

**Eden District Council**

**Planning Committee Agenda**  
**Committee Date: 13 August 2020**

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<b>Item No</b>	<b>Application Details</b>	<b>Officer Recommendation</b>
<b>1</b>	<b>Planning Application No: 19/0908</b> Erection of 100% affordable housing development comprising of 76 residential dwellings Land at White Ox Farm, Inglewood Road, Penrith Riverside/Atkinson Building Contractors Ltd	Recommended to:  APPROVE Subject to Conditions
<b>2</b>	<b>Planning Application No: 20/0165</b> Proposed two storey extension to rear and front elevations, together with single storey extension to side, and new porch (as amended) 8 Frenchfield Way, Penrith Mr Martin Woodhall	Recommended to:  APPROVE Subject to Conditions

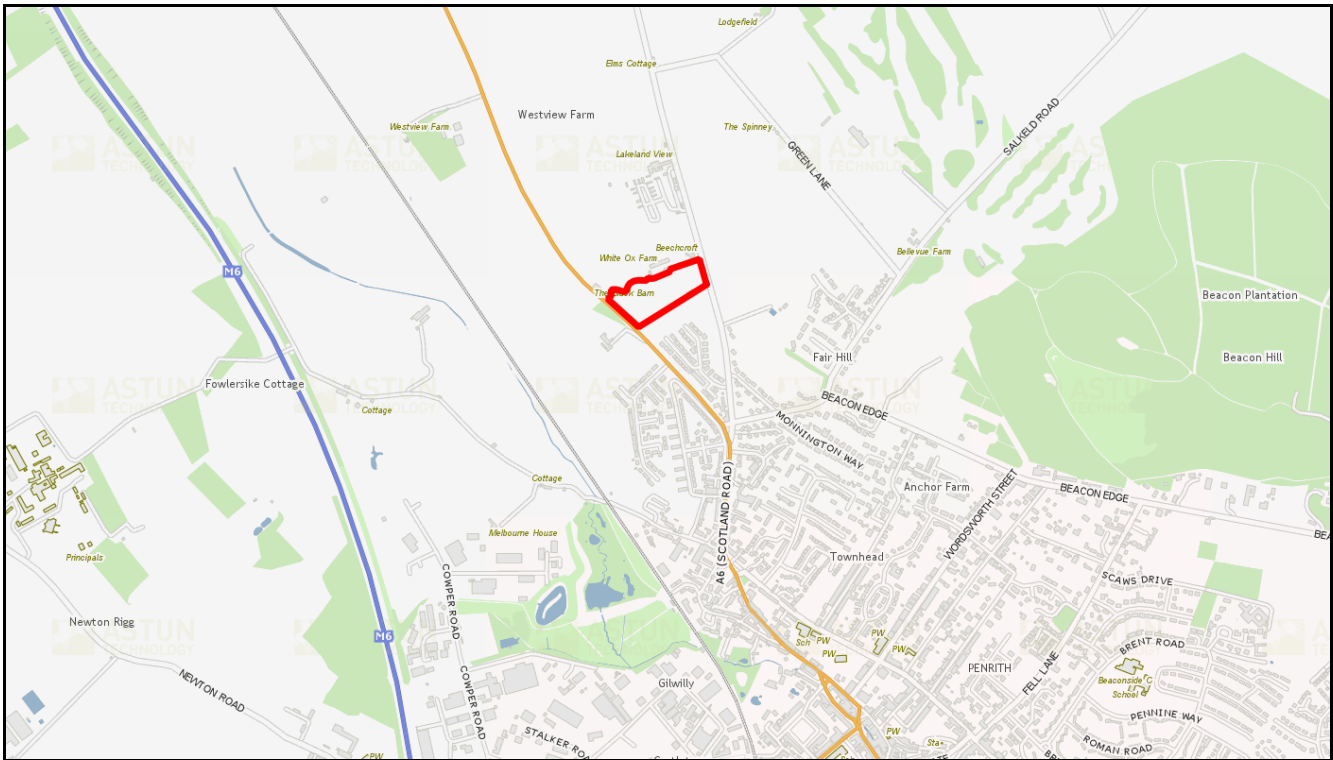
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**Agenda Item 1**  
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<b>Date of Committee:</b>	<b>13 August 2020</b>		
<b>Planning Application No:</b>	19/0908	<b>Date Received:</b>	19 December 2019
<b>OS Grid Ref:</b>	350892 531518	<b>Expiry Date:</b>	20 March 2020 extension of time agreed until 31 August 2020
<b>Parish:</b>	Penrith	<b>Ward:</b>	Penrith North
<b>Application Type:</b>	Full		
<b>Proposal:</b>	Erection of 100% affordable housing development comprising of 76 residential dwellings		
<b>Location:</b>	Land at White Ox Farm, Inglewood Road, Penrith		
<b>Applicant:</b>	Riverside/Atkinson Building Contractors Ltd		
<b>Agent:</b>	Atkinson Building Contractors Ltd		
<b>Case Officer:</b>	Mr Ian Irwin		
<b>Reason for Referral:</b>	The Local Education Authority object to the scheme		



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## **1. Recommendation**

That the application is granted subject to the completion of a s.106 legal agreement securing the following:

- a) 100% affordable housing;
- b) A scheme detailing the route, specifications and location of footpaths to link the site to the nearest existing footpaths shall be submitted, approved and constructed prior to the occupation of any of the hereby approved dwellings.

And 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.

### **Approved Plans**

2. The development hereby approved shall be undertaken in accordance with the application form dated 18 December 2019 and the following plans hereby approved:
  - Air Quality Assessment, ref. 8113.2, Rev. A, dated 24 February 2020;
  - Addition to Air Quality Assessment , ref. 8113.M1A, dated 4 May 2020;
  - Archaeological Desk Based Assessment and Geophysical Survey, dated December 2019;
  - Design and Access/Planning Statement, received 14 April 2020;
  - Phase 2 Ground Investigation Report, ref. 19-883, dated 14 January 2020;
  - House types ref. 18990, Rev. A, received 28 May 2020;
  - Hydrogeological and Hydrological Risk Assessment, ref. 19-883, dated 14 January 2020;
  - N2 Master Plan, received 14 April 2020;
  - Road Layout Plan, received 14 April 2020;
  - Site Layout Plan, Rev. B received 28 May 2020;
  - Transport Statement, ref. 854-TS, Rev. 4, dated 15 March 2020;
  - Travel Plan, ref. 854-TP, Rev. 2, dated 15 March 2020;
  - Charging Point Plan, Ref. 18990, Received 28 May 2020;
  - Existing Topographical Survey, Ref. 1119, Dwg No. 1, Rev. A, dated 26 June 2019;
  - Extended Phase 1 Habitat Survey, ref. ENVr1097, Rev. B, dated May 2020;
  - Location Plan, received 19 December 2019;
  - Noise Impact Assessment, ref. 8113.1, Rev. A, dated 21 February 2020;
  - Proposed Site Levels, ref. 1119, Dwg No. 05, Rev. F, dated 26 Jun 2019;
  - Percolation Test Results, submitted 14 July 2020;
  - Percolation Test Locations, submitted 14 July 2020;

- Site Drainage Layout, ref. D1342/SK02, Rev. H, dated 21 July 2020;
- Collected SW Area Plan, ref. D1342/SK06, dated July 2020;
- Soakaway Design Calcs Plots 35/36/Parkin, ref. SW 18A, dated 17 July 2020;
- Crate Soakaway Plots 1/2, ref. SW 10A, dated 16 July 2020.

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

**Before the development is commenced**

3. Prior to the commencement of the development hereby approved, an updated foul and surface water drainage scheme, including a maintenance plan shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and, no surface water shall discharge to the public sewerage system either directly or indirectly.

The drainage scheme submitted for approval shall also be in accordance with the principles set out in the Flood Risk Assessment and drainage plans dated 21 July 2020 proposing surface water discharging to the ground by means of infiltration. Once approved, the development shall be completed, maintained and managed in accordance with the approved details.

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

4. Prior to the commencement of the development, a hydrogeological risk assessment and mitigation strategy, demonstrating that the risks posed to groundwater from the development can be satisfactorily managed, shall be submitted to, and approved in writing by, the local planning authority.

The strategy shall identify all possible contaminant sources and pathways for the life of the development and provide details of measures required to mitigate any risks to groundwater and public water supply from the development.

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

**Reason:** To prevent pollution of groundwater and ensure there is no contamination to public water supply.

5. Prior to the commencement of the development, a Construction Management Plan (CEMP), for construction of the proposed development, shall be submitted to and approved by the Local Planning Authority in writing. The statement shall outline the potential impacts and mitigation measures from all construction activities to prevent pollution of groundwater and public water supply and to protect the integrity of existing utility assets. The development shall then be undertaken in accordance at all times with the approved Construction Management Plan (CEMP).

**Reason:** To promote sustainable development, to manage the risk of pollution, and to protect the public water supply and the groundwater environment.

6. No development shall commence within the site until the applicant has secured

the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority.

This written scheme will include the following components:

- i) An archaeological evaluation;
- ii) An archaeological recording programme the scope of which will be dependent upon the results of the evaluation;
- iii) Where significant archaeological remains are revealed by the programme of archaeological work, there shall be carried out within one year of the completion of that programme on site including a post-excavation assessment and analysis, preparation of a site archive ready for deposition at a store approved by the LPA, completion of an archive report, and submission of the results for publication in a suitable journal shall also be completed.

**Reason:** To afford reasonable opportunity for an examination to be made to determine the existence of any remains of archaeological interest within the site and for the preservation, examination or recording of such remains.

7. Prior to the commencement of the development of any of the hereby approved dwellings, samples of external finishes for walls, roofs, windows, doors and hard surfaces shall be submitted to the Local Planning Authority for written approval. Once approved, these materials shall be utilised in the construction of the site.

**Reason:** In the interests of the character and amenity of the area.

8. Prior to the commencement of the development, a scheme of hard and soft landscape planting shall be submitted to and approved in writing. The scheme shall include appropriate aftercare and management plans. Thereafter, the development shall be undertaken in accordance with the approved scheme, with all planting undertaken within the first available planting season. Any trees or other plants which die or are removed within the first five years following the implementation of the approved scheme shall be replaced during the next planting season.

**Reason:** To protect the character and visual amenity of the area.

9. No development shall commence until details of an Arboricultural Impact Assessment, Tree Protection Plan and Arboricultural Method Statement are submitted to the Local Planning Authority for written approval. Once approved, these plans shall be adhered to at all times. Tree protection measures for those trees identified as T4, T9, T10 and T11 within the Addendum to Tree Survey Report (Open space, 2016a) dated 3 March 2020 shall form part of the details to be submitted.

**Reason:** In the interests of the amenity and ecology of the area.

10. The carriageway, footways, footpaths, cycle ways 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.

11. Development shall not commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority. The CTMP shall include details of:

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

Once approved the Construction Traffic Management Plan shall be adhered to for the duration of the development.

**Reason:** To ensure the undertaking of the development does not adversely impact upon the fabric or operation of the local highway network and in the interests of highway and pedestrian safety.

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

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

13. Prior to the commencement of the development, Works identified in the Remediation Strategy submitted with the application (Titled *Remediation Strategy and Validation Sheets*) shall be undertaken in accordance with the scheme in that report. The Remediation works shall ensure that the site will not qualify as contaminated land as defined by extant legislation. The developer shall also give at least 14 days' notice to the Local Planning Authority prior to these remedial works being commenced.

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

**Prior to Occupation**

14. No dwellings shall be occupied until the estate road including footways and



cycle ways to serve such dwellings has been constructed in all respects to base course level and street lighting where it is to form part of the estate road has been provided and brought into full operational use.

**Reason:** In the interests of highway safety.

15. Prior to the occupation of any of the hereby approved dwellings details and Upon completion of the remediation works required by condition 12 above 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:** In the interests of the amenity of the area and to ensure any risk of pollution is mitigated.

16. Prior to occupation of any of the hereby approved dwellings, details of the location, specification and routes of all footpaths to link the site to the nearest existing footpaths shall be submitted to, approved in writing, constructed and completed for use. Once approved, the details shall be implemented in full.

**Reason:** In the interests of pedestrian safety.

#### **Ongoing conditions**

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. Construction works shall be carried out only between 0800 – 1800 hours Mondays – Fridays;

0900 – 1300 hours on Saturdays and there shall be no activity on Sundays and Bank Holidays.

**Reason:** To safeguard the amenity of residents living nearby.

19. 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.

20. The vehicular crossing over the footway, including the lowering of kerbs, 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.

21. There shall be no vehicular access to or egress from the site other than via the approved access, unless otherwise agreed by the Local Planning Authority.

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

22. If during the works new areas of contamination are discovered, which have not

previously been identified, then the additional contamination shall be re-assessed and a report submitted to the local planning authority describing the nature, extent and method of dealing with such contamination. Once approved, that report and its content shall be adhered to throughout the construction period of the scheme.

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

#### **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 are in place prior to the commencement of development.

#### **Informatives**

1. Separate approval for the works hereby granted permission/consent may be required by the Building Act 1984 and the Building Regulations 2000 (as amended), and the grant of planning permission does not imply that such approval will be given. The Council's Building Control Team should be consulted before works commence. You contact the team directly at [building.control@eden.gov.uk](mailto:building.control@eden.gov.uk)
2. If the applicant intends to offer wastewater assets forward for adoption by United Utilities, the proposed detailed design will be subject to a technical appraisal by an Adoptions Engineer as we need to be sure that the proposal meets the requirements of Sewers for Adoption and United Utilities' Asset Standards. The detailed layout should be prepared with consideration of what is necessary to secure a development to an adoptable standard. This is important as drainage design can be a key determining factor of site levels and layout. The proposed design should give consideration to long term operability and give United Utilities a cost effective proposal for the life of the assets. Therefore, should this application be approved and the applicant wishes to progress a Section 104 agreement, we strongly recommend that no construction commences until the detailed drainage design, submitted as part of the Section 104 agreement, has been assessed and accepted in writing by United Utilities. Any works carried out prior to the technical assessment being approved is done entirely at the developers own risk and could be subject to change.
3. Water mains may need extending to serve any development on this site and the applicant may be required to pay a contribution. 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](mailto:DeveloperServicesWater@uuplc.co.uk)

Please note, all internal pipework must comply with current Water Supply (water fittings) Regulations 1999.

4. 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.
5. For advice regarding protection of United Utilities assets, the applicant should contact the teams as follows:  
  
Water assets – [DeveloperServicesWater@uuplc.co.uk](mailto:DeveloperServicesWater@uuplc.co.uk)  
Wastewater assets – [WastewaterDeveloperServices@uuplc.co.uk](mailto:WastewaterDeveloperServices@uuplc.co.uk)  
  
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.
6. 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/>  
  
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>
7. The application through the masterplan indicate that the following element would be provided:
  - Footway link from the access on Inglewood Road to the existing footway network.
  - Footway link along the A6 to the existing footway network which runs between the A6 and White Ox Way.
  - A Toucan Crossing point on the A6.

These elements are well received and would need to be provided through a section 278 agreement that compliments the existing 278 with Persimmon Holmes developing on the other side of the A6.

## **2. Proposal and Site Description**

### **2.1 Proposal**

- 2.1.1 The proposal seeks full planning permission for a residential development at White Ox Farm, Penrith. The applicant has confirmed that their proposal would involve the construction of 76 dwellings which would all be affordable units. The applicant confirms the site covers a total of 2.18 hectares.

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- 2.1.2 The application details confirm that the composition of the dwellings proposed would be made up of the following:
- Rented – x 21 two bedroom properties, x 14 three bedroom properties.
  - Shared Ownership – x 12 two bedroom properties, x 24 three bedroom properties and x 5 four bedroom properties.
- 2.1.3 Properties are proposed to be constructed of a mixture of brick and render under grey concrete tile roofs with white uPVC windows, doors and black rainwater goods. The properties proposed would have a gross internal floor area of 73 metres sq. (for two bedroom properties), 85 metres sq. (for three bedroom properties) and 150 metres sq. (for 4 bedroom properties).
- 2.1.4 A single access for vehicles is proposed from Inglewood Road. Pedestrian access is proposed to be also off Inglewood Road and the A6.
- 2.1.5 The applicant has submitted a Masterplan (in order to comply with extant Local Plan policy) which also indicates that the remaining element of the allocated 'N2' site to the north, would feature a footpath/cycleway between the developed areas on the site.
- 2.1.6 Updated documents and newly submitted plans/documents now comprise the following in support of the application;
- Archaeology report;
  - Design, Access and Planning Statement;
  - Flood Risk Assessment Drainage Strategy;
  - Ground Investigation Report;
  - Hydrological, Hydrogeological Risk Assessment;
  - Masterplan;
  - House types plans;
  - Site Layout;
  - Road Layout;
  - Transport Statement;
  - Travel Plan;
  - Landscape Plan;
  - Drainage Plan;
  - Air Quality Report;
  - Phase 1 Habitat Survey;
  - Noise Assessment.

