

Date: 9 August 2017



District Council

Town Hall, Penrith, Cumbria CA11 7QF

Tel: 01768 817817

Email: cttee.admin@eden.gov.uk

Dear Sir/Madam

Planning Committee Agenda - 17 August 2017

Notice is hereby given that a meeting of the Planning Committee will be held at 9.30 am on Thursday, 17 August 2017 at the Council Chamber, Town Hall, Penrith.

1 Apologies for Absence

2 Minutes

To sign the minutes Pla/34/7/17 to Pla/56/7/17 of the meeting of this Committee held on 20 July 2017 as a correct record of those proceedings (copies previously circulated).

3 Declarations of Interest

To receive any declarations of the existence and nature of any private interests, both disclosable pecuniary and any other registrable interests, in any matter to be considered or being considered.

4 Planning Issues (Pages 5 - 18)

To note the attached lists of the Deputy Chief Executive.

- a) Applications determined under office delegated powers for the month of July 2017
- b) Reasons for refusal on delegated decisions for the month of July 2017

5 Planning Issues - Applications for Debate (Green Papers) (Pages 19 - 138)

- a) To consider the reports of the Deputy Chief Executive on the following applications:

Item No	Application Details	Officer Recommendation	Page Number
1	Planning Application No: 17/0432 Outline application for residential development, all matters reserved. Land opposite Ivy House, Ousby Mr Boulton	Recommended to: APPROVE Subject to Conditions	21

2	<p>Planning Application No: 17/0334 Residential development with all matters reserved.</p> <p>Land SE of Templars Court, Temple Sowerby Mrs Stephenson</p>	<p>Recommended to:</p> <p>APPROVE Subject to Conditions</p>	37
3	<p>Planning Application No: 17/0351 Outline application for the erection of a dwelling with all matters reserved.</p> <p>Land at Townhead, Lamonby Mr Brown</p>	<p>Recommended to:</p> <p>REFUSE With Reasons</p>	57
4	<p>Planning Application No: 16/1029 Outline application for residential development of 51 dwellings with all matters reserved.</p> <p>White Ox Farm, Inglewood Road, Penrith Other Whitehead and Buckle</p>	<p>Recommended to:</p> <p>APPROVE Subject to Conditions</p>	65
5	<p>Planning Application No: 17/0540 Outline application for residential development, all matters reserved.</p> <p>Land to rear (north) of Thorn Lodge, Stainton Burnetts</p>	<p>Recommended to:</p> <p>APPROVE Subject to Conditions</p>	87
6	<p>Planning Application No: 16/0224 Residential development 13 houses</p> <p>Land off Croglam Park, Rowgate, Kirkby Stephen JIW Properties Limited</p>	<p>Recommended to:</p> <p>APPROVE Subject to Conditions</p>	101
7	<p>Planning Application No: 17/0464 Proposed two storey office building (B1) with ancillary uses, associated car parking, infrastructure and landscaping.</p> <p>Tebay Caravan Park, Orton, Penrith The Westmorland Family</p>	<p>Recommended to:</p> <p>APPROVE Subject to Conditions</p>	120
8	<p>Planning Application No: 17/0493 Notification for Prior Approval for a Proposed Change of Use of an Agricultural Building to 2 No Dwellings.</p> <p>Coupland Beck Barn, Appleby Mr W Patterson</p>	<p>Recommended to:</p> <p>APPROVE Subject to Conditions</p>	134

6 Confirmation of Site Visits (if any)

To confirm the date and location of any site visits that may have been agreed.

7 Any Other Items which the Chairman decides are urgent

8 Date of Next Meeting

The date of the next scheduled meeting of the Committee is 14 September 2017.

Yours faithfully



M Neal
Deputy Chief Executive (Monitoring Officer)

Democratic Services Contact: *John Greenbank*

Please Note: Access to the internet in the Council Chamber and Committee room is available via the guest wi-fi – no password is required

Encs

For Attention

All members of the Council

Chairman – Councillor J G Thompson (Conservative Group)

Vice Chairman – Councillor W Patterson (Independent Group)

Councillors

A Armstrong, Conservative Group
I Chambers, Conservative Group
M Clark, Independent Group
M Eyles, Liberal Democrat Group
D Holden, Liberal Democrat Group

V Kendall, Conservative Group
J C Lynch, Conservative Group
R Sealby, Conservative Group
H Sawrey-Cookson, Independent Group

Standing Deputies

D Banks, Independent Group
A Hogg, Conservative Group
S Orchard, Conservative Group
M Smith, Independent Group

J Raine, Conservative Group
V Taylor, Liberal Democrat Group
J Tompkins, Liberal Democrat Group

This page is intentionally left blank

PLANNING COMMITTEE

Agenda Item No.

APPLICATIONS DETERMINED UNDER OFFICER DELEGATED POWERS FOR THE MONTH OF JULY 2017

App No	App Type	Parish	Description	Location	Applicant	Decision
16/0544	Outline Application	Warcop	Erection of 10 dwellings (including access) revised proposal of previously approved 11/0145.	EDEN GATE, WARCOP, APPLEBY-IN-WESTMORLAND, CA16 6PL	T M Gregson 1986 Settlement	APPROVED
16/1107	Full Application	Hunsonby	Change of use of redundant agricultural building to house 6no. Energy storage batteries.	LONG MEG FARM, LITTLE SALKELD, PENRITH, CA10 1NW	Mr H Lowthian	APPROVED
17/0100	Full Application	Hesket	Removal of Condition 12 related to outline Planning Approval 13/0746.	LAND ADJACENT TO COOPERS CLOSE, HIGH HESKET, CARLISLE, CA4 0JD	Mr Raymond McManus - McManus Builders Ltd.	REFUSED
17/0126	Reserved Matters	Hunsonby	Reserved Matters application for appearance, landscaping, layout and scale attached to approval 15/0476.	WEST GARTH, WINSKILL, PENRITH, CA10 1PD	Mrs Winslow	APPROVED
17/0147	Full Application	Penrith	Erection of an agricultural workers dwelling.	LINGSTUBBS FARM, GREYSTOKE ROAD, PENRITH, CA11 0BX	Mr & Mrs W Jackson	APPROVED
17/0176	Listed Building	Appleby	Internal alterations and covered canopy (omitting window to the South East elevation).	BONGATE HOUSE, BONGATE, APPLEBY-IN-WESTMORLAND, CA16 6UE	Mrs A Jeffs	APPROVED
17/0215	Full Application	Hesket	Proposed alterations and extension to cottage and conversion of barn.	WEST BANK COTTAGE, SOUTHWAIT, CARLISLE, CA4 0LU	Mr Fisher	APPROVED
17/0233	Full Application	Lowther	Replacement chicken rearing unit to replace old out of date unit.	MELKINTHORPE POULTRY FARM, MELKINTHORPE, PENRITH,	Performance Pullets Ltd	APPROVED
17/0240	Full Application	Kings Meaburn	Proposed barn conversion and extension for a two storey dwelling.	BARN ADJOINING PROSPECT VIEW, KINGS MEABURN, PENRITH, CA10 3BU	Mr & Mrs G.I. Hayhurst	APPROVED
17/0270	Full Application	Great Salkeld	Proposed extension, annexe and garage and change of use of agricultural land to residential.	LYNDON, NORTH DYKES, GREAT SALKELD, PENRITH, CA11 9ND	Messrs Kelso	APPROVED
17/0301	Full Application	Appleby	Installation of ATM machine to front elevation.	26 BOROUGHGATE, APPLEBY-IN-WESTMORLAND, CA16 6XB	Mrs Ling Dadswell	APPROVED
17/0302	Advertisement	Appleby	Advertisement consent for the addition of 1no non-illuminated ATM collar sign.	26 BOROUGHGATE, APPLEBY-IN-WESTMORLAND, CA16 6XB	Mrs L Dadswell	APPROVED
17/0310	Full Application	Penrith	Development of a Class B2 industrial building and associated demolition works.	OMEGA PROTEINS PENRITH LTD, PROCESSING PLANT, PENRITH, CA11 0BX	Omega Proteins Limited	APPROVED

App No	App Type	Parish	Description	Location	Applicant	Decision
17/0311	Full Application	Brough Sowerby	Erection of detached dwelling.	LAND ADJACENT TO SOWERBY LODGE, BROUGH SOWERBY, KIRKBY STEPHEN, CA17 4EG	Mrs D Chester	APPROVED
17/0326	Outline Application	Alston	Outline application for 5 dwellings with all matters reserved.	LAND WEST OF BRUNTLEY MEADOWS, ALSTON,	Mr & Mrs Walton	APPROVED
17/0327	Full Application	Glassonby	Proposed agricultural building.	ELLWOOD CROFT, GAMBLESBY, PENRITH, CA10 1HY	Mr C Blackshaw	APPROVED
17/0341	Notice of Intention	Stainmore	Proposed agricultural building.	BLUE GRASS, NORTH STAINMORE, KIRKBY STEPHEN, CA17 4DY	Mrs P Alexander - Blue Grass Trust	APPROVED
17/0344	Cert. of Lawful	Hesket	Application for a lawful development certificate for the siting of 15m non climbable telecoms pole on 2.1m square concrete base and associated underground ducts.	BECKSTONES FARM, SOUTHWAIT, CARLISLE, CA4 0PY	Electricity North West Ltd	APPROVED
17/0348	Full Application	Lazonby	Proposed extension to existing factory building.	EDENHOLME BAKERY, LAZONBY, PENRITH, CA10 1BG	Bells Of Lazonby	APPROVED
17/0352	Change of Use PD/PN	Hutton	Prior approval of proposed change of use of agricultural building to a dwellinghouse	BARN APPROX 475M WEST OF ROSEDENE, MOTHERBY, PENRITH,	Mr B Davidson	APPROVED
17/0356	Full Application	Temple Sowerby	Change of use of agricultural building to accommodate an energy storage battery.	HOOTSAY PARK, PRIEST LANE, TEMPLE SOWERBY, PENRITH, CA10 1SN	Mr H Lowthian	APPROVED
17/0357	Full Application	Skelton	Change of use of agricultural building to accommodate 6 no. energy storage batteries.	LOW DYKE, CALTHWAITE, PENRITH, CA11 9PS	Mr H Lowthian	APPROVED
17/0359	Full Application	Lowther	Retrospective application for extension to dwelling.	LARCH COTTAGE, MELKINTHORPE, PENRITH, CA10 2DR	Larch Cottage Nurseries	APPROVED
17/0360	Listed Building	Lowther	Listed building consent for retrospective application for extension to dwelling.	LARCH COTTAGE NURSERIES, MELKINTHORPE, PENRITH, CA10 2DR	Larch Cottage Nurseries	APPROVED
17/0362	Full Application	Alston	Construction of a check weir in the river Nent, new vehicular entrance from the A689 and new hard standing adjacent to weir.	FIELD NEAR THE OLD CHAPEL, NENTSBERRY, ALSTON,	Miss C Donohoe - The Coal Authority	APPROVED
17/0365	Full Application	Langwathby	First floor side extension to dwelling.	ELM COTTAGE, LANGWATHBY, PENRITH, CA10 1LW	Mr A Kelly	APPROVED

App No	App Type	Parish	Description	Location	Applicant	Decision
17/0366	Advertisement	Penrith	Advertisement consent for 3 no. banner signs, 1 no. speaker post, 1 no. 8 panel board, 2 no. vinyl signs, 1 no. illuminated colonel logo box and 2 no. individual KFC letters.	KFC RESTAURANT, BRIDGE LANE, PENRITH, CA11 8JB	QFM	APPROVED
17/0368	Reserved by Cond	Penrith	Part discharge of condition 3 (engineering details - phase 1 only) and discharge of condition 4 (landscaping) attached to approval 16/0811.	LAND AT CARLETON HILL ROAD, PENRITH,	Persimmon Homes Lancashire - Mrs R Graham	APPROVED
17/0369	Reserved by Cond	Penrith	Discharge of conditions 7, 9 & 16 (construction management plan), 15 & 14 (construction method statement), 22 (SUDS maintenance), 8 & 18 (landscaping and surfacing) and 6 & 13 (drainage and highways) attached to approval 08/0291.	CARLETON HILL ROAD, PENRITH,	Persimmon Homes Lancashire - Mrs R Graham	PARTIAL APPROVED
17/0377	Full Application	Ainstable	Two storey extension with single storey sun lounge. Resubmission of 14/0943.	HILL VIEW HOUSE, THE DALE, AINSTABLE, CARLISLE, CA4 9RH	Mr Tony Sessford	APPROVED
17/0379	Full Application	Penrith	Conversion of existing garage to habitable room, replacement flat roof above with pitched roof, replacement porch and insert window to front elevation of main house.	6 OAK ROAD, PENRITH, CA11 8TS	Mr & Mrs J Ingram	APPROVED
17/0382	Full Application	Murton	Proposed first floor extension over existing garage	LABURNHAM HOUSE, MURTON, APPLEBY-IN-WESTMORLAND, CA16 6ND	Mrs J T Foster	APPROVED
17/0385	Listed Building	Bolton	Listed building consent for proposed external and internal improvements and renovations.	MIDTOWN COTTAGE & FERN COTTAGE, BOLTON, APPLEBY-IN-WESTMORLAND, CA16 6AR	Mr & Mrs T EWBANK	APPROVED
17/0388	Reserved by Cond	Yanwath & Eamont Bridge	Discharge of conditions 5 (materials) and 6 (hard and soft landscaping) attached to approval 14/0151.	PARK HOLME, EAMONT BRIDGE, PENRITH, CA10 2BX	Mr & Mrs J. Heath	APPROVED
17/0389	Full Application	Hesket	Two Storey Side Extension and single storey Rear Extension	ROSE COTTAGE, IVEGILL, CARLISLE, CA4 0PA	Mr Simon Ruggles	APPROVED
17/0393	Outline Application	Penrith	Outline application for one dwelling with approval sought for access.	AIMSHAUGH, BARCO AVENUE, PENRITH, CA11 8LZ	Mr J Graham	APPROVED
17/0394	Full Application	Kirkby Stephen	Proposed change of use of 8 no. touring pitches to 8 no. static pitches / camping pods.	CARAVAN PARK, STATION ROAD, KIRKBY STEPHEN, CA17 4SZ	Pennine View Park - Mrs R Gowing	APPROVED
17/0395	Full Application	Dacre	Change of use of agricultural land to domestic for siting of storage shed	4 KELLS SPRING, CLICKHAM, BLENCOW, PENRITH, CA11 0BZ	Mr M Hall	APPROVED
17/0396	Full Application	Hesket	Proposed cover over existing slurry tower.	MONKS HOUSE, PLUMPTON, PENRITH, CA11 9NS	Mr I A Turnbull	APPROVED

App No	App Type	Parish	Description	Location	Applicant	Decision
17/0397	Full Application	Bandleside	Single storey garage extension to existing garage.	FALLOWFIELD, COLBY, APPLEBY, CA16 6BD	Mr P Charlson	APPROVED
17/0399	Full Application	Ainstable	Proposed replacement outhouse.	THORNTHWAITE HOUSE, AINSTABLE, CARLISLE, CA4 9RJ	Miss P Wright	APPROVED
17/0403	Listed Building	Penrith	Listed building consent for internal alterations and addition of new sign to front elevation.	11 DEVONSHIRE STREET, PENRITH, CA11 7SR	ASAP Accountancy Services Ltd - Mrs Stirland	APPROVED
17/0404	Full Application	Winton	Variation of condition 2 (plans compliance) comprising of amendments to original scheme attached to approval 17/0164	THE BAY HORSE INN, WINTON, KIRKBY STEPHEN, CA17 4HS	Mr D Rodgie & Mr J Bowler	APPROVED
17/0407	Full Application	Appleby	Replace existing rear conservatory with orangery	FAIRVIEW, BATTLEBARROW, APPLEBY-IN-WESTMORLAND, CA16 6XT	Mrs C Davidson	APPROVED
17/0413	Full Application	Dacre	Proposed garage extension	HOLLY FIELD, STANTON, PENRITH, CA11 0ES	Mr E Slater	APPROVED
17/0414	Full Application	Hesket	Proposed first floor balcony and doors to side elevation	THE CORN MILL, SOUTHWAITHE, CARLISLE, CA4 0EW	Mr & Mrs Randall	APPROVED
17/0415	Outline Application	Crackenthorpe	Outline application for residential development with all matters reserved.	HALL FARM HOUSE, CRACKENTHORPE, APPLEBY-IN-WESTMORLAND, CA16 6AF	Mr S & Mrs S Williamson	APPROVED
17/0421	Full Application	Alston	Proposed reinstatement gabion wall to protect former mine shaft.	LAND AT GRID REF 374783,546769, WEST OF FORESHIELDS BRIDGE, BLAGILL, ALSTON, CA9 3LE	Mr C Whittaker - The Coal Authority	APPROVED
17/0425	Outline Application	Lowther	Outline application for replacement residential development with approval sought for access.	HACKTHORPE HOUSE, HACKTHORPE, PENRITH, CA10 2HX	Mr & Mrs Sayer	APPROVED
17/0429	Full Application	Alston	Proposed side extension and front porch.	FOUL LOANING, ALSTON, CA9 3BD	Mr & Mrs J BROWN	APPROVED
17/0431	Reserved by Cond	Penrith	Discharge of condition 4 (noise) attached to approval 15/0898.	GREENGILL FARM, GREENGILL, PENRITH, CA11 8SE	Hayton Agricultural Ltd	APPROVED
17/0433	Full Application	Penrith	Change of use of C1 guest house to C3 dwellinghouse	8 VICTORIA ROAD, PENRITH, CA11 8HR	Active Ark Ltd Pension Scheme	APPROVED
17/0438	Listed Building	Penrith	Listed building consent for installation of gas fired central heating system.	FLAT 3 LARKHALL MEWS, ROBINSON STREET, PENRITH, CA11 9HR	S Plaskett	APPROVED

App No	App Type	Parish	Description	Location	Applicant	Decision
17/0439	Full Application	Langwathby	Single storey front, side and rear extensions to dwelling.	ARDALE, LANGWATHBY, PENRITH, CA10 1NU	Mr & Mrs R & E Burne	APPROVED
17/0441	Listed Building	Sleagill	Listed building consent for the installation of oil fired central heating system and oil tank	OLD MILL FLATT, NEWBY, PENRITH, CA10 3HG	Mr S Ellwood	APPROVED
17/0443	Full Application	Dacre	Change of use from C3 residential to B1 office	15 REDHILLS BUSINESS PARK, REDHILLS, PENRITH, CA11 0DT	Geltsdale Limited	APPROVED
17/0444	Full Application	Tebay	Proposed dwelling.	11 HIGHFIELD, TEBAY, PENRITH, CA10 3TJ	Mrs H Pattinson	APPROVED
17/0445	Notice of Intention	Skelton	Installation of 3 no. antennas and 1 no. 0.6m diameter dish mounted on a 20m monopole. 3 no. equipment cabinets, meter cabinet and associated works and 2.1m high palisade fence.	MUSGRAVE HALL FARM, SKELTON, PENRITH, CA11 9SE	Telefonica UK Ltd and CTIL	APPROVED
17/0446	Listed Building	Alston	Listed building consent for the replacement of single glazed top opening windows with timber casement mock sash windows.	IVY HOUSE, THE ROW, NENTHEAD, ALSTON, CA9 3PE	Mr & Mrs Taylor-Lynch	APPROVED
17/0447	Reserved by Cond	Kirkby Stephen	Discharge of conditions 5 (sample materials) and 7, (surface water drainage) attached to 16/0484.	SANDWATH FARM, KIRKBY STEPHEN, CA17 4HE	Mr S Dargue	APPROVED
17/0448	Notice of Intention	Bandleyside	Proposed roof over midden.	HAWKRIGG FARM, COLBY, APPLEBY-IN-WESTMORLAND, CA16 6BB	Mr Robert Atkinson	APPROVED
17/0450	Full Application	Penrith	Second floor extension to provide additional living space to the rear bedrooms with a shared en-suite (re-submission of 16/0681).	18 PENNINE WAY, PENRITH, CA11 8EE	Mr C Barker	APPROVED
17/0451	Full Application	Alston	Proposed garage/workshop.	WILLOW FELL, NENTHEAD, ALSTON, CA9 3LP	Mr S Oakes	APPROVED
17/0456	Full Application	Hesket	Proposed roof over slurry store.	PETTERIL BANK FARM, PETTERIL BANK, SOUTHWAIT, CARLISLE, CA4 0JJ	M/s S & A Morley	APPROVED
17/0463	Full Application	Langwathby	Proposed staff welfare building	HIGH MILL, LANGWATHBY, PENRITH, CA10 1NB	Mr L Sharp - ABAGri Ltd	APPROVED
17/0466	Notice of Intention	Musgrave	Proposed agricultural building.	WOODHOUSE FARM, LITTLE MUSGRAVE, KIRKBY STEPHEN, CA17 4PQ	Mr E Hewetson-Hewetson and Johnson Ltd	APPROVED
17/0472	Full Application	Mungrisdale	Lean-to extension to existing agricultural building.	BERRIER HEAD, BERRIER, PENRITH, CA11 0XD	Mr Hunter	APPROVED

App No	App Type	Parish	Description	Location	Applicant	Decision
17/0475	Householder PD/PN	Lazonby	Proposed rear conservatory.	REDESDALE COTTAGE, LAZONBY, PENRITH, CA10 1AJ	Mr R Campbell	APPROVED
17/0476	Full Application	Hesket	Change of use of agricultural storage building to general storage and distribution (B8), formation of new access with change of use of part field to turning area.	BARN OPPOSITE POT PLACE, PLUMPTON, PENRITH,	Mr P Thompson	APPROVED
17/0480	Notice of Intention	Penrith	Proposed demolition of building.	THE DEPOT, OLD LONDON ROAD, PENRITH, CA11 8GU	Atkinson Building Contractors Ltd	APPROVED
17/0482	Notice of Intention	Skelton	Proposed agricultural building.	WOOD CLOSE FARM, SKELTON, PENRITH, CA11 9UA	Mr A Bargh	APPROVED
17/0488	Tree Works (CA)	Penrith	Fell Cherry tree to rear of Beacon Bank House; Penrith New Streets Conservation Area.	BEACON BANK, BEACON EDGE, PENRITH, CA11 7BD	Mr F Woodhouse	APPROVED
17/0491	Full Application	Appleby	Proposed side extension.	60 GLEBE ROAD, APPLEBY-IN-WESTMORLAND, CA16 6RU	Mr & Mrs G Vermaak	APPROVED
17/0514	Non-Material Amend	Ousby	Non material amendment comprising of the addition of 2 no windows and 1 no roof light attached to approval 09/0545.	TODD HILLS, MELMERBY, PENRITH, CA10 1HP	Mr & Mrs Rowley	APPROVED
17/0522	Tree Works (CA)	Penrith	Prune two branches from Lime tree as shown in photographs provided; Penrith New Streets Conservation Area.	CHADWELL HOUSE, NICHOLSON LANE, PENRITH, CA11 7UL	Rachael Polkinghorne (Bonham)	APPROVED
17/0532	Tree Works (CA)	Dufton	Remove pine tree to rear of Village Hall to facilitate construction of drain.	VILLAGE HALL, DUFTON, APPLEBY-IN-WESTMORLAND, CA16 6DB	Dufton Village Hall Management Committee	APPROVED
17/0537	Notice of Intention	Dacre	Proposed agricultural access track.	LAND TO THE NORTH OF STAINTON,	Mr & Mrs J Dawson	APPROVED
17/0543	Reserved by Cond	Penrith	Discharge of condition 5 surface water drainage, attached to approval 16/0359.	LAND OFF RIDLEY COURT, PENRITH, CA11 8RT	Mr B Turner - Atkinson Homes Ltd	APPROVED
17/0545	Reserved by Cond	Crackenthorpe	Discharge of condition 3 (lantern details) attached to approval 16/0375.	CRACKENTHORPE HALL, CRACKENTHORPE, APPLEBY-IN-WESTMORLAND, CA16 6AE	Mr P Barrett	APPROVED
17/0553	Non-Material Amend	Penrith	Non material amendment comprising of the addition of window and relocation of approved window on rear elevation attached to approval 15/0938.	1 MILESTONE COTTAGES, PENRITH, CA11 9NQ	Mr C Stewart	APPROVED
17/0573	Reserved by Cond	Penrith	Discharge of condition 3 (drainage) and condition 7 (Landscaping) attached to approval 16/0917.	GARAGES ADJACENT TO SIM COURT HOUSE, PATEGILL ROAD, PENRITH, CA11 8LL	Rebecca Field	APPROVED

App No	App Type	Parish	Description	Location	Applicant	Decision
17/0589	Tree Works (TPO)	Penrith	1) Crown reduce Oak tree by no more than 2m to suitable growth points (shown on photos provided); Minor reduction work (less than 10% of crown / no live branch removal exceeding 10cm); Reasons for work: Signs of decline and stress in upper crown / extended lateral scaffold limbs; To prevent branch failure and reduce end loading; T7 of Tree Preservation Order No 123, 2005, The Parklands, Penrith.	18 THE PARKLANDS, PENRITH, CA11 8TF	Mr Alan Robinson	APPROVED

In relation to each application it was considered whether the proposal was appropriate having regard to the Development Plan, the representations which were received including those from consultees and all other material considerations. In cases where the application was approved the proposal was considered to be acceptable in planning terms having regard to the material considerations. In cases where the application was refused the proposal was not considered to be acceptable having regard to the material and relevant considerations. In all cases it was considered whether the application should be approved or refused and what conditions, if any, should be imposed to secure an acceptable form of development.

This page is intentionally left blank

Notice of Decision



To: Richard Dryell Architect
Woodlands
Lazonby
Rectory Road
Penrith
CA101BX

Mansion House, Penrith, Cumbria CA11 7YG
Tel: 01768 817817
Fax: 01768 212320

Town and Country Planning Act 1990
Town and Country Planning (Development Management Procedure) Order 2015

Application No: 17/0100
On Behalf Of: Mr Raymond McManus - McManus Builders Ltd.

In pursuance of their powers under the above Act and Order, Eden District Council, as local planning authority, hereby REFUSE full planning permission for the development described in your application and on the plans and drawings attached thereto, viz:

Application Type: Full Application
Proposal: Removal of Condition 12 related to outline Planning Approval 13/0746.
Location: LAND ADJACENT TO COOPERS CLOSE, HIGH HESKET,
CARLISLE, CA4 0JD

The reason(s) for this decision are:

That the application is refused for the following reason -

- 1) The removal of the footpath/cycleway raises concerns of public safety due to the reduced width of footways along the access to the site.
- 2) The application seeks to remove a form of sustainable access provision to the site.
- 3) The applicant has failed to demonstrate that sufficient material justification exists for the removal of the footpath/cycleway to an extent that outweighs the harm the development would cause and that the proposal is contrary to the Development Plan and the NPPF

Where necessary the local planning authority has worked with the applicant in a positive and proactive manner seeking solutions to problems arising in relation to dealing with the planning application and to implement the requirements of the NPPF and the adopted development plan.

Date of Decision: 24 July 2017

Signed:

Jane Langston

Jane Langston
Assistant Director Technical Services

Your reference:
Our reference: 17/0369
Enquiries to: Mr D Wright
Direct Dial: 01768 212302
Email: planning.services@eden.gov.uk
Date: 27 July 2017



Mansion House, Penrith, Cumbria CA11 7YG
Tel: 01768 817817
Fax: 01768 212320

Persimmon Homes Lancashire - Mrs R Graham
Persimmon House
Lancaster Business Park
Caton Road
Lancaster
LA1 3RQ

Dear Sir/Madam

Town and Country Planning Act 1990

Planning Application No: 17/0369

Proposal: *Discharge of conditions 7 & 16 (construction management plan), 15 & 14 (construction method statement), 22 (SUDS maintenance), 18 (landscaping and surfacing) and 13 (drainage and highways) attached to approval 08/0291*

Address: *LAND AT CARLETON HILL ROAD PENRITH*

I write with reference to your application received by the Council on 9th May 2017.

Condition 7 – details approved

Condition 7 requires plans to be submitted prior to the commencement of any of the phases of the development which indicate adequate land for site offices, materials storage, parking for plant and vehicles etc. Once plans are approved these areas are to be retained specifically for this purpose until construction works are complete.

The applicant submitted a Traffic Management Plan – 204.305 Rev A, received 10th July 2017.

Cumbria Highways, as the Council's statutory consultee, have reviewed the submitted plan and agrees to the document being approved.

The information provided above is considered acceptable and therefore the pre commencement requirements of the condition have been met. Please note that the condition requires the development to be carried out in accordance with the above approved plan.

Condition 13 – details approved

Condition 13 requires prior to the commencement of development that details of the upsizing of a culvert that runs down Carleton Hill Road to be submitted and approved. Furthermore the works are to be completed prior to any of the approved properties being occupied.

The applicants provided:

- Diverted Culvert Inlet Headland Details- 30037/61- received - 9th May 2017.
- Ladder, Handrailing and safety chains – STND/01/002 – received 9th May 2017

Cumbria County Council, as the Council's statutory consultee, have reviewed the submitted plans and agree to the documents being approved.

The information provided above is considered acceptable and therefore the pre commencement requirements of the condition has been met. Please note that the condition requires the development to be carried out in accordance with the above approved plans.

Condition 14 – details refused

Condition 14 requires a Construction Method Statement to be submitted prior to each phase commencing which would set out a means of access for demolition and construction traffic, the loading and unloading of plant and materials, the storage of plant and materials, measures to prevent silt and other contaminants entering surface water drains, a scheme for recycling/disposing of waste resulting from demolition waste and measures to manage surface water run off.

The applicants provided:-

- Carleton Meadows - Construction Method Statement – received 9th May 2017

The County Council, as the Council's statutory consultee, have reviewed the submitted plans and recommend that the application to discharge the planning condition is refused because they need details showing how they intend to prevent pollution of the downstream watercourse either by silt mats and or straw bales to protect the out fall until the vegetation beds have taken hold.

The information provided above is considered not acceptable and therefore the pre commencement requirements of the condition have not been met. Therefore the requirements of condition 14 remain outstanding and a new application needs to be submitted as soon as possible.

Condition 15 – details refused

Condition 15 requires a scheme to treat and remove suspended solids from surface water run off during construction works to be submitted and approved prior to each phase commencing.

The County Council, as the Council's statutory consultee, have reviewed the submitted plans and recommend that the application to discharge the planning condition is refused because they need details showing how they intend to prevent pollution migration from the Detention

Basin outfalls with the use of silt matts and or straw bales to protect the out fall until the vegetation beds have taken hold.

The information provided above is considered not acceptable and therefore the pre commencement requirements of the condition have not been met. Therefore the requirements of condition 15 remain outstanding and a new application needs to be submitted as soon as possible.

Condition 16 – details refused

Condition 16 requires a Construction Management Plan to be submitted and approved prior to the commencement of development that details expected number of vehicles, routing of vehicles, signage, wheel wash facilities and times of operation. The approved plan must be followed throughout the construction period.

The applicant has submitted:-

- Traffic Management Plan – 204.305 Rev A, received 10th July 2017.
- Carleton Meadows - Construction Method Statement – received 9th May 2017

Cumbria County Council, as the Council's statutory consultee, have reviewed the submitted plans and agree to the documents being approved. However they suggested that the applicant should re-assess the location of the wheel wash facilities to accommodate both construction traffic routes for the development. This should be noted by the applicant as there is a requirement to carry off site sweeping of the roads in the Construction Method Statement and this requirement might become onerous on the developer if the on site wheel wash facility is not prevent mud and detritus entering the public highway.

The applicants proposed to allow construction works to be carried out on the site from 7:30am to 6:30pm during the week and 8am to 1pm on Saturdays. The Environmental Health team requested that the hours of operation are amended to 8am to 6pm weekdays and 9am to 1pm on Saturdays. It is considered that the construction hours of 7:30 am to 6pm during the week and 8am to 1pm on Saturdays is in line with other large developments within Penrith and in accordance with the development plan but any longer periods of construction particularly for development of this scale will have a unreasonable impact on local amenity.

The information provided above is considered not acceptable and therefore the pre commencement requirements of the condition have not been met. Therefore the requirements of condition 16 remain outstanding and a new application needs to be submitted.

Condition 18 – details approved

Condition 18 requires hard and soft landscaping works to be submitted and approved prior to each phase of development commencing. The details should include proposed contours, planting plans, written specification including cultivation and other operations associated with plant and grass establishment, and schedule of plants, including species, numbers and densities.

The applicants provided 2 detailed landscaping plans on the 17th July 2017 (Drawing no C-1282-05 to C-1282-16)

The Council's Arboricultural Officer has advised:-

"The revised plans have included a full schedule of trees to be planted with sufficient information for me to confirm it is an acceptable proposal, what I would also like to see is a maintenance/management schedule to show the aftercare to cover watering, weeding, tree support removal, formative pruning and so on. There are also quite a few hedges being planted and without appropriate care they could become overgrown and be detrimental to the appearance and enjoyment by future residents."

Notwithstanding the Arboricultural Officer's comments the plans provided are in accordance with the requirements of the planning condition and therefore the information provided above is considered acceptable and the pre commencement requirements of the condition has been met. Please note that the condition requires the development to be carried out in accordance with the above approved plans.

Condition 22 – details approved

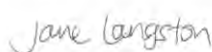
Condition 22 requires full details of the maintenance of the proposed SUDS system is submitted and approved prior to development commencing.

The applicant provided on the 10th July 2017 a Sustainable Urban Drainage System Maintenance Schedule.

Cumbria County Council, as the Council's statutory consultee, have reviewed the submitted plans and agree to the documents being approved..

The information provided is considered acceptable and therefore the pre commencement requirements of Condition 22 are therefore considered discharged. Please note that the condition requires the development to be carried out in accordance with the above approved document.

