

Eden District Council
Planning Committee Agenda
Committee Date: 12 December 2019

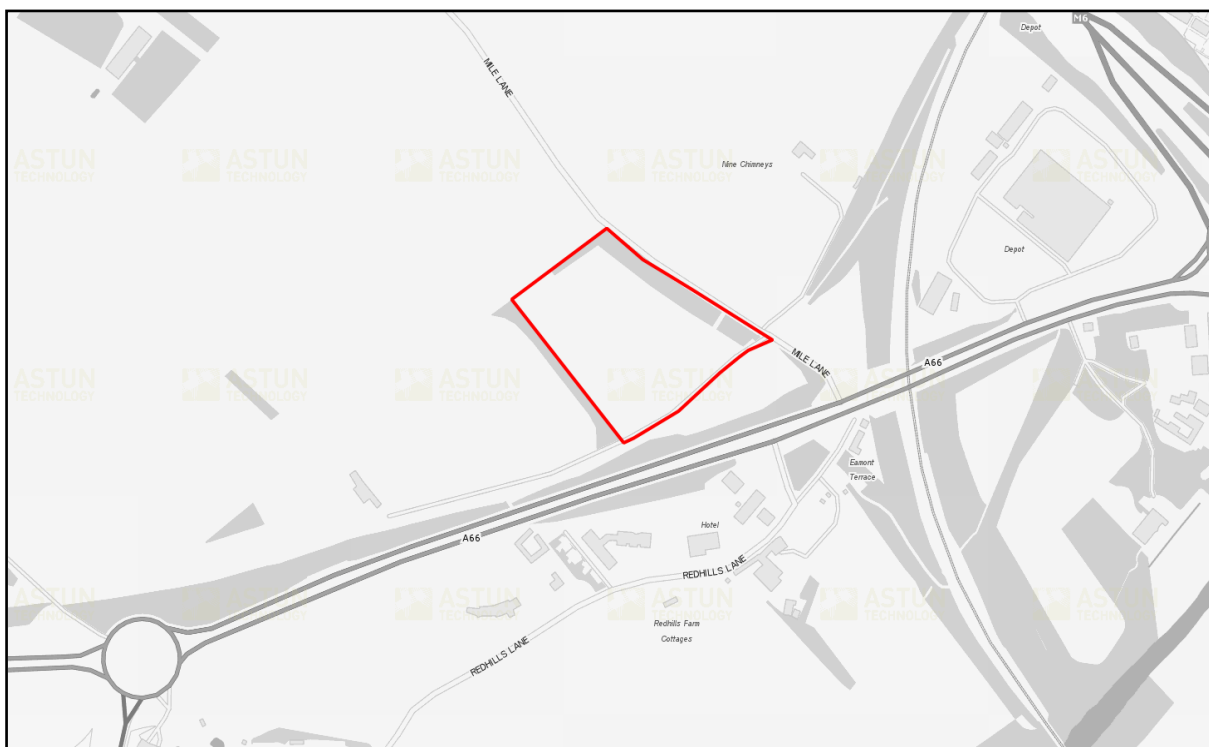
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| Item No | Application Details | Officer Recommendation |
|----------------|--|---|
| 1 | Planning Application No: 19/0636 Outline Planning Permission for use classes B1 (Business), B2 (General Industrial) and B8 (Storage and Distribution) with approval for access Land South-west of Mile Lane, Redhills, Penrith, CA11 0DT Mr Daniel Addis | Recommended to: APPROVE Subject to Conditions |
| 2 | Planning Application No: 19/0729 New conservatory to side elevation 37 Monnington Way, Penrith Mr and Mrs Borthwick | Recommended to: APPROVE Subject to Conditions |
| 3 | Planning Application No: 19/0671 Change of Use of Agricultural Land to siting of 12 static holiday caravans Langton Field, Langton, Appleby Mr G Bell | Recommended to: REFUSE With Reasons |
| 4 | Planning Application No: 19/0684 Change of use of former Bank premises and development of upstairs residential unit into 5 No residential apartments 19 Boroughgate, Appleby Stanthorne Ltd | Recommended to: APPROVE Subject to Conditions |

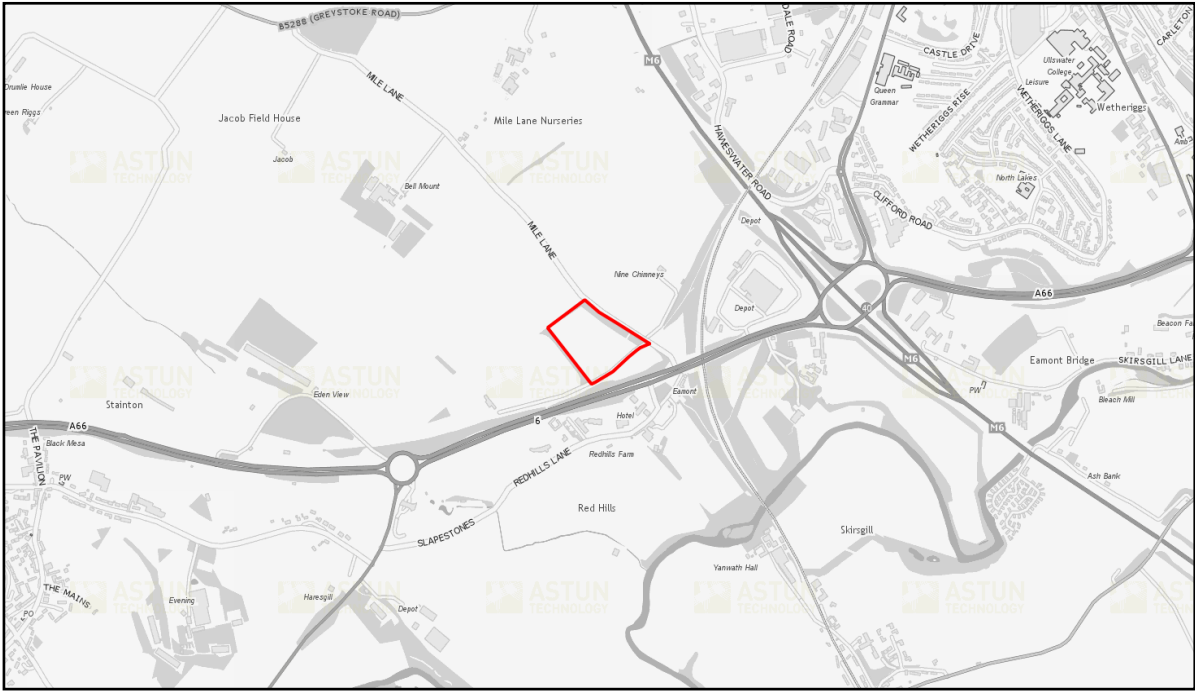
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Agenda Item 1
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| Date of Committee: | 12 December 2019 | | |
| Planning Application No: | 19/0636 | Date Received: | 2 September 2019 |
| OS Grid Ref: | 350262 528809 | Expiry Date: | 3 December 2019 extension of time agreed until 16 December 2019 |
| Parish: | Dacre | Ward: | Dacre |
| Application Type: | Outline | | |
| Proposal: | Outline Planning Permission for use classes B1 (Business), B2 (General Industrial) and B8 (Storage and Distribution) with approval for access | | |
| Location: | Land South-west of Mile Lane, Redhills, Penrith, CA11 0DT | | |
| Applicant: | Mr Daniel Addis | | |
| Agent: | Mr Daniel Addis | | |
| Case Officer: | Mr Ian Irwin | | |
| Reason for Referral: | The application is a departure from the Development Plan | | |



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1. Recommendation

It is recommended that Planning Permission is granted subject to the following conditions:

Time Limit for Commencement

1. The development permitted shall be begun either before the expiration of five 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 (as amended).

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.

Approved Plans

3. The development hereby granted shall be carried out strictly in accordance with the application form dated 1 September 2019 and the following details and plans hereby approved;
 - i. Location Block Plan, submitted 1 September 2019;
 - ii. Design and Access Statement, dated September 2019;
 - iii. Flood Risk Assessment, dated September 2019;
 - iv. Outline drainage strategy, ref. K36328, Revision A, dated 16 July 2019;
 - v. Planning Statement, dated September 2019;
 - vi. Satellite Block Plan, submitted 1 September 2019;
 - vii. Transport Assessment, ref. A113591, dated 2 September 2019;
 - viii. Proposed Access Plans, ref. A113591-P005 Revision P01, dated 21 October 2019;
 - ix. Noise Assessment, ref. LAE1003.1. dated 19 October 2019;
 - x. Phase 1 Desk Top Study Report, ref. 2019-3942, dated 18 October 2019.

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

Prior to commencement

4. Prior to the commencement of any development, a surface water drainage scheme, including ongoing management and maintenance, 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. No surface water shall discharge to the public sewerage system either directly or indirectly.

Thereafter, the development shall be undertaken in accordance with the approved scheme.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution.

5. The carriageway, footways, footpaths, cycleways etc shall be designed, constructed, drained and lit to a standard suitable for adoption and in this respect further details, including longitudinal/cross sections, shall be submitted to the Local Planning Authority for approval before work commences on site. 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.

Reason: To ensure a minimum standard of construction in the interests of highway safety.

6. Prior to the commencement of the development details showing the provision within the site for parking, turning, loading and unloading shall be submitted of a vehicle turning space and parking within the site, shall be submitted to the Local Planning Authority for written approval. The approved parking, turning, loading and unloading areas shall be kept available for those purposes at all times and shall not be used for any other purpose.

Reason: To ensure that provision is made for vehicle turning within the site and in the interests of highway safety.

7. The development shall not commence until visibility splays providing clear visibility for Southbound traffic of 215 metres measured 4.5 metres down the centre of the access road and Northbound 98 metres measured 4.5 metres down the centre of the access road to the nearside channel line of the carriageway edge have been provided at the junction of the access road with the county highway have been constructed. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order) related 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 be grown within the visibility splay which obstructs visibility splays.

Reason: In the interests of highway safety.

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

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

9. No development shall commence until a construction surface water management plan has been submitted and agreed in writing with the local planning authority. Once agreed, the approved plan shall be adhered to thereafter.

Reason: To safeguard against flooding to surrounding sites and to safeguard against pollution of surrounding watercourses and drainage systems.

10. Development shall not be begun until a Construction Phase Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. The CTMP shall include details of:

- pre-construction road condition established by a detailed survey for accommodation works within the highways boundary conducted with a Highway Authority representative; with all post repairs carried out to the satisfaction of the Local Highway Authority at the applicant's expense;
- details of proposed crossings of the highway verge;
- retained areas for vehicle parking, manoeuvring, loading and unloading for their specific purpose during the development;
- cleaning of site entrances and the adjacent public highway;
- details of proposed wheel washing facilities;
- the sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials on the highway;
- construction vehicle routing;
- The management of junctions to and crossings of the public highway and other public rights of way/footway;
- Surface water management details during the construction phase;
- The surfacing of any access road from the public highway into the site shall extend for a minimum of 25 metres.

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.

11. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The statement shall provide for:

- I. The parking of vehicles of site operatives and visitors;
- II. Loading and unloading of plant and materials;
- III. Storage of plant and materials used in constructing the development;
- IV. Wheel washing facilities;
- V. Measures to control the emission of dust and dirt during construction;
- VI. A scheme for recycling/ disposing of waste resulting from demolition and

construction works;

VII. Measures to control noise and vibration.

Once the statement is approved, it shall then be implemented in accordance with these details thereafter.

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

12. A site investigation strategy as identified in the Desk Study report Ref 2019-3942 dated 18/10/19 submitted with the application above shall be undertaken by a competent person in accordance with the current UK requirements for sampling and analysis.

Where a site investigation identifies unacceptable levels of contamination, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall have regard to CLR 11 and other relevant current guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

The developer shall give at least 14 days' notice to the Local Planning Authority (Environmental Health Department) prior to commencing works in connection with the remediation scheme.

Reason: In the interests of the amenity of the area and to ensure any risk of pollution is mitigated.

Prior to Occupation

13. No buildings shall be occupied on site until:

- a) The approved remediation works required by condition 17 as necessary have been carried out in full in compliance with the approved methodology and best practice. If during the works new areas of contamination are discovered, which have not previously been identified, then the additional contamination shall be re-evaluated through the submission of a new assessment along with further remediation works.
- b) Upon completion of the remediation works required by condition 17 a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.

Reason: To ensure that any risk of pollution is mitigated

14. Prior to the commencement of the development, a scheme showing the proposed lighting plan for the development shall be submitted to and agreed in writing with the Local Planning Authority. This shall show the location, number and type of lighting units proposed, their orientation and brightness in lux and proposed hours of operation. It shall also predict the light level in lux to be experienced at surrounding properties.

Once approved, the development shall then be carried out in accordance with the approved lighting scheme and retained thereafter as such.

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

On-going conditions

15. 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.

16. The vehicular crossing, including the lowering of kerbs where necessary, shall be carried out to the specification of the Local Planning Authority in consultation with the Highway Authority.

Reason: To ensure a suitable standard of crossing for pedestrian safety.

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

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

18. The level of noise emitted from the proposed development shall not exceed a rating level of 51dB LAeq 1 hour, between 07:00-23:00 and 43dB LAeq 15 minute between 23:00-07:00, as calculated 1 metre from the façade of the noise sensitive premises. The rating level refers to the specific sound level plus any adjustment for the characteristic features of the sound such as tonality and impulsivity, and is calculated following the British Standard 4142:2014.

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

19. The level of noise emitted by any proposed external mechanical services plant operated between 07:00-23:00 shall not exceed a Sound Power Level of 110dB, and a Sound Power Level of 97dB(A) between 23:00-07:00. Noise emitted from any activities on site shall not exceed 60dBLAmax 1 metre from the façade at noise sensitive premises, between 23:00-07:00.

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

20. Deliveries shall not occur between the times of 23:00-07:00.

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

Note to developer:

1. This decision notice grants planning permission only. It does not override any existing legal agreement, covenant or ownership arrangement. It is the applicant's responsibility to ensure all necessary agreements/consents are in place prior to the commencement of development and to take appropriate advice thereon if

required.

2. The applicant is reminded that will need to seek a Traffic Regulation Order (TRO) under the Road Traffic Regulation Act 1984 in relation to the existing weight restriction applicable to Mile Lane.
3. Foul drainage should be connected to the main sewer. Where this is not possible, under the Environmental Permitting Regulations 2010 any discharge of sewage or trade effluent made to either surface water or groundwater will need to be registered as an exempt discharge activity or hold a permit issued by the Environment Agency, addition to planning permission. This applies to any discharge to inland freshwaters, coastal waters or relevant territorial waters.

Please note that the granting of planning permission does not guarantee the granting of an Environmental Permit. Upon receipt of a correctly filled in application form we will carry out an assessment. It can take up to 4 months before we are in a position to decide whether to grant a permit or not.
4. Domestic effluent discharged from a treatment plant/septic tank at 2 cubic metres or less to ground or 5 cubic metres or less to surface water in any 24 hour period must comply with General Binding Rules provided that no public foul sewer is available to serve the development and that the site is not within an inner Groundwater Source Protection Zone.
5. A soakaway used to serve a non-mains drainage system must be sited no less than 10 metres from the nearest watercourse, not less than 10 metres from any other foul soakaway and not less than 50 metres from the nearest potable water supply.
6. Where the proposed development involves the connection of foul drainage to an existing non-mains drainage system, the applicant should ensure that it is in a good state of repair, regularly de-sludged and of sufficient capacity to deal with any potential increase in flow and loading which may occur as a result of the development.
7. Where the existing non-mains drainage system is covered by a permit to discharge then an application to vary the permit will need to be made to reflect the increase in volume being discharged. It can take up to 13 weeks before we decide whether to vary a permit. Further advice is available at:

Septic tanks and treatment plants: permits and general binding rules.
8. If the applicant intends to obtain a water supply from United Utilities for the proposed development, we strongly recommend they engage with us at the earliest opportunity. If reinforcement of the water network is required to meet the demand, this could be a significant project and the design and construction period should be accounted for. To discuss a potential water supply or any of the water comments detailed above, the applicant can contact the team at DeveloperServicesWater@uuplc.co.uk. Please note, all internal pipework must comply with current Water Supply (water fittings) Regulations 1999.
9. Where United Utilities' assets exist, the level of cover to the water mains and public sewers must not be compromised either during or after construction. For advice regarding protection of United Utilities assets, the applicant should contact the teams as follows:

Water assets – DeveloperServicesWater@uuplc.co.uk

Wastewater assets – WastewaterDeveloperServices@uuplc.co.uk

10. It is the applicant's responsibility to investigate the possibility of any United Utilities' assets potentially impacted by their proposals and to demonstrate the exact relationship between any United Utilities' assets and the proposed development. A number of providers offer a paid for mapping service including United Utilities. To find out how to purchase a sewer and water plan from United Utilities, please visit the Property Searches website;
<https://www.unitedutilities.com/property-searches/>
11. You can also view the plans for free. To make an appointment to view our sewer records at your local authority please contact them direct, alternatively if you wish to view the water and the sewer records at our Lingley Mere offices based in Warrington please ring 0370 751 0101 to book an appointment. Due to the public sewer transfer in 2011, not all sewers are currently shown on the statutory sewer records and we do not always show private pipes on our plans. If a sewer is discovered during construction; please contact a Building Control Body to discuss the matter further. Should this planning application be approved the applicant should contact United Utilities regarding a potential water supply or connection to public sewers. Additional information is available on our website
<http://www.unitedutilities.com/builders-developers.aspx>

2. Proposal and Site Description

2.1 Proposal

- 2.1.1 The proposal for outline planning permission is for the creation of an 'employment' site permitting the use of B1 (Business), B2 (General Industrial) and B8 (Storage and Distribution) uses on the site. This is a resubmission of a previous application for the very same proposal (ref. 19/0152) determined by Planning Committee on the 15 August 2019. That application was refused by said committee, contrary to officer recommendation. This application has been changed since that earlier application in that it now sets out the formal proposals for access too.
- 2.1.2 The site is currently used in an agricultural manner but has a planning history (see 'Relevant site history' section below) which permitted the site to be used as a Caravan Park. This permission has been lawfully implemented and therefore, represents a strong fall-back position.
- 2.1.3 If approved, the site would be subject to buildings being constructed upon it which would be located across the site. All matters are, however, reserved, apart from access, which is a change to the previously referred to application. As such, the specific scale, design and layout of these buildings is currently unknown. Fundamentally then, this proposal seeks to establish the principle of development at this stage.
- 2.1.4 If approved, all matters accept access, such as layout, landscaping etc. would be dealt with by a reserved matters application. This application would need to be submitted in an appropriate timescale (as per the requirements of condition 1 in section 1 of this report) for further consideration.
- 2.1.5 In line with the requirements of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. It is considered that whilst the development falls within

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the criteria of Schedule 2 Development (Infrastructure Projects), the application does not comprise development for which the planning application would need to be accompanied by an Environmental Statement. This position has been reached as it is considered that the proposed development would not have significant impacts upon the environment.