**2.2 Site Description**

- 2.2.1 The application site is currently agricultural land and is located adjacent to further agricultural land to the south-south-east and beyond to White Ox Way, an existing residential development approximately 67 metres from the nearest site boundary. Immediately to the north is White Ox Farm and a further property named 'Beechcroft'. To the west and immediately adjacent to the site is a further property known as the 'Black Barn'. This particular property benefits from an extant planning permission (ref.

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04/0575) and permits an industrial use upon it. This use appears to relate to metal fabrication. The site slopes significantly to the west-south-west from the east-north-east and given this slope, the site commands an elevated position, particularly on its eastern flank, giving fine views of the town of Penrith and beyond.

- 2.2.2 Further to the west is the A6 which is adjacent to the western part of the site whilst to the east is Inglewood Road. Beyond the A6 and further to the west is the railway line and the M6. The site is classed as Grade 3 agricultural land and is bound by stone walls, mature trees and agricultural fencing. The site is confirmed to be located within Environment Agency designated Groundwater Source Protection Zones 1 and 2 and would be approximately 200 metres from a United Utilities borehole.
- 2.2.3 The applicants Design and Access statement refers to an incorrect planning permission (ref. 16/1079) which granted Planning Permission for 51 dwellings. The actual permission is ref. 16/1029. However, the applicant is quite correct in that a permission was granted by Planning Committee for said development in 2017. That permission was granted for outline planning permission. No reserved matters application has, to date, been submitted in relation to that specific proposal.
- 2.2.4 The aforementioned application was brought before Planning Committee with a report which stated that *'two thirds of the site is currently allocated'* as it was in the then emerging Local Plan. It remains within the Eden Local Plan for housing development (referenced 'N2') and is allocated to provide 54 residential dwellings.
- 2.2.5 The site is not subject to any formal ecological, historical or environmental designations and is located in a Flood Zone 1, being land at lower risk/vulnerability of flooding.

### 3. Consultees

- 3.1 The application was subject to two consultation periods. The first included letters/e-mails issued on the 23 December 2019. The second took place on the 15 April 2020. A second consultation period was undertaken due to a significant amount of updated and additional information provided by the applicant in support of the proposal.

#### 3.2 Consultees

Consultee	Response
Cumbria County Council -Local Highway Authority	<p>Responded on the 27 January 2020 and confirmed that the following in terms of Highways was required:</p> <ul style="list-style-type: none"> <li>• <i>2m wide footway required on both sides of main spine road, with dropped kerbs at appropriate points for NMUs;</i></li> <li>• <i>There are driveway accessing straight out at junctions/on radii – plots 46,47,62,61 – which is not acceptable;</i></li> <li>• <i>Main spine road to be 5.5m wide as serving over 50 dwellings.(Scales at 4.8m);</i></li> <li>• <i>81 plots but only one access</i></li> <li>• <i>There appears to be no footway/cycling connectivity into Penrith (Inglewood Road and A6)? Details required to show proposed footway links to existing network. These works will require S278 agreements to be entered into and may also require road lighting (presume lighting team will comment in that respect). Possibly Network team will ask for the Inglewood Road footways to be widened to 2m as part of this</i></li> </ul>

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	<p><i>application, but possibly not as appears to be a social housing site?</i></p> <ul style="list-style-type: none"> <li><i>• 6m radius onto Inglewood Road at new junction;</i></li> <li><i>• No traffic calming is apparent on the layout;</i></li> <li><i>• The site looks to have a steep slope– maximum gradient is 1 in 10, with a max. of 1 in 20 for 15m at the main junction;</i></li> <li><i>• 2m service strip or 0.5m overhang strip required around all shared surface roads;</i></li> <li><i>• Unclear if there are to be any highway retaining structures (slope of site);</i></li> <li><i>• Usual detail lacking but presume this will follow for review as application progresses (lighting, highway drainage, construction details, long-sections etc);</i></li> <li><i>• Unclear where the drainage will outfall; if it is proposed to connect into the existing UU network (as is suggested) the applicant will require Streetworks permits for each connection;</i></li> <li><i>• Are the visitor parking spaces proposed on the highway? There's very little space for visitors to park due to high volume of driveways, leaving any possible on street parking at less than ideal areas – near junctions, on bends.</i></li> </ul> <p>The applicant considered this and subsequently provided additional information which was also then reviewed by the Local Highway Authority. On the 24 July 2020 they confirmed that the scheme continued to lack certain information however, they confirmed that if conditions were imposed on any subsequent grant of permission, the County Council as Local Highway Authority would have no objection to the proposal.</p>
Lead Local Flood Authority	<p>Responded on the 27 January 2020 and confirmed that the following additional information would be required:</p> <p><i>'Cumbria County Council as Lead Local Flood Authority have assessed the details supplied within the application. An application of this size would require more detailed investigation and a Flood Risk Assessment (FRA) AND Drainage Strategy. The current application is for 81 Affordable residential units. The FRA should look at the use of Sustainable Urban Drainage (SUDs) techniques being utilised across the site and the need to deal with Rain water/surface water close to its source by means of infiltration techniques and potential attenuated of any discharge of surface water to Greenfield Runoff Rates prior to any discharge to offsite drainage infrastructure, and designed to accommodate 40% for climate change and 10% for potential urban creep. The applicant has indicated in the Design and Access statement that they intend to provide the following:</i></p> <p><i>Foul and Surface water drainage Plan/strategy</i></p> <p><i>Hydrogeological Risk Assessment</i></p> <p><i>And that discussion have been made with representatives of United Utilities looking to utilise their network with the aim of</i></p>

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	<p><i>discharging surface water from the development, CCC would not be in a position to support the proposal until the applicant has demonstrated that other means of dealing with the surface water from the development cannot be achieved such as infiltration. The design provided as drawing No: 101 lacks in the detail required at this stage of application.</i></p> <p><i>Cumbria County Council as lead Local Flood Authority awaits the further details with regards to detailed and invasive site investigations which should include Trial pits and infiltration tests which should be undertaken to BRE365.</i></p> <p><i>It is appreciated that the site is at a steep gradient towards the A6 and as such the applicant would need to undertake detailed investigation looking at ground stability associated with either attenuation or infiltration techniques.</i></p> <p><i>At this stage CCC as LLFA would not be in position to support the application as there is insufficient detail to assess the potential flood risk associated with the development’.</i></p> <p><i>The applicant considered this and subsequently provided additional information which was also then reviewed by the Lead Local Flood Authority. On the 24 July 2020 they confirmed the following ‘The applicant has now provided an amended Flood Risk Assessment (FRA). We have plans for proposed development site drainage (Drawing No D1342/SK02 Rev H).</i></p> <p><i>The FRA and updated plans look to the use of Sustainable Urban Drainage (SUDs) techniques being utilised across the site and the need to deal with Rain water/surface water close to its source by means of infiltration techniques, the network will be designed to accommodate 40% for climate change and 10% for potential urban creep. The updated invasive ground investigation which has been carried out to BRE365 standards has indicated positive results and the update designs indicate the utilisation of more infiltration techniques across the site.</i></p> <p><i>CCC as Lead Local Flood Authority still has concerns over capacity of the offsite drainage system to take any additional drainage from the development, given that there is to be additional use of the existing system with the expansion of White Ox Way with a further 25 houses. The utilisation of infiltration techniques across the proposed development site will remove the requirement to utilise the offsite drainage networks.</i></p> <p><i>At this stage CCC as LLFA would now be in position to support the full planning application as further detail has been provided which demonstrate that the application site has a means to deal with surface water generated by the impermeable surfaces.</i></p> <p><i>Taking into account the demonstration and investigation which has been undertaken so far CCC as LLFA would request the inclusion of the following pre-commencement planning condition be included in any decision the planning authority may consider granting’.</i></p> <p><i>On the basis of such a condition being included on any potential,</i></p>
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	subsequent approval of the scheme, the County Council as Lead Local Flood Authority would have no objection to the scheme.
Cumbria County Council – Education	<p>On the 23 April 2020 a Primary School contribution of £200,004 was requested to be secured by s.106 agreement in association with this development. The applicant engaged with the County Council to suggest that if such a requirement was retained, the delivery of the scheme would be unviable. As such, further discussions were undertaken and the submission of viability information supplied for the County Council to consider.</p> <p>On the 16 June 2020 the County Council confirmed that they had considered the viability information supplied by the applicant. The response confirmed that, <i>'In conclusion having reviewed the viability of this scheme it is considered that the case has not been sufficiently made for waive the requirement for the calculated education contribution for reasons of scheme viability. Furthermore, the provision of a greater proportion of affordable housing on a specific site through public sector subsidy (Homes England grant) / RP business model is not evidence in itself of problematic site viability'</i>.</p> <p>On the 24 July 2020 the County Council confirmed that they object to the scheme unless the requested contribution is made by the applicant and secured by s.106 legal agreement.</p>
Environment Agency	<p>Responded on the 20 March 2020 and confirmed that the 'proposed development will be acceptable if the following measure(s) are implemented and secured by way of a planning condition on any planning permission'.</p> <p>The condition requested was, <i>'The development hereby permitted shall not be commenced until such time as a scheme to dispose of foul drainage and surface water has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved'</i>.</p> <p>Also responded on the 30 April 2020 and confirmed that they had no comments to make on the amended plans other than the requested condition from the 20 March 2020 referred to above.</p>
Natural England	<p>Responded on the 16 April 2020 and confirmed that they had no comments to make upon the application. The response confirmed that <i>'Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice'</i>. The response further confirmed that, <i>'Natural England and the Forestry Commission have also published standing advice on ancient woodland and veteran trees which you can use to assess any impacts on ancient woodland. The lack of comment from Natural England does not imply that there are no impacts on the natural environment, but only that the application is not likely to result in significant impacts on statutory designated nature conservation sites or landscapes. It is for the local planning authority to determine whether or not this application is consistent</i></p>



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	<i>with national and local policies on the natural environment’.</i>
United Utilities	<p>Responded on the 16 January 2020 and confirmed that, ‘I have had a look through the documentation on line for this application and despite me having an informal pre-application discussion with Richard Thorburn from Atkinson Building Contractors, I am very disappointed to see that Atkinson’s have not submitted a groundwater risk assessment and mitigation strategy in support of their planning application, and there is no flood risk and drainage strategy either. Reading the Design and Access Statement, I see that these are both documents to follow.</p> <p>We would need both of these documents in order to review the application and provide a consultation response. I would be grateful if you could let me know when Atkinson’s expect to be able to provide these documents – and we would be grateful if you could consult us when these are available’.</p> <p>Following this response, the applicant provided additional information. United Utilities provided what they called an ‘interim response’ on the 11 February 2020. It confirmed the following: ‘United Utilities Water Limited (‘United Utilities’) wishes to provide the following comments.</p> <p><b>Groundwater Protection</b></p> <p>The proposed development is located within Environment Agency designated Groundwater Source Protection Zones 1 (SPZ1) and 2 (SPZ2). In this case the proposal is approximately 200m from United Utilities boreholes and an existing water treatment works. These boreholes are a primary source for providing public water supply and represent a key infrastructure resource. They feed over 7,000 residential properties. The water quality from the Penrith Sandstone aquifer, from which the boreholes abstract their water, is excellent and as such, only minimal water treatment is required before supply to our customers. As you will appreciate, the safeguarding of the quality of this water supply is critical to United Utilities.</p> <p>We draw your attention to the advice in The Environment Agency’s Approach to Groundwater Protection March 2017, available at:  <a href="https://www.gov.uk/government/collections/groundwaterprotection">https://www.gov.uk/government/collections/groundwaterprotection</a></p> <p>Residential development in a source protection zone (in particular SPZ1) could pose a threat to groundwater quality if mitigation measures are not included and therefore the conditions which we recommend are very important.</p> <p>Environment Agency Position Statement N7 ‘Hydrogeological Risk Assessment’ within section N ‘Groundwater resources’ of this document states that:</p> <p>‘Developers proposing schemes that present a hazard to groundwater resources, quality or abstractions must provide an acceptable hydrogeological risk assessment (HRA) to the Environment Agency and the planning authority. Any activities that can adversely affect groundwater must be considered, including</p>

*physical disturbance of the aquifer. If the HRA identifies unacceptable risks then the developer must provide appropriate mitigation. If this is not done or is not possible the Environment Agency will recommend that the planning permission is conditioned, or it will object to the proposal.'*

***United Utilities has reviewed the Hydrological and Hydrogeological Risk Assessment dated 14 January and require further assessment of risk and mitigation before we can confirm acceptance with the proposals and recommend necessary conditions.***

*Mitigation measures will need to be considered in more detail as part of any development proposal that may be granted planning permission. Specifically, it is necessary to consider appropriate protection measures in the design of the foul and surface water drainage schemes, such as the clay lining of trench excavations. In accordance with Position Statement G8 Sewerage Pipework of the aforementioned document, we will require the use of the highest specification pipework and designs for schemes involving new sewerage systems in SPZ1, to minimise leakage.*

*In the usual way, we will expect the site to be drained on a separate system, with only foul drainage connected by gravity into the foul sewer.*

*Land drainage or subsoil drainage water must not be connected into the public sewer system directly or by way of private drainage pipes. It is the developer's responsibility to provide adequate land drainage without recourse to the use of the public sewer system.*

***We suspect there is potential for land or groundwater contamination to be present on-site. We strongly recommend the Environment Agency is consulted on this development, with regards to the risks to "controlled waters" – groundwater and surface waters.***

#### ***Drainage***

*No flood Risk Assessment and Drainage Strategy has been submitted in support of the proposed development, however the applicant has stated a preference to enter into discussions with United Utilities regarding the preferred drainage design to ensure adequate groundwater protection. We will provide a further response on matters concerning drainage, including our recommendations for conditions, following these discussions'.*

*On the 8 June 2020 United Utilities confirmed that 'The proposed development is located within Environment Agency designated Groundwater Source Protection Zones 1 (SPZ1) and 2 (SPZ2). In this case the proposal is approximately 200m from United Utilities boreholes and an existing water treatment works. These boreholes are a primary source for providing public water supply and represent a key infrastructure resource. They feed over 7,000 residential properties. The water quality from the Penrith Sandstone aquifer, from which the boreholes abstract their water, is excellent and as such, only minimal water treatment is required*

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	<p><i>before supply to our customers. As you will appreciate, the safeguarding of the quality of this water supply is critical to United Utilities.</i></p> <p><b><i>United Utilities has reviewed the Hydrological and Hydrogeological Risk Assessment dated 14 January and require further assessment of risk and mitigation before we can confirm acceptance with the proposals.</i></b></p> <p><i>The Hydrogeological Risk Assessment must show the following additional information:</i></p> <ul style="list-style-type: none"> <li><i>- An assessment of the risks to groundwater from the proposed development;</i></li> <li><i>- A Geological Conceptual Site Model for the site, showing the pathway to the aquifer Groundwater Protection Zones, across the site; and</i></li> <li><i>- A Desk Study and Ground Investigation reports for the site, supporting the CSM including shallow groundwater depths and chemical analysis.</i></li> </ul> <p><i>Specifically, it is necessary to consider the risks and appropriate protection measures in the design of the foul as well surface water drainage schemes, such as the clay lining of trench excavations. The Hydrological and Hydrogeological Risk Assessment must also be consistent with the Foul and Surface Water Drainage Scheme for the proposed development. In the usual way, we will expect the site to be drained on a separate system, with only foul drainage connected by gravity into the foul sewer.</i></p> <p><i>On the basis of the above, together with recent correspondence with the applicant, we recommend the following conditions’.</i></p> <p><i>The conditions requested relate to Hydrogeological Risk Assessment, Construction Management Plan and drainage.</i></p>
Environmental Health – Noise	<p>On the 10 March 2020 the Environmental Health Officer (EHO) confirmed that,</p> <ol style="list-style-type: none"> <li>1. <i>‘The noise assessment has not taken into account the nearby industrial site. Whilst this was assessed in the 2017 report, the site has not been assessed for any change.</i></li> <li>2. <i>The noise levels have not been assessed with a 15 year forecast. We need to know that that the site is protected for a potential increase in traffic noise 15 years ahead.</i></li> <li>3. <i>The noise report (Pg 11) states that “the site layout has been revised to relocate gardens in the worst affected dwellings to face towards the centre of the site, such that the dwellings themselves will act as barriers to noise”. However, the attached plan shows the gardens in the worst affected areas are not facing the centre of the site (Plots 66-79 and Plots 1-8). Please can the noise consultant confirm that they are aware of this plan, and if so explain why the gardens are not being protected?</i></li> <li>4. <i>Plots 66-79 and Plots 1-8 rely on closed windows to meet internal standards, and therefore will require mechanical</i></li> </ol>

