29 In overall terms, the proposed development accords with the objectives of the NPPF, PPG, the Carlisle District Local Plan 2015-2030. In light of this, this application is recommended to be approved with conditions.

## **7. Planning History**

- 7.1 There is no planning history relevant to the assessment of this planning application.

## **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 development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:
  1. the submitted planning application form, received 20 May 2020;
  2. the location and block plan (dwg no. RT002PL), received 20 May 2020;
  3. the proposed floor and elevations plan (dwg no. RT001PL), received 20 May 2020;
  4. the Ecological Impact Assessment (undertaken by Envirotech), received 5 October 2020;
  5. the Email Correspondence from the Agent regarding the details of the

Applicant's Business and The Use Of The Site, received 21 October 2020;

6. the Notice of Decision;
7. any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason:** To define the permission.

3. The building hereby permitted shall only be used as a building contractors office and storage accommodation, and shall at no time be used for any other commercial or business purposes whatsoever.

**Reason:** To ensure that the development remains compatible with surrounding uses and to safeguard the residential amenity of the area.

4. No building or any kind of assembly works associated to the applicant's joinery business shall be carried out on site unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To ensure that the development remains compatible with surrounding uses and to safeguard the residential amenity of the area.

5. Details of all measures to be taken by the applicant/developer to prevent surface water discharging onto or off the highway shall be submitted to the Local Planning Authority for approval prior to development being commenced. Any approved works shall be implemented prior to the development being completed and shall be maintained operational thereafter.

**Reason:** In the interests of highway safety and environmental management.

6. Prior to the commencement of any development, a surface water drainage scheme, including a sustainable drainage management and maintenance plan for the lifetime of the development, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions shall be submitted to and approved in writing by the local planning authority.

The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. The surface water drainage scheme must be restricted to existing runoff rates and unless otherwise agreed in writing by the Local Planning Authority, and no surface water shall be discharged to the public sewerage system either directly or indirectly.

The development shall be completed, maintained and managed in

accordance with the approved details.

**Reason:** To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off onto adjoining land including the highway and to reduce the risk of flooding in accordance with Policies SP6 and CC5 of the Carlisle District Local Plan 2015-2030, in the interests of highway safety and environmental management and to promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution in accordance with policies within the National Planning Policy Framework and National Planning Practice Guidance.

7. Foul and surface water shall be drained on separate systems. No development approved by this permission shall be commenced until a scheme for the conveyance of foul drainage to has been submitted to and approved in writing by the local planning authority. The development shall then be undertaken in accordance with the approved details.

**Reason:** To prevent pollution of the water environment in accordance with Policy IP6 of the Carlisle District Local Plan 2015-2030.

8. No development shall take place until details of a soft and hard landscaping scheme have been submitted to and approved by the local planning authority.

**Reason:** To ensure that a satisfactory landscaping scheme is prepared to reduce the potential for crime in accordance with Policies SP6 and GI6 of the Carlisle District Local Plan 2015-2030.

9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner, and maintained thereafter to the satisfaction of the Council; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

**Reason:** To ensure that a satisfactory landscaping scheme is implemented and that it fulfils the objectives of Policy SP6 of the Carlisle District Local Plan 2015-2030.

10. If the installation of external lighting is required, the contractors office/storage unit hereby permitted shall not be occupied until an external lighting scheme that minimises any potential impacts of light pollution has been completed in accordance with details submitted to and approved in writing beforehand by the local planning authority.

**Reason:** To safeguard the ecology and environment of the area, and the living conditions of the occupiers of any neighbouring properties, in accordance with Policies GI3 and SP6 of the Carlisle District Local Plan 2015-2030.

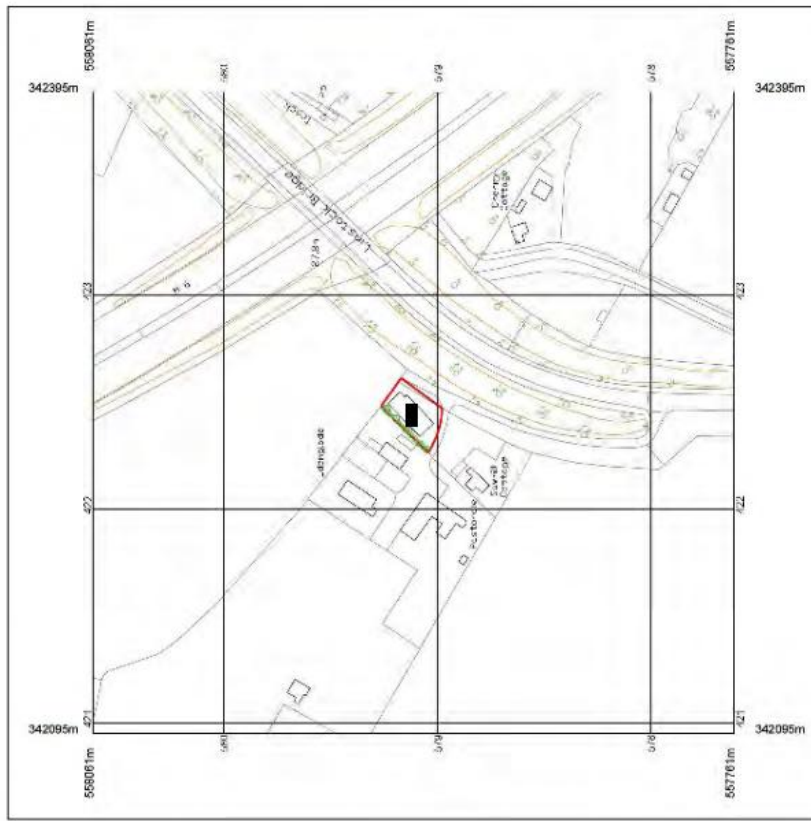
11. The development hereby approved shall not be carried out otherwise than in complete accordance with the Mitigation Measures contained within page 4 of the submitted Ecological Impact Assessment (compiled by Envirotech on 5 October 2020), received by the Local Planning Authority on 7 October 2020.

**Reason:** In order to ensure no adverse impact on a European Protected Species in accordance with Policy GI3 of the Carlisle District Local Plan 2015-2030.

12. No work associated with the construction of the residential units hereby approved shall be carried out before 0730 hours on weekdays and Saturdays nor after 1800 hours on weekdays and 1300 hours on Saturdays (nor at any times on Sundays or statutory holidays).

**Reason:** To prevent disturbance to nearby occupants in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

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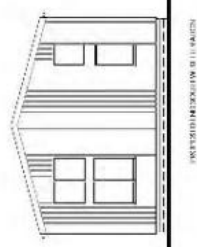
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Your Ref: CML  
Our Ref: AWG/6694

Stuart Leslie  
Building Drawing Ltd  
160 Dalston Road  
Carlisle  
Cumbria  
CA2 5PJ

Friday, 13 November 2020

Dear Mr Leslie

**RE: DEMOLITION OF EXISTING SAWMILL BUILDING; ERECTION OF CONTRACTORS OFFICE/STORAGE UNIT  
LOCATION: THE OLD SAWMILL, LINSTOCK, CARLISLE, CA6 4PY**

Following our site assessment and short report on the above site I note a letter has been submitted to the local authority by the Parish Council requesting an Ecological Impact Assessment (EclA) is prepared and submitted. I believe the Parish Council may be misunderstanding what an EclA is.

Unlike an Environmental Impact Assessment (EIA) which for specific developments is required by law, an EclA is a non-statutory requirement.

EclA is not a specific report of fixed length, scope and context rather an approach in assessing environmental impact. The level of detail required in an EclA will inevitably be proportionate to the scale of the development and complexity of its potential impacts.

EclA methodology requires the following steps

1. Establishing Baseline
2. Identify important ecological features
3. Impact assessment
4. Mitigation and compensation

**Establishing baseline-** The site works were first assessed for potential impacts on local statutory and non-statutory protected sites. The proposal was found to be sufficiently remote from these sites that there is no potential for the proposed works to impact on notable sites or habitats and species associated with them. A background data search was run for records of protected and notable species.

**Identify important ecological features-** Specific site surveys were then undertaken of the site and surrounds. Specifically searches were made for indications of nesting birds and potential nest sites, bat roosts and potential bat roosts, badger setts, reptiles and invasive and or non-native species. Some of these species groups have specific statutory protection, others are of importance within the planning context but have no statutory protection.

**Impact assessment-** Site assessments found there to be a low risk for nesting birds and reptiles.

**Mitigation and compensation-** Proportionate mitigation and compensation was proposed for the species groups potentially affected based on the scale of development and potential impacts.

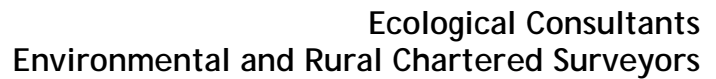
EclA requires the sequential approach taken. EclA should be proportionate and targeted and our site assessment and recommendations are proportionate to the levels of risk identified.

The site is very small. The structure on site is dilapidated. The habitats and species on site are common and widespread. The level of survey, methods and recommendations are proportionate to the species, habitats and levels of risk identified.

Yours Sincerely

A black rectangular box redacting the signature of Andrew Gardner.

**Andrew Gardner** BSc (Hons), MSc, MRICS, Dip NDEA  
Director Envirotech



Monday, 05 October 2020

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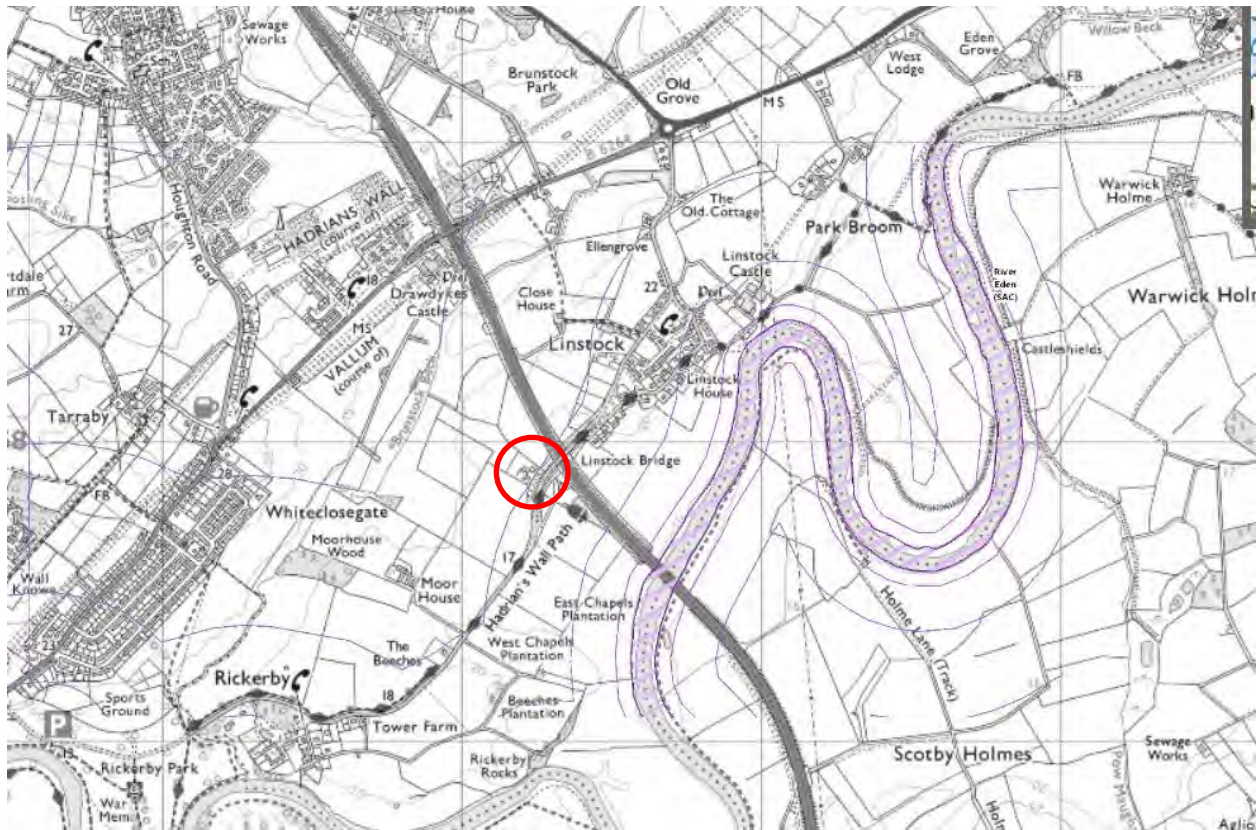


Figure 1- Protected sites

A records search of the area was undertaken via the NBN, Figure 2. This shows several records for species within 2km of the site. None of the records show protected or notable species at the site.

Due to the scale of development, in accordance with CIEEM guidelines, a data search of the county records centre was not required. The likely presence and impact on protected species could be adequately determined from the level of data search undertaken.

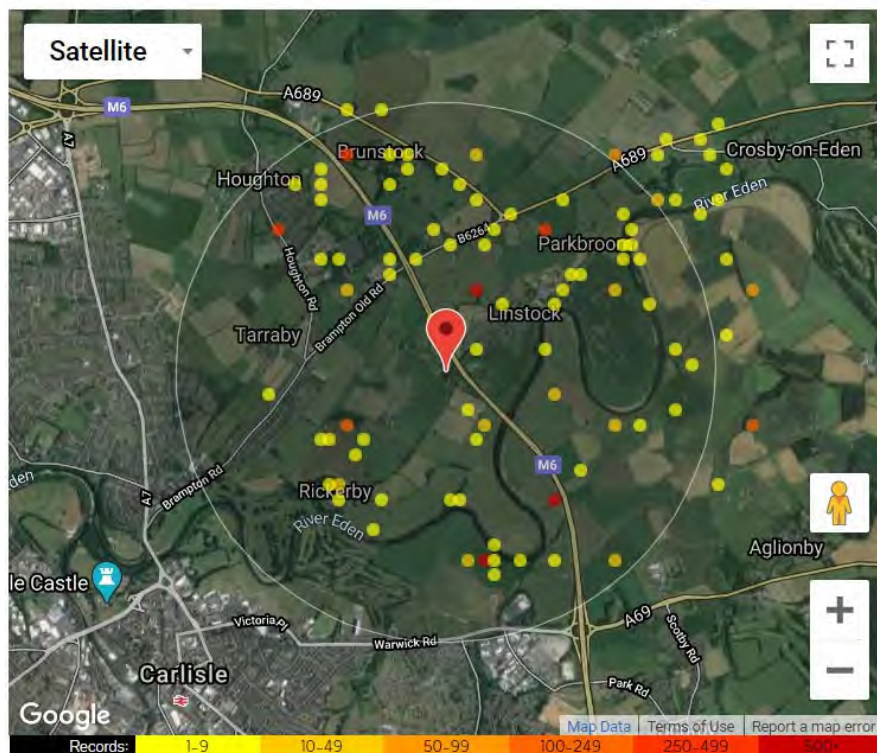


Figure 2- Records within 2km

There was the potential for birds to nest in or on the building. The building however appeared unstable having nearly fully collapsed. Any use of the site by nesting birds would be subject to the risk of failure of the building. As the building was judged unsafe to enter, a full internal inspection was not undertaken.

There are Leylandii (*Leylandii x Cupressocyparis leylandii*) and Hawthorn (*Crataegus monogyna*) bushes to the rear of the building. Leylandii in particular would be dense enough for use by nesting birds.

There are no elements of the building which appear suitable for use by bats. The building appears to be of a single skin timber construction on an exposed timber frame. The roof has nearly fully collapsed inwards, the internal space appears open, light and damp. Any use of the site by bats would be subject to the risk of failure of the building. As the building was judged unsafe to enter, a full internal inspection was not undertaken.

There was no evidence of habitual use of the area by badgers (*Meles meles*). Evidence such as footprints, latrines, feeding signs and/or runs was absent. We consider there to be no badger setts within proximity to the site.

There is potential for use of the site by reptiles. The open ground, bracken and debris on site would provide suitable habitat for Slow Worms (*Anguis fragilis*).

There was no Japanese knotweed (*Fallopia japonica*), giant hogweed (*Heracleum mantegazzianum*) or Himalayan balsam (*Impatiens glandulifera*) noted growing on the site or adjacent at the time of the visit.

The ground surrounding the building comprises tall ruderals such as Bracken (*Pteridium aquilinum*), Rosebay Willow herb (*Epilobium angustifolium*), Nettle (*Urtica dioica*) and Bramble (*Rubus fruticosus agg*), Yorkshire Fog (*Holcus lanatus*) is occasional as are small forbs such as Hawkweed (*Hieracium sp*).

	<p>The building appears to be used for storage although this is limited as it appears unsafe</p>
	<p>The roof has near fully collapsed</p>





The vegetation surrounding is dominated by bracken

There were few ecological considerations noted at the site during the survey and none would require direct action or licencing.

The potential presence of bird on site would require the following methods be followed

- Any vegetation to be trimmed or cleared should be checked for nesting birds before it is removed. Ideally this should occur outside the bird nesting period March- September. If vegetation clearance is to occur in the March-September period a check for nesting birds should be conducted first by a suitably qualified individual.
- New planting within the site and the retention of trees and shrubs on the site boundary will maintain the ecological functionality of the site for breeding birds.
- Artificial bird nesting sites for swallow could be incorporated into the new buildings under the eaves in suitable locations.
- If nesting birds are found at the site all site works shall cease and further ecological advice shall be sought with a view to a detailed method statement and programme of mitigation measures being prepared and implemented.

The potential presence of reptiles on site would require the following methods be followed

- Should any trenches and excavations be required, an escape route for animals that enter the trench must be provided, especially if left open overnight. Ramps should be no greater than of 45 degrees in angle. Ideally, any holes should be securely covered. This will ensure reptiles are not trapped during work.
- All excavations left open overnight or longer should be checked for animals prior to the continuation of works or infilling. Back filling should be completed immediately after any excavations, ideally back filling as an on-going process to the work in hand.
- Boundary fences/walls should incorporate gaps at their base to facilitate the passage of reptiles across the site.
- Debris at ground level should be lifted vertically by hand prior to being disposal via skips. Materials should not be burnt on site.

Yours Sincerely



BSc (Hons), MSc, MRICS, Dip NDEA

Director Envirotech

## SCHEDULE A: Applications with Recommendation

20/0709

**Item No: 04**

Date of Committee: 08/01/2021

**Appn Ref No:**  
20/0709

**Applicant:**  
Simpson's Builders

**Parish:**  
Wetheral

**Agent:**  
Summit Town Planning

**Ward:**  
Wetheral & Corby

**Location:** Land to Rear of 46 Broomfallen Road, Scotby, Carlisle, CA4 8DE

**Proposal:** Erection Of 1no. Dwelling

**Date of Receipt:**  
23/10/2020

**Statutory Expiry Date**  
18/12/2020

**26 Week Determination**  
11/01/2021

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### REPORT

**Case Officer:** Barbara Percival

#### 1. Recommendation

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

#### 2. Main Issues

- 2.1 Whether the principle of development is acceptable
- 2.2 Impact of the proposal on the character of the area
- 2.3 Scale and design of the dwelling
- 2.4 Impact of the proposal on the living conditions of neighbouring residents
- 2.5 Impact of the proposal on highway safety
- 2.6 Methods for the disposal of foul and surface water
- 2.7 Impact of the proposal on biodiversity
- 2.8 Impact of the proposal on existing hedgerows
- 2.9 Other Matters

#### 3. Application Details

##### The Site

- 3.1 The application site is located within a development site, known as Ridge Close, to the rear of numbers 44 to 52 Broomfallen Road. The development site has permission for the erection of 3no. dwellings. Number 1 Ridge

Close has been completed and is now occupied. Plot 3 is currently under construction with Plot 2 not yet commenced.

## **Background**

- 3.2 In 2014, Members of the Development Control Committee granted outline planning permission with all matters reserved, subject to the completion of a Section 106 Agreement (application reference 13/0950). The Section 106 Agreement, requiring a contribution towards off-site affordable housing, was subsequently entered into and the decision notice issued on the 12th November 2014.
- 3.3 In 2017, an application for the erection of 3no. dwellings (renewal of outline permission granted under reference 13/0950) was approved under delegated powers (application reference 17/0617). This application again sought outline planning permission with all matters reserved; however, it was assessed against policies within the current adopted local plan. Policy HO4 of the local plan identified that the site is located within Zone A which requires a contribution towards affordable housing for all sites of six units and over. The proposal fell below the aforementioned threshold, therefore, a contribution towards affordable housing was not required.
- 3.4 In August 2018, an application on a larger parcel of land for the demolition of lean to at 46 Broomfallen Road and erection of 5no. dwellings with associated infrastructure was refused by Members of the Development Control Committee (application reference 18/0506). An appeal was subsequently dismissed by the Planning Inspectorate in February 2019.
- 3.5 In 2019, Members of the Development Control Committee approved an application for the erection of 2no. dwellings and associated infrastructure (revised application) (application reference 18/0907).
- 3.6 Also in 2019, Members of the Development Control Committee approved an application for the erection of 1no. dwelling and provision of refuse bin access point (application reference 19/0374).
- 3.7 In October 2020, an application for the variation of condition 2 (approved documents) of previously approved application 18/0907 (erection of 2no. dwellings and associated infrastructure) to reposition the dwelling on plot 2 was approved (application reference 20/0557).

## **The Proposal**

- 3.8 The submitted drawings illustrate the siting of a dwelling to the north of Plot 3 which is currently under construction (application 19/0374). The topography of the land is such that it slopes from east to west with the submitted drawings illustrating that the proposed split-level dwelling would be set down into the slope with part of the eastern wall of the dwelling acting as a retaining wall.
- 3.9 The 'T-shaped' split-level dwelling would have a maximum length of 17.2



metres by a maximum width of 12.1 metres with a maximum ridge of 8.5 metres. The accommodation would comprise of double garage, hall, utility, office/en-suite guest bedroom with living room, kitchen/family room, hall, master en-suite bedroom, 3no. bedrooms and bathroom above.

- 3.10 The proposed walling materials for the dwelling are a combination of clay facing bricks, render and fibre cement weatherboarding with artstone cills, string courses and quoins. The roof would be finished in concrete flat profile roof tiles.
- 3.11 The submitted drawings illustrating that the rear (eastern) boundary would be delineated by a native species hedgerow with pockets of planting along the front (western) boundary. Vehicular access to serve the proposed development would be from Broomfallen Road utilising the same un-adopted access which serves Plots 1 to 3.

