

Eden District Council
Planning Committee Agenda
Committee Date: 19 August 2021

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Item No	Application Details	Officer Recommendation
1	Planning Application No: 21/0252 Erection of a dwelling including associated operations Land north of the Rectory, Greystoke, CA11 0TJ Mr N Richards	Recommended to: REFUSE With Reasons
2	Planning Application No: 20/0424 Change of Use of agricultural land for the siting of 73 lodge style caravans, landscaping and ancillary works Ullswater Heights Holiday Homes and lodge Park, Silver Howe, Flusco Leisure Resorts Ltd	Recommended to: APPROVE Subject to Conditions
3	Planning Application No: 20/0404 Proposed residential dwelling Land at Gloucester Yard, Penrith Mr and Mrs Naylor	Recommended to: APPROVE Subject to Conditions

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REPORTS FOR DEBATE

Agenda Item 1
REPORTS FOR DEBATE

Date of Committee: 19 August 2021

Planning Application No: 21/0252

Date Received: 12 March 2021

OS Grid Ref: NY 344329,
530940

Expiry Date: 7 May 2020 (time
extension agreed for 26
August 2021)

Parish: Greystoke

Ward: Greystoke

Application Type: Planning Permission

Proposal: Erection of a dwelling including associated operations

Location: Land north of the Rectory, Greystoke, CA11 0TJ

Applicant: Mr N Richards

Agent: Addis Town Planning

Case Officer: Andrew Clement

Reason for Referral: Proposal has been called in on material planning grounds by
the Ward Member for Greystoke.



Agenda Item 1
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1. Recommendation

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

- The proposed dwellinghouse, use of land as domestic curtilage and potential loss of trees would cause considerable harm to the setting of listed buildings, resulting in moderate harm to the significance of these national heritage assets. There are insufficient public benefits to the proposal to outweigh this harm, nor any clear or convincing justification for such harm, which fails to conserve the significance of these listed buildings. As such, the proposal is contrary to Policy ENV10 of the of the Eden Local Plan 2014-32 and contrary to Sections 16 of the National Planning Policy Framework 2021, in particular paragraphs 195, 197, 199, 200, 202.
- The proposal fails to demonstrate or mitigate the potential impacts of the sought development upon mature and protected trees within and around the site. The failure to take account of such protected trees that contribute positively to the local landscape character and visual amenity, and resultant potential harm to these trees that should be retained due to their protection and retention value, is contrary to Policies ENV2 and DEV5 of the of the Eden Local Plan 2014-32 and contrary to Sections 12 and 15 of the National Planning Policy Framework 2021, in particular paragraphs 131 and 174.

2. Proposal and Site Description

2.1 Proposal

- 2.1.1 This application seeks planning permission for the erection of a detached dwellinghouse, with circa 310sq.m gross internal floorspace, including the double detached garage and three first floor en-suite bedrooms all with walk-in wardrobes. The proposed dwellinghouse measures a maximum of 17.9 metres long by 17.9 metres wide, with a maximum ridge height of 7.05 metres tall and a 4.6 metre eaves height, finished in natural grey slate roof above light grey rendered walls with box eave dormers and canopy features. The site's access would run across from the west of the site, with the site development area and sought domestic curtilage incorporating land up to the existing private access track tarmac edge, domesticating an area measuring over 3,400sq.m (over a third of a hectare, almost 0.85 acres).

2.2 Site Description

- 2.2.1 The site that forms the subject of this application is an irregular shaped field containing large mature trees, which is situated to the southeast of a property known as Blue Hills, and adjacent to the historic entrance driveway that leads to the Grade II Listed Building known as The Old Rectory, located approximately 65 metres away to the east of the proposed dwellinghouse.
- 2.2.2 The Old Rectory is an early 19th century substantial two storey dwelling in L-shape form, finished in pink sandstone snecked ashlar walls, with angle pilasters, under hipped graduated greenslate roof with ashlar chimney stacks, featuring sash windows and projecting bays. The main entrance to The Old Rectory is to the west, immediately south of the application site. The Old Rectory has historical connections and physical links to the Church of St Andrew, a Grade II* listed building and one time college for priests dating back to the 13th century finished in dressed mixed red, pink and cream sandstone, with string courses, parapet and angle buttresses with finials, all on chamfered plinth under a graduated greenslate roofs.

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- 2.2.3 The site contains a number of mature trees protected by tree preservation orders, which previously formed an even more substantial woodlands approach to The Old Rectory Listed Building. The site rises steadily from the private road to the west and south of the site to a high point circa 3.6 metres above the road to the northeast corner within the site, with for the sought dwellinghouse slightly set into this sloping elevated land. A public bridleway no.326004 runs to the west of the site from the vehicular access point from the B5288 road southwards to St Andrew's Church past The Rectory and Old Church House. This vehicular access point is within Flood Zone 3, however the elevated application site is within Flood Zone 1.