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	<p>ventilation. The noise report outlines how noise standards have been achieved by following a good acoustic design process. However, it has not been clearly considered how the internal layout of the rooms/ and the choice of housing design will be used to achieve internal noise measurements. For example, by ensuring the habitable rooms are facing the centre of the site as much as possible. The attached plan indicates the 3 or 4 bedroom properties will be located on the most affected part of the site, where noise limits can only be achieved with closed windows. I would expect a good acoustic design to consider houses where habitable rooms can be located facing the centre of the site as far as possible.</p> <p>5. It would be helpful to have noise data outlined that indicates the noise levels at ground floor level and first floor level.</p> <p>The site was previously assessed for Eden District Council in 2016 by the same consultants in the Noise Impact Assessment for Site N2. This report identified that the South West part of the site, Plots 66-79 fall into category C at night time, particularly at first floor level, and even more so in 2030. Category C is defined as having a Significant Observed Adverse Effect, with the recommended action being Avoid, in terms of development. Previous planning application 16/1029 was for 51 dwellings. There is a concern that houses are being developed in parts of the site which recommended Avoid’.</p> <p>Further, protracted discussions were then carried out between the Environmental Health Officer and the applicant.</p> <p>On the 18 June 2020 the EHO confirmed that they still required further information to be provided in relation to noise. The response stated:</p> <p>1. I understand the internal layout of the properties has been adapted so that there is a maximum of one bedroom per affected plot facing the noise. The previous application (16/1029) for 51 properties did not rely on closed windows to meet noise levels. By increasing the number of houses, the acoustic design of the properties has been compromised.</p> <p>The site was previously assessed for Eden District Council in 2016 by the same consultants in the Noise Impact Assessment for Site N2. This report identified that the South West part of the site, Plots 66-79, fall into category C at night time, particularly at first floor level. More of the site is affected in 2030. Category C is defined as having a Significant Observed Adverse Effect, with the recommended action being Avoid, in terms of development. There is a concern that houses are being developed in parts of the site where independent noise consultants recommended Avoid. This concern has been pointed out by us throughout the process.</p> <p>Our view is that if houses are going to be developed on areas that have been assessed as ‘Avoid’ in terms of development, then houses should only be developed there, if they do not rely on</p>
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	<p>closed windows to meet the required noise standards. This can be potentially be achieved by adapting internal layouts.</p> <p>We have concerns that if development goes ahead in areas that have been assessed as 'Avoid', by building properties which rely on closed windows, then this sets a precedent for future plots. Which raises the question why did Eden District Council have the areas assessed for noise if recommendations are going to be ignored?</p> <p>We understand Eden has already met its 5 year allocation for residential properties, so the Council cannot rely on this for recommending approval for a scheme that fails to protect people's health and provide good acoustic design.</p> <p>On this issue alone, if this cannot be addressed then we would recommend refusal.</p> <p>2. The increase in properties has resulted in properties which have a significantly lesser standard of acoustic design, having to rely on closed windows to meet the good quality living standards for noise. This can be avoided by properties that are better designed. However, increasing the number of properties has been prioritised over a good acoustic design in our view, where it is not necessary. The previous application (16/1029) showed that a good acoustic design is achievable on this site. Again, Penrith is not under a serious housing shortage and therefore the increase in properties, at the cost of a good acoustic design is not appropriate.</p> <p>On this issue we would recommend refusal</p> <p>3. The previous outline permission (16/1029), planning Condition 16 set a maximum noise level for the garden spaces of 50dB LAeq, 16 hour. The current applicant appears to have ignored this condition (No 16) entirely and only talks about a level of 55dB being required. The previous application had a maximum noise level for the garden spaces of 50dB LAeq, 16 hour. Due to the increase in houses this has compromised the standard of amenity space.</p> <p>We would have expected you to have already picked this up as a reason for refusal.</p> <p>4. Our comments to assess the potential 24 hour use from "Black Barn" industrial unit are not unreasonable. We advised from the start that this needed to be assessed sufficiently to ensure proposed developments were designed to take into account potential noise. In our view, the assessment needs to have regard to the fact that this unit could intensify and change current hours of operation which are currently unrestricted. We have used this requirement for other planning applications sites where development have been located close to an industrial site Again, The NPPF states that businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they</p>
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	<p><i>were established. It is therefore our role to ensure the site has been sufficiently assessed.</i></p> <p>5. <i>Our other requirements to consider maximum noise level caused by the additional traffic from these other developments and to validate the results against CRTN are not unreasonable'.</i></p> <p>The applicant provided a response and the EHO considered this when compiling their final response. The applicants contend that they have already provided enough information to alleviate the concerns of the EHO. However, on the basis of the previous response, it is considered that the EHO objects to the proposal. It is noted that the applicant has provided further, additional information but there has not been opportunity for the EHO to review and respond in time for this report. It is considered that a verbal update would be provided to Members, if such was received in time for the meeting.</p>
Environmental Health – Air Quality	<p>On the 7 January 2020 the Environmental Health Officer (EHO) confirmed that an air quality assessment was required to be submitted in support of the scheme.</p> <p>The applicant produced an assessment for air quality and this was reviewed by the EHO. On the 12 March 2020 they confirmed that</p> <p>1. <i>'The report has only assessed a small area of Penrith NGR: 350370,530670 to 351500,531800.</i></p> <p><i>The assessment, as well as demonstrating that the local air quality of the development site is suitable for the proposed residential properties must also consider the predicted impact of the centre of Penrith. 81 additional houses will bring with them additional car journeys to access the services (schools, supermarkets, shops, healthcare etc) within the town centre. Traffic tends to follow the one way route in moving about Penrith. Some years ago it was highlighted that a couple of roads in Penrith, Victoria Road and Castlegate were at the national air quality standard limit for nitrogen dioxide. The air pollutant is directly linked with traffic numbers. It is now widely accepted that air quality is a major influence on public health. Whilst we have not currently declared any AQMAs the Council continues to monitor and report to Defra, the air quality along those stretches of road.</i></p> <p><i>We therefore require the impact on the main roads of Penrith to be assessed.</i></p> <p>2. <i>The report has not given a 15 year forecast on air quality. This would need to consider the Eden District Council's Local Plan which between the period 2014 – 2032, Penrith is expected to deliver a minimum of 2,178 new homes. Some of these sites are close to the proposed development. All of these sites will have an impact on the town centre in terms of traffic and associated air quality.</i></p> <p>3. <i>The site is downwind of the Westcoast Main Railway Line and Penrith Industrial estate. It is also downwind of the A1 Permitted Processed (Environment Agency regulated)</i></p>

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	<p><i>Omega Proteins which is a rendering site. For information, the emissions for Omega Proteins are not included on the Defra background maps. The site has two large thermal oxidisers, a standby incinerator and other pieces of kit that have the ability to influence air quality. We require this to be taken into account in the assessment'</i></p> <p>Further, protracted discussions were then carried out between the Environmental Health Officer and the applicant.</p> <p>On the 18 June 2020 the EHO confirmed that <i>'we are satisfied with the comments regarding air quality'</i>.</p>
Environmental Health – Contaminated Land	<p>Responded on the 8 January 2020 and confirmed that it was recognised that in support of a previous application a Phase 1 desktop assessment had been completed in relation to ground contamination. It was recommended that intrusive investigations be carried out prior to any grant of planning permission.</p> <p>The applicant produced further detailed land assessments and on the 4 March 2020 the Environmental Health Officer confirmed that the information supplied was acceptable and that conditions related to works for remediation be attached to any subsequent grant of planning permission.</p> <p>A further response was received on the 23 April 2020 confirmed no further comments in relation to contaminated land.</p>
Policy	<p>Were consulted on the 15 April 2020. No response has been received.</p>
Historic Environment	<p>Responded on the 6 January 2020 and confirmed that records indicate that the site is in an area of archaeological potential. As such, it was recommended that a condition requiring an implementation of a programme of archaeological works in accordance with a written scheme of investigation be attached to any subsequent approval. A further response, received on the 20 April 2020 reiterated this condition be imposed on any subsequent grant of planning permission.</p>
Housing	<p>Initially responded on the 27 January 2020 and confirmed that, <i>'I note the proposed application is for a 100% affordable scheme and is therefore in excess of the required 30% affordable housing threshold required in accordance with Local Plan Policy HS1. Analysis of affordable housing need within the District Wide Housing Needs Study (DWHNS) 2018 establishes there is an imbalance of 264 affordable dwellings each year across the district. As the districts 'Main Town', Penrith is considered a sustainable location for affordable housing and an area of particularly high need.</i></p> <p><i>This needs evidence is further supported by live data from Cumbria Choice Based Lettings which reports there are circa 540 active applicants in affordable need who have listed Penrith as their first choice preference to live. In terms of property size required, the majority of applicants have selected a preference for 2 and 3 bed units however there is noticeable demand for a</i></p>

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smaller number of 4 bed units. With regards to property type the majority of this demand is for houses, however there is also a significant demand (from 33% of applicants) for a bungalow or ground floor flat, possibly reflective of the fact 31% of the 540 applicants are aged 51 or over.

The proposed development offers 40 rented units and 41 shared ownership units; based on the above needs data and from a housing needs perspective we welcome the proposed affordable housing offer in helping to meet an identified need, however there are important aspects of the proposed scheme for which we have concern, and that will require addressing before we are able to support the scheme.

*Housing Type and Mix*

I note the application is accompanied by a supporting statement from a Registered Provider, from which it is evident the applicant has worked in partnership from an early stage with the aim of ensuring appropriate size, type and tenure of the affordable units. This approach is commended and I am satisfied from the evidence of housing need demonstrated within the supporting statement that the proposed tenure mix is acceptable, subject to an Agreement being entered into to ensure any funds recouped from staircasing the shared ownership units be ring-fenced to remain and be reinvested within Eden District.

However, I would stress that the scheme as proposed fails to include the provision of any bungalow or level-access accommodation for which there is a known need, and on a scheme of this size and nature we would expect. A major challenge for the Council is to ensure a range of appropriate housing provision, adaptation and support for the district's older population. The number of people across the district aged 65 or over is projected to increase from 14,100 in 2018 to 18,200 by 2032 (29.1% increase). For this reason we would also ask for it to be clearly demonstrated how the requirements of Local Plan Policy HS5 – Accessible and Adaptable Homes have been incorporated into this scheme.

*Design and layout*

Whilst we support the provision of affordable housing we are committed to ensuring that the delivery of such housing is of the highest possible standard and indistinguishable in terms of character and appearance to that of local market housing. In this regard we have concerns about the density of the proposed and lack of open space incorporated into the schemes design.

Connectivity and accessibility from the development to the Penrith settlement is also a key concern, as there is a danger residents may feel detached/removed from the services in Penrith.

In terms of layout we would be seeking to ensure a tenure blind mix of shared ownership and rented housing evenly distributed across the site, from studying the 'Proposed Site Plan' Dwg. no. 1119-05F, I'm unable to determine if this is the case and seek



	<p><i>clarification of this.</i></p> <p><i>Environmentally Sustainable Design</i></p> <p><i>Given energy efficient homes are more affordable to run, from a Housing Services perspective (with respect to major residential development) compliance with Policy ENV5 is considered a priority. It would be helpful therefore to get a better understanding of how this has been considered within this proposed scheme'.</i></p> <p><i>Further discussions with the Housing Officer were undertaken once the scheme was reduced in scale. On the 25 March 2020 a further Housing Officer response was thus provided which confirmed 'Further to the applicants revised site layout for 76 dwellings, from earlier discussion with my manager, I reiterate the Housing Teams support of the application in principle; in terms of its offer of 100% affordable housing of a mixed size and tenure that meets an identified housing need in a suitable and sustainable location.</i></p> <p><i>Confirmation of a commitment by the applicant in meeting the requirements of Local Plan Policy HS5 Accessible and Adaptable Homes is welcomed, as are steps taken to improve the layout and increase permeability of the site, with footpath provision linking the development to the East and West. Once again I would stress that securing safe footpath provision linking the site to services in Penrith is essential in order to receive support from Housing; I would add, walking routes should be well-lit, overlooked (where possible) welcoming and well maintained.</i></p> <p><i>Again I note the revised site layout/landscape plan does not include a breakdown of plots by tenure. My previous comments still stand in that we would be seeking to ensure a tenure blind mix of shared ownership and rented housing evenly distributed (as much as is practically possible) across the site.</i></p> <p><i>As discussed previously, I note the residential density (particularly in the East of the site) appears relatively high in relation to the openness of the surrounding area and I do still have some concern in this regard and would ask that this be considered in relation to Local Plan Policy DEV5 – Design of New Development. However from a housing needs perspective we are supportive of the application as revised'.</i></p> <p><i>Further discussions between the applicant and Housing Officer therefore took place and on the 1 May 2020, another response from the Housing Officer was provided. It confirmed that 'The amended plans submitted confirm the total number of dwellings proposed as 76 dwellings, 35 of which are proposed as affordable rented and 41 of which are Shared Ownership. I note the amended plans indicate a reduction of 5 affordable rented properties when compared to the original plans, despite the loss of affordable units I'm supportive of the proposed reduction in the number of dwellings which allow for the creation of a much improved site layout and a more attractive overall scheme.</i></p> <p><i>Confirmation of a commitment in meeting the requirements of</i></p>
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	<p><i>Local Plan Policy HS5 Accessible and Adaptable Homes are welcomed, as are steps taken to improve the layout and increase permeability of the site, with footpath provision linking the development to the East and West.</i></p> <p><i>In response to my previous request I note the amended site layout plan includes a breakdown of plots by tenure and it is clear efforts have been made to evenly distribute the affordable rented and shared ownership properties across the site, for which I am supportive.</i></p> <p><i>My only reservation relates to the proposed finish of the dwellings, in that previous plans put forward by the applicant indicated a greater variation in the design and finish of the dwellings across all house types i.e. with some properties finished in brick, some render and others a mix of brick and render; adding in the creation of high quality design and helping to break up the massing of the built form. From discussion with the applicant I believe it is their intention is to submit further plans securing this variety in design and finish across the house types and subject to this being submitted I would have no further reservations in this regard.</i></p> <p><i>From previous discussions with my manager I reiterate the Housing Teams support of the application in terms of its offer of 100% affordable housing of a mixed size and tenure that meets an identified housing need in a suitable and sustainable location'.</i></p> <p><i>On the 7 May 2020, the applicant provided another plan detailing the amended finishes proposed on site. The Housing Officer considered such and on the same day confirmed that this was agreeable.</i></p>
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#### 4. Parish Council/Meeting Response

Town Council/Meeting	Object	Support	No Response	No objection
Penrith Town Council				✓

4.1 On the 15 January 2020 the Town Council confirmed that, 'a response of no objection be returned to EDC with the following comments:

1. *PTC is pleased to see a fully affordable scheme with a registered housing provider and with a mix of housing and tenure, although it is still disappointed that there are no bungalows on site. As this is a fully affordable site, it is understood that the number of houses needs to be increased to make it viable.*
2. *It is important that there is a sense of community with somewhere that people can meet and young children play. Although it is understood that a footpath will be installed down Inglewood Road to allow safe passage to Fairhill, the nearest large space, it would be beneficial if there was some play equipment on site as well. Penrith Town Council would be grateful for a developer contribution towards the Fairhill Playing Field.*
3. *Given the speeding issues on Inglewood Road, it is important that the footpath is included within the scheme. It would be nice for a footpath to link through the*

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*adjoining scheme (once it is developed) to allow safe passage down to Salkeld Road.*

