

SCHEDULE A: Applications with Recommendation

19/0973

Item No: 01

Date of Committee: 05/06/2020

Appn Ref No:
19/0973

Applicant:
Mr & Mrs Keith Ormiston

Parish:
Stanwix Rural

Agent:
Sam Greig Planning

Ward:
Stanwix & Houghton

Location: Land adjacent to Shortdale Cottage, Tarraby Lane, Tarraby, Carlisle, CA3 0JT

Proposal: Proposed Landscaping Of Plot Boundaries And Access Arrangements For Each Plot (Reserved Matters Application Pursuant To Outline Consent 18/0796)

Date of Receipt:
02/01/2020

Statutory Expiry Date
27/02/2020

26 Week Determination

REPORT

Case Officer: Christopher Hardman

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 The Principle of this Reserved Matters Application
- 2.3 Highways and Access
- 2.4 Impact on Neighbouring Properties
- 2.5 Landscaping
- 2.6 Other Matters

3. Application Details

The Site

- 3.1 This site is 0.2ha of former paddock/agricultural land at the end of Tarraby Lane and accessed through Tarraby village. The site is level with a roadside hedge frontage and hedge to the southern boundary. To the west is the

current development of Tarraby View being built by Persimmon which is accessed from Windsor Way. Dwellings on the Tarraby View development adjacent to this site have recently been constructed. To the north lies Shortdale Cottage and on the opposite side of the lane is Shortdale Farm.

Background

- 3.2 The site was granted outline planning permission for residential development in October 2019 under application 18/0796. When considering that application, it was clear that the Carlisle District Local Plan 2015-2030 includes this site as part of the overall allocated housing site U10 although at the time of the Persimmon applications it was not forthcoming as part of their site. When developing larger sites, it may not always be possible to develop them comprehensively and separate applications may seek development in different stages. This application must therefore be considered in the context of an allocated housing site and an extant outline planning permission for residential development.

The Proposal

- 3.3 This application seeks permission for the reserved matters of detail relating to only access and landscaping. Details of the individual dwellings are not provided as part of this application and will require further submission. The drawings indicate that the site would be divided into four plots with each having an individual access onto Tarraby Lane.

4. Summary of Representations

- 4.1 Consultation on this application has been undertaken by the posting of a site notice and direct notification initially to 2 neighbouring properties. The site notice was removed shortly after display and a further site notice was put up along with direct notification to 27 additional properties. In response 1 comment and 7 objections have been received.
- 4.2 The objections raise the following issues:
- More houses built in Tarraby will bring more traffic down the lane, it will be hazardous to have more traffic coming and going
 - Combined with the recent approval of two large dwellings adjacent Meadow Cottage has the potential to adversely impact on the majority of families who live in the vicinity of the proposals and on the hamlet itself
 - Outline approval was given for two dwellings only - this application would result in doubling of associated traffic, contrary to the Outline Approval
 - The proposed access points are dangerously close to a blind bend on the lane
 - The WYG transport assessment undertaken for two dwellings has now been made irrelevant and was flawed as it did not contain the approval of the two dwellings at Meadow Cottage
 - This has been aggravated by the highway authority who consider two vehicle passing places as sufficient to satisfy the situation
 - The highway authority have failed to consider the impact of additional

vehicles on the majority of residents of the hamlet due to increase in traffic throughout the length of Tarraby Lane