2.2 Site Description

- 2.2.1 The site subject of this application is located to the south-west of Mile Lane, Redhills. The site is bounded by open countryside to the north-north-west. The site is 3.3 hectares in size and is currently agricultural land.
- 2.2.2 It is bound by trees on its north-eastern boundary, all along Mile Lane with further trees on the south-western boundary between the site and the adjacent golf driving range. The site slopes from west to east, with the western boundary slope forming a natural feature to 'screen' direct views into the site from that direction which is further 'screened' by the aforementioned trees. To the south is the A66 corridor with the embankments and mature planting located upon it.
- 2.2.3 The nearest residential dwelling to the application site is the dwelling 'Nine Chimneys' which is located on the opposite side of Mile Lane, approximately 199 metres from the boundary of the application site to the north-east. 'Bell Mount' is located to the north-west, approximately 0.59 kilometres away from the nearest site boundary whilst 'Eden View' located to the west, is approximately 0.75 kilometres away. Mile Lane Nurseries, which includes a residential property is approximately 0.62 kilometres away to the north-north-west. Jacob View is approximately 0.96 kilometres to the north-west of the site.
- 2.2.4 The site is confirmed to be located within a Flood zone 1. The site is not located in an area subject to any 'special' designation in terms of landscape or heritage zones. There are no other constraints considered relevant to the determination of this application.

3. Consultees

3.1 Consultees

| Consultee | Response |
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| Cumbria County Council - Local Highway Authority | <p>Responded on the 14 October 2019 and confirmed that further details in relation to the proposed access width was required.</p> <p>The applicant therefore provided an updated access plan and on the 22 October 2019 the Highways Authority confirmed no objection to the proposal in regards to the proposed access.</p> <p>They have confirmed that there is a HGV restriction on Mile Lane and that in order to allow vehicles associated with this development, the weight restriction area will need to be relocated. All costs associated with this would be at the developer's expense. This would allow a left in, right out traffic flow.</p> <p>The updated response received also requested conditions to be attached to any subsequent grant of planning permission.</p> |

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| Highways England | Responded on the 27 September 2019 and confirmed no objection to the proposal. |
| Cumbria County Council - Lead Local Flood Authority | <p>Responded on the 22 October 2019 2019 and confirmed that the Flood Risk Assessment supplied with the application. This assessed the site as being located in a Flood Zone 1, being at small risk of surface water flooding. The Lead Local Flood Authority (LLFA) agrees with this assessment. The LLFA also confirmed that they have no records of flooding or drainage issues with the site.</p> <p>The response confirmed that on the basis of the details submitted, <i>'Cumbria County Council as Lead Local Flood Authority would at this stage have no objection to the application on the grounds that the Flood Risk Assessment and the details contained within the updated ODS, have demonstrated through invasive ground investigation that infiltration techniques can be utilised and as such Cumbria County Council as Lead Local Flood Authority would request the inclusion of the following conditions in any decision notice the local planning authority would look to grant'</i>.</p> <p>Such conditions have been included in section 1 of this report in line with the requirements of the Lead Local Flood Authority.</p> |
| Environment Agency | Responded on the 23 September 2019 and confirmed no objection to the proposal. The Environment Agency did provide 'informative comments' to the applicant which confirmed to the NPPG guidance on water supply, wastewater and water quality. |
| Natural England | Responded on the 23 September 2019 and confirmed no objection to the proposal. The Environment Agency did provide 'informative comments' to the applicant which confirmed to the NPPG guidance on water supply, wastewater and water quality. |
| United Utilities | Responded on the 30 September 2019 and confirmed that if the proposal was to be approved, conditions related to surface and foul water drainage be attached to any subsequent decision notice. |
| Environmental Health | <p>The Land Contamination Officer responded on the 19 September 2019 and requested further information in relation to possible land contamination on the site. A survey was completed and a further response received on the 22 October 2019 confirmed that following an assessment of the ground investigation report completed conditions related to land contamination be attached to any subsequent grant of planning permission.</p> <p>In terms of Noise, the Environmental Health Officer</p> |

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| | <p>requested that a noise report be provided by the applicant. Such was submitted and on the 14 November 2019 the Environmental Health Officer responded requesting conditions related to noise be attached to any subsequent of planning permission.</p> |
| Arboricultural Officer | <p>Responded on the 30 September 2019 and confirmed that <i>'My comments for the previous application 19/0152 were as follows:</i></p> <p><i>Thank you for consulting me upon this application. I note that the application leaves all matters reserved and that the planning statement at 7.24 makes reference to the existing trees within the site. I suggest that if the application is considered acceptable in all other respects that a condition is attached requiring an appropriate tree survey to be submitted with any detailed application, this should meet the requirements of BS5837 in all respects and demonstrate how screening currently provided by trees within the site and on adjacent land (as noted at 7.29 in the planning statement) will not be adversely affected by the proposed design. The trees within the site are likely to need some management in the form of selected removal of trees with poor form and possible underplanting with new replacements. There is also a requirement for landscaping proposals as acknowledged at 7.25 in the planning statement.</i></p> <p><i>My comments regarding trees and landscaping for the new application remain the same as above with reference to 8.28, 8.29 and 8.30 within the revised planning statement'.</i></p> |
| Policy Team | <p>Responded on the 19 November 2019 and confirmed that, <i>'The proposal site is located to the west of Penrith. Although geographically near to Penrith the site is within the rural area, the edge of town being 600 metres distant and separated by the M6 and the West Coast Mainline.</i></p> <p><i>The Agricultural Mart lies 200 metres east of the proposal site, although it is not visible from the site due to the raised topography of the railway line, which screens it from view. Raised land also screens the nearby A66 from view. As a consequence the site is rural in nature and open to agricultural land visible to the north.</i></p> <p><i>Therefore, the proposal site will be considered to be in the Other Rural Area in terms of the locational strategy (Policy LS1) and should comply with Policy RUR4'.</i></p> <p>They further added that, <i>'Employment development is supported in the rural area subject to the following criteria:</i></p> |

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| | <ul style="list-style-type: none"> • <i>Wherever possible they involve the re-use of suitable redundant traditional rural buildings.</i> • <i>Help towards the diversification of the rural economy.</i> • <i>Do not have a significant transport impact.</i> • <i>Are of a scale and type sympathetic to the area within which they are proposed.</i> • <i>Would respect and reinforce local landscape character, the historic environment and not cause harm to the natural environment, through the use of good design.</i> <p><i>I am concerned that an employment site of 3.3ha cannot be considered at a scale sympathetic to the area and would not respect and reinforce local landscape character due to its rural location.</i></p> <p><i>In addition they considered that, 'Policy EC1 states that:</i></p> <p><i>In recognition that land at Eden Business Park Phase 2 is constrained, the Council will give favourable consideration to any proposals for B1, B2 and B8 purposes on unallocated sites which are well related to Penrith and its transport infrastructure and which have acceptable effects in terms of landscape character.</i></p> <p><i>The proposal site, although considered to be within the 'Other Rural Area', is well related to Penrith courtesy of its situation close to the A66, which provides easy access to the motorway.</i></p> <p><i>I am concerned that the site will not have acceptable effects in terms of landscape impacts due to its rural setting and therefore does not comply with this policy.</i></p> <p><i>I am concerned that any employment development on this site will not be of a 'scale, type and design sympathetic to the location within which it is proposed' and as a consequence 'would cause harm to the local amenity [and] landscape'.</i></p> <p><i>It is acknowledged that there is dwindling capacity on the existing industrial park (Gilwilly), and that the allocated sites beyond Gilwilly (Eden Business Park Phase 2) and south of Penrith (Skirsgill) are constrained. However, in June 2018 approval was granted for 7.7ha of employment land to the north of Penrith, which is still yet to be implemented. This should be taken into account when considering the application as the NPPF is a material consideration in decision making.</i></p> <p><i>The site is not an allocated employment site nor is it within an existing settlement and although the proposal site is relatively close to Penrith and well connected by</i></p> |
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| | <p><i>good transport infrastructure, the site is detached from the built up area – it is separated from the Auction Mart site by the West Coast Mainline, which itself is well-screened and reinforces the site’s rural setting.</i></p> <p><i>Development of this site for employment would alter the character of the landscape and is unlikely to be of a scale and type that would be sympathetic to the location. Therefore, I consider that the application as proposed does not comply with the Local Plan.</i></p> <p><i>To comply with the Local Plan the applicant should demonstrate that it is possible to make the proposal acceptable in terms of its effects on the landscape character. The applicant should provide further information about the proposed scale and form of buildings on the site including evidence that any buildings proposed on the site are innovatively designed with appropriate landscaping to fully screen the site to ensure that they are sympathetic to the landscape character. If the application is to be progressed, a condition should be added to the approval to ensure buildings are of an appropriate form and scale i.e. buildings should be low level (below the height of existing trees surrounding the site).</i></p> |
| Economic Development Team | <p><i>Responded on the 11 October 2019. They confirmed that they, ‘The Economic Development team are supportive of additional employment land being created to support business growth and inward investment enquiries. There are two sites which are allocated in the Local Plan 2014-2032 for Penrith at Eden Business Park and Skirsgill totalling 15.2 Hectares. The 3.29 Hectares of land at Skirsgill is not accessible without an additional access being created from the A66, a decision which cannot be taken in the short term whilst Highways England are considering A66 dualling upgrades. The 11.91 Hectares of land at Eden Business Park has been very successful with many plots developed or recently sold for development, and at present only 2.32 Hectares remains which is being actively marketed for development and readily available to businesses. Furthermore the location of this site does deter some businesses who require more direct access onto major roads without having to go through Penrith.</i></p> <p><i>These factors have led to the Economic Development team being unable to refer ongoing business enquiries to available employment land which suits their needs to support their growth and development in the area and we have also been unable to provide an offer to inward investment enquiries.</i></p> <p><i>The development of the land at Eden Business Park,</i></p> |

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| | <i>combined with the level of interest for the Eden 41 site does indicate that there is pent up demand for employment land in the Penrith area. This situation so early on in the Local Plan timeframe indicates that the Local Plan allocations may not be sufficient in scale to support the demand and also the aspirations of the Council to support business growth and development. In order to re-evaluate and further inform the scale of employment land required in Penrith, it is intended that the Council will undertake an employment land study for Penrith later this year. In the meantime the Mile Lane site is considered by the Economic Development Team to be a good location for additional employment land due to its easy transport access from the A66 avoiding the need for a high level of additional traffic movements in Penrith whilst in close proximity to Penrith.</i> |
| Minerals and Waste Planning Authority | Responded on the 10 September 2019 and confirmed no objection to the proposal. |
| Lake District National Park | Responded on the 3 October 2019 and confirmed that in their view, <i>'views from with the National Park to the development site would be negligible'</i> . They added that, <i>'in terms of views of the National Park from outside of the boundary, I consider a key viewpoint is from Penrith Beacon. There is a distinct urban edge to the south-west of this and reads as open countryside. This open countryside between Penrith and the National Park forms part of the setting of the National Park in this viewpoint looking towards Ullswater and the Lakeland fells. However, it appears that there is a strong tree belt to the north-eastern boundary of the site. Providing that this tree belt is retained and enhanced, and subject to the size of height of the buildings, it would be likely to provide sufficient screening in order to ensure that harm is not caused to the setting of the National Park from views outside of the park boundary'</i> . |
| Penrith Town Council | Responded on the 9 October 2019 and confirmed that <i>'concern be expressed to EDC regarding the access arrangements, the turn out onto the busy and fast flowing A66 and the additional effect on J40 of increased HGV or large traffic from this development. It was felt that class B8 was not suitable for this site.</i> |

4. Parish Council/Meeting Response

| Parish Council/Meeting | Object | Support | No Response | Comments |
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| Dacre | ✓ | | | |

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- 4.1 The Parish Council responded on the 21 October 2019 as follows:

'Resolved by all present that the objections that Dacre Parish Council had made on the (19/0152) remain:

1. The proposed development is in open countryside and is not contiguous with other business/industrial developments in the area.

2. Additionally Mile Lane (the road off which this proposed development is to be sited has a HGV weight limit on the access from the A66) which would have impacts on the surrounding roads if an industrial/business site were approved.

Further to the above two objections, additional concerns were raised regarding the fact that at certain times of the week traffic is now regularly backing up from J40 past this junction which would potentially have an impact on access/egress from the area, and with Highways England modelling suggesting a 30-35% increase in traffic at the J40 roundabout with the East Bound A66 duelling project issues would only increase'.

5. Representations

- 5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on site on the 3 October 2019. A press notice was also published in the Herald on the 21 September 2019.

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

6. Relevant Planning History

| Application No | Description | Outcome |
|-----------------------|--|----------------|
| 93/0575 | Proposed touring caravan site | Refused |
| 98/0585 | Change of use to Caravan Park | Refused |
| 99/0503 | Change of use to Caravan Park | Approved |
| 19/0152 | Outline Planning Permission for use classes B1 (Business), B2 (General Industrial) and B8 (Storage and Distribution) | Refused |

7. Policy Context

7.1 Development Plan

Eden Local Plan 2014-2032:

The specific policies considered relevant in the determination of this particular application are as follows;

- Policy LS1: Locational Strategy;
- Policy DEV1: General Approach to New Development;
- Policy DEV2: Water Management and Flood Risk;
- Policy DEV3: Transport, Accessibility and Rights of Way;
- Policy DEV5: Design of New Development;
- Policy EC1 Employment Land Provision;
- Policy EC3 Employment Development in Existing Settlements;

- Policy ENV1: Protection and Enhancement of the Natural Environment, Biodiversity and Geodiversity;
- Policy ENV2: Protection and Enhancement of Landscapes and Trees;
- Policy ENV5: Environmentally Sustainable design;

7.2 Other Material Considerations

National Planning Policy Framework February 2019:

- Chapter 2 - Achieving sustainable development;
- Chapter 4 - Decision-making;
- Chapter 6 - Building a strong, competitive economy;
- Chapter 9 – Promoting sustainable transport;
- Chapter 11 - Making effective use of land;
- Chapter 12 - Achieving well designed places;
- Chapter 14 - Meeting the challenge of climate change, flooding and coastal change;
- Chapter 15 - Conserving and enhancing the natural environment.

7.3 National Planning Practice Guidance (NPPG)

7.4 Cumbria Landscape Character Toolkit (2011)

8. Planning Assessment

8.1 Key/Main Planning Issues

- Principle of development
- Landscape and Visual Impacts
- Residential Amenity
- Highways/Highway Safety
- Flooding and Environmental Impacts
- Economic Development
- Planning Balance
- Departure from the Development Plan
- Ecology

8.2 Principle of development

- 8.2.1 This planning application is considered to be a departure application, in that the proposal is not considered to be in line with the development plan for the district. In this instance the Development Plan consists of the Eden Local Plan.
- 8.2.2 Policy LS1 of the Eden Local Plan, entitled 'Locational Strategy' seeks to ensure that development is 'appropriate' for where it is proposed and accordingly provides guidance upon the type and size of development that either should be supported, or resisted dependent upon where the proposed development would be located.
- 8.2.3 Policy PEN1 entitled 'A Town Plan for Penrith' confirms that as part of the aims for Penrith, in order to help provide new jobs, an additional 11.91 hectares of employment land is allocated as an extension to Gilwilly Business Park and a further 3.29 hectares at Skirsgill. This would provide an additional 15.2 hectares of employment land in total for Penrith, which Policy LS1 refers to as the 'Main Town' within the Local Plan.
- 8.2.4 Policy EC3 of the Eden Local Plan, entitled 'Employment Development in Existing Settlements' states;

'Development is of a scale, type and design sympathetic to the location within which is it proposed;

Development would not have an unacceptable impact on highways or other forms of infrastructure;

Development would not cause harm to local amenity, landscape, ecology, historic environment or other environmental and cultural heritage considerations;

The development is capable of achieving appropriate standards of access, servicing, parking and amenity space'.

- 8.2.5 Policy EC1 entitled 'Employment Land Provision' confirms that alternative sites will be determined against the criteria listed within Policy EC3 (see above). The Policy further states, in recognition that land at Eden Business Park Phase 2 is constrained, the Council will give favourable consideration to any proposals for B1, B2 and B8 purposes on unallocated sites which are well related to Penrith and its transport infrastructure and which have acceptable effects in terms of landscape character.
- 8.2.6 Accordingly, any proposals for B1, B2 and B8 uses would need to have acceptable impacts in terms of landscape, highways, amenity, ecology, historic environment and be able to achieve appropriate access, servicing, parking and amenity space. Furthermore, the proposal site would, critically, need to be well related to Penrith. Were these caveats met, there is the possibility that such a proposal site could be looked upon favourably by the Local Planning Authority if the benefits of a proposal significantly outweigh any limited harm that would be caused.
- 8.2.7 In this instance, the site is considered to be located on the periphery of, but outside Penrith. Penrith as has been established earlier in this report, is considered the 'Main Town' within the entire Eden district and is formally identified as such within the Local Plan. Accordingly, the majority of development is supported and anticipated to be located here. However, as is also established, this proposal site is not considered to be located within the settlement of Penrith, albeit it is very much on its immediate periphery.
- 8.2.8 It is also noted that in considering a similar (albeit larger) site under planning application ref. 17/0928 that site was considered 'well-related' to Penrith (approximately 1.8 miles to the north). This proposal site is considered considerably closer in a geographical sense to Penrith and also has good transport links with the access close to the A66. Officers readily acknowledge that the Policy does not give a definition of what 'well related' means in this context. However, in this case, a site located on the periphery of Penrith, approximately 0.54 kilometres from Junction 40 is considered to represent such a 'well related' site, consistent with Policy EC1.
- 8.2.9 Furthermore the site is located approximately 32 metres (at its closest point) from the A66 to the south, is immediately adjacent to a golf driving range (located to the west) and further along Mile Lane is the Omega Proteins site (approximately 0.67 kilometres away) along with Mile Lane Nurseries (approximately 0.62 kilometres away) which are both to the north-north-west. The site is therefore considered in its own specific site circumstances and whilst recognised as outside of the settlement of Penrith, it is equally not located in a completely undeveloped part of open countryside.
- 8.2.10 As has been referred to earlier in this report, the site is acknowledged to benefit from a site history which means the site has an approved use beyond that of just an agricultural field. It could be used as a caravan park without the need for further permission. It is noted that when visited, the site does show some of the internal

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landscaping (in the form of bunding) as a consequence of that prior use, which would have been used to divide the site for plots within which caravans could be located. This previous permission, as implemented, represents a strong fall-back position for the development of the application site.