#### **4. Summary of Representations**

- 4.1 This application has been advertised by the direct notification of eleven neighbouring properties. In response, seven representations of objection and 4 representations of support have been received.
- 4.2 The representations of objection identify the following issues:
  - 1. proposed dwelling would occupy an elevated location and be visible from public viewpoints;
  - 2. site at odds with linear character of Scotby;
  - 3. loss of privacy;
  - 4. exacerbate existing surface water flooding problems;
  - 5. access is unsuitable for more houses;
  - 6. proposal is for a two-storey house not a bungalow;
  - 7. majority of external area of plot 1 is impervious as opposed to soft landscaped increasing surface water run-off;
  - 8. LLFA has requested a filter drain be installed along the shared boundary of the site with Broomfallen Road;
  - 9. an earlier application for 5 dwellings was refused and dismissed at appeal;
  - 10. developer has submitted applications for single properties which bear close resemblance to refused application;
  - 11. re-grading of the site has resulted in retaining structures being required in order to accommodate more dwellings in the site;
  - 12. questions the quality of the information provided with the application;
  - 13. no drainage details have been provided with the application.
- 4.3 The representations of support identify the following issues:
  - 1. the applicant is building quality properties;
  - 2. dwellings are individual and well designed;
  - 3. site will blend in with the surrounding area and not compromise the existing properties;

4. properties can hardly be seen from the main road;
5. no issues in respect of surface water flooding prior to and after construction works undertaken in neighbouring property.

## 5. Summary of Consultation Responses

**Cumbria County Council - (Highways & Lead Local Flood Authority):** - access to the dwelling proposed is via the existing un-adopted access onto Broomfallen Road with car parking available within the curtilage of the dwelling to accommodate 3 cars. In line with the requirements of the Cumbria Development Design Guide for a 4 bedroom dwelling, 3 car parking spaces are required, therefore, the car parking provision proposed is acceptable. As the access onto the adopted highway network is not being amended from that previously approved and sufficient car parking space is being provided within the curtilage of the site, the Highways Authority have no objections to the proposal.

The applicant as part of the application currently under consideration has proposed that the surface water discharge associated with the proposed dwelling is via a soakaway. The infiltration tests undertaken as part of the planning approval 18/0907 determine that soakaways are a valid method of surface water disposal for the site which is in accordance with hierarchy of drainage options as stated within the Cumbria Development Design Guide. As such this proposal is acceptable in principle. However, the location of the proposed soakaway has not been stated along with the calculations for the sizing of the soakaway to accommodate a 1 in 100 year plus 40% to account for climate change storm event. As the principal of discharge of surface water via a soakaway has previously been agreed, the LLFA find it acceptable that the location and sizing calculations can be provided at a later stage of the planning process and secured through the use of the planning conditions. In conclusion, the LLFA have no objections with regards to the approval of planning permission subject to the imposition of pre-commencement conditions requiring the submission of a surface water drainage scheme and a construction surface water management plan;

**Northern Gas Networks:** - no objections to the proposals, however, there may be apparatus in the area that may be at risk during construction works and should the planning application be approved, then it is required that the promoter of these works to contact Northern Gas Networks directly to discuss their requirements in detail;

**Wetheral Parish Council:** - Objection. the committee does not believe that the developers proposal takes adequate account of the existing drainage problems on the site in addition to the problems created by the development itself. Since the commencement of the development 18/0907 and the preparation and levelling of the site, there has been surface water flooding of the rear garden at 44 Broomfallen Road. In order for the building of site 1 (bungalow), a bund was erected at the rear of number 44 to prevent this happening. This bund has now been removed and the problem has recurred.

Comments: the current application is at the rear of plot 1 and due to the elevation of the site and the dumping of compacted soil further up the incline,

this will increase surface water drainage flooding. The County Council drainage engineer, Peter Allan, recently recommended the installation of a filter drain between plot 1 and number 44 as soon as possible. The decision therefore should be deferred until this work has been carried out.

The development is contrary to policy SP6 of the local plan and not in keeping with the surrounding properties.

## **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.
- 6.2 The relevant planning policies against which the application is required to be assessed is the National Planning Policy Framework (NPPF), the Planning Practice Guidance (PPG) and Policies SP2, SP6, HO2, IP3, IP4, IP6, CC5, GI1, GI3 and GI6 of the Carlisle District Local Plan 2015-2030. Other material considerations are Supplementary Planning Documents adopted by the City Council, in particular 'Achieving Well Designed Housing' and 'Trees and Development'.

### **1. Principle Of Development**

- 6.3 Paragraph 11 of the NPPF outlines that: *"at the heart of the NPPF is a presumption in favour of sustainable development"*. Paragraph 78 expands by highlighting that: *"To promote sustainable development and in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby"*.
- 6.4 The aims of the NPPF is reiterated in Policy HO2 of the local plan which outlines that new housing development other than those allocated will be acceptable within or on the edge of Carlisle, Brampton, Longtown and in the rural areas provided that the development would not prejudice the delivery of the spatial strategy of the local plan and be focussed in sustainable locations subject to satisfying five criteria.
- 6.5 The application site is well contained within existing and proposed boundaries and adjoins the domestic curtilages of other dwellings within the development now known as Ridge Close. Scotby has a high level of services which consist of a public house, village hall, school and church. Accordingly, Scotby is a sustainable location, therefore, the principle for the development of the site for housing is remains consistent with the objectives of the NPPF and Policy HO2 of the local plan.

- 6.6 In overall terms, the application site is well contained within existing landscape features, it is physically connected, and integrates with, the settlement, and would not lead to an unacceptable intrusion into open countryside. The development of a split-level dwelling is of an appropriate scale for the village to accommodate and would not be considered a threat to the delivery of the local plan's spatial strategy. Any perceived visual impact the proposal would be mitigated as the dwelling would be set down within the sloping plot, be viewed against the backdrop of other dwellings within the development and through the implementation of a landscaping scheme. Compliance with other criteria within Policy HO2 of the local plan will be discussed in the relevant sections below.
- 6.7 In light of the foregoing, the site for housing remains consistent with both the NPPF and local plan, therefore, the principle of development is acceptable.

## **2. Impact Of The Proposal On The Character Of The Area**

- 6.8 Planning policies seek to ensure that proposals for development in the rural area conserve and enhance the special features and diversity of the different landscape character areas. Development proposals are expected to incorporate high standards of design including regard to siting, scale and landscaping which respect and, where possible, should enhance the distinctive character of the landscape.
- 6.9 The application seeks full planning permission for the erection of a dwelling within a development site, now known as Ridge Close, which has planning permission for the erection of 3no. dwellings. Number 1 Ridge Close has been completed and is now occupied, Plot 3 is currently under construction with Plot 2 yet to be commenced.
- 6.10 The submitted drawings illustrate a detached split-level property set down into the sloping topography of the land. As highlighted earlier in the report, an application for the erection of 5 dwellings on part of the application site was dismissed by the Planning Inspectorate earlier this year. The Inspector found that one of the main issues centred on: the effect of the proposal on the character and appearance of the area. The Inspector highlighted that: "*... dwellings 2, 3 and 4 would sit further away from the existing dwellings and on significantly higher land. Efforts have been made through the split-level design of these dwellings to minimise their height. However, the two storey elevations with gabled concrete roof tiles would be clearly appreciable on entering the village from the south and through the field to the north of number 44. The visual impact would be exacerbated by the massing of these dwellings seen in close relationship to each other and their bulk and scale particularly to western facing elevations. Consequently, the dwellings would be prominent within the wider landscape and the departure from the linear form of development on this part of Broomfallen Road would be emphasised by their massing and elevated position. The existing and proposed planting would not sufficiently mitigate the impact on the character and appearance of the area*". In overall terms, the Inspector found that the development subject of the appeal would: "*... have a detrimental impact on the character and appearance of the area by virtue of the split-level dwellings and their scale,*

*massing and prominent position within the landscape".*

- 6.11 In respect of this application, the proposed dwelling would be located immediately adjacent to Plot 3. The dwelling would be set down into the lower slopes of the land than that of the application dismissed on appeal. The dwelling would be of split-level construction which allows the dwelling to be set down into the topography of the land. The proposed dwelling would be partially screened by Plot 3 together with existing and proposed landscaping, when viewed from the south and by Plot 1 and existing landscaping when viewed from the north. These changes are a direct contrast to the number of dwellings and the two storey elevations which the Inspector found to have a detrimental impact on the character of the area.
- 6.12 In light of the foregoing assessment, the proposal would respond to the local context and would not be disproportionate or obtrusive within the character of the street scene.

### **3. Whether The Scale And Design Of The Dwelling Is Acceptable**

- 6.13 Policies seek to ensure that development proposals are appropriate in terms of quality to that of the surrounding area and that development proposals incorporate high standards of design including siting, scale, use of materials and landscaping which respect and, where possible, enhance the distinctive character of townscape and landscape. This theme is identified in Policies SP6 and HO2 of the local plan which requires that development proposals should also harmonise with the surrounding buildings respecting their form in relation to height, scale and massing, make use of appropriate materials and detailing and achieve adequate amenity space.
- 6.14 Within the immediate vicinity of the application site there are a range of single and two storey dwellings of differing styles and ages. The proposed dwelling would be of split-level construction to mirror Plot 3 currently under construction with the ground floor of the dwelling set down within the topography of the site.
- 6.15 In overall terms, the scale and massing of the proposed dwelling would respond to the form of existing and proposed dwellings within this part of Broomfallen Road and achieve adequate external space and in-curtilage parking provision. The proposed palette of materials would also respect and reflect those of the adjacent properties. Furthermore, the retention of existing landscaping together with proposed landscaping would also help to soften and blend the proposed dwelling into the landscape.

### **4. Impact Of The Proposal On The Living Conditions Of Neighbouring Residents**

- 6.16 Development should be appropriate in terms of quality to that of the surrounding area and do not have an adverse impact on the living conditions of the occupiers of adjacent residential properties. The City Council's SPD 'Achieving Well Designed Housing' provides guidance as to minimum distances between primary windows in order to respect privacy and avoid

overlooking i.e. 12 metres between primary windows and blank gables and 21 metres between primary windows.

- 6.17 The orientation of the proposed dwelling, fronting onto a central access road, would ensure that the minimum distances between primary windows to protect against loss of privacy as outlined in the SPD 'Achieving Well Designed Housing' would be satisfied.
- 6.18 In overall terms, the siting, scale and design of the proposed dwelling would not adversely affect the living conditions of the occupiers of neighbouring properties by virtue of loss of privacy, loss of light or over-dominance. To further protect the residential amenity of the occupiers of neighbouring properties during construction a condition is recommended that would ensure that the development is undertaken in strict accordance with the details contained in the Construction Management Plan discharged under application 19/0225. This document includes details of working practices and construction traffic parking.

## **5. Impact Of The Proposal On Highway Safety**

- 6.19 The dwelling would utilise the same access as that of the existing and proposed dwellings within Ridge Close. Cumbria County Council, as Highways Authority, raises no objections to this current proposal as access to the dwelling proposed is via the existing un-adopted access onto Broomfallen Road with car parking available within the curtilage of the dwelling to accommodate 3 cars. In line with the requirements of the Cumbria Development Design Guide for a 4-bedroom dwelling, 3 car parking spaces are required, therefore, the car parking provision proposed is acceptable. In conclusion, as the access onto the adopted highway network is not being amended from that previously approved and sufficient car parking space is being provided within the curtilage of the site the Highways Authority have no objections to the proposal.

## **6. Methods For The Disposal Of Foul And Surface Water Drainage**

- 6.20 There is a clear policy requirement to provide adequate provision for foul and surface water facilities to ensure that enough capacity exists prior to commencement of any development. The submitted application form states that foul drainage would be disposed of via the mains sewer with surface water to a sustainable drainage system, however; no drainage details have been submitted.
- 6.21 Cumbria County Council, as Lead Local Flood Authority (LLFA), has been consulted and advise that the infiltration tests undertaken as part of the planning approval 18/0907 determine that soakaways are a valid method of surface water disposal for the site which is in accordance with hierarchy of drainage options as stated within the Cumbria Development Design Guide. However, the location of the proposed soakaway has not been stated along with the calculations for the sizing of the soakaway to accommodate a 1 in 100 year plus 40% to account for climate change storm event. As the principal of discharge of surface water via a soakaway has previously been

agreed, the LLFA find it acceptable that the location and sizing calculations can be provided at a later stage of the planning process and secured using planning conditions. The recommended pre-commencement conditions would require the submission of a surface water drainage scheme together with a construction surface water management scheme.

- 6.22 A further pre-commencement condition is also recommended, should Members approve the application, ensuring the submission of a foul water drainage scheme.

## **7. Impact Of The Proposal On Biodiversity**

- 6.23 The Council's GIS Layer has identified that there is the potential for several key species to be present within the vicinity. Using the guidance issued by Natural England it is unlikely that the proposed development would harm protected species or their habitat. To further protect biodiversity and breeding birds, informatics are recommended within the decision notice drawing the applicant's attention to the requirement under conservation legislation such as the Wildlife and Countryside Act 1981, The Conservation of Habitats and Species Regulations 2010 etc.

## **8. Impact Of The Proposal On Existing Hedgerows**

- 6.24 Policy GI6 of the local plan seek to ensure that proposals for new development should provide for the protection and integration of existing trees and hedges. In respect of new development, the City Council will resist proposals which cause unacceptable tree loss, and which do not allow for the successful integration of existing trees and hedges. This aim is further reiterated in Policy SP6 of the local plan which requires all developments to take into account important landscape features and ensure the enhancement and retention of existing landscaping.
- 6.25 The City Council's SPD 'Trees and Development' outlines that native large growing species are intrinsic elements in the landscape character of both rural and urban areas alike and acquire increasing environmental value as they mature. Large trees need space in which to grow to maturity without the need for repeated human intervention. Not only should the design of the development seek to retain existing tree and hedgerow features, but sufficient space should be allocated within the schemes to ensure integration of existing features and space for new planting it is important that these issues are considered at the very start of the planning process.
- 6.26 The submitted drawings illustrate that the rear (eastern) boundary of the site would be delineated by a new native species hedge with pockets of landscaping to the front of the property. In overall terms, existing and proposed landscaping would help to soften and blend the development into the landscape.

## **9. Other Matters**

- 6.27 As highlighted earlier in the report, an application for the erection of 5

dwellings on part of the application site was dismissed by the Planning Inspectorate in February 2019. The Inspector found that one of the main issues centred on: where or not the proposed development would provide for acceptable living conditions for future occupiers with particular regard to refuse collection facilities. The Inspector found that: *"The proposed access to the site is via a shared drive to the side of No 46. The drive would measure approximately 70 metres in length from the boundary with the highway on Broomfallen Road to the top of the turning head which fronts the proposed split-level dwellings. A shared bin collection point is proposed close to the access point off Broomfallen Road. The distance for residents to take their bins for collection would be considerable, particularly for the future occupants of the split-level dwellings who would have a return walk of approximately 140 metres on a steeply sloped site. Taking these factors into account, I conclude that the proposals would not provide convenient refuse collection facilities for future occupiers"*.

- 6.28 In respect of the application now before Members, the weekly refuse collection point for the proposed dwelling would be the same as for the other three properties within Ridge Close. However, the orientation, positioning and the setting down of the dwelling within the topography of the land addresses the concerns of the Planning Inspector in respect of the distance and steepness of the site. Furthermore, the shared use of the bin trolley would also benefit the future occupiers of the proposed dwelling should Members approve the application.
- 6.29 The parish council recommends the deferral of the application until such time that drainage works have been completed along the shared boundary with 1 Ridge Close and 44 Broomfallen Road. These drainage works falls out with the application site; therefore, it would be unreasonable to defer the application on this basis. As highlighted earlier in the report, the LLFA raise no objections to this application subject to the imposition of pre-commencement conditions requiring the submission of a surface water drainage scheme and construction surface water management plan for the application site.
- 6.30 Third parties have also raised objections in respect of the landscaping of 1 Ridge View exacerbating surface water flooding issues. As highlighted above, 1 Ridge View is out with the application site, therefore, this is not a material planning consideration in respect of this application.
- 6.31 A further issue raised is the quality of the submitted details as no dimensions have been annotated on the submitted drawings. The submitted drawings are to scale, therefore, annotated measurements are not necessary.

## Conclusion

- 6.32 In overall terms, the principle of residential development on the site remains acceptable under the provisions of the NPPF and the local plan. The application site is well contained within existing landscape features, it is physically connected, and integrates with, the settlement, and would not lead to an unacceptable intrusion into open countryside. The development of 1no.



dwelling is of an appropriate scale for the village to accommodate and would not be considered a threat to the delivery of the local plan spatial strategy.

- 6.33 The scale, design and massing of the proposed split-level dwelling set down within the topography of the land would be appropriate and would not have a detrimental impact on the occupiers of neighbouring properties through unacceptable overlooking, loss of light or over-dominance. Existing and proposed landscaping together with the proposed palette of materials would also help to soften and blend the proposed dwelling into the landscape, thereby, minimising any perceived visual impact.
- 6.34 In all other aspects, the proposal is compliant with the objectives of the NPPF, PPG and relevant local plan policies. Accordingly, the application is recommended for approval.

## **7. Planning History**

- 7.1 In 2014, outline planning permission was granted for the erection of 3no. dwellings (application reference 13/0950).
- 7.2 In 2017, outline planning permission was granted for erection of 3no. dwellings (renewal of outline permission granted under reference 13/0950 (application reference 17/0617).
- 7.3 In 2018, full planning permission was refused for the demolition of lean to at 46 Broomfallen Road and erection of 5no. dwellings with associated infrastructure (application reference 18/05016). A subsequent appeal was dismissed by the Planning Inspectorate on the 14th February 2019.
- 7.4 In 2019, full planning permission was granted for the erection of 2no. dwellings and associated infrastructure (revised application) (application reference 18/0907).
- 7.5 Also in 2019, an application for the discharge of conditions 4 (surface water drainage scheme); 5 (carriageway, footways, footpaths, cycleways); 13 (parking of vehicles for construction); 14 (materials); 15 (hard surface finishes) & 16 (construction method statement) of previously approved permission 18/0907 was granted (application reference 19/0225).
- 7.6 Again in 2019, full planning permission was granted for the erection of 1no. dwelling and provision of refuse bin access point (application reference 19/0374).
- 7.7 In 2020, an application for a non material amendment of previously approved application 18/0907 was granted (application reference 20/0072).
- 7.8 Also in 2020, an application for the variation of condition 2 (approved documents) of previously approved application 18/0907 (erection of 2no. dwellings and associated infrastructure) to reposition the dwelling on plot 2 was approved (application 20/0557).

**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 development shall be undertaken in strict accordance with the approved documents for this Planning Permission which comprise:

1. the submitted planning application form received 21st October 2020;
2. the contamination report received 21st October 2020;
3. plot 4 site plan received 15th December 2020 (Drawing No. 17042-39B);
4. plot 4 site section, elevations, floor plans received 21st October 2020 (Drawing No. 17042-40);
5. plot 4 block plans, location plan received 21st October 2020 (Drawing No. 17042-41);
6. the Notice of Decision;
7. any such variation as may subsequently be approved in writing by the local planning authority.

**Reason:** To define the permission.

3. Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the local planning authority.

The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the local planning authority, no surface water shall discharge to the public sewerage system either directly or indirectly.

**Reason:** To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution in accordance with Policy CC5 of the Carlisle District Local Plan 2015-2030.

4. No development shall commence until a construction surface water management plan has been agreed in writing with the local planning authority.

**Reason:** To safeguard against flooding to surrounding sites and to safeguard against pollution of surrounding watercourses and

drainage systems in accordance with Policy CC4 of the Carlisle District Local Plan 2015-2030.

5. No development approved by this permission shall be commenced until a scheme for the provision of foul water drainage works has been approved in writing by the local planning authority. Such a scheme shall be constructed and completed in accordance with the approved plans.

**Reason:** To ensure a satisfactory means of foul water disposal and in accordance with Policy IP6 of the Carlisle District Local Plan 2015-2030.

6. The dwelling shall not be occupied until the access, turning and parking facilities have been constructed in accordance with the approved plan. The access and turning provision shall be retained and be capable of use thereafter and shall not be removed or altered without the prior consent of the local planning authority.

**Reason:** In the interests of highway safety and in accordance with Policies SP6 and IP3 of the Carlisle District Local Plan 2015-2030.

7. The development hereby approved shall be undertaken in strict accordance of the Construction Management Plan Rev B (May 2019) approved under planning approval 19/0225

**Reason:** To protect the living conditions of the occupiers of the adjacent residential properties in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

8. As part of the development hereby approved, adequate infrastructure shall be installed to enable telephone services, broadband, electricity services and television services to be connected to the premises within the application site and shall be completed prior to the occupation of the dwellings.

**Reason:** To maintain the visual character of the locality in accord with Policy IP4 of the Carlisle District Local Plan 2015-2030.

9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or the completion of the development, whichever is the sooner, and maintained thereafter to the satisfaction of the Council; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

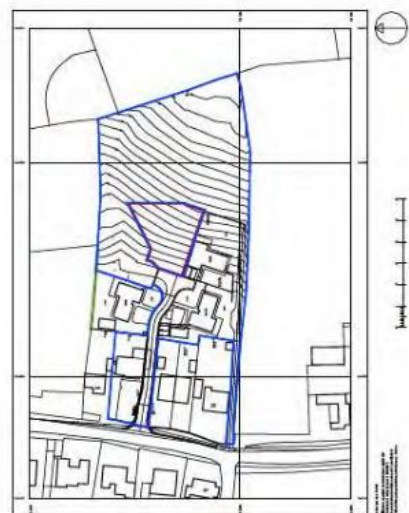
**Reason:** To ensure that a satisfactory landscaping scheme is implemented and that it fulfils the objectives of Policy GI6 of the

10. 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.