Yours faithfully



Jane Langston

Eden District Council

Planning Committee Agenda
Committee Date: 17 August 2017

INDEX

Item No	Application Details	Officer Recommendation
1	Planning Application No: 17/0432 Outline application for residential development, all matters reserved. Land opposite Ivy House, Ousby Mr Boulton	Recommended to: APPROVE Subject to Conditions
2	Planning Application No: 17/0334 Residential development with all matters reserved. Land SE of Templars Court, Temple Sowerby Mrs Stephenson	Recommended to: APPROVE Subject to Conditions
3	Planning Application No: 17/0351 Outline application for the erection of a dwelling with all matters reserved. Land at Townhead, Lamonby Mr Brown	Recommended to: REFUSE With Reasons
4	Planning Application No: 16/1029 Outline application for residential development of 51 dwellings with all matters reserved. White Ox Farm, Inglewood Road, Penrith Other Whitehead and Buckle	Recommended to: APPROVE Subject to Conditions
5	Planning Application No: 17/0540 Outline application for residential development, all matters reserved. Land to rear (north) of Thorn Lodge, Stainton Burnetts	Recommended to: APPROVE Subject to Conditions
6	Planning Application No: 16/0224 Residential development 13 houses Land off Croglam Park, Rowgate, Kirkby Stephen JIW Properties Limited	Recommended to: APPROVE Subject to Conditions

Agenda Item
REPORTS FOR DEBATE

Item No	Application Details	Officer Recommendation
7	<p>Planning Application No: 17/0464</p> <p>Proposed two storey office building (B1) with ancillary uses, associated car parking, infrastructure and landscaping.</p> <p>Tebay Caravan Park, Orton, Penrith</p> <p>The Westmorland Family</p>	<p>Recommended to:</p> <p style="text-align: center;">APPROVE</p> <p>Subject to Conditions</p>
8	<p>Planning Application No: 17/0493</p> <p>Notification for Prior Approval for a Proposed Change of Use of an Agricultural Building to 2 No Dwellings.</p> <p>Coupland Beck Barn, Appleby</p> <p>Mr W Patterson</p>	<p>Recommended to:</p> <p style="text-align: center;">APPROVE</p> <p>Subject to Conditions</p>

Date of Committee: 17 August 2017

Planning Application No: 17/0432

Date Received: 25 May 2017

OS Grid Ref: 362002, 534813

Expiry Date: 20 July 2017

Parish: Ousby

Ward: Hartside

Application Type: Outline

Proposal: Outline application for residential development, all matters reserved.

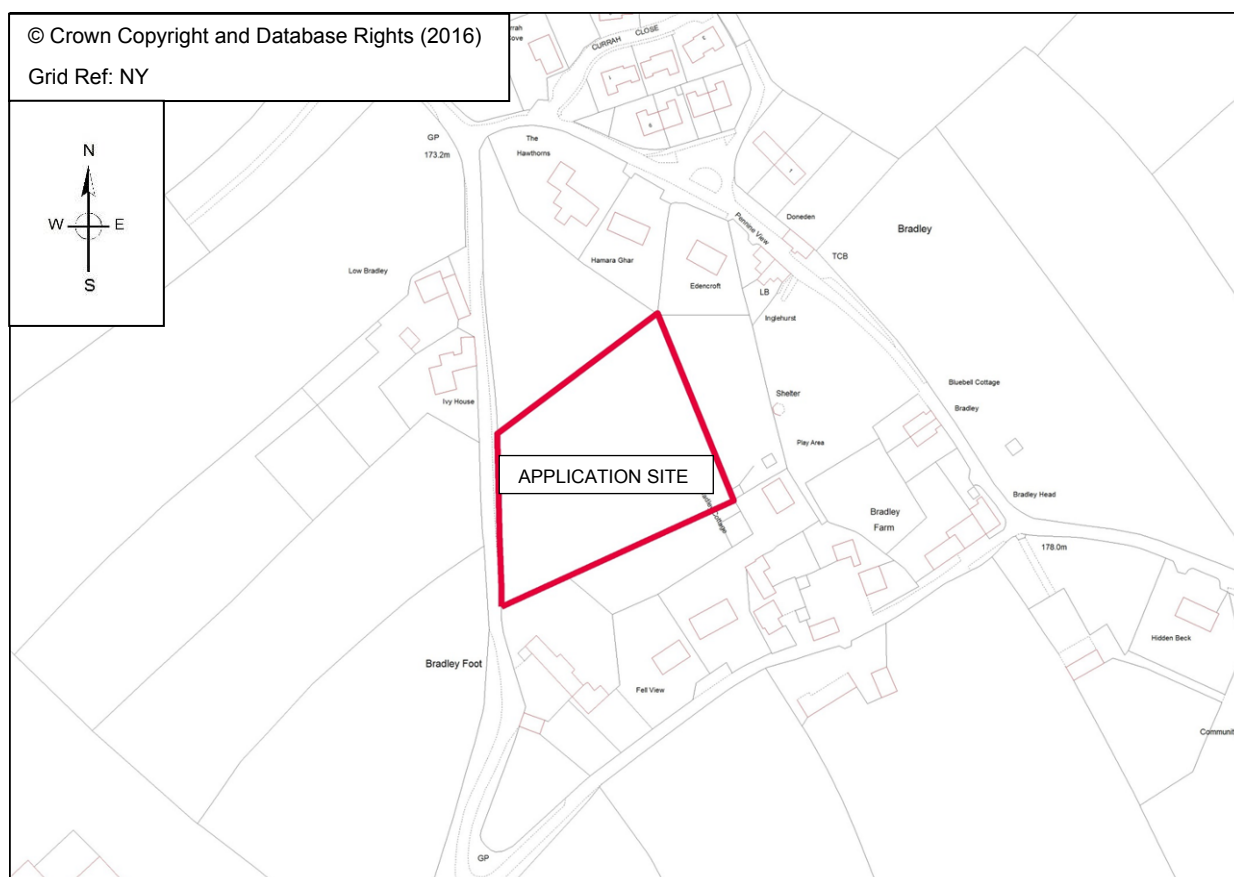
Location: Land opposite Ivy House, Ousby

Applicant: Mr Boulton

Agent: Burnetts

Case Officer: Nick Atkinson

Reason for Referral: This application is before Members as the recommendation is contrary to that of the Parish Council and at the request of objectors to the application.



1. Recommendation

It is recommended that planning permission be granted subject to the following conditions:

Time Limit for Commencement

1. The development permitted shall be begun either before the expiration of three years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: In order to comply with the provisions of the Town and Country Planning Act 1990.

2. The approval of the details of the scale, layout, external appearance of the buildings, drainage and the landscaping/boundary treatments of the site (called “the reserved matters”) shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: The application is in outline form only and is not accompanied by full detailed plans.

3. An application for approval of all reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: In order to comply with the provisions of the Town and Country Planning Act 1990.

Approved Plans

4. The development hereby permitted shall be carried out in accordance with the documents and drawings hereby approved:
 - Application Form dated 25 May 2017, received 30 May 2017;
 - Location Plan, received 01 June 2017;
 - Block Plan, received 01 June 2017.

Reason: To ensure a satisfactory development and to avoid any ambiguity as to what constitutes the permission.

Prior to Commencement

5. No development shall commence until a surface water drainage scheme and management plan, 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) has been submitted to and approved in writing by the Local Planning Authority.

The surface water drainage scheme must be in-compliance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. 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.

6. No development shall commence until detailed drawing showing the development and means of access thereto have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved access details shall be completed in accordance with the approved plans before the development is occupied.

Reason: In the interests of highway safety

7. No development shall commence until a plan reserving adequate land for the parking of vehicles engaged in construction operations associated with the development, has been submitted to and approved in writing by the Local Planning Authority. Thereafter, that land, including vehicular access thereto, shall be used for or be kept available for these purposes at all times until the completion of the construction works.

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

Prior to Occupation

8. The access drive shall be surfaced in bituminous or cement bound materials and shall be constructed and completed before the development is occupied/brought into use.

Reason: In the interests of highway safety.

9. No dwellings shall be occupied until the vehicular access and turning requirements have been constructed in accordance with plans to be approved in writing by the Local Planning Authority, and has been brought into use. The vehicular access and turning provisions shall be retained and capable of use at all times thereafter.

Reason: To ensure a minimum standard of access to the site.

Ongoing Conditions

10. The reserved matters application shall propose no more than 5 new dwellings.

Reason: To restrict the number of units as any development which exceeds these thresholds would require either a commuted sum (6-10 units) or the provision of an affordable unit (11+ units) which does not form part of this application.

2. Proposal and Site Description

2.1 Proposal

- 2.1.1 The application is in outline with all matters reserved and therefore only the principle of residential development on this land is to be considered.
- 2.1.2 The application includes indicative details on how the site could be laid out should planning permission be granted, but does not provide any elevation or design details. All such matters would be considered at a 'Reserved Matters' application should the current planning application be approved.

- 2.1.3 The applicant considers that the current application represents a logical extension to the adjacent housing development located to the north of the site, which is currently under construction following the grant of planning permission 12/0345. The land subject of planning permission 12/0345 was previously within the same ownership as the current applicant, and was considered to be one planning unit. The land has subsequently been sold separately prior to the submission of this planning application.

2.2 Site Description

- 2.2.1 The application site is presently an underused area of agricultural land positioned in a relatively central location within the village. The site covers a footprint of approximately 0.57 hectares and has seemingly been used for grazing purposes historically.
- 2.2.2 The application site forms part of a larger area of land within a relatively central location within the village. The larger area in which the site is positioned is a roughly triangular in shape and is surrounded and constrained on all sides by public highways. The adjacent land forming part of the larger parcel is currently being developed for the creation of 6 residential dwellings following the grant of planning permission 12/0345.
- 2.2.3 The site is immediately bound to the north and south by residential developments, both historic and modern, and by an area of public amenity and recreation land to the east. The site has a mature hedgerow boundary along the western boundary with a post and rail or post and wire fencing along remaining boundaries.
- 2.2.4 The site is not located within a Conservation Area or within the setting of any Listed Buildings. The site is located within an area designated as a 'Landscape of County Importance' under the existing Eden Local Plan.

3. Consultees

3.1 Statutory Consultees

Consultee	Response
Highway Authority	Responded on the 26 June 2017 raising no objection to the proposal. It was noted that accessing the site through the adjacent development plot would require the access road to be built to an adoptable standard. It was requested that conditions are attached to any decision notice as may be issued requiring further highway design details and construction requirements.

Consultee	Response
Local Lead Flood Risk Authority	<p>Responded on the 26 June 2017 raising no objection to the proposal. It is noted that the records are known of minor surface water flooding to the site, which indicate a 0.1% (1 in 1000) chance of occurring each year, and the Environment Agency surface water maps do not indicate that the site is in an area of risk.</p> <p>In addition, it is noted that details would need to be provided to demonstrate that drainage of the site can be adequately achieved, and that the development would not result in adverse flooding impacts on surrounding land. To this effect, the submission of a surface water drainage scheme should be secured through the imposition of condition in any decision notice as may be issued.</p>

3.2 Discretionary Consultees

Consultee	Response
Ousby Parish Council	Responded on the 05 July 2017 registering an objection to the application.
United Utilities	Responded on the 26 June 2017 raising no objections to the proposal. It was noted that the site should be drained on a separate system with foul water draining into the public sewer and surface water draining in the most sustainable way. The drainage for the site should be implemented in accordance with the surface water drainage hierarchy. There are no wastewater assets in this area.
Housing Officer	<p>Responded on the 23 June 2017 noting that as the application is for less than 6 dwellings, then there is no need for an affordable contribution.</p> <p>However, the adjacent land to be developed sits within the ownership of the current applicant and therefore, the calculations on affordable housing should incorporate the adjacent site in addition to the current site.</p>

4. Parish Council/Meeting Response

Parish Council/Meeting	Please Tick as Appropriate			
	Object	Support	No Response	No View Expressed
Ousby	✓			

4.1 Ousby Parish Council raised the following points:

"Ousby Parish Council objects to this planning application and makes the following observations:

- 1. This application proposes the development of part-field 0086 which has already been considered and refused on several occasions previously. In July 2005, Planning Inspector, Richard Clegg, dismissed an appeal against an EDC refusal for planning application 04/1077 to develop this same piece of agricultural land in Ousby. He stated in report APP/H0928/A/05/1173986 that the proposed development "is in an unsustainable location" and added that development in this field would "occupy a central position and diminish the value of the extensive open frontage. The dwellings will appear as an encroachment into the field and could be prominent from the road and the recreation area to the North East". Moreover contrary to CS16, the 17/0432 proposals will not protect an area of open space and unbuilt frontage that are important to the character and amenity of the village.*
- 2. The proposed houses will not be in an area of Ousby previously designated suitable for residential development by Eden District Council. In fact this field is in an area previously referred to as "landscape of County importance" by Eden District Council for the purposes of saved policy NE3.*
- 3. Contrary to CS3 and CS24, the proposed development will totally change the traditional layout and historical characteristic of our Fellside village, filling valued open green space between our rural hamlets of Bradley and Hole. It will build on agricultural land that has been grazed for centuries and open space that is beneficial to village residents. In a report prepared for the EDC Planning Committee meeting of 18 October 2012 when application 12/0345 was considered for this same field in Ousby, the EDC planning officer wrote that undeveloped open space should be maintained to the South East of this field "respecting the village character of built development interspersed by areas of open space. The view would be that total development of the site would not be considered favourable in this regard" - for this reason, approval was only granted at that time to develop a limited parcel of land at the northern end of the field.*
- 4. Contrary to CS1, this proposed development will not be in a location that minimises the need to travel. Moreover Ousby is not a 'Local Service Centre' as described within the Spatial Strategy adopted in 2010, as there is no regular public transport that can be used for access to employment, education or health services. Contrary to CS5, the location of this development in Ousby will make the residents of the new dwellings reliant on private cars to access shops, services and employment opportunities.*
- 5. If the new Local Plan 2014-2032 had been adopted as anticipated in December 2016, Ousby would now have 'smaller village and hamlet' status with development limited to meeting an identified need. The letter accompanying the 17/0432 submission shows that the application is opportunistic, with its*

submission deliberately timed to exploit the delay in EDC adopting the new Local Plan and Ousby's extended and inappropriate 'local service centre' listing.

6. *There is documented housing survey evidence of the local need for 'affordable' rented accommodation. The proposed 5 No. dwellings offering 3 and 4 bedrooms are intended for the open market and are unlikely to be financially accessible to local people already living and working in the area. The letter accompanying the application indicates that contrary to CS7, there has been a deliberate decision to construct no more than 5 units, so that there will be no requirement for any 'affordable' accommodation to be provided.*
7. *The application indicates that drainage arrangements will be similar to those in phase one where surface water will drain into individual soakaways and foul water will drain to a shared treatment plant and soakaway in the middle of the field – no mention has been made of the drainage systems from existing homes in Bradley that criss-cross this same green space. It should be noted once more that there are no mains sewerage treatment facilities in Ousby. Further development in Ousby should be constrained by the lack of adequate sewerage treatment facilities, yet housing applications continue to be approved. Contrary to CS4, the combined surface water and sewerage treatment plant run-off for the proposed development could place adjacent properties at increased risk of flood, particularly if the drainage systems from existing homes in Bradley are compromised by the building work.*
8. *Contrary to CS18, the development will further increase road safety risks in an already busy area of the village by adding 15 more vehicles daily to the additional traffic burden created by occupants of 12/0345 housing during peak hours. There will be 30 extra vehicles in total along a narrow country lane from Skirwith, challenging the safety of local pedestrians, cyclists, disabled people and the elderly.*
9. *Contrary to CS16, the proposals will further disturb wildlife of the area - the South West boundary hedge along the road to Skirwith that was dug up during the 2017 bird nesting period and repositioned as a condition of application 12/0345 is struggling to survive.*
10. *Contrary to CS18, the proposed development will increase noise and light pollution within Ousby*

At a 'drop-in' session held in Ousby Community Centre on 25 June 2017, around a third of Ousby's residents viewed the details on display for planning application 17/0432. Not one of them voiced any support for the proposals, only material concerns and these are included in the observations outlined above.

Ousby Parish Council requests that EDC Planning Committee makes a site visit so that elected Members can determine for themselves the detrimental effect this additional development will have on this small Fellside village."

5. Representations

5.1

No of Neighbours Consulted	20	No of letters of support	0
No of Representations Received	41	No of neutral representations	0
No of objection letters	38		

5.2 The letters of objection provide the following material comments:

- Ousby is a small village with limited facilities;
- The village drainage is already at its limit;
- Traffic implications and highway conditions would deteriorate further;
- The application site is an area of land not previously designated suitable for housing. The site is an area of land previously referred to as “landscape of County importance” by Eden District Council;
- The development would totally change the traditional layout and historical characteristic of our Fellside village, filing valued open green space;
- The proposal develops agricultural land that has been grazed for centuries;
- The drainage arrangements will be similar to those in phase one where surface water will drain into individual soakaways and foul drains to a shared treatment plant and soakaway in the middle of the field - no mention has been made of the drainage systems from homes in Bradley that criss-cross this same green space;
- The development could place adjacent properties at increased risk of flood;
- The development will increase road safety risks in an already busy area of the village adding at least 15 further vehicles daily to the additional traffic burden of phase one during peak hours;
- It will disturb wildlife on the boundary hedge along the road to Skirwith that was dug up during 2017 bird nesting period and repositioned is struggling to survive;
- It will increase light and noise pollution;
- In July 2005 a Planning Inspector dismissed an appeal against an Eden District Council refusal for planning permission 04/1077 to develop this same piece of land. The inspector stated that the application “is in an unsustainable location” and added that the development in this field would *“occupy a central position and diminish the value of the extensive open frontage. The dwellings will appear as an encroachment into the field and could be prominent from the road and the recreation area to the north east.”* Contrary to CS16 the current application will not protect an area of open space and unbuilt frontage that are important to the character and amenity of the village.
- If the new Local Plan had been adopted in December 2016, Ousby would now have been a ‘smaller village and hamlet’ with development limited to meeting an identified need. The current application is opportunistic timed to exploit the delay in EDC adopting the new Local Plan and Ousby’s extended and inappropriate Local Service Centre listing;

- There is no mains drainage in the village. Until such time as mains drainage is provided in the future, the current application will exacerbate existing drainage problems for the village;
- The development would spoil the villages unique ambiance and quietness;
- The village is made up of five separate hamlets, allowing this infill of this nature would destroy this feature.

5.3.1 The letters of objection provide the following non-material comments:

- Ousby is not a local service centre as there is no regular public transport
- There is no affordable housing provision;
- The proposed open-market housing is unlikely to be financially accessible to local people already living and working in the area. The number of houses proposed deliberately falls below the affordable housing threshold;
- Houses take years to sell - six houses are being built on the adjacent site which may not yet have sold;
- The number and size of the proposed dwellings exceeds the assessed total requirement for one affordable dwelling identified in the two wards of Ousby and Melmerby in the Housing Needs Survey of September 2010 at a time when numerous existing village properties are already failing to sell.

6. Relevant Planning History

6.1 The planning history considered most relevant to the site includes:

- 04/1077 - Outline application for erection of two dwellings, refused and appeal dismissed.
- 12/0345 - Erection of 6 dwellings including 1 affordable dwelling (outline), allowed on appeal 25 April 2013.
- 16/0014 - Reserved matters application for the creation of 6 dwellings including 1 affordable dwelling, approved 21 July 2017.

7. Policy Context

7.1 Development Plan

Saved Local Plan Policies:

- Policy NE3 - Landscapes of County Importance.

Core Strategy DPD Policy:

- CS1 Sustainable Development Principles;
- CS2 Locational Strategy;
- CS7 Principles for Housing;
- CS16 Principles for the Natural Environment;
- CS18 Design of New Development;
- CS19 Energy Conservation, Efficiency and Production in New Developments.

Emerging Local Plan

The following policies within the emerging Local Plan are afforded limited weight in the determination of this planning application due to the current stage of adoption of the plan:

- LS1 - Locational Strategy;
- LS2 - Housing Targets and Distribution;
- DEV1 - General Approach to New Development;
- DEV5 - Design of New Development;
- HS4 - Housing Type and Mix;
- ENV2 - Protection and Enhancement of Landscapes and Trees.

Supplementary Planning Documents:

- Housing (2010).

7.2 Other Material Considerations

National Planning Policy Framework:

- Core Planning Principles;
- Delivering a wide choice of high quality homes;
- Requiring good design;
- Conserving and enhancing the natural environment.

National Planning Practice Guidance

7.3 The policies detailed above are the most relevant policies relating to this application.

8. Planning Assessment

8.1 Key/Main Planning Issues

- Principle
- Landscape and Visual Impacts
- Residential Amenity
- Infrastructure
- Affordable Housing
- Emerging Local Plan

8.2 Principle

8.2.1 It is noted that the principle of residential development on part of the application site has previously been tested through planning application ref. 04/1077, which was refused by Eden District Council. A subsequent appeal made by the applicant against this decision was subsequently dismissed by the Planning Inspectorate, in part, on the grounds of landscape and character impacts. However, since the time of this decision, planning permission for residential development has been granted on adjacent land (ref: 12/0345). The adjacent land subject of planning permission 12/0345 forms part of a larger parcel of land which incorporates the current application site.

- 8.2.2 It is considered that the approval of planning permission 12/0345 represents a significant material change to the circumstances of the application site, with the proposed development altering the character and nature of the site. Furthermore, the development of the adjacent land in part, establishes the acceptability and principle of residential development on this parcel of land and within this area of the village.
- 8.2.3 Since the refusal of 04/1077 there have been changes to National Planning Policy, brought about through the introduction of the National Planning Policy Framework (NPPF) in 2012. The introduction of the NPPF represents a material change in the policy basis upon which planning applications are determined. As such, it is considered that the NPPF represents a material change in circumstances which reduces the level of weight that this is afforded to this historical decision in the determination of this planning application.
- 8.2.4 The village of Ousby is a Local Service Centre, within which the Core Strategy supports small scale development which meets a local need. This includes the provision of housing in accordance with Core Strategy Policies CS2 and CS3. In such locations, development should be in-keeping with the character of the village and surrounding area in accordance with Core Strategy Policies CS1 and CS7.
- 8.2.5 In terms of its location, the application site is considered to be well related to the village of Ousby. The application site is positioned in a relatively central location within the settlement. It is considered that the development would result in an infill development within the village. For the purposes of clarification, in-fill is defined by Eden District Council as the filling of a small gap in an otherwise continuously built up frontage that does not physically extend the settlement into the open countryside. The application site is positioned between existing residential properties to the south and north, a new housing development being constructed to the North West and the main village thoroughfare public highway bounding the site to the west. An area of village green/amenity space bounds the site to the east. The application site is located within a larger triangular parcel of land, bound on all sides by public highways, meaning that the development would not extend the footprint of the village outside of its current footprint into surrounding open countryside.
- 8.2.6 Within the NPPF, it is noted that housing applications should be considered in the context of the presumption in favour of sustainable development. In the event that a five year housing supply cannot be demonstrated, housing proposals should be supported in sustainable locations where no demonstrable harm can be demonstrated. It is considered that Ousby is a sustainable location for new housing which is supported by the NPPF.
- 8.2.7 It is noted that planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. At the present time, Eden District Council is unable to demonstrate a five year housing land supply as required by the National Planning Policy Framework (NPPF). Therefore, in accordance with paragraph 49 of the Framework *“relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.”* As such, the development plan policies relating to the supply of housing within the District are considered out-of-date and, therefore, afforded less weight in the planning assessment.

REPORTS FOR DEBATE

- 8.2.8 Furthermore, the NPPF notes within paragraph 14 that “*where the development plan is out-of-date, planning permission should be granted unless...the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF...or specific policies in the NPPF indicate development should be restricted*”. In the case of the current application, planning permission should be granted unless there is significant and demonstrable harm that outweighs the benefits of the proposed residential dwellings. A recent Supreme Court judgement in *Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and anor (Respondents) Richborough Estate Partnerships LLP and anor (Respondents) v Cheshire East Borough Council (Appellant) [2017] UKSC 37* emphasised that the test set out in paragraph 14 covers all aspects of a proposed development and not just related to policies that restrict housing.
- 8.2.9 It is important to note however, that whilst the lack of a five year housing supply is a serious concern, at a planning appeal in Allerdale (APP/G098/A/13/2193690), the Inspector noted that the lack of a five year housing supply is a temporary circumstance and as a short term problem it must be weighed against the permanent harm caused to the character of an area and the conditions of nearby residents. In this instance, it is considered that the development would not result in any adverse harm being caused to the character of the area or to local amenity.
- 8.2.10 Therefore, for the reasons detailed above it is considered that the principle of the proposed development accords with the Development Plan and National Planning Policy. The principle of the proposed development is considered to be appropriate and acceptable in this location in-compliance with the locational criteria, which focusses small scale developments to Local Service Centres. As such, it is considered that the principle of the subject to further consideration on design, appearance, scale, and impacts upon local amenity, the character of the area and the highway network.
- ### 8.3 Landscape and Visual Impacts
- 8.3.1 Despite the application being outline at this stage, the impact of the proposed development upon the character of the area and the local landscape remains an important consideration in the determination of this application.
- 8.3.2 The application is well related to the village of Ousby. Due to its relatively central position, it is considered likely that the site would be viewed within the context of the existing settlement. This is particularly the case in light of the development of the adjacent land for residential development. The village of Ousby is largely characterised by sporadic development interspersed by agricultural buildings. It is considered that the proposed residential development of the site would not significantly or adversely alter the character of the area, however the final design, form and layout of the proposed dwellings would be important to ensuring that this is the case.
- 8.3.3 The application site forms part of a wider area of land, surrounded and constrained on all sides by public highways, beyond which residential dwellings presently exist. The development of this site would not require an extension to the footprint or size of the village into any surrounding open countryside.
- 8.3.4 Whilst the development would result in the loss of an area of agricultural land within the village, it is considered that the development would be capable of being accommodated into the local landscape without resulting in any significantly adverse impacts upon the character of the area or cause an unacceptable level of harm to the visual amenity of the area. The application site does not represent a significant public

view or realm within the village itself to an extent that should prevent appropriate and sustainable development. In the case of the current application, the planning gain from the development of five additional dwellings, is on balance, considered sufficient to satisfactorily compensate for the loss of this agricultural land.

- 8.3.5 On the basis of the site specific conditions; the adjacent development for residential development, and upon the indicative plans provided to date, it is considered likely that the application site could be appropriately developed without resulting in any significant or adverse harm upon the character of the surrounding area.

8.4 Residential Amenity

- 8.4.1 It is noted that as the current application is outline, matters relating to layout, design, height, scale and orientation of the proposed buildings would be considered at a reserved matters stage. Notwithstanding, the impact of the proposed development upon local amenity is still considered to represent a material consideration in the determination of this planning application when considering the principle of residential development.
- 8.4.2 The applicant has provided indicative plans detailing how a layout of the site could be achieved. The indicative plans show a layout of the site which would be appropriately spaced so as to provide appropriate outdoor garden provision for each property and also incorporates an appropriate level of open amenity space and soakaway provision. In doing so, the proposed layout would create a more sympathetic village layout and not overly appear as a large scale and over-developed suburban development sited within a village setting.
- 8.4.3 The proposed layout has demonstrated that it would be possible to maintain appropriate separation distances and stand-off distances to the nearest residential properties to ensure that there would be no direct over-looking, loss of privacy, or loss of light. As such, it is considered that 5 houses could be developed on the site whilst maintaining appropriate impacts upon amenity.
- 8.4.4 Notwithstanding the above, due to the limited details under consideration of this outline permission, it is not possible to fully assess the impact of the proposed development upon local residential amenity. As such, the full impacts of the development would be assessed at a reserved matters stage once final details are submitted.

8.5 Infrastructure

- 8.5.1 Although the application is in outline with all matters reserved, the applicant has provided indicative plans which indicate that access to the site would likely be achieved via a new access point into the adjacent new housing development to the north west of the site and not directly onto the public highway. Although concerns have been raised by objectors to the application in relation to highway safety and the capability of the highway in absorbing the likely levels of car users, no comments or objections have been received from Cumbria County Council in its role as Highway Authority. As such, it is considered that the development is capable of being served by a suitable access arrangement.
- 8.5.2 In relation to site drainage, it is noted that drainage provision has been approved on the adjacent parcel of land for the residential dwellings currently being developed. It is likely that the existing drainage provision would service the current site, although such matters would be designed and considered at a 'Reserved Matters' stage should planning permission be granted. It is noted that no objections have been raised by

Cumbria County Council in its role as Local Lead Flood Authority, nor from United Utilities. In addition, neither consultee raise any concerns that the suitable drainage infrastructure would be unachievable or unable to be engineered at the site.

- 8.5.3 As such, it is considered acceptable to ensure that further and sufficient drainage details are secured through condition to form part of a reserved matters application. The applicant would, therefore, need to demonstrate that suitable drainage measures could be engineered to the satisfaction of Cumbria County Council and United Utilities prior to the approval of a reserved matters application and before any commencement of the development.
- 8.5.4 For the reasons detailed above it is considered that the site could be serviced by appropriate infrastructure, however further consideration on this would be at a 'Reserved Matters' stage.

8.6 Affordable Housing

- 8.6.1 As the current planning application proposed the development of up to 5 dwellings, this falls below the threshold for any affordable housing contribution. However, it is noted that the Council's Housing Officer considers that the current site is in the same ownership as the neighbouring development site. Therefore, the Housing Officer has requested that the affordable housing contribution consider both sites in accordance with guidance offered within the NPPF.
- 8.6.2 The application site does relate to a larger parcel of land which incorporates the adjacent development site to the north west. The adjacent site is currently being developed for 6 dwellings, which included one affordable unit, under planning permission ref: 12/0345. Historically both sites were within the ownership of the current applicant, with the land having a lack of any natural dividing boundary feature. As such, the two sites would normally be treated as one single planning unit. In such circumstances this would mean that the current application would result a piecemeal development of the planning unit, avoiding a further affordable provision if considered cumulatively with the adjacent site.
- 8.6.3 However, it is noted that since the previous grant of planning permission and prior to the submission of the current planning application, the adjacent land has been sold and is now in separate ownership. Although there is connectivity between the two sites in terms of access arrangements and drainage provision, the site can no longer be considered as one single planning unit due to now being in separate ownership, and therefore, cumulatively the current application would not be subject to an affordable housing provision due to being for five residential units.

8.7 Emerging Local Plan

- 8.7.1 In terms of the Emerging Local Plan, draft Policy LS1 (Locational Strategy) initially set out the settlement hierarchy in which residential development would be focussed. This included a list of 28 Key Hubs in which appropriate and sustainable development would be supported including housing. Although the final number of Key Hubs has yet to be determined, the village of Ousby will not be one such settlement. Instead, assuming that the Local Plan is adopted substantively as currently drafted, the village will be considered as a 'Smaller village and hamlet.'
- 8.7.2 However, it is noted that the Emerging Local Plan is currently still subject to a period of consultation in relation to the 'Major Modifications' undertaken to the plan. As such, no certainty can yet still be given to the final form that the plan will take or to the policies it

will contain at this stage, all of which have the potential to change. This includes draft Policy LS1. Therefore, for the reasons detailed above it is considered that the draft policies contained within the Emerging Local Plan are afforded limited weight in the determination of this planning application.

- 8.7.3 However, it is noted that due to the stage of adoption being at an advanced stage, the level of weight which can be afforded to the policies contained within this document will very shortly start to increase. This will particularly be the case once the 'Major Modifications' consultation concludes. Notwithstanding this point, in terms of prematurity in determining this planning application, it is noted that Local Planning Authorities are bound to determine applications within the statutory timescales by Section 34 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. In the case of the current application, a statutory period of 8 weeks is set.
- 8.7.4 In accordance with the NPPF, planning applications should be determined in accordance with the development plan unless there are material considerations that indicate otherwise. As no certainty can be given at this stage with regards to the adoption of the Emerging Local Plan or the form it will take, it would be inappropriate and unreasonable to delay the determination of this application for such reasons. Therefore the current planning application is not being determined prematurely.

9. New Homes Bonus

- 9.1 The prospect of receiving a Bonus is, in principle, capable of being taken into account as a 'material consideration' in determining a planning application. Whether potential Bonus payments are in fact a material consideration in relation to a particular application will depend on whether those payments would be used in a way which is connected to the application and to the use and development of land. For example, potential Bonus payments could be a material consideration if they were to be used to mitigate impacts resulting from development. But if the use to which the payments are to be put is unclear or is for purposes unrelated to the development concerned a decision maker would not be entitled to take them into account when making a decision on a planning application. In this particular case, there are no plans to use the New Homes Bonus arising from this application in connection with this development.

10. Implications

10.1 Legal Implications

- 10.1.1 The following matters have been considered but no issues are judged to arise.

10.2 Equality and Diversity

- 10.2.1 The Council must have regard to the elimination of unlawful discrimination and harassment, and the promotion of equality under the Equality Act 2010.

10.3 Environment

- 10.3.1 The Council must have due regard to conserving bio-diversity under the Natural Environment and Rural Communities Act 2006.

10.4 Crime and Disorder

- 10.4.1 Under the Crime and Disorder Act 1998, the Council must have regard to the need to reduce crime and disorder in exercising any of its functions.

10.5 Children

10.5.1 Under the Children Act 2004, the Council has a duty to safeguard and promote the welfare of children in the exercise of any of its functions.

10.6 Human Rights

10.6.1 In determining applications, the Council must ensure that all parties get a fair hearing in compliance with the provisions of Article 6 under the European Convention on Human Rights, as now embodied in UK law in the Human Rights Act 1998.

11. Conclusion

- 11.1 The proposed development is considered to be in accordance with the development plan, in that it would result in the creation of additional housing within an identified Local Service Centre. The proposed development makes a reasonable contribution towards the housing supply in the district and as such provides sufficient gains in terms of the additional houses in the local housing supply. For such reasons, it is considered that the
- 11.2 The development would result in a degree of landscape harm, however this would not be significantly adverse, nor to an extent that would outweigh the benefits of the development. As such, in this instance it is considered that the planning balance it met.

Jane Langston
Assistant Director Technical Services

Checked by or on behalf of the Monitoring Officer	✓
---------------------------------------------------	---

Background Papers: Planning File

Date of Committee: 17 August 2017

Planning Application No: 17/0334 **Date Received:** 28 April 2017

OS Grid Ref: 6283 2843 **Expiry Date:** 10 July 2017

Extension of time agreed
to 21 August 2017

Parish: Temple Sowerby **Ward:** Kirkby Thore

Application Type: Outline

Proposal: Residential development with all matters reserved.