- This lane is effectively a single carriageway with no passing places
- In addition, the Public House Car Park entrance is close to the junction and a further family dwelling adjacent to Wensleydale
- Transport Assessment and Highway Authority do not appear to have considered the lane is an established amenity with access to the Wildlife Trust and Water Park.
- There is no provision for a footpath or dedicated parking area for visitors down the lane
- The lane is barely able to cope with the weekly visits by refuse vehicles
- Modern farm machinery struggles to remain on the carriageway when accessing the fields
- Approving this on another green space on the edge of the city would have a serious impact on the life of residents in Tarraby and the local rural environment
- Tarraby is a peaceful conservation area, some Listed properties and adjacent to Hadrian's Wall World Heritage Site, close to losing tranquillity enjoyed by visitors and residents
- Much disparity between the original application and the subsequent reserved matters application and should have a new full application, transport assessment and public consultation
- Object on the grounds of extra traffic, potential impact on a visually impaired resident
- The road is unfit for increased vehicular traffic
- Without pavement or lighting, fear for safety of residents of the new Tarraby View estate when walking their dogs or going to/from the Near Boot public House
- Appears we were let down by the highway authority and only a desk top survey performed. no thought given to evening and night time pedestrians on an unlit lane without a pavement
- There are two blind corners
- The blind corner nearest the property a nasty accident occurred about 30 years ago, reported in the paper at the time, the highway authority didn't do anything to improve road safety
- The lane will not withstand the heavy vehicle traffic required to build the houses
- There are a number of popular footpaths leading on/off Tarraby Lane and sometimes passing with a car can be precarious as the road is very narrow. Accident waiting to happen
- At least 8 cars, increasing the amount of traffic will be dangerous
- No one in the village has seen a notice displayed for this application
- Previous application was for two dwellings, this application has doubled the number of units previously applied for. When was approval granted to increase the number of dwellings?
- Raised concerns previously about the proximity of the blind bend. The addition of two dwellings has moved the access point for the first property even closer to the bend. Increased concerns for road safety due to significantly restricted visibility
- Given the plot sizes have reduced in size what guarantees are there that vehicles can exit in forward gear to ensure road safety

- Wish to be made aware of arrangements for the manoeuvring and parking of all site traffic associated with the development, and ensuring regular cleaning of the road surfaces to ensure road safety and minimal disruption
- What consideration have been given to adjustments to the Transport Statement to reflect the increase in dwellings on the site and effect on vehicles using the single track dead end lane
- What will the piece of land adjacent to Plot 1 be used for?
- Applications for outline planning permission seek to establish scale and nature of the proposed development
- Under the GDMPO Outline applications must indicate the area or areas where access points to the development will be situated even if access has been reserved
- Appreciate may seek to amend a proposal but still retain the validity of the original outline proposal
- The outline application established the principle of two residential units was acceptable
- Application form stated two dwellings, site layout showed two access points, Transport Statement referred to two dwellings and land contamination is based on two dwellings. All parties comments were based on two dwellings
- Condition 3 of the outline permission states that permission undertaken in strict accordance with the approved plans
- Current application raises concerns that there are plot boundaries and access points for four dwellings not in accordance with the Outline permission
- The doubling in numbers has not been assessed
- The description does not make it clear that the substance of the proposal has changed which is open to criticism to that of being misleading
- Application should be refused or withdrawn and support the Parish Council and residents who have raised objections
- The processing of the application is unreasonable and could be open to maladministration

4.3 The letter of comment raises the following points:

- Access is very restricted for construction vehicles and future use of the residents of the new properties
- Where will the visitors to the four houses park?
- Access is via a "no through" country lane through Tarraby continuing along a single width lane with two blind corners, potential increase in traffic is a real concern
- Road is used by residents, visitors and farm vehicles at harvest
- Main traffic is on foot, walkers, dog walkers, horse riders and families doing the popular circular walk through the Wildlife Trust land
- Tarraby was first ever designated conservation area
- If granted with proposed two passing places, it threatens the nature of the area and what was previously considered by city forefathers to be important to preserve
- A lot to sacrifice for four new houses

5. Summary of Consultation Responses

Cumbria County Council - Local Highway Authority (LHA) response:

The Highways Authority have no objections with regards to the approval of planning permission subject to the conditions which were applied to the previous approval 18/0796 being applied to any consent you may wish to grant.

Cumbria County Council - Lead Local Flood Authority (LLFA) Response:

The surface water drainage arrangements are not under the scope of this application. However, the Lead Local Flood Authority note that the surface water drainage details were conditioned as part of the planning approval 18/0796 and these are to be scrutinised through a separate discharge of conditions application. Therefore as the proposed access locations will not increase flood risk and the specifics of the surface water drainage proposals are to be examined within a later planning application, no objections are raised with regards to the approval of planning permission.