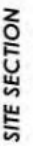
Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

**Reason** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

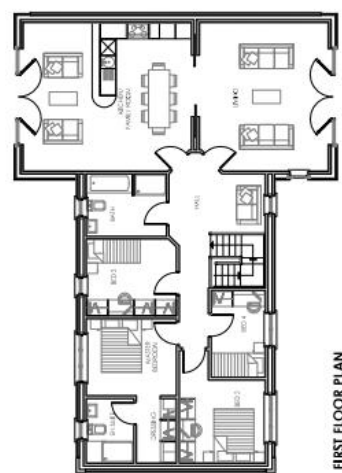
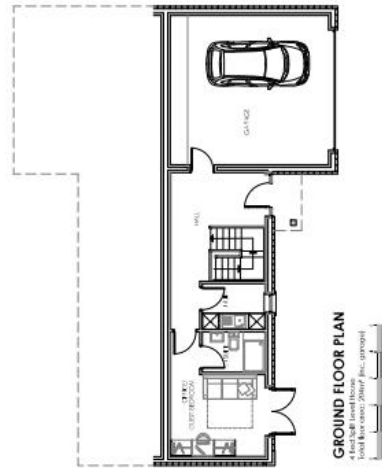
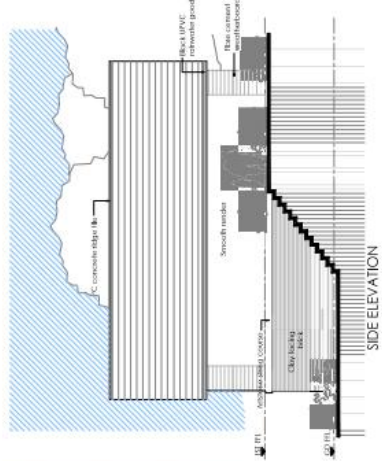
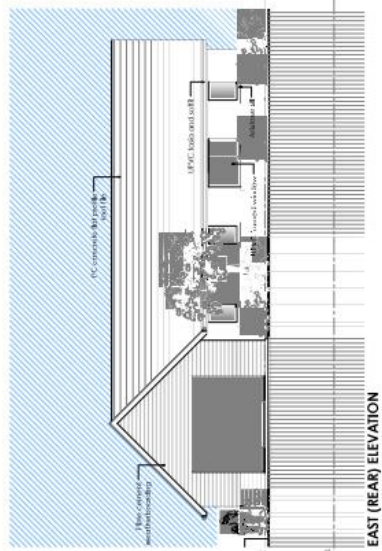
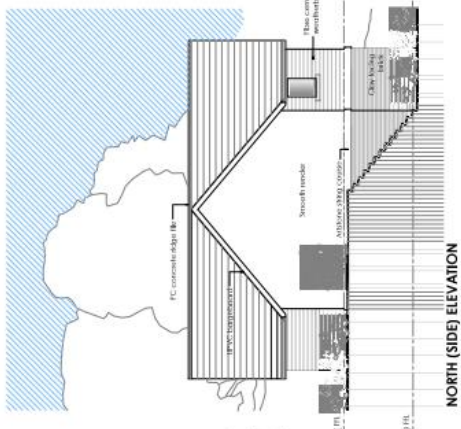
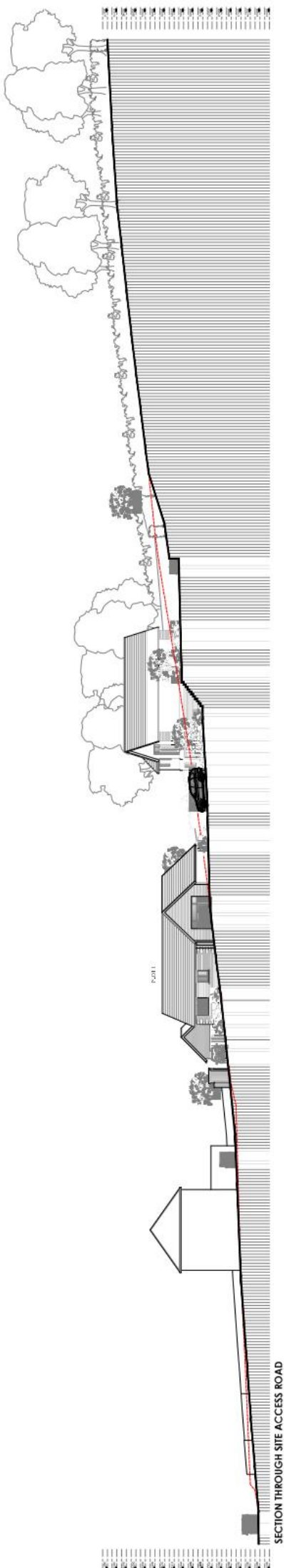
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**Notes:**

- 1. Use finishing tasks.
- 2. Use finishing tasks.
- 3. Use finishing tasks.
- 4. Use finishing tasks.
- 5. Use finishing tasks.
- 6. Use finishing tasks.
- 7. Use finishing tasks.
- 8. Use finishing tasks.
- 9. Use finishing tasks.
- 10. Use finishing tasks.





## SCHEDULE A: Applications with Recommendation

20/0735

Item No: 05

Date of Committee: 08/01/2021

**Appn Ref No:**  
20/0735

**Applicant:**  
Mrs Diane Ridley

**Parish:**  
Hayton

**Agent:**  
Abacus Building Design

**Ward:**  
Wetheral & Corby

**Location:** Site Adjacent Sandy Hill, Faugh, Heads Nook, Brampton, CA8 9EG

**Proposal:** Erection Of 3no. Dwellings (Outline)

**Date of Receipt:**  
30/10/2020

**Statutory Expiry Date**  
25/12/2020

**26 Week Determination**

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### REPORT

**Case Officer:** Alanzon Chan

#### 1. Recommendation

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

#### 2. Main Issues

- 2.1 Whether The Principle Of The Development Is Acceptable
- 2.2 Whether The Scale And Design Of The Dwellings Would Be Acceptable
- 2.3 Impact Of The Proposal On The Living Conditions Of The Occupiers Of Any Neighbouring Properties
- 2.4 Impact Of The Proposal On Highway Safety
- 2.5 Issues Regarding Foul And Surface Water Drainage
- 2.6 Whether The Proposal Would Lead to The Loss of The Best And Most Versatile Agricultural Land
- 2.7 Impact Of The Proposal On Existing Trees And Hedgerows
- 2.8 Impact Of The Proposal On Biodiversity
- 2.9 Other Matters

#### 3. Application Details

##### The Site

- 3.1 The application site is located at the northern edge of Faugh. The site area is

approximately 0.39 hectares, and it is currently grazing land.

- 3.2 The development site is bounded to the west by a hedge and the C1035 road; to the north by a thicket of trees and the track leading to Faugh Quarry; to the south by a residential dwelling, Sandy Hill, and to the east by an agricultural field.

## **The Proposal**

- 3.3 The proposal seeks outline planning permission (with all matters reserved) for the erection of 3no. dwellings.

## **4. Summary of Representations**

- 4.1 This application has been advertised by means of a site notice and notification letters sent to three neighbouring properties. No verbal or written representations have been made during the advertisement period.

## **5. Summary of Consultation Responses**

**Cumbria County Council - (Highways & Lead Local Flood Authority):** No objection subject to the imposition of conditions

**Hayton Parish Council:** The Parish Council are concerned that by allowing residential development at the end of a village would open the door to a much more significant development of large detached houses on a piece of land that was out-with the village in the future. The Parish Council has witnessed this happening in another village and will not want to see this happen in Faugh. The Parish Council has seen no evidence of the essential need for this proposed development.

**Local Environment, Waste Services:** No objection in principle

**Northern Gas Networks:** No objection

**United Utilities:** No objection; recommend the applicant implements the scheme in accordance with the surface water drainage hierarchy

## **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.
- 6.2 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) and Policies SP1, SP2, SP6, HO2, HO4, IP3, IP4, IP6, CC5, CM5, GI3 and GI6 of the Carlisle District Local Plan 2015-2030 (CDLP). The City Council's Supplementary Planning Documents 'Achieving Well Designed Housing' is also material planning considerations.

The proposal raises the following planning issues:

### **1. Whether The Principle Of The Development Is Acceptable**

6.3 One of the main issues to establish when assessing this application is the principle of development. The NPPF and CDLP Policy SP1 require development proposals to be considered in the context of a presumption in favour of sustainable development in order to secure development that improves the economic, social and environmental conditions of the district.

6.4 Paragraph 10 of the NPPF outlines that *"at the heart of the NPPF is a presumption in favour of sustainable development"*. This echoes with the objectives of the adopted CDLP Policy SP1, of which it advocates that when considering development proposals, Carlisle City Council should take a positive approach that reflects the presumption in favour of sustainable development contained in the NPPF.

Meanwhile, Paragraph 59 of the NPPF states that:

*"To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay."*

6.5 Paragraph 78 of the NPPF further states that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities, and sustainable development in rural areas can help to support local services.

6.6 In terms of local policies, Policy SP2 of CDLP seeks to guide new development towards sites within or physically connected to existing towns and villages to help contain settlements and to protect the countryside from inappropriate development. As for Policy HO2, it makes provision for new windfall housing development within or on the edge of villages within the rural area of the district.

6.7 Both the NPPF and the aforementioned local policies recognise that development in one village may support services in a village nearby. Consequently, a development that will be well-related to an existing rural village could enhance the vitality of both local and nearby rural communities, and could positively contribute to the overall rural economy.

6.8 Faugh is a rural village which is located approximately 0.7 miles from Heads Nook, 2 miles from Great Corby, 2 miles from Warwick Bridge and 3.3 miles to Brampton, which is a Local Service Centre in the adopted Local Plan. Although there is only one public house/restaurant located within the village of Faugh, it is noted that Faugh is sufficiently well related to other larger rural communities both geographically and in terms of road network. As such, Faugh can be considered a sustainable location for residential developments.

6.9 The application site is located at the northern edge of Faugh and is physically

connected with the existing settlement. Taking into consideration the location of the village boundary sign, which is located at the northwest corner of the application site, the application site is considered to be within the village boundary of Faugh. As such, subject to the proposed development being of appropriate scale and design and having sufficient parking provision associated to it, it would be well related to existing residential properties in Faugh. In light of the above, the proposal is considered to be compliant with the NPPF and the objectives of CDLP Policy HO2, and the principle of residential development at this location is therefore considered acceptable.

- 6.10 A concern was raised that granting permission may lead to further residential developments in Faugh. Whilst this concern is acknowledged, it is noted that each application will be assessed on its own merits, and the local planning authority should not impede the delivery of sustainable development, in line with the objectives of the NPPF and CDLP Policy SP1.

## **2. Whether The Scale And Design Of The Dwellings Would Be Acceptable**

- 6.11 Policies seek to ensure the development is appropriate in terms of quality to that of the surrounding area and that development proposals incorporate high standards of design including siting, scale, use of materials and landscaping which respect and, where possible, enhance the distinctive character of townscape and landscape. This theme is identified in Policy SP6 of the Local Plan which requires that development proposals should also harmonise with the surrounding buildings respecting their form in relation to height, scale and massing and make use of appropriate materials and detailing.
- 6.12 These matters are reserved for subsequent approval and do not form part of this application. That being said, taking into consideration the size of the plot, it is considered that a safe and reasonable sized garden area for each plot could to be created and, with appropriate landscaping, the proposal should not have a detrimental impact upon the character of the area. These issues could be resolved at the Reserved Matters stage.

## **3. Impact Of The Proposal On The Living Conditions Of The Occupiers Of Any Neighbouring Properties**

- 6.13 Development should be appropriate in terms of quality to that of the surrounding area and development proposals should incorporate high standards of design including siting, scale, use of materials and landscaping which respect and, where possible, enhance the distinctive character of the surrounding townscape and landscape. One criterion being that the living conditions of the occupiers of adjacent residential properties are not adversely affected by proposed developments. This is echoed and reinforced in Local Plan policies, which importantly requires that the suitability of any development proposal be assessed against the policy criteria.
- 6.14 Although the siting of the dwellings on the layout plan is only indicative, adequate separation distance could be maintained between the existing and proposed dwellings, and consequently, subject to scale and siting of the

proposed dwellings, the proposal should not have an adverse impact upon the living conditions of the occupiers of any neighbouring properties. This will be addressed in any Reserved Matters application.

#### **4. Impact Of The Proposal On Highway Safety**

- 6.15 The applicant proposes to create a new access onto the C1035 road to serve the proposed residential development. Cumbria County Council, as the Local Highways Authority, were consulted on the application and have raised no objection to the proposed development subject to imposition of a number of conditions. These conditions relate to the provision of adequate visibility on both directions; details of the surfacing of the access drive; details of the surfacing of the driveways for each plot, measures to prevent surface water discharging onto the highway and the submission of a Construction Phase Traffic Management Plan. With the imposition of these planning conditions, the proposal would not have any adverse impact upon highway safety.

#### **5. Foul And Surface Water Drainage**

- 6.16 There is a clear policy requirement to provide adequate provision for foul and surface water facilities to ensure that sufficient capacity exists prior to commencement of any development. However, due to the fact that only outline planning permission is sought by this application, there is no requirement to provide comprehensive details of the method for the disposal of either surface water or foul drainage provisions at this stage. That being said, the agent has submitted a percolation test to demonstrate that soakaway is possible within this site. The percolation test results was considered acceptable by the Local Lead Authority.
- 6.17 Since only outline planning permission is sought by this application, notwithstanding the percolation test submitted by the applicant, two pre-commencement conditions are proposed which would require the submission of details of both proposed surface and foul water drainage in writing for approval by the Local Planning Authority. For surface water drainage, it is noted that the surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. The surface water drainage scheme must be restricted to existing runoff rates and unless otherwise agreed in writing by the Local Planning Authority, and no surface water shall be discharged to the public sewerage system either directly or indirectly. For foul water drainage, it is noted that the applicant would need to drain foul and surface water on separate systems.

#### **6. Whether The Proposal Would Lead to The Loss of The Best And Most Versatile Agricultural Land**

- 6.18 It is accepted that the proposal would lead to the loss of agricultural land. The Agricultural Land Classification (published by Natural England) identifies this land as Grade 3. Grade 3 land is common both within the immediate vicinity of the application site and within the District as a whole. As such, it is not considered that the loss of this area of agricultural land would provide

sufficient grounds for refusal of the application.

## **7. Impact Of The Proposal On Existing Trees And Hedgerows**

- 6.19 Policy GI6 of the local plan seeks to ensure that proposals for new development should provide for the protection and integration of existing trees and hedges where they contribute to a locality, and/or are of specific natural or historic value. In respect of new development, proposals which would result in the unacceptable or unjustified loss of existing trees or hedges or which do not allow for the successful integration of existing trees or hedges will be resisted.
- 6.20 Furthermore, the city council's Supplementary Planning Document (SPD) 'Trees and Development' outlines that native large growing species are intrinsic elements in the landscape character of both rural and urban areas alike and acquire increasing environmental value as they mature. Large trees need space in which to grow to maturity without the need for repeated human intervention. Not only should the design of the development seek to retain existing trees and hedgerow features but sufficient space should be allocated within the schemes to ensure integration of existing features and space for new planting, it is important that these issues are considered at the very start of the planning process.
- 6.21 The application site is bounded by a mature hedgerow to the west and a thicket of trees to the north. The applicant has submitted a landscaping plan in support of this application and the submitted details confirm that all trees and hedgerows on site would be retained. However, due to the fact that this application seeks only to establish the principle of development, there is no requirement for the applicant to provide a detailed tree survey or landscaping plan in support of this application. As such, conditions are proposed which would require the submission of a landscaping scheme together with the installation of tree/hedge protection barriers prior to any development around any retained trees or hedgerows. As such, the proposal would be acceptable.

## **8. Impact Of The Proposal On Biodiversity**

- 6.22 The Council's GIS Layer has identified that the site has the potential for several key species to be present within the vicinity. An Informative could be included within the Decision Notice which would ensure that if any protected species are found all work must cease immediately and the Local Planning Authority be informed.
- 6.23 Although there is no requirement for the applicant to submit any ecological appraisal at this stage, the applicant has employed Envirotech to undertake a preliminary ecological Appraisal. The Appraisal shows no records of protected or notable species at this site. That being said, there are records of protected or notable species within 2km of this site. The report contains some mitigation measures which are required to ensure that no protected species would be affected by the proposal. A condition and an advisory note are, therefore, proposed to ensure that the development is undertaken in accordance with these mitigation measures.

## **9. Other Matters**

- 6.24 Under CDLP Policy HO4, affordable housing provision at this location will only be sought for the development that involves 6 units or more. Since this proposal only involve the erection of 3no. dwellings, the applicant is not obliged to make provision for any low cost dwellings on this occasion.
- 6.25 The applicant has submitted a desktop study contamination report in support of this application. The report concluded that it is extremely unlikely that there is any form of contamination in this locality. To ensure that there are no ground contamination or environmental risks associated with the application site, a condition is proposed which would require an investigation and risk assessment (and potentially a remediation scheme and a verification report) to be undertaken should contamination is found at any time when carrying out the approved development.

## **Conclusion**

- 6.26 The application seeks outline planning permission with all matters reserved. Therefore, this application only seeks to establish to principle of development of the site. Access, appearance, landscaping, layout and scale are reserved for subsequent approval and do not form part of this application. That being said, these are subject to appropriate planning conditions and would be given careful consideration at the time of any subsequent application to ensure that the scheme would comply with the NPPF, PPG, relevant local plan policies and SPDs.
- 6.27 In overall terms, the principle of development accords with the objectives of the NPPF, PPG, the Carlisle District Local Plan 2015-2030 and SPDs. In light of this, this application is recommended to be approved with conditions.

## **7. Planning History**

- 7.1 There is no planning history relevant to the assessment of this planning application.

## **8. Recommendation: Grant Permission**

1. In case of any "Reserved Matter" application for approval shall be made not later than the expiration of 3 years beginning with the date of this permission, and the development shall be begun not later than whichever is the later of the following dates:
  - i) the expiration of 3 years from the date of the grant of this permission, or
  - ii) the expiration of 2 years from the final approval of the reserved matters, or, in the case of approval on different dates, the final approval

of the last such matter to be approved.

**Reason:** In accordance with the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended by The Planning and Compulsory Purchase Act 2004).

2. Before any works are commenced, details of the access, appearance, landscaping, layout and scale of the site (hereinafter called "reserved matters") shall be submitted to and approved by the local planning authority.

**Reason:** To accord with the provisions of Part 3 of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

3. The development shall be undertaken in accordance with the approved documents for this Outline Planning Permission which comprise:

1. the Planning Application Form received 30 October 2020;
2. the Location Plan and Block Plan (excluding the indicative site layout)(Dwg No. 2020/685/BH/001), received 30 October 2020;
3. the Site Plan (Dwg No. 2020/685/BH/10)), received 30 October 2020;
4. the Planning Statement, received 30 October 2020;
5. the Desk Top Study Report for Contamination, received 30 October 2020;
6. the Topographical Survey, received 30 October 2020;
7. the Preliminary Ecological Appraisal (compiled by Envirotech on 5 October 2020), received 30 October 2020;
8. the Notice of Decision;
9. any such variation as may subsequently be approved in writing by the local planning authority.

**Reason:** To define the permission.

4. No development shall be commenced until samples or full details of materials to be used externally on the proposed dwellings have been submitted to and approved in writing by the local planning authority. Such details shall include the type, colour and texture of the materials. The hereby permitted development shall be carried out and completed in full accordance with the approved details.

**Reason:** To ensure that materials to be used are acceptable in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

5. Prior to the commencement of any development, a surface water drainage scheme, including a sustainable drainage management and maintenance plan for the lifetime of the development, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions shall be submitted to and approved in writing by the local planning authority.



The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. The surface water drainage scheme must be restricted to existing runoff rates and unless otherwise agreed in writing by the Local Planning Authority, and no surface water shall be discharged to the public sewerage system either directly or indirectly.

The development shall be completed, maintained and managed in accordance with the approved details.

**Reason:** To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off onto adjoining land including the highway and to reduce the risk of flooding in accordance with Policies SP6 and CC5 of the Carlisle District Local Plan 2015-2030, in the interests of highway safety and environmental management and to promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution in accordance with policies within the National Planning Policy Framework and National Planning Practice Guidance.

6. Details of all measures to be taken by the applicant/developer to prevent surface water discharging onto or off the highway shall be submitted to the local planning authority for approval prior to development being commenced. Any approved works shall be implemented prior to the development being completed and shall be maintained operational thereafter.

**Reason:** In the interests of highway safety and environmental management, and to accord with the NPPF.

7. Foul and surface water shall be drained on separate systems. No development approved by this permission shall be commenced until a scheme for the conveyance of foul drainage to has been submitted to and approved in writing by the local planning authority. The development shall then be undertaken in accordance with the approved details.

**Reason:** To prevent pollution of the water environment in accordance with Policy IP6 of the Carlisle District Local Plan 2015-2030.

8. The development shall not commence until visibility splays providing clear visibility of 215 metres in a north easterly direction and site maximum in a south westerly direction, measured 2.4 metres down the centre of the access road and the nearside channel line of the carriageway edge have been provided at the junction of the access road with the county highway. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grown within the

visibility splay which obstruct the visibility splays. The visibility splays shall be constructed before general development of the site commences so that construction traffic is safeguarded.

**Reason:** In the interests of highway safety and to accord with the NPPF.

9. The access drive shall be surfaced in bituminous or cement bound materials, or otherwise bound and shall be constructed and completed before the development is brought into use. This surfacing shall extend for a distance of at least 10 metres inside the site, as measured from the carriageway edge of the adjacent highway.

**Reason:** To ensure a minimum standard of construction in the interests of highway safety and to support Local Transport Plan Policies: LD5, LD7, LD8

10. Full details regarding the surfacing of the driveways for each plot shall be submitted to the local planning authority for approval prior to development being commenced. Any approved works shall be implemented prior to the development being completed and shall be maintained operational thereafter.

**Reason:** To ensure a minimum standard of access provision when the development is brought into use and to accord with the NPPF.

11. The dwellings shall not be occupied until the vehicular access and turning requirements have been constructed in accordance with the approved plan and has been brought into use. The vehicular access turning provisions shall be retained and capable of use at all times thereafter and shall not be removed or altered without the prior consent of the Local Planning Authority.

**Reason:** To ensure a minimum standard of access provision when the development is brought into use and to accord with the NPPF.

12. Development shall not be begun until a Construction Phase Traffic Management Plan (CPTMP) has been submitted to and approved in writing by the local planning authority. The CPTMP shall include details of:

1. details of proposed crossings of the highway verge
2. retained areas for vehicle parking, maneuvering, loading and unloading for their specific purpose during the development
3. retained areas for the storage of materials
4. cleaning of site entrances and adjacent public highway
5. details of proposed wheel washing facilities for vehicles leaving the site
6. the sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials on the highway
7. construction vehicle routing
8. implementation of noise mitigation measures i.e. use of noise attenuation barriers, storage/unloading of aggregates away from sensitive receptors, use of white noise reversing alarms where possible
9. provision and use of water suppression equipment
10. dust management measures

- 11. use of vibro-compaction machinery/vibration management
- 12. waste minimisation and management measures
- 13. security

**Reason:** To protect the living conditions of the occupiers of the adjacent residential properties in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

13. Prior to the commencement of development, details of the relative heights of the existing and proposed ground levels and the height of the proposed finished floor levels of the dwellings and garages (if proposed) shall be submitted to and approved in writing by the local planning authority. The development shall then be undertaken in accordance with the approved details.

**Reason:** In order that the approved development is appropriate to the character and appearance of the area and does not adversely affect the occupier of a neighbouring property in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

14. No development shall take place until details of a landscaping scheme have been submitted to and approved by the local planning authority.

**Reason:** To ensure that a satisfactory landscaping scheme is prepared to reduce the potential for crime in accordance with Policies SP6 and GI6 of the Carlisle District Local Plan 2015-2030.

15. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner, and maintained thereafter to the satisfaction of the Council; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

**Reason:** To ensure that a satisfactory landscaping scheme is implemented and that it fulfils the objectives of Policy SP6 of the Carlisle District Local Plan 2015-2030.