- 8.2.11 On this basis, given the above site specific circumstances, concerns regarding impacts upon the rural 'setting' are noted, it is accepted that the site could benefit from an operational business being run from it in any event. As such, the loss of this parcel of agricultural land has already been assessed and considered to be acceptable. It is acknowledged that a business park arrangement may be more active, but it isn't considered utilising this site for business use would be significantly detrimental given its transport links and proximity to Penrith, given Policy EC1 supports the principle of development in such locations.
- 8.2.12 As has been confirmed, the site is located very close to the A66, a major arterial highway. The proximity of the site to the A66 as well as the M6 are considered significant benefits. It is noted that Highways England has offered no objection in relation to the proposal. In this respect, the site is considered to comply with the requirements of EC3 in relation to highway impacts. The Highway Authority have discussed the potential for a 'crawler lane' to be installed on the A66 to assist with vehicles access and egress from Mile Lane onto the 66 with Highways England. However, Highways England, who have been asked to confirm whether such is necessary have only confirmed that traffic calculations make this an 'optional' requirement. Therefore, such a requirement is not 'essential' and not a justifiable requirement to place upon the applicant in this case.
- 8.2.13 The Highway Authority were liaised with on the issue of a 'crawler lane' and have further confirmed that they retained no concerns from a highway safety issue in relation to their specific highway network (in this case Mile Lane). In their full consultation response the Highway Authority had already confirmed that the proposed access, off Mile Lane, is acceptable and such, the applicant's proposal, in regard to access is supported.
- 8.2.14 The Highway Authority have also acknowledged the location of an existing HGV restriction on Mile Lane. However, they are agreeable to the relocation of this restricted area which would still serve Mile Lane, but allow HGVs associated with this proposal to access and depart the site from and to the A66. The applicant would need to engage with the Highway Authority, were this proposal approved and seek a Traffic Regulation Order (TRO) under the Road Traffic Regulation Act 1984 to seek permission for this change. The TRO is, ultimately, a separate matter between the County Council and the applicant and in this case is not a direct, material planning consideration relevant to the planning application.
- 8.2.15 The Local Plan is acknowledged to have made provision for additional employment sites within Policy EC1 which includes locations that are 'well related' to Penrith. Given this provision within Policy EC1 it is difficult to envisage a site that could be considered better related to Penrith. Whilst there are caveats to the acceptance of such proposals, in this case such have been considered to be met in the case. Accordingly, overall, the principle of the proposal can be considered acceptable in this specific instance, compliant with Policy EC1. The overall acceptability of the proposal is however recognised as being subject to the consideration of all other material considerations relevant in the determination of this proposal.

8.3 Landscape and Visual Impacts

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- 8.3.1 A significant consideration in relation to this application is the Landscape and Visual Impact of the proposal. The site is not subject to any landscape designation, but it is acknowledged that the Lake District National Park is located approximately 2 kilometres to the south-west from the proposal site.
- 8.3.2 The topography of the site is such that it rises to the west, which is considered to provide a natural 'screen', preventing direct views in to and from that direction. In addition there is planting located around the site which is considered to further contribute to the 'screening' of the site, which mitigate its impact on the landscape. In addition, we must consider that the A66 is located very close to the site – which detracts from the setting and is a clear, geographical feature between the site and the National Park itself. The Lake District National Park authority have also been consulted upon the application. They considered that *'views from with the National Park to the development site would be negligible'*.
- 8.3.3 The further comments from the National Park Authority in that views from the Beacon, toward the National Park would be 'screened' by existing planting (further planting was recommended) could also be protected by ensuring any approved buildings were appropriately controlled. As this is an outline proposal, those further details would be provided and scrutinised at a reserved matters stage, were planning permission granted and a high level of design, including appropriate additional landscape planting would be necessary. However, it is evident that the site is well screened to the west, south and east and only distant, passing views could be obtained of the site to the north-north-east which would be denied if the aforementioned landscaping plan was implemented and then matured. It is further considered that there is limited inter-connectivity between the site and the surrounding land in its current state.
- 8.3.4 The concerns of the Parish Council (Dacre) are understood. The site is accepted to be located on the immediate periphery of Penrith and although officers accept that the site is outside of the settlement, the site specifics must be taken into account. These are predominately the proximity of the A66 to the site. In addition, there is, on the opposite side of the A66 the Redhill Business Park, approximately 90 metres from this applications site boundary, at its nearest point. Although the application site has been accepted as being outside of the settlement of Penrith, equally Policy EC1 is also recognised to make provision for unallocated sites for employment that are well related to Penrith. Accordingly, for a site to be 'well related' it surely would have to be outside of the settlement to accord with that aspect of Policy EC1.
- 8.3.5 In the determination of planning applications, the Local Planning Authority must consider each site upon its own merits. These considerations must therefore take account of the setting the site. In this case, the site under consideration benefits from being in close proximity to Penrith. This is unlike land further to the west which becomes increasingly rural and extends further away from Penrith and the aforementioned A66. So, whilst it is, an 'other rural area' as per Policy LS1 these site specifics do undermine the connotations attached with such a description which can be considered to be open, rolling countryside with no significant development around it. Furthermore, given Policy EC1 makes provision for unallocated sites that are well related to Penrith, they will, by definition, be located in 'other rural areas'. On this basis, the Local Plan makes an exception for such development in such locations and can be supported in principle.
- 8.3.6 Policy EC3 entitled 'Employment Development in Existing Settlements' states;

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- *'Development is of a scale, type and design sympathetic to the location within which it is proposed;*
- *Development would not have an unacceptable impact on highways or other forms of infrastructure;*
- *Development would not cause harm to local amenity, landscape, ecology, historic environment or other environmental and cultural heritage considerations;*
- *The development is capable of achieving appropriate standards of access, servicing, parking and amenity space.'*

8.3.7 As has been well established within this report, there is no doubt that the proposal site is not within the existing settlement of Penrith, but very much on the immediate periphery of it. However, the above requirements of the Policy would still be relevant in this case given the support for unallocated sites, well related to a settlement as per Policy EC1. These requirements are reinforced by Policy DEV5, entitled 'Design of New Development'.

8.3.8 Policy DEV5 of the Eden Local Plan states *'New development will be required to demonstrate that it meets each of the following criteria:*

- *Shows a clear understanding of the form and character of the district's built and natural environment, complementing and enhancing the existing area.*
- *Protects and where possible enhances the district's distinctive rural landscape, natural environment and biodiversity.*
- *Reflects the existing street scene through use of appropriate scale, mass, form, layout, high quality architectural design and use of materials.*
- *Optimises the potential use of the site and avoids overlooking.*
- *Protects the amenity of the existing residents and business occupiers and provides an acceptable amenity for future occupiers.*
- *Use quality materials which complement or enhance local surroundings.*
- *Protects features and characteristics of local importance.*
- *Provides adequate space for the storage, collection and recycling of waste.*
- *Can be easily accessed and used by all, regardless of age and disability'.*

8.3.9 Policy ENV2 entitled 'Protection and Enhancements of Landscapes and Trees' confirms that new development will only be permitted where it conserves and enhances distinctive elements of landscape character and function.

The Cumbria Landscape Toolkit confirms that this site is Type 12b 'Rolling fringe' which is confirmed as having the following key characteristics;

- Large scale undulating topography;
- Large fields of improved pasture;
- Stone walls mainly in the east, occasional hedges and fence boundaries;
- Very sparse scale conifer plantations;
- Small streams and rivers cut through the following topography.

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- 8.3.10 Specifically, the Cumbria Landscape Toolkit refers to development and advises that development is recommended to be avoided in *‘exposed areas that will degrade their character’*. It also recommends that *‘large scale wind energy, other vertical structures such as telecommunications masts, pylons and overhead transmission lines in open and prominent areas where they could degrade the rural character of the area’* should also be encouraged away from such a landscape.
- 8.3.11 In this particular instance, the proposal does not involve such pylons, telecommunications masts etc. and would be located on a parcel of land that is, by virtue of its topography, ‘screened’ by direct views from the west by and existing planting. Further, mature planting is located on the north-eastern boundary of the site, running along the entire sites boundary with Mile Lane.
- 8.3.12 To the north there are open views to the adjacent agricultural fields but further landscaping could mitigate such views into the site were this proposal approved. The applicant is noted to have intimated its intent to do such further planting, to assist in ‘screening’ the site. It is recognised that in screening a site, by way of mitigation, there is an intent to soften a landscape impact. In this instance though, given the site specifics, specifically its location, such mitigation would be appropriate and acceptable. To the south the site can be viewed from the access point, with the access leading up to the adjacent golf driving range to the west. Beyond this access road to the south is the A66 which is bound by the embankment and mature planting upon it. This prevents views of the site from the A66 itself.
- 8.3.13 Given the site specifics, whilst it is acknowledged that the site is located in an ‘other rural area’ it is in very close proximity to a major, arterial road and additionally is considered on the periphery of Penrith, the ‘Main Town’ of the entire district. The topography ensures that the site is well screened, which is enhanced by existing planting which in turn is considered to reduce its visual prominence within the local landscape and furthermore, reduces its interconnectivity with the neighbouring land.
- 8.3.14 The applicants state within the design and access statement, that *‘hard and soft landscaping will form an important part of the scheme though full details are a reserved matter’*. This is an accurate assessment and such details would be envisaged to be provided then, in addition to the details of the scale of the buildings, which would need to be carefully considered to ensure they both complement the site but have no long range visual impacts on receptors such as the National Park.
- 8.3.15 On this basis, it is considered that the proposal could be acceptable in landscape and visual impact terms given its setting and if approved and implemented it would likely result in a very limited landscape harm. The setting of the site has been well established in this report, immediately adjacent to the A66 and in the periphery of Penrith itself. Accordingly, the proposal is considered potentially able to comply with Policies DEV5 and EC3 of the Local Plan notwithstanding full details would be submitted at a reserved matters stage. On this basis, the proposal is therefore considered acceptable in landscape and visual impact terms.

8.4 Residential Amenity

- 8.4.1 The nearest residential dwelling to the application site is the dwelling ‘Nine Chimneys’ which is located on the opposite side of Mile Lane, approximately 199 metres from the boundary of the application site to the north-east. ‘Bell Mount’ is located to the north-west, approximately 0.59 kilometres away from the nearest site boundary whilst ‘Eden View’ located to the west, is approximately 0.75 kilometres away. Eden Nurseries,

which includes a residential property is approximately 0.62 kilometres away to the north-north-west.

8.4.2 Policy DEV5 of the Eden Local Plan states '*New development will be required to demonstrate that it meets each of the following criteria:*

- *Shows a clear understanding of the form and character of the district's built and natural environment, complementing and enhancing the existing area.*
- *Protects and where possible enhances the district's distinctive rural landscape, natural environment and biodiversity.*
- *Reflects the existing street scene through use of appropriate scale, mass, form, layout, high quality architectural design and use of materials.*
- *Optimises the potential use of the site and avoids overlooking.*
- *Protects the amenity of the existing residents and business occupiers and provides an acceptable amenity for future occupiers.*
- *Use quality materials which complement or enhance local surroundings.*
- *Protects features and characteristics of local importance.*
- *Provides adequate space for the storage, collection and recycling of waste.*

Can be easily accessed

8.4.3 The aim of this policy in relation to amenity is to ensure that a proposal protects the amenity of any existing residents and business occupiers as well as preserving the amenity of future occupiers.

8.4.4 The nearest of the residential properties, 'Nine Chimneys' is located in an elevated position relative to the site. Furthermore, a mature band of trees, located upon the north-eastern boundary of the site provides good 'screening' between the site and this dwelling.

8.4.5 Whilst there would be a change in appearance of the site and it would become far more active than it currently is, the site could, under the terms of an extant planning permission, be operated as a caravan park in any event.

8.4.6 The proposal could involve a wide range of activities if B1 (Business), B2 (General Industrial) and B8 (Storage and Distribution) uses were granted and subsequently implemented for the site. These mean that there would be a range of activities likely which can have an impact upon amenity. However, given the aforementioned siting of the proposal site, which is located closely to the A66 the area is subject to a background of noise generated by the traffic that use it.

8.4.7 The Environmental Health department have reviewed the proposals and confirmed in their consultation response that they would wish to see conditions associated with noise levels any units constructed on site to achieve as well as a restriction on delivery times to the site to ensure the local amenity of the area is protected. These conditions have been included in section 1 of this report and on the basis of the comments from the Environmental Health team and the distances involved between the site and nearest residential dwellings, as well as the setting of the site, the proposal is considered to be compliant with Policy DEV5 and is acceptable in terms of amenity.

8.5 Highways/Highway Safety

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- 8.5.1 As has been established, the site is located in very close proximity to the A66 (the nearest part of the site boundary is approximately 32 metres away). The existing site access is approximately 112 metres from the A66. In addition, the site would be within approximately 700 metres of the M6.
- 8.5.2 The site access would be achieved onto and from Mile Lane. This is subject to a HGV weight restriction and the Highway Authority have confirmed that this can be moved (at the developer's expense) in order to ensure that the restriction remains in place for the majority of Mile Lane and still allow vehicles associated with this development to access the site off the A66 and depart the site back onto it. The applicant has, in relation to this application formally provided plans to demonstrate access. If approved, this plan would form the approved access for the site.
- 8.5.3 The comments from Dacre Parish Council are noted in relation to the weight restriction. However, as has been established, this can be relocated to the satisfaction of the Highway Authority without prejudicing the remaining length of Mile Lane from the aforementioned weight restriction limit. However, it must be noted that the requirement to achieve the movement of the weight restriction under 'TRO' procedures is ultimately a separate matter and one for the developer/applicant to deal with if planning permission is granted. It is not, in its own right, a material consideration of this application. The consideration in relation to highways is whether a safe access can be achieved in principle, which given the highways authority have no objection to the access proposed is, in the view of officers, been established.
- 8.5.4 Nevertheless, it will be appreciated that to move the location of the present weight restriction zone (which would still apply to the vast majority of Mile Lane, would require the completion of a 'TRO' or Traffic regulation order'. If the applicant were to implement this proposal (if it were permitted) they would need to complete this process in order to be able to allow HGV's to access the site.
- 8.5.5 Policy DEV3 of the Eden Local Plan, entitled 'Transport, Accessibility and Rights of Way' states that *'development will be refused if it will result in a severe impact in terms of road safety and increased traffic congestion. Development should provide safe and convenient access for pedestrians, cyclists and disabled people'*.
- 8.5.6 Chapter 9 of the NPPF is entitled 'Promoting sustainable transport'. Paragraph 103 states that *'significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making'*.
- 8.5.7 As has been established, the site is in close proximity to various, major arterial highway routes (the A66 and the M6). Such close proximity and the existing weight restrictions (which would be moved to accommodate the traffic associated with the site) would only be able to access the A66 as a point of exit. In such circumstance, from a highway perspective, it is seemingly far more sensible to have a site such as this located adjacent to the highway network, as opposed to it traversing along more rural, smaller roads.
- 8.5.8 The Highway Authority have been fully consulted and offered no objection to the proposal. They have requested further information and details related to the visibility splays, construction phase traffic management plan, and parking, kerbing and design

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standards of carriageways, footways and footpaths which are required by condition. Were this application approved, such details would be submitted at the reserved matters stage and does not preclude the ability to determine this application.

- 8.5.9 Highways England have also commented upon the application following being consulted. They also offer no objection. It is noted that Dacre Parish Council raised further concerns related to the additional traffic of this proposal causing further congestion in line with figures they claim to be from Highways England themselves. The response stated that *'additional concerns were raised regarding the fact that at certain times of the week traffic is now regularly backing up from J40 past this junction which would potentially have an impact on access/egress from the area, and with Highways England modelling suggesting a 30-35% increase in traffic at the J40 roundabout with the East Bound A66 duelling project issues would only increase'*.
- 8.5.10 It is also noted that the Highway Authority, in liaison with Highways England on a separate matter, sought some further clarification on a query they have in relation to the site. This matter was noted to be, *'On a separate issue as consultee to Eden District Council on planning application No19/0636: LAND SOUTHWEST OF MILE LANE REDHILLS PENRITH CA11 0DT, Outline planning permission for use classes B1 (business), B2 (general industrial) and B8 (storage and distribution) with approval for access. As it stands CCC have requested that the applicant would need to alter the weight limit restriction on Mile Lane and as such alter the signage on both Mile Lane and the A66. The remaining issue would be HGVs slowing down on the A66 to use Mile Lane and I raised this with one of your colleagues as potentially this could be a safety issue (See attached email). Would it not be an opportunity to request that the applicant looked to incorporate a slowing down lane on the approach to Mile Lane as part of the application as oppose HE potentially undertaking such work'*.
- 8.5.11 Officers have themselves sought further clarification from Highways England on this matter. Highways England confirmed that the relevant parties were reviewing the comments made by the Highways Authority. This has been followed up by officers in order to ensure that appropriate opportunity was given to Highways England to consider this issue. Highways England have confirmed that their traffic modelling registered the need for such a 'slowing down lane' as 'optional'. As such, Highways England comments stand as is, in that they offer no objection to the proposal. Further discussion has been had with the Highway Authority on this matter as Highway England did suggest they would be willing to discuss this matter further if the Highway Authority felt that there was such a need given vehicles would be joining their network from the trunk road (A66). The Highway Authority had already confirmed in their consultation response that they had no highway safety concerns in relation to this proposal. A further response subsequently received from the Highway Authority reaffirms this position.
- 8.5.12 In terms of the general concerns regarding potential highway impacts raised by the Parish Council, these are also noted. However, concerns regarding the existing weight restrictions would not be justifiable reasons to refuse this application. This is essentially due to the fact that the weight restriction would be retained, only moved to cater for the proposed access point. The remaining portion of Mile Lane (the majority) would remain subject to the existing weight restrictions. As has been noted, in this instance, the applicant would need to engage with the Highway Authority, were this proposal approved and seek a Traffic Regulation Order (TRO) under the Road Traffic Regulation Act 1984 to alter the weight restriction zone.

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8.5.13 However, this does not prevent the Planning Authority from determining this application as this matter is not a material planning consideration. The role of the Local Planning Authority is to satisfy itself that the proposals before it are an appropriate land use and in relation to highways, where a safe access can be achieved. Such a safe access has been demonstrated by the applicants in this case. Any other legal requirements that the applicant may be beholden to, in order to implement such a permission, are for the applicants to resolve and should not interfere with the decision making process.

8.5.14 Therefore, the proposal is considered to be acceptable in terms of Highways and compliant with Policy DEV3 and the NPPF.

8.6 Flooding and Environmental Impacts

8.6.1 Another significant aim of the Local Plan is to ensure that flood risk is not exacerbated as well as protecting the natural environment. The application site is located within a Flood Zone 1 which is a location that has a low probability of flooding (less than 1 in 1000 chance annually).