Cumbria County Council - Public Rights of Way Response: Public Footpath 132011 runs adjacent to the proposed development and must not be altered or obstructed before or after the development has been completed, if the footpath is to be temporarily obstructed then a formal temporary closure will be required, please contact Andy.sims@cumbria.gov.uk for further information, please note there is a 14 week lead in time for this process.

Stanwix Rural Parish Council: - Paragraph 3 of the Decision Notice, granting Outline Consent, in respect of Application Reference 18/0796, states:

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

1. the submitted planning application form received 28 August 2018;
2. the site location plan (Dwg 2946-01) received 28 August 2018;
3. the block plan (Dwg 2946-02) received 28 August 2018;
4. the transport statement produced by WYG received 28 August 2018;
5. the statement on land contamination received 28 August 2018;
6. the Notice of Decision; and
7. any such variation as may subsequently be approved in writing by the Local Planning Authority.

Reason: To define the permission.

Further to the approved documents listed above, and which define the permission.

Part 7 - Residential/Dwelling Units, of the approved Application Form re 18/0796, states that a total of 2 'market residential units' are proposed.

The approved WYG Transport Assessment also states: *"The proposed development comprises two dwellings in a paddock to the north of Tarraby."*

This document also contains an un-numbered Indicative Site Layout Plan showing an identical 2 unit layout to DWG 2946-03, submitted as of Appn 18/0796.

The title page of the Statement on Land Contamination identifies the documents relevance to *"THE ERECTION OF 2 DWELLINGS"* [original emphasis]; while its paragraph 1.1 states: *"This Statement accompanies an*

application for Outline planning permission to erect two dwellings on land to the south east of Shortdale Cottage, Tarraby, Carlisle"

This document also identifies DWG 2946-03, showing 2 dwellings, as information supporting application 18/0976.

Somewhat confusingly, Part 7 of the application form in respect of Appn No 19/0973 wrongly lists DWG 2946-03, Proposed Site Plan, as submitted for approval with the current application 19/0973. Drawing 2946-03 is, however, the Indicative Site Layout, dated 'Aug'18 that forms part of Reserved Matters Appn 18/0796 and shows the application site occupied by 2 dwellings.

The drawing actually submitted in respect of current application 19/0973 is in fact DWG 2946-03 **A** [emphasis added], dated 'Dec '19'. This shows the application site occupied by 4 dwellings on 4 plots – thus doubling the number of units approved under 18/0796.

The proposed doubling of the number of dwellings permitted by 18/0796 far exceeds the scope of the application as described in the Parish Council's Consultation Notice - *'Proposed Landscaping of Plot Boundaries and Access Arrangements for Each Plot (Reserved Matters Application Pursuant to Outline Consent 18/0796)'*.

The proposed 100% increase in density also exceeds the innocuous Development Description, given at Part 5 of the application form, which cites Appn No 18/0796 as the reference number to which the application is pursuant; *"The Reserved Matters application seeks permission for the landscaping of the development in order to establish plot boundaries and the access arrangements to those individual plots."*

Part 7 of the reserved matters application form for 19/0973 seeks clarity regarding the seeking of approval in respect of Appearance, Layout and Scale, all patently relevant to a proposal seeking to double the scale, appearance and layout of the site. These major differences between the Outline and Reserved Matters proposals are not addressed by the applicant. This doubling of the proposed number of dwellings permitted under 18/0796, with commensurate increases in the impacts of residential density; the volume of traffic generated; sewage and drainage discharge etc.; surely constitutes at the very least, a major amendment, rather a simple reserved matter of 'Landscaping of Plot Boundaries and Access Arrangements' and thus requires a new application.

The Notice of Approval in respect of 18/0796 states that *"...the application Outline Planning Permission Has Been Granted for the carrying out of the development referred to in Part 1 hereof and as described and shown on the application and plan(s) submitted, subject to due compliance with the following condition(s):"*

Condition 3 of the notice cites the approved Planning Application Form; the Transport Statement; the Statement on Land Contamination and the Decision Notice itself in so far as it refers to these documents, as defining the permission.