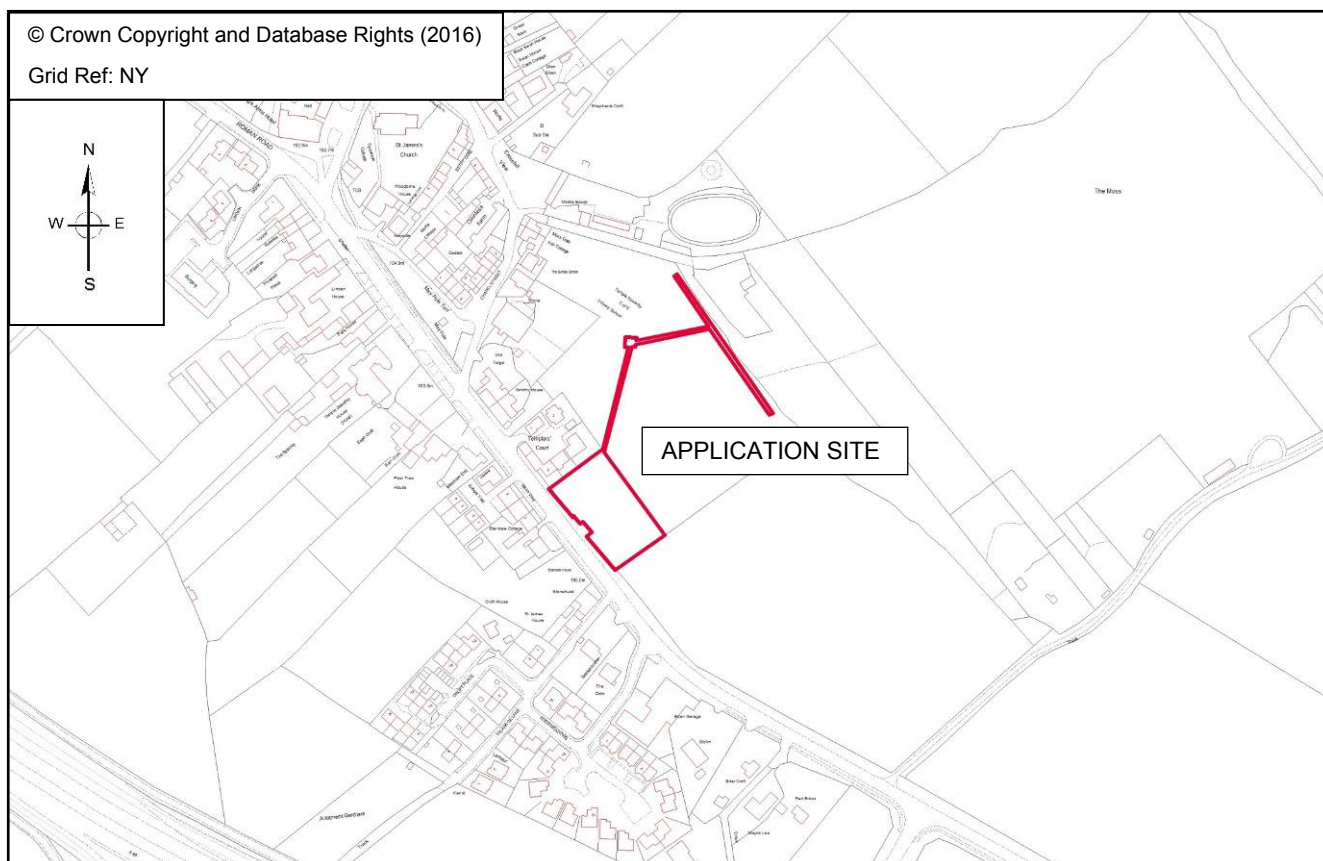
Location: Land SE of Templars Court, Temple Sowerby

Applicant: Mrs Stephenson

Agent: Joseph Architecture

Case Officer: Mat Wilson

Reason for Referral: The Officer recommendation is contrary to the view of the Parish Council.



1. Recommendation

It is recommended that planning permission be granted subject to the following conditions:

Time Limit for Commencement

1. The development permitted shall be begun either before the expiration of three years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: In order to comply with the provisions of the Town and Country Planning Act 1990.

2. Application for approval of all reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: In order to comply with the provisions of the Town and Country Planning Act 1990.

Approved Plans

3. The development hereby granted shall be carried out in accordance with the drawings hereby approved:

- i) Location Plan 049.101 dated 20 November 2016
- ii) Block Plan 049.100 dated 20 November 2016
- iii) Drainage Proposal - Pond Drawing Ref 17-C-14638/I Rev A submitted by email 18/7/17 (In respect of drainage only)

Reason: To ensure a satisfactory development and to avoid any ambiguity as to what constitutes the permission.

4. The development shall comprise a maximum of five dwellings.

Reason: To prevent the overdevelopment of the site and to preserve the character of the Conservation Area.

Before the Development is Commenced

5. Prior to the commencement of development, full details for how foul and surface water shall be drained on a separate system shall be submitted to the local planning authority and approved in writing. The development shall be completed in accordance with the approved details.

Reason: In order to ensure a satisfactory drainage system for the site. The condition is considered necessary to be complied with pre-commencement as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

6. Prior to the commencement of development, a scheme for surface water and foul water drainage (informed by consultation with the Water Authority and inclusive of how the scheme shall be maintained and managed after completion) shall be submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until the drainage scheme has been constructed in accordance with the approved details. The development shall be completed, maintained and managed in accordance with the approved details.
Reason: In order to ensure a satisfactory drainage system for the site. The condition is considered necessary to be complied with pre-commencement as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.
 7. The reserved matters application shall include details showing provisions within each dwelling site for parking provision in accordance with Cumbria Parking Standards. The approved parking areas shall be constructed before the associated dwelling is occupied and shall be kept available for those purposes at all times thereafter.
Reason: To ensure an appropriate level of car parking is provided.
 8. The development shall take place in accordance with the recommendations of the Ecological Appraisal submitted with the application and carried out by Envirotech.
Reason: In order to preserve the ecological interest of the site.
- Ongoing Conditions**
9. Construction works shall only take place within the following hours:
Monday - Friday 8:00 - 18:00
Saturday - 09:00 - 13:00
Sunday/Bank Holidays - no activity
Reason: In order to protect residential amenity.
 10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order with or without modification), no development permitted by Part 1 of Schedule 2 to the Order shall be carried out without the express permission of the Council in writing.
Reason: To prevent the overdevelopment of the site and to preserve the character of the Conservation Area.

2. Proposal and Site Description

2.1 Proposal

- 2.1.1 The scheme proposes a residential development on a greenfield site within the village.

- 2.1.2 The application is in outline with all matters reserved. A purely indicative plan is provided showing five detached dwellings (a reduction from the original scheme which showed six properties) with dedicated accesses and parking/turning areas. The application is accompanied by a Planning Statement, an Ecological Appraisal, and assessments of Heritage Impact, Transport and Flood Risk.

2.2 Site Description

- 2.2.1 The application site is a rectangular parcel of grazing land measuring 67m along the road frontage and 40m deep. It is formed from a larger field which gradually slopes away from the road. The land is currently used for the keeping of donkeys and comprises a small concrete hardstanding behind a field shelter.
- 2.2.2 Immediately to the northwest is Templars Court, a residential development of five properties created in 2007 from part-conversion and part rebuilding of vacant agricultural buildings. Three of these properties have windows overlooking the site.
- 2.2.3 A post and wire fence separates the site from the rest of the field. The front boundary wall recesses incrementally into the field behind a wide grass verge. This is believed to reflect the layout of the former Toll Bar and associated structures.
- 2.2.4 Temple Sowerby is a Local Service Centre although the application site lies outside (but adjoins) the boundary.
- 2.2.5 The site does fall within the Conservation Area of Temple Sowerby and lies 100m from the Temple Sowerby Moss Site of Special Scientific Interest (SSSI).

3. Consultees

3.1 Statutory Consultees

Consultee	Response
Highway Authority	<p>The proposed access should be provided with maximum achievable visibility splays in each direction. [Officer note: current standards require visibility of 60m from new accesses where there is a 30mph speed limit]. Within the visibility splay or sight line envelope there should be no obstructions to vision such as walls or vegetation.</p> <p>Conditions are recommended requiring details of the visibility splays, a construction site compound and surfacing of the access area.</p>
Highways England	No objections

3.2 Discretionary Consultees

Consultee	Response
Arboriculturist	<p>Whilst there are no trees within the development site, there is a large mature sycamore tree within the highway verge as shown on the plans, as well as a line of hedgerow trees running alongside the proposed French drain to the north.</p> <p>The most significant tree is the highway verge tree, it sits in the roadside verge at an estimated 1.5m higher level than the existing field to be developed. It appears that the most direct effect of the proposals will be branches overhanging the gardens of plots 1 and 2, other issues are the shading effect the tree will have being directly west of the site and the sightline for the proposed access lane onto the existing highway for plots 1 and 2. It is likely that some pruning can be carried out to remove some lower branches to alleviate the effects over the adjacent plots. Any such work will require a tree notice to be submitted to the Council because the tree is protected by the conservation area designation.</p> <p>The proposed French drain will require excavation of a trench running parallel with the existing hedgerow to the north, whilst the hedgerow trees do not merit protection with a TPO this work could have a detrimental effect by damaging roots, if it is possible to move this around 3m from the hedgerow the damage will be considerably reduced.</p> <p>[Officer note: the plans have duly been revised setting the French drain back from the hedgerow]</p>
United Utilities	<p>No objections subject to conditions addressing separate foul and surface water drainage, and a sustainable drainage system. The drainage proposals have been assessed and the scheme, to discharge surface water into the French drain, with no surface water either directly or indirectly feeding into the public sewer, are considered acceptable in principle.</p>
County Archaeologist	<p>An adjacent site has been the subject of an archaeological evaluation and no significant remains were revealed. It is therefore confirmed that there are no objections to the application in respect of archaeology.</p>
Environmental Health	<p>Standard condition requested to impose restriction on construction hours.</p>

Agenda Item
REPORTS FOR DEBATE

Consultee	Response
Housing	A financial contribution would be required as although the scheme is in outline, the indicative plan shows 6 dwellings are proposed. [Officer note: the plans have subsequently been amended to remove the dwelling at plot 1 which was close to the properties on Templars Court. No contributions are required for sites of 1 to 5 dwellings outside Penrith]
Natural England	Requested further details in respect of a finalised Surface Water Drainage Plan with details of measures to ensure that sediment and pollution do not enter the proposed drainage ditch adjacent to the SSSI during the operational phase; and of how foul sewerage will be discharged. Following receipt of amended plans and additional information, Natural England confirm they are now satisfied with the surface water drainage proposals. No objections are raised to the proposal at this stage provided a condition is attached to any planning approval stipulating that further investigation and consultation must take place between the applicant and United Utilities to address the foul sewerage concerns and ensure that the proposal is sustainable
Lead Local Flood Authority	The submitted plans give an outline of the proposed drainage. Further information is required in order to demonstrate that no surface water will discharge onto the highway public highway or onto existing neighbouring developments. Conditions are required to finalise an agreed surface water drainage scheme.

4. Parish Council/Meeting Response

Parish Council/Meeting	Please Tick as Appropriate			
	Object	Support	No Response	No View Expressed
Temple Sowerby Parish Council	✓			

4.1 The full response of the Parish Council is set out at Appendix 1; however the objections raised are summarised as follows:

- Site already rejected by EDC as unsuitable for development.
- Concern that this might set a precedent for further similar development in the same or adjacent field.
- Negative impact on the Conservation Area and village heritage.

- Negative impact on the natural environment, in particular the Natural England designated SSSI.
- Opposes sustainable development principles owing to lack of transport infrastructure.
- With regard to the design of the development, we object owing to concerns about road safety, overshadowing, loss of light, noise nuisance and the changeable nature of an outline-only plan.

5. Representations

- 5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on 26 May 2017.

No of Neighbours Consulted	9	No of letters of support	0
No of Representations Received	11	No of neutral representations	0
No of objection letters	11		

- 5.2 11 local residents have submitted letters of objection raising the following material considerations to the application:
- Close proximity to properties at Templars Court would overshadow and restrict light to these properties.
 - Proposed development is beyond the village boundaries.
 - Lack of village amenities: no shop/Post Office, much reduced bus service.
 - Demand on local school places.
 - Capacity of drainage and sewerage systems to cope with the additional demand.
 - Allowing this would make further developments on adjacent fields harder to resist.
 - Concerns over impact on the protected SSSI and important mire at Temple Sowerby Moss from contaminated run-off and risk of pollution from sewerage.
 - Issues of multiple accesses from the lower field onto a busy road and cycling route.
 - The village is no longer a key hub/Service Centre in the emerging Local Plan and should not therefore be considered for housing.
 - The Conservation Area is characterised by its green, open aspect which would be eroded by the development.
 - The loss of the green space will change the landscape character and setting of the village.
 - An outline application in a Conservation Area isn't appropriate - insufficient detail to ensure the development would be in keeping with the character and fit in with the local landscape and architecture.
 - Development ought to be restricted to sensitive infill as per the soon to be adopted Local Plan.

- The latest in a series of speculative developments which if granted will blight a quiet rural village inadequately served by amenities.
- Housing Development would be contrary to the emerging Local Plan which, in re-designating Temple Sowerby from a Key Hub to a Small Village or Hamlet, recognises the reduced public transport and lack of rural services in the village.
- The most recent housing needs survey for Temple Sowerby proves that housing need is being already met from the supply of empty houses and approved development sites.
- The indicative plans appear to show larger dwellings which would not meet the need for first time buyers.
- The massing and density of the indicative plans is insensitive to the local character.
- Development would be contrary to Eden's stated vision to maintain the distinctiveness and high quality life that characterise Eden's extensive patchwork of villages and to protect land outside settlements.
- This land has previously been deemed unsuitable for development when it was deemed to be 'on the edge of the settlement; has potential to affect the setting of a listed building (Edenvale); is high quality agricultural land which is protected by the Core Strategy; and is within 250m of a SSSI.
- Harmful impacts of noise and disturbance to neighbours at Templars Court initially during construction and then from comings and goings to units 1 and 2.
- The planning statement incorrectly states the village is served by a bus service.
- Significant increase in traffic through the village.
- The field regularly floods and is quite close to the water table - where will excess water go?
- Neighbours facing the site from Templars Court will experience fundamental change from an open aspect to a feeling of claustrophobia.
- Transport Statement incorrectly identifies a 20mph speed limit for the village.
- Impact on the setting of listed buildings at Edenvale House and Eden Cottage.

5.3 The responses included the following non-material comments:

- The access would be across land not within applicant's ownership (Highways England).
- Competing housing development at Linden Park - need for more houses?

6. Relevant Planning History

There is no relevant planning history.

7. Policy Context

7.1 Development Plan

Saved Local Plan Policies:

- NE1 - Development in the open countryside

Core Strategy DPD Policy:

- CS1 - Sustainable Development Principles
- CS2 - Locational Strategy
- CS3 - Rural Settlements and the Rural Areas
- CS7 - Principles for Housing
- CS9 - Housing on Rural Exception Sites
- CS17 - Principles for the Built (Historic) Environment
- CS18 - Design of New Development

Supplementary Planning Documents:

- Housing (2010)

7.2 Other Material Considerations

National Planning Policy Framework:

- Presumption in favour of sustainable development
- Demonstrating a deliverable 5-year housing land supply
- Delivering a wide choice of high quality homes
- Conserving and enhancing the historic environment
- Requiring good design
- Meeting the challenge of climate change and flooding

On 11 May 2016, in passing judgement on *R (West Berkshire District Council and Reading Borough Council) v. Secretary of State for Communities and Local Government* [2016] the Court of Appeal reversed a previous High Court ruling and restored government policy which exempts small development sites from the need to have affordable housing included on them.

The policies detailed above are the most relevant policies relating to this application.

Eden Local Plan 2014-2032: This is the emerging local plan for Eden District Council, but is not yet at this stage where any of the individual policies or allocations can be considered to have anything other than very limited weight.

8. Planning Assessment

8.1 Key/Main Planning Issues

- Housing policies
- Impact on character of the area
- Residential amenity
- Highway implications

- Surface water and Foul water drainage
- Environmental impacts

8.2 Principle

- 8.2.1 The starting point for assessing the proposal is the Development Plan, consisting of the saved policies of the 1996 Local Plan and the Core Strategy, together with the Housing Supplementary Planning Document. The housing policies direct residential development to the more-sustainable established Key and Local Service Centres, where services, facilities and infrastructure are available or could be provided; where development would be located to minimise the need to travel; and where journeys could be undertaken by a variety of transport modes.
- 8.2.2 In particular, Policies CS2, CS3 and CS7 restrict the development of housing outside the Key and Local Service Centres to that which meets an identified need such as affordable housing, is economically viable, and subject to a local occupancy clause. The application site under consideration lies beyond the boundary of Temple Sowerby and is therefore contrary to this Council's adopted policies.
- 8.2.3 Local Planning Authorities (LPAs) are required however to demonstrate a deliverable five year land supply for housing, and where it cannot deliver the housing land supply, its planning policies for the supply of housing should not be considered up to date. The National Planning Policy Framework (NPPF) advises that where policies are out of date planning permission should be granted unless any adverse impact would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF or where specific policies in the NPPF indicate that development should be restricted (Para 14).
- 8.2.4 The NPPF further advises at Paragraph 49 that housing applications should be considered in the context of the presumption in favour of sustainable development.
- 8.2.5 Recent High Court and Appeal decisions, in particular *Cheshire East (CEC) vs. SSCLG & Renew Land* (2016), provide clarity for Local Planning Authorities in the decision-making process. Put simply, where relevant planning policies are out of date, Paragraph 14 of the NPPF mandates that housing development should be approved as sustainable development unless the adverse impacts clearly and significantly outweighed the benefits.
- 8.2.6 In effect this means that where the LPA falls short in its housing land supply, its own housing planning policies are out of date and residential development should therefore be approved unless there are clear and demonstrable adverse impacts tipping the balance against the proposal. In such cases it is not for the LPA to determine whether or not the development constitutes sustainable development.
- 8.2.7 Therefore the LPA should identify substantial harm arising from the proposal, and where it cannot, it should approve the application.
- 8.2.8 The Council can still have regard to its housing policies in the planning balance when it falls short of the five year housing land supply. In a recent Court ruling the Judge advocated that there will be many cases in which restrictive policies, whether general or specific in nature, are given sufficient weight to justify the refusal of planning permission despite their not being up-to-date under the policy in paragraph 49 of the NPPF in the absence of a five-year supply of housing land (*Suffolk Coastal DC v.*

Hopkins Homes Ltd. [2016] EWCA Civ 168). Even if a policy is 'out of date' it does not become irrelevant; it must not be ignored or disapplied. The weight to be given to such a policy will be for the decision maker.

- 8.2.9 Furthermore, in a recent Appeal decision in this District the Inspector dismissed the case for residential development in Hilton as he considered this to be an isolated hamlet lacking basic community facilities. The settlement is isolated from services and the adverse impact arising from allowing the single dwelling would significantly and demonstrably outweigh the benefits (15/0632/Appeal ref W/16/3147006).
- 8.2.10 The proposal is effectively for residential development in the countryside which would be contrary to Eden's housing policies. Furthermore, the emerging Local Plan relegates Temple Sowerby from the list of preferred settlements (formerly Local Service Centres, now Key Hubs) and classes Temple Sowerby as a Smaller Village. In light however of the substantial shortfall in the Council's five year housing supply the Council's housing policies are out of date and significant harm must be demonstrated if refusals for residential development are to be substantiated.
- 8.2.11 Whilst outside the boundary of the Local Service Centre as defined by the Core Strategy, it is Officer's opinion that the site adjoins the village and would be seen as a reasonable addition to the built framework of Temple Sowerby, retaining the open fields to the side and rear. There would be no significant intrusion into the countryside. Provided there is no identified substantial harm in terms of scale, design, layout, landscaping or highways, it is Officer's contention that the development should be approved.
- 8.2.12 Concern has been raised that the Outline application route is not appropriate for proposed developments in a Conservation Area. There appears to be nothing in the legislation however that precludes this, and it seems to be at the discretion of the Local Planning Authority whether to accept such applications. It is Officer's opinion that the principle of the scheme, and the general level of impact on the Conservation Area, can in this case be properly assessed through the outline application. The reserved matters application will allow a full assessment of the specific layout, design, proportions and materials of the proposed dwellings and their compatibility with the character of the Conservation Area.
- 8.2.13 The government has enacted revisions to the threshold for requiring affordable housing or commuted sums. In rural areas, Councils can no longer seek contributions for developments of five units or less. As such, the Council has no powers to require an element of affordable housing for this site.

8.3 Built Environment

- 8.3.1 The development is in outline only although indicative plans have been submitted showing five detached two-storey houses (a reduction from the original six) each with separate accesses. The application site is outside the boundary of Temple Sowerby defined in the 2010 Core Strategy, but within the Conservation Area of the village. It is considered that development of this site would be a reasonably logical extension of the village, adjacent to the Templars Court development. It would be seen not as a harmful intrusion into the countryside but as a self-contained small scale housing scheme on the edge of the Settlement, and crucially would retain the semi-rural character of this part of Temple Sowerby by virtue of the fields enclosing the development to the side and to the rear.

- 8.3.2 The site is beyond the historic core of Temple Sowerby. In the vicinity of the application site no particular style of building prevails, and as one continues to the edge of the village toward the south the house types vary significantly. It is considered that the development of this site should respond to the later pattern of Georgian and Victorian town houses and farm buildings in the immediate locality. The indicative streetscene drawing submitted would, with some refinement, provide an appropriate development for this site. The final design would be approved through the reserved matters submission, and should consider removing the integral garages and the stone quoins on render facades, amending the lack of variation in the door and window layout, and removing the gates. In particular the scheme should provide a sensitive design solution for the southernmost plot, as this will be the gateway into the Conservation Area; however the layout and scale of the indicative scheme are acceptable. It is considered the indicative plan demonstrates that the site could be developed for housing without unduly encroaching into the countryside or detracting from the character of the Conservation Area.
- 8.3.3 Two listed buildings are situated immediately opposite the application site: 1 Moss View and Edendale House. With the road and the wide verges either side between these and the development, there would be only limited intervisibility between them. It is not considered the new housing development would harm the setting of the listed buildings.

8.4 Residential Amenity

- 8.4.1 Since the application is made in outline, the scale and layout of the dwellings is not determined at this time. The site is considered however of being capable of accommodating up to five dwellings alongside the road frontage without significant detriment to neighbouring privacy and amenity. The initial scheme did include a sixth dwelling closer to Templars Court and the objections submitted by these residents were legitimate: this dwelling was in too close proximity to the backs of these properties. The revised scheme is indicative of a final layout which would preserve the neighbour's amenity. The loss of views across the fields is acknowledged; however no one has a right to a protected view over land which they do not own. Provided the final scheme respects the standard separation distances required between dwellings, there would be no valid reason to refuse the scheme on grounds of impact on neighbours.

8.5 Natural Environment

- 8.5.1 An ecological survey submitted alongside the application found that the site holds no particular value as habitat for any protected species. The mature sycamore tree to the front could provide a bat roost and other species could migrate across the site; however the land is considered to have low ecological significance in the area. Compensatory planting to include wildflower verges, fruit trees, and night flowering species to benefit bats, is recommended along with precautionary mitigation during construction to ensure fauna is not trapped in trenches or pits.
- 8.5.2 Concern has been raised about the potential impact of the development on the nearby SSSI of Temple Moss, 100m to the north. The most likely impact would be contaminants from the proposed drainage entering the SSSI via the adjacent field drain. The plans have been revised to incorporate a two stage treatment process with surface water first entering a SUDS (Sustainable Urban Drainage) pond with reeds, and during exceptional rain events a dissipation ditch via a perforated drain. Natural England had also advised that a historic report found the existing foul water sewerage

system was inadequate and connecting to it could compromise the SSSI. The agent has clarified that the drain and sewerage pump should now be adopted by the relevant water authority and would therefore be maintained up to the treatment works. Natural England has subsequently advised they are satisfied with the proposal, stipulating that further investigation and consultation must take place between the applicant and United Utilities to address the foul sewerage concerns and ensure that the proposal is sustainable.

8.6 Infrastructure

- 8.6.1 Access is not fully considered at this time, this being a reserved matter; however there is no doubt the site could be provided with a safe vehicular access: the road at this point is level and straight, within the 30mph speed restriction area where a 60m visibility splay is normally required, and at a point where the very wide grass verge in front of the site further enhances the visibility. The indicative scheme submitted shows each of the five dwellings with their own accesses, and were this to be submitted as a reserved matter then the sycamore tree on the verge would likely impede exit visibility from one or more of the access points. It may therefore be preferable for a shared access to the dwellings away from the sycamore tree, a solution which would also reduce the number of openings created in the characteristic stone wall fronting the site. This would be an issue to fully consider at the reserved matters stage; at this time it is sufficient to determine that the site can be provided with a safe access.
- 8.6.2 Although the site is not within a vulnerable flood zone, concerns are raised about the drainage to the site. A sustainable surface water drainage scheme has therefore been proposed incorporating a SUDS pond, reed bed and French drain. Both United Utilities and the Lead Local Flood Authority have assessed the proposals and no objections are raised. It is therefore considered that the development could be carried out and incorporate sufficient drainage measures such that it would have no additional impact on local flooding.

8.7 Other Considerations

- 8.7.1 It is acknowledged that the proposed development is outside the boundary of Temple Sowerby as defined in the Core Strategy, and that Temple Sowerby itself has been removed from the list of Key Hubs in the forthcoming Local Plan due to the lack of village amenities and services, and the proximity of Kirkby Thore as a more sustainable centre. At this time however, in the absence of a 5 year housing land supply, applications for residential development must be shown to cause significant demonstrable harm if they are to be refused permission, and no such harm is considered to arise in this instance.
- 8.7.2 Objections relating to the ownership of the grass verge between the site and the road are noted; however it is standard practice where the highway authority owns the highway verge for the developer prior to commencing works to serve notice separately on the highway authority in order to seek their consent for works in the highway.
- 8.7.3 Matters of scale and design, layout, access and landscaping would be considered as part of the subsequent reserved matters application should approval be granted.

9. New Homes Bonus

- 9.1 The prospect of receiving a Bonus is, in principle, capable of being taken into account as a 'material consideration' in determining a planning application. Whether potential Bonus payments are in fact a material consideration in relation to a particular application will depend on whether those payments would be used in a way which is connected to the application and to the use and development of land. For example, potential Bonus payments could be a material consideration if they were to be used to mitigate impacts resulting from development. But if the use to which the payments are to be put is unclear or is for purposes unrelated to the development concerned a decision maker would not be entitled to take them into account when making a decision on a planning application. In this particular case, there are no plans to use the New Homes Bonus arising from this application in connection with this development.

10. Implications

10.1 Legal Implications

- 10.1.1 The following matters have been considered but no issues are judged to arise.

10.2 Equality and Diversity

- 10.2.1 The Council must have regard to the elimination of unlawful discrimination and harassment, and the promotion of equality under the Equality Act 2010.

10.3 Environment

- 10.3.1 The Council must have due regard to conserving bio-diversity under the Natural Environment and Rural Communities Act 2006.

10.4 Crime and Disorder

- 10.4.1 Under the Crime and Disorder Act 1998, the Council must have regard to the need to reduce crime and disorder in exercising any of its functions.

10.5 Children

- 10.5.1 Under the Children Act 2004, the Council has a duty to safeguard and promote the welfare of children in the exercise of any of its functions.

10.6 Human Rights

- 10.6.1 In determining applications, the Council must ensure that all parties get a fair hearing in compliance with the provisions of Article 6 under the European Convention on Human Rights, as now embodied in UK law in the Human Rights Act 1998.

11. Conclusion

- 11.1 It is considered that the proposal accords with the Development Plan for the following reasons which are not outweighed by material considerations:

The scheme will provide additional housing immediately adjacent to the established village which, although occupying an area of open space, will have only limited impact on the character of the built framework. The scheme is considered acceptable in terms of the matters put forward for consideration at this outline stage. In the absence of any significant or demonstrable material adverse impact the proposal is considered to be in accordance with the NPPF and the development plan.

Jane Langston
Assistant Director Technical Services

Checked by or on behalf of the Monitoring Officer	✓
---------------------------------------------------	---

Background Papers: Planning File

Appendix 1 - Full response of Temple Sowerby Parish Council

Please accept our thanks for extending our response time regarding this application to 23rd June 2017.

Temple Sowerby Parish Council have discussed this application as well as taking into account concerns expressed by residents both in and outside an Extraordinary Meeting of the Parish Council which was called expressly to discuss this planning issue. We object to the current application on the grounds set out below.

1. PLANNING ISSUES - REJECTED/UNSUITABLE SITE

In the Eden District Council Land Availability Assessment Housing Sites of 2015, land that could be developed in Eden was looked at. This formed evidence for the 2014-32 Local Plan. This site was considered in the Key Hub section and its development potential was felt to be uncertain and there were significant environmental constraints. These included:

- *“Further assessment of the potential impacts on the SSSI from changes in surface water drainage would need to be undertaken and sufficient mitigation built into the scheme.*
- *The site is within the Conservation Area and could impact on its character depending upon the design of the site.*
- *The development of the site would also result in the loss of grade 2 agricultural land.*
- *Two listed houses sit opposite the site and have views across it - Development of the site therefore has the potential to impact on their setting.”*

The Suitability and Achievability of the site were both described as “*uncertain*” and the comments on achievability were “*potentially significant environmental constraints*”. Therefore, this site was not put forward as a site for Eden’s Housing land Supply Statement of June 2016.

Where we are now

The above documents had raised issues on the suitability of this site. However, since their publication, Temple Sowerby has been redesignated as a village/hamlet, not a Key Hub.

In the Village/Hamlet designation, it is stated that “*no sites will be allocated for development, but where small scale, sensitive development will be allowed to help meet local demand, providing it is limited to infill or ‘rounding off’ development only.*” Kevin Hutchinson, Principal Planning Policy Officer EDC reiterated this principle to us in an email of 30 May 2017: “*TS is not a key hub, but drops down to the Hamlets and Villages group, where residential development proposals are limited to: (1) where it uses previously developed land; and (2) where it delivers new housing on greenfield sites to meet local demand only - for local need or affordable need, restricted by condition or Legal Agreement*”.

This site does not meet these criteria as there is no evidence of unmet local demand and it could not be considered “*infill or rounding off*”. An existing site in the village has recently applied for full planning permission for 28 houses. Although contested by the Parish Council, if units are allowed, then it cannot be claimed that there is a need for further housing in Temple Sowerby.

A further and very significant concern is that approval of this proposal might set a precedent for the erection of dwellings on land adjacent to this application, which again contravenes the intention of the Hamlets/Villages designation and a need for development that is sustainable in terms of the environment and transport infrastructure. Access to Plot 1 also provides for a new access to the field, which is not necessary, and gives rise to concerns that further development is therefore planned.

For the above reasons, we would therefore submit that developing this site would contravene Eden District Council's Planning Policies.

Furthermore, whilst the Eden Local Plan has not been finally adopted, it is far enough through the process that significant weight should be given to it, as The National Planning Policy Framework Annex 1 Implementation 216 makes clear:

"From the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

- *The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);*
- *The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- *The degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)."*

2. DELETERIOUS IMPACT ON CONSERVATION AREA & HERITAGE

Conservation Areas are defined as *"areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance"*. We believe this development will not only not enhance the Conservation Area, but will be deleterious to it. We also believe it contradicts the requirements of the Core Strategy document, to protect the natural environment (*"fails to protect the natural environment and special character of an Eden village"*). More specifically it opposed clauses 8.9 and 8.10 of that document, in not safeguarding existing open space and in not safeguarding stretches of unbuilt frontage, as stated below:

"8.9 Within the towns and villages of the District there are some areas of green space that are important because they help to preserve the local distinctiveness of these settlements. These green spaces can make so significant a contribution to their character and to the amenity and enjoyment of nearby residents and the public at large as to warrant long-term retention as open space. It is important to safeguard this existing open space and plan for future provision of open space."

"8.10 A number of settlements in the District are distinctive in their form, comprising groups of buildings interspersed by long stretches of unbuilt frontage. As a general principle it is considered that these unbuilt frontages should remain largely undeveloped in order to protect the character and amenity of the settlements concerned."

The area proposed for development is at the entry to the village when approached from the easterly direction and is clearly marked as within the Conservation Area. Currently visitors see a pleasing view of the Moss, the Pennine Fells, and a large sycamore tree in front of a sympathetic conversion of redundant barns that is Templars Court. If this development goes ahead, having 6 houses will lessen the view of the Moss and Fells from the road. There are 2 Listed Buildings opposite the proposed development and this development will also affect their setting. The distinctive stone wall indicating the presence of a past Toll Bar is to be

intersected by driveways. There is no proposal of an archaeological survey to be done, despite the fact that this site is on a Roman Road.

Regarding buildings within the Conservation Area, we accept that the intention of the developer is that the houses are to be constructed with materials that are sympathetic to the area. However, we abide by the priority importance of the argument above, that this land should remain unbuilt. If it were to be developed, an outline application does not guarantee the nature of the materials, construction and design, which can be changed upon submission of a full planning application at a later date. We cannot therefore accept an outline plan, which has no guarantee for the appropriateness of development within the Conservation Area and are extremely disappointed and surprised that a full planning application was not insisted upon by EDC in this case.

3. DELETERIOUS IMPACT ON THE NATURAL ENVIRONMENT

We consider that the proposed development, so close to an SSSI (The Moss) contradicts the following statement in the Core Strategy CS16 Principles for the Natural Environment document:

“Development should accord with the principles of protection and enhancement of the natural environment of the District, including landscape, biodiversity and geodiversity and especially those areas designated as being of international, national and local importance. To further protect the natural environment within the District as a whole:

- *The relationship between development and the natural environment will be managed to minimise the risk of environmental damage.*
- *Loss of the best and most versatile agricultural land will be avoided” - (note that the proposed land is high quality grade 2 agricultural land).*
- *“Encouragement will be given to the creation of opportunities for species to spread out and create niches elsewhere in order to reduce any negative impacts of development and to allow species to migrate as a result of climate change.*
- *The re-creation and restoration of traditional habitats will be encouraged and existing wildlife and habitats such as hedges, ponds, woodlands, ancient woodlands, wetlands and species rich grasslands will be protected and enhanced.”*

The Moss, an SSSI, is less than 200m from the proposed site. It has been noted when the site has been considered in the past that an environmental assessment on any potential impact on the Moss should be undertaken, especially from the risk of increased surface water. This has not been provided. The developer proposes a plan for surface water to drain to a pond and then to a drain along the boundary of the Moss. This will add to the surface water burden.

