

Eden District Council
Planning Committee Agenda
Committee Date: 21 January 2021

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Item No	Application Details	Officer Recommendation
1	Planning Application No: 20/0799 Removal of conditions 14 (working hours of employees not resident on site) and 15 (register of occasions where employees not resident on site work until 8pm), attached to approval 20/0133 Land adj. to Fernbank, Great Strickland Applegarth Foods – Mrs K. Twentyman	Recommended to: REFUSE With Reasons
2	Planning Application No: 20/0548 Reserved matters application for access, appearance, landscaping, layout and scale, attached to approval 20/0538 Land West of Gillians Well, Calthwaite Genesis Homes – Mr J Blue	Recommended to: APPROVE Subject to Conditions
3	Planning Application No: 20/0027 Outline planning permission for the erection of up to 13 dwellings with all matters reserved Land South of Low Hesket Village Hall, Low Hesket Mr R Fiddler	Recommended to: APPROVE Subject to Conditions

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Agenda Item 1
REPORTS FOR DEBATE

Date of Committee: 21 January 2021

Planning Application No: 20/0799 **Date Received:** 19/10/20

OS Grid Ref: 3566 5228 **Expiry Date:** 17/12/20

Parish: Great Strickland **Ward:** Morland

Application Type: Full

Proposal: Removal of conditions 14 (working hours of employees not resident on site) and 15 (register of occasions where employees not resident on site work until 8pm), attached to approval 20/0133

Location: Land adj. to Fernbank, Great Strickland

Applicant: Applegarth Foods – Mrs K. Twentyman

Agent: Ian Carrick Designs

Case Officer: Mat Wilson

Reason for Referral: To determine whether conditions previously requested by this Committee should be varied or removed.



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1. Recommendation

It is recommended that the application to remove conditions 14 and 15 of 20/0133 be refused for the following reasons:

The proposal to remove conditions 14 and 15 from permission ref 20/0133 is considered to be unacceptable since the conditions are both necessary, to limit the impact upon the neighbouring residents and upholding their amenity, and reasonable to allow for limited after-hours working by employees based on the information provided about the business's operation. To allow the removal of the conditions would allow an unfettered business operation in a location where controls are considered necessary in order to protect neighbouring amenity. The proposal is therefore considered to be contrary to Policies DEV5 and ENV9 of the Eden Local Plan 2014-2032.

2. Background

- 2.1 At the Planning Committee on 18 June 2020, Members voted to approve the application for a live-work unit on this site outside Great Strickland (ref: 20/0133). The Committee deemed however that an additional condition of approval was required to set the business hours of the work-unit, so as to ensure the business would not operate at unsociable hours and adversely impact upon the amenity of the adjacent neighbouring property.
- 2.2 Officers were not able to reach a consensus with the applicant over the wording of the condition, and as such it was deferred to the Planning Committee to determine the additional conditions to be imposed on the grant of permission. The updated report to Committee, setting out the planning considerations for the proposed additional conditions, is appended at the end of this report.
- 2.3 The Committee resolved at its meeting of 16 July 2020 to impose two additional conditions as recommended by Officers:

14) The working hours for members of staff who are not resident at the site and are employed for the work unit shall be 8am – 6pm.

15) On up to 20 occasions each calendar year, members of staff not resident at the site may assist in the work unit up to 8pm to cater evening functions. A register shall be kept and made available to the Local Planning Authority on request detailing each occasion on which the work unit is operated beyond 6pm.

Reason - In the interests of the amenity of neighbouring residents.

3. Proposal and Site Description

3.1 Proposal

- 3.1.1 Members will recall that the scheme granted full planning permission was for the construction of a two-storey dwelling and a linked agricultural-style building to serve as the new premises for an established catering business, which will relocate from the applicant's existing property in Great Strickland.
- 3.1.2 This application seeks to remove conditions 14 and 15 and the application form states:
'The conditions are neither necessary nor reasonable and therefore do not comply with the Governments advice contained within paragraph 55 of the National Planning Policy Framework'.

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The Planning Statement submitted with the application further sets out the reasons for the removal of the conditions, as supported by the accompanying Noise Assessment report. It states that the two conditions fail to satisfy the necessary tests set out at Para 55 of the NPPF by being both unnecessary and unreasonable. It contends that *'the Council had no evidence to show that they were ever necessary and ignored the evidence provided by the owner. They are also so onerous that they prevent the business from operating. They clearly fail the Government tests and should never have been applied.'*

3.2 Site Description

- 3.2.1 The application relates to a field of approximately 2,300sq.m. to the south of the road into Great Strickland. The field is grazing land bounded to all sides by hedgerow. A gate provides access into the west side of the field. The two-storey property Fernbank fronts onto the road immediately to the west of the application site. To the south and east are separate fields. The application site is 400m east of St Barnabas Church on the edge of Great Strickland.
- 3.2.2 The site is open countryside and in terms of the Local Plan spatial strategy policy, it falls within the classification of Other Rural Areas outside the Key Hubs and Smaller Villages and Hamlets. The site has no other specific designation in terms of planning policies, i.e. it is not within a Conservation Area, an area at risk of flooding, etc.

4. Consultees

4.1 Statutory Consultees

Consultee	Response
Highway Authority	The layout details shown on the submitted plan are considered satisfactory from a highway perspective. I can therefore confirm that the Highway Authority has no objection to the Removal of conditions 14 (working hours of employees not resident on site) and 15 (register of occasions where employees not resident on site work until 8pm), attached to approval 20/0133.

4.2 Discretionary Consultees

Consultee	Response
Lead Local Flood Authority	No comments
County Council Minerals and Waste	No comments
Environmental Health	Having looked at this application, the noise report, and had knowledge of the business in its current location in the middle of the village, I am satisfied that the use of the business part of the operation as described in the application, will not impact upon the amenity of the nearest other dwellings, and in my opinion the two noise conditions can be revoked.

5. Parish Council/Meeting Response

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

5.1 The Parish Council responded as follows:

The Parish Council has not held a public meeting to discuss this application, but it has been advertised around the village to residents and all councillors who are eligible to comment. No comments have been received.

6. Representations

6.1 Letters of consultation were sent to nearby neighbours and to members of the public who had previously commented on the application on 29 October 2020.

No of Neighbours Consulted	10	No of letters of support	0
No of Representations Received	6	No of neutral representations	0
No of objection letters	6		

6.1.1 Letters of objection have been submitted from local residents, raising the following material considerations insofar as they are relevant to the current application:

- Removing the conditions will lead to more frequent deliveries and evening activity with the potential to generate noise and disturbance.
- Noise generation arising from delivery vehicles, congregation of staff and the opening and closing of metal roller shutter doors, and its impact on amenity.
- Adverse impacts of light pollution from delivery vehicles operating after normal working hours.
- The noise report states: '*As there is no activity proposed during the night time period, only daytime hours have been considered in this assessment*' – directly at odds with the application to remove conditions limiting night time activity.
- The Acoustic Report misses the point. Any noise from food prep processes is secondary to that from staff vehicles, staff noise, delivery vehicles and industrial roll-top shutters.
- The conditions in question are necessary to safeguard the living conditions of neighbouring residents, particularly in terms of noise and disturbance.
- The removal of the conditions would conflict with Policy ENV9 of the Eden Local Plan.
- Paragraph 170 of the NPPF calls on planning decisions to prevent '*new and existing development from contributing to, being put at unacceptable risk, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution*'.
- The Planning Committee sought to support the applicant's business by granting permission for the live-work unit, but the applicant's is not the only business in the

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vicinity: there are two hospitality businesses in the locality that should be afforded the same level of support and protection.

- The conditions provide some level of protection and should therefore remain.
- No mitigating measures are proposed by the applicant as an alternative to the conditions, without which the development has potential to generate uncontrolled levels of noise and disturbance.
- It seems perverse to argue that the conditions do not already protect the neighbours from noise and disturbance up to the hours of 6pm and 8pm, and therefore the situation should be allowed to be made worse by allowing operations later in the evening.
- The proposed removal of conditions 14 and 15 will effectively mean that the business, except for deliveries, could operate 24/7 irrespective of the scale of operations and the associated internal and external activities.
- In response to the changing market post-COVID, the business model appears to have moved from the supply of local village and farm shops with baked goods, to catering bespoke dinner parties in the client's home.
- The business is therefore materially different from a B1 (c) light industrial use as required by condition 11 of the planning permission.
- No viability report has been submitted to substantiate that the business would be made unviable by the conditions.
- If the business wishes to operate unrestricted hours, it could be accommodated on a business park.
- It cannot be right that neighbours should have to be affected by the noise, smells and traffic from someone else's business. The conditions protect the quality of life at a time when health and wellbeing has never been more important.

6.1.2 Matters raised not pertaining to the current application include:

- The already-granted planning permission will substantially detract from the appeal of the existing holiday cottage next to the site and will threaten its viability.
- The application raises the possibility that what is now intended in scale and emphasis goes beyond what was originally advanced.

7. Relevant Planning History

- 20/0133 Construction of live/work unit – approved 17/7/20
- 18/0917 Construction of live/work unit and field shelter - refused 20/9/19
- On the adjacent field: Outline application 18/0291 two dwellings - refused 14/6/18

8. Policy Context

8.1 Development Plan

Local Plan 2014-2032

Relevant Policies

- DEV1 General Approach to New Development
- DEV5 Design of New Development
- ENV9 Other Forms of Pollution

8.2 Other Material Considerations

National Planning Policy Framework:

- Paragraph 11: Presumption in favour of sustainable development
- Paragraphs 54-55: The use of planning conditions
- Paragraph 81: Policies should accommodate flexible working practices (eg live-work units)
- Paragraph 180: Avoiding adverse impacts from noise from new development

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

9. Planning Assessment

9.1 Key/Main Planning Issues

- Residential Amenity
- The Tests of Conditions
- Reasonableness, Precision and Enforceability

9.2 Residential Amenity

- 9.2.1 Policy DEV5 of the Eden Local Plan requires that development shall protect the amenity of existing residents, whilst Policy ENV9 states that developments likely to cause pollutions including noise and light shall ensure that appropriate mitigation is put in place to ensure existing noise sensitive premises are not adversely affected.
- 9.2.2 In the consideration of application 20/0133 for the live/work unit, the Planning Officers were reasonably satisfied that impacts arising from the proposal upon residential amenity were likely to be acceptable since the business plan submitted for the application indicated a relatively low-impact business use in terms of noise and disturbance generated by the business. The most likely source of disturbance was considered to be early-morning deliveries, and acknowledging that these were occasionally necessary, the Committee report recommended allowing a limited number of deliveries prior to 8am, as provided for by condition 10.
- 9.2.3 It is recognised however that the nature of the business could generate noise and disturbance due to working after-hours to cater for a morning event the following day, or returning from an evening event, and additional conditions limiting the operating hours of the business, which originally had not been included in the recommendation to the Planning Committee, were then requested by the Committee Members, in the interests of the amenity of neighbouring residents.
- 9.2.4 In order to achieve the aim of safeguarding the amenity of neighbouring residents, a difficult exercise ensued in agreeing between the parties the scope and wording of the additional conditions, which were required to be reasonable to the applicant; to achieve a level of protection for the neighbour's amenity; and to be precise enough to allow the Planning Authority to enforce against any breach of the condition. Without being able to reach a consensus with the applicant on the nature of the conditions, the matter was deferred back to the Planning Committee. The conditions recommended to and subsequently agreed by the Committee restrict working hours for staff members other than the applicant to 6pm (Condition 14) and to allow on up to 20 occasions annually to extend the working hours to 8pm, so that occasional evening or early morning events may be catered for. These conditions are considered by Officers to provide a reasonable level of protection to the amenity of neighbours without which, an

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unfettered use allowing unrestricted working hours could result in adverse impacts upon the neighbours. It is noted that the inclusion of such conditions were not appealed by the applicant to the Planning Inspectorate following the decision notice being issued.

- 9.2.5 In assessment of the development as a whole, it is considered that the likely sources of disturbance are light pollution from the delivery vehicle headlights and lamps illuminating the external area, and noise generated by staff and the operation of metal roller shutter doors, all of which could be reasonably tolerated during the day and on a limited number of evenings, but which if carried on persistently during unsociable hours would impact adversely on the neighbour's amenity.
- 9.2.6 The acoustic survey submitted with the application has provided results from noise readings taken during food preparation, including the operation of machinery such as mixers, and concludes that the noise would have no impact on neighbours. It goes on to state that *'As there is no activity proposed during the night time period, only daytime hours have been considered in this assessment'*, which somewhat misses the point of the application. Moreover, it does not take into account the aforementioned noise generated by staff or the roller shutter doors. Whilst the Environmental Health Officer may consider that the two noise conditions can be revoked, it is considered that the immediate neighbour has a right to expect that their amenity be afforded protection, as supported by Policy DEV5 of the Eden Local Plan which requires, in part, that new development, *'Protects the amenity of existing residents and business occupiers and provides an acceptable amenity for future occupants.'* This could perhaps still be achieved by varying the conditions to allow a more acceptable working-hour restriction to the applicant, however no suggestions have been put forward to alter the wording of the conditions, just to simply remove them altogether from the decision notice.
- 9.2.7 Officers are well aware that there is a difficult planning balance to be struck here between supporting a local business, allowing it to adapt to an increasingly challenging environment post-COVID, whilst ensuring that the amenity of immediate neighbours, particularly in a tranquil location such as this, is not sacrificed in the name of progress. It is clear however that allowing an unfettered business operation within the light industrial use class immediately adjacent to a residential property would be contrary to Policies DEV5 and ENV9, which prevents developments which would adversely affect neighbouring amenity and requires that noise-sensitive premises shall not be compromised by developments causing noise or light. As such, in order to maintain a respectable level of amenity, the removal of the conditions is considered to be unacceptable.

9.3 The Tests of Conditions

- 9.3.1 The National Planning Policy Framework states at Paragraph 55 that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:
1. necessary;
 2. relevant to planning;
 3. relevant to the development to be permitted;
 4. enforceable;
 5. precise; and
 6. reasonable in all other respects.

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- 9.3.2 The applicant's agent contends the conditions fail the tests by being both unnecessary and unreasonable. However, it is again noted that no appeal has been made to the Planning Inspectorate regarding the inclusion of the aforementioned conditions in the decision notice.