These documents clearly show that outline consent was sought to develop 2 dwellings and as they define the permission granted in respect of 18/0976, the permission granted is capable of providing consent for 2 dwellings only. The additional 2 dwellings, now proposed by 19/0973, cannot therefore have benefit of Outline Planning Consent.

Responses to consultation in respect of 18/0976 were made with regard to the implications of a proposal for 2 dwellings. As 4 dwellings are now

proposed these responses are now substantively misinformed and thus qualitatively unsound in so far as they may be relied upon to inform the decision-making process in respect of Appn no 19/0973.

In view of the foregoing the Parish Council believes that there exists significant major material disparity between Appn No 19/0973 and 18/0976 (Outline); and that this disparity is sufficient to exceed any reasonable person's expectation of what might constitute the ambit of a reserved matters application.

The Parish Council therefore urges the Local Planning Authority to require a new full application; and for the reasons evidenced above it objects strongly to application 19/0973.

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 SP2, SP6, HO1, IP2, CM5, GI3 and GI6 of the Carlisle District Local Plan 2015-2030. The council's Supplementary Planning Document (SPD) "Achieving Well Design Housing" is also a material planning consideration. The proposal raises the following planning issues.

1. Whether The Principle Of The Development Is Acceptable

- 6.3 The NPPF seeks to promote sustainable development and in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.
- 6.4 Outline planning permission for residential development was granted in 2019. The site also falls within the allocated housing site U10 in the Carlisle District Local Plan 2015-2030. There has been no change in planning policy since the previous approval that would warrant refusal of the current application.
- 6.5 The site is well related to the neighbouring development. In light of the foregoing, the site for housing is consistent with the policies in the NPPF and the principle of development remains acceptable. The remaining issues raised by this application are discussed in the following paragraphs of this report.

2. The Principle of this Reserved Matters Application

- 6.6 Stanwix Rural Parish Council and other objectors note that on the previous outline application the transport statement and land contamination statement refer to two dwellings. There is therefore an inherent conflict between background studies and the overall description of the development. In

essence objectors and the Parish Council would argue that permission has only been granted for two dwellings and the applicant and agent would argue that no limit on the number of dwellings has been given.

- 6.7 Case law has determined that application descriptions alone are not sufficient to define a development and that appropriate planning conditions should also be used to define a development and set any limits on that development as long as they are appropriate, relevant and necessary.
- 6.8 In the first instance, the description of the outline application does not include a specified number of dwellings it states "Residential Development (Outline)" and there is no specific planning condition that limits the development to two dwellings. An indicative plan was submitted to indicate the possibility of two dwellings on the site however indicative drawings are precisely that, they are not definitive and if parameters are required to make the development acceptable, they should be set in specific planning conditions. Indicative layouts are useful and assist the local planning authority to identify any issues that may arise so that measures can be put in place to address them. Given the context of this site and the limit on the size of the site, no specific conditions were considered to be necessary to limit the number of residential units.
- 6.9 Two of the submitted documents for the outline application refer to two dwellings and have been seen by objectors as controlling the number of dwellings to be developed. The Contaminated Land Statement is used to determine whether previous and proposed development requires additional measures to determine the level, if any, of contamination in the land, and required remediation, to deal with that contamination. As the application was for outline permission it did not determine where on the site the development would take place. Therefore, the whole of the site should be considered in dealing with potential contamination. The outcome of the report is not affected whether the application was for two or four dwellings as the whole site was considered. No contamination issues arose. The Transport Statement does have significance as the Local Highway Authority may have considered the impacts of the development based only on two dwellings at that point in time. This application includes Access as the reserved matter. The Highway Authority is consulted on this application and should the increase from two to four dwellings be a significant impact on the highway, in their opinion, then this would be picked up in this application and the number of dwellings considered in that context with the relevant control measures in place. The impact of the proposed accesses on the highway is considered in the following section of this report.
- 6.10 One of the objector's refers to the Development Management Procedure Order 2015 (as amended) which refers in section 5 (3) "Where access is a reserved matter, the application for outline planning permission must state the area or areas where access points to the development proposed will be situated." There is a difference between stating where access will be situated and providing the detailed access arrangements at a later stage when it is reserved. At the outline stage it should be made clear, especially with a site of this nature, which direction and the areas access will be taken from so that