- 4. It is important that there is landscaping along the bottom of the site to block out any noise issues from the A6 and that any other noise amelioration measures that may be required are taken on board. Additional landscaping using native trees and bushes should be included throughout the site to help offset carbon emissions.*
- 5. It is important that all houses can run as cleanly and cheaply as possible. Both authorities have declared a climate emergency and it would be good to see developers supporting initiatives by helping 'future proof' houses. Clean energy such as electric boilers, heavy duty electric cabling to the site to support electric car charging points at home and initiatives such as ground or air source heat pumps and PV panels put in during the build would be beneficial and be cheaper longer term. The emerging Neighbourhood Plan requests developers building 10 dwellings or more to provide at least 15% of the developments total predicted energy requirements from on-site renewable energy generation and storage unless it can be demonstrated clearly that it is neither practicable or viable'.*

Following the re-consultation being undertaken, the Town Council responded as follows on the 30 April 2020:

*'A response of NO OBJECTION be returned with the following comments:*

- 1. Penrith Town Council is pleased that the developer has taken onboard its comments to the previous planning application and made the changes suggested including a reduction in the number of houses.*
- 2. The development site is allocated within the adopted Eden Local Plan 2014-2032 document (EDC Local Plan reference: N2 White Ox Farm, South-East) and outline planning permission has already been granted for the site, albeit with less houses.*
- 3. PTC is pleased to see a fully affordable scheme with a registered housing provider and with a mix of housing and tenure. It is still disappointed that there are no bungalows on site as the requirement for bungalows came through strongly on all the public consultations for the Neighbourhood Plan however it is recognised that on a fully affordable site this may not be possible.*
- 4. It is important that there is a sense of community with somewhere that people can meet and young children play. The Town Council is pleased to see that a footpath will be installed down Inglewood Road to allow safe passage to Fairhill, the nearest large space, but would also like the footpath to be fenced and traffic calming measures as this road is used by large vehicles going to the equestrian facilities along it and there have been a number of speeding issues reported to Cumbria County Council which are being investigated.*
- 5. It is pleasing to see that that public space and a safe place for children to play has been incorporated into the development. Although the Town Council would prefer equipment for children of primary age not just infants, it welcomes the offer of commitment to donating to its fund for Fairhill where a large variety of equipment is available for young people of all ages.*
- 6. It is important that all houses can run as cleanly and cheaply as possible. Both authorities have declared a climate emergency and it is good to see developers supporting initiatives by helping 'future proof' houses. The Town Council is pleased to see that 20% (15) will meet the optional Building Regulations Requirement*

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*M4(2): Category 2 – Accessible and Adaptable Dwellings and that environmentally sustainable design features have now been incorporated, with greater attention to thermal performance meaning less reliance on green/renewable energy technologies and that all houses will be fitted with external electric vehicle charging points.*

7. *Although it is good to see that thermal performance has been increased, PTC would like to see the installation of electric boilers at the start of the build rather than retrofitting over time.*
8. *If this is not possible, it is essential that the overall power supply to the development is robust enough to cater for all the electricity needs including the new electric boilers when they are fitted. It would be beneficial if all units were ducted for fixed line internet access to allow for home working.*
9. *The Town Council would urge the developer to strongly consider the addition of PV panels to enhance energy efficiency further and reduce bills unless it can be demonstrated clearly that it is not viable.*
10. *The slope of the site to the A6 is very steep. It is essential that the attenuation tanks proposed are adequate to combat surface-water run-off, bearing in mind what the Town Council has heard from the residents of Pennyhill Park of such problems, and the flooding in the field behind the gardens coming off the field adjacent to this site but not as steep. The attenuation tank(s) must be sized s as to ensure that run off after the development is no more than the run off from the current grassed fields'.*

## 5. Representations

- 5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on site on the 19 February 2020. A press notice was also published in the Herald on the 15 February 2020. Due to the applicant varying the scheme and providing additional information, a further consultation took place on the 15 April 2020 with neighbours being notified on the 16 April 2020.

<b>No of Neighbours Consulted</b>	14	<b>No of letters of support</b>	0
<b>No of Representations Received</b>	9	<b>No of neutral representations</b>	4
<b>No of objection letters</b>	5		

- 5.2 It is not possible to convey, 'word for word' each of the objectors' comments, but the following confirms the basis of the objections received;

- Detrimental Landscape Impacts;
- Highway capacity concerns;
- Highway safety concerns;
- Local infrastructure is already strained;
- Local sewage infrastructure cannot take further strain;
- Proposal may increase flooding issues;
- Scheme is for far higher a number of dwellings than the allocation.

## **6. Relevant Planning History**

<b>Application No</b>	<b>Description</b>	<b>Outcome</b>
16/1029	Outline application for residential development.	Approved

## **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 LS2: Housing Targets and Distribution;
- Policy PEN1: A Town Plan for Penrith;
- Policy DEV1: General Approach to New Development;
- Policy DEV2: Water Management and Flood Risk;
- Policy DEV3: Transport, Accessibility and Rights of Way;
- Policy DEV4: Infrastructure and Implementation;
- Policy DEV5: Design of New Development;
- Policy ENV1: Protection and Enhancement of the Natural Environment, Biodiversity and Geodiversity;
- Policy ENV5: Environmentally Sustainable design;
- Policy ENV10: The Historic Environment;
- Policy HS1: Affordable Housing;
- Policy HS5: Accessible and Adaptable Homes;
- Policy COM3: Provision of New Open Space.

### **7.2 National Planning Policy Framework February 2019:**

- Chapter 2 - Achieving sustainable development
- Chapter 4 - Decision-making
- Chapter 5 - Delivering a sufficient supply of homes
- 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 Supplementary Planning Documents:**

- Housing (2010)
- Housing (2020)

#### **National Design Guide (2019)**

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

## **8. Planning Assessment**

### **8.1 Key/Main Planning Issues**

- Principle of development
- Landscape and Visual Impacts
- Character and appearance of the settlement and locality
- Residential Amenity
- Highway Safety
- Drainage
- Provision of Open Space
- Historic Environment
- Other matters

### **8.2 Principle**

- 8.2.1 The application site is noted to be 'allocated' within the local plan and it is acknowledged that this particular proposal does not cover the entire allocation site. The site is recorded within the Local Plan to be 3.95 hectares in size – this application is for 2.18 hectares of this allocated site. It is important to note that the allocation for 54 dwellings was for the entire 3.95 hectare site.
- 8.2.2 Such a designated site has already, therefore, been considered and assessed as part of the Local Plan process. Given it has been 'allocated' this presumes its development is acceptable in principle and in addition, it is anticipated to contribute to the housing targets that comprise the Local Plan.
- 8.2.3 As has been confirmed, the entire allocated site (known as N2') was allocated to accommodate 54 dwellings. This is noted by officers to not be a formal 'cap' on what an allocated site may receive in terms of housing numbers proposed or developed upon it, but it demonstrates the scale of development anticipated for the site, which would contribute to the housing targets for the duration of the plan. It should also be noted that in considering the allocation, the Council is seeking to ensure that the site delivers not only housing, but a positive environment within which future residents would live. So, amenity areas, landscaping (including trees, shrubs etc.), drainage (if and as required), appropriate levels of car parking, no net biodiversity loss, foot/cycle paths amongst other things are sought to be comfortably accommodated on site which contribute to the overall benefits of the it and the amenity for future residents who would live there and how the site contributes to the character of the wider area.
- 8.2.4 Policy DEV1 entitled 'General Approach to New Development' states that '*When considering development proposals the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework*'.
- 8.2.5 Within the Local Plan, Policy LS1, entitled 'Locational Strategy', confirms that the plan seeks to focus new and appropriate development towards key hubs, main towns and Penrith. The intent behind Policy LS1 is to ensure that such housing is delivered in what the plan considers to be sustainable locations. In this case, Penrith is noted to be the Main Town within the district. As the 'main' town, it is expected to '*benefit from sustained development*' which includes large scale housing development. By virtue of being the 'main town' Penrith is therefore considered to be the most sustainable location within the entire Eden district.

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- 8.2.6 This scheme is therefore considered to accord with the aims and intentions of the Locational Strategy within Policy LS1 given it is a large scale housing development and located within the Main Town, the most sustainable location of the entire district. As such, in principal, proposals would be considered to be compliant with Policy DEV1 in terms of proposals that come forward in Penrith given it is considered to be the most sustainable settlement in the district.
- 8.2.7 It is also recognised that the Local Plan acknowledges former shortfalls in housing provision and accordingly the Council is keen to ensure that the rate of up-take for new sites occur in the early years of the plan. Planning applications such as this, for allocated sites, would contribute to fulfilling that intention and have, where considered appropriate, been supported at an officer level and by the Planning Committee for development.
- 8.2.8 In addition the LS1, the Local Plan has additional, specific policies for Penrith. Policy PEN2 entitled 'Penrith Masterplans' states, *'strategic sites in the north and east of Penrith will not be given permission for development until masterplans for those areas have been agreed with the Council. Masterplans will be expected to be in accordance with the objectives and outputs contained in the 2011 masterplan for Penrith'*.
- 8.2.9 The applicant has subsequently provided a Masterplan for consideration in order to comply with this aforementioned policy. The plan provided by the applicant demonstrates, visually, how the remaining portion of the allocated site would be left for further housing development at a later date. The applicant proposes another access point for this element of the site (although it is outside of the red line boundary for this particular application and has no relevance to the consideration of this specific application) along with footpath links connecting the site to existing footpath network in the vicinity of the site.
- 8.2.10 The purpose of the Policy is to seek a Masterplan within which the applicant visually demonstrates how the site would function and connect to the wider area. The proposals illustrate such, but it is recognised that the footpaths proposed would need approval from the County Council as they appear to be proposed on land that is highway verge and as such outside of the applicants direct ownership and control.
- 8.2.11 The Masterplan does, regardless, illustrate the way that the site would connect to its surrounding area and that is therefore considered acceptable in this respect. Where there is concern is how the Masterplan also demonstrates how much of the allocated site would be left for development, illustrating how many more houses, beyond the allocation the site would deliver.
- 8.2.12 The details submitted under Policy PEN2 are also expected to demonstrate acceptable layout, community facilities, access, design, landscaping, housing type, housing mix, amenity space and importantly, *'should be used to create attractive, functional and sustainable places, which respect the character of the town'*.
- 8.2.13 It is considered that the proposal can be considered to represent sustainable development in this instance (in terms of location) given it is a housing development in the settlement considered by the Local Plan to be the most sustainable location within the district. It is also acknowledged to be proposed upon an allocated site within the Local Plan which is already considered a location that should receive residential development of a certain level.
- 8.2.14 As such, it is considered that the principle of the development is acceptable and complaint with Policies LS1, DEV1, DEV3 and PEN2, subject to further considerations

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in relation to design, layout, scale, drainage, highways, landscape, amenity, heritage asset and environmental impacts.

### 8.3 Design, Scale and Landscape

8.3.1 Policy DEV5 of the Local Plan, entitled 'Design of New Development' requires development to demonstrate a clear understanding of the form and character of the district's built and natural environment.

8.3.2 The Policy 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'.*

8.3.3 Paragraph 127 of the NPPF states that, *'Planning policies and decisions should ensure that developments:*

- a) *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) *are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) *are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- d) *establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- e) *optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- f) *create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience'.*



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- 8.3.4 Paragraph 130 of the NPPF states that, *'Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).'*
- 8.3.5 Policy COM3 of the Eden Local Plan entitled 'Provision of New Open Space', requires the provision of appropriate levels of open space in relation to amenity space on any major proposal development site. The Policy states that open space can be defined in a variety of ways. These include informal recreation space (amenity open space), urban parks and gardens, playgrounds, outdoor sport facilities and allotments. The Policy does not specifically require a development to provide all of these types of open space. However, it will be expected to meet at least one of the above listed types in order to ensure policy compliance.
- 8.3.6 It is acknowledged that the proposed development would alter the appearance of the site as is. However, such was accepted when the site was allocated for housing as part of the Local Plan and when it was approved for 51 dwellings to be constructed upon it under Planning Permission ref. 16/1029. Of course, one issue in terms of the proposed numbers on site would be their collective 'massing' and how this would impact the local area. It should also be noted that the site is not subject to any formal landscape designation.
- 8.3.7 It is noted that there are existing fields between the site and the nearest residential development, White Ox Way, which mean the site is buffered between these nearest residential dwellings by a distance of approximately 60 metres. Furthermore, it is recognised that this land which itself has been subject to planning applications for residential development.
- 8.3.8 However, when the N2 site was allocated for housing a number of factors would have been considered. In this case, the topography of the site would have been a key factor. Whilst the applicant originally sought a development of 81 units and consistently believed that such would be acceptable at no point was this fact ever clearly considered. In many ways it felt that the applicant considered all sites equal, located on flat ground with no individual site specific circumstances that could alter or vary density numbers a site would be anticipated to accept. As such they have made reference to numerous other planning permissions in the locality to justify their proposal in terms of density.
- 8.3.9 References to other planning permissions is an unacceptable way to try and justify a newly submitted scheme. It is understandable how it can 'appear' that one scheme for housing development is no different to another but this is considered a far too simplistic approach to the planning process and the considerations pertinent to them. Each site will always be assessed on its own, individual merits.
- 8.3.10 Of much more relevance is the applicant's considerations related to the NPPF and its direction on density. This is a fair and reasonable factor to raise. Chapter 11 of the aforementioned NPPF is entitled 'Making effective use of land'. It affirms that planning decisions should promote an effective use of land in meeting the need for homes and

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other uses. However, whilst it is clearly a consideration, this too also caveats the intention of efficient use of land by confirming that such aims ensure *‘safeguarding and improving the environment and ensuring safe and healthy living conditions’*.

8.3.11 Paragraph 118 of the NPPF states that, *‘Planning policies and decisions should:*

- a) encourage multiple benefits from both urban and rural land, including through mixed use schemes and taking opportunities to achieve net environmental gains – such as developments that would enable new habitat creation or improve public access to the countryside;*
- b) recognise that some undeveloped land can perform many functions, such as for wildlife, recreation, flood risk mitigation, cooling/shading, carbon storage or food production;*
- c) give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land;*
- d) promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (for example converting space above shops, and building on or above service yards, car parks, lock-ups and railway infrastructure); and*
- e) support opportunities to use the airspace above existing residential and commercial premises for new homes. In particular, they should allow upward extensions where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, is well-designed (including complying with any local design policies and standards), and can maintain safe access and egress for occupiers’.*

8.3.12 Officers would agree that the NPPF seeks to ensure that sites are utilised appropriately but equally, even this intent is subject to a number of other considerations – even criterion ‘b’ above recognises that undeveloped land can perform ‘many functions’ so to simply depend upon Chapter 11 as a justification to develop sites, well beyond their allocation, is not a viable position in the view of officers. This is because it fails to take account of the chapter as a whole and relies only on one element of it. As such, it is not considered that Chapter 11 is, in itself, a definitive solution or direction in relation to this specific matter.

8.3.13 The applicants do refer to paragraph 123 of the NPPF as further justification for the density they propose. Officers do not consider this relevant as paragraph 123 specifically refers to circumstances that relate to *‘where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site’*. There are additional criterion too but it should be remembered that the NPPF still seeks development to be appropriate in terms of its design and visual appearance. It does not begin and end with paragraph 123 and the decision does not rest simply on the application of this text – otherwise the NPPF would merely comprise of it alone.

8.3.14 That being said, no such shortage is considered to exist in Eden in any event. A five year housing supply exists and indeed the Local Planning Authority have granted permissions in excess of the annual targets set within the Local Plan. Indeed the

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Council can currently demonstrate an approximate 6.4 year housing supply. So again, this in itself is not a compelling reason to just approve a layout that could be considered harmful, not only to the local area but also the future occupants of the development. That would be counter-intuitive to the 'healthy' and 'vibrant' housing developments we, as Planning Authorities are charged to assist in delivering.