We attach a photograph of the field during the floods of 2015. The field adjacent to the Moss is historically known to flood; there are reports of children skating here in winters of old! There have been concerns about increasing levels of water in the part of the field in front of the Moss and it is of note that surface water also drains here from the Eden Meadows development, which was completed in 2003. The Moss, through which there is a public footpath, has become difficult to access in all but the driest months of the year. We are concerned there is no Environmental Impact Report on the potential effect to The Moss and would request that Natural England is consulted on this.

The Moss with its seasonal tree colours, the Northern Pennines behind and the changing light is enjoyed by people walking along the old A66. Any development will obscure some of this stunning panorama from the view of the villagers and visitors.

The sycamore tree within this development is one of the mature trees that are characteristic of Temple Sowerby Village, noted for its trees on the Village Greens and along the main road through the village. This one in particular is a distinct feature on entering the village from the eastern side. It is already adjacent to the road and the proposed development, including housing and an access road, will encompass this tree. We have serious concerns for this tree surviving building work and whether it will thrive in the future. In order to safeguard it, we request that it is given a tree preservation order.

4. DOES NOT ACCORD WITH SUSTAINABLE DEVELOPMENT PRINCIPLES

The village lacks a public bus service since the cessation of service earlier this year and will shortly also lack a school bus service, once that ceases at the end of the Summer Term. Therefore this development opposes the following statement in EDCs Core Strategy Development Plan:

“CS1 Sustainable Development Principles

Development should be located to minimise the need to travel and to encourage any journeys that remain necessary to be possible by a variety of sustainable transport modes.”

The planned development also contradicts the requirements stated in The Core Strategy document that there will be a need *“to ensure the use and development of land contributes to the Government’s targets to reduce greenhouse gas emissions and increase electricity production from renewable sources. This means locating development to reduce the need to travel”*

5. CONCERNS REGARDING OVERSHADOWING, LOSS OF LIGHT AND NOISE NUISANCE

The main windows of numbers 3, 4 and 5 Templars Court face the proposed development site. In order to safeguard outlook and to prevent excessive overshadowing there should be a minimum distance between the windows of the Templars Court properties and the two-storey flank wall of Plot 1. As no detailed drawings or measurements have been provided, it is not easy to assess the impact of the proposed development on the current properties. However, given that (1) the Templars Court properties have exceptionally small gardens and (2) this is an outline application only, the distance could be as little as 8-10m. This is a distance significantly below what most councils recommend in the siting of a new building next to an existing building.

The submitted plans, though outline only, raise the possibility and indeed likelihood that a new field access would be sited between Templars Court and Plot 1. We reiterate that there remains no need for an additional field access at this point, since there are other entrances to the field. Farm vehicles and livestock passing through a proposed entrance at this point would cause disturbance to residents which is unnecessary.

We also feel the architect’s impression of the properties is misleading as there is a considerable drop in level from the highway and verge into the field, which is not shown. If the properties and driveways are to be elevated to be level with the road then the impact on the Templars Court properties will be even greater.

6. TRAFFIC/SAFETY CONCERNS

The report provided by the developer incorrectly states that the speed limit in the village is 20mph. It is in fact 30mph and we are aware that this is frequently exceeded. A Speed Indicator Device is intermittently attached to a post at the Vicarage Lane exit onto the old A66, which is opposite the proposed development. This device was purchased because of our concerns about speeding in the village. Traffic calming was promised when the A66 bypass was developed but never materialised. Observations from this device show that about 50% of passing traffic travels above the speed limit of 30mph at this point. Introducing 5 extra driveways onto a road where speeding regularly takes place therefore poses an accident risk.

We also note that the driveways to Plots 1 and 2 will not have a clear view at their respective exits due to the established sycamore tree. It should be noted that this part of the old A66 is unsuitable for cars to be parked on the main road, so onsite parking as well as turning room is essential.

A further issue of road safety pertains to pedestrian access. Residents of the proposed development would have to cross the road in order to use a pavement to walk into the village, since there is no pavement access until Smithy House on the East side of the road.

7. FAILS TO MEET AFFORDABLE HOUSING QUOTA

Eden District Council's Core Strategy Policy CS10 sets the affordable housing target at 30% on sites of 4 or more properties on a development. The applicant does not indicate any intention to provide this.

Date of Committee: 17 August 2017

Planning Application No: 17/0351 **Date Received:** 04 May 2017

OS Grid Ref: 341098, 534779 **Expiry Date:** 29 June 2017

Parish: Skelton **Ward:** Skelton

Application Type: Outline

Proposal: Outline application for the erection of a dwelling with all matters reserved.

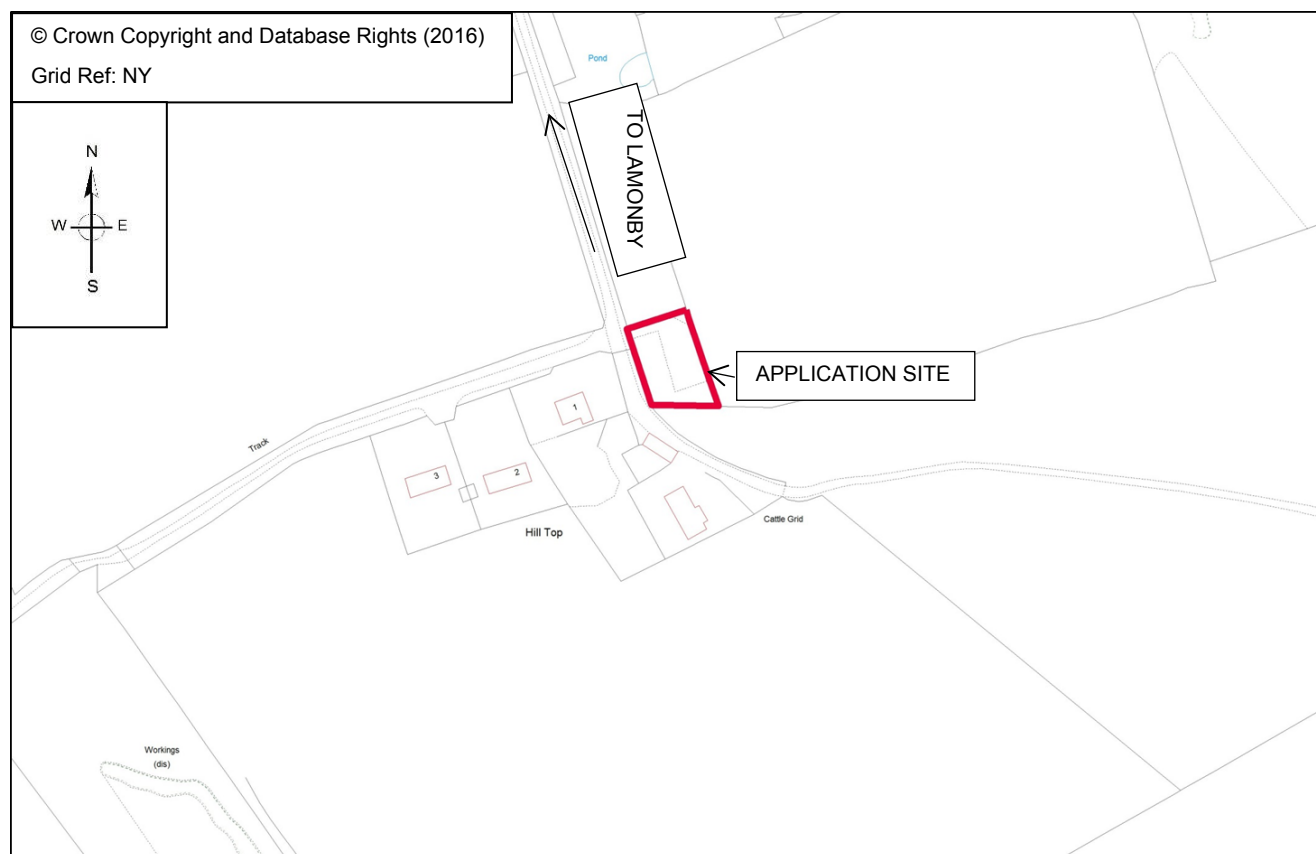
Location: Land at Townhead, Lamonby

Applicant: Mr Brown

Agent: None

Case Officer: Nick Atkinson

Reason for Referral: This application is before Members as the recommendation is contrary to that of the Parish Council.



1. Recommendation

It is recommended that planning permission be refused for the following reasons:

1. The application proposes a new house in an unsustainable location in the open countryside, outside of a Key or Local Service Centre. The site is which is poorly related to the nearest settlement and remote from local services without a demonstrated need contrary to Core Strategy policies CS1, CS2, CS3, CS7 and CS9 and also part 6 of the NPPF.

2. Proposal and Site Description

2.1 Proposal

- 2.1.1 The application is in outline with all matters reserved and therefore only the principle of residential development on this land is to be considered.
- 2.1.2 The application has not provided any indicative details relating to sites potential layout, form, design or external appearance/materials for the building.
- 2.1.3 The submitted Planning Statement outlines the applicants need for the dwelling. The applicant has family which live in the village and children who attend the local school and nursery. The applicant has advised that they have rented accommodation for a number of years away from the area and their family due to work. However, due to a change in their working circumstances and due to a housing affordability issue, the applicant seeks the development of a residential dwelling in this location which is within their ownership. The proposal would enable the applicant to maintain a close relationship with their children, enabling them to contribute as a parent and to the local community.
- 2.1.4 The current planning application essentially represents a re-submission of a previously refused application for residential development at the site (ref: 16/0139). This application was refused by Eden District Council's Planning Committee on the 19 May 2017 for the following reason:

'The application proposed an open market dwelling on a rural exceptions site located outside of a Key or Local Service Centre, without demonstrable proven need or other exceptional justification compromising sustainable development objectives as outlined in the NPPF, and where 100% affordable housing would be required contrary to policies CS1, CS2, CS3, and CS9 of the Eden District Council Core Strategy.'

- 2.1.5 There have been no changes to planning policy or local ground conditions since the refusal of planning application 16/0139.

2.2 Site Description

- 2.2.1 The site is approximately 0.1 hectares in size and is located adjacent to the road running south outside of the main cluster of properties in Lamonby. Part of the site is an agricultural field used for grazing purposes and part is hard stand. Fencing including a gate entrance is existing. A shed, storage container and mobile caravan are positioned on the site. A small number of residential properties are positioned to the west of the site. The site is enclosed by a timber post and rail fence along the north and east boundaries, and a stone wall with mature vegetation on the west and south boundary.

- 2.2.2 The site is located outside the village of Lamonby, positioned approximately three quarters of a mile to the south. Although there is no strong southern settlement limit to the village, the site is considered to be remote from the settlement.
- 2.2.3 The nearest residential properties to the site are those at Hill Top approximately 25 metres to the south west, Townhead Farm approximately 140 metres to the north and Lamonby Hall approximately 313 metres to the north east.
- 2.2.4 The site is located within a Flood Zone 1, but not within a Conservation Area. The nearest Listed Building to the application site is Lamonby Hall.

3. Consultees

3.1 Statutory Consultees

Consultee	Response
Highway Authority	Responded on the 26 May 2017 raising no objection to the proposal. A number of conditions were requested to be attached to any decision notice as may be issued.
Local Lead Flood Risk Authority	Responded on the 26 May 2017 raising no objections to the proposal.

3.2 Discretionary Consultees

Consultee	Response
Skelton Parish Council	Responded on the 12 July 2017 confirming support for the proposal.
United Utilities	Responded on the 16 May 2017 raising no objection to the proposal. It was noted that the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way.
Housing Officer	Responded on the 16 June 2017 noting that the proposed development location would be classed as a rural exception site, where the Council's requirement would be for 100% affordable housing to meet an identified local housing need in accordance with Policy CS9 of the Core Strategy.

4. Parish Council/Meeting Response

Parish Council/Meeting	Please Tick as Appropriate			
	Object	Support	No Response	No View Expressed
Skelton		✓		

Skelton Parish Council has submitted no further comments beyond stating support for the application.

5. Representations

5.1

No of Neighbours Consulted	0	No of letters of support	0
No of Representations Received	2	No of neutral representations	1
No of objection letters	1		

5.2 The letter of objection provided the following comments:

- There is no public transport, social or commercial facilities at Lamonby;
- The applicant has not approach myself to discuss this application in advance of submission as claimed;
- The dwelling would overlook Town Head Farm and reduce the level of privacy;
- There are other properties within the area for sale or rent which could provide the housing need instead of a new dwelling;
- The size of the land would be too small to sustain an agricultural income for the dwelling;
- The development could result in road safety issues as it would be unsuitable for additional traffic;
- Trees and hedgerows would be damaged by the construction build;
- The approval of the application would open the flood gates for further development of the site.

5.3 The letter of neutral representation made the following comments:

- The proposed dwelling would be very close to my house yet there is no detail of size or how it might impact upon my property.
- As the closest property to the development, the applicant did not see fit to contact me before submitting the application.

6. Relevant Planning History

6.1 The planning history considered most relevant to the site includes:

- 16/0139 - Outline application for a single detached log cabin dwelling, refused 19 May 2016.
- 03/0812 - Outline application for Holiday Timber Chalets, refused 03 November 2003.

7. Policy Context

7.1 **Development Plan**

Saved Local Plan Policies:

- NE1 - Development in the open countryside

Core Strategy DPD Policy:

- CS1 - Sustainable Development Principles
- CS2 - Locational Strategy
- CS3 - Rural Settlements and the Rural Areas
- CS7 - Principles for Housing
- CS18 - Design of New Development

Supplementary Planning Documents:

- Housing (2010)

7.2 Other Material Considerations

National Planning Policy Framework:

- Delivering a wide choice of high quality homes
- Requiring good design

National Planning Practice Guidance

7.3 The policies detailed above are the most relevant policies relating to this application.

8. Planning Assessment

8.1 Key/Main Planning Issues

- Principle
- Location
- Landscape and Visual Impacts
- Infrastructure
- Residential Amenity

8.2 Principle

8.2.1 The application site is located within the open-countryside and outside of the Council's identified Key and Local Service Centres within which the Council seeks to focus new development within the District. Due to the site's remote location, the proposal is not considered to be an infill or rounding-off of the settlement, nor a reasonable extension to Lamonby. In compliance with the Development Plan, planning permission for housing within rural locations should only be granted for 100% affordable housing where there is an existing cluster of three dwellings, or for a rural workers dwelling where there is an essential need. It is considered that the current planning application does not fulfil either requirement. As such, there is no policy support with the Development Plan for the proposal. The proposal therefore conflicts with Core Policies CS2, CS3 and CS9.

8.2.2 The application site is considered to be located outside of the hamlet of Lamonby in a remote and unsustainable location. The site is remote from local services and public transport links, with the occupiers fully reliant upon use of a private car to access basic services and facilities. As such, the application site is considered to be unsustainable and, therefore, is contrary to the principle of achieving sustainable development as outlined within both National Planning Policy and the Development Plan.

8.2.3 Within the National Planning Policy Framework (NPPF) paragraphs 14 and 197 of the calls for a presumption in favour of sustainable development, and states that "*where*

the development plan is absent, silent or relevant policies are out of date, (that) planning permission should be granted." Paragraph 49 of the NPPF states that *"relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites"*. The Council currently has a 3.33 year housing supply. It is important to note that the lack of a five year housing land supply is a temporary circumstance and as a short-term problem it must be weighed against the permanent harm caused to the character of an area and the living conditions of nearby residents, for example.

8.2.4 In relation to achieving sustainable development in rural areas, Paragraph 55 of the NPPF advises that *"housing should be located where it will enhance or maintain the vitality of rural communities."* Furthermore, Paragraph 55 notes that *"Local Planning Authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:*

- *the essential need for a worker to live permanently at or near their place of work or in the countryside; or*
- *where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or*
- *where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or*
- *the exceptional quality or innovative nature of the design of the dwelling."*

8.2.5 Notwithstanding the Council's lack of a five year housing land supply, it is considered that the proposed development fails to meet any of this criteria and as such is not supported by the NPPF.

8.2.6 The application site is over half a mile from the last dwelling within the settlement of Lamonby, within the open countryside. As such, the proposal for an unrestricted market-led dwelling in the open countryside cannot be supported.

8.2.7 The applicant has provided details of their personal circumstances to demonstrate and justify the need for the creation of a new residential dwelling in this location. Whilst the personal circumstances of the applicant are noted, they do not form a material planning consideration and should be afforded no weight in the determination of this planning application.

8.3 Landscape and Visual Impacts

8.3.1 The application is made in outline, so final detail of design and visual impact would be given greater consideration at the reserved matters stage should planning permission be granted by members. However, it is considered that due to the open countryside and isolated rural nature of the site, a new dwelling in this location would amount to an isolated building in the open countryside which would result in a degree of landscape harm, despite having no special landscape designation. Whilst the extent of the harm caused would not be significantly detrimental, the impact would be adverse and as such the proposal would be contrary to the Development Plan and to the principles of the NPPF.

8.3.2 Furthermore, it is noted that whilst the application site is bounded by a timber post and rail fence, the site forms part of a larger field which flows out to the open countryside. As such, the site is considered to be lacking any strong and defensible boundaries,

especially to the east and north east. The applicant has previously sought a larger development on a greater footprint at the site, which was refused by the Council, predominantly on the basis of adverse landscape impacts. Should planning permission be granted for this current proposal, it is considered likely that this would leave the surrounding land and countryside vulnerable to future development and urban spread.

8.4 Residential Amenity

- 8.4.1 It is noted that as the current application is outline, matters relating to layout, design, height, scale and orientation of the proposed buildings would be considered at a reserved matters stage. Notwithstanding, the impact of the proposed development upon local amenity is still considered to represent a material consideration in the determination of this planning application when considering the principle of residential development.
- 8.4.2 The applicant has provided no indicative plans detailing how a lay-out of the site could be achieved. Notwithstanding, due to the location of the site, the surrounding boundary treatment and due to the stand-off distance that exists from the site to the nearest residential properties, it is considered that a dwelling could be appropriately positioned and designed within the site so as to ensure that a sufficient separation distance is maintained to ensure that there would be no direct over-looking, loss of privacy, or loss of light to any neighbouring property.
- 8.4.3 Notwithstanding the above, due to the limited details under consideration of this outline permission, it is not possible to fully assess the impact of the proposed development upon local residential amenity. As such, the full impacts of the development would be assessed at a reserved matters stage should members approve the application.

8.5 Infrastructure

- 8.5.1 Although the application is in outline with all matters reserved, the application site would likely be accessed via the existing field access positioned on the western boundary of the site onto the public highway. Although concerns have been raised by the objector in relation to the suitability of the public highway to absorb additional traffic levels safely, it is noted that Cumbria County Council in its role as Highway Authority, has raised no objection to the proposal on the basis that conditions were imposed on any decision notice as may be issued to secure an appropriate standard of access to the site.

9. New Homes Bonus

- 9.1 The prospect of receiving a Bonus is, in principle, capable of being taken into account as a 'material consideration' in determining a planning application. Whether potential Bonus payments are in fact a material consideration in relation to a particular application will depend on whether those payments would be used in a way which is connected to the application and to the use and development of land. For example, potential Bonus payments could be a material consideration if they were to be used to mitigate impacts resulting from development. But if the use to which the payments are to be put is unclear or is for purposes unrelated to the development concerned a decision maker would not be entitled to take them into account when making a decision on a planning application. In this particular case, there are no plans to use the New Homes Bonus arising from this application in connection with this development.

10. Implications

10.1 Legal Implications

10.1.1 The following matters have been considered but no issues are judged to arise.

10.2 Equality and Diversity

10.2.1 The Council must have regard to the elimination of unlawful discrimination and harassment, and the promotion of equality under the Equality Act 2010.

10.3 Environment

10.3.1 The Council must have due regard to conserving bio-diversity under the Natural Environment and Rural Communities Act 2006.

10.4 Crime and Disorder

10.4.1 Under the Crime and Disorder Act 1998, the Council must have regard to the need to reduce crime and disorder in exercising any of its functions.

10.5 Children

10.5.1 Under the Children Act 2004, the Council has a duty to safeguard and promote the welfare of children in the exercise of any of its functions.

10.6 Human Rights

10.6.1 In determining applications, the Council must ensure that all parties get a fair hearing in compliance with the provisions of Article 6 under the European Convention on Human Rights, as now embodied in UK law in the Human Rights Act 1998.

11. Conclusion

11.1 It is considered that the proposal does not accord with the Development Plan for the following reasons which are not outweighed by any material considerations:

- The development is considered to be unacceptable on the grounds that the proposal would result in a residential use in an unsustainable location outside of a Key settlement or Local Service Centre, contrary to Policies CS1, CS2, CS7, CS9 and CS18 of the Core Strategy DPD and the Planning Policy Framework Plan.
- The creation of one additional dwelling, with no affordable provision, does not provide sufficient benefit towards the Council's housing supply shortfall.
- No material considerations have been justification to an extent that outweighs that the development would be contrary to the Development Plan and the NPPF.

Jane Langston
Assistant Director Technical Services

Checked by or on behalf of the Monitoring Officer	✓
---------------------------------------------------	---

Background Papers: Planning File

Agenda Item
REPORTS FOR DEBATE
Item 4

Date of Committee: 17 August 2017

Planning Application No: 16/1029 **Date Received:** 23 November 2016

OS Grid Ref: 350881 531516 **Expiry Date:** Extension of time in place until 15 September 2017

Parish: Penrith **Ward:** Penrith North

Application Type: Outline Planning Permission

Proposal: Outline application for residential development of 51 dwellings with all matters reserved.

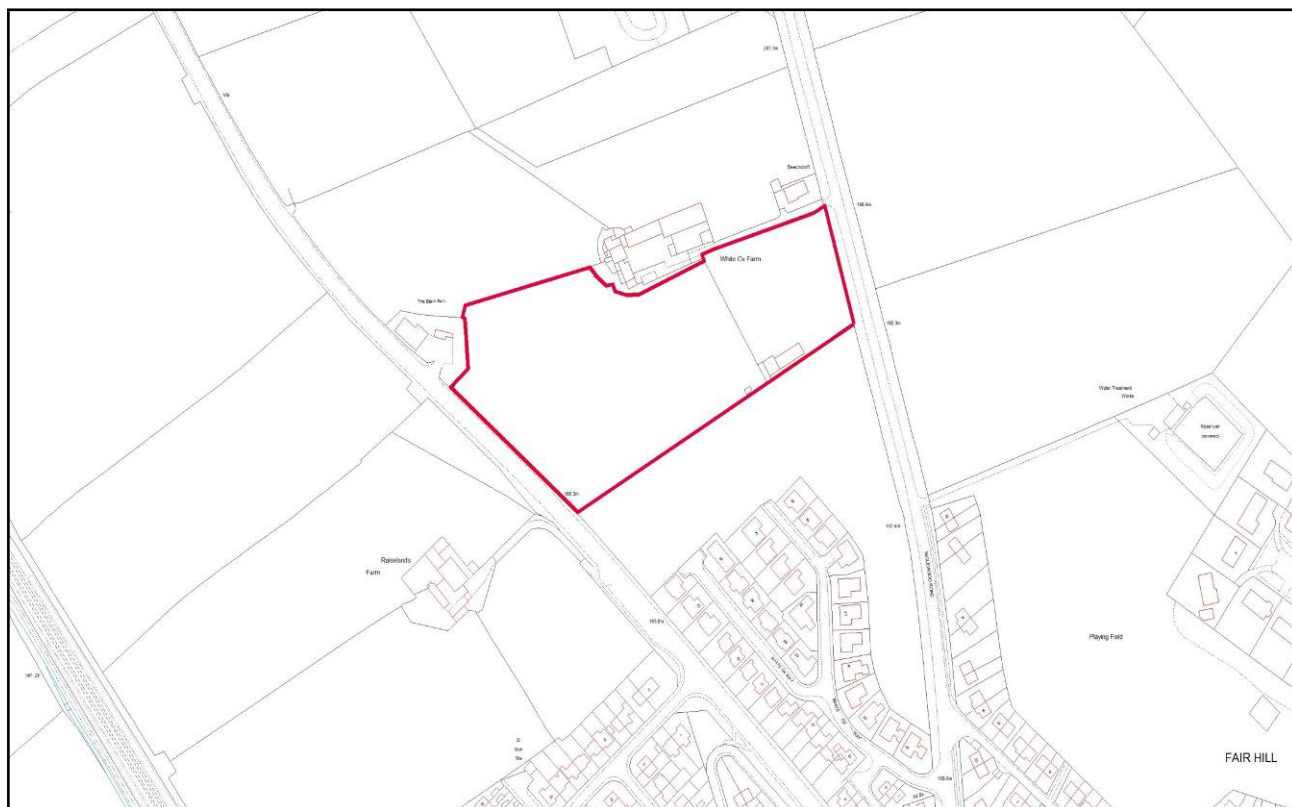
Location: White Ox Farm, Inglewood Road, Penrith

Applicant: Other Whitehead and Buckle

Agent: Chris Harrison - Placed

Case Officer: Mr Ian Irwin

Reason for Referral: This is a major residential application of significant importance located in Penrith.



1. Recommendation

It is recommended that delegated power be given to the Assistant Director Technical Services to grant planning permission subject to a Section 106 Agreement being entered into to the absolute satisfaction of the Deputy Chief Executive and the Assistant Director Technical Services requiring the provision of 30% affordable Houses; and financial contributions comprising:

- A financial contribution in relation to education; and
- A financial contribution to a Toucan crossing.

And the Council's reasonable costs being paid in relation to that Section 106 Agreement and subject to the following conditions:

1. The development permitted shall be begun either before the expiration of three years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: In order to comply with the provisions of the Town and Country Planning Act 1990.

2. An application for approval of all reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: In order to comply with the provisions of the Town and Country Planning Act 1990.

Prior to commencement

3. Prior to the commencement of the development, the carriageway, footways, footpaths, cycleways etc shall be designed, constructed, drained and lit to a standard suitable for adoption. Details shall be submitted to the Local Planning Authority for written approval and should include longitudinal/cross sections. No work shall be commenced until a full specification has been approved. These details shall be in accordance with the standards laid down in the current Cumbria Design Guide. Any works so approved shall be constructed before the development is complete. Once approved, these details shall be adhered to at all times.

Reason: To ensure a minimum standard of construction in the interests of highway safety. It is necessary for the condition to be on the basis that 'No development shall commence until' as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

4. The development shall not commence until visibility splays providing clear visibility of 43 metres and 215 metres measured 2.4 metres down the centre of the access road and the nearside channel line of the major road 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. It is necessary for the condition to be on the basis that 'No development shall commence until' as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

5. No development of any dwellings or buildings or structures shall be commenced until the access roads, as approved, are defined by kerbs and sub base construction.

Reason: To ensure that the access roads are defined and laid out at an early stage. It is necessary for the condition to be on the basis that 'No development shall commence until' as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

6. Prior to the commencement of the development 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 written approval. Once approved, these 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. It is necessary for the condition to be on the basis that 'No development shall commence until' as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

7. Prior to the commencement of the development a plan shall be submitted for written approval to the Local Planning Authority which reserves adequate land for the parking of vehicles engaged in construction operations associated with the development. Once approved that land, including vehicular access thereto, shall be used for or be kept available for these purposes at all times until completion of the construction works.

Reason: The carrying out of this development without the provision of these facilities during the construction work is likely to lead to inconvenience and danger to road users. **Reason:** In the interests of highway safety and environmental management.

8. No development shall commence until a detailed scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include appropriate aftercare and management plans. Thereafter, the development shall be undertaken in accordance with the approved scheme, with all planting undertaken within the first available planting season. Any trees or other plants which die or are removed within the first five years following the implementation of the approved scheme shall be replaced during the next planting season.

Reason: In the interests of protecting the visual character and appearance of the area. It is necessary for the condition to be on the basis that 'No

development shall commence until' as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

9. No development shall commence until details of an Arboricultural Impact Assessment, Tree Protection Plan and Arboricultural Method Statement are submitted to the Local Planning Authority for written approval. Once approved, these plans shall be adhered to at all times.

Reason: To maintain the contribution the trees and hedgerows make to the area. It is necessary for the condition to be on the basis that 'No development shall commence until' as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

10. No development shall commence within the site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority.

This written scheme will include the following components:

- i. An archaeological evaluation;
- ii. An archaeological recording programme the scope of which will be dependent upon the results of the evaluation;
- iii. Where significant archaeological remains are revealed by the programme of archaeological work, a post-excavation assessment and analysis, preparation of a site archive ready for deposition at a store approved by the Local Planning Authority, completion of an archive report, and submission of the results for publication in a suitable journal.

Reason: To afford reasonable opportunity for an examination to be made to determine the existence of any remains of archaeological interest within the site and for the preservation, examination or recording of such remains. It is necessary for the condition to be on the basis that 'No development shall commence until' as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

11. 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 development shall then be completed, maintained and managed in accordance with these approved details.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution. It is necessary for the condition to be on the basis that 'No development shall commence until' as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

12. Prior to the commencement of the development, clear arrangements must be in place for ongoing maintenance of the drainage system over the lifetime of the development. The drainage system must be designed for ease of maintenance. In this respect further details shall be submitted to the Local Planning Authority for approval in writing and once approved shall be adhered to at all times.

Reason: To ensure flood risk is not increased within the site or elsewhere. It is necessary for the condition to be on the basis that 'No development shall commence until' as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

13. 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 receiving surface water systems or watercourses downstream of the site. It is necessary for the condition to be on the basis that 'No development shall commence until' as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

14. Prior to the commencement of development, details of the foul and surface water drainage schemes (inclusive of how the schemes shall be maintained and managed after completion) shall be submitted to and approved in writing by the local planning authority.

The foul and surface water drainage schemes shall provide details of measures required to mitigate any risks to groundwater and public water supply from the development. The mitigation measures shall include the highest specification design for the new foul and surface water sewerage system.

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. The site lies within a Groundwater Source Protection Zone 1 for a nearby public water supply abstraction, and as such the site is considered to be particularly sensitive to the input of pollutants at the surface. In accordance with the Environment Agency position statement in The Environment Agency's Approach to Groundwater Protection March 2017, the Environment Agency and United

Utilities require the highest specification pipework and design for the sewerage system at this site. It is necessary for the condition to be on the basis that 'No development shall commence until' as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

15. No development shall take place until a Construction Phase Environmental Management Plan (CEMP), for the construction phase of the proposed development, is submitted to and approved by the Local Planning Authority in writing. The developer will need to refer to all relevant pollution prevention guidelines. The statement shall outline the potential impacts from all construction activities on groundwater and identify mitigation measures to protect and prevent pollution of these waters. In particular it will need to be ensured that any facilities for the storage of oils, fuels or chemicals is appropriately bunded and contained to prevent the discharge of contaminated fluids to ground. The site compound shall be located as far as possible from the public water supply boreholes. The development shall be undertaken in accordance with the approved CEMP.

Reason: To promote sustainable development and to manage the risk of pollution. The site lies within a Groundwater Source Protection Zone 1 for a nearby public water supply abstraction, and as such the site is considered to be particularly sensitive to the input of pollutants at the surface. It is necessary for the condition to be on the basis that 'No development shall commence until' as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

16. At the detailed planning application stage, the applicant submits to the Local Planning Authority, in writing, a noise assessment by a competent noise consultant which demonstrates that the proposed properties can achieve the following:

Living Room 07:00-23:00 35 dB LAeq (16 hour)

Dining Room/area 07:00-23:00 40 dB LAeq (16 hour)

Bedroom 07:00-23:00 35 dB LAeq (16 hour)

Bedroom 23:00-07:00 30 dB LAeq (8 hour)

Bedroom 23:00-07:00 45dB LAmax

Garden and Outdoor Amenity Areas: 50dB LAeq16hr 0700hrs- 2300

The noise assessment will follow the methodology referred to in BS8233 and the ProPG: Planning & Noise Professional Practice Guidance on Planning & Noise- New Residential Development. (May 2017) to demonstrate that a good acoustic design has been followed throughout the process of building design, layout and siting. The noise assessment will need to be approved by the LPA. The noise assessment will be based on the transport modelling for the current year, 2017

Reason: To ensure that the scheme is safeguarded in respect of potential noise nuisance from the adjoining road network.

Prior to occupation

17. The construction of the foul and surface water sewerage systems shall be subject to a watching brief. The watching brief appointment shall be agreed with the local planning authority in liaison with United Utilities Water Limited and the results provided to the Local Planning Authority in writing. No occupation shall take place until a written validation report has been submitted to and agreed with the local planning authority demonstrating completion of the installation of the liner system and confirmation and assurance that mitigation measures have been constructed/implemented as per the agreed design.

Reason: The site lies within a Groundwater Source Protection Zone 1 for a nearby public water supply abstraction, and as such the site is considered to be particularly sensitive to the input of pollutants at the surface.

18. No occupation shall take place until a management plan for the public open space is submitted to and agreed in writing with the local planning authority in liaison with United Utilities Water Limited. The management plan shall ensure that the management of the land closest to the public water supply boreholes is managed to reduce the possibility of pollutants entering groundwater. This should include restrictions on the use of herbicides and pesticides. The public open space shall be managed in accordance with the agreed management plan for the lifetime of the development.

Reason: To minimise the risk of pollution to the nearby public water supply abstraction

Ongoing Conditions

19. No demolition or construction works shall take place outside the hours of:
08:00-18:00 Monday to Friday;
09:00-13:00 Saturday; and
No Activity on Sundays or Bank Holidays

Reason: In the interests of the amenity of the area.

20. There shall be no vehicular access to or egress from the site other than via the approved access

Reason: To avoid vehicles entering or leaving the site by an unsatisfactory access or route, in the interests of road safety.