9.4 Necessity and Reasonableness

- 9.4.1 The hours of operation conditions must allow the business to operate in a sustainable way without unduly restricting its operation to an extent where it becomes unviable, as this would call into question the validity of the planning permission. Equally, the conditions must serve a planning purpose, they must afford a level of protection to the amenity of neighbouring occupiers.
- 9.4.2 The Supporting Statement contends that the conditions fail the necessity test by virtue of a lack of evidence to substantiate the requirement for the conditions. The acoustic report provided with the application determines that the activities of the business would result in 'no observed adverse effect'. Potential alternative future uses of the premises are restricted by Condition 11 to a use within the same Use Class as the catering business, a light industry use 'which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit'. As such, the Statement argues that the conditions would be unnecessary for any light industrial use that follows. A use not falling within the same Use Class would require a fresh planning permission.
- 9.4.3 In the event however that the conditions restricting the working hours of employed staff were to be removed, the business would benefit from an unfettered permission and the potential sources of disturbance to the near neighbour – vehicle headlights, external lighting, staff noise and the operation of the roller shutters – if unchecked could produce an unacceptable level of disamenity to the neighbour, contrary to Policy DEV5 of the Eden Local Plan. The acoustic report makes no account for these noise impacts at night.
- 9.4.4 The conditions are therefore considered to be necessary to protect neighbouring amenity.
- 9.4.5 In terms of reasonableness, the Supporting Statement contends that the effect of these conditions would be to impose such a severe restriction of the business that it would be tantamount to a refusal of planning permission. The Statement sets out that the Catering business provides buffet-style meals for weddings, funerals, corporate events and any other social gathering where food is offered. It relies on offering a quality, fresh product for its success. The core business involves the owner and often one or two co-workers being busy into the evening of the day before an event, making up sandwiches etc., so that the food is delivered fresh for the next day. Evening events are also catered for. This involves the owner and her co-workers returning at the end of the event at around 10.30pm -11pm.
- 9.4.6 That is however contrary to the information previously provided during the course of the application as to the business's operational needs, and on which the conditions suggested were based upon. The information provided to the Council by the applicant/agent on the normal working practice of the business in support of their application is set out in paragraphs 4.4.5 and 4.4.6 of the previous report to Committee and can be found in the Appendix. Specifically, the agent stated that it is not in the applicant's interest to work late, and nor are they intending to do so, however to run the business successfully some flexibility is required. It is submitted that the conditions

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reasonably allow extended working hours beyond the normal working day on a number of occasions each year, factoring in the information submitted at the time about the operation of the business. However if the business, as now claimed, relies on evening working, then the suitability of the location of this operation adjacent to a neighbouring property is called into question. If the development requires that the work element of the scheme is operated without restriction in terms of hours, then the proposal fails to meet the requirements of Policy DEV5 in respect of protecting neighbouring amenity.

- 9.4.7 If the conditions truly would restrict the viability of the business as it evolves to changing circumstances following COVID, then the applicant is at liberty to suggest a variation to the conditions, which would allow greater liberty to work unsocial hours. Such a proposal would be considered on its merits; however the application simply proposes to remove the conditions in question. As such, Officers consider it would be unreasonable to accept the omission of restrictive conditions which are necessary to protect neighbouring amenity based upon the limited further information and justification now provided under this current application.

10. Implications

10.1 Legal Implications

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

10.2 Equality and Diversity

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

10.3 Environment

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

10.4 Crime and Disorder

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

10.5 Children

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

10.6 Human Rights

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

11. Conclusion

- 11.1 The proposed development of a live/work unit on this site was accepted by the Planning Committee but Members deemed that permission should be subject to a further condition restricting working hours of the work unit so as to safeguard the neighbour's amenity. The Planning Officers and the applicant were unable to reach a consensus on the agreed wording of the condition.
- 11.2 The conditions as recommended by Planning Officers were accepted by the Planning Committee and were included on the planning approval. It is maintained that these conditions are necessary, to limit the impact upon the neighbouring residents and

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upholding their amenity, and reasonable to allow for limited after-hours working by employees in response to the information provided at the time about the business's operation. If the business operation were to rely on evening working, as now claimed, then the location of the work premises adjacent to a neighbouring property is deemed to be unsuitable. As such it is recommended that the application to remove the conditions be refused.

Oliver Shimell

Assistant Director Planning and Economic Development

Checked by or on behalf of the Monitoring Officer	05.01.2020
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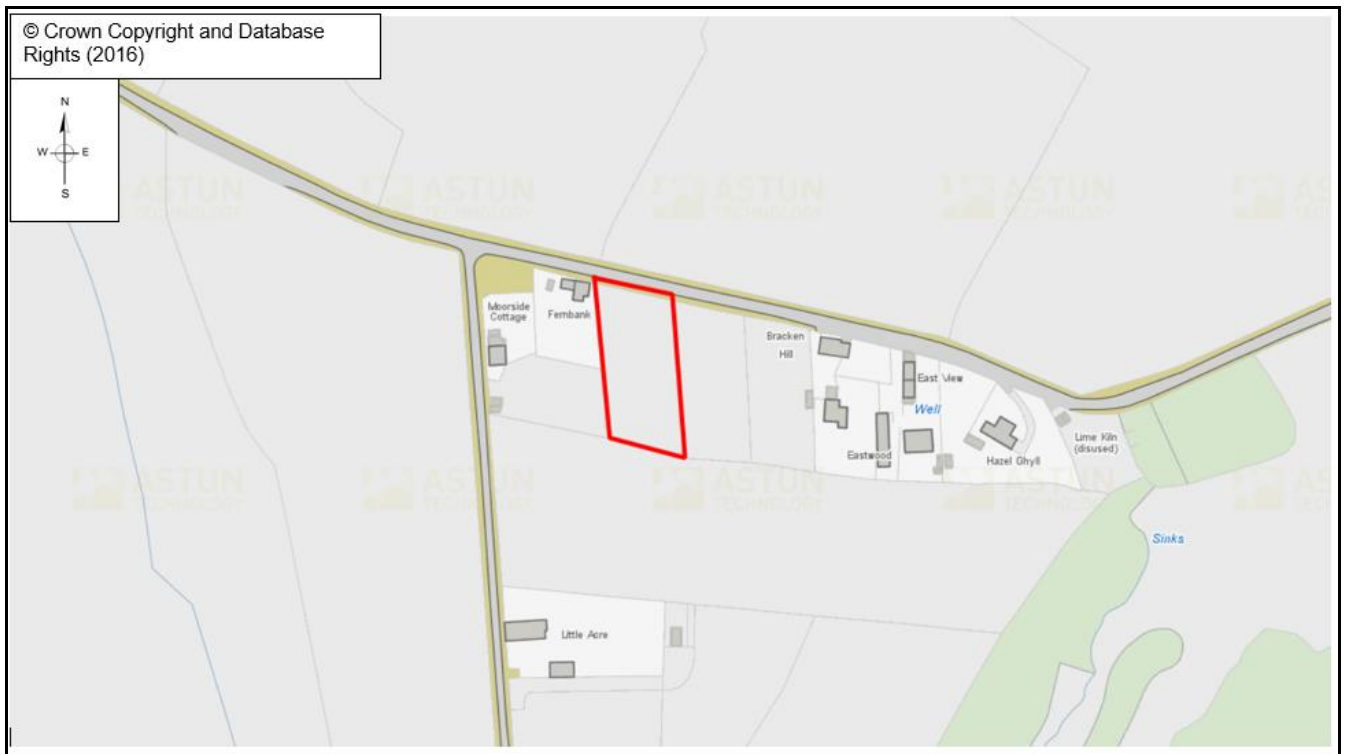
Background Papers: Planning File 20/0133

Agenda Item 1
Appendix: Previous Report to Committee
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Date of Committee:	16 July 2020		
Planning Application No:	20/0133	Date Received:	20/02/20
OS Grid Ref:	3566 5228	Expiry Date:	17/04/20
Parish:	Great Strickland	Ward:	Morland
Application Type:	Full		
Proposal:	Construction of live/work unit comprising 2 storey dwelling, single storey link and work unit with remote secure storage		
Location:	Land adj. to Fernbank, Great Strickland		
Applicant:	Applegarth Foods – Mrs K. Twentyman		
Agent:	Ian Carrick Designs		
Case Officer:	Mat Wilson		
Reason for Referral:	To seek Members' agreement on the wording of a condition requested by the Planning Committee		



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Appendix: Previous Report to Committee
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1. Recommendation

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

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

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

- 2) The development hereby granted shall be carried out strictly in accordance with the application form and following details and plans hereby approved:

- Proposed location plan Rev V5 01 dated 12 12 2019
- Proposed site plan Rev V5 01 dated 12 12 2019
- Ground floor plan rev V5.1 Rev04 dated 10 2 2020
- Dwelling first floor and elevations rev V5.1 Rev04 dated 10 2 2020
- Work unit elevations rev V5.1 Rev04 dated 10 2 2020
- Garage and timber shed rev V5.1 Rev04 dated 10 2 2020
- Design and Access Statement date-stamped 20 Feb 2020
- Business Plan May 2020

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

Prior to Construction

- 3) Prior to any other development commencing, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions shall be submitted to and agreed in writing with the Local Planning Authority. The scheme shall include a plan which demonstrates how the development will achieve a neutral or positive impact in permeability of surface water drainage. The approved surface water drainage scheme shall then be implemented in full before the occupation of the development.

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.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding. The condition is considered necessary to be complied with prior to development as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

- 4) Before any other operations are commenced, a plan demonstrating visibility splays for each access shall be submitted to and approved in writing by the Local Planning Authority. The visibility splays shall then be implemented in accordance with the approved plan, and shall be retained for their intended use thereafter free of any obstruction exceeding 1m in height. The visibility splays shall be

constructed before general development of the site commences so that construction traffic is safeguarded.

Reason: In the interests of highway safety. The condition is considered necessary to be complied with prior to development as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

Before construction works above foundation level commence

- 5) Samples or full details of all external materials proposed for the development shall be submitted to and approved by the Local Planning Authority in writing prior to their use on site. Development shall be carried out in accordance with the approved details.

Reason: To ensure that the materials are acceptable and in keeping with this sensitive location. The condition is considered necessary to be complied with prior to occupation as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

- 6) Prior to construction commencing above foundations level, a landscaping plan including boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The plan shall demonstrate all hedges and trees to be retained together with enhancement of the west boundary to ensure the gap in the hedge is sealed. The approved scheme shall then be implemented in full and shall be retained as such thereafter.

Reason: In the interests of the privacy and amenity of neighbouring occupiers.

Before the first use or occupation of the development

- 7) The live/work unit shall not be occupied until the vehicular access and turning requirements have been constructed in accordance with the approved plan and have been brought into use. The vehicular access turning provisions shall be retained and capable of use at all times thereafter.

Reason: In the interests of highway safety.

- 8) Any vehicular access gates installed shall open inwards only.

Reason: In the interests of highway safety.

Ongoing Conditions

- 9) Construction works shall be carried out only between 0800 – 1800 hours Mondays – Fridays; 0900 – 1300 hours on Saturdays and there shall be no building operations on Sundays and Bank Holidays.

Reason: In the interests of the amenity of neighbouring occupiers.

- 10) No deliveries to the site in connection with the catering business shall take place outside the hours of 0800 – 1800 hours on any day of the week, except on up to 10 occasions per year, when deliveries may take place between 0700 and 0800. A register shall be kept and made available to the Local Planning Authority on request detailing each occasion on which deliveries are made before 0800.

Reason: In the interests of the amenity of neighbouring occupiers and providing for the infrequent occasions when deliveries are required slightly earlier than

usual.

- 11) The business floorspace of the live/work unit hereby approved shall not be used for any purpose other than in connection with the catering business, or in any provision equivalent to its Class set out in the Town and Country Planning (Use Classes) Order 1987 (or any order revoking, re-enacting or modifying that Order with or without modification).

Reason: To ensure the work element of the proposal is maintained ensuring that the development cannot become an unrestricted dwelling in the countryside which would otherwise be contrary to policy.

- 12) The work element floorspace of the live/work unit hereby permitted shall be occupied within three months of the residential element being occupied, and shall continue to be used only as a workspace. The balance of living area and working floor space shall be maintained in accordance with that shown on the approved plans. The residential floorspace of the live/work unit shall not be occupied other than by a person solely or mainly employed, or last employed in the business occupying the business floorspace of the associated unit, a widow or widower of such a person, or any resident dependants.

Reason: To ensure the live/work unit operates as a cohesive development and so that either the live or work elements are not occupied independently of one another which would otherwise be contrary to policy.

- 13) There shall be no internal alterations which would lead to a reduction in the area of the building allocated on approved plans as being used for employment purposes.

Reason: To ensure the work element of the proposal is maintained ensuring that the development cannot become an unrestricted dwelling in the countryside which would otherwise be contrary to policy.

- 14) The working hours for members of staff who are not resident at the site and are employed for the work unit shall be 8am – 6pm.

Reason: In the interests of the amenity of neighbouring residents.

- 15) On up to 20 occasions each calendar year, members of staff not resident at the site may assist in the work unit up to 8pm to cater evening functions. A register shall be kept and made available to the Local Planning Authority on request detailing each occasion on which the work unit is operated beyond 6pm.

Reason: In the interests of the amenity of neighbouring residents.

Informative

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.

2. The live/work unit hereby granted is a mixed use development and as such the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking, re-enacting or modifying that Order with or without modification) do not apply to this site.

2. Background

- 2.1 At the Planning Committee on 18 June 2020, Members voted to approve the application for a live-work unit on this site outside Great Strickland. The Committee deemed however that an additional condition of approval was required to set the business hours of the work-unit, so as to ensure the business would not operate at unsociable hours and adversely impact upon the amenity of the adjacent neighbouring property. The previous report to Committee, setting out all the planning considerations, is appended at the end of this report.
- 2.2 Officers have not been able to reach a consensus with the applicant over the wording of the condition, and as such it is deferred to the Planning Committee for their consideration.

3. Proposal and Site Description

3.1 Proposal

- 3.1.1 Members will recall that the application is for full planning permission for the construction of a two-storey dwelling and a linked agricultural-style building to serve as the new premises for an established catering business, which will relocate from the applicant's existing property in Great Strickland. The full details of the proposal are set out in the previous Committee report appended to this document.