16. Prior to the commencement of development, details of tree protective fencing around the trees and hedgerows to be retained shall be submitted to and approved in writing by the local planning authority. The specification for all tree protective fencing must conform to BS5837:2012 'Trees in relation to Construction – recommendations'. All tree protective fencing shall be erected and maintained outwith all root protection areas. No tree protective fencing shall be removed until all construction works and all plants and temporary accommodation have been removed from the site. Within the protection zone and the restricted area:

- no fires shall be lit within 10 metres of the nearest point of the canopy of any retained tree;
- no equipment, machinery or structure shall be attached to or supported by a retained tree or hedge or by the hedge protection barrier;
- 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;
- no alterations or variations to the approved tree and hedge protection schemes shall be made without prior written consent of the local planning authority;
- no materials or vehicles shall be stored or parked within the fenced off or hatched area;
- no alterations to the natural/existing ground level shall occur; and
- no excavations will be carried out within the fenced off area.

**Reason:** To ensure that the trees and hedges are protected for the duration of the construction works in accordance with Policy GI6 of the Carlisle District Local Plan 2015-2030.

17. Construction of any dwelling shall not commence until full details of the proposed hard surface finishes to all external areas have been submitted to and approved in writing by the local planning authority. The hereby permitted development shall be carried out and completed in full accordance with the approved details.

**Reason:** In the interests of visual amenity in accordance with Policies SP6 and CM5 of the Carlisle District Local Plan 2015-2030.

18. Prior to the occupation of any dwelling, particulars of height and materials of all screen walls and boundary fences shall be submitted to and approved by the local planning authority prior to the commencement of the development hereby permitted. All works comprised in the approved details of means of enclosure and boundary treatment shall be carried out in accordance with the approved details prior to the occupation of the dwelling.

**Reason:** To ensure that the work is undertaken in a co-ordinated manner that safeguards the appearance and security of the area in accordance with Policies SP6 and CM5 of the Carlisle District Local Plan 2015-2030.

19. The development hereby approved shall not be carried out otherwise than in complete accordance with the Mitigation Measures contained within pages 27 to 30 of the submitted Preliminary Ecological Appraisal (compiled by Envirotech on 5 October 2020), received by the Local Planning Authority on 30 October 2020.

**Reason:** In order to ensure no adverse impact on a European Protected Species in accordance with Policy GI3 of the Carlisle District Local Plan 2015-2030.

20. As part of the development hereby approved, adequate underground infrastructure shall be installed to enable telephone services, broadband, electricity services and television services to be connected to the premises within the application site and shall be completed prior to the occupation of the dwelling.

**Reason:** To maintain the visual character of the locality in accord with Policy IP4 of the Carlisle District Local Plan 2015-2030.

21. No work associated with the construction of the residential units hereby approved shall be carried out before 0730 hours on weekdays and Saturdays nor after 1800 hours on weekdays and 1300 hours on Saturdays (nor at any times on Sundays or statutory holidays).

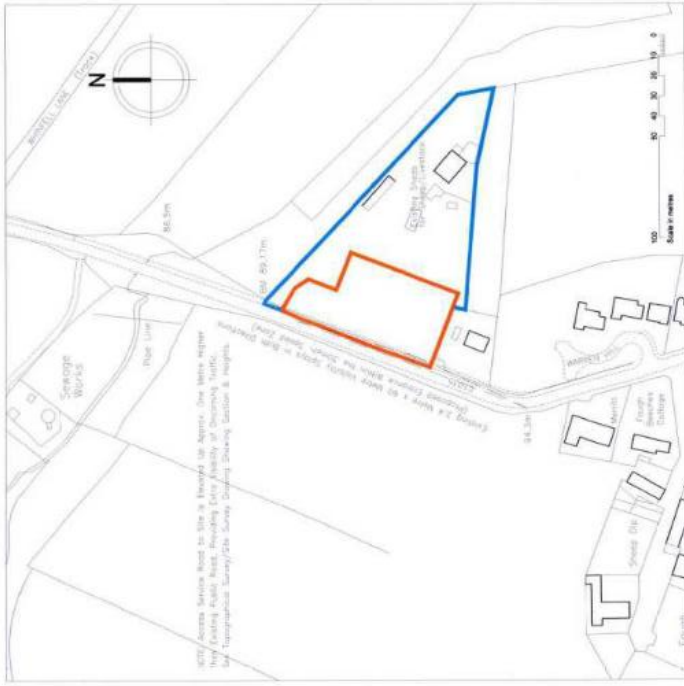
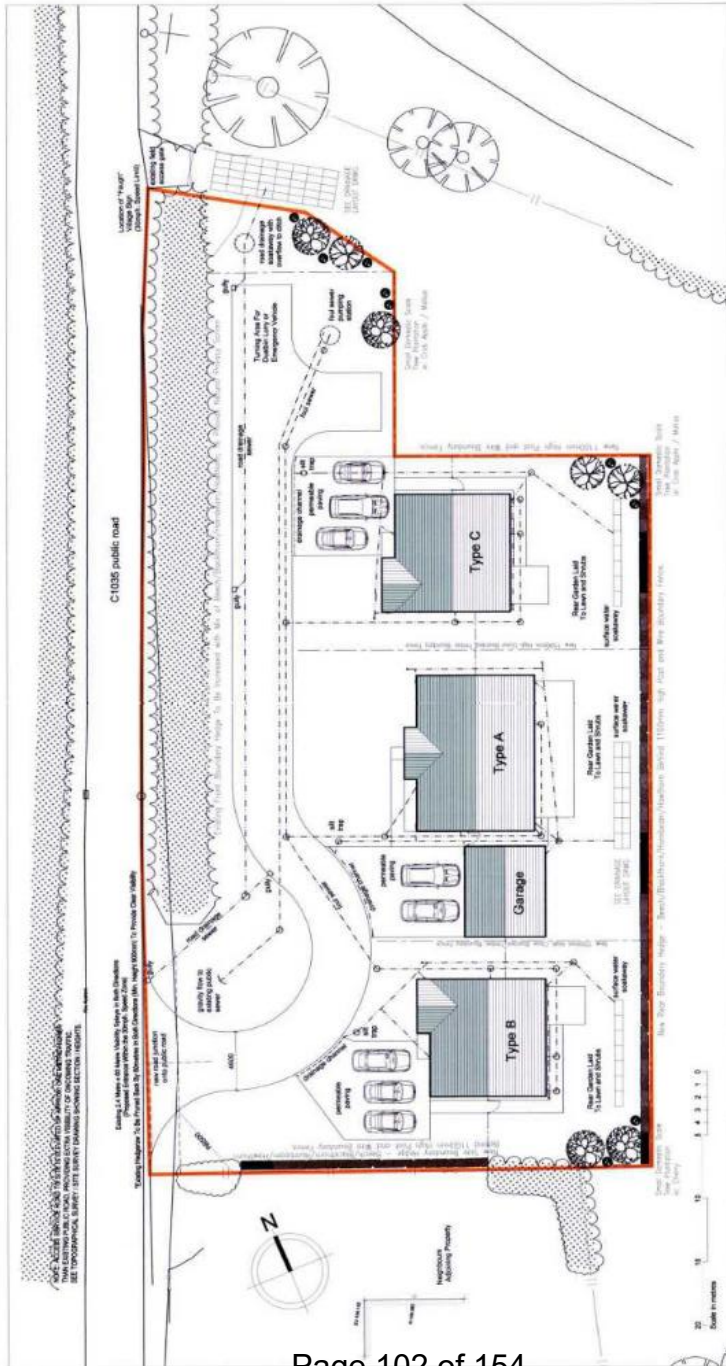
**Reason:** To prevent disturbance to nearby occupants in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

22. 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.

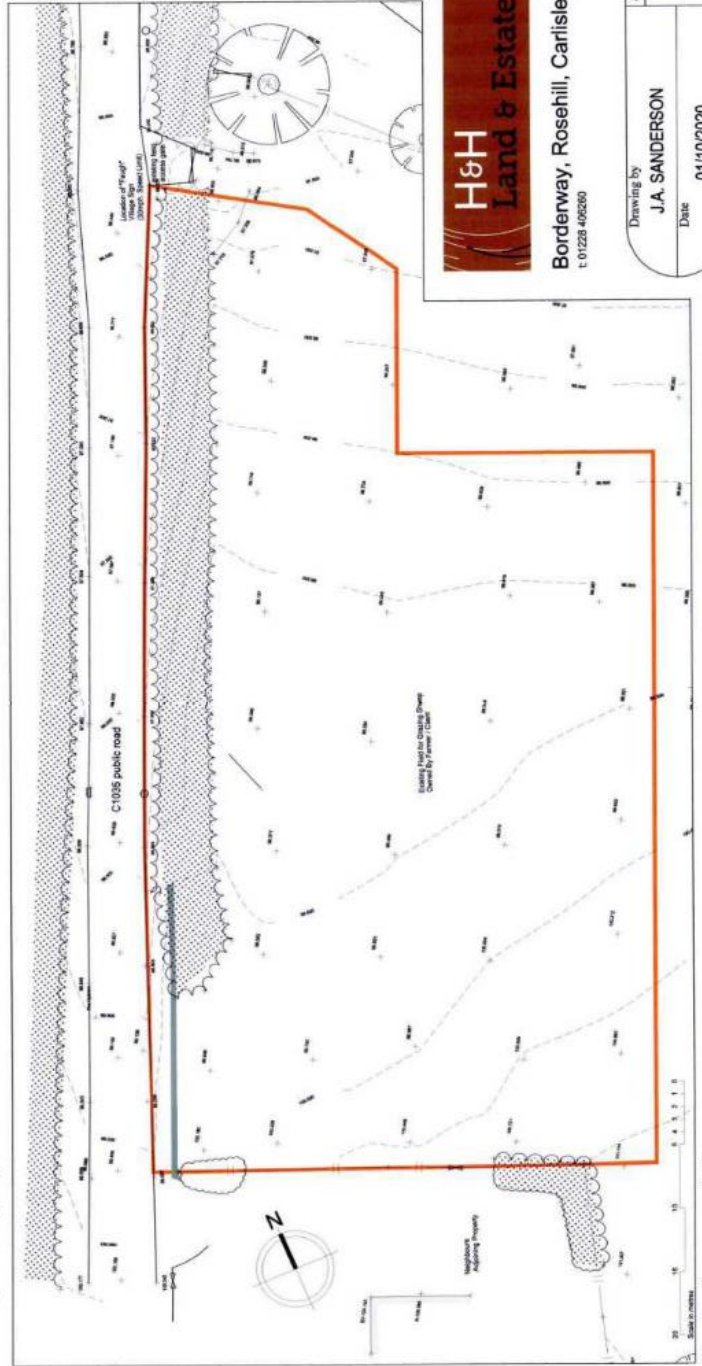
Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority.

**Reason** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

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block plan as proposed scale 1:200



## Outline Planning Application

REVISIONS:

Job title

Field site adjacent to Sandy Hill, Faugh, Heads Nook, Brampton, CA8 9EG

Location and Block Plans



**Borderway, Rosehill, Carlisle, Cumbria CA1 2RS**  
T: 01228 406280  
hlandestates.co.uk

Drawing by  
**J.A. SANDERSON**

Date  
**01/10/2020**

Amendments

Client  
**Diane Ridley**  
**Cairnbridge,**  
**Heads Nook,**  
**Brampton CA8 9EH**

Dig No.

2020/685/BH/001

Scale

1:200 & 1:1250@A1

# Report to Development Control Committee

Agenda  
Item:  
**A.2**

Meeting Date: 8 January 2021  
Portfolio: Economy, Enterprise and Housing  
Key Decision:  
Policy and Budget  
Framework  
Public / Private Public

Title: AFFORDABLE HOUSING CONTRIBUTION – LAND AT  
CARLISLE ROAD, BRAMPTON  
Report of: CORPORATE DIRECTOR OF ECONOMIC DEVELOPMENT  
Report Number: ED.02/21

## Purpose / Summary:

This report sets out the position regarding S106 contributions relating to affordable housing following an independent viability assessment of the site and provides an update to Members on issues raised during consideration of the original report (ED.46/20).

## Recommendations:

That the S106 Agreements be modified in accordance with paragraph 3.3 of this report.

## Tracking

Executive:	
Scrutiny:	
Council:	

## 1. BACKGROUND

- 1.1 Planning application 17/0869 – land at Carlisle Road, Brampton for the erection of 91 dwellings was granted on 25th April 2018 following the signing of a S106 Legal Agreement as authorised by the Development Control Committee at its meeting on the 5th January 2018.
- 1.2 Members of the Committee resolved: That authority be given to the Director (Economic Development) to issue approval for the proposal subject to the completion of a satisfactory S106 legal agreement.
- 1.3 The S106 Agreement included:
  1. the provision of affordable housing (13 affordable rent and 14 low cost home ownership);
  2. the payment of £150,668 towards off-site play space;
  3. the management/maintenance of open space;
  4. the payment of £272,820 towards secondary education;
  5. the payment of £6,600 for monitoring of the Travel Plan.
- 1.4 Following this, an application for a non-material amendment of the previously approved 17/0869 was granted in 2019 (19/0340) which broadly granted consent for
  1. revisions to the layout of the site;
  2. substitution of house types;
  3. alterations to the landscaping scheme and boundary treatment layout;
  4. revision to the parking arrangements.
- 1.5 Planning permission was also later granted in 2019 for erection of 78 dwellings (part revision of previously approved permission 17/0869 to increase the number of dwellings from 63 to 78) under 19/0380. As a consequence of this application together with the non-material amendment, the total number of dwellings increased on the site to 106.
- 1.6 A subsequent Deed of Variation as a result of the revised application, amended the following sections of the original S106 Agreement:
  1. the provision of affordable housing (15 affordable rent and 16 intermediate dwellings);
  2. the payment of £165,569 towards off-site play space;
  3. the payment of £441,972 towards secondary education.



- 1.7 Following the resolution by Development Control Committee and subsequent applications, the applicant has held extensive discussions with officers and the independent viability consultant regarding the viability of the site's development and the ability to provide the affordable housing contribution. Story's advised in a supporting letter to their viability appraisal, dated 17 July 2020, that they were struggling to meet the 30% affordable housing requirement for sites in Affordable Housing Zone C on the application site for the following reasons:
- a reduced demand for larger 4 & 5-bedroom houses since construction of the site in September 2019, which had been further exacerbated since COVID-19, with many of these larger homes falling within the first sales release.
  - Economic uncertainty surrounding COVID-19.
  - Forecast increased construction BCIS construction costs, partly linked to supply chain challenges linked to COVID-19.
- 1.8 Having considered the report (ED.46/20 appended), Members resolved to defer consideration in order to allow further consideration of the level of developer profit.

## **2. UPDATE**

- 2.1 During the consideration of the previous report, Members expressed concern at the reduction of affordable housing when, given the impact of the pandemic, they considered such provision was particularly needed. Consideration was given as to whether the level of profit afforded to the developer by the proposal of 17% was appropriate as many businesses had been required to absorb financial impacts related to the pandemic restrictions.
- 2.2 Central government is clear that affordable housing is a key factor in the stalling of developments nationally due to viability issues. As such it allowed for planning obligations to be challenged in order for developments to remain viable.
- 2.3 Developer profit was appropriate and necessary as it supported the industry. The 17% proposed in the report had been arrived at following an assessment of the market in the district and other factors such as Appeal Decisions (which had permitted proportionally higher levels) and consideration of what amounted to a reasonable return.

- 2.4 This is consistent with the council's "Affordable and Specialist Housing Supplementary Planning Document". Further clarification regarding this matter can be found in a section on page 45 in Appendix 3 outlines the issue and states:

***"Developer Return (Profit) (Competitive return to a willing developer)"***

*There has been much debate at appeal and through assessment of Local Authority policy and guidance documents of what might be considered a competitive and appropriate developer return. The following points are useful to refer to in this regard:-*

- *The Planning Advisory Service 'Viability Handbook and Exercises' (para 4.80) (January 2011) advises that:-*

*Where a positive residual land value is achieved... Typical required margins, depending on the developer and the risks of the development, are a 20% margin on cost and 17.5% margin on GDV.*

- *The accompanying guidance to the HCA's (now Homes England) Development Appraisal tool comments as follows on Developer's Return for Risk and Profit (including developer's overheads):-*

***Open Market Housing*** *The developer 'profit' (before taxation) on the open market housing as a percentage of the value of the open market housing. A typical figure currently may be in the region of 17.5-20% and overheads being deducted, but this is only a guide as it will depend on the state of the market and the size and complexity of the scheme.*

***Affordable Housing*** *The developer 'profit' (before taxation) on the affordable housing as a percentage of the value of the affordable housing (excluding SHG). A typical figure may be in the region of 6% (the profit is less than that for the open market element of the scheme, as risks are reduced), but this is only a guide."*

- 2.5 As stated in the "Open Market Section", whilst this might be a typical profit region in terms of viability, in real terms the net profit would actually be lower for the business once overheads are taken account of. Furthermore, if a business cannot demonstrate a level of profit, it may be that financial lending might not be likely for the scheme from financial institutions or investors.

- 2.6 It is noted that the original PAS guidance on viability is dated 2011 and Members were concerned that the profits referred to were out-of-date and historic. The Council's SPD referred to above was prepared since the adoption of the Carlisle District Local Plan 2015-2030. It was produced during 2017 taking into account the local market position and viability assessments up to and including that year. It used advice from local consultants who operate across Cumbria and are part of a national company to ensure its relevance. The SPD was adopted by the City Council on 12 February 2018.
- 2.7 Since adoption of the SPD we have had only four applications to challenge planning obligations on viability grounds. One application was refused on the basis that it generated sufficient funds to mean that the development was viable and therefore no reduction should be made to the planning obligations. One was withdrawn prior to a decision being made and one is still under consideration. The remainder is the subject of this report.

### **3. CONCLUSION AND REASONS FOR RECOMMENDATIONS**

- 3.1 Since planning permission has been granted on the site, viability information has been assessed which concludes that the site is not sufficiently viable to be able to provide all the contributions requested by the local planning authority.
- 3.2 Whilst the level of affordable housing that would be provided on the site would be reduced from that of the extant permission, this report demonstrates that the profit level outlined by the applicant is constant with the council's SPD. The proposal before the council allows the greatest attainable level of affordable housing whilst still continuing with a viable development.
- 3.3 In accordance with the previous report, it is recommended that the S106 legal agreements for applications 17/0869 and 19/0340 should be revised for the following contribution:
- for delivery of 22 affordable units (20.75% of the overall scheme):
    - a tenure mix of 12 discounted sale units – 6 no. 2 bed Bailey houses (plots 26-29 & 43-44) and 6 no. 3 bed Fraser houses (plots 24-25; 41-42 & 53-54) and 10 no. affordable rent units - 6 no. 2 bed Bailey houses (plots 49-52 & 68-69) and 4 no. 3 bed Fraser houses (plots 45-48). Discounted sale units will be sold at 70% of market value to customers on the Council's Low-Cost Home Ownership register. Affordable/ social rent units will transfer to a Registered Provider/ Social Landlord based on 50% of market value.

#### **4. CONTRIBUTION TO THE CARLISLE PLAN PRIORITIES**

4.1 The site will still contribute towards future housing needs.

**Contact Officer: Richard Maunsell**

**Ext: 7174**

**Appendices**                      **Agenda Report A2 for 4th December 2020 meeting.**  
**attached to report:**

**Note: in compliance with section 100d of the Local Government Act 1972 the report has been prepared in part from the following papers:**

- **None**

**CORPORATE IMPLICATIONS: See original report**



# Report to Development Control Committee

Agenda  
Item:  
**A.2**

Meeting Date: 4 December 2020  
 Portfolio: Economy, Enterprise and Housing  
 Key Decision: No  
 Policy and Budget Framework: No  
 Public / Private: Public  
 Title: MODIFICATION OF S106 PLANNING OBLIGATION – AFFORDABLE HOUSING CONTRIBUTION – LAND AT CARLISLE ROAD, BRAMPTON  
 Report of: Corporate Director of Economic Development  
 Report Number: ED 46/20

## Purpose / Summary:

This report sets out the position regarding S106 contributions relating to affordable housing following an independent viability assessment of the site.

## Recommendations:

It is recommended that the S106 Agreements be modified for delivery of 22 affordable units (20.75% of the overall scheme) incorporating:  
 a tenure mix of 12 discounted sale units – 6 no. 2 bed Bailey houses (plots 26-29 & 43-44) and 6 no. 3 bed Fraser houses (plots 24-25; 41-42 & 53-54) and 10 no. affordable rent units - 6 no. 2 bed Bailey houses (plots 49-52 & 68-69) and 4 no. 3 bed Fraser houses (plots 45-48). Discounted sale units will be sold at 70% of market value to customers on the Council's Low-Cost Home Ownership register. Affordable/ social rent units will transfer to a Registered Provider/ Social Landlord based on 50% of market value

## Tracking

Executive:	
Scrutiny:	
Council:	

## **1. BACKGROUND**

- 1.1 Planning application 17/0869 – land at Carlisle Road, Brampton for the erection of 91 dwellings was granted on 25th April 2018 following the signing of a S106 Legal Agreement as authorised by the Development Control Committee at its meeting on the 5th January 2018.
- 1.2 Members of the Committee resolved: That authority be given to the Director (Economic Development) to issue approval for the proposal subject to the completion of a satisfactory S106 legal agreement.
- 1.3 The S106 Agreement included:
  1. the provision of affordable housing (13 affordable rent and 14 low cost home ownership);
  2. the payment of £150,668 towards off-site play space;
  3. the management/maintenance of open space;
  4. the payment of £272,820 towards secondary education;
  5. the payment of £6,600 for monitoring of the Travel Plan.
- 1.5 Following this, an application for a non-material amendment of the previously approved 17/0869 was granted in 2019 (19/0340) which broadly granted consent for
  1. revisions to the layout of the site;
  2. substitution of house types;
  3. alterations to the landscaping scheme and boundary treatment layout;
  4. revision to the parking arrangements.
- 1.6 Planning permission was also later granted in 2019 for erection of 78 dwellings (part revision of previously approved permission 17/0869 to increase the number of dwellings from 63 to 78) under 19/0380. As a consequence of this application together with the non-material amendment, the total number of dwellings increased on the site to 106.
- 1.7 A subsequent Deed of Variation as a result of the revised application, amended the following sections of the original S106 Agreement:
  1. the provision of affordable housing (15 affordable rent and 16 intermediate dwellings);
  2. the payment of £165,569 towards off-site play space;
  3. the payment of £441,972 towards secondary education.

## **2. UPDATE**

- 2.1 Following the resolution by Development Control Committee and subsequent applications, the applicant has held extensive discussions with officers and the

independent viability consultant regarding the viability of the site's development and the ability to provide the affordable housing contribution. Story's advised in a supporting letter to their viability appraisal, dated 17 July 2020, that they were struggling to meet the 30% affordable housing requirement for sites in Affordable Housing Zone C on the application site for the following reasons:

- a reduced demand for larger 4 & 5-bedroom houses since construction of the site in September 2019, which had been further exacerbated since COVID-19, with many of these larger homes falling within the first sales release.
- Economic uncertainty surrounding COVID-19.
- Forecast increased construction BCIS construction costs, partly linked to supply chain challenges linked to COVID-19.