21. Foul and surface water shall be drained on separate systems.

Reason: To secure proper drainage and to manage the risk of flooding and pollution.

Informatives

1. It is considered that the most appropriate method of reducing the speed limit on Inglewood Road to accommodate the development would be by a Traffic Regulation Order to have the existing speed limit extended past the entrance to the proposed site which should also include a gateway feature. A similar scheme to this is currently underway on Salkeld Road. For further details on

the TRO design please contact Cumbria County Council Highways on 0300 303 2992 or Better.HighwaysEden@cumbria.gov.uk.

2. Cumbria County Council also consider it to be appropriate that the developer provides a minimum 1.8m footway from the development on both Inglewood Road (to the junction with Salkeld Road) and the A6 (to the footway access to White Ox Way - NGR: 351005, 531249). Final designs to be agreed through the s278 process.
3. United Utilities encourage the construction of the homes with water efficiency measures, especially to the water use standard previously required by Level 3 of the Code for Sustainable Homes. This reflects Policy CS7 of the adopted Core Strategy Development Plan Document for Eden District (March 2010). We also encourage the inclusion of water efficiency options which will help to reduce the flow of surface water from the site, for example, rainwater harvesting systems and rainwater butts.
4. Our water mains will need extending to serve any development on this site. The applicant, who may be required to pay a capital contribution, will need to sign an Agreement under Sections 41, 42 & 43 of the Water Industry Act 1991.

The level of cover to the water mains and sewers must not be compromised either during or after construction.

A separate metered supply to each unit will be required at the applicant's expense and all internal pipe work must comply with current water supply (water fittings) regulations 1999.

Should this planning application be approved, the applicant should contact United Utilities on 03456 723 723 regarding connection to the water mains or public sewers.

2. Proposal and Site Description

2.1 Proposal

- 2.1.1 The proposal is for outline planning permission for residential development with all matters reserved. As the current proposal is for outline planning permission at this stage, matters relating to site access, layout, design, scale and appearance of buildings and landscaping would be subject to a further reserved matters application should planning permission be granted. Although at outline stage, the applicant has provided indicative plans indicating that the site could achieve up to 51 residential dwellings (which if achieved would incorporate a total of 15 affordable dwellings).
- 2.1.2 Therefore, the current application seeks only approval for the principle of residential development at the site. The applicant has advised that consideration has, even at this outline stage, to the layout and design of the proposal to compliment the character of the nearby existing properties. The development would incorporate a mix of dwelling types which the applicant has suggested will range between 2 and 4 bedroom properties.
- 2.1.3 The site has been 'screened' as per the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended 2015). It was considered that whilst the development falls within Schedule 2 development (part 10 - Infrastructure

Projects (b) the application does not meet or exceed the threshold criteria by virtue of being less than 5 hectares in size and for being for less than 150 residential dwellings. Therefore, the application did not need to be accompanied by an Environmental Statement.

2.2 Site Description

- 2.2.1 The site is 2.3 hectares in size and is located adjacent to White Ox Way, an existing residential development. Immediately to the north is White Ox Farm and a further property named 'Beechcroft'. To the west and immediately adjacent of the site is a further property known as the 'Black Barn'. The site slopes significantly to the west-south-west from the east-north-east and given this slope, the site commands an elevated position, particularly on its eastern flank, giving fine views of the town of Penrith and beyond.
- 2.2.2 To the south of the proposal site is an existing residential development. This is White Ox Way and the proposed development would immediately adjoin this site if approved and subsequently implemented.
- 2.2.3 To the west is the A6 which is adjacent to the western part of the site whilst to the east is Inglewood Road. Beyond the A6 and further to the west is the railway line and the M6. The site is classed as Grade 3 agricultural land and is bound by stone walls, mature trees and agricultural fencing. The site is confirmed to be located within Environment Agency designated Groundwater Source Protection Zones 1 and 2 and would be approximately 200 metres from a United Utilities borehole.
- 2.2.4 Two thirds of the site is currently 'allocated' as part of the emerging local plan under reference 'N2' to provide 54 residential dwellings.

3. Statutory Consultees

Consultee	Response
Highway Authority	Responded on the 21 December 2016 and confirmed that the proposal lacked the full information required in order to provide an appropriate assessment. Therefore, additional information was sought. A further Highways response was provided on the 14 July 2017 following the submission of a Transport Statement. The response confirmed that having assessed the information, it was considered that it was 'acceptable' and the Highways Authority had no further concerns. Conditions were requested to be attached to any subsequent planning permission and a request for a financial contribution to a Toucan crossing on the A6 to be agreed as part of the Section 106 agreement.
Housing Development Officer	Responded on the 6 December 2016 and confirmed that on the basis of 51 dwellings an affordable home contribution of 30% (equating to 15 dwellings) would be required. The response also confirmed that there was evidence of an affordable homes demand in Penrith and it was encouraged that the specific housing type mix be discussed with the housing team.

Agenda Item
REPORTS FOR DEBATE

Consultee	Response
United Utilities	<p>Responded on the 27 June 2017. The response confirmed that the site was within Environment Agency designated Groundwater Source Protection Zones 1 and 2 and would be approximately 200 metres from a United Utilities borehole. United Utilities had a 'strong' preference for development to take place, outside of these locations but it was accepted that if the principle of development in this location was accepted, there was some advice entitled '<i>The Environment Agency's Approach to Groundwater Protection March 2017</i>' that should be taken into account by ensuring conditions were imposed on any subsequent approval. The response confirmed that a decision should take account of both United Utilities and Environment Agency comments and that appropriate mitigation measures should be included to ensure protection of the groundwater quality. Furthermore, the response acknowledged the flood risk assessment which proposed a detention basin and swales to the south-east of the site, as far as possible from existing boreholes and outside the groundwater protection zone.</p>
Arboricultural Officer	<p>Responded on the 17 February 2017 and confirmed that the retention categories of the trees, detailed in the tree report which supports the application were considered acceptable. Conditions were requested to be attached to any subsequent grant of planning permission.</p>
Local Lead Flood Authority	<p>Responded on the 21 December 2016 and confirmed that the Flood Risk and Drainage assessment submitted in support of the application demonstrated that the site was at low risk of flooding. However, the Lead Local Flood Authority did not accept the proposed attenuation methods and requested that conditions be attached to any subsequent grant of planning permission.</p>
Historic Environment Officer	<p>Responded on the 6 December 2016. The response confirmed that the site is one of archaeological potential. Aerial photographs are acknowledged to suggest that some form of prehistoric or Romano-British agricultural practises located adjacent to the site. It was therefore considered that there was a potential for buried archaeological assets to survive on site and that these would be disturbed by the construction of the proposed development. It was therefore recommended that in the event planning permission was granted, a condition related to archaeological potential of the site be attached.</p>

Agenda Item
REPORTS FOR DEBATE

Consultee	Response
Environmental Health Officer/Contaminated Land Officer	<p>Responded on the 9 December 2016 and confirmed that no noise assessment had been included for the site. A noise assessment was subsequently provided by the applicant and the Environmental Health Officer (EHO) responded on the 27 June 2017. The response raised some queries which were passed to the applicant to respond to. The applicant did duly respond on the 29 June 2017. The EHO responded again on the 18 July 2017 with a request for further information. Some comments had also, at this time been provided by the occupant of the 'Black Barn' raising some concerns that his metal fabrication business could be restricted in its operation because of this proposal. The Environmental Health Officer was requested to review the comments made by this interested party and they confirmed on the 18 July 2017 that there were no further pieces of information required specifically related to this matter.</p> <p>A further response from the applicant (via their agent) was provided on the 26 July 2017. This, in detail, provided a further set of responses to the remaining matters the EHO had raised.</p> <p>The Environmental Health Officer provided a final response on the 2 August and requested that a condition related to noise levels were attached to any subsequent grant of planning permission.</p>
Local Education Authority	<p>Responded on the 21 December 2016. It was confirmed that a Primary school financial contribution was necessary. This would be secured via Section 106 agreement. No contribution in relation to secondary school provision was considered necessary.</p>

4. Parish Council Response

Town Council	Please Tick as Appropriate			
	Object	No objection	No Response	No View Expressed
Penrith		✓		

- 4.1 Penrith Town Council confirmed that they had no objection in principle to the outline application but wished to see the full reserved matters application before Committee so they could comment upon it. The also added that they would like to see the developer provide a detailed construction management plan as part of the application bringing construction traffic in off Inglewood Road and extending the 30mph zone past the Lakeland View traveller site.

5. Representations

- 5.1 The application was advertised by means of a site notice posted on the 22 December 2016; a press notice advertised in the Herald on the 10 December 2016 and the following neighbour notifications sent on the 2 December 2016.

No of Neighbours Consulted	17	No of letters of support	0
No of objection letters	1	No of neutral representations	0

- 5.2 One letter of objection has been received in relation to this proposal. The objection letter cites the following concerns in relation to this proposal;

- The application is premature as although the site was allocated in the draft Penrith Plan, the plan was not yet approved (hence the premature application);
- The proposal has not been 'master-planned' as per Policy PEN2 through genuine public engagement.
- Consequently, the proposal is contrary to Policy, particularly Policies PEN1 and PEN2;
- The proposal does not include a Transport Statement or Transport Assessment;
- The plans indicate a potential access through White Ox Way which is a quiet cul-de-sac where children play;
- The proposal does not assess or consider the wider impacts of the application;
- Access through White Ox Way would be completely unsuitable for construction traffic;
- Penrith does not need such a vast number of new houses;
- The Highway network is at 'breaking point' already at peak times in the town centre;
- The proposal exceeds the EIA regulations threshold and should require an 'EIA'.

6. Relevant Planning History

- 6.1 112/0222 - Outline planning application for residential development (comprising the eastern element of this site) - was refused by the Planning Authority.
- 6.2 The above referenced application was then subsequently challenged via appeal (appeal reference APP/H0928/A/13/2199955). The appeal was dismissed.

7.0 Policy Context

7.1 Development Plan

Core Strategy DPD Policy:

- CS1 - Sustainable Development Principles
- CS2 - Locational Strategy
- CS4 - Flood Risk
- CS5 - Transport and Accessibility

- CS6 - Developer Contributions
- CS7 - Principles for Housing
- CS8 - Making Efficient Use of Land
- CS10 - Affordable Housing
- CS16 - Principles for the Natural Environment
- CS17 - Principles for the Built (Historic) Environment
- CS18 - Design of New Development
- CS19 - Energy Conservation, Efficiency and Production in New Developments;
- CS24 - Open Space and Recreation Land.

Supplementary Planning Documents:

- Housing (2010)

7.2 Other Material Considerations

National Planning Policy Framework:

- The presumption in favour of sustainable development
- Core planning principles
- Delivering a wide choice of high quality homes
- Requiring good design
- Promoting healthy communities
- Meeting the challenge of climate change, flooding and coastal change
- Conserving and enhancing the natural environment
- Conserving and enhancing the historic environment

National Planning Practice Guidance

The policies detailed above are the most relevant policies relating to this application

Eden Local Plan 2014-2032: This is the emerging local plan for Eden District Council, but is not yet at this stage where any of the individual policies or allocations can be considered to have anything other than limited weight.

8. Planning Assessment

8.1 Key/Main Planning Issues

- Principle
- Landscape and Visual Impact
- Housing Density
- Housing Need
- Affordable Housing Contribution
- Flooding and Environmental Impacts

- Infrastructure
- Other matters

8.2 Principle

- 8.2.1 In terms of the principle of housing development, consideration is given to the development plan. This consists of both the 'saved' policies of the local plan (adopted in 1996) and the districts Core Strategy (2010). In addition, there is a Housing Supplementary Planning document which assists in the determination process. Housing policy within the district as prescribed within these documents that comprise the development plan indicate that residential development should be directed to sustainable locations. These locations are indicated within the Core Strategy as 'Key and Local Service centres'.
- 8.2.2 Such locations are considered 'Key and Local Service centres' because they are where local facilities and infrastructure is provided. In turn, it is considered such locations are 'sustainable' hence why they are the preferred locations for residential development. In this instance, Kirkby Stephen is a designated 'Key Service Centre' and accordingly is considered an appropriate location for proposals such as this.
- 8.2.3 Nevertheless, proposals for such locations are still required to make a contribution to the community and ensure they respect the local vernacular. Proposals must not result in any significantly and demonstrable harm were they to be permitted.
- 8.2.4 At present Eden District Council is unable to demonstrate a five year land supply (it currently is only able to demonstrate a 3.35 year supply). In such circumstances policies related to housing are to be considered out-of-date and planning authorities are required to take account of the National Planning Policy Framework (NPPF). The NPPF notes within paragraph 14 that *"where the development plan is out-of-date, planning permission should be granted unless...the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF...or specific policies in the NPPF indicate development should be restricted"*.
- 8.2.5 Paragraph 14 states that where policies are considered out-of-date planning permission should be granted unless there are adverse impacts. Such impacts would need to be considered significantly harmful and would demonstrably outweigh the benefits of the proposal.
- 8.2.6 Furthermore, paragraph 49 states *"relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites."*
- 8.2.7 Recently a Supreme Court judgement (Case ID UKSC 2016/0078) also provides further qualification on how significant the lack of a demonstrable five year housing land supply actually is. Fundamentally, the judgement reaffirms that where such a supply is not demonstrable, paragraph 49 of the NPPF is a key material consideration in that all relevant housing policies detailed in the development plan are to be considered out-of-date. In turn, the determination of such applications given that circumstance in Eden means that paragraph 14 is a key factor to consider in the determination process. Ultimately, unless significant and demonstrable harm can be demonstrated to outweigh the benefits of the proposal, the development should be granted planning permission 'without delay'.

- 8.2.8 In terms of its location, the application site is considered to be well related to the town of Penrith. It is acknowledged that the development would be undertaken on an area of agricultural land. Given that Penrith is a recognised 'key service centre' it is considered that the principle of such a development in such a location is acceptable.
- 8.2.9 Therefore, for the reasons detailed above it is considered that the in terms of the principle of the proposed development, it accords with the Development Plan and National Planning Policy.

8.3 Landscape and Visual Impact

- 8.3.1 A significant consideration in the determination of this outline planning application is the extent of the impact of the proposed development upon both the character of the area and local landscape. It is noted that the application site is an agricultural field which is located within the existing town, adjacent to existing housing developments.
- 8.3.2 The topography of the application site means that the site slopes from east to west and that it commands an elevated position relative to those properties around it. However, whilst the appearance of the land would change, the immediately adjacent existing housing would mean this site simply extended it, in a logical fashion. The land is not subject of any specific landscape designation and whilst we have no specific detail to consider in terms of the indicative plans indicate a swathe of planting both internally and on the western boundary mean that landscape 'buffers' can 'soften' any possible wider landscape impact.
- 8.3.3 In terms of the design, scale and appearance of the proposed development, it is noted that such matters are not proposed at this stage. This is due to the proposal being outline consent, looking at the principle of the development. Notwithstanding, should planning permission be granted then a strong and high quality design would be required at a reserved matters stage in order to ensure that the character of the development was in-keeping with the locality. It is recognised that appropriate design has a significant role to play in ensuring the development would be 'in-keeping' with the locality. Therefore, the planning authority will expect an appropriate scheme to be achieved to ensure that the proposal is not out of character with the immediate and wider area. Given the applicants already considered view of this issue, it is clear that the intentions would be to provide a scheme that would reflect the existing area and in particular the immediate properties to the south off White Ox Way.
- 8.3.4 Furthermore, a reserved matters application would also require the submission of a full and detailed scheme of landscaping to be approved before any development of the site commences. The applicant's indicative plans are useful in providing a sense of what can be achieved and whilst it would screen the development in its entirety, it would soften its visual impact.
- 8.3.5 Therefore, whilst it is noted that the proposed development would result in an impact upon the local landscape due to the loss of an open piece of agricultural land, it is considered that the impact would not be significantly adverse. There is no reason to recommend refusal on these grounds and accordingly, the proposal is considered acceptable in terms of landscape and visual impact.

8.4 Housing Density

- 8.4.1 It is noted that the Council's principles on housing density are outlined within Core Strategy Policy CS8, which advises that housing schemes should have a minimum density of 30 dwellings per hectare. In the case of the current application, as the application site covers an area of 2.3 hectares, this would mean that the scheme proposed should achieve a density target of 22 dwellings per hectare if 51 units were constructed upon it.
- 8.4.2 Whilst the proposed level of housing is below the recommended level in Core Strategy Policy CS8, the reduced level would enable the applicant to offer a less overbearing development than there otherwise would be and in addition this would also allow a higher quality design to also be created on the site. In conclusion, the intentions of Policy CS8 would likely result in a proposal that could be considered over-developed and therefore need not be complied with in full in this instance.
- 8.4.3 Therefore, for the reasons detailed above it is considered that the density of the proposed development is considered to be acceptable in this instance.

8.5 Housing Need

- 8.5.1 In considering the benefits of the proposed development it is noted that the scheme would make a positive contribution to boosting the supply of deliverable housing in Eden. In addition, the development would contribute to meeting the requirement for delivering affordable housing within the area.
- 8.5.2 In terms of housing need, it is noted that district wide there is a housing need of circa 242 houses per year. In particular, there is a need for affordable housing within the district. In line with Eden District Council's adopted Council Plan (2015) a key corporate priority is providing access to good quality housing that reflects local need and supports both employment and thriving communities.
- 8.5.3 It is noted that one objector has raised concerns regarding the necessity of such numbers of housing in Penrith. Whilst this view is noted, the evidence available suggests that housing is needed in the district and that areas such as Penrith are appropriate for where such housing development should be focussed.
- 8.5.4 Therefore, it is accepted that a housing need does exist within the District (which is also a national need) which should be delivered within sustainable and appropriate locations such as Key and Local Service centres. These locations are those such as Penrith as identified by the district's Core Strategy.

8.6 Affordable Housing Contribution

- 8.6.1 The District's Core Strategy includes Policy CS10 entitled 'Affordable housing', which confirms that the council aspires to a target of 30% affordable housing for schemes above a threshold of 4 units. In the light of new advice from the Planning Practice Guidance this threshold for the provision of affordable housing has been raised to schemes of 11 units and above.
- 8.6.2 Indicative plans associated with this outline application suggest approximately 51 dwellings to be constructed if this permission was approved and subsequently implemented. A 30% affordable home contribution would therefore contribute 15 affordable dwellings to the district were that number constructed on site. The precise composition of these properties is not yet known but those details could be discussed at the reserved matters stage to the satisfaction of the District Council.

REPORTS FOR DEBATE

8.6.3 The proposal is therefore considered to represent a significant benefit to the identified district housing need and in particular in relation to the provision of affordable homes.

8.7 Amenity Impacts

8.7.1 Another important consideration as part of any planning application is the potential amenity impacts the proposal may result in. In this instance it is noted that since advertising the application, there has been 1 objection.

8.7.2 In officers view however, the Core Strategy has nominated sites within locations such as Penrith as where development should be directed. This site is not located in an open countryside location. It is bound by development to the south and to the west are major pieces of infrastructure (the A6, railway line and M6 motorway).

8.7.3 It is accepted that as an outline proposal we do not have specific design detail to consider but it is felt that given the density proposed in relation to this proposal (which is less than policy CS8 seeks to achieve) would mean that the development could ensure both development of further residential dwellings in the town (incorporating affordable homes) but also ensure that existing residents do not suffer significant impacts in terms of amenity.

8.7.4 The Environmental Health Officer has responded on this application and it would appear that the properties on the indicative plan, nearest the A6 will potentially be unable to be located there due to noise problems. However, the applicant may yet reconfigure the layout of the site to still accommodate 51 units on the site. The applicant has provided numerous additional responses following the Environmental Health Officer enquiries. These enquiries have related to amenity levels for each of the plots and for those plots that cannot meet internal noise levels with windows open, what measures were proposed to deal with that.

8.7.5 Following the most recent response from the applicant, the Environmental Health Officer has subsequently responded and confirmed that the proposal is acceptable in principle but that at the reserved matters stage, conditions, requested in section 1 of this report will need to be met with discussions with the developer.

8.7.6 The site is acknowledged to be located in the vicinity of both the A6, M6 motorway and a railway line. Furthermore, it is also acknowledged that there are existing residential dwellings immediately to the south of this site and under that circumstance it is difficult to provide a logical reason as to why residential development would be unsuitable on this site.

8.7.7 The concerns raised by the operator of the 'Black Barn' are also noted. The comments made by the operator were put to the Environmental Health Officer and it was requested as whether the applicant needed to provide or produce any further information in relation to them. The Environmental Health Officer confirmed that they did not. It is acknowledged that this site does have permission to operate 'industrial' type operations from the site, such as metal fabrication, but this is not a 24 hour operating business and any noises that were to be above and beyond the statutory limits would ultimately be managed by the Environmental Health Officers if a complaint were received. The responses received from the Environmental Health Officer do not indicate any complaints have been received. It is also acknowledged that the area is already subject of some noise, generated by traffic from the adjacent A6 etc there are no reasons why this proposal cannot be supported.

8.7.8 Accordingly, it is not considered that this proposal would have any significantly demonstrable harm in terms of noise, dust or vibration. It is accepted that were this application be granted planning permission there are likely to be amenity impacts during any construction works. However, paragraph 123 of the NPPF acknowledges this and with appropriate conditions, limiting construction hours, can help protect amenity during such works. A condition limiting hours of working on site is included in section 1 of this report to ensure that this amenity is protected during any subsequent works.

8.8 Flooding and Environmental Impacts

8.8.1 A Flood Risk and Drainage Assessment has been undertaken by the applicant to gauge the impact of the development upon flood risk. The extent of the assessment has been deemed to be acceptable by Cumbria County Council in their role as Local Lead Flood Authority subject to appropriate conditions being attached to any subsequent decision. The assessment indicates that whilst the application site is within a Flood Zone 1.

8.8.2 The assessment considered the potential sources of flooding. In this instance, the assessment confirmed that there was low risk of surface water, ground water or river flooding on the site. Run-off from the site was acknowledged to go in a south-westerly direction toward the A6.

8.8.3 This mitigation and management in terms of drainage relates to a Sustainable Urban Drainage System (SUDs) being incorporated into the development. The applicants Flood Risk Assessment indicates the use of swales to convey water and detention basins for surface water storage should be considered as potential methods of dealing with run off.

8.8.4 Both United Utilities and the Lead Local Flood Authority were consulted on the application. United Utilities confirmed that the site was within Environment Agency designated Groundwater Source Protection Zones 1 and 2 and would be approximately 200 metres from a United Utilities borehole. United Utilities had a 'strong' preference for development to take place, outside of these locations but it was accepted that if the principle of development in this location was accepted, there was some advice entitled '*The Environment Agency's Approach to Groundwater Protection March 2017*' that should be taken into account by ensuring conditions were imposed on any subsequent approval.

8.8.5 Furthermore, the response confirmed that a decision should take account of both United Utilities and Environment Agency comments and that appropriate mitigation measures should be included to ensure protection of the groundwater quality. The response acknowledged the flood risk assessment which proposed a detention basin and swales to the south-east of the site, as far as possible from existing boreholes and outside the groundwater protection zone.

8.8.6 It should be noted that the Environment Agency are no longer statutory consultees for housing development in Groundwater Protection Zones given changes to the Development Management Procedure Order (DMPO). Indeed, the Environment Agency are also not a statutory consultee for developments in excess of 1 hectare in Flood Zone 1 (such as this site). The Lead Local Flood Authority is now the statutory consultee in such circumstances. Accordingly, whilst the comments from United Utilities are understood, the Environment Agency are not a statutory consultee and will not comment on such proposals. The conditions requested by United Utilities are

Agenda Item

REPORTS FOR DEBATE

considered an acceptable way to ensure that the borehole and Groundwater Protection Zones are afforded appropriate protection in these circumstances.

- 8.8.7 The Lead Local Flood Authority responded to the consultation on this application. They confirmed that the applicant's assessment of SUDs, was, at this stage, unacceptable and that in order to ensure the development achieved a scheme that was, pre-commencement conditions would be necessary. Accordingly, these are included in section 1 of this report.
- 8.8.8 These conditions are recommended to ensure that the further details (based on site investigations) ensure that appropriate surface water drainage schemes are in place prior to the commencement of development. Therefore, on the basis that the Flood Risk and Drainage Assessment is followed, and that appropriate surface water drainage details are secured through condition and implemented on site the proposal can be considered acceptable in principle.

8.9 Infrastructure

- 8.9.1 It is noted that the proposal is subject to one objection which also raises concerns of a potential site access being achieved through White Ox Way. The applicant has not included access within this outline application so it is understood that these issues will be resolved at the reserved matters stage. The indicative site plan does not indicate such an access being created. The planning statement, which accompanied the application suggests that the access will be created onto the nearby Inglewood Road.
- 8.9.2 The objector also raises a concern that the proposal was not subject of a Transport Assessment - this was initially correct and the Highways Authority sought such an assessment which was duly provided by the applicant. The objector also raised concerns of the impact such a development would have on the wider highway network which were considered at 'breaking point'.
- 8.9.3 Whilst these concerns are understood and noted the Highways Authority response, which assessed the aforementioned Transport Statement confirmed that subject to appropriate conditions, they had no objections in relation to the proposal.
- 8.9.4 In terms of Highways impacts, the NPPF is explicit in its views. Paragraph 32 states that *'development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe'*. In this instance, the views of the highways authority clearly don't consider the proposal to have 'severe' impacts. Consequently, it is not considered acceptable to refuse this application on the basis of highway safety concerns. It is noted that the Highways Authority do seek a financial contribution from the developer for a proposed Toucan crossing on the nearby A6 - this will be secured via the Section 106 legal agreement.
- 8.9.5 The response from the education authority confirms that they have applied a theoretical pupil-led model to estimate the number of pupils that the local education system would need to accommodate. The response confirms that the secondary education facilities can accommodate the estimated additional pupils. In terms of primary education, the proposal is considered to require a contribution to aid in meeting the cost of a new primary school. The contribution in total would therefore be £166,670.
- 8.9.6 Therefore, for the reasons detailed above, whilst local concerns in relation to the nature of the local infrastructure are duly noted, it is considered that they are capable of coping with the proposed development without any additional adverse effects subject to appropriate mitigation to be agreed at the reserved matters stage and by condition.

8.10 Archaeology/Historic Environment

- 8.10.1 It is noted that the Historic Environment Officer confirmed that the site is located within an area of archaeological potential. It was confirmed that as a consequence of the proposal there was a potential for these potential assets to be disturbed by the potential development. It was therefore recommended that a condition requiring archaeological evaluation and, where necessary, a scheme of archaeological recording of the site be undertaken in advance of development proceeding. This condition is incorporated into section 1 of this report.
- 8.10.2 It is therefore considered that this proposal will not have any significant and demonstrable adverse impacts upon the historic environment of the area and merits support in this regard subject to this requested condition being imposed on any subsequent grant of planning permission.

8.11 Other Matters

- 8.11.1 It is noted that the objector of the proposal believes the proposal is 'EIA' development and that it has not been subject of the appropriate processes as a consequence. For clarification, the application has been 'screened' as per the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended 2017). It was considered that whilst the development falls within Schedule 2 development (part 10 - Infrastructure Projects (b) the application does not meet or exceed the threshold criteria by virtue of being less than 5 hectares in size and for being for less than 150 residential dwellings. Therefore, the application was not considered 'EIA' development and did not need to be accompanied by an Environmental Statement.
- 8.11.2 It is also noted that the objector has raised concerns that this proposal is being determined 'prematurely' in advance of the adoption of the emerging local plan. The objectors concerns are noted but it is not the aim or intention of the development process to prevent determination of planning applications. Planning applications must still continue to be determined in accordance with the existing development plan and all other material considerations.
- 8.11.3 Specific reference has been made to Policy PEN2 which requires a masterplan to be developed. Presently, the emerging plan is of limited weight in the consideration of the determination of planning applications and as such the proposal is determined on the basis of the development plan available and this as with all planning applications determined in the district this is the case for this application. It is not, therefore, considered appropriate to wait to determine a planning application only once the 'new' plan is extant.
- 8.11.4 However, it is acknowledged that the new local plan is emerging although it is not yet adopted. Policy PEN2 seeks to ensure that sites located to the north and east of Penrith are developed with masterplans created in association with both the Council and public consultation. The remit of the masterplan is to ensure that the approach to layout, housing type, mix, tenure, landscaping, open space, community facilities, access and design. In addition the masterplan would seek to do also work with infrastructure providers as to how the developer would provide funds for supporting required infrastructure.
- 8.11.5 In relation to this application, the infrastructure providers have had opportunity to comment upon the application and have sought the financial contributions they have. Furthermore, the application has been subject to the public consultation process which involved a site and press notice as well as neighbour notification letters being issued.

REPORTS FOR DEBATE

8.11.6 Accordingly, whilst the principle of Policy PEN2 is acknowledged, the emerging plan is not yet adopted. Furthermore, the principles of PEN2 are considered to have been met albeit not in the form of a masterplan. On that basis, it is not considered that this proposal should not be determined purely on the basis of the principles of Policy PEN2 which remains part of a development plan that is not extant.

9. New Homes Bonus

9.1 The prospect of receiving a Bonus is, in principle, capable of being taken into account as a 'material consideration' in determining a planning application. Whether potential Bonus payments are in fact a material consideration in relation to a particular application will depend on whether those payments would be used in a way which is connected to the application and to the use and development of land. For example, potential Bonus payments could be a material consideration if they were to be used to mitigate impacts resulting from development. But if the use to which the payments are to be put is unclear or is for purposes unrelated to the development concerned a decision maker would not be entitled to take them into account when making a decision on a planning application. In this particular case, there are no plans to use the New Homes Bonus arising from this application in connection with this development.

10. Implications

10.1 Equality and Diversity

10.1.1 The Council must have regard to the elimination of unlawful discrimination and harassment, and the promotion of equality under the Equality Act 2010.

10.2 Environment

10.2.1 The Council must have due regard to conserving bio-diversity under the Natural Environment and Rural Communities Act 2006.

10.3 Crime and Disorder

10.3.1 Under the Crime and Disorder Act 1998, the Council must have regard to the need to reduce crime and disorder in exercising any of its functions.

10.4 Children

10.4.1 Under the Children Act 2004, the Council has a duty to safeguard and promote the welfare of children in the exercise of any of its functions.

10.5 Human Rights

10.5.1 In determining applications, the Council must ensure that all parties get a fair hearing in compliance with the provisions of Article 6 under the European Convention on Human Rights, as now embodied in UK law in the Human Rights Act 1998.

11. Conclusion

- 11.1 It is considered that the proposal is acceptable. In current policy terms the absence of a five year housing land supply is of material significance. The policy direction in such circumstances is very clear. Paragraph 49 states '*relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites*'. Paragraph 14 states that where policies are considered out-of-date planning permission should be granted unless there are adverse impacts and 'without delay'. Such impacts would need to be considered significantly harmful and would demonstrably outweigh the benefits of the proposal.
- 11.2 The concerns that have been raised by the objector are acknowledged and understood. However, the concerns related to highways impacts are not shared by the Highways Authority. It is noted that none of the consultees have objected to the proposal.
- 11.3 The Environment Agency designated Groundwater Source Protection Zones 1 and 2 and United Utilities borehole are also acknowledged to be located either on or near to the site. However, appropriate mitigation can be secured by condition and it is considered that in such a case, planning permission can be granted whilst ensuring these areas are afforded appropriate protection.
- 11.4 Ultimately, the planning judgement on this application is whether or not there is any demonstrable, significant harm that outweighs the benefit of the proposal. Officers have no evidence of demonstrable, significant harm and recognise the benefit of additional housing, including an affordable homes element, in a district that has a recognised housing need.
- 11.5 The proposed development would make a good contribution towards the supply of housing within the district and provides sufficient gains in terms of local housing (affordable) supply to outweigh any limited potential harm caused to the local landscape and all other material considerations. As such, the planning balance in this instance is considered to have been met and the proposal can be supported.
- 11.6 It is therefore concluded that planning permission be granted.

Jane Langston
Assistant Director Technical Services

Checked by or on behalf of the Monitoring Officer	✓
---------------------------------------------------	---

Background Papers: Planning File

Date of Committee: 17 August 2017

Date Received: 26 June 2017

Expiry Date: 21 August 2017

Ward: Dacre

Application Type: Outline

Proposal: Outline application for residential development, all matters reserved.