3.2 Site Description

- 3.2.1 The application relates to a field of approximately 2,300sq.m. to the south of the road into Great Strickland. The field is grazing land bounded to all sides by hedgerow. A gate provides access into the west side of the field. The two-storey property Fernbank fronts onto the road immediately to the west of the application site. To the south and east are separate fields. The application site is 400m east of St Barnabas Church on the edge of Great Strickland.
- 3.2.2 The site is open countryside and in terms of the Local Plan spatial strategy policy, it falls within the classification of Other Rural Areas outside the Key Hubs and Smaller Villages and Hamlets. The site has no other specific designation in terms of planning policies, i.e. it is not within a Conservation Area, an area at risk of flooding, etc.

4. Planning Assessment

4.1 Key/Main Planning Issues

- Residential Amenity
- The Tests of Conditions
- Reasonableness, Precision and Enforceability

4.2 Residential Amenity

- 4.2.1 In determining the likely impacts of the live/work unit upon residential amenity, particularly that of the immediate adjacent neighbour at Fernbank, Officers had concluded that the impacts were likely to be acceptable given the nature of the catering business proposed within the work unit. The most significant possible impact was deemed by Officers to be the deliveries of produce and equipment to the premises, particularly early morning deliveries which are only occasionally required in order to cater for a morning event. It was recommended that, should permission be granted, it

be subject to a condition addressing the potential impacts by limiting the frequency of deliveries before 8am, which are permitted on no more than 10 occasions per year.

- 4.2.2 In debating the proposal at the previous Committee on 16 June, Members considered that the operating hours of the business had not been addressed through the conditions, and that the neighbouring resident's amenity would be more fully safeguarded through the inclusion of a condition relating to the hours of use of the business in addition to that limiting the vehicles movements as set out in Condition 9. As such, delegated approval was given to Officers to agree a suitable condition to safeguard the neighbour's amenity. Such a condition is required to be reasonable to the applicant; to achieve a level of protection for the neighbour's amenity; and to be precise enough to allow the Planning Authority to enforce against any breach of the condition.

4.3 The Tests of Conditions

- 4.3.1 The National Planning Policy Framework states at Paragraph 55 that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:
1. necessary;
 2. relevant to planning;
 3. relevant to the development to be permitted;
 4. enforceable;
 5. precise; and
 6. reasonable in all other respects.
- 4.3.2 The government's National Planning Policy Guidance advises that each of the tests need to be satisfied for each condition. Any proposed condition that fails to meet one of the 6 tests should not be used. This applies even if the applicant suggests or agrees to it, or it is suggested by the members of a planning committee or a third party.
- 4.3.3 The applicant's agent proposed the following condition:
- *The normal core hours of the business are 8-6pm. Staff vehicle movements should be kept to mainly within these times, except when a particular event warrants a journey outside of these times, when the number of movements shall be kept to a minimum and limited to only those directly associated with the event being catered for.*
- 4.3.4 Due to concerns over the compliance of this condition with the required tests set out above, specifically in relation to precision and enforceability, Officers suggested the following conditions:
- *The working hours of the catering business shall be 8am – 6pm.*
 - *On up to 20 occasions each calendar year, the work unit may operate to 8pm to cater evening functions. A register shall be kept and made available to the Local Planning Authority on request detailing each occasion on which the work unit is operated beyond 1800 hours.*
- 4.3.5 The applicant's agent contends that this imposes an onerous restriction on the business, and would render it unviable.

4.4 Reasonableness, Precision and Enforceability

- 4.4.1 The hours of operation conditions must allow the business to operate in a sustainable way without unduly restricting its operation to an extent where it becomes unviable, as this would call into question the validity of the planning permission. Equally, the conditions must serve a planning purpose, they must afford a level of protection to the amenity of neighbouring occupiers.
- 4.4.2 Officers consider that the condition suggested by the applicant's agent fails to meet the tests of precision or enforceability. Terms such as *'normal core hours'*, *'kept mainly within these times'*, *'except when a particular event warrants a journey outside of these times'* and *'movements shall be kept to a minimum'* are imprecise and vague, whilst limiting vehicular movements to *'those directly associated with the event being catered for'* is unenforceable. It does not impart any ability on the Planning Authority to monitor the number of vehicular movements, the times at which they occur, or to determine which movements are associated with the operation of the business, from those which are simply the comings and goings of a dwelling.
- 4.4.3 More fundamentally, there is disagreement on the purpose of the actual condition, and what it would be trying to achieve. The condition proposed by the applicant seeks solely to limit the vehicular movements associated with the business beyond 6pm. Officers are of the view however that it is the operation of the work unit itself which would potentially have the greater impact on neighbouring amenity. The act of making a journey from the site, to deliver the prepared goods, will have negligible consequence on the neighbouring property, and Officers do not consider that the making of deliveries from the site warrants restricted hours.
- 4.4.4 The potential for a negative amenity impact on the neighbour arises from the business operating at unsociable hours, although it is acknowledged that, given the nature of the food preparation business, such impact is likely to be low level. If Members consider that the hours of operation ought to be restricted, it is submitted that the conditions suggested by Officers would allow the business to operate in a viable way, whilst affording the protection to the neighbour's amenity.
- 4.4.5 Unfortunately the section of the planning application form providing the intended hours of opening for the non-residential use was left blank. The Design and Access Statement provides no detail on the hours of operation. Further information is detailed in the Business Plan submitted after the adoption of the new Housing Supplementary Planning Document. The Business Plan indicates that aside from infrequent early morning deliveries (from 7.30am) to prepare morning events (the allowance for which is set out in condition 10), the normal time of deliveries would be from 8.30am onwards. It further states that the working hours extend beyond the normal working day, but doesn't clarify the actual hours or the frequency of working unsociable hours.
- 4.4.6 Officers had tried to build into the suggested condition the capacity for the applicant to occasionally work beyond 6pm, when a particular large event is catered for, and it is considered reasonable to allow up to 20 occasions per year. From the information provided with the application, it is difficult to quantify the number of events that might be expected to require the work unit to operate at unsociable hours. In negotiations over the proposed condition since the previous Committee, the applicant's agent has indicated that the core hours of the business activities are 8am-6pm, but there are occasions when the applicant might be catering for a larger function such as a wedding, which would require working outside this time. An example given is when

meals are provided for guests on the Ullswater Steamer, which operates until 10pm. The agent states that it is not in the applicant's interest to work late, and nor are they intending to do so, however to run the business successfully some flexibility is required. Officers consider however that there must be a reasonable limit either to the number of occasions on which the work unit can operate at unsociable hours, or to the level of intensity of use of the work unit beyond 6pm, in the interests of ensuring the neighbour's amenity is not unduly compromised.

- 4.4.7 Members may consider that an alternative means of providing them with the assurance of protecting the amenity of neighbouring residents, whilst allowing the business of the live/work unit to operate in a viable and sustainable manner, would be to limit the working hours of other members of staff who do not reside at the live/work unit. This acknowledges that the preparation of buffet food by the applicant by herself within the work unit is unlikely to be a source of noise or disturbance to the neighbour, but gives the Council the means to regulate the intensity of use of the work unit and the frequency of comings and goings at potentially unsociable hours.
- 4.4.8 As such, the following conditions are suggested which, Officers submit, meets the test of reasonableness, precision and enforceability:
- *The working hours for members of staff who are not resident at the site and are employed for the work unit shall be 8am – 6pm.*
 - *On up to 20 occasions each calendar year, members of staff not resident at the site may assist in the work unit up to 8pm to cater evening functions. A register shall be kept and made available to the Local Planning Authority on request detailing each occasion on which the work unit is operated beyond 6pm.*
- 4.4.9 These conditions would allow the applicant to continue to work in a way which sustains the business, whilst ensuring the level of impact on neighbouring amenity is managed, and allows for breaches of the conditions to be monitored, investigated, and if necessary, enforced against.

5. Implications

5.1 Legal Implications

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

5.2 Equality and Diversity

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

5.3 Environment

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

5.4 Crime and Disorder

- 5.4.1 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.

5.5 Children

- 5.5.1 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.

5.6 Human Rights

- 5.6.1 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.

6. Conclusion

- 6.1 The proposed development of a live/work unit on this site was accepted by the Planning Committee but Members deemed that permission should be subject to a further condition restricting working hours of the work unit so as to safeguard the neighbour's amenity. The Planning Officers and the applicant have not reached a consensus on the agreed wording of the condition.
- 6.2 The revised conditions now suggested are proposed as the most practicable means of achieving satisfaction for all parties. The conditions do not compromise the normal working practices of the applicant or affect the viability of the business. They do allow for restrictions to be placed upon the frequency of comings and goings of other staff members, thereby limiting the impact upon the neighbouring residents and upholding their amenity. Finally they provide the Planning Authority with a means of monitoring the extent of commercial activity and the security of a means to enforce against breaches of the condition. As such it is recommended that permission be granted subject to the inclusion of the additional conditions.

Oliver Shimell
Assistant Director Planning and Economic Development

Checked by or on behalf of the Monitoring Officer	01.07.2020
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Background Papers: Planning File 20/0133

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Date of Committee: 21 January 2021

Planning Application No: 20/0548 **Date Received:** 6 August 2020

OS Grid Ref: 346528 540451 **Expiry Date:** 25 January 2021

Parish: Hesket **Ward:** Hesket

Application Type: Reserved Matters

Proposal: Reserved matters application for access, appearance, landscaping, layout and scale, attached to approval 20/0538

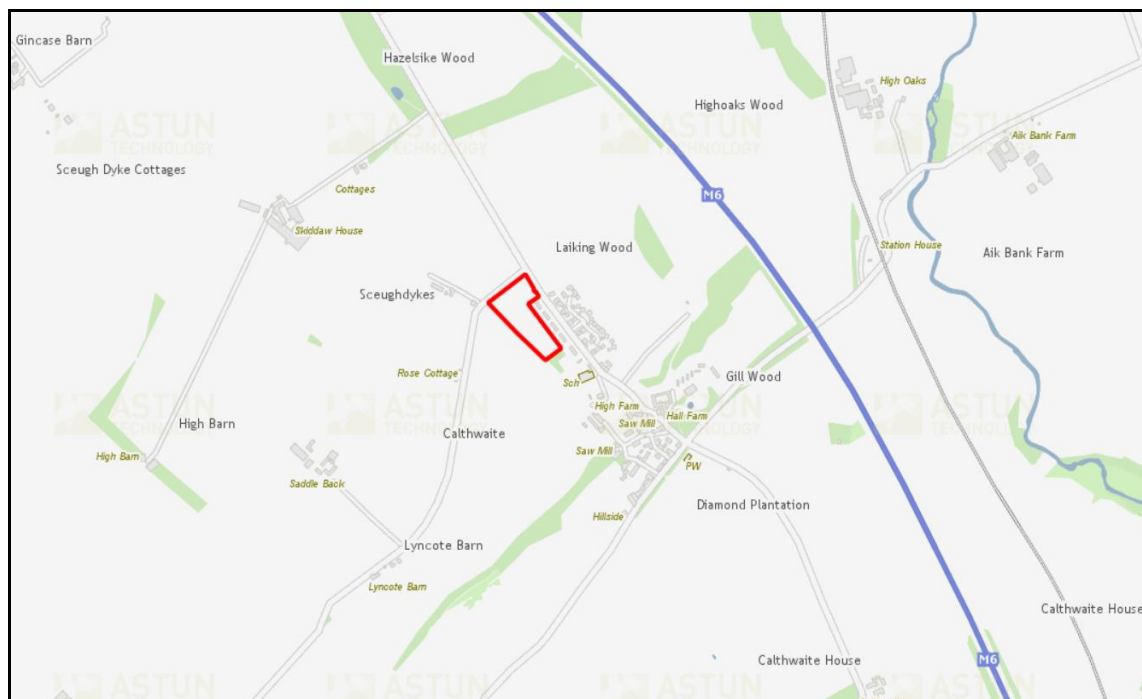
Location: Land West of Gillians Well, Calthwaite

Applicant: Genesis Homes – Mr J Blue

Agent: Genesis Homes – Mr J Blue

Case Officer: Karen Thompson

Reason for Referral: The Members of the Planning Committee requested that the Reserved Matters application be determined by the Planning Committee.



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1. Recommendation

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

Approved Plans

1. The development hereby granted shall be carried out in accordance with the drawings hereby approved:
 - i) Application form received 6 August 2020
 - ii) Design and Access Statement received 7 August 2020
 - iii) Site Location Plan, drawing no. 001 Rev A received 23 September 2020
 - iv) Detailed Site Layout Plan, drawing no. 51D-GEN 100 Rev G received 19 October 2020
 - v) Detailed Site Layout Plan Coloured, drawing no. 51D-GEN 101 Rev C received 11 November 2020
 - vi) The Petterill Affordable (Semi) – Floor Plans, drawing no. S-110 Rev L received 6 August 2020
 - vii) The Petterill Affordable (Semi) – Elevation Plans, drawing no. S160 Rev L received 6 August 2020
 - viii) The Esk Bungalow – Floor Plan, drawing no. Esk M42-110 Rev L received 6 August 2020
 - ix) The Esk Bungalow – Elevation Plans, drawing no. Esk M42-160 Rev L received 6 August 2020
 - x) The Ellen(V1) – Floor Plans, drawing no. Ellen V1 SG1-110 Rev L received 6 August 2020
 - xi) The Ellen(V1) – Elevation Plans, drawing no. Ellen V1 SG1-160 Rev L received 6 August 2020
 - xii) The Eden – Floor Plans, drawing no. Eden-110 Rev L received 6 August 2020
 - xiii) The Eden – Elevation Plans, drawing no. Eden-160 Rev L received 6 August 2020
 - xiv) The Whillan – Floor Plans, drawing no. Whillan DF2-110 Rev L received 20 October 2020
 - xv) The Whillan – Elevation Plans, drawing no. Whillan DG2-160 Rev L received 20 October 2020
 - xvi) Proposed Street Scenes, drawing no. 51D-GEN 120 Rev D received 19 October 2020
 - xvii) Proposed Sections, drawing no. 51D-GEN 121 received 22 October 2020
 - xviii) Proposed Boundary Treatment Plan, drawing no. 51D-GEN 102 Rev D received 19 October 2020
 - xix) Boundary details, drawing no. 1843 008 received 6 August 2020