- 2.2 Members will be aware that if sites are struggling due to financial viability the Government has indicated that contributions can be revisited to ensure sites are delivered and address barriers to any site's development. This primarily relates to affordable housing contributions and the site's financial viability will be the main factor in determining any reconsideration of the legal agreement.
- 2.3 On raising the matter of viability the Council's Development Manager, Planning Officer and Housing Development Officer have taken independent advice from an experienced Chartered Surveyor, who specialises in site-based viability work on the development costs of the site and any specific abnormal costs relating to this development which need to be taken into account. Those detailed costs remain confidential and are not set out in this report. Members are referred to the Part B report for this confidential information and are advised to move into private session at the meeting if this information is to be discussed.
- 2.4 Lengthy negotiations have taken place that would result in some affordable housing being provided on the site however the contribution is less than the Development Control Committee had given authority for under their decisions set out in Section 1 of this report.
- 2.5 The applicant has therefore requested that both legal agreements are revised, and a new agreement is put in place covering the contribution for both parts of this site.
- 2.6 The independent assessment concluded that:
- whilst it could be argued the above should lead to a slight reduction in land value, the previous 'without prejudice' concession on land value (proposed minimum acceptable landowner receipt / actual purchase price increased to £1.1M - £350k per net acre) has been retained. It is recommended that there should be some resultant degree of 'flex' on developer profit of up to 0.25% below the target rate of 17% (equating to circa £25k);

- the updated conclusion would be that the proposed scheme is viably capable of making an affordable housing contribution of 14% of total units (six affordable dwellings) which accords with the Applicant's headline offer.
- viability appraisals illustrating the following options:
  - OPTION 1 - adopting a developer profit of 17% of Gross Development Value (GDV) as the residual 'target' to constitute a viable scheme, the appraisal at *Appendix 2 – v2* shows that a developer profit of 17.00% of GDV can be achieved with an on-site contribution of 20.75% affordable housing (22 affordable units – 12 discounted sale and 10 affordable rent) and a full S106 contribution of £661,538.
  - OPTION 2 - Planning Committee Members may decide to proportionally reduce both the s106 contribution and the on-site affordable housing. I have therefore produced an appraisal to model this scenario (see *Appendix 3 – v2*). The *Appendix 3 – v2* appraisal shows that a developer profit of 16.89% of GDV (considered to be close enough to 17% for a developer to proceed with the scheme) can be achieved with an on-site contribution of 23.58% affordable housing (25 affordable units – 12 discounted sale and 13 affordable rent) and a pro-rata reduction to 77.42% of the full s106 contribution, equating to £512,163.

2.7 In terms of the impact were other contribution requirements reduced, the views of stakeholders were sought. Brampton Parish Council has confirmed that the off-site open space contribution has been allocated in the form of a new play area at Elmfield Drying Green, a new play area at St. Martin's Estate and improvements to Irthing Park play area.

2.8 Cumbria County Council has provided a response which reads:

*“As a general point in relation to secondary provision in Carlisle, as with primary, the county council has sought contributions to mitigate the cumulative impact of a number of long-term developments. Three schools - Morton Academy, Caldew, in Dalston, and William Howard in Brampton – have been identified as having the potential for expansion. To date, no further discussion has taken place as to the detail of what that expansion might entail but, as yet, the issue is not pressing. Pressure on places will result as housing developments progress and grow, but the county council expects to be able to accommodate admissions for at least the next two intakes (in September 2021 and 2022) within the existing capacity. It should however be noted that by the time the development is built out it is projected there will be no capacity. Further work will be undertaken in the meantime to ensure that firm plans are in place to provide additional accommodation at the appropriate time to meet new demand. The approach taken in relation to seeking contributions for secondary provision has been accepted by a Planning Inspector as part of an appeal decision for a development in North Carlisle – Land at Harker Industrial Estate, Low Harker Carlisle (15/0812) & (App/E0915/W/3179674).*



*The contribution from this development will be used towards adding capacity at William Howard and is considered essential to mitigate the impact of the scheme, any reduction in the secondary education contribution would result in an objection from the County Council.”*

- 2.9 It is clear from the applicant’s submissions and the council’s independent consultant, that there are viability issues with the development scheme. There appears to be little concession to reduce the financial contributions required for open space and secondary education provision. In discussions with the Council’s Housing Development Officer the provision of Option 1 to provide 22 units has been accepted as the most pragmatic solution for the affordable housing need.
- 2.10 In arriving at this assessment of viability the appraisal has had to take into account all the contributions required and under the previous applications.

### **3. CONCLUSION AND REASONS FOR RECOMMENDATIONS**

- 3.1 Since planning permission has been granted on the site, viability information has been assessed which concludes that the site is not sufficiently viable to be able to provide all the contributions requested by the local planning authority.
- 3.2 It is recommended that the S106 legal agreements for applications 17/0869 and 19/0340 should be revised for the following contribution:
- for delivery of 22 affordable units (20.75% of the overall scheme):
    - a tenure mix of 12 discounted sale units – 6 no. 2 bed Bailey houses (plots 26-29 & 43-44) and 6 no. 3 bed Fraser houses (plots 24-25; 41-42 & 53-54) and 10 no. affordable rent units - 6 no. 2 bed Bailey houses (plots 49-52 & 68-69) and 4 no. 3 bed Fraser houses (plots 45-48). Discounted sale units will be sold at 70% of market value to customers on the Council’s Low-Cost Home Ownership register. Affordable/ social rent units will transfer to a Registered Provider/ Social Landlord based on 50% of market value.

### **4. CONTRIBUTION TO THE CARLISLE PLAN PRIORITIES**

- 4.1 The site will still contribute towards future housing needs

**Contact Officer: Richard Maunsell**

**Ext: 7174**

**Appendices**  
**attached to report:**

**Note: in compliance with section 100d of the Local Government Act 1972 the report has been prepared in part from the following papers:**

- **None**

**CORPORATE IMPLICATIONS:**

**LEGAL** – Applications to modify developer obligations under s106 Agreements are a part of the planning process and regard must be had to viability of a development. The report outlines the viability issues and provides Members with a solution which is considered by officers to best meet local needs.

**PROPERTY SERVICES** – n/a

**FINANCE** – n/a

**EQUALITY** – n/a

**INFORMATION GOVERNANCE** – n/a

## SCHEDULE A: Applications with Recommendation

19/0840

Item No: 06

Date of Committee: 08/01/2021

**Appn Ref No:**  
19/0840

**Applicant:**  
Lidl Great Britain Ltd

**Parish:**  
Carlisle

**Agent:**  
Rapleys LLP

**Ward:**  
Botcherby & Harraby North

**Location:** Land off Warwick Road, Carlisle

**Proposal:** Erection Of Discount Foodstore With Car Parking And Landscaping  
(Outline)

**Date of Receipt:**  
06/11/2019

**Statutory Expiry Date**  
05/02/2020

**26 Week Determination**

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### REPORT

**Case Officer:** Christopher Hardman

#### 1. Recommendation

- 1.1 It is recommended that this application is approved with conditions, subject to the completion of a S106 agreement to secure a travel plan monitoring contribution of £6,600.

If the Legal Agreement is not completed, delegated authority should be given to the Corporate Director of Economic Development to refuse the application.

#### 2. Main Issues

- 2.1 The Principle of Development
- 2.2 Sequential Test and Retail Impact
- 2.3 Impact On Flood Risk
- 2.4 Whether the Scale and Design of the Proposal is Acceptable
- 2.5 Highways Impact
- 2.6 Drainage Impact
- 2.7 Landscaping Considerations
- 2.8 Other Matters

#### 3. Application Details

## **The Site**

- 3.1 The application site covers 8,785 sq metres and lies approximately 1.15 miles to the east of the city centre on the northern side of the A69 Warwick Road. The site is on the eastern part of a field and bordering the field to the west is the Riverside development and residential properties along Warwick Road, and to the east the Shiny Car Wash. On the southern side of Warwick Road lie some residential properties fronting Warwick Road, its junction with Victoria Road, the Botcherby Community Centre and access to Willow Park. Further west is the Lakeland Gate travel inn and the Kingfisher Park development. The site is contained at the front of a larger field and from the northern edge of the site it is a further 280 metres to the flood defences.

## **Background**

- 3.2 The planning history for this site is limited and only relates to the proposal in this report. A previous application submitted in 2015 was withdrawn before consideration by the Local Planning Authority. This was withdrawn shortly after the December 2015 floods. Members will be aware that this site flooded in both the 2005 and 2015 events as did much of the Warwick Road area. Since withdrawal of the application, investigation on the flood event and investment by the Environment Agency has led to proposals for increased flood defences in this part of the City as phase 1 of a three-phase scheme. These are currently under construction and whilst formulating the scheme for the most appropriate type of defences, the potential to use this site was given consideration. The resultant scheme, however, did not require the use of this land.

## **The Proposal**

- 3.3 This application is for the erection of a discount foodstore with car parking and landscaping. It is an Outline application with all matters reserved. The application is accompanied by an indicative layout of the proposed development however given the nature of the proposal and its location there are a number of issues which required additional work. In particular, the retail aspect, the flood risk aspect and the transport implications given that it would be accessing the A69 (Warwick Road) close to another junction with Victoria Road. All these matters are relevant to the consideration of whether Outline permission should be given.

## **4. Summary of Representations**

- 4.1 This application has been publicised by the posting of a site notice, press notice and direct notification to 980 properties within approximately 500m (crow flies) of the proposed development. In response 60 representations have been received comprising 35 objections, 28 in support and 1 comment.
- 4.2 The representations of objection raise the following issues:

### Flooding and Drainage

Flooding could still occur - when we have excess rainfall I don't think the new defences could cope given two bad floods in last 20 years and global warming. Warwick Road has flooding since the 1950s and it is a ridiculous idea to build on a flood plain.

The application is substandard and deficient and should be withdrawn - it should not be approved with conditions for the deficient items: drainage arrangements and flooding - the site currently permits water to seep through the ground - the building and car park will not permit this and alternative arrangements are required - the applicant should submit a revised planning application with a suitable drainage plan (likely to be approved) before any planning permission is granted. Flooding - defer to local residents but this does not seem to suitably address the flooding issues and a revised flooding statement/methodology should be submitted.

The flood risk sequential test was flawed - concerned this would add to the risk of future flooding through loss of floodplain.

Proposed store lies in flood risk zone 3a - high probability of flooding - Lidl FRA asserts the loss of floodplain storage to be negligible - loss of floodplain from individual planning application likely to be marginal but if multiple developments are permitted the cumulative impact will be significant. National planning policy recognises this danger - we believe the sequential test carried out by Lidl is too narrow in scope. Why confine the search to 500m radius of the application site. It is likely many of the alternative sites will be in flood zone, three of the eight are, they have engineered a search that is doomed to fail from the outset. Some LAs provide written guidance on the scope of the search area - a district wide search would be appropriate in this case.

Whilst the direct impact of flooding can be managed, the indirect impact is not easy to determine - the area and properties around the site would have an increased flood risk from increased run-off from the site, reduction in permeable surface area, changes to volume direction and speed of water regress, reduction of flood plain storage. The suggestion of reducing capacity for water storage by building on the site does not make sense.

When the River Eden floods but doesn't rise above the flood banks, the water table rises and the field acts as an outlet. If concreted where will the water be dispersed to?

I worry that further concreting of floodplain land will increase flooding as happened in Sept/Oct this year as increased run-off may have been due to recent construction of houses on green land close to areas which flooded. There is less area for the water to be absorbed - I fear more houses in a bigger area will flood in the future.

As no further flood defences have been put in place since 2015, the construction of this supermarket seems a step too far.

Warwick Road and surrounding area is high flood risk and the proposed site is a flood plain.

To build a large foodstore with car park will increase the already high risk of flooding which must be avoided.

This land is already wet and would be ideal for tree planting to absorb excess moisture and carbon emissions from the traffic.

After 2005 flood many trees were planted beside the Petteril to absorb flood water - this would be another positive step towards climate change.

The site retains vast quantities of water in the event of a flood the proposed store will displace water which will increase likelihood of flooding other property.

Lidl planned to build 3-4 years ago but withdrew after the 2015 flood - what has changed?

During the last floods if this land had not been there to absorb some of the water, it would have been significantly worse.

Where will the flood water go as climate change progresses this will become a more regular event?

Because of the saturated state of the land no cattle have been grazed on the land for a number of years.

What is the point of allowing the Environment Agency to invest millions on defences to then allow building on a flood area?

Note the distress this proposal has had on myself and other local residents whose homes have been previously flooded.

This land was originally due to be an environment area including landscaping and tree planting on the EA plans in Jan 2019 - what has changed?

Insensitive and negligent to allow building on a flood plain - Council has to be active regarding climate change to this development would be against its own policy.

As EA have stopped improvement works the only report they can submit has to be the same as 2015, nothing will have changed.

Building here will be a catastrophe waiting to happen - we live in constant fear of flooding - why build something unnecessary as there are plenty of shopping facilities.

If this store is allowed it would open the door to every other application to build on the flood plain in the future - or is it one law for the big players and another for the rest.

This is dangerous when you look at recent floods at Fishlake which was caused by building on a flood plain.

Infilling of this land will displace flood water to the detriment of existing local residents and businesses.

Have seen the devastating effects of two catastrophic floods and to propose to build on the floodplain is nothing short of madness - I'm sure there are more suitable places than on a floodplain.

We had 7ft of water, how much higher will this go when we start putting concrete car parks on a designated flood field?

Building this store will make the defences null and void - they have stopped as the ground is too wet to continue.

This application is insensitive to local residents - I'm sure there are sites that are not in the floodplain.

Why is building on the flood plan being considered.

Work is ongoing to improve the flood defences why would you hinder to the future of residents in this way.

Outline application indicates the development is to be on land previously highlighted as an area for improvement to protect local residents and businesses from future floods. Carlisle Flood Risk Management documents identifies this as an area to become an extension of the existing Durranshill Flood Basin - increasing attenuation. Why does the

City Council appear to disregard proposed flood protection measures in preference for complete contradiction to allow development of this land. Can't understand the logic for building on a floodplain. Has the potential to increase downstream flood risk by decreasing flood plain storage.

Would any new development on a recognised flood plain affect you directly? Tesco, Lakeland Gate and Kingfisher Park have all been granted permission to build on the flood plain - the affect this has had on recent flooding is incalculable. To allow almost total erosion of the recognised flood plain can only cause even more hardship to those directly affected - further displacement of pre/post flood water can only add to almost impossible situation. At recent exhibition by Lidl none of these issues were addressed, I only sensed contempt for anyone who would object. They have figures suggesting 70% of those surveyed are in favour but no figures available as to where these people are from.

Building on a recognised flood plain following two floods in ten years seems crazy - visited the recent exhibition by Lidl and no one knew what precautions would be put in place in the event of more flooding - passed the buck with no concrete answers.

Previous development on flood plains has caused the flooding to be more wide spread and pushed the water further.

It is a worry every time it rains in Carlisle, in case we flood again - this has a detrimental effect on our mental health.

Does anyone who makes decision on this application live in the affected area - unless you have experienced flooding of a house you do not know how it feels.

Thought the flood defences installed after 2005 would keep us safe and still waiting completion of defences following 2015 floods - this application must be turned down as we have suffered enough. Over a minimum of three years of our life lost due to dealing with the effects of flooding - also at a loss why money is being spent on the Sands Centre which is also on a flood plain.

Nothing has changed since 2015 application to make me feel more favourably disposed to this application - in fact quite the contrary - extreme weather conditions have increased in frequency and sea levels have risen making possibility of flooding more likely. - I think I speak for all residents of Warwick Road area that we have no wish to see any development that could in any way contribute to a repeat of the events of Dec 2015. Proposed site of the building and car park with its impervious surface are situated on an open field within the flood plain of the River Petteril close to its confluence with the River Eden which is either waterlogged or flooded on a regular basis. Loss of open land would contribute to increased water levels in any further flood events. Government money is being spent to heighten and improve flood defences not to be usurped to enable the building of a new supermarket which could negate their effect. There are a number of commercial properties in the city which are not situated on the flood plain.

Building on land which is already set aside as flood plain is crassly irresponsible - have you no regard for the people who live in that area who have already lost their homes twice in recent years - many of these people are elderly - devastation caused by flooding and the mental

distress as well as costs cannot be overlooked by building of a foodstore - if this goes ahead would let down a whole community - should be ashamed to call yourself planners.

Water moves around the defences and comes down Warwick Road.

Note the applicant states that 5,000 cubic metres of water will be displaced and the land has a high probability of flooding - why is it willing to take the risk? Whilst it may take steps to mitigate the risk it puts the community at a major disadvantage - residents will be placed at greater risk from displaced water affecting property and insurance premiums - a major company can mitigate this, local community cannot.

City Council contributed vast sums of money on flood recovery in the past decade - a cost to the public purse.

To contemplate building on a flood plain with recent evidence of intense flooding is very questionable as the work is being adversely affected by unpredictable weather patterns and increased heavy rainfall - the council is supportive of a Climate Emergency how will this be reconciled given this commitment.

Lidl is irresponsible to submit this application and is not thinking of the people of the city who have had their homes and businesses in that neighbourhood devastated by floods and almost flooded again in February 2020.

The floods of 2005 and 2015 cost the people, insurance companies and councils millions of pounds as well as a good deal of distress. More millions are being spent on enhancing the flood defences as climate change increases the flood risk. There is no justifiable reason to allow more ground to be covered with a large supermarket and tarmac for the car-park which will inevitably worsen the effects of any future floods.

### Traffic and Transport

We have now got 4 sets of traffic lights and talk of another set would add to the problem, it will be impossible to get into Carlisle with the additional traffic

The application is substandard and deficient and should be withdrawn - it should not be approved with conditions for the deficient items:  
traffic/transport plan - buses - transport statement is incorrect - there is no service 31, there are not 7 buses per hour and infrequent 680 - the design and access statement correctly lists the services  
traffic/transport plan - traffic counts - doesn't mention the road works taking place - what about Mon-Fri AM peak and Mon-Thurs PM peak - further clarification required. Electric Vehicle Charging Points - proposed layout doesn't show any, not mentioned in the design and access statement - provision should be mandatory.

Concerned about the impact of movement as the majority of vehicles travel above the 20mph speed limit. Signage is not currently visible so drivers would avoid action against them. There have been a significant number of accidents within 200m of the new junction. The plans don't appear to address this issue and will only amplify the race to the Warwick Road junction.

Increase in traffic will mean more traffic lights on an arterial route into the City which is congested enough.

Warwick Road is already congested and even more traffic and another set of



traffic lights will add to the congestion. There are already added difficulties during the football season when Carlisle are playing at home. Concerned about traffic and the disruption to traffic the pedestrian crossings would create.

Particularly concerned about the safety to pedestrians and motorists with regard to access/egress and the amount of space for emergency vehicles with the race down the centre of Warwick Road far exceeding speed limits.

Serious issue with match day parking on pavements along Warwick Road which makes turning dangerous. There is a need to ban parking on pavements in this area as the driver's view is severely restricted "Keep Clear" markings are required for access to/egress from Botcherby Allotment lane - extra traffic will make this hazardous.

Warwick Road is horrendous for traffic flow even when road works are not going on - adding another set of lights will undoubtedly make it worse.

Pollution from diesel and other vehicles causing more localised health problems i.e. asthma in children.

Traffic will be intensified on an already oversubscribed road.

It is going to make a very cluttered road with traffic lights for short distances - safety issue - have relevant safety reports been done?

Another set of traffic lights will slow down traffic movement and exacerbate the historic congestion problem - only when the volume of traffic on all the countries roads has reached saturation point would be the time to consider such an application as this.

Botcherby Bridge is considered to be unstable why would you potentially let more traffic cross it.

How will this impact on already congested traffic flow?

Signalised junction will increase congestion on a main arterial route - are the authorities in favour of the potential junction improvements paid for by the developer?

Congestion will increase air and noise pollution due to stationary traffic - compounded by increased traffic.

Requires a right turn filter lane which conflicts existing car wash facility and the access to Charlotte Terrace.

Local residents dealing with constant congestion for two years - this will add to this.

Due to frequent repairs and maintenance residents who have to use Warwick Road as only access have experienced endless delays, frustration, waste of fuel causing unhealthy emissions from long standing temporary one-way traffic system - another set of traffic lights will exacerbate the already congested situation.

Traffic is already busy and endured numerous road works probably exacerbated by another set of traffic lights - rep from Lidl didn't fully understand.

Frequently congested especially at peak times and during football matches. More standing traffic will cause more air pollution and will adversely affect the residents on Warwick Road.

This store is not the correct place if we are to reduce pollution.

Question whether the traffic flow shown in the application can be considered fully representative when the road returns to normal traffic flow.

Question that the buses to Brampton/Dalston are far less frequent than

indicated - information is seriously flawed.

Proposed junction is in outline and given the complexity of this road and increased use of Victoria Road the application is unsound as it is a key safety issue.

Application makes no reference to accessibility to or from Willow Park or Kingfisher Park estates also omitted are Charlotte Terrace and the car wash which will add to flow and complexity of the junction and traffic flow in the area.

Potential increased traffic flow from HGVs which still use Durranhill Road/Victoria Road.

Failed to consider the wider traffic flow from growth at Durranhill Road and Scotby Road.

The traffic on Warwick Road is heavy at the best of times, the queues and delays will be even worse if a supermarket is built as it will attract more traffic including large delivery lorries - even before the impact of yet more traffic lights or a roundabout.

#### Trees and biodiversity

The application is substandard and deficient and should be withdrawn - it should not be approved with conditions for the deficient items:

tree removal and non-reinstatement - application shows removal of 4 mature trees from the pavement on Warwick Road - given the adverse comments about the Eastern Way/Rosehill improvements the plans were modified to retain trees - this proposal is inappropriate - if necessary to remove trees should include new trees within the site boundary. Suggest two new trees for every tree removed, flood tolerant and reasonably well established.

Land is amazing habitat for multiple species - have seen hundreds of different animals from birds to small mammals, even foxes and deer - how will the impact on habitat space be compensated for?

Wildlife habitat in congested areas support local residents health and wellbeing.

Proposed access require removal of established trees.

#### Retail

Don't believe this supermarket will add anything different to what we already have.

There is no need for another supermarket - the only reason is pure convenience of not having to walk or drive to stores already in existence.

There are two Tesco stores, a Morrisons store, three Aldi stores, two Sainsburys stores and a Lidl store within two miles of the proposed Warwick Road site; a city of our small size does not need another supermarket and certainly not on the flood plain. If the council is keen to have another supermarket then ask Lidl to look at land that does not flood e.g. Morton where there are no supermarkets and a lot of housing.

CCC should consider using this space, if it must be used at all, to support local business people, erect a market space for local produce and stop investing in huge chain stores which are crushing independent businesses.