8.6.2 Policy ENV1 entitled 'Protection and Enhancement of the Natural Environment, Biodiversity and Geodiversity' confirmed that *'new development will be required to avoid any net loss of biodiversity, and where possible enhance existing assets. Should emerging proposals identify potential impacts upon designated sites, regard should be given to the objectives for each of the hierarchy of sites'*.

8.6.3 Policy ENV2 entitled 'Protection and Enhancement of Landscapes and Trees' states that *'New development will only be permitted where it conserves and enhances distinctive elements of landscape character and function.'*

Proposals should take account of and complement:

- *The distribution and form of settlements and buildings within their landscape setting.*
- *Local styles and materials of buildings within the settlement.*
- *Natural elements such as hedgerows, woodland, and local topography.*
- *Any visually sensitive skylines or hill and valley sides.*
- *The tranquillity of the open countryside.*

The impact of potential new development will be assessed against the criteria within the Cumbrian Landscape Assessment Toolkit (or successor documents) with regard to the particular Character Area's key characteristics, local distinctiveness and capacity for change.

Development should contribute to landscape enhancement including the provision of new trees and hedgerows of appropriate species and in suitable locations. Loss of ancient woodland and significant/veteran trees will not be permitted unless it can be demonstrated that there is an overriding need for the development which outweighs their losses.

8.6.4 Chapter 15 of the National Planning Policy Framework (NPPF) entitled 'Conserving and enhancing the natural environment' confirms the national guidance on such matters. In this instance, it is noted that the application site is not located within a designated landscape nor a site with any ecological or habitat designation.

8.6.5 It is understood that during the determination of this application, the Council has declared a 'climate emergency' and accordingly is looking to ensure that their net

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carbon emissions reduce to zero by 2030. Whilst this aspiration is fully supported there are no formal planning policies to support refusal of an application at this time on the basis that it doesn't achieve a 'zero carbon' standard.

- 8.6.6 However, it is considered important that the applicant does all it can, were this application approved, to demonstrate significant long term environmental benefits at a reserved matters stage.
- 8.6.7 These benefits can and should be related to the buildings associated with the development being designed with these issues in mind. Such techniques could involve 'green roofs', solar, heat pumps and achieving building standards that ensure efficient use of heat, light etc. However, these would be for the applicant to propose at the reserved matter stage and are not for formal consideration at this time. It is noted that in relation to this proposal for outline permission, the principle of the development was considered by Natural England. They have offered no objections in relation to the proposal.
- 8.6.8 On this basis, in terms of the natural environment, the status of the site, which is not subject to any formal designation and could be used as a caravan park given its site history, can be considered an appropriate site for such a proposal without having any significant or demonstrable negative impacts in planning terms. Given this is the case, this site cannot be considered 'greenfield' and its loss has been well established by this site history. To clarify, the site could be returned to use as a caravan park without further need of planning permission. It is therefore considered that the proposal is compliant with Policies ENV1, ENV2 and the NPPF.
- 8.6.9 In terms of drainage, United Utilities have confirmed that were the proposal to be approved, conditions related to surface and foul water should be attached to any subsequent decision.
- 8.6.10 Policy DEV2 of the Local Plan, entitled 'Water Management and Flood Risk' confirms that '*new development*' should '*meet the sequential approach to development in flood risk areas*'.

The Policy confirms that '*new development must incorporate sustainable drainage systems (SUDs), where practicable, to manage surface water run-off. All applications for major development, defined in Appendix 2, will be subject to review by the Lead Local Flood Authority. Surface water should be discharged in the following order of priority:*

1. *To an adequate soakaway or some other form of infiltration system.*
2. *By an attenuated discharge to a watercourse.*
3. *By an attenuated discharge to a public surface water sewer.*
4. *By an attenuated discharge to a public combined sewer.*

Applicants will need to submit clear evidence demonstrating why there is no alternative option but to discharge surface water to the public sewerage system and that the additional discharge can be accommodated. The presumption will be against the discharge of surface water to the public sewerage network'.

- 8.6.11 Paragraph 158 of the NPPF states that, '*The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk*

REPORTS FOR DEBATE

assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding’.

8.6.12 Paragraph 163 states that, *‘When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
- b) the development is appropriately flood resistant and resilient;*
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
- d) any residual risk can be safely managed; and*
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan’.*

8.6.13 Paragraph 165 states that, *‘Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:*

- a) take account of advice from the lead local flood authority;*
- b) have appropriate proposed minimum operational standards;*
- c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and*
- d) where possible, provide multifunctional benefits’.*

8.6.14 The applicant has provided information as to how surface water would be managed. This information has been assessed by the Lead Local Flood Authority and they have confirmed that they do not object to the proposal and requested that any subsequent approval is subject to conditions being attached to any subsequent grant of planning permission.

8.6.15 The conditions requested in relation to drainage have been attached to section 1 of this report and would require the submission of a water drainage scheme to be submitted for approval prior to any works being carried out on site. In addition, a construction water management plan would need to be submitted for approval too.

8.6.16 Given the specific details for drainage would be supplied at the reserved matters stage, the applicant has been able to demonstrate the principle of drainage on this site is achievable. On that basis, the proposal is, given the position of the Lead Local Flood Authority, considered to comply with the requirements of Policy DEV2 and the NPPF in this instance.

8.7 Economic Development

8.7.1 As has been established within this report, there are allocated sites within the Eden Local Plan for employment sites. These land allocations are for the market towns within the district and Penrith as the Main Town.

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- 8.7.2 As part of the consultation process associated with this development the Council's Economic Development team were consulted.
- 8.7.3 The response confirms that there is a dwindling amount of available employment land with the Gilwilly extension near exhausted due to its popularity and the Skirsgill site difficult to bring 'on-line' due to issues with topography and access.
- 8.7.4 Policy EC1 does make provision for unallocated employment sites. The Policy states, *'In order to meet the employment land needs of the district up to 2032, the Council, its partners and service providers will ensure that provision will be made for employment development (B1, B2 and B8 uses) in line with locational strategy set out in LS1.*
- Alternative sites which come forward during the plan period will be determined against the criteria listed in Policy EC3.*
- In recognition that land at Eden Business Park Phase 2 is constrained, the Council will give favourable consideration to any proposals for B1, B2 and B8 purposes on unallocated sites which are well related to Penrith and its transport infrastructure and which have acceptable effects in terms of landscape character'.*
- 8.7.5 Policy EC3 entitled 'Employment Development in Existing Settlements' states;
- *'Development is of a scale, type and design sympathetic to the location within which it is proposed;*
 - *Development would not have an unacceptable impact on highways or other forms of infrastructure;*
 - *Development would not cause harm to local amenity, landscape, ecology, historic environment or other environmental and cultural heritage considerations;*
 - *The development is capable of achieving appropriate standards of access, servicing, parking and amenity space.'*
- 8.7.6 The assessment of the sites acceptability in relation to highways, amenity and landscape has been discussed in other elements of this report and at this outline stage are considered acceptable. Further considerations, related to design, layout etc. could only be considered at the reserved matters stage, were this proposal to be granted outline permission.
- 8.7.7 However, in direct relation to the considerations of the district requiring further employment land, it is clearly important that the Council ensures that an adequate supply of land is available to promote economic development, in accordance with both the NPPF and the Local Plan.
- 8.7.8 Provision was made in the Local Plan for further employment land for Penrith, Appleby, Alston and Kirkby Stephen, with the vast majority is anticipated to be located at Penrith. The sites that comprise where these allocations of employment land was to go has in reality become unlikely to be developed due to site constraints or has already been utilised at the Gilwilly Industrial Estate.
- 8.7.9 Hence why the Local Plan makes provision for alternative, unallocated sites to be supported where they are 'well related' to Penrith. Specifying Penrith underlines how significant having sufficient employment land is to the 'Main town' within the district.
- 8.7.10 This does not mean that the Council is seeking to approve numerous sites for significant amounts of further employment land across the district. The Policy response makes reference to an application determined last year for 7.7 hectares of employment

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land at a site known as 'Junction 41'. That application was determined in relation to the relevant considerations at the time and is located within 2 miles of Penrith. Accordingly, it is considered 'well related' due to its good transport links between the site and Penrith and being within close proximity to Penrith.

- 8.7.11 As of yet though this site is not yet operational although it is evident from the response of the Economic Development team, that the level of interest in this site has been high indicating a 'pent up demand'. This is considered to indicate a clear economic benefit that the proposal can offer. This site at Mile Lane is considered very well related to Penrith and accordingly compliant with Policy EC1 of the Local Plan and on this basis it makes it a potentially ideal location, subject to other considerations, to ensure further, employment provision is available in the area.

8.8 Planning Balance

- 8.8.1 The Local Plan enshrines a number of 'corner stones' within it. These range from ensuring housing numbers are delivered through appropriate planning permissions as well as ensuring that there is sufficient land available for employment uses.
- 8.8.2 Additionally, the Local Plan seeks to protect the local landscape, protect amenity, ensure good highway links and protect the natural and historic environments. These are worthy aims to meet and often involve a balanced approach in considering how these policy requirements, set out within the adopted Local Plan are met.
- 8.8.3 In this case, the site subject to the proposed employment land use is currently agricultural land. The site benefits from a planning history and is permitted to be used as a Caravan Park although it is not currently used as such.
- 8.8.4 In terms of employment land provision, the plan details how much employment land is required to support businesses in the main areas of the district, these are identified within Policy LS1 of the Local Plan, namely, Kirkby Stephen, Alston, Appleby and of course Penrith.
- 8.8.5 Penrith is identified as the 'Main Town' and as such benefits from the biggest allocation for employment land out of all the aforementioned settlements. Penrith's allocation is made up of two main locations – Gilwilly and Skirsgill. Skirsgill is, by the Policy team's own response identified as 'constrained' and appears difficult to actually implement as such as an employment site. Whilst Gilwilly has proven popular and is now running out of available land to further expand into.
- 8.8.6 Because the plan understood, at the time of being adopted, that Skirsgill had challenges to be used for such uses and Gilwilly would eventually run out of land, provision for unallocated sites was made via Policy EC1. This policy specifically confirms that such unallocated sites, located either within or being 'well related' to Penrith could be supported subject to specific criteria as well as those detailed in Policy EC3.
- 8.8.7 In terms of its proximity to Penrith, the site is considered to be very well related and accordingly, meets the relevant criteria. In addition, its proximity to the A66 and M6 mean it is ideally located to ensure traffic, associated with the proposed development will have very limited, if any, impacts on the wider highway network.
- 8.8.8 In terms of landscape impact, those matters have been considered within this report. The conclusion of such was that it was not considered that the development of the site in association with the proposal would have a significantly detrimental impact.

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- 8.8.9 That is due to several reasons. Firstly, whilst the site is formally recognised to be an 'other rural area' Policy EC1 makes provision for sites well related to Penrith to be considered potentially suitable for employment land development. Given that is the case, it is inevitable that where proposals come forward on unallocated sites, 'well related' to Penrith, they will be on land that is considered to be 'other rural area'. On that basis, to refuse the proposal on those grounds when Policy EC1 provides the support in principle for it would be rather perverse.
- 8.8.10 Secondly, the site is set adjacent to the A66. This is a well-developed corridor, with the road itself, the Redhills Business Park in the immediate locality as well as Rheged slightly further away.
- 8.8.11 Taking all of these matters into account it seems more reasonable to place such a development as proposed, albeit, in an 'other rural area' that is adjacent to an existing development, rather than in a more rural location outside of Penrith or undeveloped, agricultural land.
- 8.8.12 In this case, this site is considered to represent an almost ideal unallocated employment site. It is deliverable, offers excellent transport links due to its proximity to both the A66 and M6 and can make a significant contribution to the employment land available in Penrith, compliant with the relevant considerations in the Local Plan and without any significant, demonstrable harm.
- 8.8.13 So, whilst it is acknowledged that this application represents a 'departure' from the Local Plan in that it is not compliant with Policy as it is not an allocated employment site, it is recognised that Policy EC1 makes provision for unallocated employment sites that are 'well related' to Penrith. In this case, the economic benefits of the proposal are considered to significantly outweigh the minimal landscape impact the development would have. It is therefore considered that the Planning Balance has been met in relation to this application and merits support.

8.9 Departure application

- 8.9.1 It is noted that the applicant does not consider the proposal to represent a 'departure' from the development plan. Indeed, the applicant requested that the Council reconsider its position in relation to this issue. These considerations are understood, specifically the applicants position in relation to Policies EC1 and EC3.
- 8.9.2 Officers themselves have debated the applications status and have not agreed, entirely, on the most appropriate way forward. Although the aforementioned Policies EC1 and EC3 are noted to make provision for sites 'well-related' to Penrith, the same policies make no specific definition of what 'well-related' actually 'is'.
- 8.9.3 There is a degree of subjectivity, in relation to this matter, as there are in many aspects of planning, but ultimately, the decision has been taken to advertise the proposal as a 'departure' from the development plan, despite the opinion of the applicant. As such, the application was advertised and has been considered as a departure of the development plan (albeit with consideration of relevant policies, such as EC1 and EC3) consistent with the way which the previous (ref. 19/0152) was determined and advertised.

8.10 Ecology

- 8.10.1 Policy ENV1 of the Local Plan, entitled 'Protection and Enhancement of the Natural Environment, Biodiversity and Geodiversity' confirms that *'new development will be required to avoid any net loss of biodiversity, and where possible enhance existing*

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assets. Should emerging proposals identify potential impacts upon designated sites, regard should be given to the objectives for each of the hierarchy of sites’.

8.10.2 Section 15 of the National Planning Policy Framework (NPPF) entitled ‘Conserving and enhancing the natural environment’ confirms the national guidance on such matters. Paragraph 170 states that;

‘Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;*
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate’.*

8.10.3 Paragraph 175 states, ‘When determining planning applications, local planning authorities should apply the following principles:

- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*
- c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and*

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d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity'.

8.10.4 In this instance, it is noted that the application site is not located within a designated landscape nor a site designated by any ecological or habitat designation.

8.10.5 Furthermore, the site has been acknowledged, within this report to be subject to a planning history, in this case, a caravan park, which was implemented. As such, the site cannot be considered as a 'greenfield' and is therefore, brownfield land.

8.10.6 The applicant, at the behest of the Environmental Health Officer conducted a preliminary geotechnical survey to assure them that there are no significant land contamination issues. No such concerns exist on the basis of this work.

8.10.7 Given the sites brownfield status and current appearance, whilst there is likely to be some ecological value to the site, it is considered by officers to be 'low'. Furthermore, the comments from Natural England are noted, who do not object to the proposal or indeed seek any further mitigation from the applicants.

8.10.8 In these circumstances then the site must be considered for what it is in this case. It is a previously developed parcel of land with no formal ecological designation, adjacent to the A66. It is therefore considered that were this development approved, the resultant works would not compromise the ecological value of the site or area in a significantly detrimental way. It is noted that the applicant does seek to incorporate a landscaping scheme at the reserved matters stage, if this outline application were approved.

8.10.9 Such schemes have the ability to provide a net ecological gain and whilst there is no specific detail to consider (due to the outline nature of the application) there is no reason to doubt that such positive ecological outcomes could be achieved were this proposal approved.

8.10.10 As such, given the status of the site (brownfield) and the fact that legislation related to say, for example, protected species is enshrined in law in any case, and there is no reason to doubt that this application would have a significantly detrimental impact upon the ecology of the site. Accordingly, the proposal is considered to accord with Policy ENV1 and the NPPF and may be supported.

9. Implications

9.1 Legal Implications

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

9.2 Equality and Diversity

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

9.3 Environment

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

9.4 Crime and Disorder

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- 9.4.1 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.

9.5 Children

- 9.5.1 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.

9.6 Human Rights

- 9.6.1 In determining applications, the Council must ensure that all parties get a fair hearing in compliance with Article 6 under the European Convention on Human Rights and Fundamental Freedoms 1950, as now embodied in UK law in the Human Rights Act 1998.

10. Conclusion

- 10.1 This application, if approved, would result in a site being available for B1 (Business), B2 (General Industrial) and B8 (Storage and Distribution) uses. The Local Plan currently seeks to ensure such employment land provision is made for the market towns within the district as well as the 'main town', Penrith. However, further provision is possible where sites comply with Policies EC1 and EC3. This site is not an allocated site and accordingly, is considered a 'departure' application. The proposal has therefore been advertised as such.
- 10.2 Although the application is considered a 'departure' the Local Plan does make provision for such employment land proposals to be potentially acceptable subject to relevant policy consideration, but only in relation to Penrith itself. Policy EC1 requires any proposed sites for Penrith to be 'well related' to it. This site is on the periphery of the town, immediately adjacent to the A66. On that basis it is considered compliant with Policy EC1 and therefore the site can, in the view of officers, be considered acceptable if it were to comply with the criteria set out in Policy EC3.
- 10.3 Policy EC3 makes it clear that development should not cause harm to or have an unacceptable impact on the highway network or other infrastructure. In this case, the immediate proximity to the A66 and M6 make any traffic associated with the proposal able to join and depart the highway network easily, whilst only utilising a very small amount of the local highway network and without the need for any vehicle movements through any settlement. Whilst a weight limit is currently imposed on Mile Lane, the Highway Authority are happy that this be moved to accommodate the proposed site entrance, whilst still preserving a weight restriction along the vast majority of it. It is noted that both the Highway Authority and Highways England offer no objection to the proposal.
- 10.4 The Policy also seeks development to be of a scale, type and design appropriate for the area and to not have any significant landscape impacts. The site is acknowledged to be formally outside of any settlement and accordingly must be considered to be an 'other rural area'. The Local Plan seeks to protect such areas and only permit development on them in exceptional circumstances. Policy EC1 confirms such an exception would be for employment land sites, 'well related' to Penrith. Accordingly, given that Policy EC1 supports, in principle, the notion of an unallocated site being acceptable – and that if it is 'well related' it will be inevitable that these proposals will come forward on parcels of land outside of the settlement. Whilst the plan makes no definition of what 'well related' means in the context of the plan, this site is considered to be located in a place in accordance with this aspect of policy.