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- xx) Planting Plan, drawing no. 02 received 22 October 2020
- xxi) Plant Specification and Schedules, received 22 October 2020
- xxii) Landscape Statement (Eden Environment Ltd) dated May 2020
- xxiii) Arboricultural Constraints Survey and Tree Protection Plan (EcoSurv Ltd) issue 2 Rev 1 dated 5 November 2020
- xxiv) Preliminary Ecological Appraisal (EcoSurv Ltd) issue 2 Rev 1 dated 5 November 2020
- xxv) Ground Investigation – Phase 1 and 2 (FWS Consultants Ltd) dated February 2020
- xxvi) Flood Risk Assessment and Drainage Strategy (CK21 Ltd) dated February 2020
- xxvii) Main Site Access Visibility Splays, drawing no. 2816-01-SK01 Rev C received 21 October 2020
- xxviii) Calthwaite Main Road Visibility Splays, drawing no. 2810-01-SK02 Rev C received 21 October 2020
- xxix) Proposed Driveways Visibility Splay, drawing no. 2816-01-SK03 Rev C received 21 October 2020
- xxx) Surfaces Finishes and Kerbing Arrangements, drawing no. CTH-CK-XX-XX-DR-C-9010 Rev T3 received 11 December 2020
- xxxi) Hardstanding Construction Details, drawing no. CTH-CK-XX-XX-DR-C-9030 Rev T3 received 11 December 2020
- xxxii) Public Drainage Details Sheets 1-3, drawing numbers CTH-CK-XX-XX-DR-C-5201/ 02 and /03 Rev T1 received 11 December 2020
- xxxiii) Private Drainage Details, drawing no. CTH-CK-XX-XX-DR-C-5203 Rev T1 received 11 December 2020
- xxxiv) Public Drainage Long sections and Manhole Schedule, drawing no. CTH-CK-XX-XX-DR-C-5220 Rev T2 received 11 December 2020
- xxxv) Public Manhole Schedule, drawing no. CTH-CK-XX-XX-DR-C-5221 Rev T2 received 11 December 2020
- xxxvi) Carriageway Setting Out and Horizontal Alignment, drawing no. CTH-CK-XX-XX-DR-C-9050 Rev T3 received 11 December 2020
- xxxvii) External Works Arrangement, drawing no. CTH-CK-XX-XX-DR-C-9010 Rev T4 received 11 December 2020
- xxxviii) Engineering Arrangement, drawing no. CTH-CK-XX-XX-DR-C-5210 Rev T4 received 11 December 2020

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

Pre-Occupancy or Other Stage Conditions

2. The approved landscaping scheme shall be implemented so that planting is carried out no later than the first planting season following the occupation of the first dwelling. All planted materials shall be maintained for five years and any trees or

plants removed, dying, being damaged or becoming diseased within that period shall be replaced in the next planting season with others of similar size and species to those originally required to be planted.

Reason: To protect and enhance the character of the site and the area, and to ensure its appearance is satisfactory

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

- 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.

Reason: In the interests of highway safety.

4. Prior to use on site, samples of the external finishing materials to the dwellings hereby approved, shall be submitted to and approved in writing by the local planning authority.

Reason: In the interests of visual amenity.

2. Proposal and Site Description

2.1 Proposal

- 2.1.1 This application is related to an earlier grant of planning permission for this site, reference 20/0538 at October's Planning Committee (a variation of the originally approved outline consent 16/0968) to seek the removal of an indicative layout plan. That permission granted outline planning approval for up to 16 dwellings to be constructed on the site.
- 2.1.2 This is a Reserved Matters application which seeks the approval of scale, layout, appearance, access and landscaping for residential development.
- 2.1.3 In terms of scale, the proposal is for 16 dwelling houses of which four will be affordable dwellings. There are five proposed house types and the sizes as listed below:
- Units 1 and 16; 'The Ellen' - 4 beds - 121 sqm
 - Units 2, 4, 6, 13 and 15; 'The Eden' - 4 beds - 123 sqm
 - Units 3, 7 and 8; 'The Esk Bungalow' - 3 beds - 96 sqm plus garage 14 sqm
 - Units 5 and 14; 'The Whillan' - 5 beds - 171 sqm plus garage 14 sqm
 - Units 9, 10, 11 and 12; 'The Petterill Affordable Semi' – 3 beds – 76 sqm.
- 2.1.4 In terms of layout, the proposed dwellings will cover just over half of the application site area. This area is in the northern most part of the site extending to the boundary with the unclassified U3032 to the north; to the C1037 Calthwaite village road to the east;

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and to the field boundary to the west. The southernmost end of the proposed area to be developed will extend to the rear of Nos 10 and 11 Pennine View. The remaining area of the application site, behind the row of houses in Pennine View, will be retained as pasture land. There are no proposals to build on this land.

- 2.1.5 The proposed dwellings will comprise three rows of houses which address the contours of the land. Sectional plans have been submitted to show the levels within the site and the positioning of the dwellings. There will be three detached dwellings across the front of the site facing the village road – the C1037 – and accessed with a shared linked private driveway from this road. These dwellings are roughly in line with the existing row of dwellings along Pennine Way. The most northern positioned proposed bungalow (unit 3) has been set in from the northern boundary in order to retain the existing trees and hedge and to allow additional planting. The proposed dwelling (unit 1) at the southern end, has been generously set away from nearest existing house on Pennine Way to allow for a landscaped gap; part of the open space provision; and a pedestrian gateway/link to the residential site.
- 2.1.6 The positioning of the proposed vehicular and pedestrian accesses along the frontage will allow for the retention of Gillians Well; the existing stone boundary wall; bench; and crescent shaped open space alongside the village road, as well as retaining the majority of the existing hedgerow along this frontage.
- 2.1.7 There are two further rows of dwellings (one row of five, and one row of six) on the higher, more level part of the site. These dwellings will be accessed off the unclassified U3032 lane that runs in an east-west alignment immediately north of the site and connects with the C1037 Calthwaite village road. Both rows have been set back from the northern boundary and the existing trees and hedging along that frontage. Unit 16, nearest the northern boundary, will have dual aspect elevations at the new entrance to the site and opposite on the middle row, the position of unit 6 allows for another generous gap for open space and the pedestrian link which runs through the site.
- 2.1.8 The proposed layout allows for between 2 – 4 car parking spaces per property as well as three visitor parking; turning areas; private gardens to the rear of each of the properties; and front gardens.
- 2.1.9 The layout of the site provides for open space (approx. 0.13 ha) that runs alongside of the internal pedestrian path as well as a public area adjacent to the proposed turning area between units 12 and 13, as well as an area at the northern end of the site.
- 2.1.10 In terms of appearance, the proposal will provide for five different house types (two storey dwellings and bungalows) and they will be finished predominantly in heritage style brickwork with some render to some elevations and having upvc windows and doors. The roofs would be covered in dark grey concrete tile which have a thin leading edge.
- 2.1.11 The site will have a vehicle access from the village road (C1037) providing access to the three front dwellings only. A second access, to the remaining 12, would be constructed off the unclassified lane (U3032) that runs along the northern edge of the site and positioned at approximately 35 metres east of the site's westernmost corner.
- 2.1.12 Proposals have been put forward for both hard and soft landscaping. The pedestrian footpath will run through the site to allow for all residents to have pedestrian access into the village (an additional public footpath will be constructed alongside the U3032 which will connect in with the existing village footpath). There will be a wide grassed area either side of the internal pedestrian route with tree planting alongside it and

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throughout the site, including a mix of native and ornamental species. The existing boundaries (north, east and west) comprising trees, shrubs and hedges, will be maintained and further enhanced through additional planting. The development will have an open plan appearance at the front of the properties, with driveways finished in block paving and separated by soft landscaping/front garden areas. Rear gardens will have mostly 1.8 metre high fencing and there will be some brick walling to define public and private areas.

2.2 Site Description

- 2.2.1 The application site comprises an 'L' shaped field amounting to 1.3 hectares and is located on the north-west edge of the village of Calthwaite. The site wraps behind a single row of existing semi-detached residential properties (Pennine Way) which front the main road through the village road. The site rises from the village road and behind the rear of Pennine Way up to the ridge line which defines the site's western boundary.
- 2.2.2 Alongside the northern boundary is a minor country lane (U3032) which runs along the northern edge of the site. On the opposite side of the U3032 is a private dwelling known as 'Hillcrest' with its neighbouring dwelling 'Grada' beyond.
- 2.2.3 The boundaries of the application site are defined by a mixed species hedge (hawthorn, blackthorn, beech, dog rose) along with hedgerow trees (sycamore, ash, beech and oak). The hedgerows do have some breaks and is sparse in places, however, elsewhere the hedge can be up to 2 metres in height.
- 2.2.4 Along the east boundary is a curved stone wall which is a local feature known as Gillian's Well.
- 2.2.5 The village of Calthwaite has two distinctive parts including the older village to the south around Calthwaite Hall, and the newer part which comprises the single line of residential properties on the west side of the village road (Pennine Way) and a newer housing development on the east side of the road (Laikin View).

3. Consultees

3.1 Statutory Consultees

Consultee	Response
Highway Authority	24 November 2020 – The speed survey provided and accesses acceptable; Recommend condition that carriageway, footways, footpaths, cycleway etc are designed, constructed, drained and lit to a standard suitable for adoption (details have been submitted to address this); Developer to enter into an agreement to fund the 30 mph speed limit (developer does not agree to this as this is a Reserved Matters application dealing with access only and not matters outside of the site); Request a Construction Management Plan condition (attached).
Natural England	16 October 2020 – No comment

3.2 Discretionary Consultees

Consultee	Response
Environmental Health	11 September 2020 – No issues with this application, but recommend a standard condition restricting the hours of construction. A condition restricting hours of construction were attached to the outline permission and are still relevant.
United Utilities	12 October 2020 – Further to our review of the submitted drawing of Engineering Arrangement, ref: CTH-CK-XX-XXDR-C-5210 revision T1, dated 4/9/2020 proposing surface water discharging into watercourse, the plans are acceptable in principle to United Utilities.
Historic Environment Officer	24 August 2020 – No objections
Housing Officer	23 October 2020 - From a housing consultee perspective, I can confirm there is healthy demand for family homes on the discounted sale register for this area. They are altogether a bit undersized (GIFA) however, my view is they will be suitable for this market.
Arboriculturist	19 October and 23 November 2020 – The proposed landscaping details are acceptable. Requested details of tree and hedge protection measures now submitted and acceptable. The barrier type should be as per figure 2 BS 5837:2012 which is shown at Appendix 9 of the Ecosurv report.

4. Parish Council

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

4.1 The Hesket Parish Council provided the following response to this application:

'With regards to planning application 20/0548 on land West of Gillians Well, Calthwaite for a Reserved Matters application for access, appearance, landscaping, layout and scale, attached to approval 16/0968, Hesket Parish Council wishes to retract our previous objections. However, the Parish Council would like to submit the following comments to be considered:

- Hesket Parish Council seeks reassurance that Gillians Well itself will be unaffected by the development. As noted by Historic England in the report for application 16/0968, Gillians Well is an asset of local historical significance. Historic England did not object to that application as they deemed it would not affect Gillians Well. The Parish Council would request that confirmation is provided that it will remain unaffected.*
- It is the Parish Council's understanding that Genesis Homes own land around the development. Hesket Parish Council would therefore request that any compound*

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required during construction be located within Genesis Homes land to minimise disruption to residents.

- *Hesket Parish Council would seek reassurance that the northern and western boundaries of the site are protected.*
- *Hesket Parish Council understand that the development is to be a private development, meaning that the road will not be adopted and that there will be no street lighting within the development. The Parish Council is concerned that this will create a safety hazard for pedestrians using the proposed footpath from the site, and would request that consideration is given to this, and that footway lighting provision be made on the proposed footpath.*
- *It is the Parish Council's understanding that Genesis Homes would be willing to accommodate widening of the access road to the development, the U3032. This would assist turning traffic and allow better access for refuse vehicles. The Parish Council would therefore request that consideration is given to this matter'.*

- 4.2 Notwithstanding the final comment received by the Parish Council, this is a Reserved Matters application dealing with matters relating to scale, layout, appearance, access and landscaping only and cannot under this application require wider road improvements. Such matters are normally sought through s106 contributions at the outline planning stage.

5. Representations

- 5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on 11 September 2020.

No of Neighbours Consulted	24	No of letters of support	0
No of Representations Received	11	No of neutral representations	0
No of objection letters	11		

- 5.2 Eleven objection letters have been received from 7 households. Letters of objection raised the following material considerations to the application:
- The proposals represent an under-development of the site and the same number of houses proposed for the whole site is slotted into an area half the original size.
 - The site is on a steep slope and this field is prone to flooding the gardens along Pennine Way and on the school playing field and playground and drains are unable to cope with the water. Houses on this land will cause flooding.
 - No drainage details and the flood water attenuation tank has been removed from the plan. Concern that the previously approved 'SUDS' area has been removed from the scheme.
 - Gillian's Well dates back to 1663, any development will disturb the natural flow of water to the well and may impact on the stability of the proposed house directly on top of it.
 - If development goes ahead, would like reassurance that Gillians Well would not be affected in any way.
 - The single track steep road providing access rises 10 metres along its 100 metres length between the village road and the Hillcrest properties. At the top is a blind bend on the lane.

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- The lane to the site is used by large agricultural vehicles, people walking their dogs, joggers, cyclists, walkers, for equestrian use and at times it very dangerous with traffic. It is impassable in snow and ice and drivers end up parking outside the houses on Pennine Way.
- The lane to the site is totally unsuitable being only 3.5 metres wide. Traffic meeting on this lane will have to reverse or take to the verges to pass.
- The proposed visibility splay is not adequate being close to a corner and no vehicles using the lane has good visibility. Traffic on this lane has increased dramatically over the years.
- The lane is narrow and in a poor state of repair with erosion at the edges and significantly deteriorating at the junction where it joins the main street. The use of this narrow, steep lane as an additional access to the housing estate is unviable.
- The new access off Pennine Way is very close to the existing junction for Field Head.
- The development will cause more congestion and add to the traffic that is parked at the school and nursery. The development will introduce an additional 24 vehicles.
- Calthwaite School is at capacity as is the school at High Hesket.
- The development will not be in-keeping with the character of the village.
- The wildlife will be disturbed and probably not return.
- The Landscape and Visual Appraisal submitted with the earlier Outline planning application gave weight to the importance of the northern part of the site in defining the visual character of the area and welcomes further hedge planting and a 20 metre wide landscape buffer zone as an agricultural landscape feature.
- The Planning Inspector considered that the submitted indicative plan and the landscape and visual appraisal (submitted under the outline application) would cause limited harm to the character and appearance of the area – the proposed scheme proposes development up to the northern boundary and no buffer zone.
- At the outline stage it was considered that the proposal represented a significant expansion of the village and does not relate well into the existing settlement. The location on higher land would increase the visibility and impact on the village.
- The proposal is something that would be built within the middle of a city, not a countryside village and the houses do not look like they are going to add any character or be in keeping with the rest of the village.
- Only 3 affordable dwellings proposed whereas a required target of 30% amounts to 4 affordable dwellings.
- If approved, the houses should have slate roofs and the footpaths be tarmac or concrete so that they don't wash away.