Local convenience stores will be affected with the potential for closures/job losses.

Don't need another foodstore in this area.

We have plenty of supermarkets and other smaller shops around the area.

It is a direct threat to local shops and post office.

Fails to address the impact on local community shops and the two sub-post offices - if the two sub post offices are lost a substantial number of residents and businesses would lose a vital service - leaving the nearest service in Cumwhinton Road or City Centre generating additional bus or car journeys.

Overall economic benefit - local authority regularly comments regarding the loss of shopping facilities within the city centre - should turn down this application and encourage the applicant to use vacant facilities in the city within reach of a wide range of buses and central car parks.

Loss of local provision due to low cost competition.

#### Other Matters

Local businesses will suffer - if these go, so does the community and jobs.

Household insurance premiums within an area defined as having flood risk have risen since 2005 and 2015. No doubt developments within these locations increase premiums as claims increase in events of flooding.

Public Consultation - question the effectiveness as the leaflet was unbalanced promoting the company and not set out any adverse issues arising from the development. Fails to offset the potential 40 jobs with any losses if the same local businesses fail. Exhibition was for 4 hours on a single day - far too limited for community access - attendance was very low and the company used 99 positive responses to substantiate its application.

There will be additional light pollution impacting homes nearby and more traffic until 10pm to disturb them.

#### 4.3 The representations of support raise the following points:

Will create jobs and help the elderly and disabled by being at their convenience.

Welcome resubmission from 2015.

Recent improvements to the flood defences and flood protection measures incorporated into the development, do not see this as a potential threat to extant flooding situation.

Other areas are better served by choice than this area.

Possibility of this store in walking distance would be beneficial.

Employment opportunities would boost local economy, helping people back into work such as those with young families.

The site is an eyesore and needs to be sensitively developed.

Improvements to flood defences and road junction/pedestrian crossing are necessary if the building goes ahead.

Its fruition can benefit all of us in the local area.

Nearest small shop has limited supplies and only reached up a steep hill - impossible for many.

A Lidl store would be a valuable asset for many people as well as the community.

Sited at a convenient walking distance - helping to minimise own carbon footprint.

Sited on a convenient local bus route for inclement weather.  
 Support the new store and new layout of the junction.  
 Have a number of family members who would use the store on a weekly basis.  
 The junction needs traffic lights anyway.  
 Would be a great help not having to carry shopping from town or Tesco.  
 Would help with floods.  
 Give the area a much needed lift.  
 Traffic lights would be a good idea as it will allow traffic to flow easier and less awkward.  
 Will benefit the city in many respects.  
 Should improve the traffic problems at the bottom of Victoria Road.  
 Bring more shopping choices - need choice and cheaper prices.  
 Having been flooded twice do not believe the building on one field would make the slightest difference.  
 A new traffic light system would make a massive improvement to the problem of getting out into the traffic  
 Attract jobs to the area.  
 Bring money into a poor area.  
 Cheap food for low paid.  
 Good for old and single parents alike.  
 There is no discount retailer in this area of the city and would fill a need not only for those living locally but on the other side of the M6.  
 Reservation as the land has been prone to flooding so presumably the new flood defences would prevent a reoccurrence.  
 Carlisle roads are becoming a daily obstacle and a supermarket in this area would be a great asset.  
 An asset to car users for out of town parking.  
 A much needed commodity for us all.  
 Would enhance the choice.  
 Believe there is enough trade to keep all the people with a good choice.  
 An asset to the city as a whole.  
 Would make the area more attractive.  
 Serve the Botcherby area with affordable and convenient shopping.  
 Jobs for local people.  
 Will offer healthy competition to Tesco, beneficial to local people.  
 Will boost the Warwick Road area and will have a positive impact on house prices.  
 Construction will not add to flood risk as new flood defences will be in place.  
 If Carlisle is going to flood again I don't think that a new Lidl store will make the difference.  
 Given the ageing population in the area it would reduce the impact of extended shopping trips.  
 Would give the area a gateway to affordable shopping for people who have limited incomes.  
 Potential job vacancies for struggling families in the area

#### 4.4 The comment raises the following issues:

The public consultation document was not particularly balanced in

highlighting issues that might be of concern to local residents and road users  
- key road traffic and environmental issues seem to have been largely overlooked or minimised.

The junction alterations and new store create adverse traffic complexity/congestion and safety issues.

Installation of a further set of traffic lights will only serve to slow down traffic along a key artery.

No reference to accessibility to/from Willow Park, Riverside or Kingfisher Park Estates adversely affected by this proposal.

Also omitted are Charlotte Terrace and Shiny car wash.

This proposal will worsen traffic flow.

Are the details of traffic flow and density truly representative given the last 18 months disrupted traffic flows.

If the flow data does not represent the normal flow it is severely flawed.

Do not take account of increased traffic flow from Durranhill through Florida Mount/Victoria Road.

Traffic currently regularly builds up (when no road works on Warwick Road). Inevitably lead to more traffic using this as a rat run for easy access to the store.

Additional safety risk to children using St Cuthbert's school, pedestrians and road users/buses trying to negotiate narrow sections at Florida Mount.

Difficult to understand building anything on what is clearly part of the flood plain can be contemplated.

This land area regularly floods to varying degrees.

2005 and 2015 bear witness to the amount of water this area contained.

Raising it and building a store puts at higher risk the properties surrounding areas when further water incursion happens.

Whilst the developer may take steps to mitigate the risk, it inevitably places local community centre, shops and businesses at further risk of more severe flooding.

To contemplate granting consent to building on a flood plain with recent evidence of actual flooding seems questionable.

No application should be allowed to proceed that increases water inundation risk to properties or businesses in the area of anywhere.

The new building could mean the difference between houses being flooded or not.

New job offer does not address the impact on the local community shops and two sub post offices (Greystone Rd/Botcherby), if lost would lose a key service not replicated in the new store, this loss would offset some of the stated bonus of 40 jobs.

Will not have a post office facility.

Further shop closures would lead to more unlet/unoccupied commercial premises.

Could the applicant be encouraged to use vacant facilities in the city within reach of wide range of buses and central car parks helping to regenerate our city centre.

Generally support such stores however for reasons above welcome rejection of this proposal.

Instead of putting traffic lights at this junction, construct a roundabout which would keep traffic flowing plus ordinary pedestrian crossings on each of the four approach roads with a central refuge.

- 4.5 A local ward councillor (Cllr Betton) has raised a number of concerns about the proposal, in particular the effect on flooding to neighbouring properties which were devastated by previous storms and flooding in Carlisle. He has also questioned what would have been the consequences with the supermarket built if the same flood occurred as 2005 and how many more properties would be flooded in the area. He considers that the applicant should not be able to continue working on an application behind the scenes direct with the consultees.

## **5. Summary of Consultation Responses**

### **Cumbria County Council - (Highways & Lead Local Flood Authority): -**

Initial response was that the Lead Local Flood and Highways Authorities recommend this application for refusal due to inadequate information being submitted to satisfy the Local Planning Authority that the proposal is acceptable in terms of:

Site investigation / percolation tests

Outline drainage details

Outline drainage calculations

CCTV survey of the receiving watercourse

Loss of storage within the flood plain

Reservations with regards to the working of the proposed site access / signals

Following the submission of further details the authority has responded as follows:

#### **Local Highway Authority (LHA) comments:**

The application under consideration comprises of the creation of a new vehicular access to the development site from Warwick Road opposite the junction with Victoria Road. To facilitate this a signalised junction has been proposed and the outlined design is agreeable to the Highways authority. As normal a 278 will be agreed for the works required to the existing highway including the additional UTC control that is currently used for the Warwick road corridor into the city centre.

A Safety Audit (Stage 1) has been undertaken by the applicant with regards to the proposed design and the recommendations within the report have been incorporated into the design. A Stage 2 Road Safety Audit will be required for the detailed design of the site at the full planning stage. The applicant has also submitted a Travel Plan as part of this application. In order for the Highways Authority to monitor this plan, the applicant is required to contribute £6,600 towards the cost of this undertaking.

Therefore, to conclude the Highways Authority has no objections with regards to the principal of development at this site and no objections are raised with regards to the approval of planning permission subject to a series of conditions at the end of this response being added to any consent you may wish to grant.

**Lead Local Flood Authority (LLFA) Response:**

Following on from the previous LLFA response to this application dated 23 October 2020, additional technical information has been submitted by the applicant. It has been clarified that the proposed LIDL is to discharge surface water into the culverted ordinary watercourse, or as stated within the additional information, surface water sewer. As stated previously discharge to the ordinary watercourse is the preferred option of the LLFA for the discharge of surface water as infiltration testing in accordance with the BRE 365 method proved not to be viable.

Further CCTV surveys have been undertaken on the culverted ordinary watercourse to identify its location, condition and levels. The results of the CCTV survey illustrate that the 600mm diameter concrete culvert is in good condition downstream of the proposed connection manhole to its outfall into Durranshill Beck. The applicant has confirmed within the FRA that the QBar green field runoff rate for the site of 4.1l/s is to be the maximum surface water discharge rate into the watercourse and attenuation is to be provided to accommodate a 1 in 100 year plus 40% to account for climate change storm event. In the previous response to this application it was noted within the Micro Drainage calculations that the drainage capacity was undersized by approximately 2m<sup>2</sup>. The applicant has revised the drainage design and re-run the Micro Drainage calculations which now illustrate that no flooding will occur on site during a 1 in 100 year plus 40% to account for climate change storm event.

Drainage calculations that the drainage capacity was undersized by approximately 2m<sup>2</sup>. The applicant has revised the drainage design and re-run the Micro Drainage calculations which now illustrate that no flooding will occur on site during a 1 in 100 year plus 40% to account for climate change storm event.

The attenuation provided on the development site is required to take into consideration the presence of shallow ground water as found during site investigation. There is the potential for any storage solution to suffer buoyancy from groundwater pressures. As noted within the LLFA response dated 15 June 2020, further information in relation to the detailed design of the drainage network will be required to be submitted to the LLFA for comment at full planning application. The detailed design of the drainage system will include all relevant calculations for the underground storage, including appropriate safety factors, as defined in section 24.1 of the SUDS Manual. The applicant has noted the requirement for pollution control measures in line with page 568 of the SuDS manual in relation to the treatment of the surface water prior to discharge. The applicant has confirmed that permeable blacktop will be used for the surfacing of the development with further details of the pollution control submitted at a later stage of the planning process.

The LLFA noted previously that the development will result in the loss of floodplain storage if the existing flood defences were overtopped during a flood event. The Environment Agency (EA) have considered the point raised and considered that the FRA submitted is compliant with the requirements for an FRA in the NPPF. As such the EA are satisfied that the proposed development will not be an unacceptable risk of flooding or exacerbate flooding elsewhere.

Therefore, to conclude the LLFA have no objections with regards to the

approval of planning permission subject to the following conditions stated at the end of this response being added to any consent you may wish to grant.

In summary, the Highways and Lead Local Flood Authority have no objections with regards to the approval of planning permission subject to the following conditions being applied to any consent you may wish to grant.

**Highways England:** - No objection

**Environment Agency N Area:** -

Initially responded that they object to the application in the absence of an acceptable Flood Risk Assessment - the submitted FRA fails to:

1. take the impacts of climate change into account
2. consider how the range of flooding events (including extreme events) will affect people and property
3. adequately describe the historic flooding of the site
4. adequately demonstrate that the proposed development will not increase flood risk elsewhere
5. consider the requirements for flood emergency planning including flood warning and evacuation of people for a range of flooding events up to and including the extreme event

Following the submission of further information

We have reviewed the Flood Risk Assessment (FRA), referenced Land off Warwick Road, Carlisle- Flood Risk Assessment SLR Ref: 419.08678.00001, Version No: 3, February 2020 on the front cover and containing within the header of the document body: Lidl GB, Land off Warwick Road, Carlisle, CA1 2RU, Filename: 410.05068.00019\_Lidl FRA\_v3, SLR Ref No:

410.05068.00019, February 2020, produced by SLR, submitted with the application in so far as it relates to our remit and remove our objection as the Flood Risk Assessment is compliant with the requirements for a FRA in the National Planning Policy Framework (NPPF) and we are satisfied that:

☐ unless the flood defence is breached or overtopped (considered a low probability event) it demonstrates that the proposed development will not be at an unacceptable risk of flooding or;

☐ exacerbate flood risk elsewhere.

The proposed development must proceed in strict accordance with this FRA and the mitigation measures identified as it will form part of any subsequent planning approval. Any proposed changes to the approved FRA and / or the mitigation measures identified will require the submission of a revised FRA as part of an amended planning application.

Additional advice is provided and informatives regarding a recent ingress of water which was being investigated.

**Historic England - North West Office:** - No comment - should consult own specialist for conservation and archaeology.

**Local Environment - Environmental Protection:** - No objections

**Planning - Access Officer:** - The proposed location of the disabled toilet is at the far end of the store. If this facility was required prior to a customer



commencing their shopping, Wheelchair users will have to navigate through the sales area and a customer checkout to access this utility furthermore they will have no option but to exit the store and then re-enter. This is not acceptable. I would advise that the disabled toilet is redesigned to be in the proximity of the entrance of the building, within the vicinity of the other welfare units.

**Cumbria Constabulary - North Area Community Safety Unit:** - No response received

**Connect Roads:** - No response received

**United Utilities:-** Request conditions regarding drainage to submit a surface water drainage scheme to follow the hierarchy of drainage options, foul and surface water shall be drained on separate systems; there is an easement crossing the site - two water mains cross the site boundary and UU require an access strip, a critical public sewer also crosses the site and access is required and the developer is not allowed to build over it.

## **6. Officer's Report**

### **Assessment**

- 6.1 Section 70 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.
- 6.2 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) and Policies SP1, SP2, EC6, SP6, SP9, IP2, IP3, IP6, CC4, CC5, CM4, CM5, GI3 and GI6 of the Carlisle District Local Plan 2015-2030.

### **1. The Principle of Development**

- 6.3 The application site covers 8785 sqm and lies approximately 1.15 miles to the east of the city centre on the northern side of the A69 Warwick Road. The site is on the eastern part of a field and bordering the field to the west is the Riverside development and residential properties along Warwick Road, and to the east the Shiny Car Wash. On the southern side of Warwick Road lie some residential properties fronting Warwick Road, its junction with Victoria Road, the Botcherby Community Centre and access to Willow Park. Further west is the Lakeland Gate travel inn and the Kingfisher Park development. The site is contained at the front of a larger field and from the northern edge of the site it is a further 280 metres to the flood defences.
- 6.4 The site has no specific designation or allocation within the Carlisle District Local Plan 2015-2030. The Policies Map indicates that it lies within indicative flood zones 2 and 3 and that Local Plan Policy CC4 applies. This is considered later in this report. In terms of Local Plan Policies map the site is

therefore considered to be White Land which means no specific proposals are in place for the land within the Local Plan. This does not mean that development is prohibited from the land, but that any proposals which come forward must be considered in the context of the whole Local Plan and any National planning policies which apply.

- 6.5 Policy EC 6 of the Carlisle District Local Plan 2015-2030 provides the framework for retail and main town centre uses. Outside Defined Centres - states:

*Development proposals for new retail and main town centre uses should in the first instance be directed towards defined centres, and for comparison retailing proposals the defined Primary Shopping Areas (where designated) within these centres, in accordance with the hierarchy set out in Policy SP 2. In line with national policy proposals outside of defined centres will be required to undertake a sequential test. In addition, locally set impact thresholds for retail floorspace have been set for the urban area and will be required for proposals which exceed 1000sqm (gross) for convenience retail and 500sqm (gross) for comparison retail. A separate impact threshold of 300sqm (gross) for convenience and comparison retail proposals has been set for Brampton, Dalston and Longtown.*

*This approach also applies to proposals for the extension of floorspace (including the use of a mezzanine floor) at existing stores or retail warehouses where these are outside defined centres.*

*Any proposals for a foodstore will be required, as part of the impact test, to demonstrate that they would not undermine the planned delivery of the Morton District Centre foodstore anchor, or impact on its trading viability.*

- 6.6 The justification continues that:

*4.25 Policy EC 6 seeks to ensure that the vitality and viability of defined retail centres is not undermined by proposals for retail and other main town centre uses outside of these centres or where comparison (non-food) retail is concerned out with designated Primary Shopping Areas within these centres. Main town centre uses are defined within the glossary and mirror those currently employed by national policy for retail planning purposes.*

*4.26 The Carlisle Retail Study (2012) found that there was limited spare capacity in the initial years of the plan period and therefore that any development should aim to reinforce the City Centre as the prime retail location. To achieve this, proposals for new retail and main town centre uses will, in line with national policy, have to undertake a sequential test. A locally set threshold has also been established for undertaking retail impact assessments which addresses the requirements of National Planning Policy Guidance (NPPG) and updates the threshold set in the 2012 study.*

*4.27 The Retail Impact Threshold update (September 2015) recommends that in respect of the urban area of Carlisle separate retail thresholds for convenience and comparison retailing should be applied to enable sufficient opportunity to robustly assess the impact of any future edge/out of centre proposal on existing urban centres.*

- 6.7 With regards to the principle of development, the policy does not preclude

retail proposals coming forward and they may be acceptable subject to consideration of the impacts particularly on the City Centre but also the retail allocation at the Morton site.

- 6.8 Policy CC4 refers to the potential flood risk which must be taken into account when considering any development proposals for the site. This means that dependent on the type of proposal, certain tests will have to be undertaken and this is considered further in the report.
- 6.9 Given the above circumstances the proposed use may be acceptable in principle if the retail tests of Policy EC6 and the flood risk tests of Policy CC4 can be satisfied.

## **2. Sequential Test and Retail Impact**

- 6.10 In considering retail proposals the NPPF advises in paragraph 85 that decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation by:
- defining a network and hierarchy of town centres and promote their long-term vitality and viability;
  - defining the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations;
  - retaining and enhancing existing markets and, where appropriate, re-introduce or create new ones;
  - allocating a range of suitable sites in town centres to meet the scale and type of development likely to be needed;
  - where suitable and viable town centre sites are not available for main town centre uses, allocating appropriate edge of centre sites that are well connected to the town centre; and
  - recognising that residential development often plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites.
- 6.11 The NPPF continues at paragraph 86 to state that local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.
- 6.12 The NPPF continues at paragraph 87 that when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.
- 6.13 In considering this application a Retail Statement has been submitted which considers the sequential test required by the NPPF. The proposal is for a

new discount foodstore of 1,900 sq metres gross internal floorspace which relates to 1,256 sqm net sales area which is characteristic of this type of operator. The statement advises that Lidl performs as a predominantly "top up" shopping role and acts as complementary retailers to conventional food shopping. This proposal provides increased competition and consumer choice, and will create additional local jobs, in addition to improving convenience shopping in this part of Carlisle. Members may be aware that it is often the case that a discount store will co-locate near to one of the larger operators as they fulfil a top-up role and at the time of submitting this application in 2019 Lidl were rolling out a series of new stores across the country. As a result, their market share has increased in recent years acknowledging the demand for their model of operation.

- 6.14 In considering the sequential test aspects of the NPPF the main centre for any retail development should be Carlisle City Centre and this approach is contained in Local Plan policy EC6. The proposals therefore have to consider whether there are any available sites within the City Centre that would be suited to the proposed development. The main site that has a large floorspace available is the former Hoopers store in Castle Street however the type of retail space available does not suit the proposed use as the internal layout of the building does not suit the space requirements irrespective of the need to transport such goods without easy vehicular access. Other sites around the city centre have been considered but do not meet the particular requirements for convenience retailing. The submitted retail and planning report refers correctly to the need for sites not only to be possible but the need for them to be suitable and available.
- 6.15 In considering possible sites future development allocated in the Local Plan should also be taken into account. This includes the Citadel area and the Caldew Riverside which would form part of larger development sites as well as recent planning permissions such as the Lowther Street site. Neither of the sites is readily available at the time of consideration of the application without further works being undertaken to prepare the sites for redevelopment. As they currently stand, the Listed Citadel buildings and surrounding site is in the formative stages of planning proposals. The Caldew Riverside requires remediation over a larger area and is therefore not readily available. The Lowther Street site requires replacement car parking to make a viable scheme. Whilst the sites may become available during the life of the Local Plan the consideration of this planning application has to be made at this point in time.
- 6.16 Questions have been raised as to whether the 0-5 minute drive time is an appropriate consideration and that consideration should be given to the whole of the city. In Local Plan terms this would mean that in particular, the District Centre allocation at Morton should also be considered, as a District Centre would be a preferable location to an out-of-centre development. The Local plan policy for the Morton development relies on an anchor food retail store coming forward as the major development. However, when looking at the distribution of discount operators it is clear that the market for the west of the city is currently served by Aldi on Dalston Road and Lidl at Charlotte Street. This proposal would therefore be duplicating existing provision and until there

is further development to the west of the city and the St Cuthbert's Garden Village development it could potentially result in existing operations locating further from the City Centre which would be less sustainable for existing residents in the west. The allocation still has potential to accommodate retail provision as the residential allocations in the Local Plan are built out and local demand increases. This proposal however would have minimal impact on the Morton allocation due to the distance and scale of operation proposed.

- 6.17 The report also considers the possibility of locating within other smaller local centres identified in the Local Plan however there are no sites readily available in those centres.
- 6.18 In considering the sequential test the format of the development should also be taken into account and whether the development can be disaggregated. In terms of format the application is clear that the nature of the proposed use is for convenience goods and although there is a small element of comparison goods this is restricted to time limited special offers which are ancillary to the main use and therefore the requirements of the format cannot be changed to reduce the scale of the proposal.
- 6.19 On the basis of the proposal and the consideration of sequentially preferable locations there are no sites available and therefore if there are no suitable sequentially preferable locations, the sequential test is passed.
- 6.20 Once the sequential test is passed the NPPF states at paragraph 89 that an impact assessment is required if the development is over a proportionate, locally set floorspace threshold (or default is 2,500sqm) to consider the impact on planned investment in Carlisle City Centre and the overall impact on vitality and viability. Planning Practice Guidance states that the impact test determines whether there would be likely significant adverse impacts of locating main town centre development outside of existing town centres (and therefore whether the proposal should be refused in line with policy). Paragraph 90 of the NPPF continues that where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 89, it should be refused.
- 6.21 Policy EC6 of the local plan echoes the National Planning Policy Guidance and requires the submission of an impact assessment where the threshold would be breached.
- 6.22 The purpose of the impact test is to ensure that the impact over time (up to 5 years (10 for major schemes) of certain out of centre and edge of centre proposals on existing town centres is not significantly adverse. The test relates to retail, office and leisure development (not all main town centre uses) which are not in accordance with an up to date Local Plan and outside of existing town centres.
- 6.23 As a guiding principle impact should be assessed on a like-for-like basis in respect of that particular sector (e.g. it may not be appropriate to compare the impact of an out of centre DIY store with small scale town-centre stores as they would normally not compete directly). Retail uses tend to compete with

their most comparable competitive facilities.