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- 10.5 Given the consideration of the aforementioned policy, it would be unacceptable, in planning terms, to refuse the application purely on the basis that it came forward on such undesignated land. As has been established, the Local Plan supports such developments, subject to the caveats in Policy EC3. The site is not located in any designated Landscape but the proximity to the UNESCO, Lake District National Park has been noted. The National Park themselves offer no objection to the proposal.
- 10.6 As the application is for outline permission, specific details related to scale and design of the buildings that would be located upon the site would be considered at the Reserved Matters stage. However, it is considered that given the proximity to the A66, Redhills Business Park, Rheged and Omega Proteins, the site would not look out of place. There are no reasons to doubt or suggest that proposals for design and scale of the buildings on site couldn't be submitted as acceptable.
- 10.7 The site also has no formal ecological designation and has no Listed Buildings or scheduled ancient monuments in its proximity. The site is capable of being served by an access acceptable to the Highways Authority (such formal detail has been proposed as part of this application and supported by the Highway Authority) and it is considered that the site can provide sufficient parking provision within it. As such it is felt possible to consider, as this report has, that the site is able to justify support, whilst being a departure from the development plan given its location and the economic benefits it could provide.
- 10.8 It is also acknowledged that this site is a piece of agricultural land with a planning history. This history allows the site to be lawfully used as a caravan park at any time and in perpetuity. It is therefore considered that this site is not just a piece of undeveloped agricultural land – it can be utilised in association with another activity at any time. Due to this permission having been implemented, this represents a strong fall-back position and therefore, a material consideration in the determination of this planning application.
- 10.9 Notwithstanding all of the above, the application is still a finely balanced decision. The application site is acknowledged to be located outside of Penrith – but for the reasons already given, Policy EC1 had already taken this potential issue into account when it offered support for such development in such locations outside of the settlement.
- 10.10 It is noted that the Economic Development team confirmed in their response that *'In the meantime the Mile Lane site is considered by the Economic Development Team to be a good location for additional employment land due to its easy transport access from the A66 avoiding the need for a high level of additional traffic movements in Penrith whilst in close proximity to Penrith'*.
- 10.11 This site would indeed provide an alternative to the Junction 41 site and ensure that further site provision for businesses was available. The proposal is considered to have likely limited negative impacts which make it an attractive site worthy of support particularly when the potential significant economic benefits this site can offer are also taken into account in the planning balance.
- 10.12 Provision of a sufficient supply of employment land is important to enable the District to facilitate economic development. Although this proposal is considered a departure from the Development Plan due to the site not being an allocated employment site, material considerations set out in this report (notably the positive economic impact of the proposal and the limited harm) mean that the proposal is considered acceptable in planning terms. In this case, the site is also considered to be, critically, very well

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related to Penrith itself. Given this view, the proposal is considered acceptable in planning terms, merits support and is therefore recommended for approval subject to the conditions listed in section 1 of this report.

Oliver Shimell
Assistant Director Planning and Economic Development

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

Background Papers: Planning File 19/0636

Agenda Item 2
REPORTS FOR DEBATE

Date of Committee: 12 December 2019

Planning Application No: 19/0729 **Date Received:** 4 October 2019

OS Grid Ref: 351399 531053 **Expiry Date:** 30 November 2019

Parish: Penrith **Ward:** Penrith North

Application Type: Householder

Proposal: New conservatory to side elevation

Location: 37 Monnington Way, Penrith

Applicant: Mr and Mrs Borthwick

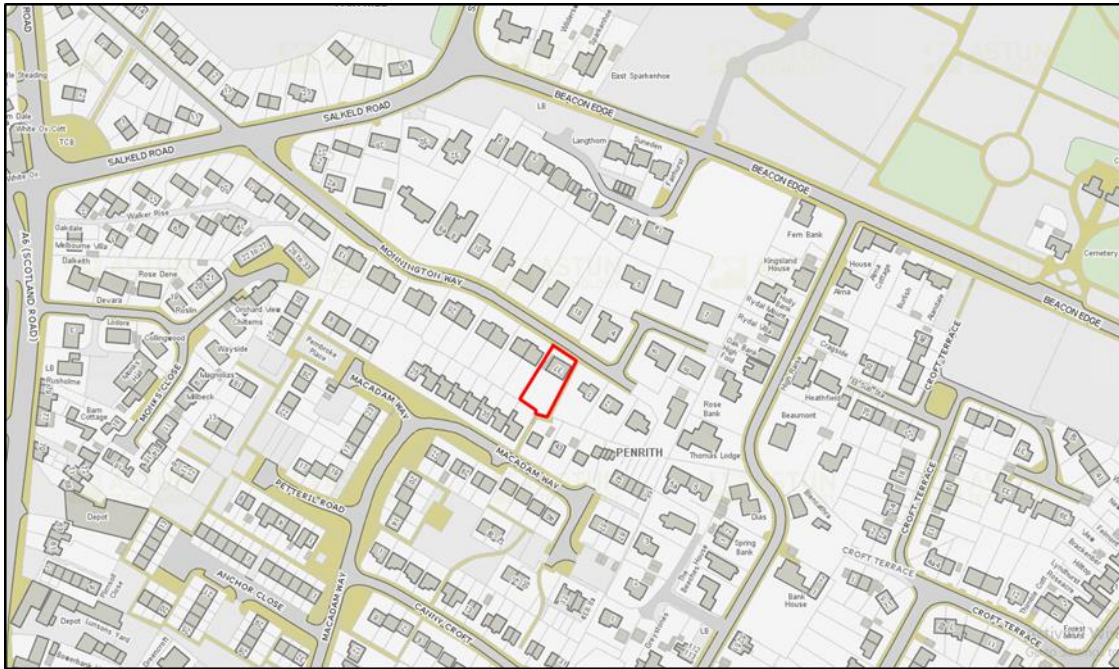
Agent: Mr Stuart Leslie, PlanB Building Drawing

Case Officer: Karen Thompson

Reason for Referral: There is a request by an objector of the proposed development to have a hearing



Agenda Item 2
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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 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 drawings hereby approved:

- i) Application form received 4 October 2019
- ii) Location and Block plan, drawing no. JB 02 PL received 4 October 2019
- iii) Proposed floor plan and elevations, drawing no. JB 01a PL received 8 November 2019

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

Pre-Occupancy or Other Stage Conditions

3. Prior to occupation of the conservatory hereby approved, obscure glazing (Satin Glass) shall be fitted in the entire north west elevation and shall thereafter be retained as such in perpetuity.

Reason: To safeguard the living conditions of the occupiers of the adjacent property at 35 Monnington Way.

2. Proposal and Site Description

2.1 Proposal

- 2.1.1 The proposal is for a fully glazed 'Edwardian style' conservatory at the side of the dwelling measuring 2.8 m x 4.2 metres and would be partially built over the existing balcony. The roof would also be full glazed.
- 2.1.2 The scheme has been amended since first submission to include obscurely glazed panels on the side elevation.

2.2 Site Description

- 2.2.1 The application relates to a split level late 1970s/early 1980s bungalow positioned on Monnington Way, Penrith which has previously been extended by a raised platform/balcony that extends along the side and wraps around the corner of the rear elevation of the dwelling.
- 2.2.2 The property is built on a steep slope and has views extending over the top of Macadam Way and beyond. There are similar split level properties lying adjacent to the site, some of which have also been extended by balconies.
- 2.2.3 The property is not a listed building and it is not within a conservation area.

3. Consultees

3.1 Statutory Consultees

| Consultee | Response |
|----------------------------|--|
| Highway Authority | The layout details shown on the submitted plan are considered satisfactory from a highway perspective. No objection to the proposed development. |
| Lead Local Flood Authority | No objection to the proposed development. |

4. Town Council Response

| Parish Council/Meeting | Please Tick as Appropriate | | | |
|------------------------|----------------------------|---------|-------------|--------------|
| | Object | Support | No Response | No Objection |
| Penrith Town Council | | | | ✓ |

4.1 'No objection'.

5. Representations

5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on 17 October 2019.

| | | | |
|---------------------------------------|---|--------------------------------------|---|
| No of Neighbours Consulted | 8 | No of letters of support | 0 |
| No of Representations Received | 1 | No of neutral representations | 0 |
| No of objection letters | 1 | | |

5.2 Letters of objection raised the following material considerations to the application:

- The height of the conservatory would result in severely reducing the spacing between the houses creating a 'tunnel-effect'.
- Feeling of being watched or 'looked down upon' which is already prevalent in the style of the houses on Monnington Way.
- The close proximity of the proposed conservatory is intrusive and unpalatable.
- While the opaque glass on the side will reduce the ability to look on to neighbours, we are still concerned at the size and height of the structure.
- Will result in the 'overcrowding effect' – we have the luxury of generous space standards between the houses but the conservatory will remove this luxury.
- The conservatory when viewed below on Macadam Way will look over-powering and hideous and not in line with the rest of Monnington Way.
- Lights from the conservatory would shine directly into our property as already proven when the exterior lights are left on through the night.

5.3 Letters of objection raised the following non-material considerations:

- The proposal has the potential to reduce the selling value of our property.

6. Relevant Planning History

There is no relevant planning history.

7. Policy Context

7.1 Development Plan

Eden Local Plan 2014 – 2032

- DEV5 Design of New Development

7.2 Other Material Considerations

National Planning Policy Framework:

- Chapter 2 -- Achieving sustainable development
- Chapter 4 – Decision-making
- Chapter 12 – Achieving well- designed places

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

Supplementary Planning Documents:

- Housing (2010) – Appendix H: Residential Extensions

8. Planning Assessment

8.1 Key/Main Planning Issues

8.1.1 Design

Impact of the development on the privacy and amenity of the adjacent residential occupiers:

- Principle
- Landscape and Visual Impact
- Residential Amenity
- Infrastructure
- Built Environment

8.2 Principle

8.2.1 This application is for a fully glazed conservatory at the side of a residential property in Monnington Way, Penrith.

8.2.2 The principle of residential extensions are acceptable providing they comply with the aims and objectives of Policy DEV5 – Design of New Development - which supports high quality design that reflects local distinctiveness and shows a clear understanding of the form and character of the district's building environment. Such extensions to residential properties are expected to reflect the existing street scene through the use of appropriate scale, mass, form, layout, high quality architectural design and use of materials.

8.2.3 Furthermore, under Policy DEV5, the Council tends to support any scheme that protects the amenity of existing residents and business occupiers and provide an acceptable amenity for future occupiers.

8.2.4 Overall, the principle of extending residential properties in this area, and on this type of property is considered acceptable.

8.2.5 Normally, a single storey extension/conservatory of this size on the side of the dwelling would not require planning permission, due to rights of permitted development. However, in this instance, due to the split level dwelling, the conservatory is proposed

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to be constructed over a lower ground floor room and over the balcony, and therefore planning permission is required.

8.3 Landscape and Visual Impacts

- 8.3.1 The application property, like most in this part of Monnington Way, are split level, reverse living, residential properties, which have been built on a steep slope. Some of the existing properties have taken advantage of the impressive views from this part of Penrith by constructing balconies to the side and/or rear of the properties.
- 8.3.2 The proposal is for an 'Edwardian' style conservatory whereby the walls and roof would be fully glazed. The conservatory would be built on top of the balcony which is over a lower ground floor room and partially over a void, hence the proposed light weight form and structure of the conservatory.
- 8.3.3 The design of the conservatory is one that has been traditionally seen on residential properties and given the style and period of the host dwelling and along with its lightweight form and position at the side of the dwelling, it is considered that it would not have an adverse impact on the character and appearance of the building and would therefore comply with the aims of Policy DEV5 of the Eden Local Plan.

8.4 Residential Amenity

- 8.4.1 Policy DEV5 of the Eden Local Plan supports scheme that protect the amenity of existing residents and provides an acceptable amenity for future occupiers.
- 8.4.2 Concerns have been raised by the occupier of the adjacent dwelling at 35 Monnington Way. They are concerned that the proposed conservatory would result in a perceived overlooking of their private rear garden area and the position of the conservatory on the balcony would have an over dominant/over oppressive feeling when using their garden. An additional concern, was that the houses on Monnington Way have a good distance between properties and feel that the extension would reduce this distance and thereby create a 'tunnel' effect.
- 8.4.3 The neighbours views have been fully considered and as a result an amended scheme has been submitted whereby the side elevation would feature obscure glazing called Satin Glass which would prevent the users of the space from looking directly into the neighbours garden (a sample has been provided). Should the application be approved, an appropriately worded condition is recommended to ensure that obscure glazing is incorporated and remains in place in perpetuity.
- 8.4.4 The conservatory would have clear glazing across the rear section and although there would be some views, albeit limited, towards the neighbours garden, these would be no more intrusive than when the owner occupiers use the balcony or if the extension had been for say a habitable room window ie a bedroom/living room window. In situations like this, where there are a row of residential properties, there is always going to be an element of mutual overlooking from any residential property across neighbouring/adjacent land. However the addition of the use of obscure glazing in the side elevation will further mitigate much of this impact upon the neighbouring residential property.
- 8.4.5 The conservatory would be at ground level when viewed from the front of the property and at first floor when viewed from the rear. The neighbour's view that the position of the conservatory at first floor level would be over-powering has been fully considered. However, given its light-weight form, relatively small scale and position behind the rear

building line, would not be intrusive or dominant enough to warrant a refusal of planning permission.

8.5 Infrastructure

- 8.5.1 There are no infrastructure implications associated with the proposed development.

8.6 Built Environment

- 8.6.1 The conservatory would be set back from the front of the dwelling behind the driveway and shrubs and trees within the application site. It is considered that the proposed development would not have an adverse impact on the Monnington Way streetscene.
- 8.6.2 At the rear side of the application site, there will be distance views from Macadam Way (approximately 60 metres). Given that the conservatory would be built at the side of the dwelling and wouldn't project beyond the rear building line and due to its light weight structure, it is considered that the proposed development would not have an adverse impact on the street scene. Furthermore, the proposed extension would not result in a 'terracing effect' on the streetscene given its design, set back position and lower roofline and therefore would be compliant with the Council's Housing Supplementary Planning Document.
- 8.6.3 It is acknowledged that the design of the conservatory being fully glazed will mean that at night it will be visible when the lights are on. However, it is considered that this would have no adverse impact on the streetscene than any other similar development in an urban setting.
- 8.6.4 Overall, the proposed development shows a clear understanding of the form and character of the district's building environment and therefore complies with Policy DEV5 of the Eden Local Plan.

9. Implications

9.1 Legal Implications

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

9.2 Equality and Diversity

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

9.3 Environment

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

9.4 Crime and Disorder

- 9.4.1 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.

9.5 Children

- 9.5.1 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.

9.6 Human Rights

- 9.6.1 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

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Human Rights and Fundamental Freedoms 1950, as now embodied in UK law in the Human Rights Act 1998.

10. Conclusion

- 10.1 It is considered that the proposal accords with the Development Plan for the following reasons which are not outweighed by material considerations.
- 10.2 The proposal for a conservatory on the side of the residential property is considered acceptable in terms of its design, light weight construction and appearance, use of obscure glazing and would not have an adverse impact on the privacy and amenity of the adjacent residential occupiers. For these reasons, the proposal is recommended for approval.

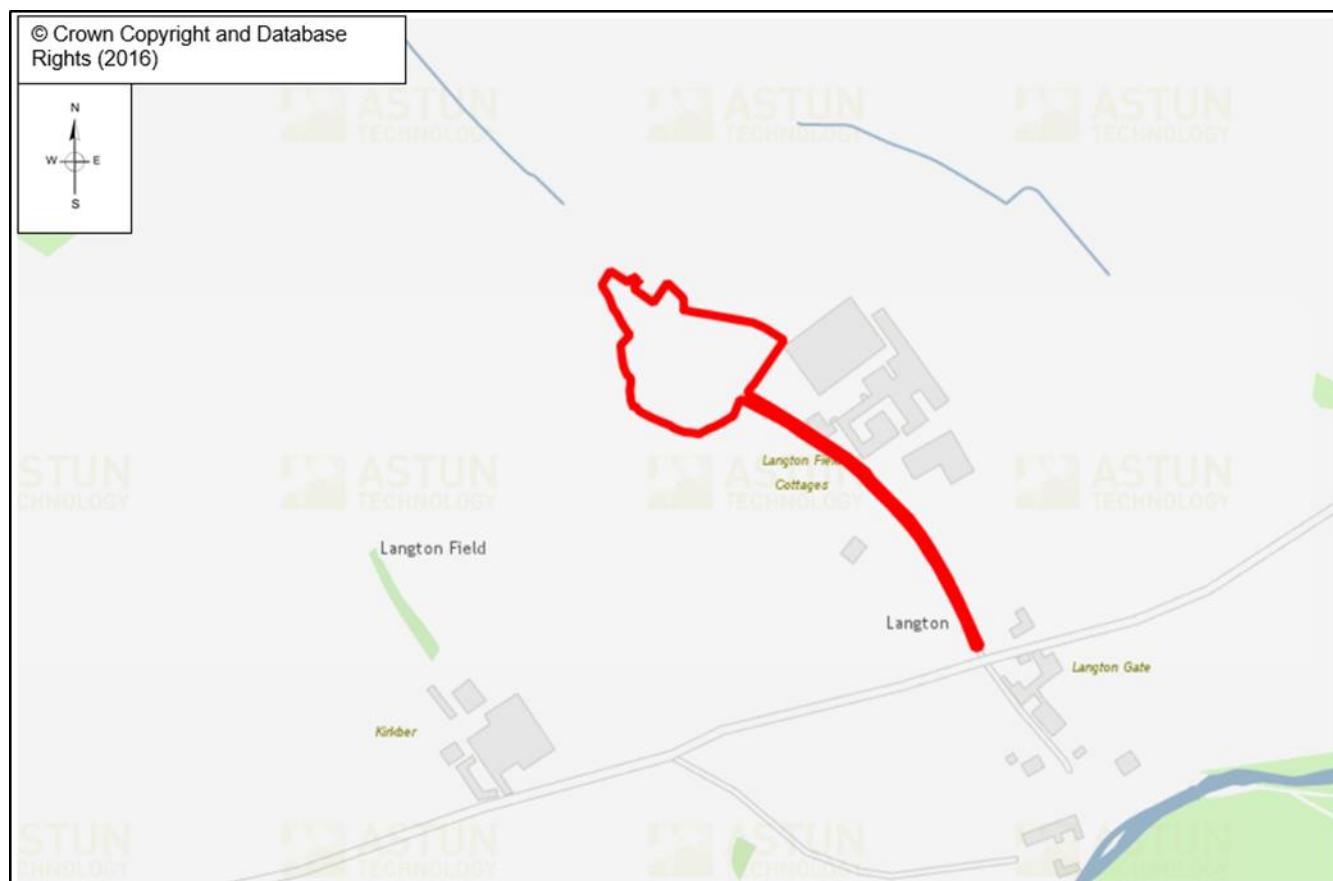
Oliver Shimell
Assistant Director Planning and Economic Development