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

- Concerns about building on pasture land.
- Concerns that the remainder of the field will be developed in the future.
- There are other brown-field sites in Calthwaite that are not being developed.

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- This development will extend the village boundary.
- The proposed T-junction within the site and next to the remain field suggests future development.
- The indicative plan submitted with the outline application showed one access off the village road.
- Concerned that if the access gates to the field surrounding the school cannot be reached or are taken out of commission by the planned build, it would mean using the only access alongside the school which would be unsafe for children, parents and staff walking into the school.
- The site sketch/indicative plan submitted at the outline stage should remain valid.
- The village is only served by the Fellrunner bus service once a week with one pick up and one drop off. The only amenities available is a pub, school and the church. There is no local shop, post office, medical facilities, transport network, village hall, meeting place or coffee shop – therefore the development will not provide the economic and social benefits being claimed.

6. Relevant Planning History

Application No	Description	Outcome
15/0517	Outline application for residential development (up to 27 dwellings) with all matters reserved.	Withdrawn on the basis that a revised scheme, with less units, proposed.
15/0985	Outline application for residential development (up to 16 dwellings) with all matters reserved.	Refused - Inappropriate form of development which fails to show a clear understanding of the form and character of the built environment and also fails to complement and enhance the existing area due to it being a prominent site on the edge of the village.
APP/H0928/W/16/3153089	Appeal for the above refused planning application 15/0985.	Dismissed on the grounds that an appropriate legal agreement regarding affordable housing and a financial contribution for

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Application No	Description	Outcome
		school transport has not been submitted. However, the principle of development was accepted.
16/0968	Outline application for residential development (up to 16 dwellings) with all matters reserved. This application was identical to 15/0985 but included the appropriate legal agreement to ensure the provision of on-site affordable housing and for assistance for school transport.	Approved, subject to a legal agreement to secure affordable housing and financial contribution for school transport (signed agreement in place).
20/0538	Variation of condition 4 (plans compliance) to remove reference to indicative site sketch plan SK-100 Rev B, attached to approval 16/0968. This is the outline approval.	Approved 15 October 2020
20/0879	Discharge of conditions 5 (surface water drainage scheme), 6 (construction surface water management plan), and 8 (foul and surface water) attached to approval 20/0538	Live application – to be determined

7. Policy Context

7.1 Development Plan

Eden Local Plan (2014-2032):

- LS1 – Locational Strategy
- DEV1 – General Approach to New Development
- DEV2 – Water Management and Flood Risk
- DEV3 – Transport, Accessibility and Rights of Way
- DEV5 – Design of New Development
- HS1 – Affordable Housing
- HS4 – Housing Type and mix
- HS5 – Accessible and Adaptable Homes
- ENV1 – Protection and Enhancement of the Natural Environment, Biodiversity and Geodiversity

- ENV2 – Protection and Enhancement of Landscapes and Trees
- ENV5 – Environmentally Sustainable Design
- COM3 – Provision of new Open Space

Supplementary Planning Documents:

- Housing (2010)
- Housing (2020)

7.2 Other Material Considerations

National Planning Policy Framework:

- Delivering a wide choice of high quality homes
- Delivering a sufficient supply of homes
- Requiring good design
- Achieving well designed places
- Meeting the challenge of climate change, flooding and coastal change
- Conserving and enhancing the natural environment

7.3 The policies and documents detailed above are the most relevant policies relating to the determination of this application.

8. Planning Assessment

8.1 Key/Main Planning Issues

- Principle
- Landscape and Visual Impacts
- Design and Appearance
- Residential Amenity
- Historical Environment
- Provision of Open Space
- Infrastructure/Highway Safety
- Drainage

8.2 Principle

8.2.1 In terms of the principle of housing development, consideration is given to the Development Plan. This consists of the adopted Eden Local Plan (2014-2032) and the policies which it contains.

8.2.2 This proposal seeks the approval of reserved matters, specifically for access, appearance, landscaping, layout and scale attached to approval ref. 20/0538. The Outline permission was granted under 16/0968 and varied under 20/0538 (removal of the indicative plan) and approved at Planning Committee on 15 October 2020.

8.2.3 The principle of development has been established for this site through the prior grant of outline planning permission 20/0538, and housing is approved to be constructed upon it. This application has been subject to a number of objections which have raised the 'principle' of development as part of their objection or that the proposals now, do not reflect what the outline application suggested. These comments are not relevant to the determination of this application and therefore, afforded no weight in the

determination of this current application which solely considers the Reserved Matters for which approval is now sought.

8.2.4 Accordingly, outline planning permission does not commit the applicant to any subsequent approach thus nobody should be 'misled' by previously submitted indicative outline plans. It is for the reserved matters application to provide additional detail in terms of design, access, etc. and for that detail to be considered by the Local Planning Authority subsequently.

8.2.5 Within the Development Management Procedure Order 2015 (<http://www.legislation.gov.uk/ukxi/2015/595/article/2/made>), specific guidance is provided relative to the regulations and those considerations upon which can and cannot be considered under a Reserved Matters application. Those aspects of a proposal that can be considered at the Reserved Matters stage are as follows;

- Access;
- Appearance;
- Landscaping;
- Layout; and
- Scale.

8.2.6 Therefore, the principle of development has been established notwithstanding all other relevant considerations in relation to this reserved matters application.

8.2.7 The outline planning permission (16/0968) is subject to a Section 106 legal agreement to secure 30% (4 dwellings) affordable housing on site and a financial contribution to support transport to a secondary school. This reserved matters application originally proposed three affordable properties however this scheme has been revised to include four affordable dwellings, which is in accordance with the legal agreement.

8.3 Landscape and Visual Impacts

8.3.1 Chapter 12 Achieving well-designed places of the NPPF states that new development should be sympathetic to the local character and history, including the surrounding built environment and landscape setting. This is supported by Policy DEV5 of the Eden Local Plan entitled 'Design of New Development' which states that '*new development will be required to demonstrate that it:*

- *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.*
- *Protects features and characteristics of local importance.*

8.3.2 Furthermore, Policy ENV2 – Protection and Enhancement of Landscapes and Trees – within the Eden Local Plan confirms that new development will only be permitted where it conserves and enhances distinctive elements of landscape character and function, including form of settlements, local styles, views and the openness of the countryside.

8.3.3 In assessing the visual impact of the proposed dwellings on the local character, consideration should be given to Paragraph 127 of the NPPF which confirms that '*Planning Policies and decisions should ensure that developments:*

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- *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);*

- 8.3.4 The application site relates to an 'L' shaped field which wraps around the rear and side of the residential properties in Pennine Way immediately on the east side of the application site. To the north west of the site on the other side of the U3032 is a further private dwelling – 'Hillcrest'. The field has clear boundaries defined by a mix of hedgerows, shrubs and trees and has roads on its east and northern boundaries – the C1037 Calthwaite village through-road and the unclassified U3032. The application field rises up from the village road in a westerly direction with changes in levels that amount to around 8-10 metres, before it levels out to the most western side of the site. This site has outline planning permission for residential development of up to 16 dwellings.
- 8.3.5 Concerns have been raised by local residents that the proposed scheme is at odds with the Landscape and Visual Appraisal that was submitted under the outline planning consent. That Appraisal commented that the 'indicative plan' (subsequently omitted) gave weight to the importance of the northern part of the site in defining the visual character of the area and welcomed further hedge planting and a 20 metre wide landscape buffer zone as an agricultural landscape feature.
- 8.3.6 In support of this Reserved Matters application, a Landscape Statement compiled by Eden Environmental Ltd has been submitted. When compared with the earlier indicative layout, the proposed layout would:
- contain the same number of dwellings, offset towards the north-west end of the site;
 - be accessed from the U3032 (to plots 4 – 16) and the C1037 (to plots 1 – 3);
 - be sat within the same pattern of field boundaries, roads and hedges;
 - include 12 detached (including 3 bungalows) and 4 semi-detached houses compared to 16 detached houses;
 - occupy a smaller overall footprint;
 - includes boundary tree planting, as well as tree planting within the proposed housing area;
 - leave part of the site as open field.
- 8.3.7 The Landscape Statement assesses the impact of the proposed scheme on the surrounding area. The new houses, being positioned across the northern section of the field would be more visible from the C1037 when passing the front of the site but would extend less far to the south and so would be less visible behind the houses on Pennine Way. From further north on the C1037, up to about 210 metres, the visibility of the three of the north-westernmost new dwellings (closest to the U3032) may be slightly greater.
- 8.3.8 When approaching the village from the north, the new houses would be concealed or filtered by the scattering of trees in the hedge on the west but plots 3 and 16 would be visible and perhaps plot 4. The north-westernmost houses would be closer to the U3032 between the C1037 junction and 'Hillcrest' where there is currently boundary planting which is fine in parts and more permeable to views. From 'Hillcrest' the nearest plots will be visible but it is doubtful that the remainder of the development

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would be visible as the site falls towards the east and because the view would be obliquely through the roadside hedge. Further along the U3032 there are two or three successive field hedges between the road and the proposed development.

- 8.3.9 In order to mitigate the effects of moving the housing to the northern part of the site, it is now proposed to reinforce the hedgerow along the north-western and south-western boundaries of the site with native hedgerow species typical of the area including hazel, blackthorn, hawthorn and elder, and a wide variety of trees. The hedgerow enhancement would screen or filter views into the site from the north and west and planting along the north-west boundary would also screen views from the C1037 to the north. In addition, the planting along the south-west boundary would backdrop the rooflines of the new houses when viewed from the east.
- 8.3.10 The proposed scheme would extend the development boundary of the village to the north-west, but would be better constrained and framed by the existing physical features (roads and hedgerows) which would be enhanced and strengthened with additional planting.
- 8.3.11 Furthermore, it is considered that the proposed scheme would cause visual impacts for fewer people because the development would be over the northern section of the field only. However, the development would be somewhat more visible from 'Hillcrest', about 45 metres to the west of the nearest proposed new house. However, the proposed reinforcement of the hedges would help to screen or soften these views from 'Hillcrest'.
- 8.3.12 The conclusion of the Landscape Statement is that the hedgerow enhancement all around the site in the proposed scheme, as well as additional boundary and internal planting, is likely to result in either a neutral or a beneficial effect.
- 8.3.13 The planning application has been supported by a detailed Planting Plan and a Plant Specification and Schedules document, which shows and lists the wide variety of trees such as sycamore, birch, hornbeam, wild cherry, oak and rowan (in excess of 40); plus seven orchard fruit trees including bramley, braeburn, pear and plum; 35 linear metres of native field hedgerow including hazel, hawthorn, holly, blackthorn and 98 metres of mixed species ornamental hedge including Laurel, beech and holly. As well as trees being planted within the site, the planting scheme includes a large number of shrubs to be planted at various locations around the site including the pedestrian gateway to the site from the Calthwaite village road.
- 8.3.14 The Council's Arboriculturist has considered the planting scheme and schedules, and has advised that the proposed landscaping details are acceptable including the tree protection barriers that would be required to be in place during the construction phase.
- 8.3.15 Overall, it is considered that the proposed development along with planting mitigation to the boundaries and within the site, would be sympathetic and conserve the distinct elements of the local landscape character and setting and would therefore comply with the aims of the NPPF and Policies DEV5 and ENV2 of the Eden Local Plan.

8.4 Design and Appearance

- 8.4.1 Under Policy DEV5, the Council will support high quality design, which reflects local distinctiveness and shows a clear understanding of the form and character of the district's built and natural environment, complementing and enhancing the existing area. The Policy requires new development to demonstrate that it reflects the existing street scene through use of appropriate scale, mass, form, layout, high quality

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architectural design and use of materials. The policy also requires new development to demonstrate that features and characteristics of local importance are protected.

- 8.4.2 Chapter 12 of the National Planning Policy Framework (NPPF), entitled 'Achieving well-designed places' states that *'good design is a key aspect of sustainable development'*.
- 8.4.3 Concerns have been raised by nearby residential occupiers that the proposed development will not be in-keeping with the character and appearance of Calthwaite and is somewhat urban in its form.
- 8.4.4 Calthwaite village is divided into two distinct parts – an older nucleus to the south around Calthwaite Hall and Calthwaite Bridge with the village extending to the south and up to the crossroads next to All Saints Church and the village playing field. Building types in this part of the village range from traditional cottages and agricultural buildings to later Victorian cottages and villas, and often constructed using locally available stone and slate.
- 8.4.5 To the north of Calthwaite Bridge there are the 1970s-era dwellings on Pennine Way which are mostly rendered in grey or off-whites and on the opposite side of the road is the more recent Laikin View development where the properties are finished in red brick with some key facing elevations finished in sandstone. With the exception of the village school building, this area of Calthwaite has a more suburban form of development.
- 8.4.6 While the concerns raised by objectors have been fully considered, it is also acknowledged that this site has outline planning permission for up to 16 dwellings which will extend the village to the north and west. The applicant has taken on board the appearance and characteristics of the village, particularly the properties in the northern end of the village, in terms of scale, form and the use of materials.
- 8.4.7 The proposed dwellings will be arranged in three rows which address the contours of the land. Three dwellings will be located on the lower part of the site fronting the village road and alongside Pennine Way. Behind these dwelling there is a fairly steep banking which will be utilised as an open space area with a pedestrian footpath providing access through the site. On the western, more level area will be two further rows of five and eight dwellings on each row.
- 8.4.8 This housing development will be finished in heritage brickwork, with some elevations and front gable features being finished in render (Petterill and Ellen house types only) and thin leading-edge tiles to the roofs. These materials are considered complementary to the types of materials already in the northern part of the village (and also to some housing developments on the southern fringes of the village) and accordingly would be acceptable for use in this instance. Whilst the principle of these materials is considered acceptable, it is considered necessary that exact samples of the final materials are submitted to the Local Planning Authority for approval prior to their use on site.
- 8.4.9 The proposed houses will have a rather traditional appearance with some projecting gables; covered doorways; and bay window features which can be found in the nearby Laikin View development. There are five different house types within a proposal of 16 dwellings, which provides for a good mix of styles and satisfactory form of development. The submitted 'Proposed Street Scenes' plan demonstrates the variation of styles throughout the application site.
- 8.4.10 The three dwellings fronting Calthwaite village road are of three different styles, although they are visually connected through the use of the same materials. The dwelling furthest to the north, and the first house viewed when approaching the village

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is a bungalow which will be positioned behind existing and proposed planting along the adjacent boundaries, including the hedge along the front of the site. The height of the dwelling and its positioning will not appear dominant or have an impact on the character of the village. The dwelling nearest to 11 Pennine Way will have a dual frontage – one facing the village road and one facing the pedestrian access – and will be of a similar height and scale to existing nearby housing. These three front facing dwellings will be viewed as a continuation of Pennine Way until the row of dwellings comes to a natural stop at the junction of the C1037 and U3032.