- 6.24 The proposal consists of a new Class A1 discount foodstore with a gross internal area of 1,900 sqm and a potential split of net retail space of 1,003sqm convenience/ 252sqm comparison. It can be seen immediately from those figures that the proportion of retail space given over to comparison goods is very limited. In relation to convenience retail the proposal is significantly below the NPPF threshold of 2,500sqm for impact assessments. The Local Plan reduces the impact threshold to 1,000 sqm in order to assess proposals and therefore a Retail Impact Assessment is required.
- 6.25 The applicant has undertaken an impact test which considers a base line at 2018 and a projection at 2025 which accords with the PPG requirements at the time of submission in order to assess impact. Delays with the application have been as a result of additional work in relation to drainage and flood impacts of the development which has delayed consideration however the trading year for retailers has been unusual and updating to take into account 2020 data may not provide a true reflection of potential impacts. Consideration has been given to trade diversion away from existing centres.
- 6.26 The report acknowledges that whilst most customers will come from within a 5-minute drive time there will be consumer spend draw from outside that area and there will be some trade diversion including from its own stores as well as direct competitors. The main diversion of trade to consider is however the impact on City Centre stores. The report concludes that the impact of the development will be 1.9% on the city centre with the greatest impact on the City Centre Tesco. That level of impact is not significant and therefore the proposed development passes the impact test. It is worth noting however that since the submission of the application trade at the City Centre store has significantly changed with its closure during works at Victoria Viaduct and the advent of the Covid-19 pandemic which has reduced the amount of footfall in the City Centre this year. These will be directly felt on the Tesco store and whilst it is acknowledged that additional impacts may appear to take a disproportionate effect on the main convenience operator in the city centre the timing of such events is unique. Hence the need to consider the position at 2018 which avoids anomalous data.
- 6.27 It should be noted that in terms of representations to this application, there has been a level of support from local people particularly on the retail aspect of the application. One thing that has been identified from the impacts of Covid-19 was the need to be able to shop local. Restrictions meant people were limited in their daily exercise and at the peak of lockdown were advised to combine a daily exercise or a short walk with a visit to the supermarket for essential supplies to limit outdoor activities. An unusual situation and one that in future years we hope won't have to be repeated, but it did highlight the responses prior to the pandemic that some local people wanted a store that they could walk to which would also provide them with something more aligned to their family budgets. The unique circumstances we found ourselves in during 2020 manifested the points made and the proposal to provide a discount store in this location may provide those shop local benefits.

- 6.28 It should be noted that as part of the operating model the store would seek to operate in a complementary location to one of the Big-4 convenience stores. This location would not only impact on the City Centre Tesco store but also the Warwick Road store. If the impacts are not on the city centre as part of the sequential approach planning should not seek to interfere with market competition.
- 6.29 PPG states that if an out-of-centre site is to be developed preference should be given to accessible sites that are well connected to the town centre. The proposed site is located on a main arterial route into Carlisle with public transport access. The site is well connected and easily accessible to those in the east of Carlisle within both the city and the surrounding rural area.

### **3. Impact On Flood Risk**

- 6.30 This site lies within an area designated as Flood Zone 3 and as such there is potential for the site to flood and the proposed discount foodstore is referred to as a "less vulnerable use" in flood risk terms. Members will be aware that during the storm events in 2005 and 2015 the site and surrounding area was underwater. New flood defences were installed after the 2005 floods however the storm event in 2015 caused additional flooding and the Environment Agency are now in the process of installing additional defences. The site lies within Flood Zone 3a which is not functional flood plain and is defended in flood risk terms however there is still the requirement to assess the proposal against the Government's guidance on flood risk as well as consider a possible breach scenario.
- 6.31 Planning Practice Guidance states that "The National Planning Policy Framework sets strict tests to protect people and property from flooding which all local planning authorities are expected to follow. Where these tests are not met, national policy is clear that new development should not be allowed". This is crucial to this application and whilst the retail aspects of the application considered above may be considered to be acceptable and many of the other matters in this application are reserved for later consideration, the issue of flood risk remains key to the principle of whether development is acceptable.
- 6.32 In areas at risk of flooding or for sites of 1 hectare or more, developers undertake a site-specific flood risk assessment to accompany applications for planning permission and one was submitted with this application. In decision-taking, where necessary, local planning authorities also apply the 'sequential approach'. In decision-taking this involves applying the Sequential Test for specific development proposals and, if needed, the Exception Test for specific development proposals, to steer development to areas with the lowest probability of flooding. Where development needs to be in locations where there is a risk of flooding as alternative sites are not available, local planning authorities and developers ensure development is appropriately flood resilient and resistant, safe for its users for the development's lifetime, and will not increase flood risk overall.  
The objectives of a site-specific flood risk assessment are to establish:

- whether a proposed development is likely to be affected by current or future flooding from any source;
- whether it will increase flood risk elsewhere;
- whether the measures proposed to deal with these effects and risks are appropriate;
- the evidence for the local planning authority to apply (if necessary) the sequential test, and;
- whether the development will be safe and pass the Exception Test, if applicable.

- 6.33 The sequential approach to flood risk planning is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. The aim should be to keep development out of medium and high flood risk areas (Flood Zones 2 and 3) and other areas affected by other sources of flooding where possible. Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 (areas with a high probability of river or sea flooding) be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required.
- 6.34 For individual planning applications where there has been no sequential testing of the allocations in the development plan, or where the use of the site being proposed is not in accordance with the development plan, the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear, for example, the catchment area for a school. In other cases, it may be identified from other Local Plan policies, such as the need for affordable housing within a town centre, or a specific area identified for regeneration. For example, where there are large areas in Flood Zones 2 and 3 (medium to high probability of flooding) and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives.
- 6.35 When applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken. For example, in considering planning applications for extensions to existing business premises it might be impractical to suggest that there are more suitable alternative locations for that development elsewhere. For nationally or regionally important infrastructure the area of search to which the Sequential Test could be applied will be wider than the local planning authority boundary.
- 6.36 Any development proposal should take into account the likelihood of flooding from other sources, as well as from rivers and the sea. The sequential approach to locating development in areas at lower flood risk should be applied to all sources of flooding, including development in an area which has critical drainage problems, as notified to the local planning authority by the Environment Agency, and where the proposed location of the development would increase flood risk elsewhere.
- 6.37 It is for local planning authorities, taking advice from the Environment Agency as appropriate, to consider the extent to which Sequential Test



considerations have been satisfied, taking into account the particular circumstances in any given case. The developer should justify with evidence to the local planning authority what area of search has been used when making the application. Ultimately the local planning authority needs to be satisfied in all cases that the proposed development would be safe and not lead to increased flood risk elsewhere.

- 6.38 The Exception Test, as set out in paragraph 160 of the Framework, is a method to demonstrate and help ensure that flood risk to people and property will be managed satisfactorily, while allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available.
- 6.39 Essentially, the 2 parts to the Test require proposed development to show that it will provide wider sustainability benefits to the community that outweigh flood risk, and that it will be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall.
- 6.40 Local planning authorities will need to consider what criteria they will use in this assessment, having regard to the objectives of their Local Plan's Sustainability Appraisal framework, and provide advice which will enable applicants to provide the evidence to demonstrate this part of the Exception Test is passed.
- 6.41 If a planning application fails to score positively against the aims and objectives of the Local Plan Sustainability Appraisal or Local Plan policies, or other measures of sustainability, the local planning authority should consider whether the use of planning conditions and/or planning obligations could make it do so. Where this is not possible, the Exception Test has not been satisfied and planning permission should be refused.
- 6.42 The developer must provide evidence to show that the proposed development would be safe and that any residual flood risk can be overcome to the satisfaction of the local planning authority, taking account of any advice from the Environment Agency. The developer's site-specific flood risk assessment should demonstrate that the site will be safe and that people will not be exposed to hazardous flooding from any source. The following should be covered by the flood risk assessment:
- the design of any flood defence infrastructure;
  - access and egress;
  - operation and maintenance;
  - design of development to manage and reduce flood risk wherever possible;
  - resident awareness;
  - flood warning and evacuation procedures; and
  - any funding arrangements necessary for implementing the measures.
- 6.43 In terms of this application, the applicant has provided a detailed flood risk assessment which deals with the issues as required by the guidance. It confirms that the proposed use is a "less vulnerable use" and is therefore compatible with Flood Zone 3a. On first principles the use would be acceptable subject to matters of detail and satisfying the relevant tests.

- 6.44 In terms of the sequential test the applicant states that as the use is less vulnerable and the Flood Zone is 3a they have undertaken an assessment of available sites in the area and there are no alternatives and thereby satisfy the Sequential Test. The initial assessment by the applicant only looked at sites within 500 metres of the site however this was extended to all the sites which were also subject to the Retail sequential test including those around the city centre and other smaller local centres. In flood risk terms the larger sites which formed part of that assessment were also in defended areas such as Caldew Riverside and those sites which were in Flood Zone 1 such as the former Hoopers building or Lowther Street were not suitable for the proposal. Whilst the 500 metres initial search was considered to be too narrowly defined, extending the search area to include those sites considered for a retail proposal didn't come up with an alternative site available that was of lower risk. This means that if the consideration is based on the need for this proposal to deliver retail to the east of Carlisle as accepted in the Retail Assessment and Sequential Test then the Sequential Test for flood risk has been satisfied. The only alternatives in Flood Zone 1 would be outside the limits of the urban area or to other parts of Carlisle which do not serve the east of the City. As the Sequential Test has been satisfied, the Exception Test is not triggered for the proposed use in line with the Flood Risk Vulnerability Table contained in the PPG.
- 6.45 The Environment Agency (EA) has been consulted on the application and whilst they initially had objections, the Flood Risk Assessment was updated in February 2020 and they have removed their objection as the Flood Risk Assessment is compliant with the requirements for a FRA in the National Planning Policy Framework (NPPF) and the EA are satisfied that:
- unless the flood defence is breached or overtopped (considered a low probability event) it demonstrates that the proposed development will not be at an unacceptable risk of flooding or;
  - exacerbate flood risk elsewhere.
- This is on the basis that the proposed development must proceed in strict accordance with this FRA and the mitigation measures identified as it will form part of any subsequent planning approval. Any proposed changes to the approved FRA and / or the mitigation measures identified will require the submission of a revised FRA as part of an amended planning application.
- 6.46 At the time however recent heavy rainfall events (Storm Ciara and Storm Dennis) have identified water ingress at the proposed development site that both the EA and Lead Local Flood Authority (LLFA) were previously unaware of. The water ingress experienced necessitated the deployment of pumps by the EA to reduce the risk of flooding. The Agency and Cumbria County Council (Lead Local Flood Authority) were investigating the ingress of water with a view to understanding the source(s) and the mechanism(s) occurring. Until there was a better understanding of the mechanism(s) responsible then the integrity of the surface water management system proposed may be compromised to the extent that potentially it results in an increase on and/or off site of flood risk. Surface water management is not within the EA's remit however they have made the LPA aware of the recently changed situation at site and the ongoing investigation. The EA therefore feel it would be prudent

to await for the findings of the investigation prior to a decision being taken on the surface water management scheme proposed and required at site to ensure no increase in risk of flooding on or off site. It is not the Agency's intention to provide pumping on a "long term" basis at this location to reduce flood risk.

- 6.47 In addition to the above the EA noted that the surface water management system proposed in the FRA (Section 7.2.2) states "Pumping will be required for flows to be discharged to either the United Utilities combined sewer crossing the site or the highways surface water sewer adjacent to the eastern site boundary". They had concerns as to the sustainability of a system that effectively relies of two pumping stations.
- 6.48 Further investigations have taken place and took considerable time to resolve which meant that this application had been delayed until the Environment Agency and LLFA were able to resolve the issue. The LLFA has now informed the City Council that the cause of the water ingress has been dealt with and should not be affected by the proposed application. They have subsequently been able to provide the LPA with updated consultation response in relation to surface water which is outlined in the drainage section of this report.
- 6.49 The EA response reminds the LPA that it is for the local planning authority to determine if the sequential test has to be applied and whether or not there are other sites available at lower flood risk.
- 6.50 On the basis of the above information the proposed use is acceptable.

#### **4. Whether the Scale and Design of the Proposal is Acceptable**

- 6.51 The application seeks outline planning permission for a convenience retail store with associated car parking and landscaping. As all matters are reserved the design and layout will be considered at a later stage. Given the proposed location it is anticipated that a design could be prepared which would accord with local plan Policy SP6 even allowing for increased floor levels to deal with flood risk (anticipated 300mm above ground level) and therefore scale and design would be acceptable and be able to be compliant with the Policy.

#### **5. Highways Impact**

- 6.52 The development proposes access from the A69 (Warwick Road). Although access is a Reserved Matter, it has been important to establish that there would be no objections to the principle of an access in this location from the Highway Authority. Given the proximity of other accesses onto Warwick Road including necessary access/egress to the adjacent car wash and the junction with Victoria Road, detailed consideration has been given to establishing that a new access to cater for the proposed store, potential customer parking and deliveries, would not impinge on highway safety. The proposed site access arrangements comprises a new signalised junction at the Warwick Road/Victoria Road junction. The design of which would be a

reserved matter.

- 6.53 A transport assessment was submitted with the application which was based on a store of 1900sqm gross internal area. The proposed development indicates parking for 149 spaces for cars including 12 accessible spaces, 13 parent and child spaces and 2 charging points together with secure cycle parking and storage provision. The transport assessment has the parking requirements and traffic flows at two peak period times Friday 17:00-18:00 and Saturday 12:00-13:00.
- 6.54 It should be noted that many representations raise the increase in traffic as an issue and Members will be aware that during the time of this application there was a long period of roadworks affecting traffic flows on Warwick Road. This was particularly the case with works by United Utilities and the Environment Agency which at times overlapped but resulted in additional traffic signals and reduction to traffic flows. In addition, roadworks at the Warwick Road/Eastern Way junction meant that for some time traffic was re-routed via Durranhill Road/Victoria Road to avoid long delays. Some have compared the signalisation during the road works to the likely impacts of the new junction arrangements. Whilst it does result in an additional set of traffic lights which may slow progress along Warwick Road, it would allow for the two-way flow of traffic along Warwick Road which was halted during the road works (only single carriageway in one-direction at times). In addition, it would allow traffic to access/egress from Victoria Road at a programmed time rather than trying to join/cross free flowing traffic.
- 6.55 The Highway Authority (Cumbria County Council) has considered the proposed level of car parking in relation to the proposed floorspace and the potential traffic flows and need for junction improvements. The Highways Authority has no objections with regards to the principal of development at this site and no objections are raised with regards to the approval of planning permission subject to a series of conditions ( changes to the highway verge/footway; carriageway/footways/footpaths/cycleway construction details; ramps at junctions; approved access only; parking requirements; vehicle turning space; parking and servicing arrangements; construction traffic management plan; and, annual report in relation to the travel plan). To facilitate this proposal, they acknowledge that a signalised junction has been proposed and the outlined design is agreeable to the Highways Authority. As normal a 278 will be agreed for the works required to the existing highway including the additional UTC control that is currently used for the Warwick Road corridor into the city centre. A Safety Audit (Stage 1) has been undertaken by the applicant with regards to the proposed design and the recommendations within the report have been incorporated into the design. A Stage 2 Road Safety Audit will be required for the detailed design of the site at the full planning stage (Reserved Matters application).
- 6.56 One representation has pointed out the localised issue relating to parking during match days. Currently along Warwick Road there is a wide pavement particularly in the vicinity of this site. It has become established practice for cars to be parked in a line along the pavement allowing pedestrians to pass but taking up space. These cars would be displaced in the vicinity of the

proposed new junction and would need to park elsewhere however it would only be a small number of cars which would be impacted on. Given that match day parking is available in other locations it is not seen as a significant issue in relation to the proposed length of pavement. The operator of the store would also have to ensure that car parking was available for its customers and not taken over by match day parking (some operate 2-3-hour free parking) to ensure the highway continues to function safely for customers of the proposed store.

- 6.57 As part of the application the applicant has also submitted a Travel Plan. In order for the Highways Authority to monitor this plan, the applicant is required to contribute £6,600 towards the cost of this undertaking. As we are not able to condition financial payments this would have to be by way of a S106 legal agreement.
- 6.58 The proposal is therefore acceptable in highways terms.

## **6. Drainage Impact**

- 6.59 The proposed development is on a greenfield site within a flood risk zone and whilst the issue of flood risk is considered earlier in this report, it is nevertheless the requirement of the Lead Local Flood Authority (LLFA) to consider the drainage for the site which in this instance has to take into account the Flood Risk Assessment and proposed mitigation strategy. Whilst the application is in outline and details would normally be submitted at Reserved Matters stage the location of this proposal required additional technical details to ensure an adequate assessment of the principle of this site being developed could be undertaken. The initial response of the LLFA was that additional information was requested. The local ward councillor considers that the ability to have direct discussions on such matters direct between the two parties should not be allowed however where there are technical issues that require resolution it is the role of the planning authority to use a planning condition where matters may be resolvable. In this instance, the usual planning conditions would have required additional information in relation to the technical details without any certainty over the outcome. As the site is within a flood zone it was important that these issues were explored in more detail to give members some degree of certainty as to whether these matters can be resolved or not.
- 6.60 Additional technical information has therefore been submitted by the applicant. It has been clarified that the proposed Lidl is to discharge surface water into the culverted ordinary watercourse, or as stated within the additional information, surface water sewer. The LLFA stated previously that discharge to the ordinary watercourse is the preferred option of the LLFA for the discharge of surface water as infiltration testing in accordance with the BRE 365 method proved not to be viable.
- 6.61 Further CCTV surveys have been undertaken on the culverted ordinary watercourse to identify its location, condition and levels. These are normally required by planning condition if not undertaken at the Outline stage. The results of the CCTV survey illustrate that the 600mm diameter concrete

culvert is in good condition downstream of the proposed connection manhole to its outfall into Durranshill Beck. The applicant has confirmed within the FRA that the QBar greenfield runoff rate for the site of 4.1l/s is to be the maximum surface water discharge rate into the watercourse and attenuation is to be provided to accommodate a 1 in 100 year plus 40% to account for climate change storm event. In the previous response to this application it was noted within the Micro Drainage calculations that the drainage capacity was undersized by approximately 2m<sup>2</sup>. The applicant has revised the drainage design and re-run the Micro Drainage calculations which now illustrate that no flooding will occur on site during a 1 in 100 year plus 40% to account for climate change storm event.

- 6.62 The attenuation provided on the development site is required to take into consideration the presence of shallow ground water as found during site investigation. Some objectors who are concerned about future flooding had remarked about the ground water levels which occur during periods of heavy rainfall. There is the potential for any storage solution to suffer buoyancy from groundwater pressures. As noted within the LLFA earlier response, further information in relation to the detailed design of the drainage network will be required to be submitted to the LLFA for comment at Reserved Matters application. The detailed design of the drainage system will include all relevant calculations for the underground storage, including appropriate safety factors, as defined in section 24.1 of the SUDS Manual. The applicant has noted the requirement for pollution control measures in line with page 568 of the SuDS manual in relation to the treatment of the surface water prior to discharge. The applicant has confirmed that permeable blacktop will be used for the surfacing of the development with further details of the pollution control submitted at a later stage of the planning process.
- 6.63 The LLFA noted previously that the development will result in the loss of floodplain storage if the existing flood defences were overtopped during a flood event. The Environment Agency (EA) has considered the point raised and considered that the FRA submitted is compliant with the requirements for an FRA in the NPPF. As such the EA are satisfied that the proposed development will not be an unacceptable risk of flooding or exacerbate flooding elsewhere. This is an important factor when considering the proposed drainage for the site which to accord with the LLFA requirements includes an uplift for climate change and has taken into account existing ground conditions.
- 6.64 In summary relating to surface water therefore, the LLFA have no objections with regards to the approval of planning permission subject to conditions relating to: a surface water drainage scheme; construction surface water management plan; and, under separate legislation Ordinary Watercourse Flood Defence Consent is required.
- 6.65 In relation to foul drainage, United Utilities require drainage for surface water and foul water to be disposed of by way of separate systems and reinforce the LLFA surface water drainage scheme condition. It is also noted that they have a number of assets in the vicinity of the site and require stand-off distances for construction and the ability to access their infrastructure for

operational and maintenance purposes. This can be dealt with in detail at the Reserved Matters stage.

## **7. Landscaping Considerations**

- 6.66 The application proposes a foodstore with associated car parking and landscaping. Landscaping is a reserved matter and details are not contained within the current application. It should be noted however that as part of the application the requirement for a new access necessitates tree removal for visibility and the proposed site layout indicates that at least four trees would have to be removed for junction widening. The planning statement makes reference to improved landscaping however this is not evident at this stage of the planning process. It should also be noted that in its wider context, landscaping can refer to hard landscaping (external surfaces) as well as soft (vegetation). It would therefore be prudent to use a planning condition to ensure that any trees lost as a result of the development are replaced to accord with Policy GI6 of the Local Plan. Whilst there is a wide strip of landscaping at the front of the site which may be an obvious choice, United Utilities has made reference to ensuring that no planting occurs within close proximity to their protected assets. The exact location of replacement trees would therefore have to be determined at the reserved matters stage.
- 6.67 Policy GI3 relates to biodiversity and whilst the larger field remains there would be some loss of ecological value by removal of vegetation to build the store and car park. To ensure that no protected species are harmed during the process an informative stating that works should stop if protected species are found and specialist advice sought would be appropriate to include in any decision.

## **8. Other Matters**

- 6.68 The Police's Crime Design Advisor was consulted on the application however as this is an outline application there are very few details to consider. At the detailed design stage Lidl consider the layout to ensure that opportunities for anti-social behaviour and crime are minimised. They provide well-lit schemes which deter criminal activity and will install CCTV if required. These matters can be picked up at the detailed design stage and advised separately where not covered by planning requirements.
- 6.69 The Council's Access Officer has raised no concerns about the development as level access can be achieved to the store and accessible parking is proposed.
- 6.70 The Council's Environmental Health service raises no objections to the proposal however it notes that if permission is granted, the company must ensure that an "Application for the Registration of a Food Business" is received at least 28 days prior to trading.

## **Conclusion**

- 6.71 In planning terms Members must first consider whether the principle of

development is acceptable. There are three strands to this element. The Retail and Sequential Test (for a proposed town centre use), the retail impact assessment on the vitality and viability of the town centre, and the Flood Risk including Sequential Test.