- 8.3.15 Paragraph 127 of the NPPF seeks several objectives but in relation to this development the most relevant are considered those criterion that seek development to be; *'visually attractive as a result of good architecture, layout and appropriate and effective landscaping'* and *'establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit'* and finally, *'optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks'*.
- 8.3.16 It is noted that the applicant has subsequently reviewed their scheme and altered aspects of it following lengthy discussions with the Local Planning Authority. The result is to reduce the scheme by 5 units to 76 units in total.
- 8.3.17 This is considered a minimal reduction and some significant way short of what officers would have much preferred to see proposed for the site. In considering these plans, officers have now more detail (since the subsequent submission of additional information in support of the proposal) to reflect upon in terms of proposed materials and layout as the scheme is submitted as a 'full' planning application.
- 8.3.18 Nevertheless, whilst the altered scheme is still a considerable way off the level officers would have preferred, it is still recognised as a reduction and by virtue of that, any reduction is an improvement and welcomed considering the originally submitted scheme was not acceptable.
- 8.3.19 In terms of layout and the allocation, officers have already acknowledged within this report that allocation numbers do not reflect 'caps' to numbers that can be approved on a site. However, as this report also confirms, in the consideration of the allocated numbers for a site, the Council is seeking to ensure that the allocated sites do not just deliver housing numbers, but a myriad of other things, such as, but not limited to, amenity areas, landscaping (including trees, shrubs etc.), drainage (if required), appropriate levels of car parking, foot/cycle paths, appropriate onsite car parking, biodiversity and historic environment considerations amongst other things. The aim is to endeavour to find the most appropriate way to accommodate all these objectives as best as possible. Where that is not entirely possible, the Local Planning Authority must seek to achieve, in its view, the most suitable 'planning balance' where a scheme can be supported. Where such a 'balance' cannot be achieved, then the scheme will have to be refused.
- 8.3.20 Achieving a combination of these factors on schemes that can be approved assist to ensure that a high quality environment is attained, which relates well to its locality and makes a positive contribution to the character of the area. Such aims apply whether the site is for 100% affordable housing or market led with an affordable housing contribution or for smaller residential schemes.
- 8.3.21 The applicants have predicated their proposal entirely on the offer of a scheme that would deliver 100% affordable housing. Whilst this must be viewed as a positive of the scheme, the Local Planning Authority cannot necessarily forego other aims and

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objectives when a scheme is predicated on such an offer. Nevertheless, it will weigh heavily in the planning 'balance'.

- 8.3.22 Of course, it is recognised that this is a subjective issue in terms of the appearance of the proposed dwellings. The most significant concern with a development such as this is that whilst the development is a scheme comprised of 'affordable' homes, it would unfortunately have an overly basic appearance and use of standard materials to keep construction costs low. Those dwellings initially proposed by the applicant were considered to have these traits and were of significant concern to both Planning and Housing officers.
- 8.3.23 There is no doubt that materials within Penrith range significantly. But the aim of decisions for housing development is to try and lift standards and achieve a good standard of development – not replicate what could be considered as poorly conceived ideas that can be referenced elsewhere in the locality or even to simply replicate whatever someone believes what is 'historically accurate' for Eden. Again, if we took that approach, we'd have never evolved to construct things with new materials such as stone and brick. Policy DEV5 states that the Council will support *'high quality design, which reflects local distinctiveness'*.
- 8.3.24 In this instance, the materials proposed would range between render, brick and render and brick. These designs are considered a significant improvement on those originally proposed and the variety of materials assists in breaking up the potential 'massing' of one dominating material being utilised upon a site producing a visually more attractive site and acceptable level of design.
- 8.3.25 In the original submission, the applicant was made aware that house types constructed of one specific material would contribute to said 'massing' and that this should be rectified. Originally, they proposed each house type to either be rendered or constructed of brick, with no dwelling comprising a mixture of the two.
- 8.3.26 On balance, whilst officers would prefer even greater variety of materials utilised on site, the applicant is recognised to have taken account of initial concerns and their efforts to alleviate such. As has been acknowledged, there is a significant range of materials utilised in the wider town of Penrith and whilst the aim is to improve local character, by achieving as strong a design as possible on any application site that comes forward, the ultimate aim is to avoid design that is poor and would have a detrimental impact on said character of area.
- 8.3.27 Paragraph 130 of the NPPF states that, *'Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents'*.
- 8.3.28 The National Design Guide (2019) states that well designed places are based around an understanding of the features of the site and the surrounding context, integrating into the surroundings of the area.
- 8.3.29 It reiterates that the NPPF seeks to achieve high quality places and buildings, which is 'fundamental' to the planning and development process. Furthermore, it confirms that, *'Buildings are an important component of places and proposals for built development are a focus of the development management system. However good design involves careful attention to other important components of places. These include:*
- *the context for places and buildings;*

- *hard and soft landscape;*
- *technical infrastructure – transport, utilities, services such as drainage; and*
- *social infrastructure – social, commercial, leisure uses and activities’.*

8.3.30 Paragraph 21 states that, *‘A well-designed place is unlikely to be achieved by focusing only on the appearance, materials and detailing of buildings. It comes about through making the right choices at all levels, including:*

- *the layout (or masterplan);*
- *the form and scale of buildings;*
- *their appearance;*
- *landscape;*
- *materials; and*
- *their detailing’.*

8.3.31 Paragraph 35 sets out what it considers to be the individual characteristics that well designed places have. These are; *‘Context (enhances the surroundings); Identity (attractive and distinctive), Built form (a coherent pattern of development), Movement (accessible and easy to move around), Nature (enhanced and optimised), Public spaces (safe, social and inclusive), Uses (mixed and integrated), Homes and buildings (functional, healthy and sustainable), Resources (efficient and resilient), Lifespan (made to last)’.*

8.3.32 Officers must reiterate that it is recognised that design is, ultimately, a very subjective issue. in this instance it is considered that the proposed design is supportable and would not represent ‘poor’ design, contrary to Policy DEV5 or the NPPF.

8.3.33 Policy ENV5 entitled *‘Environmentally Sustainable Design’* states that *‘proposals for commercial development and for major residential development, defined in Appendix 2, should demonstrate, where it is practical for them to do so, that they have considered each of the following criteria:*

- *Maximising daylight and passive solar gain through the orientation of buildings.*
- *Integrating sustainable urban drainage systems.*
- *Designing and positioning buildings to minimise wind funnelling, frost pockets and uncomfortable microclimates.*
- *Integrating renewable energy technology into the scheme, and in schemes comprising over 50 dwellings or on sites over 1.5 hectares, exploring the scope for direct heating.*
- *Minimising construction waste, through for example designing out waste during the design stage, selecting sustainable and efficient building materials and reusing materials where possible.*
- *Providing well-designed and visually unobtrusive outdoor waste storage areas to promote cycling.*
- *Promoting sustainable transport modes, through for example careful layout and road design to ensure it is conducive to walking and cycling and prioritises the pedestrian and cyclist over the car’.*

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8.3.34 It is recognised that the Policy states 'should' demonstrate, rather than 'must' but despite this, it is considered important that development endeavours to provide as strong an environmentally sustainable design as possible. Notwithstanding, the requirements of the policy must be recognised in the consideration of this application and thus it must be applied as is in the determination process.

8.3.35 The applicant advises via e-mail that their intention is to do as follows; *'A key principle adopted by Atkinson Building Contractors Ltd in the delivery of sustainable housing is the adoption of a fabric first approach with an improved air tightness. This methodology places a greater attention to the thermal performance of the houses building envelope and is less reliant on the introduction of green / renewable energy technologies, ensuring that thermal performance and sustainability are embedded within the fabric of the house for its entirety. This will be achieved as follows;*

- *using modern insulation materials within the building envelope;*
- *design of dwellings to achieve an air permeability that far exceeds the standard required to;*
- *comply with Building Regulations;*
- *installation of high energy efficient rated windows and doors;*
- *installation of high efficiency boilers with thermostatic controls;*
- *installation of a gas saver unit that work by capturing waste heat from the boiler and heating system which is reused to heat cold water from the mains. It raises boiler efficiency beyond an A-rating to enable boilers to reach close to 100% efficiency;*
- *tap flow restrictors and reduced capacity toilet cisterns to ensure that water consumption is reduced to a maximum 125 litres per day to comply with Building Regulations;*
- *installation of low energy light fittings;*
- *installation of white goods that are A-rated for their energy efficiency and water consumption;*
- *integrated recyclable storage bins to the kitchen;*
- *provision of energy display devices that help end users to become more aware of the energy that they are using. It has been proven that such devices make people think more about using high energy devices and prompt people to make energy efficient changes;*
- *installation of water butts to collect and store rainwater for external irrigation / watering;*
- *provision of wall mounted bike stands to the rear of dwellings to promote more sustainable transport modes over vehicular.*

*The approach of ensuring an efficient building fabric means that carbon reductions and cheaper energy bills are locked in for the whole lifetime of the dwelling rather than requiring replacement or maintenance as with other technologies. Typical u-values values for the construction of our standard house types are as follows that come together to provide a high energy efficiency rating of B;*

*Ground Floor 0.12 W/m<sup>2</sup>K (Building Regulations compliance 0.25 W/m<sup>2</sup>K)*

*External Wall 0.18 W/m<sup>2</sup>K (0.30 W/m<sup>2</sup>K)*

*Roof 0.09 W/m<sup>2</sup>k (0.20 W/m<sup>2</sup>K)*

*Windows and Doors 1.4 W/m<sup>2</sup>k (2.00 W/m<sup>2</sup>K)*

*Air Permeability [5.0m<sup>3</sup>/hr@50pa](#) (10.0 m<sup>3</sup>/hr@50pa)*

- 8.3.36 In addition, the applicant confirms that the intent to provide each of the proposed dwellings with an external Electric Vehicle (EV) ready charging unit. The applicant also suggests that solar photovoltaics are being 'considered' as part of the proposal but as they haven't been formally confirmed no weight can be afforded this statement.
- 8.3.37 The intent to provide external Electric Vehicle (EV) charging units is most welcome. The applicant has also, helpfully, provided a plan related to where these EV charging points would be located on site.
- 8.3.38 These factors are considered to meet the requirements of Policy ENV5. It is reiterated the policy requires development 'should' demonstrate rather than 'must' and in that context, given minimum standards for the energy efficiency of dwellings, as required by building control standards, these measures are considered acceptable.
- 8.3.39 In terms of the proposed layout and how the amenity space would relate within it, this has been given further consideration following officer concerns over the originally submitted scheme. This updated proposal is far more agreeable and a welcome improvement.
- 8.3.40 Policy COM3 requires at least one of the types of amenity space to be provided on schemes of this scale. Officers welcome it when applicants provide beyond this minimum and offer a variety of amenity space options for future residents to enjoy on site.
- 8.3.41 The policy requires 0.16 hectares of informal amenity space and the applicants proposals would deliver in excess of this, with 0.25 hectares of amenity land.
- 8.3.42 The revised site plan now incorporates an area of 430 sq. metres which the applicant advises would be for 'play equipment and benches'. This does mean that the site would comply in terms of its delivery of amenity space as per the requirements of the Policy. Further areas of amenity space are permeated throughout the site. These help to break the site up in terms of visual massing and most importantly, make the site more visually attractive for future occupants with greater areas of verdant space.
- 8.3.43 Officers seek the best offer, wherever possible in terms of amenity space as it is an important element of the site, its composition, visual character and how it would be used by residents of the future. It is recognised that the offer of amenity space is now in excess of the policy requirement in the Local Plan. Not only does this space offer varying different types of amenity space for future residents to utilise, but it also improves the visual appearance of the proposal site.
- 8.3.44 Accordingly, due the considerations above, these proposals are considered compliant with the NPPF, Policy DEV5, ENV5 and COM3 and are worthy of support.

#### **8.4 Impact on the living conditions/amenity of neighbouring residents**

- 8.4.1 The nearest residential dwellings to the site are noted to be located on White Ox Way, approximately 67 metres from the nearest boundary of the application site to the south-south-east. Within the Local Plan, existing and future amenity of occupants of dwellings is considered in Policy DEV5 of the Local Plan, entitled 'Design of New Development'

(referred to above) which 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'.*

- 8.4.2 Paragraph 127 of the NPPF includes various considerations and requirements in relation to Chapter 12 of the NPPF entitled 'Achieving well-designed places'. Criterion 'f' states that, planning policies and decision should ensure that developments *'create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience'*.
- 8.4.3 The Housing SPD (2010) recommends that there is a separation distance of 21 metres between principal windows and 13 metres between a main elevation and a blank gable wall. These are noted to be recommendations but if achieved, should help protect the amenity of existing occupants of dwellings as well as future occupiers of any development.
- 8.4.4 In relation to such separation distances, the site is considered to comply with these recommendations given the nearest residential dwellings would be located off White Ox Way, approximately 67 metres from the site.
- 8.4.5 The Environmental Health team have been consulted on the application and initially raised concerns over contaminated land, noise and air quality. The applicant is understood to have engaged in significant discussion with the relevant officers in order to resolve what issues have been raised.
- 8.4.6 In terms of contaminated land, there has been progress and it has been recommended that a condition be imposed on any subsequent approval that a condition related to a contamination survey be carried out. Such is attached to this report and would be required prior to any commencement of construction.
- 8.4.7 In terms of air quality it is noted that the applicant was required to produce an air quality assessment in support of the proposal. Such was supplied and has been considered by the Environmental Health team. Protracted discussions have been undertaken by the applicant with the Environmental Health Officer (EHO) in relation to this matter.



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- 8.4.8 The EHO confirms that, in relation to air quality, the information provided is considered acceptable. As such, in regard to this, there are no concerns and the amenity of future residents would not, in the view of officers be significantly detrimentally effected were this scheme approved in relation to air quality.
- 8.4.9 In relation to noise, once again, significant discussion has taken place between the applicant and the EHO in order to resolve concerns in relation to noise. It is noted that during the consultation process, the EHO suggested that one way to mitigate such concerns was to reduce the scale of the scheme.
- 8.4.10 Following protracted, further discussions, the EHO continued to seek further information from the applicant in relation to noise. However, the EHO has not provided a final response in time to be included in the report – primarily because the latest submission from the applicant was received late in the committee cycle and there was not enough time for it to be reviewed. Accordingly, the EHO position was not finalised however, the most recent response received on the 18 June 2020 did state that they had reason to recommend refusal of the scheme on one point alone – given that has yet been confirmed as resolved, that objection is considered to exist in relation to noise and this proposal.
- 8.4.11 It is unfortunate that no final response is available however, officers still make an assessment in terms of amenity. The real concern of the EHO was that potential future occupants would be subject to unacceptable levels of noise. It is clear that not all of the dwellings would be subject to levels of noise that cause concern to the EHO but even if the EHO were objecting to the scheme as a whole, the consideration would be whether the impact on some of the dwellings in the development would be so unacceptable as to refuse the scheme as a whole.
- 8.4.12 There will always be potential noise impacts for any home located within the catchment of railways, motorways and other roads. Many homes within Penrith and the country as a whole do so. Whilst the principle of the concerns in relation to noise are understood, they are not the basis, on their own upon which development proposals are determined. They are material considerations and should be given due consideration in the planning balance.
- 8.4.13 When the site was allocated in the Local Plan, the sources of noise were present. The EHO was supportive of the first outline application for this site but they note as do officers, that the scheme indicated in that outline for a development of less numbers than currently proposed. Indeed, the EHO has made it clear that the site can demonstrate that it can deliver a site that provides an acoustic environment acceptable for all future occupants.
- 8.4.14 In this case, the EHO's contention is that given the Council can demonstrate a 5 year housing land supply, that the site can, with a reduced scale of development, demonstrate an appropriate acoustic environment that there is no justification to support this scheme that would result in some dwellings being located in areas of noise that they consider is unacceptable.
- 8.4.15 This rationale is understood but it does not take account of the planning balance and focusses only on noise as the primary consideration before the Local Planning Authority.
- 8.4.16 Fundamentally, officers acknowledge that the site is being proposed to be developed at a scale beyond the allocated number. However, this is not a formal cap and in planning terms, is not a limit to the development that can take place. Nevertheless, officers

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recognise that the allocations were given to each site and that to go beyond them, there needs to be a justification. Such justifications then need to be considered as to how significant a detrimental impact it would create, were the scheme to be approved. In this particular instance, the justification and benefit of a scheme developed to a scale such beyond the allocation is that all of the dwellings would be affordable homes.