- 8.4.11 Plot 16 is positioned at the furthest north west corner, adjacent to the entrance to the site off the U3032 and plots 9 – 15 will lie behind it and along the western boundary. The nearest residential property is 'Hillcrest' which is approximately 45 metres way to the north west and faces the rear side of these plots. The row of dwellings will be visible when approaching the site from the west along the U3032, but any visual impact will be mitigated by existing hedges rows and trees that form the boundary of the adjacent field. This, together with the form, scale, finishing materials and mix of dwellings types, will not have a significant adverse impact on the character and setting of the surrounding area.
- 8.4.12 Overall, the proposed design, layout and finishing materials is considered good. The dwellings proposed offer a variety of house type and the housing mix is welcomed. The inclusion of three bungalows and four affordable houses is a particular welcome addition given that there is a noted need for such housing types in the District. The use of the heritage brick with some elements of render, along with some local design features is considered acceptable and the overall development would complement the existing street scene and would not have a significant adverse impact on the built form of the village. It is considered that the proposed development complies with the aims of local (Policy DEV5) and the National Planning Policy Framework.
- 8.4.13 On sites of 10 or more, 20% of new housing must be designed and constructed in a way that enables it to be adapted to meet the changing needs of its occupants over time (Policy HS5 – Accessible and Adaptable Homes). The applicants have informed that they are addressing this issue across all of their housing types however on this scheme the three bungalows proposed are designed to be fully accessible and adaptable compliant.
- 8.4.14 The proposed development is classed as a major residential development as it is over 10 units. Policy ENV5 – Environmentally Sustainable Design – of the Eden Local Plan has several criterion which the applicant is required to demonstrate, where practical for them to do so, that they have taken on board in the design and layout of the proposed dwellings. Such matters can relate to maximising daylight through orientation; integrating sustainable urban drainage systems; designing and positioning buildings to minimise wind funnelling, frost pockets etc; integrating renewable energy technology; minimising construction waste; providing well designed and visually unobtrusive outdoor waste storage areas to promote recycling; promoting sustainable transport modes through careful layout and road design to ensure it is conducive to walking and cycling and prioritise the pedestrian and cyclist over the car.
- 8.4.15 It is recognised that the Policy states 'should' demonstrate, rather than 'must' but despite this, the applicant is encouraged as far as they possible can to integrate such features within their schemes. The applicant has explained in the submitted Design and Access Statement how they have considered the requirements of Policy ENV5, which

go beyond the standard Building Regulation requirements that are required on all new development sites.

- 8.4.16 Firstly, the proposed layout of the development has been governed by the contours of the site and therefore to a certain extent, determines the orientation of the houses. Nonetheless the line of the houses lie in a north-west to south-east orientation, which will allow for good amount of sunlight and solar gain to each of the properties. The properties will be double glazed and have adequate insulation properties to meet Building Regulation approval. Each property has good external areas where bin/recycling storage as well as garden/composting can be located. All of the houses are either detached or semi-detached with easy access to the rear of the properties.
- 8.4.17 Other features that will be integrated into the design will be technologies that aim to minimise the use of non-grey water and explore the use of sustainable urban drainage systems; ensuring water consumption is reduced to a maximum of 125 litres per day to comply with Building Regulations; use of low energy electrical fittings; low level rate taps and reduced capacity cisterns in toilets; incorporating an internal footpath to provide a good pedestrian route to the village; and private gardens large enough for the storage of bikes.
- 8.4.18 It is considered that the applicant has demonstrated that the requirements of Policy ENV5 have been fully considered in the design and layout of the site.

8.5 Residential Amenity

- 8.5.1 Policy DEV5 requires development to protect the amenity of existing residents and provide an acceptable amenity for future occupiers.
- 8.5.2 In addition to these policy aims, the Local Development Framework incorporates two housing Supplementary Planning Documents (SPDs). The 2010 iteration recommends minimum separation distances to be achieved between dwellings to assist in protecting amenity. These distances are 21 metres between principal windows and 13 metres between a main elevation and a blank gable wall.
- 8.5.3 The proposed development is in the northern end of the site and extends behind only two of the residential properties at Nos 10 and 11 Pennine Way. The separation distance between habitable room windows at the rear of plots 7 and 8 and the properties in Pennine Way is at a minimum of 28 metres. In relation to proposed Plot 1, it will be located at the front of the site and have one of its main elevations facing the side of No. 11 Pennine Way. With a separation distance of 21 metres, it is more than the required 13 metres when habitable room window face an existing gable end wall.
- 8.5.4 The layout of the scheme fully addresses the requirements of Policy DEV5 of the Eden Local Plan with regards to the amenity and privacy of adjacent residential occupiers.

8.6 Historical Environment

- 8.6.1 Along the eastern boundary is a curved stone wall which is a local feature known as Gillian's Well and is thought to date back to 1663 and used by passing animals on the old droving route. Heskett Parish Council and some nearby residents have raised concerned that the proposed development may disturb the feature, which is considered to be an asset of local historical importance, and seek assurance that it will be unaffected by the development.
- 8.6.2 The proposed scheme has been designed so that the feature, along with its associated stone wall boundary will be retained as well as the adjacent hedge as far as possible and will only be opened up where the new access will be formed to provide vehicle

access to the front three properties. Thus the development preserves this locally perceived important character feature.

8.7 Provision of Open Space

- 8.7.1 Under the requirements of the Eden Local Plan, new major housing developments are required to provide sufficient open space provision in any new development. Policy COM3 of the Eden Local Plan entitled 'Provision of New Open Space', would require the provision of appropriate levels of open space for future residents to enjoy.
- 8.7.2 Policy COM3 lists five differing amenity space types that it seeks development to achieve. These include informal recreation space (amenity open space), urban parks and gardens, playgrounds, outdoor sports facilities and allotments.
- 8.7.3 The Local Planning Authority, as with all policies, seeks to encourage developers to provide beyond minimum policy requirements where they can. In this case, the minimum informal recreation space (amenity open space) that a development yielding the proposed house types would be 400 sq. metres (0.04 hectares). However, the proposed layout offers in excess of 1250 sqm (0.13 hectares) of public open space for play and amenity located in the south eastern edge (pedestrian gateway to the village) and in the north western edge of the site. These two areas are linked by the proposed pedestrian footpath that runs through the site and will be lined with shrubs and fruit trees. The amenity area in the north western edge will be left open with fewer planting to allow for greater public usage.
- 8.7.4 The provision of open space within the application site is considered acceptable and complies with the aims of Policy COM3 of the Eden Local Plan.

8.8 Highway Safety and Infrastructure

- 8.8.1 Policy DEV3 – Transport, Accessibility and Rights of way - of the Eden Local Plan, states that *'development 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'*.
- 8.8.2 Paragraph 109 of the National Planning Policy Framework (NPPF) affirms that *'development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'*.
- 8.8.3 Concerns submitted from some local residents that the U3032 road is narrow and on a steep incline from the junction with the C1037 Calthwaite village road making it impassable in icy conditions; the road is used by large agricultural vehicles, pedestrians; and inadequate visibility splays with the access being close to a blind corner, have all been fully considered.
- 8.8.4 The developers have carried traffic speed surveys on both the C1037 and U3032 and submitted plans showing the visibility splays from both the proposed access points. The access off the C1037 Calthwaite village road will have a visibility splay of at least 104 metres to the south and 129 metres to the north. The second access off the U3032, which has a 4.8 metres wide carriageway, will have visibility splays of at least 51 metres to the west and 78 metres to the east.
- 8.8.5 The existing lane along the U3032 will be locally widened between the proposed access point and the junction on to the village road. Width and construction standards will be confirmed with Cumbria Highways Authority and will be dealt with under s278 of the Highways Act 1980. The details submitted also include a new pedestrian footway

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from the new access, along the U3032 to the village road and would connect in with the existing village footpath on the C1037. Notwithstanding, this is a reserved matters application and whilst comments received with regard to the U3032 have been duly noted, as are the intentions of the applicant through the s278 agreement, this falls outside of what can be considered under this application. These type of works would needed to have been secured at the outline stage where it considered necessary by the Highway Authority, and therefore secured as an s106 contribution.

- 8.8.6 The Highway Authority has considered the results of the speed survey and confirmed that they have no objections to the location of the proposed accesses and have not raised any issues regarding the use of the U3032 to access the development.
- 8.8.7 The principal access and internal road off the U3032 will function as a 'shared surface street', and will be consistent with the Cumbria Development Design Guide. The route, with a width of 4.8 metres, will be finished in macadam with contrast offered by adjacent private driveways serving each home which will be finished in block paving units. The Parish Council are concerned that the internal roadways and footpaths will be private and not adopted to Highway standards. However, the developer has confirmed that the internal roads will be adopted under section 38 of the Highways Act 1980. Details of the carriageways, access and footways have been submitted under this application and from a planning point of view are considered acceptable. Details of footway lighting will also form part of the Highways adoption of the site.
- 8.8.8 The Highway Authority has requested that the 30 mph speed limit signs be moved north beyond the junction with the U3032 and which would be at the applicants' expense and would be considered under the s278 agreements between the developer and the Highway Authority. However, again this falls outside of the considerations for a Reserved Matters application, and therefore this current application.
- 8.8.9 The Parish Council commented that a compound to store construction equipment and materials within the application site should be created to ensure minimal disruption to residents. The developer has agreed to a suitably worded condition to deal with this matter.
- 8.8.10 Therefore, for the reasons detailed above, it is considered that the proposed access is considered to be acceptable and would not result in any adverse harm to the local highway network nor lead to any highway safety issues in accordance with Policy DEV3 of the Eden Local Plan and the NPPF.

9. Drainage

- 9.1 This application site has been noted to be for the 'reserved matters' of the outline permission (ref. 20/0538). Drainage does not represent a 'reserved matter' and as such is not a consideration of this application. Concerns of objectors are noted in terms of drainage, but those concerns do not form material considerations in relation to this reserved matters proposal. However, an application has been submitted (Ref. 20/0879) to discharge the outline planning consent condition relating to surface water drainage.

10. New Homes Bonus

- 10.1 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,

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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.

11. Implications

11.1 Legal Implications

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

11.2 Equality and Diversity

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

11.3 Environment

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

11.4 Crime and Disorder

11.4.1 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.

11.5 Children

11.5.1 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.

11.6 Human Rights

11.6.1 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.

12. Conclusion

12.1 This, as a reserved matters application, seeks the approval for the details of the development, rather than the development itself. The residential development that these details relate to was approved at the outline stage under planning permission ref. 20/0538.

12.2 It is recognised that there are a number of objectors to this application but many refer to concerns which do not directly relate to the 'reserved matters'. In such circumstances, those objections must be disregarded as they do not form material considerations in this proposal.

12.3 However, some of the concerns raised do directly relate to reserved matters, such as the proposed layout of the development and impact on the landscape character. These concerns have been fully considered however the landscape appraisal document submitted with the application demonstrates that the development would result in either a neutral or a beneficial effect on the landscape character of the area.

12.4 The layout of the housing would be in the northern most area of the site, where existing hedgerows would be reinforced by addition planting as well as new planting within the site.

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- 12.5 The application site lies north of the village where more recent development has taken place. The proposed scheme would complement and enhance the existing streetscene through the range of housing types and finishing materials which will visually connect the new development to the existing.
- 12.6 Concerns relating to Highway matters are noted. However, the test in such circumstances is whether or not the development would result in significant road safety and/or congestion impacts. It is clear from the response received from the Local Highway Authority that no such significantly severe impacts are considered likely in this case and on that basis, the proposals are supported.
- 12.7 Accordingly, the scheme is considered to be acceptable and merits support and as such the application is recommended for approval.