- 6.72 Having undertaken the assessment in the report the principle is considered to be acceptable and the relevant tests have been passed however this is on the basis that the proposed use is in the location required due to its need to serve those in the east of the city.
- 6.73 Once the principle of development has been established other material considerations are to be taken into account and given that the proposed development is an Outline application, other matters such as scale, design and layout would be determined at a later stage.
- 6.74 In terms of highway matters and drainage, whilst the details would to some degree be reserved for a later application, details have been provided to ensure that the impacts on these two essential issues are acceptable or at least would be so on the basis of complying with the proposed planning conditions.
- 6.75 In terms of landscape and impact on trees the proposed development would result in the loss of some existing trees however this can be mitigated. Other matters are also considered to be satisfactory.
- 6.76 When making a balanced judgement on these factors it is recommended that this application is approved with conditions, subject to the completion of a S106 agreement to secure a travel plan monitoring contribution of £6,600. If the Legal Agreement is not completed, delegated authority should be given to the Corporate Director of Economic Development to refuse the application.

## **7. Planning History**

- 7.1 The only planning history related to this site was application 15/0836 for the erection of foodstore with associated car parking and servicing which was withdrawn.

## **8. Recommendation: Grant Subject to S106 Agreement**

- 1. In case of any "Reserved Matter" application for approval shall be made not later than the expiration of 3 years beginning with the date of this permission, and the development shall be begun not later than whichever is the later of the following dates:
  - i) the expiration of 3 years from the date of the grant of this permission, or
  - ii) the expiration of 2 years from the final approval of the reserved matters, or, in the case of approval on different dates, the final approval



of the last such matter to be approved.

**Reason:** In accordance with the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended by The Planning and Compulsory Purchase Act 2004).

2. Before any work is commenced, details of the layout, scale, appearance, access and landscaping of the site (hereinafter called "reserved matters") shall be submitted to and approved by the local planning authority.

**Reason:** The application was submitted as an outline application in accordance with the provisions of Article 3 of the Town and Country Planning (General Development Management Procedure) Order 2015.

3. The development shall be undertaken in accordance with the approved documents for this Outline Permission which comprise:

1. the submitted planning application form;
2. the Site Location Plan received 30 October 2019;
3. the Proposed Site Layout (Dwg ZZ-XX-DR-A-91-0001 Rev P9);
4. the Access Arrangement Option Y (Dwg 16-1102/205 RevC);
5. the Access Arrangement Option Y (Dwg 16-1102/206);
6. the Planning and Retail Assessment dated November 2019;
7. the design and access statement received 30 October 2019
8. the Transport Assessment Issue 1 dated October 2019;
9. the travel plan Issue 1 dated October 2019;
10. the flood risk assessment and associated appendices version 4 received September 2020;
11. the sustainability statement received 30 October 2019
12. the statement of community involvement November 2019;
13. the emergency flood response plan version 1 January 2020;
14. the Road safety audit and response report January 2020
15. the additional drainage information letter from SLR dated 16 November 2020;
16. the highway technical note dated 30 June as updated;
17. the Notice of Decision; and
18. any such variation as may subsequently be approved in writing by the Local Planning Authority.

**Reason:** To define the permission.

4. The carriageway, footways, footpaths, cycleways etc shall be designed, constructed, drained to the satisfaction of the local planning authority and in this respect further details, including longitudinal/cross sections, shall be submitted to the Local Planning Authority for approval before work commences. No work shall be commenced until a full specification has been approved. Any works so approved shall be constructed before the development is brought into use.

**Reason:** To ensure a minimum standard of construction in the interests of highway safety. To support Local Transport Policies LD5, LD7 and LD8.

5. Details showing the provision of a vehicle turning space within the site, which allows vehicles visiting the site to enter and leave the highway in a forward gear, shall be submitted to the Local Planning Authority for approval. The development shall not be brought into use until any such details have been approved and the turning space constructed. The turning space shall not thereafter be used for any other purpose.

**Reason:** To ensure that provision is made for vehicle turning within the site and in the interests of highway safety. To support Local Transport Plan Policies: LD7and LD8

6. The use shall not be commenced until the access and parking requirements have been constructed in accordance with the approved plan. Any such access and or parking provision shall be retained and be capable of use when the development is completed and shall not be removed or altered without the prior consent of the Local Planning Authority.

**Reason:** To ensure a minimum standard of access provision when the development is brought into use. To support Local Transport Plan Policies: LD5, LD7,

7. Ramps shall be provided on each side of every junction to enable wheelchairs, pushchairs etc. to be safely manoeuvred at kerb lines. Details of all such ramps shall be submitted to the Local Planning Authority for approval before development commences. Any details so approved shall be constructed as part of the development.

**Reason:** To ensure that pedestrians and people with impaired mobility can negotiate road junctions in relative safety. To support Local Transport Plan Policies: LD5, LD7and LD8

8. There shall be no vehicular access to or egress from the site other than via the approved access, unless otherwise agreed by the Local Planning Authority.

**Reason:** To avoid vehicles entering or leaving the site by an unsatisfactory access or route, in the interests of road safety. To support Local Transport Plan Policies: LD7and LD8

9. Prior to the start of any development details of the proposed highway changes to Warwick Road and Victoria Road including crossing of the highway verge and/or changes to the footway shall be submitted to the Local Planning Authority for approval. The development shall not be commenced until the details have been approved. The approved changes shall be brought into use prior to the first use of the development.

**Reason:** To ensure a minimum standard of construction in the interests of highway safety and to support Policy IP2 of the Carlisle District Local Plan 2015-2030.

10. An annual report reviewing the effectiveness of the Travel Plan and including any necessary amendments or measures shall be prepared by the developer/occupier and submitted to the Local Planning Authority for approval.

**Reason:** To aid in the delivery of sustainable transport objectives.

11. Details showing the provision within the site for the parking, turning and loading and unloading of vehicles visiting the site, including the provision of parking spaces for staff and visitors, shall be submitted to the Local Planning Authority for approval. The development shall not be brought into use until any such details have been approved and the parking, loading, unloading and manoeuvring facilities constructed. The approved parking, loading, unloading and manoeuvring areas shall be kept available for those purposes at all times and shall not be used for any other purpose.

**Reason:** To ensure that vehicles can be properly and safely accommodated clear of the highway. To support Local Transport Plan Policies: LD7 and LD8.

12. Development shall not commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority. The CTMP shall include details of:
- pre-construction road condition established by a detailed survey for accommodation works within the highways boundary conducted with a Highway Authority representative; with all post repairs carried out to the satisfaction of the Local Highway Authority at the applicant's expense;
  - details of proposed crossings of the highway verge;
  - retained areas for vehicle parking, manoeuvring, loading and unloading for their specific purpose during the development;
  - cleaning of site entrances and the adjacent public highway;
  - details of proposed wheel washing facilities;
  - the sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials on the highway;
  - construction vehicle routing;
  - the management of junctions to and crossings of the public highway and other public rights of way/footway;
  - details of any proposed temporary access points (vehicular/pedestrian)
  - surface water management details during the construction phase

**Reason:** To ensure the undertaking of the development does not adversely impact upon the fabric or operation of the local highway network and in the interests of highway and pedestrian safety. To support Local Transport Plan Policies: WS3, LD4.

13. Foul and surface water shall be drained on separate systems.

**Reason:** To secure proper drainage and to manage the risk of flooding and pollution.

14. Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the Local Planning Authority, no surface water shall discharge to the public sewerage system either directly or indirectly. The drainage scheme submitted for approval shall also be in accordance with the principles set out in the Flood Risk Assessment & Drainage Statement dated November 2020 proposing surface water discharging to the culverted ordinary watercourse. The development shall be completed, maintained and managed in accordance with the approved details.

**Reason:** To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution. This condition is imposed in light of policies within the NPPF and NPPG and in accordance with Policy CC5 of the Carlisle District Local Plan 2015-2030.

15. No development shall commence until a construction surface water management plan has been agreed in writing with the local planning authority.

**Reason:** To safeguard against flooding to surrounding sites and to safeguard against pollution of surrounding watercourses and drainage systems.

16. No work associated with the construction of the development hereby approved shall be carried out before 07.30 hours on weekdays and Saturdays nor after 18.00 hours on weekdays and 13.00 hours on Saturdays (nor at any times on Sundays or Bank Holidays).

**Reason:** To prevent disturbance to nearby occupants in accordance with Policy CM5 of the Carlisle District Local Plan 2015-2030.

17. Prior to their use as part of the development hereby approved, full details of all materials to be used on the exterior of the buildings, including roofs, walls, cladding, doors, windows, external frames and rainwater goods shall be submitted to and approved in writing by the local planning authority. The development shall then be undertaken in strict accordance with the approved details.

**Reason:** To ensure the development is acceptable visually and

harmonises with existing development, in accordance with Policies SP6 of the Carlisle District Local Plan 2015-2030.

18. Details shall be submitted of the proposed hard surface finishes to all public and private external areas within the proposed application site and approved in writing by the local planning authority before their use as part of the development hereby approved. The approved development shall be carried out in strict accordance with the details approved in response to this condition.

**Reason:** To ensure that materials to be used are acceptable visually and harmonise with existing development, in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

19. No construction shall commence until, a landscaping scheme has been submitted to and agreed with the local planning authority including details of trees and shrubs to be retained and proposed new planting. The scheme shall include the use of native species and shall also include a detailed survey of any existing trees and shrubs on the site and shall indicate plant species and size for new planting. Any trees which are required to be removed for works associated with the scheme shall be replaced on a 1:1 basis. The scheme shall then be implemented in accordance with the approved details.

**Reason:** To ensure that a satisfactory landscaping scheme is prepared in accordance with the objectives of Policies SP6 and GI6 of the Carlisle District Local Plan 2015-2030.

20. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner, and maintained thereafter to the satisfaction of the Council; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

**Reason:** To ensure that a satisfactory landscaping scheme is implemented and that it fulfils the objectives of Policy SP6 of the Carlisle District Local Plan 2015-2030.

21. No clearance of or damage to hedgerows shall take place during the bird breeding season from 1st March to 31st August unless agreed in writing beforehand by the Local Planning Authority.

**Reason:** To protect features of recognised nature conservation importance, in accordance with Policy GI3 of the Carlisle District Local Plan 2015-2030.

22. Details of the relative heights of the existing and proposed ground levels and the height of the proposed finished floor levels of the building shall be submitted to and approved in writing by the Local Planning Authority before any construction works begin.

**Reason:** In order that the approved development does not have an adverse impact on the living conditions of the occupiers of any neighbouring properties and accords with requirements of the flood risk assessment in accordance with Policies SP6 and CC4 of the Carlisle District Local Plan 215-2030.

23. The approved store shall not be open for business and operating except between 0700 hours and 2300 hours on Mondays-Saturdays (incl Statutory Holidays) and for 6 consecutive hours no earlier than 1000 hours and no later than 1800 hours on Sundays.

**Reason:** To prevent disturbance to nearby occupants in accordance with Policy SP6 of the Carlisle District Local Plan 2015-2030.

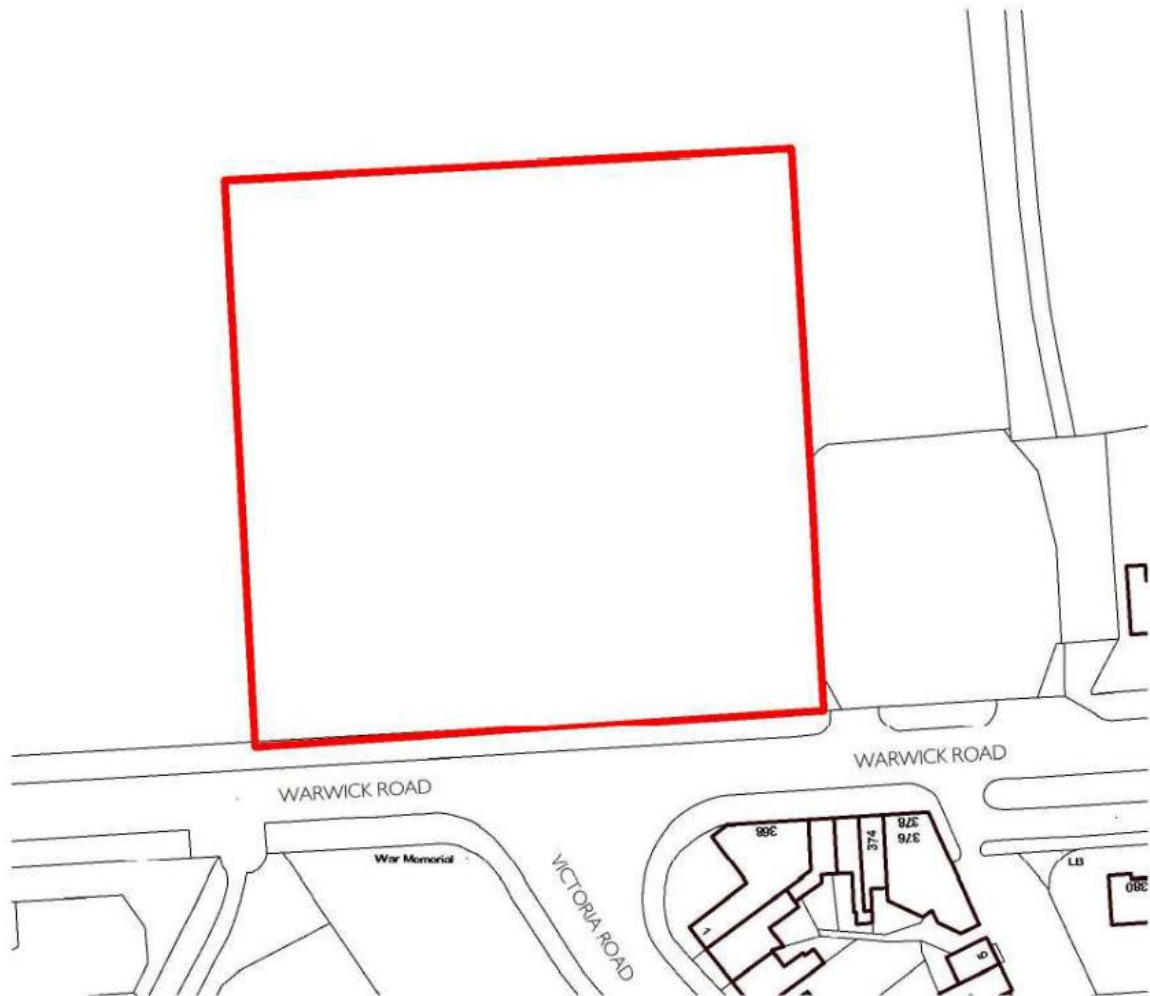
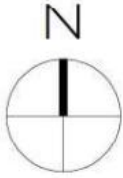
24. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the local planning authority. Further guidance can be found on the Carlisle City Council website "Development of Potentially Contaminated Land and Sensitive End Uses – An Essential Guide For Developers."

Site investigations should follow the guidance in *BS10175:2011 (or updated version) "Investigation of Potentially Contaminated Sites.- Code of Practice "*.

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.

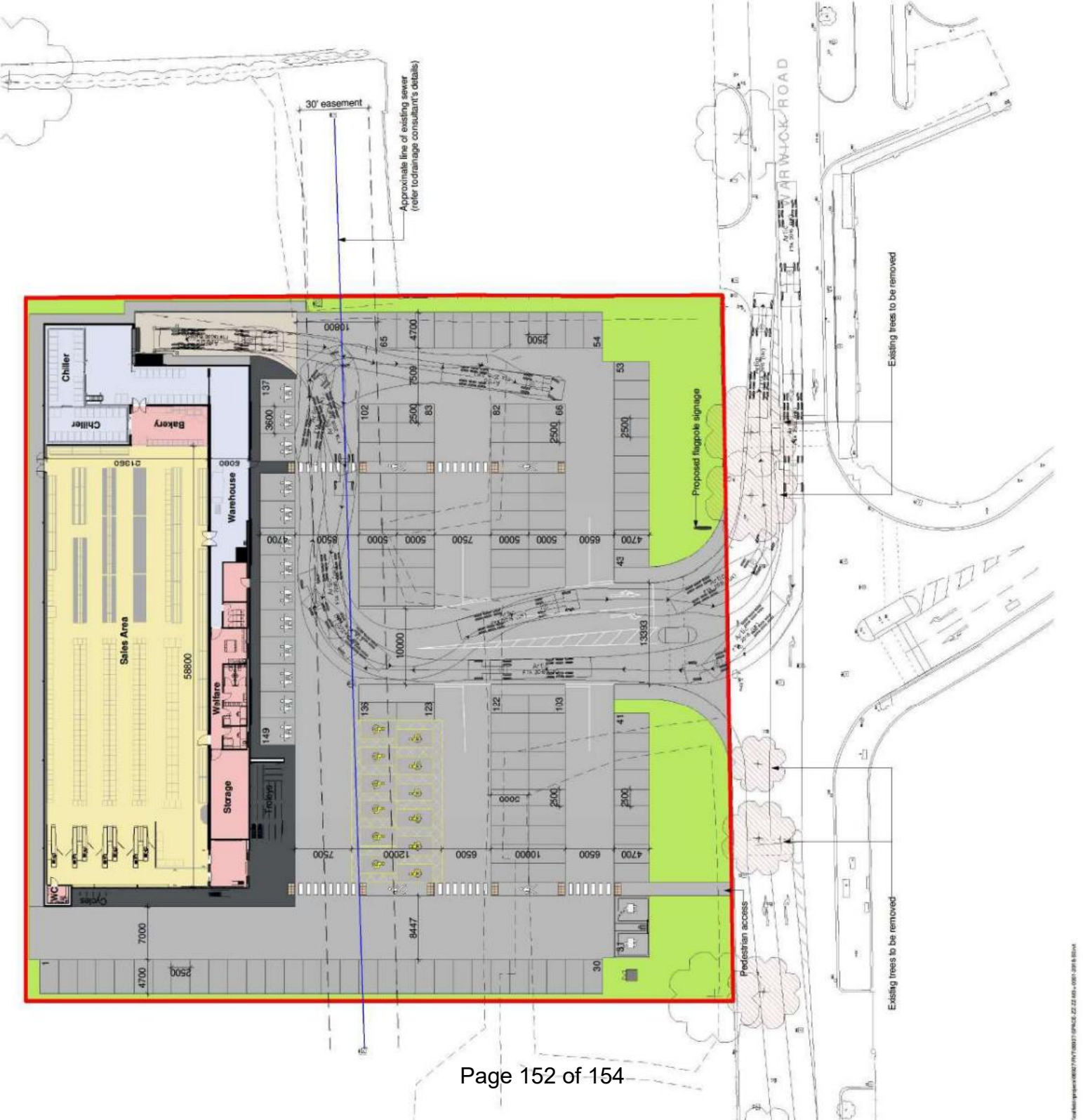
**Reason:** To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

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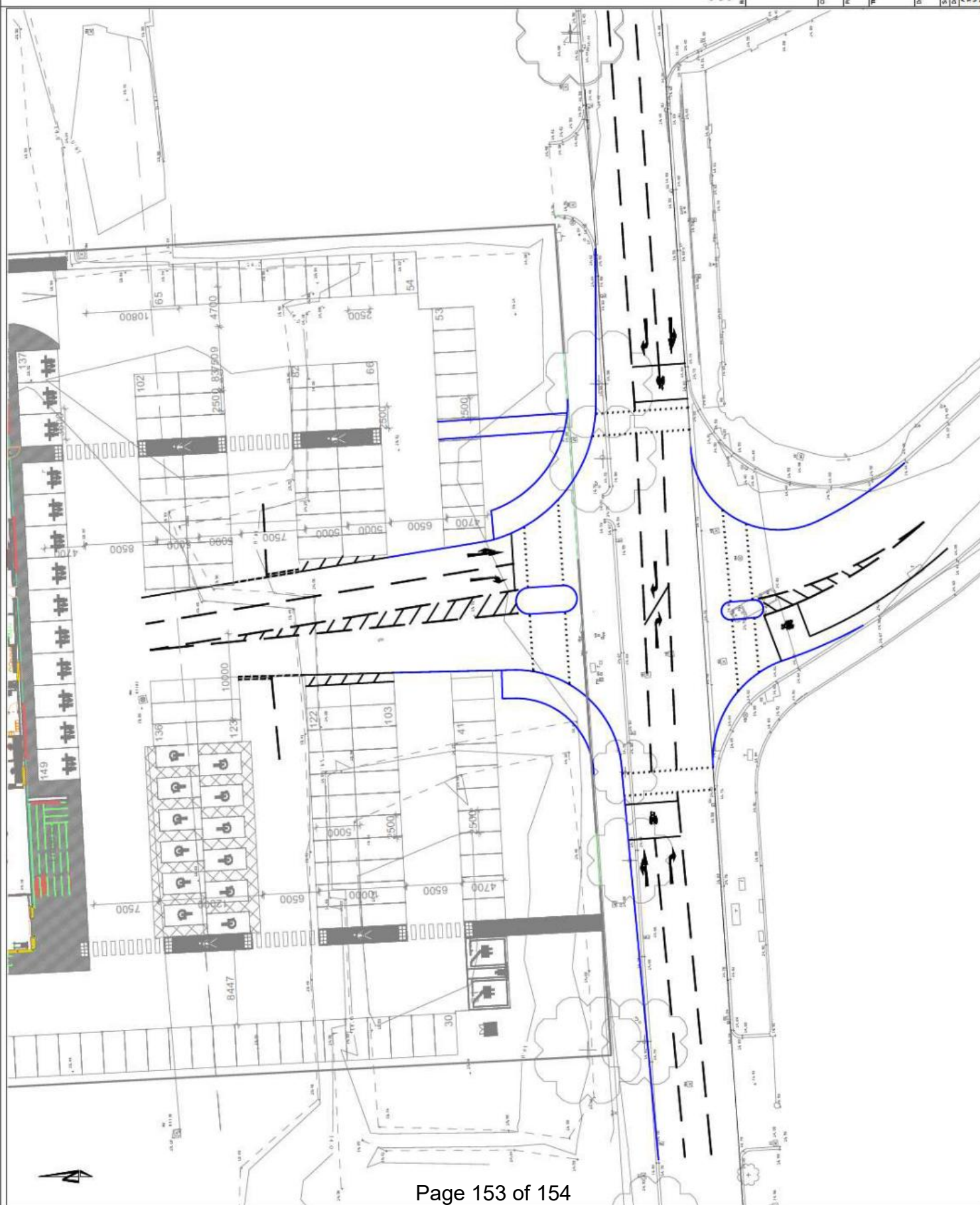


Status	Planning		
Project	Lidl, Warwick Road, Carlisle		
Drawing	Site Location		
Project No.	06927	Dwg. No.	A(90)EXP001 Rev. 4
Scale at A4	1:1250	Drawn	DW Checked KH

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# Cora

Start	LIDL			
Project	Cartlisle			
Site	Access Arrangement: Option Y			
Drawing No.	16-1102/205			
Revision	C			
Author	1200GBAT	Check	29/06/20	YC
Drawn	LS	CHK	APR	YC
Approved (Name)	See sheet 16A-AP27			
Approved (Date)	See sheet 16A-AP27			
Approved (Task)	See sheet 16A-AP27			
Approved (Lead)	See sheet 16A-AP27			