the nature of the access can be considered. At the point in time of the outline application it would have been possible to access the site in any one of four directions depending on land ownership arrangements and therefore it was made clear that access was to be taken onto Tarraby Lane. As the overall number of dwellings was not defined in the description it could not be limited as to which access points would be used and could at that time have provided joint access arrangements which may still have facilitated 4 plots. In order to assess the principle of development at the outline stage the direction of access is required however Members will be aware that the response of the Highway Authority comes with a number of planning conditions relating to specific access requirements which would then have to be provided at the reserved matters stage in this instance, on the basis of access being taken from Tarraby Lane.

- 6.11 Overall as the description of the development did not define the number of dwellings and there was no specific condition limiting development the principle of this Reserved Matters application is acceptable.

3. Highways and Access

- 6.12 The proposal in this Reserved Matters application is to take individual access points for each of the dwellings and confirms through details that this would be for four plots.
- 6.13 The previous application for this site 18/0796 which the Highway Authority commented upon did pick up that the outline application referenced 2 dwellings on Tarraby Lane. Nevertheless, it was concluded within the response that the Highway Authority had no objections in principal subject to a contribution of £7,000 being required to improve two passing places on Tarraby Lane. This figure may rise as the effect on utility services has not been taken into account and this figure also assumes that there is a sufficient highway verge width to allow for the road to widen to ideally 4.8m over the width of the passing place. The applicant as part of this scheme would be required to work with the Highway Authority to determine the nature and location of these passing places and a section 278 agreement will be required to undertake the works at the developer's expense.
- 6.14 Following on from this, the current application under consideration is for the access arrangements for 4 dwellings at the same site as the previously approved application 18/0796. As the extra two dwellings are to be sited on an un-adopted highway, in principal the Highway Authority has no objections to the proposals. It is deemed that the two extra dwellings proposed will not increase the contribution required by the Highway Authority to upgrade the passing places on Tarraby Lane. Therefore it is still expected that a contribution of £7,000 for passing places will be made to improve Tarraby Lane. No additional measures have been sought.
- 6.15 The increase in number of dwellings has been raised with the Highway Authority and with regards to the 4 proposed access locations for the dwellings onto Tarraby Lane, no objections are raised to their locations; however further information will be required to be provided later in the

planning process with regards to their surfacing.

- 6.16 A number of objectors have raised concerns about the route of traffic through Tarraby village to this site. The Highway Authority's response is discussed below however they only consider that passing places are required to facilitate traffic movements on the lane. Whilst there are concerns about visitors, pedestrians and other users of the nearby walks they have not stipulated any additional measures for the 4 dwellings.
- 6.17 Therefore to conclude, the Highway Authority has no objections with regards to the approval of planning permission subject to the conditions which were applied to the previous approval 18/0796 being applied in this instance. It should be noted that the previous outline application still exists and those conditions will continue to apply.

4. Impact on Neighbouring Properties

- 6.18 The Council's SPD Achieving Well Designed Housing sets out indicative parameters for residential development to ensure that any impact on neighbouring residential properties is reduced. This is particularly relevant with regards to distances between primary facing windows and boundary treatments. It is noted that the Persimmon development has now been constructed and the position of primary facing rear windows is now known. The development of this site needs to ensure that there is 21m between any primary windows. Whilst this application does not provide details of the positions of the proposed dwellings within each plot, those distances are achievable with the division of the site into four plots. Shortdale Cottage and Shortdale Farm are the nearest established residential properties to the site and as the development is to the south it does not impact directly on those properties and will not create any privacy issues. Plot 1 may have some limited impact on Shortdale Cottage but this can be designed out when future details are forthcoming. It is noted that the upper floors of the adjacent Persimmon development overlook the site but this is normal for development of allocated housing sites for some rear gardens to be adjacent and separated by 1.8m close boarded fencing.