Oliver Shimell
Assistant Director Planning and Economic Development

Checked by or on behalf of the Monitoring Officer	05.01.2021
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Background Papers: Planning File 20/0548

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Date of Committee: 21 January 2021

Planning Application No: 20/0027 **Date Received:** 17 January 2020

OS Grid Ref: 346661 545937 **Expiry Date:** 18 April 2020

Parish: Heskett in the Forest **Ward:** Heskett

Application Type: Outline with all matters reserved

Proposal: Outline planning permission for the erection of up to 13 dwellings with all matters reserved

Location: Land South of Low Heskett Village Hall, Low Heskett

Applicant: Mr R Fiddler

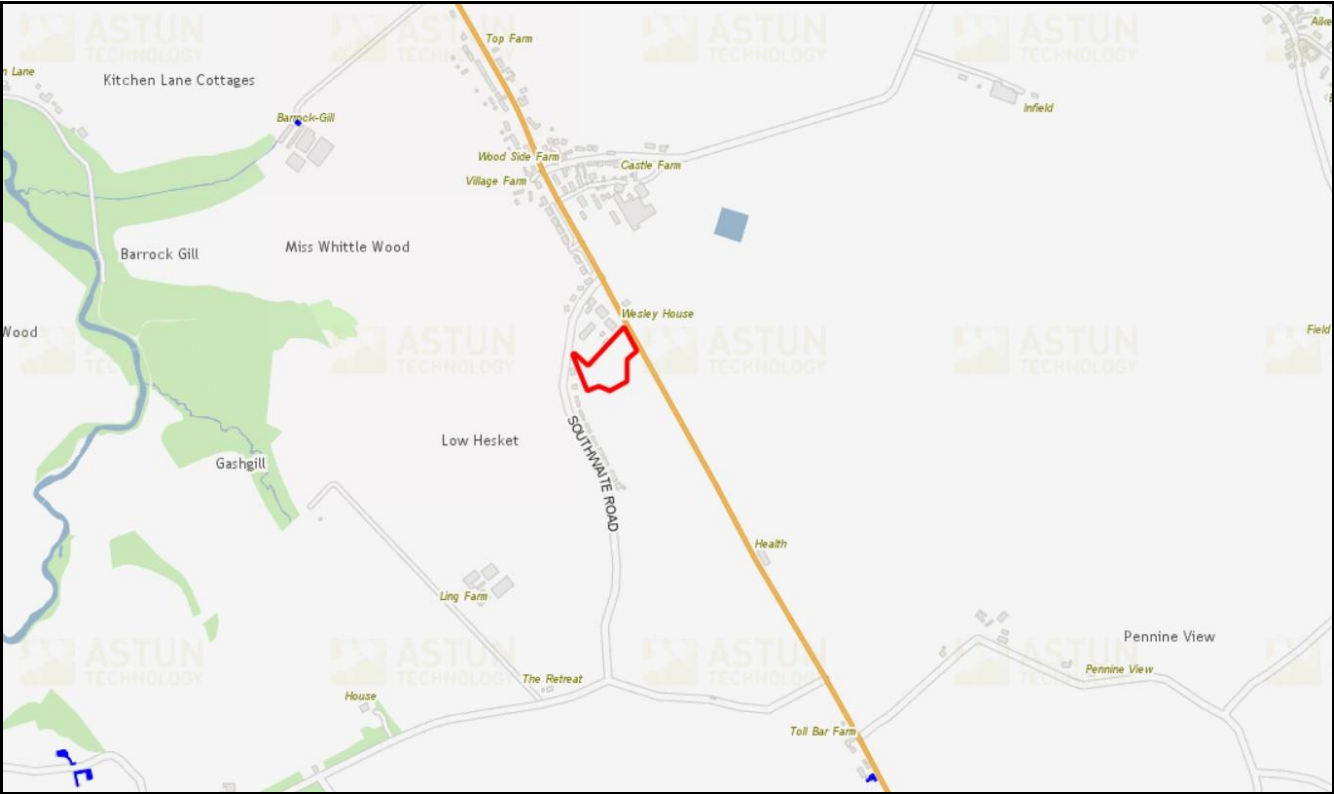
Agent: Addis Town Planning

Case Officer: Rachel Lightfoot

Reason for Referral: The Parish Council object to the scheme and objectors have requested a right to speak.



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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) 30% affordable housing;

And the following conditions;

Time Limit for Commencement

1. Approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 3 years from the date of this permission.

The development hereby permitted shall not begin later than the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

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

2. The approval of the details of the access, scale, layout, external appearance of the buildings, drainage and the landscaping/boundary treatments of the site (called the 'Reserved Matters') shall be obtained from the Local Planning Authority prior to any development being commenced.

Reason: This permission is in outline only and is not accompanied by fully detailed plans.

Approved Plans

3. The development hereby approved shall be undertaken in accordance with the application form dated 17 January 2020 and the following plans hereby approved:

- Location Plan, submitted 17 January 2020;
- Noise Assessment, dated 16 January 2020;
- Geophysical Survey, dated December 2020;
- Affordable Housing/Design and Access/Planning Statement, submitted 17 January 2020;
- Transport Statement, dated January 2020;
- Highways Notes, submitted 3 March 2020;
- Drainage Strategy, submitted 22 October 2020
- Operation and Maintenance Plan Surface Water Drainage, submitted 22 October 2020.

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

Before the development is commenced

4. The carriageway, footways, cycle paths 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 and approved in writing by the Local Planning Authority 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.

5. Ramps shall be provided on each side of every junctions to enable wheelchairs, pushchairs etc. to be safely manoeuvred at kerb lines. Details of all such ramps shall be submitted to the Local Planning Authority before development commences. Any details so approved shall be constructed as part of the development.

Reason: To ensure that pedestrians and people with impaired mobility can negotiate road junctions in relative safety.

6. Full details of the surface water drainage system and a maintenance schedule (identifying the responsible parties) shall be submitted to and approved in writing by the Local Planning Authority prior to the development being commenced. Any approved works shall be implemented prior to the development being completed and shall be maintained thereafter in accordance with the approved schedule.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution. To ensure the surface water system continues to function as designed and that flood risk is not increased within the site or elsewhere.

7. Development shall not commence until a Construction Traffic Management Plan (CTMP) 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.

8. 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 to and approved in

writing 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.

9. Prior to the commencement of development, a noise assessment carried out by a competent noise consultant to demonstrate that the proposed dwellings will achieve the following (with ventilation operating):

- Living Room 07:00 – 23:00 35 dB LAeq (16 hour)
- Dining Room/Area 07:00 – 23:00 40 dB LAeq (16 hour)
- Bedroom 07:00 – 23:00 35 dB LAeq (16 hour)
- Bedroom 23:00 – 07:00 30 dB LAeq (8 hour)
- Bedroom 23:00 – 07:00 45dB L_{Amax} (not to be exceeded more than 10 times a night)
- Garden and Outdoor Amenity Areas: 07:00 – 23:00 50 dB LAeq (16 hour).

The noise assessment must follow the methodology referred to in BS8233 (or any successor BS) and the ProPG: Planning and Noise: New Residential Consultation Draft v1.1 2016 (or any subsequent document) to demonstrate that a good acoustic design has been followed throughout the process of building design, layout and siting. The Noise Assessment will be approved by the Local Planning Authority and mitigation measures required carried out in full.

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

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

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

11. Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning

Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the Local Planning Authority.

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

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

None of the dwellings hereby approved shall be occupied until the approved surface water drainage scheme has been completed and made operational.

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

Prior to Occupation

12. 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.

13. Any existing highway fence/wall shall be reduced to a height not exceeding 1.05m above the carriageway level of the adjacent highway in accordance with the details which have been submitted to the Local Planning Authority before the development is brought into use and shall not be raised to a height exceeding 1.05m thereafter.

Reason: In the interests of highway safety.

14. 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 and approved in writing by the Local Planning Authority then constructed and completed for use. Once approved, the details shall be implemented in full.

Reason: In the interests of pedestrian safety.

15. Prior to the construction beyond the substructure of any of the hereby approved dwellings, samples of external finishes for walls, roofs, windows, doors and hard surfaces shall be submitted to and approved in writing by the Local Planning Authority. 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.

Ongoing conditions

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

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

17. 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.

2. Proposal and Site Description

2.1 Proposal

- 2.1.1 The proposal seeks outline planning permission for a residential development on land to the south of Low Hesket Village Hall, Low Hesket. The application seeks permission for the development of up to 13 dwellings, all matters are reserved.
- 2.1.2 An indicative plan has been submitted which provides for 13 dwellings. This plan is indicative only and may not reflect the final numbers or form of any future application for reserved matters.
- 2.1.3 A single access for vehicles is proposed from the A6. Pedestrian access is proposed to be provided from the proposed development to the existing footway on Southwaite Road. These details may be subject to change when details are provided through a Reserved Matters application but demonstrate that the site can be appropriately accessed.
- 2.1.4 Updated documents and newly submitted plans/documents now comprise the following in support of the application;
 - Design and Access, Affordable Housing and Planning Statement;
 - Drainage Strategy;
 - Indicative Site Layout;
 - Transport Statement;
 - Highway Notes on Highway Authority comments;
 - Visibility Splays Plan;
 - Location Plan;
 - Geophysical Survey; and
 - Noise Assessment.

2.2 Site Description

- 2.2.1 The application site is currently agricultural land and generally a flat site. The surrounding development is generally residential with dwellings located along Southwaite Road. The dwellings are generally semi-detached with rendered elevations and slate roofs. To the north of the proposed development is the car park to Low Hesket Village Hall with a hedge delineating the different uses. In addition, there is an existing industrial site known as Blacksmith's Yard. To the west the site is bound by the A6 which is separated by a high hedge providing a good level of screening between the site and the main thoroughfare.
- 2.2.2 The site currently benefits from two agricultural accesses – one from the A6 and one from Southwaite Road.
- 2.2.3 The land has been considered in part previously under planning application reference 18/0863. This was an outline application for the erection of 5 residential dwellings with all matters reserved. This application was refused for the following reasons:

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1. The proposed development has a detrimental impact on the form and character of the existing built environment, conflicting with Policy LS1, DEV5 and ENV2 of the Eden Local Plan and Chapter 12 of the NPPF.
2. The applicant has not demonstrated whether or not the proposed dwellings would be subject to unacceptable levels of noise pollution resulting from the A6 and adjacent industrial units.
3. The applicant has not demonstrated whether or not the proposed dwellings would be subject to unacceptable road safety impacts.

2.2.4 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 Statutory Consultees

3.2 The application was subject to consultation by way of the erection of a site notice and letters sent to neighbours.

Consultee	Response
Cumbria County Council –Local Highway Authority	<p>Responded on 3 February 2020 and advised that their response remained the same as that provided a pre-application stage which was a recommendation of refusal.</p> <p><i>'The Transport Statement provided suggests proposed access to provide a ghost lane. There is currently no footway at this location therefore all pedestrians from this site will need to cross the A6 to get onto a footway and potentially the removal of the lay-by to ensure that it is safe.</i></p> <p><i>The creation of an access at this location will if allowed, necessitate quite a bit of re-lining, moving the 40mph zone and potentially the removal of the lay-by to ensure that it is safe.</i></p> <p><i>The proposal would lead to the creation of an access on a stretch of classified highway where the main function is that of carrying traffic freely and safely between centres of population. The slowing and turning of vehicles associated with the use of the access would lead to conflict and interference with the passage of through vehicles to the detriment of that principle function and introduce a further point of possible traffic conflict to the detrimental of highway safety.</i></p> <p>The applicant provided further information in regards to highway matters which was responded to by Cumbria County Council on 30 March 2020. The Highway Authority comments are now as follows:</p> <p><i>The Transport Statement provided suggests proposed access to provide a ghost lane. There is currently no footway at this location, however it is proposed Pedestrian access to the site will be provided via a 1.2m wide footpath to connect the proposed dwellings with the existing footway on Southwaite Road. This footpath is shown in IPS architects drawing ps1214/12 rev B, included as Appendix A. The proposed vehicular site access drawing is provided as WYG drawing A115979-P002 rev B.</i></p>

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	<p>The Highway then provide a number of conditions which they would want attached to any approval.</p>
Lead Local Flood Authority	<p>Responded on the 23 January 2020 and confirmed that the following additional information would be required:</p> <p><i>'The Lead Local Flood Authority (LLFA) surface water map shows no flooding to the site and the Environment Agency (EA) surface water maps so not indicate that the site is in an area of risk.</i></p> <p><i>No drainage has been provided for both foul and surface water drainage. The developer should demonstrate how they will deal with surface water discharge from the potential development site and measures taken to prevent surface water discharging onto the highway, public highway or onto neighbouring developments. The surface water drainage should not be greater than the already existing, if installing a soakaway we would advise not to be positioned in close proximity to the highway – which should be at least 5m away from the highway and property.</i></p> <p><i>Trial tests to determine if the site carried out to BRE 365 standards is suitable to undertake infiltration techniques and details showing that any proposed attenuation structure etc. has the adequate capacity to deal with the volume of water running off the additional impermeable areas, if infiltration is not suitable for the proposed development then the applicant would need to provide detailed assessment, to account for a 1 in 100 year plus 40% storm event, a discharge equivalent to greenfield runoff for the site, discharge location and exceedance routes for the drainage. The developer needs to show that they will not increase the volume of water leaving the site which could potentially have a negative impact on existing developments downstream.</i></p> <p><i>With the above in mind, I would have no alternative but to recommend refusal of the application.</i></p> <p><i>Inadequate information has been submitted to satisfy the Local Planning Authority that the proposal is acceptable in terms of</i></p> <ol style="list-style-type: none"> <i>a. site investigation / percolation tests</i> <i>b. outline drainage details</i> <i>c. outline drainage details</i> <i>d. outline drainage calculations</i> <i>e. details of who will maintain the drainage system</i> <i>f. details of the exceedance routes</i> <p><i>A Drainage Strategy was provided on 27 July 2020 and further comments were received from the LLFA:</i></p> <p><i>Outline drainage has been submitted along with trial pit test and results carried out, however the application needs to calculate the Vp rate (time taken to infiltrate 1mm of rainfall) is for the soakaway. If they could provide this detail.</i></p> <p><i>They then go on to show attenuation without providing any micro-drainage for the pipe network we would require the micro-drainage detail.</i></p> <p><i>Until we're in receipt of this additional information I am unable to</i></p>

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	<p><i>finalise my response.</i></p> <p>Further information was then provided and discussions held with Lead Local Flood Authority who have provided the following response on 19 November 2020:</p> <p><i>Following discussions with the applicant further details have been provided within the drainage strategy to determine how the surface water flows across the site in its current state occur. The applicant has provided details based on an outline layout. It is recognised that much of this detail is likely to change. However, the applicant has demonstrated that a connection to the public sewer system can be achieved. United Utilities has raised no objections to this. As Lead Local Flood Authority, we advise that a detailed plan for any proposed surface water system will be required. Further attention and evidence will be required following detailed design to ensure that the development is sustainable in terms of surface water drainage. This will be required to include details such as – how surface water entering the site will be managed, clear evidence that the hierarchy of discharge has been assessed, clear calculations, exceedance routes, maintenance plans etc.</i></p> <p><i>Therefore there is no objection to the granting of permission subject to the inclusion of a condition.</i></p>
Historic Environment	<p>Responded on 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 the 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>
Natural England	<p>Responded on 27 January 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 with national and local policies on the natural environment'</i>.</p>
United Utilities	<p>Responded on 5 February 2020 and advised no objections subject to standard conditions in relation to surface water, foul water details and a maintenance plan for the appropriate adoption</p>