- 8.4.17 The EHO viewpoint is clear that they consider the development would be unacceptable. However, they have not clearly demonstrated why or how the scheme would fail to comply with the Development Plan. Despite this, it is not considered unreasonable to suggest that the EHO considers the scheme would be contrary to Policy DEV5 in that it would not provide an acceptable amenity for all of the potential future occupants of the site, were it approved and the permission then implemented.
- 8.4.18 Another area of concern from the EHO is potential traffic generation and 15 year traffic noise projections. Officers consider this an unreasonable requirement and in any event, it is possible that there is a migration of significant proportions to Electric Vehicle usage by that point. Such could then, potentially, reduce noise significantly. Either way, it is an unknown and the projection therefore is considered unreliable and is not a necessary requirement to be provided.
- 8.4.19 Part of the EHO rationale is to compare the outline permission (ref. 16/1029) in terms of internal design, relative to this application. However, that perspective is fundamentally flawed as no specific design detail was provided as the application was outline only. Those issues would have been for the reserved matters (which no application for such has ever been made). Indeed even the layout was indicative only. Comparisons, therefore, between indicative plans and actual plans are not reasonable and cannot be a basis upon which to critique this application.
- 8.4.20 The EHO also refers to the 'potential 24 hour use' of Black Barn which is located to the west of the site. The EHO considers that this is not an unreasonable position as the NPPF tries to protect existing business operation from new development that could be at odds with it. Whilst this is not considered an unreasonable approach in principle, it is not considered to fully account of all the salient points.
- 8.4.21 Firstly, the operator of Black Barn has not formally commented upon this application, despite being written to. They do operate 8am to 6pm and whilst it is true that there is an unrestricted hour of operation available on the site, there are already residential dwellings in the locality of Black Barn. Whilst such an unrestricted operation could take place on site, this does not somehow forgo noise nuisances. In other words, just because you are permitted to utilise a site for a specific purpose, does not mean that you are then able to operate to any noise level from then on. It is still quite possible that for a site permitted for a specific use, to generate noise to such a degree that there would be a potential noise nuisance.
- 8.4.22 Officers recognise that the EHO fears that would be a potential consequence of permitting a development upon this site. However, the site was allocated for housing in any event and the key consideration is whether the scheme being proposed for the scale of development it is, would create a significantly harmful issue in terms of noise to justify the entire scheme's refusal. Officers do not believe that has been demonstrated by the EHO.
- 8.4.23 Ultimately, Officers consider it that there will be some potential impact in terms of noise for future occupants due to the roads and railway lines in the area of the site. However, it is not considered that such harm would be so significant to warrant or merit the

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refusal of the scheme as a whole. The EHO has had opportunity to provide a final comment but they themselves have already acknowledged that 51 dwellings could be located upon the site in an acceptable way in terms of noise.

8.4.24 Of course, no specific detail was ever provided in relation to those 51 dwellings and although this scheme would be for 76 units direct comparisons are simply not sensible between these two proposals.

8.4.25 Officers do not consider that the way which the scheme fails to accord with Policy DEV5 has been clearly articulated and whilst the concerns of the EHO are not readily dismissed, the concerns that they have raised are not in themselves considered a basis upon which to refuse the scheme as a whole. It is considered probable that some of the houses proposed would have noise impacts different to others within this scheme. However, to justify a refusal of this scheme on noise grounds, it would need to be clearly demonstrated that such a harm would result.

8.4.26 This is not considered to be the case and consequently, the scheme is considered acceptable in terms of noise and complies with Policy DEV5 and the NPPF.

**8.5 Drainage, Flooding and Pollution**

8.5.1 The application site is located within a Flood Zone 1, being land at lower risk/vulnerability of flooding. In principle, such locations would therefore be considered to represent suitable locations for development proposals such as this in terms of drainage, flooding and pollution. 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*'.

8.5.2 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'.*

8.5.3 Chapter 14 of the NPPF entitled 'Planning for Climate Change' confirms in paragraph 155 that, '*Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere*'.

8.5.4 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 assessment will provide the basis for applying this test. The sequential approach*

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*should be used in areas known to be at risk now or in the future from any form of flooding’.*

- 8.5.5 Paragraph 162 states that, *‘Where planning applications come forward on sites allocated in the development plan through the sequential test, applicants need not apply the sequential test again. However, the exception test may need to be reapplied if relevant aspects of the proposal had not been considered when the test was applied at the plan-making stage, or if more recent information about existing or potential flood risk should be taken into account’.*
- 8.5.6 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’.*

8.5.7 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’.*

8.5.8 The initial response from the Lead Local Flood Authority (LLFA) confirmed that the applicant needed to demonstrate further, the intended drainage strategy. To that end, a number of additional reports have been provided to allow the LLFA to formally scrutinise this intended approach.

8.5.9 The LLFA confirm that the applicant has submitted updated plans which illustrate the intent to utilise Sustainable Urban Drainage (SUDs) techniques being utilised on site. The response confirmed that there was still some concern over capacity of the system offsite, however, they also added that CCC would *‘now be in a position to support the full planning application as further detail has been provided which demonstrates that the application site has a means to deal with surface water generated by the impermeable surfaces’.*

8.5.10 To secure this support, the LLFA requested that a condition be imposed on any subsequent grant of permission related to a surface water drainage scheme.

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- 8.5.11 United Utilities (UU) confirmed that they required additional information in order to allow for the assessment of the scheme to be assessed. As has been confirmed, the site is located with Groundwater Protection Zones. Such was ultimately provided and UU reviewed the information supplied, subsequently providing an interim response. Their concern remained that there was a possibility that the scheme could have an impact on the Groundwater Protection Zones. These are critical resources to the town of Penrith and Officers have been keen to receive confirmation from UU that they are satisfied that the scheme would not compromise these areas.
- 8.5.12 The applicant has provided a Hydrogeological assessment which UU has considered. They have concluded that the scheme, were it to be approved, should be subject to further, more detailed analysis in relation to a Hydrogeological Risk Assessment, Construction Management Plan details and surface and foul water drainage.
- 8.5.13 UU have requested that such details be submitted prior to commencement of any approved development. Given this view, it is considered that as long as the conditions are imposed and subsequently approved by UU, then the Groundwater Protection Zones can be protected appropriately. The purpose of the imposition of conditions is to ensure that any proposed development is acceptable. On that basis, the fact that UU are seeking such conditions is considered a way of ensuring that the development not only achieves its intended aims, but preserves the integrity of the Groundwater Protection Zones too.
- 8.5.14 The Environment Agency have also commented upon the proposal. They have advised that the proposal 'will be acceptable if the following measure(s) are implemented and secured by way of a planning condition any planning permission'. The condition requested relates to foul and surface water (as requested by UU) and as such, it can be confirmed that these condition(s) will be imposed as requested.
- 8.5.15 It is noted that one interested party, whom owns land in the vicinity considers that the drainage plan proposed would require them to utilise their land to achieve the drainage scheme proposed. However, whilst this may be the case, this represents a private matter which does not prevent the determination of the application. As such, whilst these concerns are noted, they do not represent a material reason upon which to refuse this application and have no bearing on the decision before the Local Planning Authority.
- 8.5.16 On the basis of the responses provided then by the Lead Local Flood Authority, United Utilities and Environment Agency, it is considered that the scheme accords with Policy DEV2 of the Local Plan and would not have any significant detrimental impacts in terms of drainage and flooding and can therefore be supported.

**8.6 Highway Impacts**

- 8.6.1 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'.
- 8.6.2 Paragraph 109 of the NPPF affirms that '*development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*'.
- 8.6.3 The Local Highway Authority has reviewed the information submitted by the applicant and considered that there is still information required in terms of more specific detail of

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the highway design. Nevertheless, they have also confirmed that such would be acceptable to be secured by conditions.

- 8.6.4 Some objectors have raised concern over the potential impacts on the local highway network and how this may compromise road safety. These concerns are understood. However, in their consideration of such a scheme, the Local Highway Authority take into account the potential road safety impacts.
- 8.6.5 It is clear from the response provided that the Local Highway Authority do not consider that such significant highway impacts would occur if this development were approved and implemented. As such, the consideration as to whether the scheme would be contrary to Policy DEV3 and result in a significant impact is clear. No such impact is considered likely on the basis of the Local Highway Authority response and as such it is not considered reasonable to conclude that such an impact would result if the development were approved.
- 8.6.6 On that basis then, the scheme is considered acceptable in terms of Highway Impacts and can be supported and would not be contrary to Policy DEV3.

**8.7 Affordable Housing**

- 8.7.1 The Eden Local Plan confirms the requirements for affordable housing contributions. Policy HS1, entitled, 'Affordable Housing' confirms that 'the council will seek to secure the provision of 30% of all new housing as affordable homes on schemes with 11 or more units where the on-site contribution does not equate precisely to a whole number of units, the contribution will be rounded down to the nearest unit'.
- 8.7.2 In this instance the applicant is offering 100% affordable units, which is well in excess of the requirements of Policy HS1 and therefore, in the case, the proposal readily complies with Policy given it is well in excess of the minimum requirements of said Policy and indeed by the greatest margin possible.
- 8.7.3 There is no doubt that the offer of 100% affordable housing is a very welcome one. The Local Planning Authority have consulted the Council's own Housing Team on the scheme proposed.
- 8.7.4 They have also been involved in lengthy discussions with the applicant and have provided various responses throughout the determination process of the application.
- 8.7.5 The final response from the Housing Officer confirms that they support this scheme for 100% affordable housing. Schemes offering entirely 100% affordable housing are rather rare and given the existing affordable housing need within the district, this scheme is considered to be able to contribute a significant number of affordable homes for these people within the area. As such, the scheme is given significant weight in the planning balance.
- 8.7.6 Given the requirements of Policy HS1, this scheme is well in excess of the Policy requirements and as such, the scheme is considered to comply with Policy HS1 and merits support. It is also considered that given the scheme is proposed to offer beyond the minimum of extant Policy the excess is given considerable weight in the planning balance.

**8.8 Impact on the character and appearance of the built environment (LBs/CA)**

- 8.8.1 Within the Local Plan, Policy ENV10, entitled 'The Historic Environment' states that *'where a development proposal affecting an archaeological site is acceptable in principle, the council will ensure preservation of the remains in situ as a preferred*

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*solution. Where in situ preservation is not justified, the development will be required to make adequate provision for excavation and recording before or during development.'*

8.8.2 The Policy continues, *'Development proposal that would result in substantial harm to or total loss of significance of a designated heritage asset or its setting will only be permitted where it can be clearly demonstrated that the public benefits of the proposal would outweigh the harm or loss, and that the harm or loss is necessary to achieve those benefits. The Council will require proposals to protect and where appropriate, enhance the significance and setting of Eden's non-designated heritage assets, including buildings, archaeological sites, parks, landscapes and gardens. Where the harm is outweighed by the public benefits of the proposals, the Council will require an appropriate level of survey and recording, the results of which should be deposited with the Cumbria Historic Environment Record'*.

8.8.3 Paragraph 192 of the National Planning Policy Framework states that, *'In determining applications, local planning authorities should take account of:*

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- c) the desirability of new development making a positive contribution to local character and distinctiveness.'*

It is noted that the application site is not located within the setting of any Listed Buildings or within a Conservation Area.

8.6.4 No objections have been raised to the application by Cumbria County Council's Historic Environment Officer. However, they have noted that the site is located in an area of archaeological potential. As such, a condition was requested to be imposed on any subsequent planning permission which would require a programme of archaeological works to be completed prior to any works being carried out on site.

8.6.5 This approach would ensure that the site is appropriately assessed for its actual archaeological value whilst still allowing the site to be developed subsequently.

8.6.6 Accordingly, it is considered that the proposed development would not result in any adverse impacts upon the historic environment or upon any heritage assets, with this condition attached to any subsequent grant of permission and it being implemented. Therefore the proposal is considered compliant with Policy ENV10.

## **8.9 Impact on the natural environment (species/habitats)**

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

8.9.2 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 designated by any ecological or habitat designation.

8.9.3 Paragraph 170 of the NPPF states that *'Planning policies and decisions should contribute to and enhance the natural and local environment by:*

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- 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’.*

8.9.4 Paragraph 178 states that, *‘Planning policies and decisions should ensure that:*

- a) *a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);*
- b) *after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*
- c) *adequate site investigation information, prepared by a competent person, is available to inform these assessments’.*

8.9.5 Paragraph 180 states that, *‘Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:*

- a) *mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;*
- b) *identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and*
- c) *limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation’.*

8.9.6 The applicant has helpfully commissioned an ecological survey to be carried out on site and submitted it in support of the proposal. This Phase 1 Habitat Survey has



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considered designated sites, habitat, protected and notable species as well as invasive plant species.

- 8.9.7 The assessment concluded that the habitat was of 'site level only' and as such, it has no significant value in the wider context of habitat for wildlife in the area. No non-invasive plant species were identified within the site or within close proximity to it.
- 8.9.8 The only designated site of international importance within 5 kilometres of the site is the River Eden Special Area of Conservation (SAC). No likely significant effect was considered to be likely upon any designated site.
- 8.9.9 In terms of protected species, the assessment considered that, *'Invertebrates, breeding birds, bats, badger, red squirrel brown hare and west European hedgehog were identified as using, or potentially using, the site, and could potentially be impacted by the proposed development'*.
- 8.9.10 The survey thus considered recommendations that the applicant could implement to ensure any of these issues was appropriately mitigated, notwithstanding that in relation to Protected Species, these are protected by specific legislation, namely the Wildlife and Countryside Act (1981).
- 8.9.11 Mitigation measures included that permanent and temporary lighting should be limited on the broadleaf plantation and scattered trees to minimise impact on foraging bats. Vegetation clearance should take place outside of the breeding bird season (March to August). Where this was not possible, works should be overseen by a suitably qualified ecologist or ecological clerk of works. It should be noted that the broadleaf plantation referred to here is outside of the applications site and as such would not be subject to any lighting associated with this development in any event.
- 8.9.12 In terms of Red Squirrel, the recommendation is to ensure that all mature trees are checked for the presence of dreys prior to their removal.
- 8.9.13 In terms of recommendations for enhancements, these were confirmed to be;
- *'The planting of native species of trees and shrubs.*
  - *The installation of bird boxes attached to buildings and mature trees.*
  - *The creation of ponds, or small open areas, to attract amphibians, invertebrates and provide water for birds.*
  - *The installation of bird feeders to supplement foraging areas.*
  - *The creation of wildlife areas, buffer strips and corridors within the design to enhance connectivity across the site and to neighbouring suitable habitat.*
  - *The positioning of log piles to attract invertebrates and provide hibernacula for amphibians and hedgehogs.*
  - *The creation of a wildflower meadow, using native species, to provide foraging habitat for invertebrates; the inclusion on nectar-rich species is recommended.*
  - *The provision of compost heaps at each household or at a community level to minimise waste and provide suitable hibernacula habitat.*
  - *The creation of holes in garden fencing to allow hedgehogs to commute across the site'.*
- 8.9.14 A condition has been attached requiring the submission of a plan to detail what enhancements will be included within the development to try and meet as many of

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these recommendations. Furthermore, a condition related to a detailed landscaping scheme (including aftercare) is also included in the draft conditions attached to this report.

- 8.9.15 Officers consider that the imposition of some, if not all of the recommendations would ensure that the site does offer a way of ensuring that the site does not result in a biodiversity loss to accord with Policy ENV1. Notwithstanding this, the sites limited value from an ecological perspective is recognised.
- 8.9.16 It is also noted that the scheme was subject to a tree survey which recognised a previous survey conducted in 2016. This survey acknowledges that the site survey from that time surveyed 11 trees within the site. Some of these trees were identified as likely to need felling. None of the trees, however, were considered to be in poor health, despite having some structural and other defects. The additional benefit of the trees from a wildlife perspective were recognised.
- 8.9.17 The updated 2020 survey suggest 7 trees would potentially be felled by this scheme being implemented. However, 4 of these were considered to have some amenity value and one had bat roost potential. In that circumstance, the loss of trees that offer these benefits on a site that is proposed to be developed beyond the allocation to the degree that it is, such a loss is not considered justified. As such, a condition requiring the submission of tree protection measures for those trees recognised to have some value in terms of amenity etc. is recommended to be attached to any subsequent approval.
- 8.9.18 The loss of the other trees is regrettable but it is recognised that the requirement for soft landscaping, will ensure that the compensatory planting is provided, offering longer term tree planting for the site which over time will enhance the amenity of the area.
- 8.9.19 Given this low ecological value and the ability for the applicant to provide a suitable landscaping proposal as well as making the additional recommendations of the ecological survey, these measures can ensure that the scheme offers ecological benefits, in accordance with Policy ENV1.
- 8.9.20 On this basis then, the scheme is considered to accord with Policy ENV1 and would not result in a loss in terms of ecology.