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

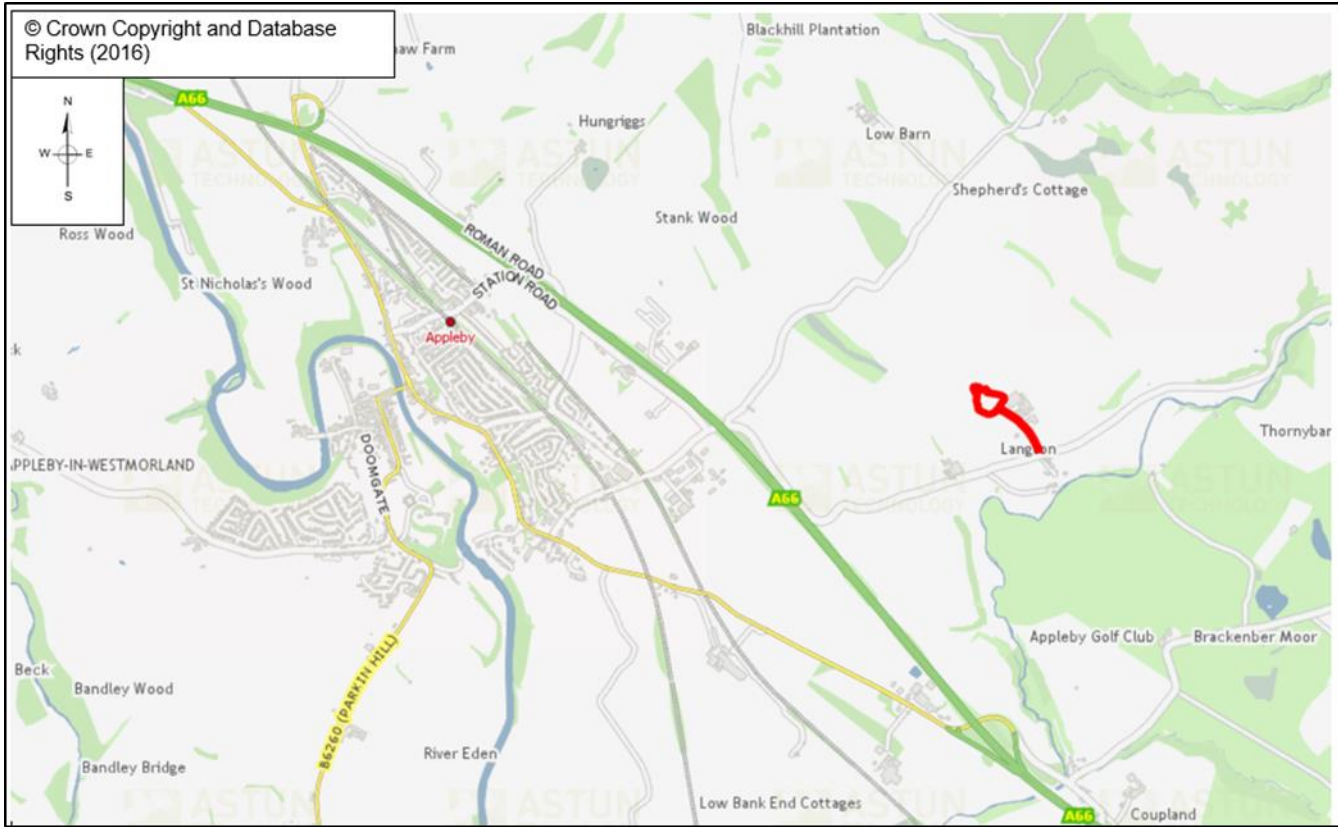
Background Papers: Planning File

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| | | | |
|----------------------------------|--|------------------------|-------------------|
| Date of Committee: | 12 December 2019 | | |
| Planning Application No : | 19/0671 | Date Received : | 16 September 2019 |
| OS Grid Ref : | NY 370838, 520317 | Expiry Date : | 16 November 2019 |
| Parish : | Murton | Ward : | Warcop |
| Application Type : | Full | | |
| Proposal : | Change of Use of Agricultural Land to siting of 12 static holiday caravans | | |
| Location : | Langton Field, Langton, Appleby | | |
| Applicant : | Mr G Bell | | |
| Agent : | Mr S Galpin/Galpin Landscape Architecture | | |
| Case Officer : | Mr D Cox | | |
| Reason for Referral : | Officer recommendation is contrary to that of the Parish Council. | | |



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1. Recommendation

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

1. The application site is isolated and poorly related to local services and facilities, and is remote from sustainable access to services or existing service provision and therefore would not contribute to the long term sustainable protection or enhancement of the natural environment, contrary to the aims of adopted Plan Policies LS1, RUR4, EC4 and the NPPF.
2. Due to the lack of existing effective and need for significant new boundary and re-enforced site screening, the development would result and be a significant and incongruous visual and character intrusion into an un-developed, rural area of sensitive open countryside within close visual proximity to an equally sensitive, designated landscape of national importance.
3. The applicant has failed to demonstrate that a satisfactorily overriding justifiable economic argument or significant local need exists for the development to an extent that would outweigh the harm that would be caused. As such, the proposed development fails to fulfil the criteria of sustainable development as outlined within the NPPF. Therefore, the proposal is considered to be contrary to the Policies LS1, RUR4, DEV1, DEV3, DEV5, EC4, ENV2 and ENV3 of the adopted Eden Local Plan.

2. Proposal and Site Description

2.1 Proposal

- 2.1.1 Further to the refusal of previous application Ref No 18/0614 under delegated powers, the current revised submission proposal now seeks the change of use of part (0.65Ha/1.6 acre) of an existing agricultural grazing field for the siting of 12 static holiday caravans, as a diversification proposal and development sought in connection with and for the benefit of the existing adjacent and associated (200Ha/496 acre) farm, Langton Field.
- 2.1.2 The 12 static holiday caravans proposed would be located, to the immediate west of the existing farm complex, with two parallel rows of 6 static units located either side of a repositioned central (farm) gravel track and existing Bridleway/PROW. The proposed static caravans (L12m x W 4m H 2m), would be finished in green, are proposed to be sited on individual new hardstand bases with associated gravel parking stands and illuminated by four stand alone lighting bollards either side of the new spine gravel access road.
- 2.1.3 The application site is presently located on agricultural grazing land and would involve minor ground moulding and platform engineering work and the relocation and replacing of an existing boundary wall and fence on and around the sites present southern boundary. The site as a whole is and would remain part of the existing farm and agricultural complex, farmhouse and associated cottages jointly known as Langton Field.
- 2.1.4 Access overall to the proposed site would continue to be via the existing and extended farm lane, and its existing junction with the (Appleby-Hilton, C3066) adopted Highway.
- 2.1.5 The development would include and necessitate additional landscaping chiefly comprising the planting of a new shelter/screening hedge and belt to the western,

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southern and eastern boundary (visually separating and screening it from the farm), the re-enforcing the existing small stand of mature trees existing to the north and east, as well as occasional individual species planting around the rest of the overall site (north, east and west) with emphasis on the boundary to the west and the public right of way (349043) which would run through the centre of the (0.65Ha/1.6 acre) site.

2.2 Site Description

- 2.2.1 The application site is, along with much of the applicants existing associated farmland, located to the north of a small cluster of traditional and newer farm buildings and dwellings, which comprise the existing Langton Farm and the small hamlet/cluster of Langton. The cluster of dwellings which as a whole are located in otherwise open, undulating and predominantly agriculturally influenced countryside, (the area designated as “Foothills”, in the Cumbria Landscape Character Guidance and Toolkit) mid-way between Appleby and Hilton on the east fell side, which as part of the designated North Pennines AONB) forms a significant visual backdrop to the area, when viewed from the west.
- 2.2.2 The site is remote from the nearest Local Service Centres and Settlements (including villages), and even the nearest Market Town, these are Appleby, Murton and Hilton, each being located respectively at distances of approx. 1 and a 1/2 miles to the west and north-east from the application site. Presently there are no public transport services connecting the above or serving the application site.

3. Consultees

3.1 Statutory Consultees

| Consultee | Response |
|----------------------------|--|
| Highway Authority | No objection subject to advisory note. |
| Lead Local Flood Authority | No objection subject to condition. |

3.2 Discretionary Consultees

| Consultee | Response |
|----------------------|--|
| Minerals & Waste | No objection. |
| Environmental Health | No objection subject to condition and, advise that if approved, a site licence would also be required. |

4. Parish Council

| | Please Tick as Appropriate | | | |
|-----------------------|----------------------------|---------|-------------|-------------------|
| Parish Council | Object | Support | No Response | No View Expressed |
| Murton Parish Council | | ✓ | | |

- 4.1 At the meeting of Murton Parish Council on the 4 November it was unanimously agreed to support the above planning application.
- 4.2 Their response reads as follows:
 “The objection to the previous planning application was based on concerns regarding increased traffic and access to the public highway. The Parish Council understands

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that Cumbria County Council have reviewed this application and are satisfied that there are no traffic management concerns regarding this development. At the meeting the applicant also explained that the caravans would be owned and used only by the owners of the twelve caravans and not let to multiple users. This would not lead to the substantial increase in traffic which had been anticipated by Councillors”.

The Parish Council is satisfied with that the amendments to the application recommended by Eden District Council have been followed. In particular that:

- the development is essential for the long term viability and sustainability of the farm which has been a family business for four generations (Farm Diversification Policy No RUR4).
- the site outlined in this application will be effectively screened by trees and the landscape.
- the development will provide economic benefit to the area’s promotion of tourism (Tourism Accommodation Policy EC4).

The Parish Council congratulated the applicant on the efforts taken to address issues which had been raised previously and thanked him for attending the meeting. Best wishes were expressed for the development.

It should be noted that one Parish Councillor has declared an interest in this application and did not take part in the discussion.”

5. Representations

- 5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on the 9 October 2019.

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

- 5.2 The concerns of the objector are summarised as follows:

- increase in traffic on local public highway network.
- proposed siting of static caravans in this location would be detrimental to the beauty of the area.

6. Relevant Planning History

| Application No | Description | Outcome |
|-----------------------|---|----------------------------------|
| 10/0142 | Change of use barn to agricultural works dwelling | Full Approve – 11 May 2010 |
| 10/0657 | Amendments to 10/0142 | Full Approve - 20 Sept 2010 |
| 10/0658 | Access revision and extension to garden curtilage | Full Approve – 20 September 2010 |
| 15/0916 | Agricultural Building | Determined |

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| Application No | Description | Outcome |
|--|---|-----------------------------|
| 15/0964 | Roof over existing livestock area | Full Approved – 10 Dec 2015 |
| 17/0586 | OA – Family member dwelling | Withdrawn |
| 17/0804 | Roof over existing farm yard manure store | Approve – Nov 8 2017 |
| 17/0919 | OA – Single detached dwelling | Approved – 28 Feb 2018 |
| Pre-Application submissions (an initial enquiry 17/4183) | Pre-Application submissions (an initial enquiry 17/4183) where the scale of development envisaged was limited to 6 “Wigwam units” | Qualified Officer support |
| 18/0614 | Full application – Change of use of agricultural land to siting of 17 static holiday caravans | Refused – 28 September 2018 |

6.1 A previous adjacent application, again by the present applicant, and Ref No 18/0614 was refused for the following reasons:

- “The application site is isolated and poorly related to local services and facilities, with existing local highway concerns and limitations. Due to the lack of effective screening, the development would be an incongruous intrusion into an undeveloped, rural area of open countryside within close visual proximity to a designated landscape of national importance.
- In addition the applicant has failed to demonstrate a justifiable economic argument or local need exists for the development to an extent that would outweigh the harm that would be caused. As such, the proposed development fails to fulfil the criteria of sustainable development as outlined within the NPPF. Therefore, the proposal is considered to be contrary to the ‘Saved’ Policies NE1 and NE3 of the Eden Local Plan, adopted Policies CS1, CS2, CS3, CS5, CS12, CS14, CS15, CS16 and CS18 of the Core Strategy and proposed Policies LS1, RUR3, DEV1, DEV3, DEV5, EC4 and ENV2 of the Eden Local Plan.”

6.2 Since the above, the site and nature of the applicant’s holiday caravan diversification aspirations have been the subject of further pre-application discussions with the Council.

7. Policy Context

7.1 Development Plan

Eden Local Plan 2014-2032

- LS1 “Locational Strategy”
- DEV1 “General Approach to New Development”
- DEV3 “Transport, Accessibility and Rights of Way”
- DEV5 “Design of New Development”

- RUR4 “Employment Development and Farm Diversification in Rural Areas”
- EC4 “Tourism Accommodation and Facilities”
- ENV1 “Protection and Enhancement of the Natural Environment, Biodiversity and Geodiversity”
- ENV2 “Protection and Enhancement of Landscapes and Trees”
- ENV3 “The North Pennines Area of Outstanding Natural Beauty”
- ENV9 “Other forms of Pollution”

Supplementary Planning Documents:

There are no Supplementary Planning Documents considered relevant to the determination of this application.

7.2 Other Material Considerations

National Planning Policy Framework:

- Chapter 2 Achieving sustainable development
- Chapter 6 Building a strong, competitive economy
- Chapter 9 Promoting sustainable transport
- Chapter 12 Achieving well-designed places
- Chapter 14 Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 Conserving and enhancing the natural environment

- 7.2.1 The overriding theme of the NPPF is to apply a presumption in favour of sustainable development. The NPPF defines sustainable development as that which fulfils an economic, a social and an environmental role. In relation to supporting the rural economy, it is noted that developments should be supported which support rural tourism which respects the character of the countryside and are located in appropriate locations where identified needs are not met by existing facilities. Furthermore, the NPPF seeks to ensure that developments respond to local character and add to the overall quality of the area.

Cumbria Landscape Character Guidance and Toolkit – “Foothills” Designation.

- 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
- Amenity
- Highways
- Environment

8.2 Principle

- 8.2.1 There is general policy support for diversification based tourism developments in rural locations both within National and Local Planning Policy. However, any such developments must demonstrate that they are sustainable, demonstrate a local need, are suitably located, protect and enhance the surrounding local landscape and its character where effectively screened by existing topography and vegetation.

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8.2.2 The current application (in light of the previously refused adjacent proposal 18/0614) is a numerically reduced proposal, from 17 to 12 static holiday caravans. The new proposal is the same sized as the previous (0.65Ha) area of land, but has been re-located as an application/submission, with the site now being closer to the existing farm complex.

As part of the present submission, on a relocated but same sized (0.65Ha/1.6 acre) site, the applicant has:

- reduced the number of static caravan units being sought (from 17 to 12),
- outlined and included provisions for a new landscaping and re-enforced hedging and tree planting scheme,
- sought to provide a justification in relation to the farm diversification need being put forward, and
- and sought to address previous access and highway concerns.

8.2.3 At the time of consideration and relevant Development Plan it remains considered that the re-positioned application site, the same size in area (0.65 Ha/1.6 acre) as application 18/0614, but containing numerically fewer caravan units and still sought as a diversification, remains nonetheless, given other factors, still neither of a scale or in a sustainable location for the type of diversification business proposed.

8.2.4 Although the site and development proposed is sought as a diversification to the existing (Langton Field) farm operation, it is considered that this does not address the overall lack of sustainability of the site and farms relatively isolated and highly visible location, as well as, given the above, the potential for significant adverse impact of such a development on the localities character and sensitive visual amenity.

8.2.5 The site, which under Policy LS1 is located in "Other Rural Areas", remains remote from sustainable access to services or existing service provision, and also from the nearby Local Service Centres, settlements (including villages), and even the nearest Market Town. These include Appleby, Murton and Hilton, each being located respectively at distances of approx. 1 and a 1/2 miles from the application site.

8.2.6 It is considered that a development of this geographical size, albeit of numerically smaller nature, and albeit it as a diversification to the existing farm business, but in a remote and unsustainable location, would not however contribute to the protection or enhancement of the natural environment. This as such is contrary to Policies LS1, RUR4 and EC4 and the NPPF (Paras 2 & 15).

8.2.7 The scheme has attempted to minimise the impact through being re-positioned closer to existing farm buildings and development, and further has attempted, in its positioning this time, to take some advantage of existing mature stands of deciduous trees and modern farm buildings, which might provide some degree of existing partial screening (in terms of the trees, the summer months only). However (again as with the previous submission) there continues to be significant reliance on the need to introduce significant new screen planting in the form of new trees (to the east and west of the site) as well as a new hedge (to the west, south and east of the site) to mitigate against the adverse visual impact of the proposal. The need for such planting, further highlights the adverse visual impacts of the proposal in this open, rural and isolated location.

8.2.8 The overall absence of effective existing screening (given the site location, scale and number of static caravan units and location of development still envisaged) is still

thereby prominent, given the degree and accepted need for and scale of the above new and re-enforced screen planting proposed. The site still is and would remain prominent and alien in the surrounding sensitive (and predominantly open and rolling agricultural) landscape, and (notwithstanding the Public Bridleway and Right of Way No 349043 which runs through the middle of the site if approved would remain so for some significant period of time to come. The location and scale of additional site artificial lighting proposed on the site and in the area would also result in a degree of unacceptable associated light pollution in this visually sensitive area, which would again be contrary to the aims of adopted Plan Policy ENV9 “Other forms of Pollution” in the absence of existing effective screening to mitigate such concerns.

- 8.2.9 The proposed development, given its site specific location and scale, would not contribute to the protection or enhancement of the natural environment. It would be significantly harmful to the character of the area and, in the absence of an acceptable overriding justification, its broader visually sensitive landscape “Foothills” setting to, and affecting of, the foreground of the designated North Pennines Area of Outstanding Natural Beauty to the east. Therefore, the application is not considered to be a sustainable development in such a location, a broad based factor not overridden by the diversification argument put forward. The proposal remains contrary to the broad based aims and criteria concerns of adopted Plan Policies ENV2 “Protection and Enhancement of Landscape and Trees” and ENV3 “The North Pennines Area of Outstanding Natural Beauty”.
- 8.2.10 The central diversification argument made by the applicant to justify the proposed development, relates to improving the commercial viability, through diversification, of Langton Farm as an agricultural farming operation and undertaking. Notwithstanding the argument that has been put forward by the applicant, this is not considered to be sufficient overriding justification for the proposal given the inappropriate nature of its location, scale of development proposed, still limited effective existing screening and the significant visual amenity harm that would be caused to the local (including as a backdrop Nationally designated) landscape, and its sensitive character setting and visual relationship to the site.
- 8.2.11 In line with Policy RUR4, it is accepted that tourism developments should and can strengthen the rural economy in appropriate locations. The key consideration here is the term “appropriate”, where the acceptance remains that the majority of new tourism facilities, in order to protect the natural environment, be directed towards the main settlements and Key Hubs and where consequently landscape and transport impacts will be kept to a minimum.
- 8.2.12 In this case, it is considered that this particular application fails to demonstrate how the proposal would generate “sustainable” rural tourism that both respects and does not result in significant adverse compromise to the character and visual amenity of the surrounding area. As a farm diversification, it is accepted that there could be an economic benefit to the applicant. However it is questionable whether even 12 static caravans (given set up cost) would bring any meaningful economic benefit to the local area overall to an extent that would outweigh the significance of the harm being caused to the areas broader character and sensitive landscape visual amenity.