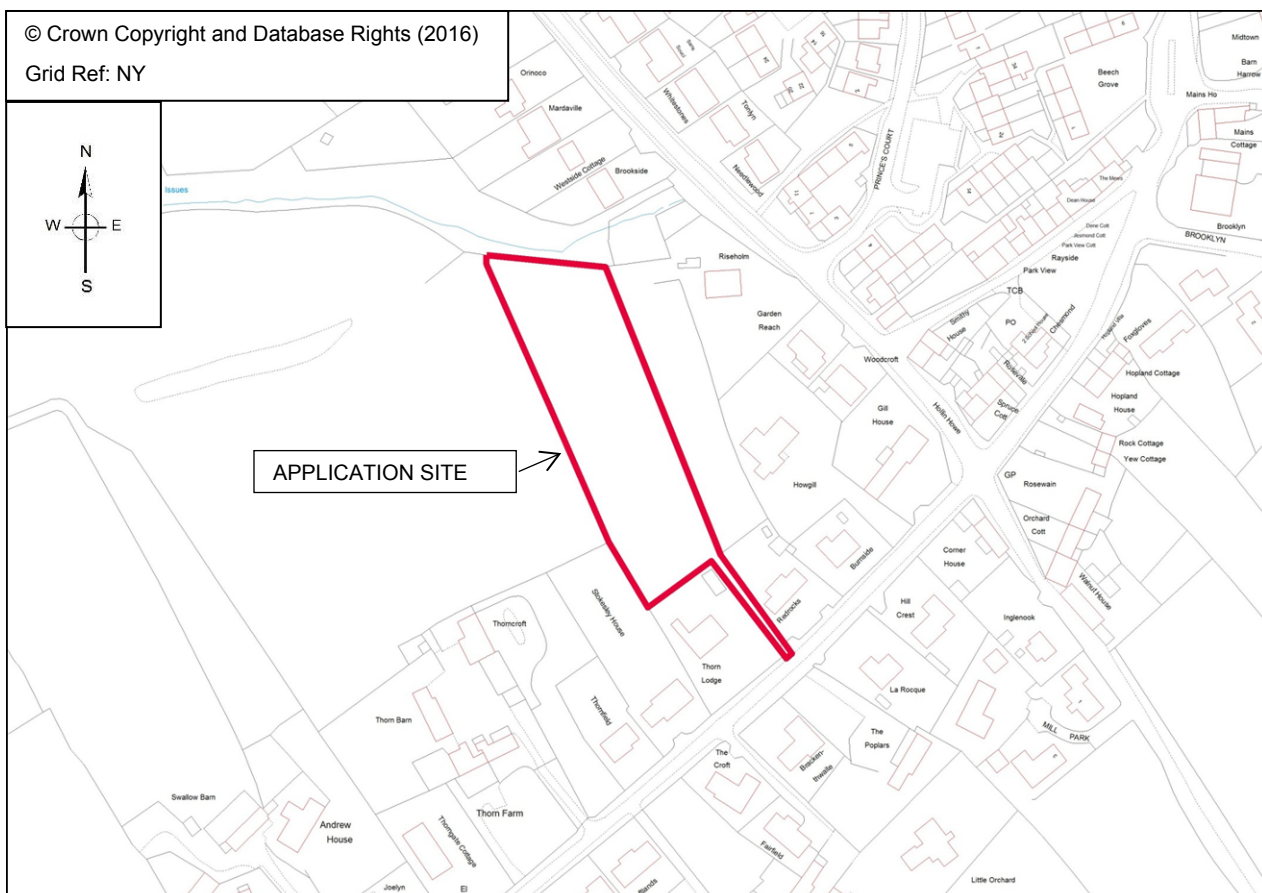
Location: Land to rear (north) of Thorn Lodge, Stainton

Applicant: Burnetts

Agent: Burnetts

Case Officer: Nick Atkinson

Reason for Referral: This application is before Members as the recommendation is contrary to that of the Parish Council and at the request of an objector to the application.



1. Recommendation

It is recommended that planning permission be granted subject to the following conditions:

Time Limit for Commencement

1. The development permitted shall be begun either before the expiration of three years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: In order to comply with the provisions of the Town and Country Planning Act 1990.

2. The approval of the details of the scale, layout, external appearance of the buildings, drainage and the landscaping/boundary treatments of the site (called “the reserved matters”) shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: The application is in outline form only and is not accompanied by full detailed plans.

3. An application for approval of all reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: In order to comply with the provisions of the Town and Country Planning Act 1990.

Approved Plans

4. The development hereby permitted shall be carried out in accordance with the documents and drawings hereby approved:

- Application Form dated 26 June 2017, received 29 June 2017;
- Location/Block Plan, received 28 June 2017.

Reason: To ensure a satisfactory development and to avoid any ambiguity as to what constitutes the permission.

Prior to Commencement

5. No development shall commence until a surface water drainage scheme and management plan, 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) has been submitted to and approved in writing by the Local Planning Authority.

The surface water drainage scheme must be in-compliance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. 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.

6. No development shall commence until detailed drawing showing the development and means of access thereto have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved access details shall be completed in accordance with the approved plans before the development is occupied.

Reason: In the interests of highway safety

7. No development shall commence until a plan has been submitted to and approved in writing by the Local Planning Authority reserving adequate land for the parking of vehicles engaged in construction operations associated with the development hereby approved, and that land, including vehicular access shall be used for or kept clear for these purposes at all times until the completion of the construction works.

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

Prior to Occupation

8. The access drive shall be surfaced in bituminous or cement bound materials and shall be constructed and completed before the development is occupied/brought into use.

Reason: In the interests of highway safety.

9. No dwellings shall be occupied until the vehicular access and turning requirements have been constructed in accordance with the approved plans and has been brought into use. The vehicular access and turning provisions shall be retained and capable of use at all times thereafter.

Reason: To ensure a minimum standard of access to the site.

Ongoing Conditions

10. The reserved matters application shall propose no more than 5 new dwellings.

Reason: To restrict the number of units as any development which exceeds these thresholds would require either a commuted sum (6-10 units) or the provision of an affordable unit (11+ units) which does not form part of this application.

Informative

1. Should any unexpected ground conditions, which could indicate the presence of land contamination (for example unusual colours, odours, liquids or waste materials) be encountered during development, the Environmental Protection Team (01768 212490) should be notified immediately. The Environmental Protection Team liaises with developers to achieve cost effective sustainable solutions to deal with contamination to safeguard the health of future occupants, building structures and the local environment. The responsibility for securing a safe development however, lies with the developer and/or landowner.

2. Proposal and Site Description

2.1 Proposal

- 2.1.1 The application is in outline with all matters reserved and therefore only the principle of residential development on this land is to be considered.
- 2.1.2 The application provides no indicative details as to how the site could be laid out or the nature of the housing proposed. The applicant has indicated that the development would be for up to five residential dwellings. All matters relating to form, layout and design would be considered at a 'Reserved Matters' application should planning permission be approved.
- 2.1.3 The applicant has indicated that access to the site would be achieved via the existing access point to the field located off the U3152 public highway, to the south east of the site.

2.2 Site Description

- 2.2.1 The application site is presently an under-used area of agricultural land located on the edge of the village of Stainton. The site forms part of a slightly larger parcel of land, which is not within the applicant's ownership and which is physically separated by a post and rail fence.
- 2.2.2 The application site is a long and narrow strip of land extending from the rear of Thorn Lodge in a north easterly direction. The site is positioned to the rear of the existing building line of the dwellings forming the existing limit of the settlement. As such, the application would form an extension of the village into the surrounding open countryside.
- 2.2.3 The site is bound to the south by residential properties and to the north and west by a mature hedgerow which encloses the site. Beyond the thin strip of land to the east and north of the site are further residential dwellings on the edge of the village, and which form the current settlement limit. To the south west of the site, a number of residential dwellings continue along the U3152 public highway for approximately 220 metres.
- 2.2.4 The access to the site has previously been partially upgraded following a previous grant of planning permission, with a hard surface laid and kerb stones.
- 2.2.5 The site is not located within a Conservation Area or within the setting of any Listed Buildings.

3. Consultees

3.1 Statutory Consultees

Consultee	Response
Highway Authority	Responded on the 24 July 2017 raising no objection to the proposal. It was noted that the development would result in an intensification of use for the existing access. Visibility splays should be provided in both directions which if this cannot be demonstrated, a speed survey should be undertaken to reflect the required visibility.

Agenda Item
REPORTS FOR DEBATE

Consultee	Response
	<p>Depending upon the number of bedrooms for each dwelling, sufficient parking provision should be demonstrated for each dwelling:</p> <p>1 bedroom dwelling - 2 spaces;</p> <p>2 bedroom dwelling - 2 spaces;</p> <p>3, 4 or 5 bedroom dwelling - 3 spaces.</p> <p>It was further recommended that such matters could be controlled via the inclusion of conditions in any decision notice as may be issued.</p>
Local Lead Flood Risk Authority	<p>Responded on the 24 July 2017 raising no objection to the proposal. It was noted that to the north of the site is an un-named watercourse and as such the applicant would need to apply for an Ordinary Watercourse Flood Defence application for any works affecting it.</p> <p>The plans provided would need to provide details of drainage for both foul and surface water, either mains connected or to a soakaway. The developer would need to demonstrate how they will deal with surface water discharge from the site and how this will be avoided discharging onto the public highway or neighbouring developments. As such, it was recommended that a scheme of drainage be secured through the imposition of a condition should planning permission be granted for the proposed development.</p>

3.2 Discretionary Consultees

Consultee	Response
Dacre Parish Council	Responded on the 18 July 2017 raising an objection to the proposal.
United Utilities	Responded on the 11 July 2017 raising no objections to the proposal. It was noted that the site should be drained on a separate system with foul water draining into the public sewer and surface water draining in the most sustainable way. The drainage for the site should be implemented in accordance with the surface water drainage hierarchy.
Housing Officer	Responded on the 11 July 2017 noting that the application site is located within a Local Service Centre and that there are no affordable housing implications.

Consultee	Response
Contaminated Land Officer	Responded on the 01 August 2017 confirming that there are no historic land uses nearby that are likely to result in any contaminated land.

4. Parish Council/Meeting Response

	Please Tick as Appropriate			
Parish Council/Meeting	Object	Support	No Response	No View Expressed
Dacre	✓			

4.1 Dacre Parish Council raised the following points:

‘The Council object to this proposed development on a number of grounds:

- 1. It is outside the natural village boundary and appears to be an extension to the village rather than infill due to the proposed layout of the estate;*
- 2. Sewerage infrastructure, there is once again a reported issue with sewerage problems in this area, this proposed development would only increase the pressure on what is reported to only be a 4 inch pipe.*
- 3. It is overdevelopment of Stainton as a settlement, with the added concerns that the existing infrastructure (sewerage/roads etc) can't cope.*
- 4. The proposed access road is one single carriageway and not sufficient for two vehicles to pass causing concerns over access/egress safety.’*

5. Representations

5.1

No of Neighbours Consulted	27	No of letters of support	0
No of Representations Received	8	No of neutral representations	0
No of objection letters	8		

5.2 The letters of objection provide the following comments:

- The building boundary for the north side of town head road has been set for many years and confirmed on two occasions;
- If this development is approved, authorities would be powerless to prevent further opportune development in the area;
- The development would open the flood gates for development in the area;
- An upgrade to the sewerage system in the area is required before any further development is approved;
- The local electricity supply suffers from continuity issues at the present time and would need to be upgraded before any further development is approved;

- Development within the village should only take place within the current building boundaries to allow for controlled development within the village;
- The development is an unnecessary intrusion into open agricultural land;
- The development would not fulfil any identified or specialist local community need in view of the extensive consultations being undertaken at present to the modifications of the local plan;
- Consideration of this land for development is premature.
- The extension of the current building line into the field will spoil the unique quality of living on the western side of our village, with its beautiful farmland views;
- The development would set an unwelcome precedent for future development behind Fairybed Lane;
- Most of the building quota for the village under the Local Plan has been reached;
- The continued development of the village is in danger of being spoilt beyond recognition and becoming an area of urban sprawl - a dormitory suburb of Penrith rather than an attractive Cumbrian village which currently attracts a lot of tourist;
- The proposed development is out of keeping with the area;
- Housing should only take place within the current building boundaries to allow for controlled development within the village;
- The proposed access is too narrow;
- The extra surface run-off from the proposed development would come downhill into Riseholm. Soakaways for five houses would not be sufficient to prevent this and may increase the frequency of such events;
- The village of Stainton has a number of sites available for infill development instead of this extension to the village;
- The adjacent public highway is busy at times of school traffic.

6. Relevant Planning History

6.1 The planning history considered most relevant to the site includes:

- 13/0282 - Erection of dwelling, refused 20 June 2013.
- 13/0269 - Discharge of condition 3 (materials) attached to planning approval 09/0884, approved.
- 10/0845 - Non-material amendment to application 09/0884 comprising of internal amendments, carport, roof alterations and rainwater harvest system added, approved.
- 09/0884 - erection of a dwelling, approved by appeal by Planning Inspectorate 25 May 2010.
- 08/0830 - erection of a new dwelling and replacement garage, approved 19 February 2009.
- 07/0167 - outline application for single residential unit, refused 09 May 2007.

7. Policy Context

7.1.1 Development Plan

Saved Local Plan Policies:

- There are no 'Saved' Policies within the Eden Local Plan considered relevant to the determination of this planning application.

Core Strategy DPD Policy:

- CS1 - Sustainable Development Principles;
- CS2 - Locational Strategy;
- CS4 - Flood Risk;
- CS5 - Transport and Accessibility;
- CS6 - Developer Contributions;
- CS7 - Principles for Housing;
- CS8 - Making Efficient Use of Land;
- CS16 - Principles for the Natural Environment;
- CS18 - Design of New Development.

Emerging Local Plan

The following policies within the emerging Local Plan are afforded limited weight in the determination of this planning application due to the current stage of adoption of the plan:

- LS1 - Locational Strategy;
- LS2 - Housing Targets and Distribution;
- DEV1 - General Approach to New Development;
- DEV4 - Infrastructure and Implementation
- DEV5 - Design of New Development;
- HS4 - Housing Type and Mix.

Supplementary Planning Documents:

- Housing (2010)

7.2 Other Material Considerations

National Planning Policy Framework:

- Core Planning Principles
- Delivering a wide choice of high quality homes
- Requiring good design
- Presumption in favour of sustainable development
- Conserving and enhancing the natural environment

National Planning Practice Guidance

- 7.3 The policies detailed above are the most relevant policies relating to this application.

8. Planning Assessment

8.1 Key/Main Planning Issues

- Principle
- Landscape and Visual Impacts
- Residential Amenity
- Infrastructure

8.2 Principle

- 8.2.1 The principle of the development of the application site for residential development has partially been established by the previous grant of planning permission (ref: 09/0884) for one residential dwelling, which although refused by Eden District Council was subsequently approved a Planning Inspector at appeal. In the appeal decision the Planning Inspector made the following comments in relation to the proposal:

'As such, the proposal would have a close linkage with the built form of the area, to which it would be well related. It would not, in my opinion, amount to an encroachment into that part of the back garden that contributes to the open, undeveloped appearance of the land behind Thorn Lodge and its neighbours. Consequently, I consider its effect on the character and appearance of the area would be similar to that of the proposal granted planning permission in 2008.

In addition, I observed that tandem development is to be found nearby. While this relates in the main to the residential conversion of agricultural buildings, it also includes more recent new-build development. I consider that the relationship of the proposal to the street frontage buildings would be similar to that which exists nearby at Howgill and would not appear out of character with the prevailing development pattern of the area.

Accordingly, the proposal would not conflict with Policy CS18 of the Core Strategy Development Plan Document, adopted March 2010, of the Eden Local Development Framework.'

- 8.2.2 Since the grant of planning permission 09/0884, there have been no changes to the Development Plan for the area. However, there have been changes to national planning policy, in particular the introduction of the National Planning Policy Framework (NPPF) in 2012. As such, the change to national planning policy represents a sufficient material change to planning policy and the circumstances of the site for the principle of residential development at the site to again be considered.
- 8.2.3 The village of Stainton is a Local Service Centre, within which the Core Strategy supports small scale development which meets a local need. This includes the provision of housing in accordance with Core Strategy Policies CS2 and CS3. In such locations, development should be in-keeping with the character of the village and surrounding area in accordance with Core Strategy Policies CS1 and CS7.
- 8.2.4 In terms of its location, the application site is considered to be well related to the village of Stainton sequentially. Whilst outside of the current settlement limits, in principle the site's positioning represents an appropriate and acceptable small-scale extension to the footprint of the village into an enclosed and underused area of agricultural land on the edge of a Local Service Centre.

- 8.2.5 It is noted that planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. At the present time, Eden District Council is unable to demonstrate a five year housing land supply as required by the National Planning Policy Framework (NPPF). Therefore, in accordance with paragraph 49 of the Framework *“relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.”* As such, the development plan policies relating to the supply of housing within the District are considered out-of-date and, therefore, afforded less weight in the planning assessment.
- 8.2.6 Furthermore, the NPPF notes within paragraph 14 that *“where the development plan is out-of-date, planning permission should be granted unless...the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF...or specific policies in the NPPF indicate development should be restricted”*. In the case of the current application, planning permission should be granted unless there is significant and demonstrable harm that outweighs the benefits of the provision of 31 residential dwellings. A recent Supreme Court judgement in *Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and anor (Respondents) Richborough Estate Partnerships LLP and anor (Respondents) v Cheshire East Borough Council (Appellant) [2017] UKSC 37* emphasised that the test set out in paragraph 14 covers all aspects of a proposed development and not just related to policies that restrict housing.
- 8.2.7 At the present time there are over 400 dwellings located within the village of Stainton. The current application seeks approval for up to 5 houses within the application site. This would represent an approximate 1.25% increase in the number of dwellings within the village and as such is considered to be a small-scale development. The application site is considered to be an appropriate location for residential development and would not result in an adverse impact upon the character of the area.
- 8.2.8 The scale of a housing scheme within a nearby Local Service Centre in Eden has previously been tested by a Planning Inspector at appeal for a 48 dwelling scheme at land off Scour Lane, Lazonby (planning appeal reference APP/H0928/A/13/2202978). In this appeal the Inspector held that the addition of 48 dwellings into a village of 400 houses (12%) was considered to be small scale and as such fell within the threshold of Core Strategy Policy CS2. In terms of the current planning application, the 1.25% increase proposed falls well below the level tested at the aforementioned appeal and would be considered to be a small-scale development within the context of the village and therefore, in-compliance with Core Strategy Policy CS2.
- 8.2.9 For the reasons detailed above, the principle of residential development in this location is still considered to be appropriate and acceptable. The development is in-compliance with the locational criteria of the Core Strategy, which focusses small scale developments to Local Service Centres, subject to further consideration on design, appearance, scale, and impacts upon local amenity, the character of the area and the highway network. Furthermore, the proposed development is considered to be a sustainable development within the National Planning Practice Guidance.

8.3 Landscape and Visual Impacts

- 8.3.1 Despite the application being outline at this stage, the impact of the proposed development upon the character of the area and the local landscape remains an important consideration in the determination of this application. It is noted that a number of objectors to the application have raised concerns in relation to the proposed extension of the village outside of the current development limit in this location.
- 8.3.2 The application site is located on an edge of village position, where the town itself begins to merge into the surrounding countryside. It is noted that the application site is not located within a landscape of any special designation. The site is enclosed on its western boundary to the wider open countryside landscape by mature vegetation along its entire length. The development of this site would essentially create a back-land development, which would reduce its visual prominence in the local landscape due to the limited public views that would exist.
- 8.3.3 Whilst this area of land has been partially protected from residential development in the past, it is noted that in a number of recent planning appeals the Planning Inspectorate have judged that the lack of a five year housing supply should be afforded greater weight than impacts of the loss of greenfield land on the edge of settlements, unless the impact of the development is considered to be significantly adverse.
- 8.3.4 It is further recognised that the development would result in a loss of a small area of underused agricultural land. This in itself is not considered to be sufficiently adverse so as to warrant the refusal of this planning application due to the relatively limited significance and importance that it makes to the wider landscape character or its setting. This is particularly the case following the grant of planning permission 09/0884 which partially introduces residential development to this parcel of land. Therefore, due to the limited views from Stainton through the application site to the surrounding countryside, it is considered that the development would not restrict views from Stainton towards the surrounding Lake District National Park or surrounding landscape.
- 8.3.5 Furthermore, due to the location of the application site and the existing boundary treatment, it has a limited connectivity or views to the surrounding landscape. Although sited within the open countryside, it is considered that the site makes a limited contribution to the character and value of the surrounding landscape by virtue of the limited inter-visibility between it and the surrounding area.
- 8.3.6 As such, whilst it is recognised that the development would cause harm to the character of the area by virtue of the loss of an area of greenfield land, it is considered that the level of harm caused to the local landscape through this loss would be minimal and does not outweigh the public benefits of the scheme, being the creation of five additional residential dwellings in the absence of a demonstrable 5 year housing land supply.
- 8.3.7 For the reasons detailed above, it is considered that the development would have an acceptable impact upon the character and appearance of the local area and landscape.

8.4 Residential Amenity

- 8.4.1 It is noted that as the current application is outline, matters relating to layout, design, height, scale and orientation of the proposed buildings would be considered at a reserved matters stage. Notwithstanding, the impact of the proposed development upon local amenity is still considered to represent a material consideration in the determination of this planning application when considering the principle of residential development.
- 8.4.2 The applicant has provided no indicative plans detailing how a layout of the site could be achieved. However, it is considered that the site would be capable of being developed for up to 5 residential dwellings without resulting in any adverse impacts upon local amenity. The strip of land to the east of the application site is not within the applicant's ownership and is not included within the application site. Although not large in size, this strip of land extends along the entire boundary of the application site and would provide a sufficient buffer to ensure that sufficient separation distances could be maintained to the nearest residential dwellings to ensure that there would be no loss of privacy, light nor appear overbearing.
- 8.4.3 In terms of the impact of the development upon the amenity of Thorn Lodge, it is noted that the principle of residential development to the rear of this property has previously been established as acceptable through the prior grant of planning permission 09/0884. Although no layout details have been provided in the current application, it is considered that the previously approved separation distances could continue to be maintained when the final layout is designed.
- 8.4.4 As such, for the reasons detailed above it is considered that 5 houses could be developed on the site whilst maintaining appropriate impacts upon amenity. Notwithstanding the above, due to the limited details under consideration of this outline permission, it is not possible to fully assess the impact of the proposed development upon local residential amenity. As such, the full impacts of the development would be assessed at a reserved matters stage once final details are submitted.

8.5 Infrastructure

- 8.5.1 A number of concerns have been raised by objectors to the application that the proposed access is of concern in terms of highway safety, and that existing sewerage and electricity infrastructure is currently substandard and likely to be made worse as a result of the development of this site. It is noted that the site is not located within an area of increased risk of flooding or vulnerable to flood events.
- 8.5.2 No foul or surface water drainage details have yet been provided by the applicant due to the outline nature of the application. However, the application has been assessed by both Cumbria County Council in its role as Local Lead Flood Risk Authority and by United Utilities, neither of which raise any objections to the proposal nor raise any concerns that the suitable drainage infrastructure would be unachievable or unable to be engineered at the site.
- 8.5.3 As such, it is considered acceptable to ensure that further and sufficient drainage details are secured through condition to form part of a reserved matters application. The applicant would, therefore, need to demonstrate that suitable drainage measures could be engineered to the satisfaction of Cumbria County Council and United Utilities prior to the approval of a reserved matters application and before any commencement of the development.

- 8.5.4 In relation to the proposed access details, it is again noted that Cumbria County Council in its role as Highway Authority has raised no objections to the proposal. Whilst the use of the proposed access for residential vehicular access purposes has been established through the previous grant of planning permission 09/0884, the current proposal represents an intensification of use and therefore, only limited weight is afforded to this.
- 8.5.5 In its consultation response to the application, Cumbria County Council have indicated that further details on design and visibility would need to be provided by the applicant for approval prior to the commencement of any construction works at the site. Such matters would again need to be satisfactorily demonstrated prior to the approval of a reserved matters application and before the commencement of the development. However, based upon the comments from Cumbria County Council, there remains no concern that appropriate access to the site cannot be appropriately design and achieved without resulting in adverse impacts upon existing highway conditions and safety. Furthermore, there are no concerns that the local highway network would not be capable of absorbing the likely increase in traffic levels.
- 8.5.6 For the reasons detailed above, it is considered that the development is capable of being served by a suitable infrastructure.

9. New Homes Bonus

- 9.1 The prospect of receiving a Bonus is, in principle, capable of being taken into account as a 'material consideration' in determining a planning application. Whether potential Bonus payments are in fact a material consideration in relation to a particular application will depend on whether those payments would be used in a way which is connected to the application and to the use and development of land. For example, potential Bonus payments could be a material consideration if they were to be used to mitigate impacts resulting from development. But if the use to which the payments are to be put is unclear or is for purposes unrelated to the development concerned a decision maker would not be entitled to take them into account when making a decision on a planning application. In this particular case, there are no plans to use the New Homes Bonus arising from this application in connection with this development.

10. Implications

10.1 Legal Implications

- 10.1.1 The following matters have been considered but no issues are judged to arise.

10.2 Equality and Diversity

- 10.2.1 The Council must have regard to the elimination of unlawful discrimination and harassment, and the promotion of equality under the Equality Act 2010.

10.3 Environment

- 10.3.1 The Council must have due regard to conserving bio-diversity under the Natural Environment and Rural Communities Act 2006.

10.4 Crime and Disorder

- 10.4.1 Under the Crime and Disorder Act 1998, the Council must have regard to the need to reduce crime and disorder in exercising any of its functions.

10.5 Children

10.5.1 Under the Children Act 2004, the Council has a duty to safeguard and promote the welfare of children in the exercise of any of its functions.

10.6 Human Rights

10.6.1 In determining applications, the Council must ensure that all parties get a fair hearing in compliance with the provisions of Article 6 under the European Convention on Human Rights, as now embodied in UK law in the Human Rights Act 1998.

11. Conclusion

- 11.1 The proposed development would result in the creation of five residential dwellings within a Key Service Centre location. Whilst the development may result in a low-moderate level of harm to the character of the area it is considered that the extent of the harm would not be sufficient justification for the refusal of this planning application.
- 11.2 In light of the lack of a 5 year housing land supply within the district, it is considered that the level of harm which would be result from the development would not outweigh the benefit of the scheme.
- 11.3 Therefore, the proposed development is considered to be in accordance with the development plan which is not outweighed by material considerations and therefore the application is recommended for approval.

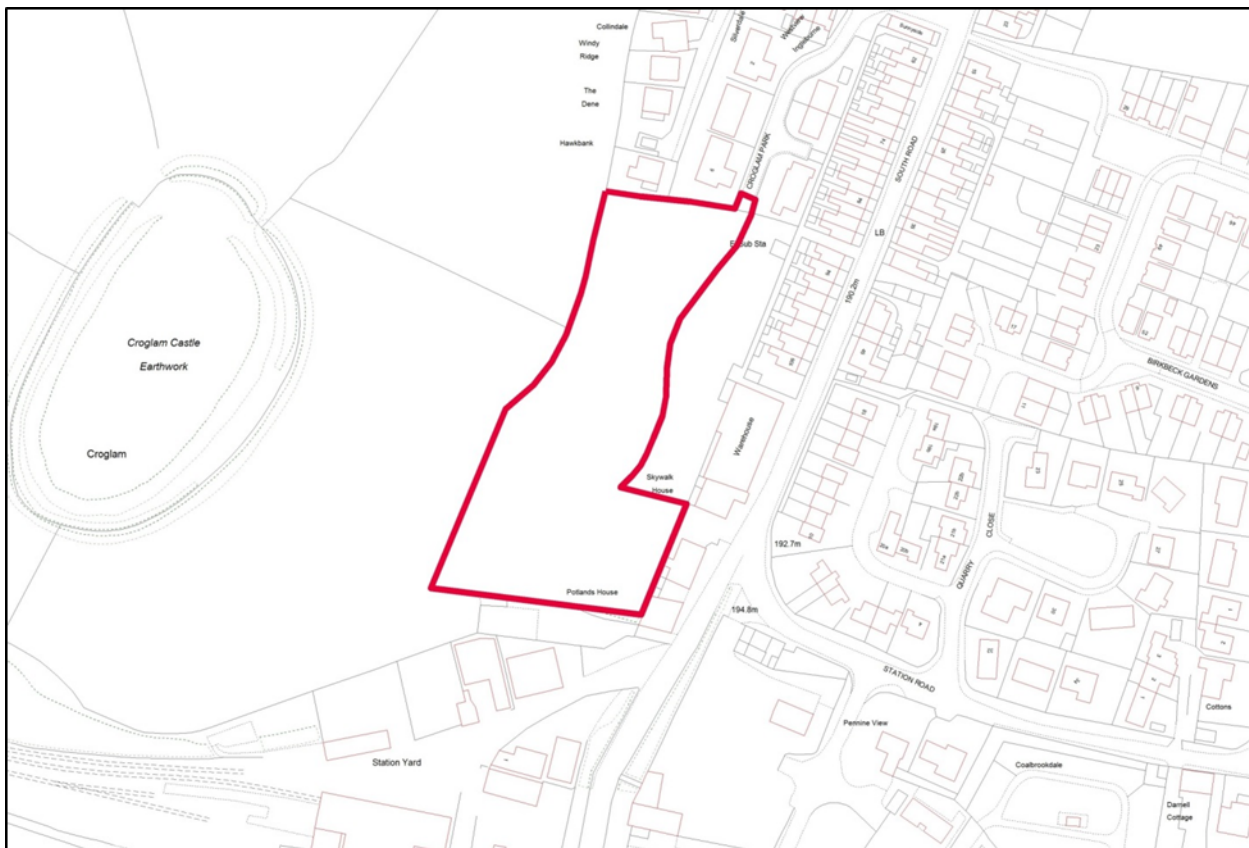
Jane Langston
Assistant Director Technical Services

Checked by or on behalf of the Monitoring Officer	✓
---------------------------------------------------	---

Background Papers: Planning File

Agenda Item
REPORTS FOR DEBATE
Item 6

Date of Committee:	17 August 2017		
Planning Application No:	16/0224	Date Received:	9 March 2016
OS Grid Ref:	377030 507674	Expiry Date:	13 June 2016
		Extension of time in proposed until 1 October 2017	
Parish:	Kirkby Stephen	Ward:	Kirkby Stephen
Application Type:	Full		
Proposal:	Residential development 13 houses		
Location:	Land off Croglam Park, Rowgate, Kirkby Stephen		
Applicant:	JIW Properties Limited		
Agent:	Holt Planning Consultancy Ltd		
Case Officer:	Ian Irwin		
Reason for Referral:	This application is before Members as the proposal is a significant development in the town of Kirkby Stephen and the Ward Member requested the matter be heard by Planning Committee.		



1. Recommendation

It is recommended that delegated power be given to the Assistant Director Technical Services to grant planning permission subject to a Section 106 Agreement being entered into to the absolute satisfaction of the Deputy Chief Executive and the Assistant Director Technical Services requiring the provision of 30% affordable Houses; and the Council's reasonable costs being paid in relation to that Section 106 Agreement and subject to the following conditions:

Time Limit for Commencement

1. The development permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In order to comply with the provisions of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Approved Plans

2. The development hereby granted shall be carried out in accordance with the documents and drawings hereby approved:
 - i) Application Form dated 07 March 2016;
 - ii) Planning Statement (incl. Design, Heritage and Access Statement) dated March 2016;
 - iii) Existing site plan;
 - iv) Site Location Plan;
 - v) Proposed Site Plan (ref. 109-145-12 - Rev. H) dated 29 March 2017;
 - vi) Proposed Handed House Plans and Sections (ref 109-145-14 - Rev. A) dated 07 June 2016);
 - vii) Proposed House Plans and Elevations ref 109-145-13 - Rev. B) dated 07 June 2016;

Reason: To ensure a satisfactory development and to avoid any ambiguity as to what constitutes the permission.

Prior to commencement

3. Prior to the commencement of the development the applicant shall submit a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority.

This written scheme will include the following components:

- i) An archaeological evaluation;
- ii) An archaeological recording programme the scope of which will be dependent upon the results of the evaluation;
- iii) Where significant archaeological remains are revealed by the programme of archaeological work, a post-excavation assessment and analysis, preparation of a site archive ready for deposition at a store approved by the Local Planning Authority, completion of an archive

report, and submission of the results for publication in a suitable journal.

Once approved the plans shall be adhered to at all times.

Reason: To afford reasonable opportunity for an examination to be made to determine the existence of any remains of archaeological interest within the site and for the preservation, examination or recording of such remains. It is necessary for the condition to be on the basis that 'No development shall commence until' as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

4. Prior to the commencement of the development, details of the tree protection measures that will be employed during the construction phase shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall then be adhered to at all times.

Reason: To ensure existing trees on site are afforded appropriate protection. It is necessary for the condition to be on the basis that 'No development shall commence until' as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

5. No development shall commence until a detailed scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include appropriate aftercare and management plans. Thereafter, the development shall be undertaken in accordance with the approved scheme, with all planting undertaken within the first available planting season. Any trees or other plants which die or are removed within the first five years following the implementation of the approved scheme shall be replaced during the next planting season.

Reason: In the interests of protecting the visual character and appearance of the area. It is necessary for the condition to be on the basis that 'No development shall commence until' as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

6. 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 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.

Once approved, the development shall be completed in accordance with the approved details.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution. It is necessary for the condition to be on the basis that 'No development shall commence until' as compliance with the requirements of the condition at a later time could result in unacceptable

harm contrary to the policies of the Development Plan.

7. Prior to the commencement of the development a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the Local Planning authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum:
- i) The arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a Resident's Management Company; and
 - ii) Arrangements concerning appropriate funding mechanisms for its ongoing maintenance of all elements of the sustainable drainage system (including mechanical components) and will include elements such as ongoing inspections relating to performance and asset condition assessments, operation costs, regular maintenance, remedial works and irregular maintenance caused by less sustainable limited life assets or any other arrangements to secure the operation of the surface water drainage scheme throughout its lifetime.

Once approved, the development shall subsequently be completed, maintained and managed in accordance with the approved plan.

Reason: To manage flooding and pollution and to ensure that a managing body is in place for the sustainable drainage system and there is funding and maintenance mechanism for the lifetime of the development. It is necessary for the condition to be on the basis that 'No development shall commence until' as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

8. Prior to the commencement of the development a plan detailing the designated communal collection areas for refuse and recycling shall be submitted to and approved in writing by the Local Planning Authority. Once approved, the plan shall be adhered to at all times.

Reason: To ensure adequate provision is made for refuse and recycling collections. It is necessary for the condition to be on the basis that 'No development shall commence until' as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

On-going Conditions

9. Foul and surface water shall be drained on separate systems.

Reason: To secure proper drainage and to manage the risk of flooding and pollution.

10. No demolition or construction works shall take place outside the hours of:

08:00-18:00 Monday to Friday;

09:00-13:00 Saturday; and

No Activity on Sundays or Bank Holidays

Reason: In the interests of the amenity of the area	
Informative	
1.	<p>It is the applicant's responsibility to demonstrate the exact relationship between any United Utilities' assets and the proposed development. United Utilities offers a fully supported mapping service and we recommend the applicant contact our Property Searches Team on 03707 510101 to obtain maps of the site.</p> <p>Due to the public sewer transfer, not all sewers are currently shown on the statutory sewer records, if a sewer is discovered during construction; please contact a Building Control Body to discuss the matter further.</p>
2.	<p>In accordance with the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG), the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way.</p> <p>The NPPG clearly outlines the hierarchy to be investigated by the developer when considering a surface water drainage strategy. We would ask the developer to consider the following drainage options in the following order of priority:</p> <ol style="list-style-type: none"> 1. into the ground (infiltration); 2. to a surface water body; 3. to a surface water sewer, highway drain, or another drainage system; 4. to a combined sewer.
3.	<p>A separate metered supply to each unit will be required at the applicant's expense and all internal pipe work must comply with current water supply (water fittings) regulations 1999.</p> <p>Should this planning application be approved, the applicant should contact United Utilities on 03456 723 723 regarding connection to the water mains or public sewers.</p>
4.	<p>Should any unexpected ground conditions, which could indicate the presence of land contamination (for example unusual colours, odours, liquids or waste materials) be encountered during development, the Environmental Protection Team (01768 212490) should be notified immediately. The Environmental Protection Team liaises with developers to achieve cost effective sustainable solutions to deal with contamination to safeguard the health of future occupants, building structures and the local environment. The responsibility for securing a safe development however, lies with the developer and/or landowner.</p>

2. Proposal and Site Description

2.1 Proposal

- 2.1.1 Full planning permission is sought for a residential development, consisting of 13 dwellings. Access, landscaping and associated engineering would also comprise the grant of planning permission.