5. Landscaping

- 6.19 The landscaping proposed as part of this application seeks to define the plots for development. Due to the access arrangements it will be necessary to remove small sections of the road frontage hedgerow and driveways will extend across the highway verge. In order to compensate for the loss of that hedgerow it is intended to plant hedgerows between the plots. This means that for the loss of 16m of hedgerow at the site frontage, 84m of new hedgerow would be planted. Whilst the application relates to landscaping the details of the hedgerow planting have not been defined and it would be appropriate to add a planning condition relating to the hedgerow planting to ensure that native species are used which would enhance the biodiversity of the site. In addition, there are no soft planting details within the plots and it would be appropriate to clarify by condition that these details are still required as part of the dwelling proposals for each plot.

6. Other Matters

- 6.20 Consultation and notification of this application has been raised as a concern by objectors. The statutory requirements of consultation on this application have been exceeded by the posting of a site notice as well as neighbour notification. Following the posting of a site notice we were alerted to the fact that the site notice had been removed. It is the duty of the local planning authority to take appropriate action to put in place the required notices however we cannot be responsible if someone removes them. As we were notified early on in the consultation process a further site notice was displayed. Further calls were received that this notice had also been removed although that turned out not to be the case. However, as this was becoming an issue with the application the neighbour notification process was extended to include the whole of Tarraby village. The resultant publicity of this application has therefore been above what was normally required.

Conclusion

- 6.21 In conclusion, the principle of development of this site for housing has been established by the outline application 18/0796 and the scope of this reserved matters application is acceptable. In relation to highway matters, the Highway Authority considers that the proposal is acceptable subject to conditions on the previous outline application which are still to be discharged. The landscape proposals are acceptable although further details are required and therefore subject to further conditions.
- 6.22 On this basis, the application is recommended for approval subject to conditions.

7. Planning History

- 7.1 Planning application 18/0796 for Residential Development (Outline) was granted permission on 18th October 2019.

8. Recommendation: Grant Permission

1. In discharge of requirements for the submission of detailed particulars of the proposed development imposed by condition 2, relating to access and landscaping only, attached to the outline planning consent to develop the site.
2. The development shall be undertaken in strict accordance with the approved documents for this Reserved Matters Approval which comprise:
 1. the Planning Application Form received 18 December 2019;
 2. the Site Location Plan received 18 December 2019 (Drawing no. 2946-01);
 3. the Block Plan received 18 December 2019 (Drawing no. 2946-02);

4. the Site Layout As Proposed received 02 January 2020 (Drawing no.2946-03);
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. Notwithstanding the details provided in this application, further details shall be submitted of the species and density of planting of any new hedgerow along with soft planting proposals within the individual plots in line with a landscaping scheme submitted under condition 10 of the associated outline application 18/0796.

Reason: In accordance with policies SP6 and GI3 of the Carlisle District Local Plan 2015-2030.

GENERAL NOTES

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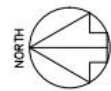
RESIDENTIAL DEVELOPMENT
SHORTDALE COTTAGE
TARRABY, CARLISLE

SITE LOCATION PLAN
AS EXISTING
SHOWING APPROVED PERMISSION DEVELOPMENT

DRAWN BY	AW	SCALE	1:1250 @ A3
DATE	AUG '18	ISSUED BY	2948-01

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GENERAL NOTES



Please note that the new Persimmon development is only partially constructed and is shown for illustrative purposes only

RESIDENTIAL DEVELOPMENT
SHORTDALE COTTAGE
TARRABY, CARLISLE
BLOCK PLAN
AS EXISTING
SHOWING APPROVED PERSIMMON DEVELOPMENT

SEA/NO.	AW	Y/C/L	1:500 @ A1	UNWIN JONES PARTNERSHIP
DATE	AUG '18	DRAWING NO.	2948-02	