8.3 Landscape and Visual Impacts

- 8.3.1 It is noted that this application is submitted against the backdrop of Pre-Application submission (an initial enquiry 17/4183) where the small scale nature of development envisaged was to be limited to 6 “wigwam units” only. In relation to that enquiry, the

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Officer view (though not necessarily binding on the Authority) and with qualification, was broadly supportive. A more recent Full application (Under Application Ref No 18/0614) for 17 static caravans on 0.65 Ha of adjacent land was refused under Officer delegated powers.

- 8.3.2 It is to be noted that the proposed development is similar, but critically not identical, in terms of site specific concerns and the application and weighting of relevant Plan Policy consideration, to other applications of this type and nature recently considered within the District. This factor was raised by the Applicant in their latest submission.
- 8.3.3 The formal submission now before the Local Planning Authority is for the site specific siting of 12 static holiday caravans (but still on a 0.65Ha site), the creation of a new access and hardstanding layout and importantly still with and requiring an associated significant new screening planting scheme. It is to the scale and design detail of this site specific proposal that considerations are now given.
- 8.3.4 The application site would be located to the west of the existing farm complex. Separation, both for operational and amenity consideration would however be emphasised by the degree of separation, to be re-enforced by the combined retention, and introduction of, tree shelterbelt planting (still separating the site from the farm). In addition to the planting of a new boundary hedge, a general low key “sporadic” and “random” shrub and tree planting is envisaged for the west, and to a lesser extent the eastern fringes of the application site. The application does not identify any form of physical hard boundary or fence provision to the balance of the remaining large field (to the west) within which part of the site is located. (The assumption being and remaining that effectively that field overall would/might be removed from productive farming of the associated unit as a whole, and thereby negating to a degree the benefits of the diversification sought).
- 8.3.5 The application site, and associated farm are set in a shallow fold in the topography of the surrounding landscape. This shallow “valley” runs from the north west to the south east, and is centrally located between generally higher ground to the west and the slopes of significantly higher ground (the slopes of the Pennines and AONB) to the east.
- 8.3.6 In terms of rights of way in the vicinity, the site is visible from three particular highways. To the north, the (3216) Appleby to Flakebridge road, to the south the (C3066) Appleby to Hilton road, and to the immediate west of the site, the public right of way (PROW, footpath/bridleway/byway 349043). Stone boundary walls, post and wire fences and hedge boundaries are a characteristic of the area. There are also solitary trees, stands of trees and larger blocks of commercial planting in the vicinity.
- 8.3.7 Although predominantly agricultural, other built development is visually evident within the local landscape. The siting of the proposed static caravans would be as well. Whilst some partial screening presently exists, (in the form of a stand of mature deciduous trees to the northern boundary) and presently in the form of hedges, stonewalls and (depending on direction) the farm complex itself, this would not entirely screen any or all of the proposed caravans on the site, being especially so in the winter months. This would certainly be the case in terms of the Right of Way which would continue to run right through and down its centre. Whilst effective screening might be achieved in the future through additional landscape planting, this would possibly represent a long term solution leaving (even with a reduced number of statics) an incongruous and visually prominent development largely in the open countryside in the short to medium term.

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8.3.8 The surrounding landscape is characterised by enclosed fields and sporadic development largely of an agricultural nature. The application site is viewed as parts of two enclosed fields, and these and this pastoral character contribute to the overall rural character and appearance of the surrounding area. Some longer range views are restricted due to the topography of the land, given the above, but it is considered inevitable that the proposal for the siting of caravans and associated paraphernalia, including artificial lighting at night, would have an impact on the local landscape character and amenity. Again, on the basis of the above, it is considered that the development proposed would materially harm the intrinsic agrarian character and appearance of the area detracting from the areas subtle charm and, no less importantly, its intimate foreground relationship to the nationally designated North Pennines AONB and its associated dark skies.

8.4 Amenity**Erosion of rural character**

8.4.1 Due to the predominantly rural nature of the application site and the rolling topography of the surrounding countryside and foothills, the proposed development would be visible and prominent within the local landscape, albeit mid to short ranging. The application site (for 12 static caravans on 0.65Ha/1.6 acre of land) is not well located or effectively screened (from the nearby highway and RoW network) and as such the development would result in an relatively isolated and an incongruous intrusion into a largely under-developed, rural area of countryside, which would be poorly related to the agricultural theme and predominant character of its surroundings. This would of necessity be further accentuated at night, when illumination of the site, and from within the caravans (and especially in winter) would further draw attention and the eye to the presence of the site. For this reason, the proposed development would not reinforce or respect the local landscape and would erode the rural character, and dark skies of the area and its sensitivity and as such would be contrary to Policies LS1, RUR3, RUR4 DEV1, DEV5, EC4, ENV2, ENV3 and ENV9 of the Eden Local Plan.

Adverse visual impact

8.4.2 Whilst the visual impact of this numerically reduced (12 static caravan) proposed development, might be reduced by virtue of a somewhat artificial screen planting, the otherwise incongruous nature of the development would still be considered to be harmful to the existing landscape and environment. As such it is considered that the development would constitute unsustainable development. The applicant has accepted that mitigation could be provided through further planting to the various boundaries, which the scheme attempts to do. However, and even with the existing mature trees, this is considered to be a long term mitigation measure which would not protect the local landscape in the short or medium term. This adverse impact is afforded significant weight due to the site being currently undeveloped land located within sensitive Foothills to the nationally sensitive North Pennines AONB.

8.4.3 Whilst such mitigation planting, including hedging, is noted and might assist in a screening of the site, only limited weight can be afforded to this proposed mitigation in the determination of this application. It is considered that the publicly visible nature of the site (including from within) lack of suitable effective significant existing screening (either topographical or planted) means that the site is, and would remain largely and significantly visible in the open countryside making it an unsuitable location.

Diversification concern

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- 8.4.4 Whilst acknowledging the diversification argument, it remains considered that the applicant has overall failed to satisfactorily demonstrate that exceptional circumstances exist for a proven and justifiable need for a development of this type and scale and in this sensitive location, to an extent that outweighs the harm being caused to the local landscape. As such, the development is contrary to the landscape protection elements, and therefore in particular the relevant aims and concerns outlined within Policies ENV1, ENV2 and in its affect upon the setting and character of the nearby AONB, ENV3 of the adopted Eden Local Plan.

Landscape designation

- 8.4.5 It is to be noted that the proposed development would be visible in the broader local landscape, designated as “Foothills” in the Cumbria Landscape Character Guidance and Toolkit. However, the distance between the nearest relevant residential properties to the south (even unconnected to the farm operation) and the application site means that the development is unlikely to be specifically adverse there. The development would be unlikely to result in any loss of privacy to any of those particular properties due to the significant stand-off and separation that exists in that direction.

Noise

- 8.4.6 In terms of noise, it is noted that there may be additional noise generated through the proposed use of the site by static caravans and their occupants, although this is also unlikely to be excessive or sufficiently high so as to adversely impact upon immediate local amenity. It is noted that the Environmental Health Officer has raised no objections to the proposal in this aspect.

8.5 Highways

- 8.5.1 Concerns have been raised by an objector to the application in relation to the impact of the development upon the highway network and their local amenity. The Parish Council have specifically noted that “there are no traffic management concerns regarding the development”, and it is noted and confirmed that the Highway Authority have not objected to the proposal. This element of the proposal and the associated objector concern raised are therefore not considered sufficient grounds in themselves to refuse this application.
- 8.5.2 In relation to access to the site, it is noted that no concerns have been raised by the County Highway Authority in relation to the ability of the surrounding highway network to absorb the predicted traffic levels likely to be generated by the development. This factor too is noted and supported by the Parish Council in their response.
- 8.5.3 The application site is reasonably well located with regards to immediate access to the footpath rights of way network and even nearby cycle routes, however due to the remote and rural nature of the site, such relevant settlements being distant, it is considered however that the development would not significantly or practicably reduce the need or reliance upon the use of cars and such vehicles as a primary means of travel. The resultant development would increase vehicular traffic levels locally on a narrow rural highway network and with the limited passing places on the Appleby-Hilton Road.
- 8.5.4 As such, it is likely that visitors to the site would rely upon the use of the presently unsustainable automotive car to access majority recreational activities and overall Public Rights of Way networks. Although the Highway Authority have raised no concerns in relation to the impact of the development upon the surrounding highway network, it is considered that though an increase in the use of the local highway

network by the proposed static caravan occupants' cars might not necessarily compromise highway conditions, it would contribute significantly to present unsustainable modes of travel and their increasingly acknowledged adverse long term environmental consequences.

- 8.5.5 For the reasons detailed above, the proposed development, and notwithstanding Highway comment is considered to be contrary to the aims and concerns of Chapters 9, 14 and 15 of the NPPF and the adopted Eden Local Plan Policies DEV3 and ENV1 which seek to ensure that such developments do not result in adverse impacts upon the environment and the sustainable usage of associated travel modes and networks.
- 8.5.6 Due to the application site being located within a remote and primarily upland rural location, in an area identified as being "other rural", it is considered that there would be no impacts upon the built environment as such.

8.6 Environment

- 8.6.1 The proposal affects parts of two existing agricultural fields, which are presently in use for agricultural grazing purposes. The fields, which may possibly be amongst the best of the agricultural land associated with the operation of the farm, are grass covered meaning that the site is unlikely to be species rich from an ecological perspective. Of the total fields, only a relatively small area of grass would be lost for the construction of the access track and 12 concrete static caravan and parking pads, with no significant loss of any surrounding trees or existing hedgerow. As mitigation however, the proposal includes a new hedge around a significant part of the site and also a new areas of tree planting to the west and lesser extent east of the site to re-enforce the present stand of mature trees in existence on the northern, and part eastern edges of the site. In the absence of strong new boundaries otherwise, especially to the south and west, it remains unclear as to how the balance of the existing remaining fields are to be productively used, for the ongoing and continued benefit of the associated farm.
- 8.6.2 Concerns have been raised by the objector to the application in relation to the impact of the development upon the local environment. These broader aspects, and the relevant Policy based landscape and visual character considerations and concerns are addressed above. In terms of specific species/habitats however, the proposal is likely to have limited impact. Again it is to be noted that the Parish Council have confirmed their support for the proposal in this aspect and specifically have confirmed that in their view "... the site outlined in this application will be effectively screened by trees and the landscape".
- 8.6.3 Langton Field farm at 200Ha is a significant agricultural farm holding and operational undertaking for the area. It is accepted that the farming community are under pressure, and is being encouraged to diversify and look at and adopt measures to strengthen their income streams. The backdrop to this must however always be to that of the effective and beneficial operation of such farm holdings as agricultural undertakings and as historical and ongoing "custodians of the landscape". On the basis of the details supplied, and the vaguaries of operational boundaries indicated, concern remains that, in the absence of such strong new boundaries otherwise, that the long term operational and therefore financial well-being of the farm "as an agricultural operation as a whole" would not be best served and protected by a development of this nature in this specific location.

8.7 Drainage/Infrastructure

REPORTS FOR DEBATE

- 8.7.1 The development envisages minor changes and improvements to the existing small drains/watercourse adjacent and across the application site. The Lead Local Flood Authority recommend that, were approval to be granted, that such further provision would need to be the subject to appropriate permit.

9. Implications

9.1 Legal Implications

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

9.2 Equality and Diversity

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

9.3 Environment

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

9.4 Crime and Disorder

- 9.4.1 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.

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 and Fundamental Freedoms 1950, as now embodied in UK law in the Human Rights Act 1998.

10. Conclusion

- 10.1 It is considered that this particular application fails to demonstrate how the proposal would generate “sustainable” rural tourism that both respects and does not result in significant adverse compromise to the character and visual amenity of the surrounding area. As a farm diversification, it is accepted that there could be an economic benefit to the applicant. However it is questionable whether even 12 static caravans (given set up cost) would bring any meaningful economic benefit to the local area overall to an extent that would outweigh the significance of the harm being caused to the areas broader character and sensitive landscape visual amenity.
- 10.2 The proposed development is considered not to be in accordance with the existing development plan which is not outweighed by material considerations. The proposed development, if approved, would result in significant harm to the countryside in an unsustainable location. It is noted that there are no practical measures to improve the sustainability of the site. As such, the proposed development, by reason of its location and harm caused to the character of the surrounding area, represents an unjustified new development in the open countryside at the expense of local landscape character and sustainable travel mode in the absence of significant and acceptable overriding justification otherwise.
- 10.3 The proposed development is considered to be contrary to the principles of sustainable development as outlined within the NPPF, and to the adopted aims of the Eden Local Plan and accordingly is recommended for refusal.

Agenda Item 3
REPORTS FOR DEBATE

Oliver Shimell
Assistant Director Planning and Economic Development

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| Checked by or on behalf of the Monitoring Officer |
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Background Papers: Planning File 19/0671

Agenda Item 4
REPORTS FOR DEBATE

Date of Committee: 12 December 2019

Planning Application No : 19/0684 **Date Received :** 19 September 2019

OS Grid Ref : NY 368384,
520341 **Expiry Date :** 22 November 2019

Parish : Appleby **Ward :** Appleby

Application Type : Full

Proposal : Change of use of former Bank premises and development of upstairs residential unit into 5 No residential apartments

Location : 19 Boroughgate, Appleby

Applicant : Stanthorne Ltd

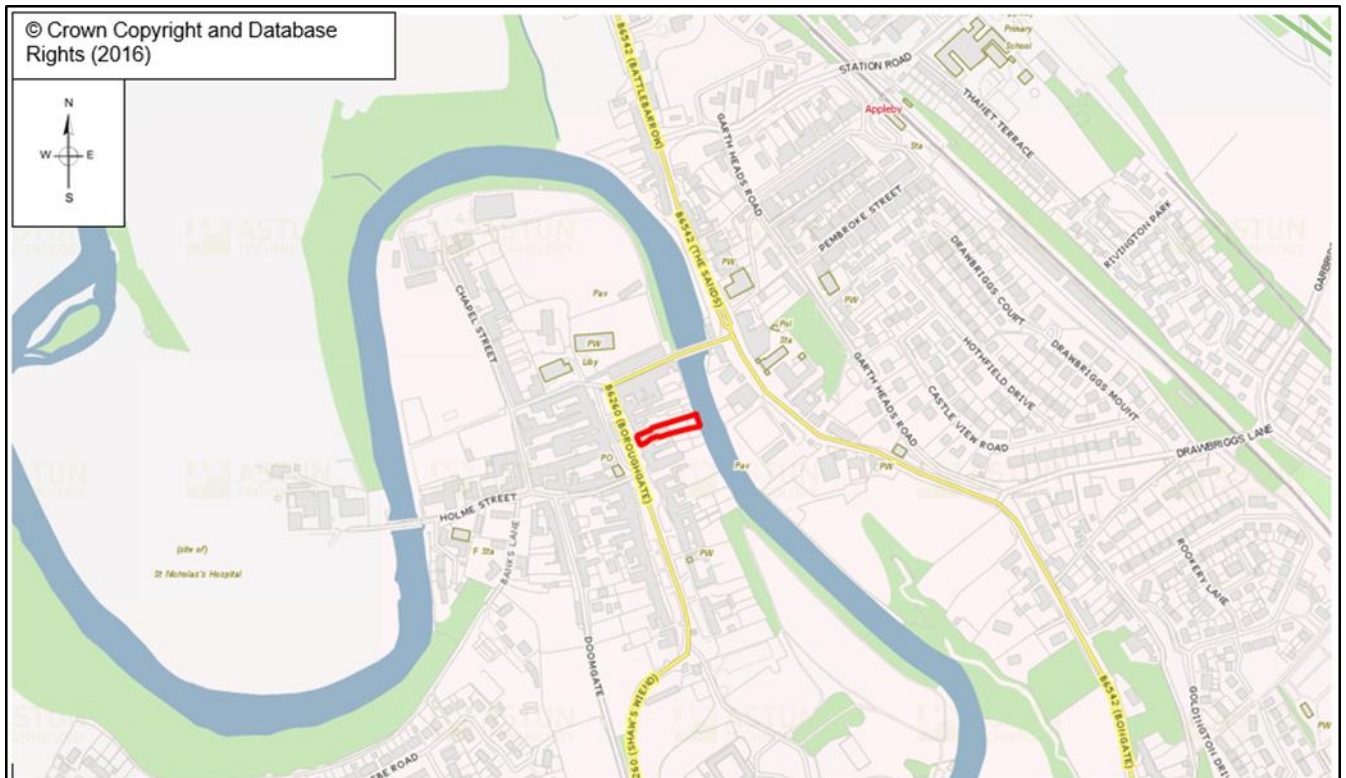
Agent : Manning Elliot Partnership Ltd/Lily Street (Agent)

Case Officer : Mr D Cox

Reason for Referral : Officer recommendation is contrary to that of the Highway Authority



Agenda Item 4
REPORTS FOR DEBATE



1. Recommendation

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

1. The development permitted shall be begun within three years starting with the date of this approval.

Reason: In order to comply with the provisions of the Town and Country Planning Act 1990 and S91 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Approved Plans

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

- Site location and block plans, drawing Ref Nos 1937 EX 100 and PL 200 as dated received by the Local Planning Authority on the 19 September 2019.
- Proposed Floor Plans and Layout, drawing Ref Nos 1937 PL 300,301 and 3012 Revs A as dated received by the Local Planning Authority on the 19 September 2019.
- Proposed elevations, drawing Ref Nos 1937 PL 500 and 501 Revs A dated as received by the Local Planning Authority on the 19 September 2019.
- Schedule of Areas, drawing Ref No 1937 PL 800 as dated received by the Local Planning Authority on the 19 September 2019.

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

2. Proposal and Site Description

2.1 Proposal

- 2.1.1 The four storey, Grade II Listed building, which formerly accommodated Barclays Bank at Ground Floor level with residential accommodation (flat) on the first, second and third floor levels, is located centrally within the market town and designated Conservation Area of Appleby.
- 2.1.2 The application (together with associated Listed Building Consent submission 19/0685) proposes the conversion to residential of the commercial elements, comprising the ground floor and the two storey “mews” element to the rear to form 2no apartments. The upper levels, which as an existing flat were already in existing residential use (until change of ownership following closure in 2018) are proposed to be sub-divided into 3 no apartments. This will result in the creation of four new, and therefore five apartments overall.
- 2.1.3 The proposed conversion stems from the absence of occupancy within the commercial premises on the ground floor level and the existing residential premises on the first, second and third floor level. The proposal of five residential units is to secure the practical and beneficial ongoing permanent use of the existing building, both as a heritage asset of note and to provide and contribute to a wider range of housing choices for those who want to live in the area.