- 2.1.2 The applicant confirms that the proposal has taken account of the surrounding area in terms of design, scale and layout. With regarding to layout, the applicant considers the proposed layout respects the existing residential dwellings located near to the site whilst allowing the land to be utilised in a positive way.
- 2.1.3 The design proposed is aimed to compliment the nearby Croglam Park development in terms of style, patterning, proportions and external materials and boundary treatments. Accordingly, the proposed development would be constructed of buff, brown and red brick with grey slate roofs. Grey coloured PCVu casements would be installed for windows and boundaries would be stone walls, hedgerows and post and wire fencing.
- 2.1.4 The proposal would connect into existing sewage systems and whilst trees and hedges are acknowledged by the applicant to be located on the site, none are proposed to be affected by it.
- 2.1.5 The number of dwellings the proposal would yield is 13 in total with three of these set aside for social rented accommodation. Three housing types are proposed, bungalows (of which would be rented accommodation) and the varieties of two storey dwellings.

2.2 Site Description

- 2.2.1 The application site is located to the rear of a line of existing residential dwellings which are located off South Road. Further properties are located adjacent to the north off the Croglam Park housing estate and Rowgate. To the south is an existing industrial 'estate' which comprises several businesses which range in type. These businesses range from a garage to a plant hire business which deals in plant, machinery and scaffolding.
- 2.2.2 The site is 1.16 hectares in size with the land effectively forming a valley like appearance rising to the west and the east with a central swathe of more level land running through it. To the east are the aforementioned residential properties off South Road.
- 2.2.3 The site is not located within a designated Conservation Area although it is approximately 80 metres from the Croglam Castle defended Iron Age settlement Scheduled Ancient Monument (which is to the west). There are no other planning constraints applicable to this site.
- 2.2.4 The site is referred to as KS18 in the emerging local plan and has been identified as a potential site for housing development with a total of 13 dwellings located upon it.

3. Consultees

3.1 Statutory Consultees

Consultee	Response
Highway Authority	Responded on the 13 April 2016 and confirmed that in principle the development was acceptable. In terms of visibility it was accepted that as the proposal utilised the junction of Croglam Park. However, the Highways Authority confirmed that they are aware of parking issues in the vicinity (Rowgate, Croglam and the A685). Consequently, concerns were raised about the amount of parking the proposal provided and this needed to be raised to 32 car parking spaces from the proposed 26. The applicant responded on the 31 March 2017 and the Highways Authority responded in turn on the 26 May 2017. They confirmed that the new plan provided sufficient onsite car parking and that now the Highway Authority had no objection to the proposal.
Lead Local Flood Authority	Responded on the 13 April 2016 and acknowledged that as the site was above 1 hectare in size a Flood Risk Assessment was required. It was also acknowledged that there were well known flooding issues within the site and that a Flood Risk Assessment should acknowledge this. The applicant has been working on a response but the details have not been received in time in order to complete this part of this report. However, a verbal update will be provided to members at committee.
Housing	Responded on the 25 April 2016 and confirmed that proposals such as this required a 30% affordable home contribution. The response confirmed that there was evidence of a need for affordable housing in Kirkby Stephen.
Environmental Health	Responded on the 11 July 2016 and confirmed that further information, provided in the noise assessment was requested related to the potential noise from various local sources and noise levels, for a representative period of time (in this case a week) were also included. The applicant provided an updated noise assessment on the 31 March 2017. On the 25 May 2017 the Environmental Health Officer provided a further response. The applicant has been working on a response but the details have not been received in time in order to complete this part of this report. However, a verbal update will be provided to members at committee.

Agenda Item
REPORTS FOR DEBATE

Consultee	Response
United Utilities	Responded on the 18 April 2016 and confirmed no objection to the proposal. It was requested that conditions be attached to any subsequent grant of planning permission.
Historic England	Responded on the 4 April 2016. The response confirmed that the proposal would effectively half 'the distance between the edge of the town and the outer earthworks of Croglam Castle'. It was also confirmed that the significance of Croglam Castle was recognised by the fact it was recorded as a scheduled ancient monument. The proposed development was considered to have potential to have 'some' impact on the scheduled monument. However, it was also acknowledged that due to the elevated position of the monument, relative to the proposal site, it would still be possible to 'enjoy wide views from the defences'. It was therefore considered that the proposal would have 'relatively little harm to the visual setting of Croglam Castle'. They concluded that 'we do not consider the level of harm sufficient to justify the refusal of planning permission on historic environment grounds'. It was added that the proposed development had the potential to impact on buried archaeological features associated with the prehistoric earthwork. Potential mitigation was considered to comprise archaeological excavation and recording in advance of construction works. A condition to this effect was proposed to be attached to any subsequent grant of planning permission.
Historic Environment Officer	Responded on the 4 April 2016 and confirmed that the Croglam Castle Scheduled Monument is 80 metres to the west of the site. It was noted that there was also other earthwork remains in fields nearby. It was therefore confirmed that there was a potential for buried archaeological assets of local significance in the site which would be disturbed by the construction of the proposed development. It was therefore recommended that a planning condition be attached to any subsequent grant of planning permission.

Agenda Item
REPORTS FOR DEBATE

Consultee	Response
Arboricultural Officer	Responded on the 24 March 2016 and confirmed that two sycamore trees are located in the south-west corner of the plot and that they are quite prominent on the landscape. However, it was acknowledged that these are not affected by the proposal but they would need appropriate protection measures during any construction works. Furthermore, the outline landscaping proposals were considered acceptable but a condition was recommended to be attached to any subsequent grant of planning permission prior to commencement of any subsequently approved development.

4. Town Council/Meeting Response

Parish Council/Meeting	Please Tick as Appropriate			
	Object	No objection	No Response	No View Expressed
Kirkby Stephen Town Council		✓		

- 4.1 Kirkby Stephen Town Council raised no objection to the application, however, acknowledged that the site had some issues with traffic. It was confirmed that in the view of the Town Council, the houses on South Road had limited parking space provision and that properties on Rowgate had a similar problem with not all of them having off-street parking available. The Town Council confirmed that they had received complaints from residents in Rowgate about access roads and driveways being blocked due to vehicle parking. The town council welcomed the provision of affordable housing and suggested that a site visit be held in order to fully appreciate the traffic issues.

5. Representations

- 5.1 Letters of consultation were sent to nearby neighbours on the 21 March 2016 and a site notice was posted on the 11 April 2016. A press notice also appeared in the Herald on the 2 April 2016.

No of Neighbours Consulted	48	No of letters of support	0
No of Representations Received	0	No of neutral representations	0
No of objection letters	5		

- 5.2 The objections raised are based on the following;

- Traffic impact;
- Congestion already in area;
- Highways access problems;
- Parking in area - also prevents emergency services getting to sites;
- Site is unsuitable for four bedroom houses;

- Landscape impact;
- Fires lit in nearby Station Yard;
- Highway safety concerns;
- Proposed development is not sustainable;
- Infrastructure can't accommodate the proposal;
- Members should visit the site late afternoon or during the evening to observe highways problems;
- No need for 4 bed detached houses in the area;
- 2 or 3 two bed bungalows not enough to deal with lack of bungalow supply and not a fair affordable percentage of the site housing mix proposed;
- Proposed materials are not in keeping with the area and nearby designated Conservation Area;
- Site has been flooded and there are groundwater issues;
- The land should be considered contaminated land as sewage waste was diverted onto the site for over 100 years;
- There is an industrial estate to the south of the site which has businesses which encourage rats onto the site;
- Sewage system is beyond capacity.

6. Relevant Planning History

- 6.1 There is no planning history relevant to the determination of this planning application.

7. Policy Context

7.1 Development Plan

- CS1 - Sustainable Development Principles
- CS2 - Locational Strategy
- CS4 - Flood Risk
- CS7 - Principles for Housing
- CS8- Making Efficient Use of Land
- CS16 Principles for the Natural Environment
- CS17 Principles for the Built (Historic) Environment
- CS18 - Design of New Development
- Upper Eden Neighbourhood Development Plan

Supplementary Planning Documents:

- Housing (2010)

7.2 Other Material Considerations

National Planning Policy Framework:

- The presumption in favour of sustainable development
- Core planning principles
- Delivering a wide choice of high quality homes
- Requiring good design
- Promoting healthy communities
- Meeting the challenge of climate change, flooding and coastal change

- Conserving and enhancing the natural environment
- Conserving and enhancing the historic environment

National Planning Practice Guidance

The policies detailed above are the most relevant policies relating to this application

Eden Local Plan 2014-2032: This is the emerging local plan for Eden District Council, but is not yet at this stage where any of the individual policies or allocations can be considered to have anything other than limited weight.

8. Planning Assessment

8.1 Main Planning Issues

- Principle
- Landscape and Visual Impact
- Housing Density
- Housing Need
- Affordable Housing Contribution
- Flooding and Environmental Impacts
- Infrastructure
- Other matters

8.2 Principle

- 8.2.1 In terms of the principle of housing development, consideration is given to the development plan. This consists of both the 'saved' policies of the local plan (adopted in 1996) and the districts Core Strategy (2010). In addition, there is a Housing Supplementary Planning document which assists in the determination process. Housing policy within the district as prescribed within these documents that comprise the development plan indicate that residential development should be directed to sustainable locations. These locations are indicated within the Core Strategy as 'Key and Local Service centres'.
- 8.2.2 Such locations are considered 'Key and Local Service centres' because they are where local facilities and infrastructure is provided. In turn, it is considered such locations are 'sustainable' hence why they are the preferred locations for residential development. In this instance, Kirkby Stephen is a designated 'Key Service Centre' and accordingly is considered an appropriate location for proposals such as this.
- 8.2.3 Nevertheless, proposals for such locations are still required to make a contribution to the community and ensure they respect the local vernacular. Proposals must not result in any significantly and demonstrable harm were they to be permitted.
- 8.2.4 At present Eden District Council is unable to demonstrate a five year land supply (it currently is only able to demonstrate a 3.33 year supply). In such circumstances policies related to housing are to be considered out-of-date and planning authorities are required to take account of the National Planning Policy Framework (NPPF). The NPPF notes within paragraph 14 that "*where the development plan is out-of-date,*

planning permission should be granted unless...the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF...or specific policies in the NPPF indicate development should be restricted”.

- 8.2.5 Paragraph 14 states that where policies are considered out-of-date, planning permission should be granted unless there are adverse impacts. Such impacts would need to be considered significantly harmful and would demonstrably outweigh the benefits of the proposal.
- 8.2.6 Furthermore, paragraph 49 states “*relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.*”
- 8.2.7 Recently a Supreme Court judgement (Case ID UKSC 2016/0078) in *Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and anor (Respondents) Richborough Estate Partnerships LLP and anor (Respondents) v Cheshire East Borough Council (Appellant) [2017] UKSC 37* also provides further qualification on how significant the lack of a demonstrable five year housing land supply actually is. Fundamentally, the judgement reaffirms that where such a supply is not demonstrable, paragraph 49 of the NPPF is a key material consideration in that all relevant housing policies detailed in the development plan are to be considered out-of-date. In turn, the determination of such applications given that circumstance in Eden means that paragraph 14 is a key factor to consider in the determination process. Ultimately, unless significant and demonstrable harm can be demonstrated to outweigh the benefits of the proposal, the development should be granted planning permission ‘without delay’.
- 8.2.8 In terms of its location, the application site is considered to be well related to the town of Kirkby Stephen. Whilst the site is to the rear of existing properties off South Road, it is a plausible location in terms of the principle for additional housing given the nearby Croglam Park development. Given that Kirkby Stephen is a recognised ‘key service centre’ it is also considered that this type of development, in such a location, is acceptable notwithstanding the consideration of all other matters relative to the determination of this planning application.
- 8.2.9 Therefore, for the reasons detailed above it is considered that the in terms of the principle of the proposed development, it accords with the Development Plan and National Planning Policy and merits support.

8.3 Landscape, Visual Impact and the Historic Environment

- 8.3.1 A significant consideration in the determination of this planning application is the extent of the impact of the proposed development may have upon both the character of the area and local landscape. Some objectors refer to the proposed design and materials to be used as not being in-keeping with the area.
- 8.3.2 It is noted that the applicant has advised of the materials proposed to be used in this development. These will result in properties constructed of buff, brown and red brick with grey slate roofs. Grey coloured PCVu casements would be installed for windows and boundaries would range from stone walls, hedgerows and post and wire fencing.

Agenda Item
REPORTS FOR DEBATE

- 8.3.3 It is noted that the materials proposed are meant to relate specifically to the nearby Croglam Park development (located to the north). These properties are constructed to have sandstone brick frontages and exposed gable ends with slate roofs. The properties off South Road are stone built properties and this proposal would bear closer resemblance to the Croglam Park development as the applicant intends.
- 8.3.4 Nevertheless, they would differ in appearance and not be entirely consistent with the Croglam development. However, it is not considered that this difference is so material as to warrant the proposal unacceptable.
- 8.3.5 The land is accepted to be undulated but the agricultural field is unremarkable and its loss would have no significant impacts in a visual sense. To the north, east and south are existing developments (although to the south this is industrial in nature) and these effectively 'screen' the development limiting its landscape impact. It is therefore not considered that this proposal, if approved and subsequently implemented would result in any significant landscape impacts.
- 8.3.6 From a Historic Environment perspective, the site is not located within a designated Conservation Area. The Kirkby Stephen Conservation Area is over 400 metres to the north and has numerous residential dwellings between it and the application site. It is therefore considered that there is no harm afforded to the designated Conservation Area in this instance due to this fact.
- 8.3.7 The Historic Environment Officer confirms that the Croglam Castle Scheduled Ancient Monument is 80 metres to the west of the proposal site. Paragraph 131 of the NPPF states that in determining planning applications, local planning authorities should take account of *'the desirability of new development making a positive contribution to local character and distinctiveness'*. Paragraph 133 states that *'where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss'*.
- 8.3.8 Paragraph 134 states that *'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal'*.
- 8.3.9 In this instance Historic England were also consulted upon the application. Both the Historic Environment Officer and Historic England did not object to the proposal. Indeed, Historic England confirmed that whilst 'some' impact on the scheduled monument was possible as consequence of this proposal it was also acknowledged that due to the elevated position of the monument, relative to the proposal site, it would still be possible to 'enjoy wide views from the defences'. Consequently, the response confirmed that the proposal would *have 'relatively little harm to the visual setting of Croglam Castle'*. They concluded that *'we do not consider the level of harm sufficient to justify the refusal of planning permission on historic environment grounds'*. It was added that the proposed development had the potential to impact on buried archaeological features associated with the prehistoric earthwork. Potential mitigation was considered to comprise archaeological excavation and recording in advance of construction works. A condition to this effect was proposed to be attached to any subsequent grant of planning permission and is included in section 1 of this report.

8.3.10 The benefit of the proposal is that housing, including an affordable housing element, can be constructed in a district that currently has a lack of a five year housing land supply. In this instance, this benefit is considered to be significant and outweighs the 'relatively little harm' considered probable by Historic England. On balance then, the proposal is not considered to result in any significant and demonstrable landscape, visual or historic environment impacts and can be supported.

8.4 Housing Density

8.4.1 It is noted that the Council's principles on housing density are outlined within Core Strategy Policy CS8, which advises that housing schemes should have a minimum density of 30 dwellings per hectare. In the case of the current application, as the application site covers an area of 1.16 hectares, this would mean that the scheme proposed should achieve a density target of 11.2 dwellings per hectare.

8.4.2 Whilst the proposed level of housing is below the recommended level in Core Strategy Policy CS8, the reduced level would enable the applicant to develop a site with an unusual topography and indeed allow it to 'fit in' with the nearby Croglam Park without being too overbearing and out-of-character. In conclusion, the intentions of Policy CS8 whilst understood, need not be complied with in full in this instance.

8.4.3 It is also recognised that the Upper Eden Neighbourhood Development plan considers housing densities as part of Policy UENDP4 (entitled 'Housing densities'). This policy reaffirms that the maintenance of the local character is of 'higher' significance than meeting the arbitrary figures quoted in Policy CS8. Taking this balanced view, it is considered that the proposal can still contribute to the housing needs of the district (and nationally) and contribute affordable homes too. These contributions are worthy of being acquired despite the density aims of Policy CS8. It is also reaffirmed that it is considered that a less densely utilised site, will allow the developer to provide a high quality design and to ensure any amenity issues are 'softened' with appropriate separation distances being easier to accommodate on the site, particularly at its periphery.

8.5 Housing Need

8.5.1 In considering the benefits of the proposed development it is noted that the scheme would make a positive contribution to boosting the supply of deliverable housing in Eden. In addition, the development would contribute to meeting the requirement for delivering affordable housing within the area.

8.5.2 In terms of housing need, it is noted that district wide there is a housing need of circa 242 houses per year. In particular, there is a need for affordable housing within the district. In line with Eden District Council's adopted Council Plan (2015) a key corporate priority is providing access to good quality housing that reflects local need and supports both employment and thriving communities. The need for housing is noted in the Housing Officers response confirmed in this report.

8.5.3 Therefore, it is accepted that a housing need does exist within the District (which is also a national need) which should be delivered within sustainable and appropriate locations such as Key and Local Service centres. These locations are those such as Kirkby Stephen as identified by the districts Core Strategy.

8.6 Affordable Housing Contribution

- 8.6.1 The District's Core Strategy includes Policy CS10 entitled 'Affordable housing', which confirms that the council aspires to a target of 30% affordable housing for schemes above a threshold of 4 units. In the light of new advice from the Planning Practice Guidance this threshold for the provision of affordable housing has been raised to schemes of 11 units and above.
- 8.6.2 Plans associated with this full application confirm 13 dwellings are to be constructed if this permission was approved and subsequently implemented. A 30% affordable home contribution would therefore contribute 3 affordable dwellings to the district in this instance.
- 8.6.3 The proposal is therefore considered to represent a benefit to the identified district housing need and in particular in relation to the provision of affordable homes.

8.7 Amenity Impacts

- 8.7.1 Some objectors have made reference to the nearby industrial estate, located to the south of the proposal site and issues that occur with that site, such as burning of materials etc. upon it and in turn this causing an amenity issue in the area.
- 8.7.2 These concerns are noted but are not a reason to prevent this application being determined with a favourable outcome. Such issues should be reported and investigated by the Council's Environmental Health Team and are not within the remit of the applicant to control given they are outside the red line boundary of this application site.
- 8.7.3 It is noted that the development can achieve appropriate separation distances between it and the existing residential properties located off South Road for example. Although it is anticipated that following the grant of planning permission 17/0075 for the change of use of a gymnasium to a residential dwelling that separation distances in that particular instance would be approximately 19 metres from the nearest proposed building of this development proposal to that dwelling. This is 2 metres below the normally sought separation distance.
- 8.7.4 As was considered as part of that application and was discussed in the officers report, the notion of some element of 'overlooking' would clearly be accepted by anybody who chose to reside in these properties. The Croglam Park estate is in the exact same linear strip as this proposal and whilst overlooking is possible, it is not so overbearing as to warrant the proposal unacceptable.
- 8.7.5 It is also noted that the Croglin Castle Hotel has been granted a change of use of the former hotel into 5 residential flats. This would result in the nearest properties of this proposal site being approximately 18 metres from this site. However, once again, it is not considered that this would result in the application being unduly adverse to such a degree that would make it unacceptable. The topography of the site is such that the elevated position of the Croglin Castle site would mean that there would be less opportunity for 'direct' views into the proposed dwellings. However, as has been accepted and established - potential residents would accept that there is some element of overlooking as a consequence of residing in one of these proposed properties.

- 8.7.6 As part of the application, the applicant produced a noise assessment. This assessment has been considered by the Environmental Health Officer (EHO) and further information was requested. The applicant has resolved to provide the further information that is necessary in order to allow the EHO to complete their assessment but as this has not been provided at this point it cannot be incorporated into the report.
- 8.7.7 It is not, however, anticipated that there will be any such reason as to consider the application unacceptable. The site is located in an area where there are number of residential properties which appear to live adjacent to, for example, the industrial estate - no details of any complaints, for example, have been provided by the EHO in relation to noise etc. Given this anticipation, the application is progressed for hearing at committee and final verbal updates will be provided along with written updates prior to the committee meeting to ensure Members are fully up-to-date with the response received.
- 8.7.8 Accordingly, it is not considered that this proposal would have any significantly demonstrable harm in terms of noise or other material amenity impacts. It is accepted that were this application be granted planning permission there are likely to be amenity impacts during any construction works. However, paragraph 123 of the NPPF acknowledges this and with appropriate conditions, limiting construction hours, this can help protect local amenity during such works.

8.8 Flooding and Environmental Impacts

- 8.8.1 Some objectors have raised concerns with standing water problems (during heavy rains) and also that the land should be considered 'contaminated' as a result of previous activity upon it. In terms of the 'contaminated land' concern it is noted that the Environmental Health Officer has not made any comments in relation to this particular issue. However, it is recommended that a condition is attached to ensure works cease on site in the event that unexpected land conditions are discovered during the works.
- 8.8.2 In terms of the standing water issue the applicant acknowledges that the eastern part of the site is subject to a risk of 'ground-sourced flooding' and consequently this area is not proposed to be developed. The applicant does, however, as part of this application propose attenuation ponds to be engineered to mitigate against the risks of any flooding on the site.
- 8.8.3 The site is also acknowledged to be located within a Flood Zone 1 which is considered to be an area of low risk of flooding. Nevertheless, the Lead Local Flood Authority requested further information, including a flood risk assessment for their consideration. The applicant has been in liaison with the Lead Local Flood Authority but the conclusion of their discussions has not yet been formally provided to the Local Planning Authority.
- 8.8.4 However, this is not considered to be likely to result in a response that should delay the determination of this application. Therefore, officers have considered that it be reasonable to progress the application to committee on the basis that the finalised comments will be received beforehand, allowing the comments to be forwarded to Members for final consideration, prior to committee. Verbal updates will also be provided during the committee meeting.
- 8.8.5 It is therefore considered that there are no significant and demonstrable impacts in relation to flooding in this particular instance.

8.9 Infrastructure

- 8.9.1 Objectors have also raised concerns about existing infrastructure, specifically related to Highways and the ability of the local area to accommodate the extra traffic (and parking) associated with this proposal.
- 8.9.2 It is noted that concerns have been raised by the existing parking issues currently experienced in the area and the view that these will be exacerbated by the application being implemented.
- 8.9.3 The applicant provided an original layout plan which provided enough car parking spaces for 26. The Highways Authority objected on this basis and the applicant re-worked the layout plan and now provides 32 parking spaces. In response to this issue, the Highways Authority that they were satisfied with this plan and that their concerns were now dealt with.
- 8.9.4 Some objectors have also raised significant concerns regarding site access. Specifically, the access from Croglam Park into Rowgate (and vice versa) and the access from South Road onto Rowgate, which is identified by objectors as difficult to negotiate.
- 8.9.5 These concerns are also noted. However, the Highways Authority have already confirmed no specific highways access concerns given the access into the proposal site is located within the aforementioned Croglam Park. Whilst the concerns are understood, it is not reasonable to refuse this application on the basis of an access, already in use by existing traffic being 'unsafe' given the response provided by the Highways Authority which has not raised any specific concerns.
- 8.9.6 In terms of Highways impacts, the NPPF is explicit in its views. Paragraph 32 states that *'development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe'*.
- 8.9.7 In this instance, the views of the highways authority clearly don't consider the proposal to have 'severe' impacts. The proposal is for 13 dwellings and given the size of the site, which could, as per policy CS8 of the Core Strategy achieve in excess of 30 units upon it is acknowledged that the size of the proposal has been limited to balance between the use of the site and the local highway network.
- 8.9.8 Consequently, it is not considered acceptable to refuse this application on the basis of highway safety concerns. The Highways Authority do not object to the proposal and have raised no concerns with the site specific junction and have raised no comments specifically in relation to the nearby highway network and its capacity. It is therefore not considered reasonable to consider the cumulative impacts of the development to be 'severe' in a highways context.

9. New Homes Bonus

- 9.1 The prospect of receiving a Bonus is, in principle, capable of being taken into account as a 'material consideration' in determining a planning application. Whether potential Bonus payments are in fact a material consideration in relation to a particular application will depend on whether those payments would be used in a way which is connected to the application and to the use and development of land. For example, potential Bonus payments could be a material consideration if they were to be used to mitigate impacts resulting from development. But if the use to which the payments are to be put is unclear or is for purposes unrelated to the development concerned a decision maker would not be entitled to take them into account when making a decision

on a planning application. In this particular case, there are no plans to use the New Homes Bonus arising from this application in connection with this development.

10. Implications

10.1 Legal Implications

10.1.1 The following matters have been considered but no issues are judged to arise.

10.2 Equality and Diversity

10.2.1 The Council must have regard to the elimination of unlawful discrimination and harassment, and the promotion of equality under the Equality Act 2010.

10.3 Environment

10.3.1 The Council must have due regard to conserving bio-diversity under the Natural Environment and Rural Communities Act 2006.

10.4 Crime and Disorder

10.4.1 Under the Crime and Disorder Act 1998, the Council must have regard to the need to reduce crime and disorder in exercising any of its functions.

10.5 Children

10.5.1 Under the Children Act 2004, the Council has a duty to safeguard and promote the welfare of children in the exercise of any of its functions.

10.6 Human Rights

10.6.1 In determining applications, the Council must ensure that all parties get a fair hearing in compliance with the provisions of Article 6 under the European Convention on Human Rights, as now embodied in UK law in the Human Rights Act 1998.

11. Conclusion

11.1 It is considered that the proposal accords with the Development Plan for the following reasons which are not outweighed by material considerations. The principle of the development accords with the development plan and is supported by material considerations including the NPPF. In current policy terms the absence of a five year housing land supply is a significant material consideration. The policy direction in such circumstances is very clear. Paragraph 49 states '*relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites*'. Paragraph 14 states that where policies are considered out-of-date planning permission should be granted unless there are adverse impacts and 'without delay'. Such impacts would need to be considered significantly harmful and would demonstrably outweigh the benefits of the proposal.

11.2 The concerns that have been raised by objectors are acknowledged and understood. However, the concerns related to highways impacts are not shared by the Highways Authority. It is noted that there are no objections to the proposal from any of the consultees.

REPORTS FOR DEBATE

- 11.3 Ultimately, the planning judgement on this application is whether or not there is any demonstrable, significant harm that outweighs the benefit of the proposal. Officers have no evidence of demonstrable, significant harm and recognise the benefit of additional housing, including an affordable homes element, in a district that has a recognised housing need.
- 11.4 It is therefore concluded that planning permission should be granted subject to conditions.

Jane Langston
Assistant Director Technical Services

Checked by or on behalf of the Monitoring Officer	✓
---------------------------------------------------	---

Background Papers: Planning File

Agenda Item
REPORTS FOR DEBATE
Item 7

Date of Committee: 17 August 2017

Planning Application No: 17/0464 **Date Received:** 05 June 2017

OS Grid Ref: 360737 505996 **Expiry Date:** 4 September 2017

Parish: Orton **Ward:** Orton with Tebay

Application Type: Full planning permission

Proposal: Proposed two storey office building (B1) with ancillary uses, associated car parking, infrastructure and landscaping.

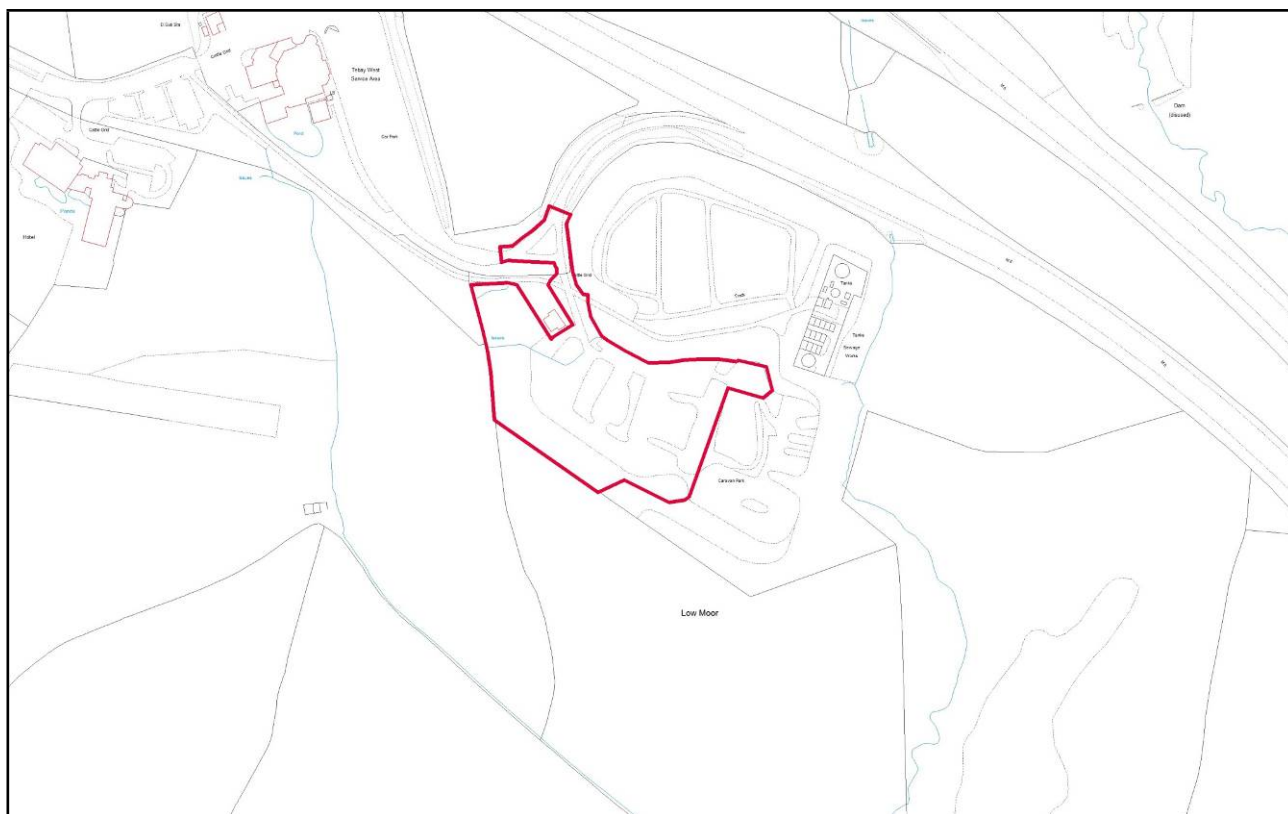
Location: Tebay Caravan Park, Orton, Penrith

Applicant: The Westmorland Family

Agent: Mrs Hanna Staton - Pegasus Group

Case Officer: Mr Ian Irwin

Reason for Referral: This is a major residential application of significant importance located in Tebay.



1. Recommendation

It is recommended that planning permission be granted subject to the following conditions:

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
Reason: In order to comply with the provisions of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development hereby granted shall be carried out in accordance with the documents and drawings hereby approved:
 - Site Location Plan Proposed - Drawing No A-L-002 Rev I;
 - Proposed Site Plan - Drawing No A-L-004 Rev D;
 - Site Location Plan Proposed Levels - Drawing No A-L-006 Rev D;
 - Plans - Drawing No A-L-100 Rev E;
 - Elevations - Drawing No A-L-200 Rev D;
 - Elevations - Drawing No. A-L-201 RevD;
 - Sections - Drawing No A-L-300 Rev C;
 - Site Sections - Drawing No A-L-301 Rev C;
 - Landscape Structure Plan - 626THO_08F;
 - Indicative Drainage Strategy - WHO-BWB-HDG-XXX-DR-CD-0001 S2 P6;
 - Access Arrangements & Amendments to Parking Layout - Drawing No WHO-BWB-GEN-XX-DR-TR-100 SR P8.**Prior to commencement**
3. 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 the watercourse running through the site.
Pre-Occupancy or Other Stage Conditions
4. Any proposed building services plant shall be assessed in noise terms by a competent noise consultant and reported to the Local Planning Authority for written approval.
Reason: To ensure the hereby approved development
5. Prior to occupancy of the hereby approved development details of future maintenance and operation of the proposed surface water system shall be submitted to the Local Planning Authority for written approval. Once approved the details shall be adhered to at all times.
Reason: To ensure the surface water system continues to function as designed

Informatives:

1. In accordance with the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG), the site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way.

The NPPG clearly outlines the hierarchy to be investigated by the developer when considering a surface water drainage strategy. We would ask the developer to consider the following drainage options in the following order of priority:
 1. into the ground (infiltration);
 2. to a surface water body;
 3. to a surface water sewer, highway drain, or another drainage system;
 4. to a combined sewer.
2. The level of cover to the water mains and sewers must not be compromised either during or after construction.
3. A separate metered supply to each unit will be required at the applicant's expense and all internal pipe work must comply with current water supply (water fittings) regulations 1999. Should this planning application be approved, the applicant should contact United Utilities on 03456 723 723 regarding connection to the water mains or public sewers.
4. It is the applicant's responsibility to demonstrate the exact relationship between any United Utilities' assets and the proposed development. United Utilities offer a fully supported mapping service and we recommend the applicant contact our Property Searches Team at Property.Searches@uuplc.co.uk to obtain maps of the site.
5. Due to the public sewer transfer, not all sewers are currently shown on the statutory sewer records, if a sewer is discovered during construction; please contact a Building Control Body to discuss the matter further.
6. If the applicant intends to offer waste water assets forward for adoption by United Utilities, the proposed detailed design will be subject to a technical appraisal by an Adoptions Engineer as we need to be sure that the proposal meets the requirements of Sewers for adoption and United Utilities' Asset Standards. The proposed design should give consideration to long term operability and give United Utilities a cost effective proposal for the life of the assets. Therefore, should this application be approved and the applicant wishes to progress a Section 104 agreement, we strongly recommend that no construction commences until the detailed drainage design, submitted as part of the Section 104 agreement, has been assessed and accepted in writing by United Utilities. Any works carried out prior to the technical assessment being approved is done entirely at the developers own risk and could be subject to change.