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	<p>of sustainable drainage system elements and ongoing maintenance.</p> <p>This was reconfirmed in a response on 4 August 2020.</p>
Environmental Health – Noise	<p>On 13 February 2020 the Environmental Health Officer (EHO) confirmed that,</p> <p><i>We have no issues with the application in principle. However, as this is an outline application and we do not yet have the details of the layout or internal layout of individual properties, we cannot assess whether the required noise standards for the site can be met. We therefore recommend a condition that at the details planning application stage, the applicant submits to the Local Planning Authority, in writing, a noise assessment by a competent noise consultant which demonstrates that the proposed properties can achieve the following with the ventilation operating:</i></p> <p><i>Living room 07:00-23:00 35dB Laeq (16 hour)</i> <i>Dining room/area 07:00-23:00 40dB Laeq (16 hour)</i> <i>Bedroom 07:00-23:00 35dB Laeq (16 hour)</i> <i>Bedroom 23:00 – 07:00 30dB Laeq (8 hour)</i> <i>Bedroom 23:00 – 07:00 45dB Lmax (not to be exceeded more than 10 times / night)</i> <i>Garden and Outdoor Amenity Areas: 50dB Laeq 16hr 0700hrs-2300hrs. The noise assessment will follow the methodology referred to in BS8233 and the ProPG: Planning and Noise: New Residential Development Consultations Draft v1.1 2016 to demonstrate that a good acoustic design has been followed throughout the process of building design, layout and siting. The noise assessment will need to be approved by the LPA</i></p>
Policy	<p>Were consulted on 28 January 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 the 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>Responded on 5 March 2020 and commented as follows:</p> <p><i>Assuming the development does not fall outside this Key Hub, as defined in Policy LS1 (if this is the case please let me know and I will amend my comments accordingly), on developments of 11 units and above, or more than 1,000 square meters of floor space, 30% affordable housing is required to be delivered on site.</i></p> <p><i>I note that the application (although outline) is for 13 dwellings including 3 affordable dwellings. I can confirm this affordable housing quantum conforms to Policy HS1.</i></p> <p><i>My comments regarding affordable housing need/demand are as</i></p>

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	<p>follows:</p> <p><i>Drawing from the needs data from the Parish of Hesket and its neighbouring Parishes, analysis of Cumbria Choice (the Housing Register) reports:</i></p> <ul style="list-style-type: none">• <i>Currently 34 active applicants have listed the Parish of Hesket or one of its neighbouring Parishes as their first choice preference to live.</i>• <i>Property type wanted (applicants are able to state more than one preferred property type);</i> <table><tr><td></td><td><i>House</i></td><td><i>Bungalow</i></td><td><i>Ground Floor Flat</i></td><td><i>First Floor Flat or Above</i></td></tr><tr><td><i>No. of Applicants</i></td><td><i>25</i></td><td><i>11</i></td><td><i>2</i></td><td><i>1</i></td></tr></table> <ul style="list-style-type: none">• <i>Further evidence of demand/need for affordable Discounted Sale dwellings is also apparent through data from the Councils Homeseekers Register, this reports 13 households actively seeking discounted market sale housing within the Parish of Hesket and neighbouring Parishes.</i> <p><i>Based on the above needs/demand data I can confirm there is an affordable housing need within the Parish of Hesket and neighbouring Parishes and as such I would be supportive of affordable housing in this location.</i></p> <p><i>I note within the Affordable Housing Statement the applicant indicates a preference for the affordable tenure to be discounted sale housing. Given the numbers involved and village location I would be supportive of this tenure type, provided it be secured through the S106 process and the developer sells these properties to eligible purchasers approved by the Council (through the Council's Discounted Sale Policy and Procedures/Homeseekers Register) at a 40% discount from the open market value; I appreciate however this may be best finalised at the reserved matters stage.</i></p> <p><i>Should the outline application be approved I would be happy to discuss the most appropriate size, type and tenure for the affordable properties prior to any reserved matters application.</i></p>		<i>House</i>	<i>Bungalow</i>	<i>Ground Floor Flat</i>	<i>First Floor Flat or Above</i>	<i>No. of Applicants</i>	<i>25</i>	<i>11</i>	<i>2</i>	<i>1</i>
	<i>House</i>	<i>Bungalow</i>	<i>Ground Floor Flat</i>	<i>First Floor Flat or Above</i>							
<i>No. of Applicants</i>	<i>25</i>	<i>11</i>	<i>2</i>	<i>1</i>							
Minerals and Waste Authority	Responded on 28 January 2020 and confirmed no objection.										

4. Parish Council/Meeting Response

Town Council/Meeting	Object	Support	No Response	No objection
Hesket in the Forest	✓			

- 4.1 On the 22 February 2020 the Parish Council confirmed that, 'Hesket Parish Council would like to support the objections of residential of the Parish on the following material grounds:

- **Highways issues**

- *Access to the site – proximity to existing entrances; proximity to start of 40mph zone; proximity of layby used by lorries overnight; traffic considerations for southbound traffic.*
- *Footpath – the proposed footpath onto Southwaite Road is too narrow for both farm vehicle access and foot traffic.*
- *Traffic survey – does not give a full account of road usage, due to increased traffic volume in summer months.*

- **Physical infrastructure**

- *Capacity of existing drainage, which is already subject to flooding/overflow.*

- **Social Facilities**

- *High Hesket Primary School is already full to capacity, as is Caldew Secondary School.*
- *Should the development go ahead, travel provision would need to be considered for both primary and secondary pupils.*

- **Financial considerations**

- *An education contribution could also be sought.*
- *Low Hesket village has no play facilities for young people. Residents have been seeking a suitable site for such for some time. If the development were approved, could land and/or a financial contribution be attached as a condition?*

Please also see attached correspondence from residents.

In addition, the Affordable Housing Statement states the following:

Planning policy required that 30% of new houses on schemes of 11 or more are secured as affordable house. The Proposal includes three of the 13 units as affordable houses which when rounded down equates to 23%. The provision of four affordable houses (43%) would exceed the policy requirements of 30%.

There is an error in the calculation used here, as 30% of 13 is in fact 3.9, meaning the provision of 4 affordable homes would in fact be 30.8% not 43% as stated. We would therefore request that should the application be approved, four affordable homes be designated as such, in line with planning policy.

As this application is designated to go forward to committee, I would be grateful if you could advise me of the date of the committee meeting, as residents have expressed an interest in attending'.

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.

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No of Neighbours Consulted	34	No of letters of support	0
No of Representations Received	12	No of neutral representations	4
No of objection letters	12		

5.2 It is not possible to relay in full the objections made by responders but they are summarised below:

- Highway safety concerns;
- Lack of footpath connection;
- Local infrastructure is already strained in terms of doctors and schools;
- Local sewage infrastructure cannot take further strain;
- Proposal may increase flooding issues in the village;
- Potential to have an adverse impact on the adjacent businesses;
- Potential to have an adverse impact on the adjacent Village Hall in relation to noise complaints.

6. Relevant Planning History

Application No	Description	Outcome
18/0863	Outline application for 5 Dwellings	Refused

7. Policy Context

7.1 Development Plan

Eden Local Plan 2014-2032:

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

- Policy LS1: Locational Strategy;
- Policy LS2: Housing Targets and Distribution;
- Policy DEV1: General Approach to New Development;
- Policy DEV2: Water Management and Flood Risk;
- Policy DEV3: Transport, Accessibility and Rights of Way;
- Policy DEV5: Design of New Development;
- Policy ENV1: Protection and Enhancement of the Natural Environment, Biodiversity and Geodiversity;
- Policy HS1: Affordable Housing;
- Policy HS5: Accessible and Adaptable Homes.

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
- Character and appearance of the settlement and locality
- Residential Amenity
- Highway Safety
- Drainage
- Other matters

8.2 Principle

- 8.2.1 The application site considered to lie within the settlement of Low Hesket. Low Hesket is classed as a Key Hub under Policy LS1 of the Eden Local Plan. Key Hubs are identified as locations which are: *'the focus for development to sustain local services appropriate to the scale of the village and its hinterland including new housing'*. A percentage of developments no greater than 10% increase in the size of the settlement is noted as being appropriate and any development must respect the historic character and form of the village.
- 8.2.2 As a Key Hub, it is considered appropriate to place development within Low Hesket (which joins with High Hesket to form the Key Hub). The proposed development would yield a maximum of 13 new properties. According to StreetCheck, there are 144 dwellings in Low Hesket, the increase of 13 dwellings would be an increase of approximately 9%. The quantum proposed is therefore within the parameters permitted by Policy LS1.
- 8.2.3 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'*. Policy LS1 is considered to be in accordance with the aims and objectives of the NPPF.
- 8.2.4 This scheme is therefore considered to accord with the aims and intentions of the Locational Strategy within Policy LS1 given it is a would result in an increase of less than 10% in the overall size of the settlement which is designated as a Key Hub and therefore expected to accept an appropriately sized development proposals.
- 8.2.5 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 a sustainable location within the district.

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8.2.6 As such, it is considered that the principle of the development is acceptable and compliant with Policies LS1 and DEV1 of the Eden Local Plan.

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 National Planning Policy Framework (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;*

8.3.4 The previous application was for a smaller site which was considered to be poorly related to the existing dwellings and have a negative impact on the character of the existing built environment. As a smaller site it is considered that the previous site would have been a piecemeal and incongruous addition to the settlement. The larger site provides for a more considered scheme which allows the scheme to integrate better into the landscape and provide for a more appropriate edge to the settlement pattern. In addition, this application now benefits from an indicative layout which demonstrates how a development could appropriately address the links to the settlement. This is in accordance with the pre-application advice which was offered by the Planning Service.

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- 8.3.5 It is considered that views into the site from the A6 can be appropriately ameliorated by hedgerow landscaping which is already in place supplemented by appropriate landscaping at the site entrance. When viewed from Southwaite Road, development will be viewed through existing built development, consideration will need to be given to ensure an appropriate boundary treatment to views which are particularly open should any application for reserved matters be made. The site is not within a designated landscape or sensitive location. It is not noted as public open space or an important open space within the Eden Local Plan. The landscape impacts would be no wider than local.
- 8.3.6 As all matters are reserved, it is not possible to comment on the design of any properties, whilst a two storey and single storey option have been shown, these should not be considered a pre-cursor any development which may take place on the site.
- 8.3.7 At an increase of approximately 9% it is considered that the scale of the development is appropriate to the scale of the locality being a recognised Key Hub and the services which are available within it.
- 8.3.8 In accordance with the discussion above, the proposal is considered compliant with the NPPF, Policy LS1 and DEV5.

8.4 Impact on the living conditions/amenity of neighbouring uses

- 8.4.1 The nearest residential dwellings to the site are noted to be located on Southwaite Road which lies to the west of the site. 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 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.
- 8.4.3 In relation to such separation distances, the site is considered to be able to comply with these recommendations. There is sufficient room within the site to provide appropriate

separation distances to the nearest residential dwellings and preserve their residential amenity.

- 8.4.4 The Environmental Health team have been consulted on the application particularly in relation to the impacts of noise from the adjacent non-residential uses.
- 8.4.5 Paragraph 180 of the NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution (including noise) and mitigate and reduce to a minimum potential adverse impacts from noise. Paragraph 182 makes it clear that existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. It is down to the developer to ensure there is suitable mitigation in any development.
- 8.4.6 In relation to noise, the Council's Environmental Health department has been consulted. As there is not a fully designed scheme in place, it is not possible to fully consider the impacts on the amenity of any future residents of the dwellings if approved. The primary noise source is the nearby A6 public highway. Therefore a condition will be applied which will guide the information necessary to accompany the application and the sound levels which will have to be achieved. There are no objections from the Council's Environmental Health Department subject to the imposition of the condition as requested.
- 8.4.7 Consequently, the scheme is considered acceptable in terms of noise and complies with Policy DEV5 and the NPPF in that the development would not be likely to result in any adverse impacts upon the amenity of existing neighbouring dwellings or any future occupiers of the proposed dwellings.

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*

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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 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, additional information has been provided.
- 8.5.5 The LLFA have subsequently confirmed that the details are sufficient for the current stage of outline planning permission, noting that detailed surface water drainage plans will be developed at a Reserved Matters stage once details of the layout and house types are finalised to enable a drainage plan to be drawn up. Such drainage will be secured through the imposition of appropriate conditions to be satisfactorily discharged prior to the commencement of the development if approved.
- 8.5.6 United Utilities confirmed that they have no objection to the development subject to the imposition of appropriate conditions.
- 8.5.7 On the basis of the responses provided by the Lead Local Flood Authority and United Utilities 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.

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’. As an outline application, the provided information is simply to demonstrate that access can be gained.
- 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, in particular the Transport Statement, and considered that there is still information required in terms of more specific detail of the highway design, this would be provided at a later Reserved Matters stage. 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, 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 has offered 3 units, if any subsequent Reserved Matters application proposed 13 dwellings, which is considered acceptable and in accordance with Policy HS1. As the application is in outline, it is appropriate to require the reserved matters to achieve 30% in accordance with policy and this would be secured through the completion of a Section 106 Legal Agreement.
- 8.7.3 The units provided would be discounted sale housing. This consists of housing sold at a 40% discount from open market. Give the numbers involved and the location within a village, this is again agreed as appropriate by the Council's Housing Development Officer.
- 8.7.4 As the scheme provides for 30% of housing to be affordable, the scheme is considered to comply with Policy HS1 of the Eden Local Plan.

8.8 Impact on the historic environment

- 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 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.

- 8.8.4 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

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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.

- 8.8.5 This approach would ensure that the site is appropriately assessed for its actual archaeological value whilst still allowing the site to be developed subsequently.
- 8.8.6 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 Hedgerows are proposed for retention. However, impacts in terms of biodiversity will be considered at a later date through any Reserved Matters application which will include details in relation to planting and additional biodiversity measures.
- 8.9.4 On the basis that the scheme does not affect any protected spaces, and that further details will be provided through a detailed application, the scheme is considered to accord with Policy ENV1.

8.10 Social infrastructure

- 8.10.1 Comments have been received in relation to the impact on schools and doctors' surgeries etc. The application is below the level at which education contributions are sought. The settlement is identified within the Local Plan as Key Hub as there is access to a range of services. The proposed development is considered of an appropriate scale for the settlement level.

9. New Homes Bonus

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

10. Implications

10.1 Legal Implications

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

10.2 Equality and Diversity

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

10.3 Environment

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

10.4 Crime and Disorder

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

10.5 Children

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

10.6 Human Rights

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

11. Conclusion

11.1 The proposal has been subject to discussions in regards to highway access and safety in order to ensure that it can be appropriately accessed. The site is within the settlement of Low Hesket which, along with High Hesket, forms a Key Hub in the Local Plan where housing appropriate to the settlement is considered acceptable.

11.2 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 a sustainable location within the district.

11.3 The application is made in outline and therefore detailed matters are not for current consideration, 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	06.01.2020
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Background Papers: Planning File 20/0027