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- 2.1.4 The application proposes that the residential units are to be accessed from the public footpath on Boroughgate. The residential unit on the ground floor would have a separate access through the door directly off Boroughgate, whilst the access to the other three flats and the “Mews” dwelling would be from the rear yard and via an existing private alleyway from Boroughgate.
- 2.1.5 The rear of the building on the ground and first floor level is to be converted into “Mews” property and will be separated from the rest of the building.
- 2.1.6 The proposed flats on the first, second and third floor levels are to be accessed from the communal hallway, shared by each of the flats, with the flats on the first and second floor having a hallway, two bedrooms, a bathroom, living room and a kitchen dining area. The flat on the third floor will have a hallway, one bedroom, a bathroom, a kitchen and a living/dining area.
- 2.1.7 The proposed conversion will utilise the existing openings with the building and will reinstate the windows that have been blocked up on the North-West elevation. The height, width, length and overall appearance of the building remains unaltered externally.
- 2.1.8 The external appearance of the building is to remain largely unaltered, thereby retaining the character of the existing designated heritage asset and its sensitive setting within the Conservation Area. The minor alterations to the buildings external visual appearance are to be limited to the sensitive re-instatement of the windows (sliding sash and case style) that have been blocked up on the North West elevation.
- 2.1.9 There is no existing or proposed vehicular access or dedicated parking due to the town centre location.

2.2 Site Description

- 2.2.1 The application site is located centrally within the market town of Appleby, on the eastern side of Boroughgate, a processional highway linking the market crosses and the Church (St Lawrence’s) with the Castle. The area (to the north is mixed commercial and residential, with emphasis of the former to the lower (northern end) and to the latter in the upper (southern end). The application site is located in what could be described as the transitional zone.
- 2.2.2 No 19 Boroughgate is a late 19th century building of three storeys plus basement and a two storey wing to the rear. It is a former bank building located within Appleby town centre which is a designated Appleby Town conservation area. The height, scale and architectural features of building reflect its commercial status within the town centre and conservation area. It is constructed of stone with ashlar dressings and of a Victorian Gothic design. The elevation fronting Boroughgate contains architectural features which contribute to the significance of the building. The ground floor has large pointed arched windows with marble columns and leaf caps; and two entrances located in end bays with glazed windows above and set in stone surrounds. The main entrance to the left has marble columns and leaf caps matching the windows. The first floor has paired pointed arched windows with single timber sash windows with horn details and a cast iron balcony. The top floor has paired windows with triangular heads and single timber sashes. This elevation also has dormer windows and a balustrade parapet.
- 2.2.3 The building has high heritage value and its significance is on a local scale as the building contributes to our understanding of the development of the town in the 19th century. It also relates to similar commercial buildings of the same era across the

REPORTS FOR DEBATE

country. This is reflected in its status as a designated listed building and inclusion within Appleby conservation area.

3. Consultees

3.1 Statutory Consultees

| Consultee | Response |
|---------------------------|---|
| Highway and LLF Authority | <p>Object to the development proposed. Concerns as follows:</p> <p>“The suggested parking does not fall within the curtilage of the building and due to the on-going parking issues in the area, CCC (Highways) cannot issue residents on-street parking permits for the site. There is no suitable on or off street parking proposed with the application from a highway point of view therefore the (CCC Highway) Authority recommends refusal of this application.</p> |

3.2 Discretionary Consultees

| Consultee | Response |
|----------------------|--|
| Conservation Officer | <p>Supportive of the proposal, the Conservation Officers response is as follows:</p> <p>“No 19 Boroughgate is a late 19th century building of three storeys plus basement and a two storey wing to the rear. It is a former bank building located within Appleby town centre which is a designated conservation area. The height, scale and architectural features of building reflect its commercial status within the town centre and conservation area. It is constructed of stone with ashlar dressings and of a Victorian Gothic design. The elevation fronting Boroughgate contains architectural features which contribute to the significance of the building. The ground floor has large pointed arched windows with marble columns and leaf caps; and two entrances located in end bays with glazed windows above and set in stone surrounds. The main entrance to the left has marble columns and leaf caps matching the windows. The first floor has paired pointed arched windows with single timber sash windows with horn details and a cast iron balcony. The top floor has paired windows with triangular heads and single timber sashes. This elevation also has dormer windows and a balustrade parapet.</p> <p>The building has high heritage value and its significance is on a local scale as the building</p> |

REPORTS FOR DEBATE

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| | <p>contributes to our understanding of the development of the town in the 19th century. It also relates to similar commercial buildings of the same era across the country. This is reflected in its status as a designated listed building and inclusion within Appleby conservation area.</p> <p>Impact Assessment</p> <p>Paragraph 192 of the NPPF, 2019: In determining applications, local planning authorities should take account of:</p> <ul style="list-style-type: none"> the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. <p>The proposal comprises of the conversion of the former bank premises into a residential dwelling along with the refurbishment of existing residential accommodation into individual apartments. The proposed new use is considered to be viable option for the underused building. The Planning (Listed Buildings and Conservation Areas) Act 1990 s 66(1) requires a decision-maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.</p> <p>Policy ENV10 of Eden Local Plan says development proposals should be of a high quality design and sensitive design that takes account of scale, density, height and materials.</p> <p>The proposed conversion of the ground floor commercial space will involve minor structural changes such as removal of partition walls, installation of new partition walls and blocking up of a doorway. These changes will not impact on any internal features of interest within the building. In addition the layout of the residential accommodation has been carefully designed to respect the existing external openings preserving the architectural character of the building. The reinstatement of blocked windows to the rear elevation is also considered to be an enhancement.</p> <p>With regards to the refurbishment of the residential accommodation to the upper floors of the building, the existing layout is broadly retained with the staircase utilised for communal circulation. Again it is not envisaged that the proposals will result in</p> |
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| | <p>harm to any features of internal or external interest.</p> <p>Paragraph 193 of the NPPF, 2019 states ‘when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. This is irrespective of whether the potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.’</p> <p>Overall the proposal is considered to be a sympathetic conversion that preserves and enhances the architectural interest of the building and its association with the streetscape of the historic town.</p> <p>The proposal is considered to be in accordance with conservation policies outlined within the Planning (LBCA) Act 1990, NPPF 2019 and Eden Local Plan ENV10.</p> |
|--|--|

4. Town Council

| | Please Tick as Appropriate | | | |
|----------------------|----------------------------|---------|-------------|-------------------|
| Town Council | Object | Support | No Response | No View Expressed |
| Appleby Town Council | | ✓ | | |

- 4.1 Appleby Town Council support the application.

5. Representations

- 5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on the 2 October 2019.

| | | | |
|---------------------------------------|----|--------------------------------------|---|
| No of Neighbours Consulted | 12 | No of letters of support | 0 |
| No of Representations Received | 0 | No of neutral representations | 0 |
| No of objection letters | 0 | | |

6. Relevant Planning History

| Application No | Description | Outcome |
|----------------------------|-------------------------|-----------------|
| Application Ref No 19/0685 | Listed Building Consent | Current “live”. |

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

7. Policy Context

7.1 Development Plan

Eden Local Plan 2014-2032

- LS1 “Locational Strategy”

- DEV1 “General Approach to New Development”
- DEV3 “Transport, Accessibility and Rights of Way”
- DEV5 “Design of New Development
- ENV10 “The Historic Environment”
- HS4 “Housing Type & Mix”
- EC7 “Town Centres and Retailing”
- Supplementary Planning Documents:
 - Housing (2010)
 - Management of Conservation Areas (2011)

7.2 Other Material Considerations

National Planning Policy Framework:

- Chapter 9 Promoting sustainable transport
- Chapter 12 Achieving well-designed places
- Chapter 7 Ensuring the vitality of town centres
- Chapter 5 Delivering a sufficient supply of homes
- Chapter 16 Conserving and enhancing the historic environment

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

8. Planning Assessment

8.1 Key/Main Planning Issues

- Principle
- Ensuring the vitality of town centres
- Promoting sustainable transport
- Parking Provision
- Flood Risk
- Built Environment
- Streetscene/Landscape Impact

8.2 Principle

8.2.1 The application site is located centrally within the town centre of the Market Town and designated Town Centre Conservation Area of Appleby. Adopted Eden Local Plan Policy LS1 “Locational Strategy” identifies it as a location which will benefit from sustained development appropriate to that of a larger town. Such provision can include that of residential development through new build or re-development through conversion.

8.2.2 The above broad based principle of support for such type of development is however qualified within the criteria based concerns of other relevant adopted Policies within the same adopted Plan. These include:

- Policy LS1 – “Locational Strategy”
- Policy DEV1 – “General Approach to New Development”
- Policy DEV3 – “Transport, Accessibility and Rights of Way”
- Policy DEV5 – “Design of New Development”
- Policy EC7 – “Town Centres and Retailing”

- **Policy ENV10 – “The Historic Environment”**

Acknowledging the fact that there is presently no housing shortfall, the Plan, as outlined under Policy DEV1 accepts and outlines that such broad based approach to development is to be tempered and qualified where “... any adverse impacts of granting permission would significantly outweigh the benefits”.

- 8.2.3 Policy DEV3 outlines the fact that development will be refused if it will result in a severe impact in terms of road safety (parking) and possible increased traffic congestion.
- 8.2.4 Policy DEV5 stipulates that new development will be required, amongst others to “... Protect the amenity of existing residents and business occupiers and provide an acceptable amenity for future occupiers.”, and given its’ central location within the designated Town Centre Conservation Area that under Policy ENV10, “... the Council will attach great weight to the conservation and enhancement of the historic environment, including “... the setting of its non-designated heritage asset.
- 8.2.5 On balance of consideration and argument put therefore, and in noting the Highway Authority concern, it is considered that both reasonable and adequate alternative parking provision exists in the vicinity, as does (in terms of character and amenity) the existence of other town centre flats in this mixed use and transitional area.
- 8.2.6 Though excluding the conversion of Listed Buildings, it is to be noted that the relevant applicable legislation, specifically under Part O of the Town and Country Planning, General Permitted Development (England) Order 2015, which broadly encourages the re-use of such sites and locations for residential re-use, accepting the principle as foregone in the absence of significant overriding concern. Absence of suitable parking can be such a consideration.
- 8.2.7 On balance of consideration and argument, it is considered that as both reasonable and adequate alternative parking provision does exist in the vicinity of the town centre, and within reasonable walking distance, as also does (in terms of character and amenity) the existence of other town centre flats. In principle and practical operation therefore, and in terms of balance of considerations, the development proposed is acceptable.

8.3 Ensuring the vitality of town centres

- 8.3.1 The application site is located centrally within the Market Town of Appleby, on the eastern side of Boroughgate, a processional highway linking the market crosses and the Church (St Lawrence’s) with the Castle. The area (to the north is mixed commercial and residential, with emphasis of the former to the lower (northern end) and to the latter in the upper (southern end). The application site is located in what could be described as the transitional zone.
- 8.3.2 Policy EC7 seeks to maintain and enhance the vitality and viability of the town centres. Whilst it mainly concerns protecting the retail provision of the town centres, it does mandate that developments shall not compromise the functional operation of existing town centre uses.
- 8.3.3 The application, which would involve the creation (through conversion) of four new dwellings (flats), with a development of five dwellings in total (the fifth dwelling being a refurbishment) in the Town Centre of Appleby. The former (Bank) business use had no parking provision of its own and relied on the existing public parking regime and/or other non-car born means of transport. The absence of suitable private parking

provision on site has been objected too by Cumbria County Council as the local Highways Authority.

- 8.3.4 However, given the mixed use nature of the existing use, the transitional nature of the location, and the character of the existing building, which will remain largely unaltered, bar what might be argued as the positive, albeit limited, re-instatement of former fenestration detail, it is considered that the development proposed will not unreasonably compromise either the functional operation of or the character setting of other existing nearby or adjacent town centre uses. Such as may be the case, and in ensuring the beneficial re-use of the building in question, the vitality of the Town Centre will continue to be positively maintained into the future.
- 8.3.5 The applicants, in contesting the above highway concern, also reasonably argue that the use proposed will only have the same traffic/highways impact as the existing mixed residential and office use, and should be seen therefore as Policy neutral”.

8.4 Promoting sustainable transport/Parking Provision

- 8.4.1 The issue of parking, or more specifically the absence of adequate parking provision, as a sustainable issue, is increasingly to the fore in terms of amenity and town centre developments. Individually the argument has been that towns and their existing parking provision could and can “absorb” additional on street parking resulting from new development without significant or unreasonable compromise to amenity or the practical “operation” of the existing highways network.
- 8.4.2 Noting then specifically the nature of the Highways objection, given the application sites sensitive and central location within the Town Centre and designated Conservation Area, the absence of such parking provision, as is argued to be required by the Highway Authority, could be considered contrary to the aims of the above relevant adopted Plan Policy in that the adverse impacts (lack of suitable parking provision) of the scheme as proposed would not be outweighed by the numerical benefits of the small numbers of new dwellings (4 flats) proposed.
- 8.4.3 The proposals however seek to preserve the character of the existing building, which is presently standing empty. Whilst the loss of the bank/office use itself is, to an albeit limited degree, a loss to the vitality of the streetscene, such an empty or underused building continuing to stand empty long term would also be equally as harmful, if not more so to the character of the area. Converting the ground and upper floors to provide flats does give this building overall a viable use and the best way of maintaining a prominent non-designated heritage assets such as this.
- 8.4.4 On balance of consideration and argument put therefore, and in noting the Highway Authority concern, it is considered that as both reasonable and adequate alternative parking provision exists in the vicinity, as does (in terms of character and amenity) the existence of other town centre flats in this mixed use and transitional area, that the development proposed is acceptable in terms of the aims of relevant adopted Plan Policy DEV3.

8.5 Flood Risk

- 8.5.1 The site as a whole, including the rear garden stretching down to the river Eden, is located in a designated 2/3 flood zone area. The main body of the site however, including the former bank premises and “Mews” element to the rear historically have and are likely to remain unaffected by such consideration.

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- 8.5.2 There are no contamination issues or risks identified with the site or the nature of the proposed residential conversion.

8.6 Built Environment

- 8.6.1 Local and National policy is clear that development should preserve or enhance conservation areas and designated heritage assets. Other than the sympathetic re-instatement of former window openings (in the north-west elevation) no additions or alterations are proposed to the exterior of the building. Essentially the scheme involves only a minor degree of intervention. The character of the building, as a designated heritage asset, particularly its external appearance, will be preserved.
- 8.6.2 The proposed development is considered to respect the heritage value of the surrounding Conservation Area and its conversion to a new residential use will provide the building with a viable long term use, preserving a non-designated heritage asset without detracting from its original form and function.
- 8.6.3 Notwithstanding that the office/bank conversion results in an increase in residential use within the building to five units overall (there being one in existence already), the development is unlikely to produce any significant or subtle detriment to neighbouring amenity, given the nature of the existing/previous ground floor use.
- 8.6.4 Other than the re-instating previous opening, no new openings are proposed and the development is considered to be not significantly harmful to the privacy or amenity of any other neighbouring dwellings/flats in the vicinity. The development, though numerically small will result in relatively high density housing, but this is reflective of the town centre environment and existing character. The extant use as a bank/office is arguably just as likely to have more of an impact on neighbouring amenity than the proposed dwelling and four additional flats.

8.7 Streetscene/Landscape Impact

- 8.7.1 The proposals seek to preserve the character of the existing building. Whilst the loss of the bank/office use itself is, to an albeit limited degree, a loss to the vitality of the streetscene, an empty or underused building continuing to stand empty would equally be harmful to the character of the area. Converting the ground and upper floors to provide flats, does give this building overall a viable use and the best way of maintaining a prominent non-designated heritage assets such as this in a mixed use area.
- 8.7.2 Local and National policy is clear that development should preserve or enhance conservation areas and designated heritage assets. Very limited additions and alterations are proposed to the exterior of the building, and essentially the scheme involves a minor degree of intervention. The character of the building, particularly its external appearance, particularly the principle elevation, will be preserved.
- 8.7.3 The proposed development is considered to respect the heritage value of the surrounding Conservation Area and its conversion to a marginally higher density residential use will provide the building with a viable long term use, preserving a non-designated heritage asset without detracting from its original form.
- 8.7.4 Notwithstanding that the bank/office conversion results in an increase in residential use within the main body of the building to four units, the development is unlikely to produce any significant or subtle detriment to neighbouring amenity, given the mixed commercial/residential nature of the area.

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- 8.7.5 Limited new openings are proposed and the development is considered to be not significantly harmful to the privacy or amenity of any other neighbouring dwellings/flats in the vicinity. The development, though numerically small will result in relatively high density housing, but this is reflective of the town centre environment and existing character. The extant use, particularly as a bank/office was and is arguably just as likely to have more of an impact on neighbouring amenity than the proposed four additional flats.
- 8.7.6 Therefore, for the reasons detailed above, the proposed development will not result in any adverse visual impacts upon the Built Environment and the relevant street scene, and offers some potential improvements in accordance with the aims of adopted Plan Policies DEV5 and ENV10.
- 8.7.7 The proposals seek to preserve the character of the existing building. Whilst the loss of the bank/office use itself is, to an albeit limited degree, a partial loss to the previously commercial nature and vitality of the streetscene, an empty or underused building continuing to stand empty would equally be harmful to the character of the mixed use area. Converting the ground and upper floors to provide residential flats does give this building overall a viable use and the best way of maintaining a prominent non-designated heritage assets such as this, as a residential use, in what is and will continue to be a mixed use streetscene. It is considered that the proposal will, in this location, be fundamentally policy neutral.

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 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 and Fundamental Freedoms 1950, as now embodied in UK law in the Human Rights Act 1998.

11. Conclusion

- 11.1 It is considered that the proposal on balance of consideration accords with the Development Plan for the following reasons which are not outweighed by material considerations:
- 11.2 The proposal will result in the loss of the existing use of the building as a bank/office but which will not diminish the amenity and appeal (especially in this transitional area) of the Appleby town centre. In addition this is also balanced by the preservation and effective re-use of a prominently placed designated heritage asset which will be given a viable new long term alternative residential use. The development will preserve the visual appeal of the site through retaining the building's characteristic form and features, with very limited but positive intervention into the external fabric of the building. The lack of parking for the proposed flats is a significant factor, but on balance it should not be the determining factor given the town centre location and the many other competing aims and concerns.
- 11.3 The scheme is, on balance and notwithstanding the concerns raised by the Highway Authority, therefore considered acceptable in planning terms by way of proposed residential use, scale, appearance, finished materials and is deemed satisfactory as regards its impact on neighbouring amenity. In the absence of any otherwise overriding material adverse impact otherwise the proposal is considered on balance to be in accordance with the NPPF and the Development Plan and for these reasons is recommended for approval subject to the conditions contained herein.

Oliver Shimell
Assistant Director Planning and Economic Development

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| Checked by or on behalf of the Monitoring Officer | ✓ |
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Background Papers: Planning File 19/0684