7. Any works on and around an ordinary watercourse such as the watercourse which is mentioned as a dike in the FRA and Sustainable Drainage Statement would require an Ordinary Watercourse Flood Defence Consent (OWFDC). The applicant should contact Cumbria County Council on 01228 221330 or email LFRM Consent at LFRM.consent@cumbria.gov.uk

2. Proposal and Site Description

2.1 Proposal

- 2.1.1 The proposal is for full planning permission for a two storey office building (B1 use) with associated car parking, infrastructure and landscaping. This building would replace an existing office facility located upon the north-bound Tebay motorway service station. The applicant confirms that following recent expansion the company needs further space and this is seen as an opportunity to provide a higher quality environment for the team to utilise in the day-to-day running of the company.
- 2.1.2 The proposed structure would be 16 metres in width, 49 metres in length and 15.5 metres in height. The proposed building would adopt a 'mixed mode' ventilation strategy allowing the building to be fully sealed and mechanically ventilated or heated dependent upon the time of year. The proposed building also intends to utilise geo-thermal energy collection (a renewable energy system) with electrically driven heat pumps.
- 2.1.3 The building would be constructed of corrugated profile sheeting (made of fibre cement) and finished to a high standard, taking its appearance approach from Cumbrian agricultural buildings, but finished to a higher standard than that. The proposed external store would be built from dressed stone gabions (using local stone) and will present itself as a dressed stone wall, common in the Cumbrian landscape.
- 2.1.4 The proposed lighting is to be sensitive, given the location of the proposed structure and will utilise 'dark sky' fittings in order to prevent the emission of unnecessary lighting. The applicant proposes to use low energy LED lights to also assist in reducing the carbon footprint of the building. Paths and roads will also be lit with low level lit bollards again contributing to a low level of light pollution.
- 2.1.5 The proposal also incorporates a landscaping strategy. This strategy will be based on preserving and enhancing the existing landscape features. Much of the existing landscaping would be retained, with an existing landscaping bund, located within the site being effectively 'split' in order to provide an access path into the building from the car park. Another of the internal bunds would be lost as a consequence of the proposal being implemented. The majority of the on-site trees are proposed to be retained although some will be removed to allow for views across the countryside. The proposals include a landscaping strategy which proposes replacement planting as appropriate.
- 2.1.6 The landscaping plan also incorporates the creation of an entrance garden to the front of the building. As advised, this will incorporate an existing internal bund being 'split' to form a gateway. New earth bunds will be created to extend toward the building giving a sense of maturity. A stone footpath will adjoin the entrance with the car park. A rear garden is also proposed. This will be used as a multifunctional space for relaxing, eating, entertaining and working. Paving would be laid to extend from the building and a new pond/tarn would be created as a central feature. The car parking area will be surfaced with gravel/rolled stone.

2.2 Site Description

- 2.2.1 The site is located approximately 130m off junction 38 of the northbound M6 and comprises of land to the south-west of the Tebay Services (Northbound). The site is 1.37 hectares in size and sits within the larger and aforementioned Tebay Services estate. This proposed building would be approximately 190 metres from the main services building and replace an existing 'headquarters' which is located very near to the services facility and petrol station.
- 2.2.2 The site comprises of a sculpted, man-made 'bowl', which is approximately 5 to 6 metres below the perimeter landscaping bund. This effectively means that anything within the bowl is 'sat' below the ground level of neighbouring land. The site is currently part of an existing caravan park, including a WC facilities hut. The majority of the site comprises hardstanding for car parking and is dressed with gravel. The site is also lined with 1-2m high North-South bunds which act as separators for the car park. These are internal features only and cannot be seen from outside of the site but effectively divide the site up, making for separate, logical parking areas for customers.
- 2.2.3 The site is currently well-screened by existing landscaping, particularly a mature pine woodland, and is surrounded by open countryside and fells. The existing landscaping prevents views from the nearby M6 and given the aforementioned topography of the site, the bowl feature and mature trees provide good landscape 'screening' from the south and west. Indeed, given the existing planting on site, there is a 'wooded' 'feel' to it which feels enclosed and rather tranquil.
- 2.2.4 As confirmed in paragraph 2.2.2 the site currently operates as a caravan park. It is proposed that the caravan use will cease to operate following the Summer of 2017.
- 2.2.5 The site is within an area of 'Landscape of County Importance, which is designated under the adopted Eden Local Plan (1996) within Policy NE3. Further, the site is situated in an area of High Spatial Priority within the 'Woodland Priority Habitat Network', which is stated under the National Character Area 17: Orton Fells. The Lake District National Park, is, at its nearest point approximately 785 metres to the west of the site. The Yorkshire Dales National Park is approximately 1482 metres to the north, approximately 1636 metres to the east (at its nearest point) and approximately 1981 metres to the south-east (at its nearest point).
- 2.2.6 The site is not located within any other designated sites, however, it is near to the following;
- Asby Complex Special Area of Conservation ("SAC") - approximately 750 metres to the north;
 - Lake District High Fells SAC - approximately 1.3 kilometres to the west;
 - North Pennine Dales Meadows SAC - approximately 2.3 kilometres to the east;
 - Crosby Ravensworth Site of Special Scientific Interest ("SSSI") - approximately 740 metres to the north;
 - Shap Fells SSSI - approximately 1.3 kilometres to the west;
 - Hollin Hill SSSI - approximately 1.5 kilometres to the south-west;
 - Bretherdale Meadows SSSI - approximately 2.2 kilometres to the south-west;

Agenda Item
REPORTS FOR DEBATE

- Raisbeck Meadows SSSI - approximately 2.3 kilometres to the east;
- Orton Pastures SSSI - approximately 3.4 kilometres to the north-east; and
- Great Asby Scar SSSI and National Nature Reserve (“NNR”) - approximately 4.7 kilometres to the north-east.

3. Statutory Consultees

Consultee	Response
Highway Authority	Responded on the 11 July 2017 and confirmed that as the site intended to utilise existing access and egress arrangements no objections were had to the proposal although it was suggested that Highways England should be consulted.
Local Lead Flood Authority	Responded on the 11 July 2017 and confirmed that the application had been submitted with a Flood Risk Assessment (which was undertaken in June 2017). The information that comprised this assessment was welcomed and the detail it contained was praised. It was confirmed that the applicant had suggested that the intention would be to attenuate surface water discharge in an attenuation basin with a capacity of 291.3 m3 with a controlled discharge via a ‘hydro brake system’ to an ordinary watercourse. It was also confirmed that such a proposal would require an Ordinary Watercourse Flood Defence Consent from Cumbria County Council. Two pre-commencement conditions were requested (related to drainage maintenance and a construction surface water management plan) by the consultee. Following discussions with the applicant, one of these conditions (maintenance) was agreed to be acceptable as a pre-occupation condition. These are in section 1 of this report.
United Utilities	Responded on the 10 July 2017. The response confirmed drainage plans should be considered against the NPPF and NPPG guidance and that United Utilities had no wastewater assets in the area.
Arboricultural Officer	Responded on the 14 July 2017. It was noted that the proposed landscaping would add to the sylvan feel of the site and the species chosen were ‘entirely appropriate’ for the scheme. The arboricultural officer added that whilst it was necessary to remove some internal trees the wooded margins would be retained to provide screening and that although it ‘may be possible’ to see partial views of the new building the topography of the site means views from the east and west are ‘unlikely to be affected’. It was also confirmed that there were no objections to the scheme.
Highways England	Responded on the 5 July 2017 and confirmed no objection to the proposal.

Consultee	Response
Lake District National Park Authority	Responded on the 12 July 2017 and confirmed that there was no perceived 'significant impact' on the special qualities of the National Park and therefore no objection was raised to the scheme.
Environmental Health	Responded on the 18 July 2017. The Environmental Health Officer considered the noise assessment that accompanied the application to be acceptable and requested that a condition be attached (related to any proposed building services plant) should planning permission to be granted. Some further information was sought for clarification. The applicant provided this further information on the 24 July 2017. On the 25 July 2017 the Environmental Health Officer responded. A condition related to proposed building services plant was still requested and this is in section 1 of this report.
Contaminated Land Officer	Responded on the 26 July 2017. It was confirmed that there were no records of historic land use that should have any impacts on this proposal. Consequently, there were no objections to the proposal. An informative related to any unexpected conditions found on site was suggested to be attached to any subsequent grant of permission.
Natural England	Responded on the 2 August 2017 and confirmed no objection to the proposal. They added that the proposal ' <i>will not have significant adverse impacts on designated sites</i> '.

4. Parish Council Response

Parish Council	Please Tick as Appropriate			
	Object	Support	No Response	No View Expressed
Orton				✓

- 4.1 Orton Parish Council responded on the 18 July 2017 and confirmed 'no objection' to the proposed application.

5. Representations

- 5.1 The application was advertised by means of a site notice posted on the 20 June 2017.

No of Neighbours Consulted	0	No of letters of support	0
No of objection letters	0	No of neutral representations	0

6. Relevant Planning History

- 6.1 **96/0853** - Variation of conditions to allow re-arrangement of existing caravan sites as amended by revised layout drawing received on 3 February 1997 and by information in respect of omission of proposed winter storage of caravans as received on 24 April 1997 - *Approved 2 May 1997.*

REPORTS FOR DEBATE

- 6.2 **04/0364** - Change of use of four static caravan plots to permanent residential use for a temporary period of one year - *Approved 14 June 2004.*
- 6.3 **05/0229** - Change of use of twelve touring caravan pitches to twelve static touring (seasonal) caravan pitches - *Approved 19 May 2005.*
- 6.4 **05/0382** - Removal of condition attached to planning permission reference 04/0364, dated 14th June 2004, in order that the units can be used on a full time basis - *Approved 29 June 2005.*
- 6.5 **05/0391** - Erection of new disabled toilet and shower block, plus relocation of underground tank for chemical storage of chemical toilet effluent. Removal of redundant chemical disposal point to provide facilities for disabled customers at the caravan park – *Approved 30th June 2005.*
- 6.6 **06/0207** - Removal of condition 1 attached to 04/0364 to allow four static caravans (No 4, 5, 6 and 7) to be used for staff accommodation on a permanent basis - *Withdrawn 11th May 2006.*

7.0 Policy Context

7.1 Development Plan

Core Strategy DPD Policy:

- CS1 - Sustainable Development Principles
- CS2 - Locational Strategy
- CS4 - Flood Risk
- CS8 - Making Efficient Use of Land
- CS16 - Principles for the Natural Environment
- CS18 - Design of New Development

Eden Local Plan:

'Saved' Policy NE3 - Landscapes of County Importance

7.2 Other Material Considerations

National Planning Policy Framework:

- The presumption in favour of sustainable development
- Core planning principles
- Delivering a wide choice of high quality homes
- Requiring good design
- Promoting healthy communities
- Meeting the challenge of climate change, flooding and coastal change
- Conserving and enhancing the natural environment
- Conserving and enhancing the historic environment

National Planning Practice Guidance

The policies detailed above are the most relevant policies relating to this application

Eden Local Plan 2014-2032: This is the emerging local plan for Eden District Council, but is not yet at this stage where any of the individual policies or allocations can be considered to have anything other than limited weight.

8. Planning Assessment

8.1 Key/Main Planning Issues

- Principle
- Landscape and Visual Impact
- Housing Density
- Housing Need
- Affordable Housing Contribution
- Flooding and Environmental Impacts

8.2 Principle

- 8.2.1 In terms of the principle of housing development, consideration is given to the development plan. This consists of the 'saved' policies of the local plan (adopted in 1996) and the district's Core Strategy (2010) as well as the National Planning Policy Framework (NPPF) and National Planning Policy Guidance (NPPG).
- 8.2.2 In this instance the proposal would result in the development of a site currently utilised as a caravan park. The proposed office building would allow a local business to have a more efficient and purpose built structure, supporting its growth and success.
- 8.2.3 Section 3 of the NPPF, entitled 'Supporting a prosperous rural economy' is clear in how planning policies should support the rural economy whilst Section 1 entitled 'Building a strong, competitive economy' is also clear in how local planning authorities should plan *'proactively to meet the development needs of business and support an economy fit for the 21st Century'*.
- 8.2.4 Part of this, in chapter 21 states that local planning authorities should *'support existing business sectors, taking account of whether they are expanding or contracting'*.
- 8.2.5 It is also acknowledged that one of the three 'dimensions' to 'sustainable' development is the economic role the planning system can play in helping the local economy. This is by ensuring the appropriate land is utilised for the appropriate development.
- 8.2.6 Therefore, for the reasons detailed above it is considered that the in terms of the principle of the proposed development, it accords with the Development Plan and National Planning Policy.

8.3 Landscape and Visual Impact

- 8.3.1 A significant consideration in the determination of this outline planning application is the extent of the impact of the proposed development upon both the character of the area and local landscape. It is noted that the application site is an existing caravan park and is part of the wider Tebay (North) Services. The proposed building would be 15.5 metres in height.

REPORTS FOR DEBATE

- 8.3.2 The topography of the application site means that the land within the caravan park is approximately 5-6 metres below the surrounding lands ground levels. The site is also surrounded by mature trees and shrubs which would mean that if approved, the office building would be well 'screened' and only partial glimpses of it, at best, would be visible of the proposed building.
- 8.3.3 The applicant has confirmed that there would be one of the internal bunds, which provide separation areas in the existing caravan park, would be lost, whilst another would effectively be 'split' to provide an access path into the proposed building. These works would not affect the perimeter landscaping and whilst there are some works to the existing trees which are proposed to increase the biodiversity value of the site, rather than to simply facilitate the proposed development. The proposal would involve the loss of a maximum of 128 trees, although the applicant proposes significant amounts of further planting, located in more appropriate areas on the site and maintaining its current 'feel' as described in paragraph 2.2.3 of this report. In total, the number to be planted as mitigation for the loss, is 517 providing a net gain of 389.
- 8.3.4 The applicant has confirmed that lighting used in the development will utilise 'dark sky' fittings in order to prevent the emission of unnecessary lighting. The applicant proposes to use low energy LEDs to also assist in reducing the carbon footprint of the building. Paths and roads will also be lit with low level lit bollards again contributing to a low level of light pollution. This intention will mean that even at night time, the site will not be particularly noticeable particularly when considered the already lit areas of the wider services site. It is noted that the site is within an area of 'Landscape of County Importance, which is designated under the adopted Eden Local Plan (1996) and 'saved' Policy NE3. However, it is not considered that this proposal, which, as has been established within this report, is part of the wider Tebay (North) Services. Such a development on this site is not considered to be out of character.
- 8.3.5 'Saved' Policy NE3 confirms that proposals with such areas will be expected to '*have due regard to the distinctive character of the landscape*'. As has been confirmed in paragraph 2.1.3, the proposed building would be constructed of corrugated profile sheeting taking the appearance approach from Cumbrian agricultural buildings, but finished to a higher standard than that. The proposed external store would be built from dressed stone gabions (using local stone) and will present itself as a dressed stone wall, common in the Cumbrian landscape. This intention is, in officer's view, respectful of the distinctive character of the area and therefore the proposed development would not have any significant, detrimental impacts.
- 8.3.6 In paragraph 2.2.6 of this report a range of designated sites that this proposal site is located near to are listed. Paragraph 118 of the NPPF indicates that planning authorities should aim to '*conserve and enhance biodiversity*' where possible. It also indicates that proposed development '*on land within or outside a Site of Special Scientific Interest (SSSI)*' that is likely to have an '*adverse impact*' should not normally be permitted. Sites such as Special Areas of Conservation (SACs) should be afforded the same level of protection as SSSI's. As part of this application, Natural England were consequently consulted in order to gauge their opinion on the proposal and the potential impact it could have on these sensitive areas. The response received confirms they have no objection in relation to the proposal.

- 8.3.7 Paragraph 115 of the NPPF indicates that 'great weight' should be given to conserving the landscape and scenic beauty '*in national parks*' which are also confirmed to have the highest status of protection in relation to landscape and scenic beauty. However, this development is not within a National Park - notwithstanding this it is acknowledged that the site is within the vicinity of two national parks.
- 8.3.8 It is acknowledged that the Lake District National Park, at its closest point is approximately 785 metres to the west from the site. The Authority was consulted upon this application and they confirmed no perceived 'significant impact' on the special qualities of the National Park and therefore no objection was raised to the scheme. It is also noted that the Yorkshire Dales National Park, at its closest point is some 1482 metres to the north (although is located to the east and south-east of the proposal site also).
- 8.3.9 In this instance the Yorkshire Dales National Park Authority was not consulted upon this application. This is due to the sites location, which is well screened to the north, east and south and also due to the existing infrastructure that separates the proposal site and the Yorkshire Dales National Park, namely the M6 motorway and the north and south bound service stations.
- 8.3.10 Given the sites topography, perimeter planting and indeed design it is not considered that the proposal would have any significant, detrimental impacts upon either of the designated National Parks or any of the designated and protected sites such as the Special Area of Conservations, Site of Special Scientific Interest or National Nature Reserves.
- 8.3.11 Accordingly, the proposal is considered consistent with 'saved' Policy NE3 as well as Policy CS16 of the district Core Strategy and the NPPF. Therefore, there are no landscape and visual impact concerns in relation to this proposal and it is considered it merits support.

8.4 Amenity Impacts

- 8.4.1 Another significant consideration is whether the development would result in any undue and significantly adverse amenity impacts. The development has been confirmed to be located on a site that comprises the Tebay (North) Services.
- 8.4.2 The site is near to the existing M6 and would involve the development of an existing caravan park site. There are no residential dwellings in the immediate vicinity and it is therefore considered that this proposal would not result in any significant amenity impacts, if approved.

8.5 Flooding and Environmental Impacts

- 8.5.1 A Flood Risk Assessment has been undertaken by the applicant to gauge the impact of the development upon flood risk. The extent of the assessment has been deemed to be acceptable by Cumbria County Council in their role as Local Lead Flood Authority. It was acknowledged that works on a watercourse, as proposed, would require an Ordinary Watercourse Flood Defence Consent from the County Council. This can be obtained by the applicant in due course.
- 8.5.2 The Local Lead Flood Authority requested two pre-commencement conditions were requested (related to drainage maintenance and a construction surface water management plan) by the consultee. Following discussions with the applicant, one of these conditions (maintenance) was agreed to be acceptable as a pre-occupation condition. These are in section 1 of this report.

8.5.3 Based on the comments received by the Lead Local Flood Authority it is considered that the proposal would not result in any flooding impacts and can be supported.

8.6 Ecology

8.6.1 The application was also supported by an Ecological Appraisal. The appraisal confirmed that the site is located near to several sites with statutory designations. These are as follows;

- Asby Complex Special Area of Conservation (“SAC”) - approximately 750 metres to the north;
- Lake District High Fells SAC - approximately 1.3 kilometres to the west;
- North Pennine Dales Meadows SAC - approximately 2.3 kilometres to the east;
- Crosby Ravensworth Site of Special Scientific Interest (“SSSI”) - approximately 740 metres to the north;
- Shap Fells SSSI - approximately 1.3 kilometres to the west;
- Hollin Hill SSSI - approximately 1.5 kilometres to the south-west;
- Bretherdale Meadows SSSI - approximately 2.2 kilometres to the south-west;
- Raisbeck Meadows SSSI - approximately 2.3 kilometres to the east;
- Orton Pastures SSSI - approximately 3.4 kilometres to the north-east; and
- Great Asby Scar SSSI and National Nature Reserve (“NNR”) - approximately 4.7 kilometres to the north-east.

8.6.2 The appraisal considers that the proposed development would be unlikely to have any significant impacts on any of these designated sites. Officers agree that the proposal would have limited impact.

8.6.3 The appraisal also assessed whether the site was subject to any protected or notable species. It was confirmed that the site did have potential for breeding birds in terms of existing woodland plantation and foraging bats. It was considered that the proposal could actually provide a biodiversity gain through the management of retained habitat as well as the creation and management of new habitat as part of the wider landscaping plans. Natural England have been consulted upon the proposal and their response confirmed no objection in relation to the proposal and added that the proposal *‘will not have significant adverse impacts on designated sites’*.

8.6.4 The applicant has advised that as part of the proposal, the intention is to improve the biodiversity ‘value’ of the site. As part of this 128 trees would be lost but 517 would be planted in mitigation (a net gain of 389 trees). Species have been selected in order to encourage and improve the biodiversity of the site and the district council arboricultural officer has no objections to the proposal and considers the species proposed for planting to be suitable.

8.6.5 Paragraph 118 of the NPPF indicates that planning authorities should aim to ‘conserve and enhance biodiversity’ where possible. It also indicates that proposed development ‘on land within or outside a Site of Special Scientific Interest (SSSI)’ that is likely to have a ‘adverse impact’ should not normally be permitted. Sites such as Special Areas

of Conservation (SACs) should be afforded the same level of protection as SSSI's. In this instance, given the response provided by Natural England it is considered that no such adverse impacts would be generated by virtue of this application being implemented. Indeed, it is considered that the applicants' proposal would enhance biodiversity of the site and this is encouraged and supported by paragraph 118 of the NPPF.

- 8.6.6 Accordingly, it is considered that the proposal will not result in any significant ecological impacts and can therefore be supported.

9. Implications

9.1 Equality and Diversity

- 9.1.1 The Council must have regard to the elimination of unlawful discrimination and harassment, and the promotion of equality under the Equality Act 2010.

9.2 Environment

- 9.2.1 The Council must have due regard to conserving bio-diversity under the Natural Environment and Rural Communities Act 2006.

9.3 Crime and Disorder

- 9.3.1 Under the Crime and Disorder Act 1998, the Council must have regard to the need to reduce crime and disorder in exercising any of its functions.

9.4 Children

- 9.4.1 Under the Children Act 2004, the Council has a duty to safeguard and promote the welfare of children in the exercise of any of its functions.

9.5 Human Rights

- 9.5.1 In determining applications, the Council must ensure that all parties get a fair hearing in compliance with the provisions of Article 6 under the European Convention on Human Rights, as now embodied in UK law in the Human Rights Act 1998.

10. Conclusion

- 10.1 It is considered that the proposal is acceptable. The development would allow a local business to provide its staff with a purpose built office home and in turn hopefully contribute to its economic growth.
- 10.2 Given the conclusion of both Natural England and the Lake District National Park in addition to the topography of the site and planting that surrounds it. Given that the wider site is an existing service station such a development on such a site would not be inconsistent, inappropriate or have any significant adverse impacts upon these areas.
- 10.3 The biodiversity gains, the applicant proposes, should also be commended. The net gain of 389 trees and careful management of the existing planting will hopefully encourage the biodiversity of the site and to allow it to grow.
- 10.4 The proposed building is an innovative one with a design that would be reflective, sympathetic and respectful of the area. It is considered that the standard of the proposed development would be very high and should be encouraged and praised.
- 10.5 It is therefore concluded that planning permission should be granted subject to conditions.

Agenda Item
REPORTS FOR DEBATE

Jane Langston
Assistant Director Technical Services

Checked by or on behalf of the Monitoring Officer	✓
---------------------------------------------------	---

Background Papers: Planning File

Agenda Item
REPORTS FOR DEBATE
Item 8

Date of Committee: 17 August 2017

Planning Application No: 17/0493 **Date Received:** 12 June 2017

OS Grid Ref: 371119 518862 **Expiry Date:** 8 August 2017

Parish: Warcop **Ward:** Warcop

Application Type: Change of Use PD/PN

Proposal: Notification for Prior Approval for a Proposed Change of Use of an Agricultural Building to 2 No Dwellings.

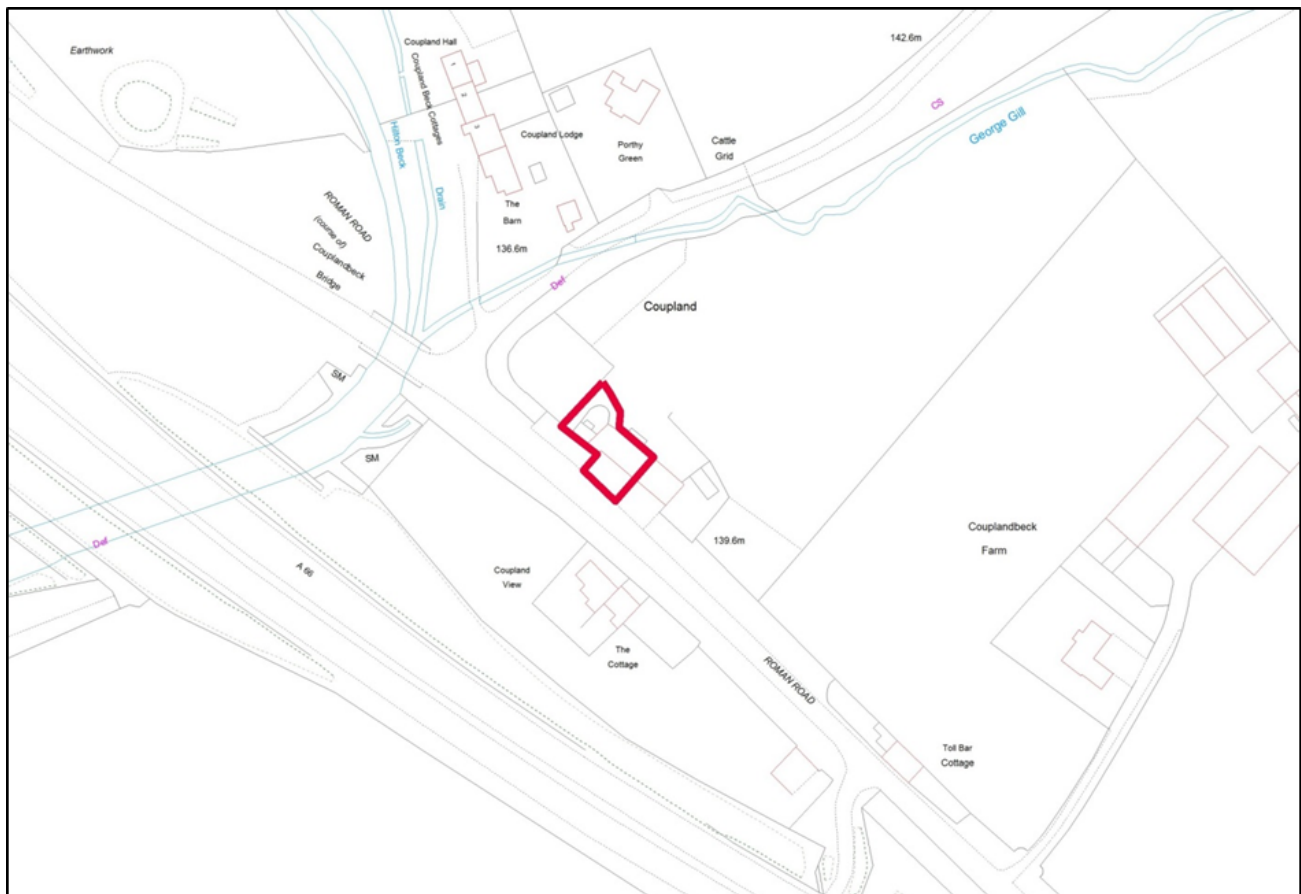
Location: Coupland Beck Barn, Appleby

Applicant: Mr W Patterson

Agent: Mr I Smart (IPS Architects)

Case Officer: Mr D Cox

Reason for Referral: The Applicant is a Member of the Local Authority.



1. Recommendation

The Local Planning Authority has concluded that prior approval is required but it is recommended that approval be granted subject to the following conditions/for the following reasons:

Approved Plans

1. The development hereby granted shall be carried out in accordance with the following plans and documents unless otherwise agreed in writing by the Local Planning Authority.

Proposed location, plans and elevations - Drawing No ps/1190.01 rev b as dated received by the Local Planning Authority on the 12 June 2017.

Reason: In accordance with Paragraph W(11) of the Town and Country Planning (General Permitted Development) Order 2015 No 569.

2. Proposal and Site Description

2.1 Proposal

- 2.1.1 Notification for Prior Approval for a proposed Change of Use of an Agricultural Building to 2 No Dwellinghouses (Class C3) and for associated operational development under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015. The relevant agricultural building in question being attached, and to the immediate north-west of Coupland Beck Farmhouse, Coupland Beck.

2.2 Site Description

- 2.2.1 The application relates to a substantial, traditional, random coursed stone built and slate roofed barn, set within limited partially dry stone walled curtilage, and with access and hardstanding parking directly off the de-trunked former A66.
- 2.2.2 Physically attached to the former Coupland Beck Farmhouse, the site is located to the south-east of the junction of the former A66 with the Coupland Beck-Hilton (3220) road and above the confluence of the nearby George Gill, Hilton and Coupland Beck watercourses.
- 2.2.3 The building (with a cumulative floorspace of approx. 192 m²) appears fundamentally sound, with no obvious major structural defects. The barn has direct access off the existing adjacent highway, as well as hardstanding to the front (south-west).
- 2.2.4 The barn, attached to the former farmhouse, is located in the hollow and cluster of associated dwellings and other former farmhouses that make up the hamlet of Coupland Beck, to the east of the A66 and approximately 2 miles to the south-east of the Key Settlement of Appleby.

3. Consultees

3.1 Statutory Consultees

Consultee	Response
Local Highway Authority	No objection.

3.2 Discretionary Consultees

Consultee	Response
Parish Council	n/a

4. Parish Council/Meeting Response

Parish Council/Meeting	Please Tick as Appropriate			
	Object	Support	No Response	No View Expressed
n/a				

5. Representations

5.1

No of Neighbours Consulted	n/a	No of letters of support	
No of Representations Received		No of neutral representations	
No of objection letters			

6. Relevant Planning History

There is no relevant planning history.

7. Policy Context

- 7.1** The proposal represents a Notification for Prior Approval for a proposed Change of Use of an Agricultural Building to 2 No Dwellinghouses (Class C3) and for associated operational development under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015.

8. Planning Assessment

8.1 Key/Main Planning Issues

- 8.1.1 Main Issues** In accordance with the conditions under paragraphs Q.2 (1) and (2) of Statutory Instrument 2015 No 596, the Local Planning Authority must determine whether prior approval of the Authority is required with regards to:

- (a) transport and highways impacts of the development - The Highway Authority was consulted as part of the application and raised no objection. The proposal therefore raises no concerns relating to transport and highways impacts.
- (b) noise impacts of the development - The barn is situated adjacent the nearest (former farmhouse) and amongst other residential buildings which constitute the hamlet of Coupland Beck. It is therefore considered that there will not be any significant or unreasonable noise impacts arising.
- (c) contamination risks on the site - The proposal raises no contamination concerns, the applicant advising that the building has been used historically only for the storage of agricultural equipment and implements, and the housing of livestock.
- (d) flooding risks on the site - Although the site is located within flood zone 2, on site visit and investigation its' elevated siting and location in relation to nearby watercourses leads to the conclusion that the residential development proposed

does not appear at unacceptable risk from flooding or likely to cause flooding elsewhere.

- (e) whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwelling-houses) of the Schedule to the Use Classes Order - The site is located and immediately accessible from the adjacent public highway, set down from and generally unobtrusive within its' broader landscape setting and, well related in terms of the visual context to and with other neighbouring (traditional and more recent) residential development in the vicinity of Coupland Beck.

Given the above considerations, together with the standing of the existing building and the broadly sympathetic and limited structural alterations proposed to facilitate the conversions, then the proposal is therefore considered to pass the requirements and specific conditions of Class Q.2 (1) (e) of the Town and Country Planning (General Permitted Development) (England) Order 2015, with the recommendation to Approve following as such.

9. New Homes Bonus

- 9.1 The prospect of receiving a Bonus is, in principle, capable of being taken into account as a 'material consideration' in determining a planning application. Whether potential Bonus payments are in fact a material consideration in relation to a particular application will depend on whether those payments would be used in a way which is connected to the application and to the use and development of land. For example, potential Bonus payments could be a material consideration if they were to be used to mitigate impacts resulting from development. But if the use to which the payments are to be put is unclear or is for purposes unrelated to the development concerned a decision maker would not be entitled to take them into account when making a decision on a planning application. In this particular case, there are no plans to use the New Homes Bonus arising from this application in connection with this development.

10. Implications

10.1 Legal Implications

- 10.1.1 The following matters have been considered but no issues are judged to arise.

10.2 Equality and Diversity

- 10.2.1 The Council must have regard to the elimination of unlawful discrimination and harassment, and the promotion of equality under the Equality Act 2010.

10.3 Environment

- 10.3.1 The Council must have due regard to conserving bio-diversity under the Natural Environment and Rural Communities Act 2006.

10.4 Crime and Disorder

- 10.4.1 Under the Crime and Disorder Act 1998, the Council must have regard to the need to reduce crime and disorder in exercising any of its functions.

10.5 Children

- 10.5.1 Under the Children Act 2004, the Council has a duty to safeguard and promote the welfare of children in the exercise of any of its functions.

10.6 Human Rights

10.6.1 In determining applications, the Council must ensure that all parties get a fair hearing in compliance with the provisions of Article 6 under the European Convention on Human Rights, as now embodied in UK law in the Human Rights Act 1998.

11. Conclusion

11.1 The proposal represents notification for Prior Approval for a proposed Change of Use of an existing Agricultural Building to 2 No Dwellinghouses (Class C3) and for associated operational development under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) Order 2015. The Local Planning Authority has concluded that although prior approval is required it is recommended that approval be granted for the development as sought.

Jane Langston
Assistant Director Technical Services

Checked by or on behalf of the Monitoring Officer	✓
---------------------------------------------------	---

Background Papers: Planning File