## 8.10 Education Contributions

- 8.10.1 In terms of the varied contributions that development of appropriate scale can potentially require, Policy DEV4 entitled '*Infrastructure and Implementation*' applies in this case. The Policy states that '*The scale and pace of new development will be dependent upon sufficient capacity being available in the existing infrastructure networks to meet the demands for new development. Where this cannot be demonstrated, permission for new development will only be granted where additional capacity can be released through better management of existing infrastructure, through the provision of new infrastructure, or in the case of transport infrastructure, where it can be demonstrated through the use of a Transport Statement or Transport Assessment that the residual cumulative impacts of the development will not be severe. Developer contributions may be sought to fund new infrastructure and a programme of delivery will be agreed before development can take place. Contributions must be necessary to make the development acceptable in planning terms and ensure the viability of development is maintained.*

*In some cases developer contributions will take the form of a financial contribution. In all cases they will be directly, fairly and reasonably related in scale and kind to the*

*proposed development. Infrastructure requirements are set out in the infrastructure delivery plan.*

*The ability of a developer to pay contributions, based on an assessment of the economic viability of the development will be considered at the application stage. Negotiations between developers and the Council (advised here appropriate by Cumbria County Council) will determine on a case by case basis whether a developer can feasibly pay contributions to infrastructure without undermining the scheme's viability'.*

- 8.10.2 In terms of the Local Plan then Policy DEV4 specifically demands the provision of infrastructure contributions be made in support of any planning application. In this case, the contributions would relate to educational contributions (which the explanatory text describes as essential infrastructure).
- 8.10.3 This site is allocated and as such, there would have been an anticipated educational contribution to assist in the fees associated with delivering this infrastructure.
- 8.10.4 The County Council as Local Education Authority have had lengthy discussions with the applicant and these have resulted in submissions of viability information upon which the County Council could re-assess their position. For clarity and to remind all, the requirement for educational contributions is currently set at £200,004. This is recognised to be a significant contribution to the local public purse.
- 8.10.5 The fact remains that these viability submissions have failed to convince the County Council that there is any justification to relax their requirements of educational contributions in this case – despite the scheme being for 100% affordable housing.
- 8.10.6 In such a case, the decision must then rest with the Local Planning Authority. It is recognised that this is a most undesirable circumstance and as per the requirements of Policy DEV4 the negotiations have been with Cumbria County Council in this case due to the fact that the contribution is related to education contributions. It is accepted that the County Council remain of the view that the scheme can make the contributions requested and still remain viable. The applicant remains adamant that it can't.
- 8.10.7 The decision is related to the development plan and of course the planning balance. Policy HS1 of the Local Plan demands affordable housing is provided on qualifying schemes unless there is a viability reason to not provide such 30% minimum contributions. In this case, the scheme is actually offering a 100% affordable housing scheme. Rather than the viability relating to the level of affordable housing provision, in this instance, the compromise comes elsewhere.
- 8.10.8 The educational contributions are recognised as very important and infrastructure contributions are enshrined within the Local Plan as Policy DEV4. As such, the choice is either relax the requirement in terms of educational contributions or support a scheme that not only meets extant Policy but completely exceeds it to the maximum level possible.
- 8.10.9 It is recognised that usually, schemes that claim a lack of viability are usually simply not offering one or two aspects of generally anticipated contribution. Or a reduced contribution. In this case though, there is still a significant gain. This is the delivery of a site offering 100% affordable housing. In that context then, the consideration isn't just what the planning balance does not achieve but also what it would.
- 8.10.10 Policy DEV4 states that '*contributions must be necessary to make the development acceptable*' but it must be recognised that the offer of 100% affordable housing also, in

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itself, makes the principle of the proposal acceptable. So, this is not a usual circumstance when considering Policy DEV4 and the determination of a scheme where the proposal may not deliver every aspect and requirement of the development plan.

- 8.10.11 Whilst Officers cannot verify the views of the applicant, the possible outcome, at least what the applicants contend, is that if such a requirement was insisted upon, the viability of the entire scheme would fail. In that circumstance, there would be no development. No development upon which to seek the education contributions and no affordable housing.
- 8.10.12 The expertise of the County Council's viability assessment is not doubted. However, the Local Planning Authority must make a choice. Either, insist that £200,004 is paid to contribute to local education or achieve a development that provides 76 affordable units.
- 8.10.13 One of these achieves the requirements of Planning Policy whilst the other exceeds Planning Policy requirement by the most it could possibly do.
- 8.10.14 Therefore, on balance, officers are of the opinion, whilst the requirements of the County Council are recognised and not easily dismissed, the demand for affordable housing within Eden and indeed Penrith is as significant as the need for financial contributions to support infrastructure. As such, a scheme that complies and exceeds by a considerable margin, the Policy requirements for affordable housing provision, has to be given the planning balance and as such is supported at the expense of the required educational contributions sought by the County Council as Local Education Authority and Policy DEV4.
- 8.10.15 As such Officers would support the scheme despite its lack of requested educational contributions.

## **9. New Homes Bonus**

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

## **10. Implications**

### **10.1 Legal Implications**

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

### **10.2 Equality and Diversity**

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

### **10.3 Environment**

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

### **10.4 Crime and Disorder**

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

### **10.5 Children**

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

### **10.6 Human Rights**

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

## **11. Conclusion**

- 11.1 This application has been subject to significant and protracted discussions between the Local Planning Authority and the applicants. These discussions have revolved around the scale, design and layout of the proposal. Other issues around landscape impact, drainage, highways impact and noise/air impacts have also been prevalent.
- 11.2 The applicant is recognised for its attempts to address such concerns. Whilst some of the changes made are not as far-reaching as officers would prefer, it is recognised that to go further would potentially jeopardise the ability to deliver a 100% affordable scheme and the significant social and economic benefits that this would achieve/deliver to the district.
- 11.3 The premise of the application is based upon that very intention and such an offer is given very significant weight in the planning balance. Schemes of a scale that meet the requirements of Policy HS1 are expected to deliver a minimum of 30% affordable housing. Thus a scheme of 100% affordable units is a very welcome proposal.
- 11.4 Nevertheless, even where a scheme is predicated on such an offer, the other competing aims of the Local Plan cannot be ignored. They can be considered differently though, in the planning balance. Such a significant consideration relates to the proposed scale of the development. The site subject of this application relates to only a portion of the allocated site and would be significantly beyond the numbers anticipated to be yielded from the development of the site.
- 11.5 The initial proposals, for 81 units, were considered too high. The reduction to 76 units is a minor reduction in the context of the scale of the scheme and still sits, uncomfortably with officers. It is only because the scheme has been able to demonstrate it can achieve appropriate amounts of amenity space, permeated throughout the site albeit still in balance varied design in terms of materials to be used. Along with the significant benefit of a 100% affordable housing scheme (which incorporates each dwelling having an electrical vehicle charging point) that the scheme is considered to merit support.
- 11.6 Whilst the reduction from the originally submitted 81 units is considered minor, even this has made a difference to the way the site would be laid out and its composition with greater amounts of amenity space now able to be incorporated into the

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development. This assists softening the development and improves its visual appearance. Not only from views into it, but for the occupants whom would live in it.

- 11.7 Nevertheless, the greater numbers will increase the scale of development and undoubtedly would increase the landscape impact the scheme could have. There is little doubt that the allocated numbers for the site took account of the sites specific location. It is in an elevated position on sloping land and as such will forever change the way this specific parcel of land will appear. This therefore enhances again the on-balanced nature of these considerations and ultimately the recommendation.
- 11.8 In regards to landscape impact it has to be acknowledged that the entire N2 site has been allocated for housing development. As a starting point, this means that the way the land would appear and how this would change was a principal fundamentally accepted. The consideration in this case, is whether that change would be so significantly harmful if only a portion of the entire allocated site was developed by a number of houses well in excess of the entire allocation for the allocated site as a whole.
- 11.9 On balance it is considered that given there is a need for affordable housing in the district and particularly Penrith, the planning balance in this instance is met. Whilst landscape harm is a significant consideration and there would be an undoubted difference in visual appearance between the entire site being developed at a level of the allocation and what is being proposed now, the benefit of the scheme is very significant and that affordable housing need is considered such, that in this very specific instance, the scheme achieves the planning balance and should be supported.
- 11.10 Of very critical consideration is the applicants insistence that they are unable to provide any financial contribution in terms of Policy DEV4, which in this instance would require Education contributions to the County Council in relation to education. The contribution is recognised as significant and the loss of this to the public purse is not easily accepted or dismissed.
- 11.11 However, just as important is the delivery of affordable housing. For the applicant to contribute the £200,004 requested would mean it could be said it would comply with Policy DEV4. To support a scheme offering 100% affordable housing not only complies but exceeds to the maximum it can, the requirements of Policy HS1.
- 11.12 In that context we have a scheme that regrettably, would fail to deliver both requirements, but in the planning balance, the lack of educational contribution, is compensated by a scheme delivering an extra 70% more affordable housing than is the minimum requirement of affordable housing. 76 affordable houses as opposed to the minimum requirement of 23 units.
- 11.13 In terms of drainage it is recognised that there has been further, significant and lengthy correspondence between the Lead Local Flood Authority (LLFA) and the applicant. These have been concluded to result in the LLFA supporting the scheme on the basis that a condition requiring more detailed surface water drainage information being submitted as per the requirements of a condition. Thus, the conclusion is that the drainage matters discussed have now been resolved.
- 11.14 It has always been recognised throughout the determination of this application that the site is allocated within the Local Plan. Whilst the scheme would deliver a yield well in excess of the allocation it is also recognised that all the housing on site proposed as part of this scheme would be affordable housing. Such a contribution to the affordable

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housing objectives of the district is and must be given significant weight in the determination and consideration of this proposal.

- 11.15 Concerns related to landscape impact are not readily dismissed nor are those related to amenity. Of even greater consideration is the schemes inability to contribute financially to education and local infrastructure. But for the reasons given in this report and in the context of the planning balance specific to this application, it is considered that the said balance has been met.
- 11.16 In that circumstance, given there are no other significant, material reasons to the contrary, the application is recommended for approval.

Oliver Shimell  
Assistant Director Planning and Economic Development

Checked by or on behalf of the Monitoring Officer	02.08.2020
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**Background Papers:** Planning File 20/0078

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**Date of Committee:** 13 August 2020

**Planning Application No:** 20/0165      **Date Received:** 5 March 2020

**OS Grid Ref:** 352931 529732      **Expiry Date:** 20 July 2020

**Parish:** Penrith      **Ward:** Penrith East

**Application Type:** Householder

**Proposal:** Proposed two storey extension to rear and front elevations, together with single storey extension to side, and new porch (as amended)

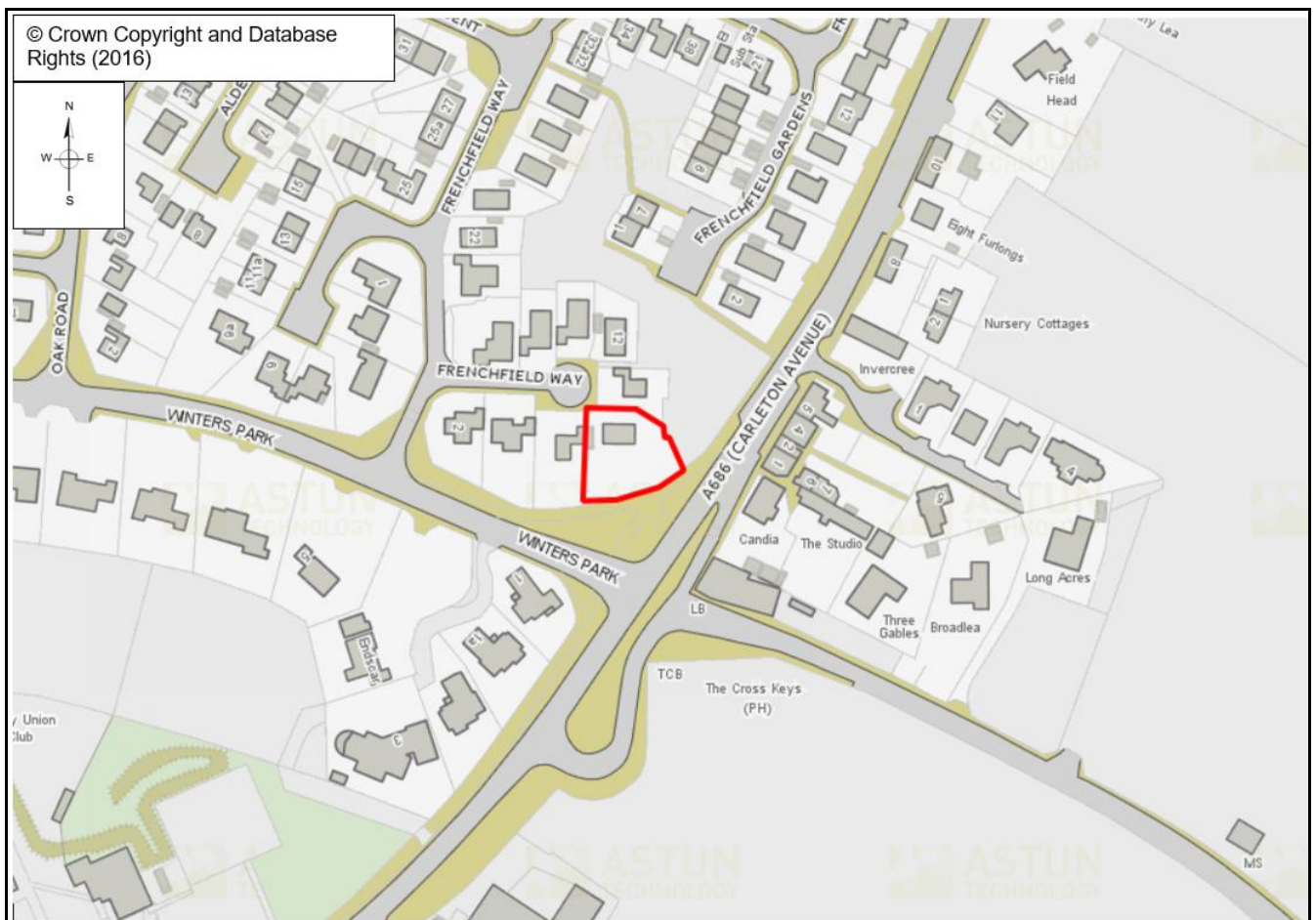
**Location:** 8 Frenchfield Way, Penrith

**Applicant:** Mr Martin Woodhall

**Agent:** Mr Chris Davidson (Concept)

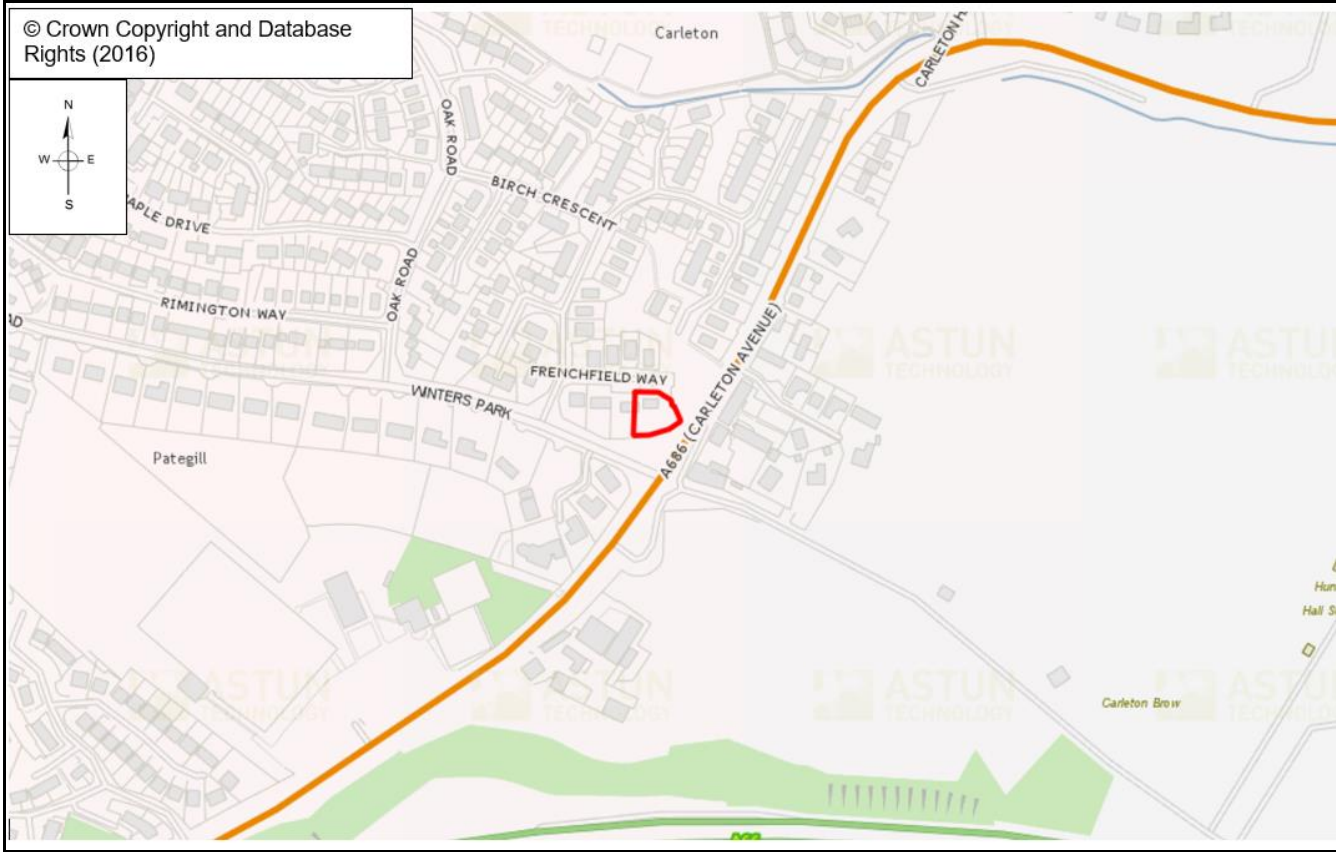
**Case Officer:** Mr D Cox

**Reason for Referral:** There is a request by a neighbouring objector to the proposed development to have a hearing.





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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, as amended and hereby approved :

- i) Application form and detail received 5 March 2020.
- ii) Location and Block plan, drawing Ref No. 1 as received 5 March 2020.
- iii) Proposed floor plan and elevations, as amended, drawing Ref No. 20-03-02 Rev B as dated received 4 June 2020.

**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 proposal, as originally submitted was for a two storey extension to rear and front elevations, together with single storey extension to side, and new porch.

- 2.1.2 As subsequently amended and in part retrospective, the submission is now as follows:

- Wrap around extension to the gable (eastern) and front/principle (southern) elevations, comprising two storey projecting gable pitched roof element and single storey mono-pitch roof element, with juliet balcony and cladding materials (natural slate grey tiles and sand/grey facing brickwork) all to match existing.
- Single storey porch to rear (north) elevation.
- two storey pitched roof extension to existing (west) gable end, again with cladding materials (Natural slate grey tiles and sand/grey facing brickwork) all to match existing.
- New detached single storey and single bay pitched roof garage and storeroom (south-west corner) existing garden curtilage. (with existing garage to be demolished).
- New garden and site boundary security and amenity wall and fence sandstone (with quoins) and vertical timber panel, to south-east boundary (in situ and fronting existing highway and junction).

### **2.2 Site Description**

- 2.2.1 The application relates to an early to mid 1970s detached two storey dwelling, in a large semi-corner plot, positioned and with access off Frenchfield Way, Penrith. The

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dwelling, in its siting is notable, being also set up in a reasonably elevated plot on, and visible (along with other such similar modern and neighbouring residential properties) on the northern side of the Carleton Road/(A686) Langwathby Road junction at the Carleton Avenue/Cross Keys, Carleton Village. The area is predominantly residential, and has seen and is to expect significant new residential development, with varied theme and character in the last few decades.

- 2.2.2 The dwelling is built on an elevated slope and is both visible from and has views, predominantly to the south and east and extending over the adjacent highways, green spaces and beyond. There are similar aged properties lying adjacent to the site, and Close (Frenchfield Way, Winters Park) some of which single and two storey, with evidence of further extension/s having been undertaken since original construction. The application site and dwelling is not untypical of development overall in this peripheral part of the Town (Penrith).
- 2.2.3 The two nearest related detached two storey residential properties are No 6 Frenchfield Way (to the west) and No 10 Frenchfield Way (to the north).
- 2.2.4 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	Confirm that the Highway Authority and Lead Local Flood Authority has no objection to the proposed development as it is considered that the proposal does not affect the highway nor does it increase the flood Risk on the site or elsewhere.
Lead Local Flood Authority	Confirm that the Highway Authority and Lead Local Flood Authority has no objection to the proposed development as it is considered that the proposal does not affect the highway nor does it increase the flood Risk on the site or elsewhere.

### 4. Town Council Response

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

- 4.1 No objection in principle to the application if the separation distances which are understood to be 22m (ie 72') between windows have been observed however (PTC) would like to add the following comments which relate to material considerations :
- This two storey extension may well feel overbearing to No10 as that house is south facing and the extension will cause loss of sunlight going into the patio windows, especially during the winter months when the sun is lower in the sky and daylight hours are reduced.

- There may be an issue of overlooking and loss of privacy from the proposed balcony in the extension.

## **5. Representations**

- 5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on 20 March 2020.

<b>No of Neighbours Consulted</b>	2	<b>No of letters of support</b>	0
<b>No of Representations Received</b>	1	<b>No of neutral representations</b>	0
<b>No of objection letters</b>	1		

- 5.2 Letters of maintained objection from the neighbouring owner occupier (No 10 Frenchfield Way) following both original and amended plan consultation have raised the following material considerations to the application:

- The proposed rear extension is too close, too large and too high to our main living area and bedroom above.
- Our living area and the bedroom above are South facing, the proposed rear extension would block sunlight and natural light to these areas impacting on our heating and lighting energy usage along with our well-being. Other than at the height of summer any sunlight will be obscured.
- If the proposed rear extension is built as planned our main living area would look onto a large solid wall two storeys high extending well beyond the end of our living area, impacting on our well-being.
- The proposed rear extension would also overshadow our main patio area which we use regularly.
- The Juliet balcony of proposed bedroom 2 would look down onto our outdoor seating and eating area.
- The proposed porch moves the main entrance closer to our main living area impacting upon privacy.
- The proposed side elevation shows a bathroom window on the first floor, currently all houses in the row have no windows on the first floor facing main living areas for privacy reasons.
- The plans do not show a true reflection of the closeness of the rear extension to our property and the outlook from our main living area on to it.
- We (therefore) would like the opportunity to speak at any relevant planning meeting regarding the above.

## **6. Relevant Planning History**

There is no relevant planning history.

## **7. Policy Context**

### **7.1 Development Plan**

**Eden Local Plan 2014 – 2032:**

- Policy 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 and 2020) – 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 combination of extensions (single, two storey, curtilage and boundary) to an existing, detached family residential property in Frenchfield Way, in the designated Main Town of Penrith.

8.2.2 The principle of residential extensions are acceptable providing they reasonably 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 There are certain elements of the proposal, in terms single storey extension on the side of the dwellings, such as porches, which would not require planning permission, due to rights of permitted development. The current application, as amended, is however submitted as a whole, and it is to be noted that the boundary wall and fence (to the south-east) have already been erected.

#### **8.3 Landscape and Visual Impacts**

8.3.1 Adopted Eden Local Plan Policy DEV5 addresses the design considerations for proposals, requiring that development shall be high quality design reflecting local distinctiveness, avoid overlooking, protect neighbouring amenity and use quality materials.

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- 8.3.2 The application property, a relatively modern two storey detached dwelling, set on an elevated site and within a sizeable corner plot, is on the whole like most in this part of Frenchfield Way, and neighbouring property, although there are also single storey detached bungalows in the vicinity. Some of the existing properties have taken advantage of the varied views to the south and east, and from this part of Penrith and Carleton by constructing bay windows and/or conservatories to the sides and/or rear of the properties. Consideration of the amended development detail as proposed is set against the backdrop of the above and the aims and criteria concerns of the above relevant adopted Plan Policy.
- 8.3.3 It is accepted that the amended proposal/s will result in a not insignificant change in the profile of the existing dwelling, the outlined aim, in doing so, being to secure a five bedroom “family” dwelling for the applicant. It is to be noted that the aims and criteria concerns of adopted Plan Policy, including Policy DEV5, do not preclude the possibility of that occurring, especially when the relevant property is set within its own sizeable corner plot.
- 8.3.4 The design of the amended detail extensions proposed are of a contemporary nature, and are designed to achieve such a family home with updated and better usable space and circulation than the existing dated dwelling, which do not adversely affect the character of the host dwelling and remain subservient to it. For reference to contemporary and more recent design and development, it is interesting to note the relationship with newer similar such scale residential development to the south of the application site at Winters Park. As a design (including that of the boundary wall and fence which in detail and materials almost mirror that of the above development opposite) it is considered that it would not have an adverse impact on the character and appearance of the building or its broader character setting and would therefore, in that context comply with the aims of Policy DEV5 of the Eden Local Plan.

**8.4 Residential Amenity**

- 8.4.1 This has been and remains of significant concern to the neighbouring owner occupiers of No 10 Frenchfield Way (to the north of the application site) and their particular amenity concerns are itemised and identified above. Although not objecting in principle, the Town Council have also identified similar issues of concern in terms of possible impacts on that neighbouring amenity.
- 8.4.2 Policy DEV5 of the Eden Local Plan addresses the design considerations for proposals, requiring that development shall be high quality design reflecting local distinctiveness, avoid overlooking, protect neighbouring amenity and use quality materials.
- 8.4.3 The “Housing” SPD 2010 guideline support again is supportive of schemes that protect the reasonable amenity of existing residents and provides an acceptable amenity for future occupiers.
- 8.4.4 Objections have been raised by the owner/occupier of the adjacent dwelling at No 10 Frenchfield Way. They are concerned that the proposal (being sited to their south) would be oppressive and overbearing in scale, result in overshadowing and loss of sunlight and a loss of privacy due to overlooking of both their house, certain windows and its surrounding associated garden area.
- 8.4.5 In consideration, it is noted that the objectors dwelling, No 10, again a two storey detached dwelling with access off Frenchfield Way, and also with a plot facing Carleton Avenue, a wide adjacent public verge (and the A686) shares many of the design

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characteristics of the applicants existing dwelling at No 8, although the layout emphasis, on the whole with No 10, appears more east west than north south.

It is however the case that the two sites share a common fenced boundary, kinked to the eastern end, an existing off set separation (flank wall to wall) of approx. 10m (33ft), with the existing eastern two storey gable end of No 10 (to the north-east) being approx 4m forward of the applicants existing two storey eastern gable end. No 10 has a ground floor wrap around lounge sitting room, with windows on both southern and eastern (bay window) gable elevations. There is also a bedroom and landing window at first floor level on the southern elevation. Outside (No 10) is a combination of patio seating area and grassed garden with shed.

- 8.4.6 The neighbours objections and concerns have been fully considered and as a result an amended scheme has been submitted by the applicant whereby the proposed two storey (gable end) eastern elevation extension, though maintaining the same final ridge height as the existing two storey dwelling, would be stepped back (recessed) from the existing northern face and plane (of No 8) by a further 1.125m, resulting in an overall separation distance (flank wall to flank wall) of that extended element of approx. 11.125m between the two properties.

The applicants intention is that such measure is designed to reasonably minimise and limit any possible significant additional adverse amenity impact (to that already existing given present relationship) of the proposed new extension on the neighbouring property, No 10 (given their concerns) and thereby broadly to be in line with the Authorities "Housing" SPD guideline in such relationship.

It is to be noted here that the relevant "Housing" SPD (Appendix H "Residential Extensions/Privacy/Separation Distances) for blank gable wall extension and their relationship to the (main) face of a (neighbouring) dwelling should be at least 13 metres. This however is only a guideline and not a rigid tolerance. Present separation between the flanks of the two properties (No 8 and 10) is approx. 10m, and so is already below this guidance distance.

- 8.4.7 In consideration, and accepting that the applicants dwelling is to the south of the objectors dwelling, and a siting, separation and an orientation that will remain overall fundamentally the same, the amended proposals in this aspect now propose a south eastern gable end extension (of No 8) which would secure an increased degree of separation of approx. 11.125m with the proposed new stepped, parallel extended (approx. 4.9m) element, and separation (between the relevant flanks of Nos 8 and 10.)

In terms of first floor windows, the north facing bathroom window (to No 8) is to be obscure glazed, and therefore will present no overlooking or loss of privacy issue. In terms of the applicants proposed first floor, east facing, gable end recessed Juliet balcony feature, again the combination of existing fenestration and resulting oblique relationship of that new window to the objectors garden and patio area will result in minimal amenity impact, in terms of overlooking and possible loss to privacy, and arguably might represent an improvement in terms of neighbouring privacy, in this aspect, given the (4.9m) depth of the new extension from the existing gable end. Again it should be noted that the present separation between the two properties (No 8 and 10) is approx. 10m, and is already below the Housing SPD guidance. The proposed extensions do not lessen or reduce that degree of existing relationship between the two neighbouring properties.

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- 8.4.8 The objectors have expressed concern that the development will result in a relatively bland, and unattractive flank wall feature close to their boundary. Many such features and relationships exist within the town and locality, and consideration is given to the general east west orientation of the design of No 10, the presence of wrap around glazing to their ground floor lounge/sitting room (with the dominant bay window eastern gable end feature) and the secondary nature of the first floor bedroom window to which they also refer.

In a Town there is always going to be an element of mutual overlooking from any residential property across neighbouring/adjacent land. However, the overall minimal use of glazing detail on the northern elevation, and in addition the use of obscure glazing to the bathroom in the side elevation will further significantly mitigate much of this impact, though bland to a degree, upon the neighbouring residential property No 10.

- 8.4.9 The applicants proposed new north facing porch would be at ground level to the rear when seen from the neighbour's property and viewpoint. Such position would neither be over-powering or over dominant and has been fully considered as such. Its relatively small scale and position behind the rear building line, would again not be intrusive or dominant enough to warrant a refusal of planning permission. Whilst the development will change the character of the relationship between Nos 8 and 10, on balance and despite the concerns raised, these are not considered sufficient, based on amended plans submitted, to justify a recommendation to refuse.
- 8.4.10 The new sandstone boundary wall and topping wooden slat fence fronting the highway junction is now completed and in place. It is certainly different from the original low wall and open gently sloping garden which it replaced. However, it is almost a mirror image of the boundary walls and wood fence toppings to be found opposite on and within the new properties on Winters Park. To that end, the proposal is not considered at odds with previously accepted themes, materials and surrounding character and is therefore considered in accord with the aims and concerns of relevant adopted Plan Policy DEV5. There are no objections to the development proposed by the Highway Authority.
- 8.4.11 The detached single bay pitched roof garage and store, again clad in materials to match the main dwelling and accessed via Frenchfield Way is considered acceptable and not dissimilar in theme, scale and character to similar structures again found in the neighbourhood.

**8.5 Infrastructure**

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

**8.6 Built Environment**

- 8.6.1 It is considered that the proposed development would not have an adverse impact on either the Frenchfield Way/Carleton Drive/A686 streetscene.
- 8.6.2 The proposed extensions and associated developments, given the overall plot size would not result in an cramped form of development, or 'terracing effect' on the street scene given its contemporary design, set back position and partially lower roofline (facing south east) and therefore again is considered would be compliant with the Council's "Housing" Supplementary Planning Document.
- 8.6.3 Though resulting in a larger property, the overall relationship and degree of separation between adjacent properties Nos 8 and 10 Frenchfield Way will remain the same, and



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in character not dissimilar with many other property relationships to be found in Carleton village and other existing residential development found in the vicinity.

- 8.6.4 Overall, the proposed development as amended shows a reasonably clear and sensitive understanding of the form and character of the District's building environment, especially with regard to its particular locality 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 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 the new extensions on the sides, rear and front of the existing residential property, set in a sizeable plot and within and on its boundary curtilage are considered acceptable in terms of their suitably amended design, details, cladding materials, appearance, selective use of obscure glazing and would not have a significant or overall unreasonably adverse impact on the privacy and continued reasonable amenity of the adjacent residential occupiers, given proposed design, existing and maintained degree of separation. For these reasons, the proposal is considered to reasonably accord with the aims and concerns of relevant adopted [Plan Policy DEV5 and the concerns of Housing SPD guideline, and is therefore to be recommended to Members for approval.

Oliver Shimell  
Assistant Director Planning and Economic Development

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Checked by or on behalf of the Monitoring Officer	30.06.2020
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**Background Papers:** Planning File - 20/0165