3. Consultees

3.1 Statutory Consultees

Consultee	Response
Highway Authority	No objection subject to the implementation of access, parking and turning areas prior to first use.
Lead Local Flood Authority	No objection

3.2 Discretionary Consultees

Consultee	Response
Conservation Officer	Objection , a new dwelling within the proposed site is considered will result in considerable harm to the setting of the grade II listed building The Old Rectory, due to location, design and lack of visual separation or mitigation, and potential to cause disturbance to archaeological assets.
United Utilities	No objection subject to drainage planning conditions
Environmental Health	No observation received
Minerals and waste	No observation received
Arboriculturalist	Objection , as it is likely that the extent of the harm arising from the works will result in the decline and premature death of the retained protected trees, which are large mature specimens which make a significant contribution to the character of the location. Any changes to the levels would result in a negative impact on the retained trees, which has been exacerbated by amendments to the proposal. Insufficient information within the submitted tree survey to demonstrate that protected trees will not be harmed by the proposed development.

4. Parish/Town Council Response

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

5. Representations

5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on 14 April 2021.

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

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

- Harmful impact upon the setting of heritage assets and lack of public benefit to outweigh this harm
- Greenfield site outside of Greystoke key hub area
- Loss of prominent trees and associated impact on habitats and ecological harm
- Inappropriateness of private road to be used for access to an additional dwellinghouse
- Incongruent materials from outside the local area
- Noise and light pollution during construction and from the access point
- Overlooking and privacy residential amenity impact concerns

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

- Previous applications at the site refused
- Precedent for further development

6. Relevant Planning History

Application No	Description	Outcome
15/5117	Alleged construction of unauthorised access track potentially damaging protected trees	Resolved through remedial works 24 July 2017
13/0486	Construction of a single low carbon dwelling	WITHDRAWN 4 December 2013
13/0071	Construction of two dwellings	WITHDRAWN 8 March 2013
11/1006 – at nearby site to the south	Development of field to provide 2 dwellings.	REFUSED 5 January 2012
03/0174 – at nearby site to the south	Change of use from grazing to residential	REFUSED 22 July 2003 and DISMISSED at appeal 5 May 2004

7. Policy Context

7.1 Development Plan

Eden Local Plan (2014-32)

- Policy LS1 Locational Strategy
- Policy LS2 Housing Targets and Distribution
- Policy RUR1 A Plan for the Key Hubs
- 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 HS4 Housing Type and Mix
- Policy ENV1 Protection and Enhancement of the Natural Environment, Biodiversity and Geodiversity
- Policy ENV2 Protection and Enhancements of Landscapes and Trees
- Policy ENV10 The Historic Environment

7.2 Other Material Considerations

National Planning Policy Framework (2021):

- Chapter 2. Achieving Sustainable Development
- Chapter 4. Decision making
- Chapter 5. Delivering a sufficient supply of homes
- Chapter 7. Ensuring the vitality of town centres
- Chapter 8. Promoting healthy and safe communities
- 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
- Chapter 16. Conserving and enhancing the historic environment

Listed Building and Conservation Areas Act 1990

- Section 7 - Restriction on Works Affecting Listed Buildings

The Town and Country Planning (Tree Preservation)(England) Regulations 2012

Supplementary Planning Documents:

- Housing (2010 and 2020)

National Planning Practice Guidance (NPPG)

National Model Design Code

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

8. Planning Assessment

8.1 Key/Main Planning Issues

- Principle
- Self and Custom Build
- Landscape and Visual Impacts upon the setting of Heritage Assets
- Scale and Design
- Ecology, Trees and Habitats
- Residential Amenity and Noise
- Infrastructure and Drainage
- Highways and Parking

8.2 Principle

- 8.2.1 Policy LS1 of the Eden Local Plan sets the settlement hierarchy where the Council expects the focus for residential, employment and commercial provision. Key Hubs will be the focus for development to sustain local services appropriate to the scale of the village and its hinterland, including new housing, the provision of employment and improvements to accessibility.
- 8.2.2 Policy LS2 of the Eden Local Plan sets out future development rates in town and villages to achieve the overall annual housing target. Thirteen 'Key Hubs' have been identified where we expect modest amounts of market led development to occur, to help meet local need and enable services to be protected and enhanced. The list of key hubs identified is fixed until any future review of the Local Plan.
- 8.2.3 Policy RUR1 of the Eden Local Plan aims to deliver 871 new homes and 2.92ha employment land for the Key Hubs.
- 8.2.4 Policy DEV1 of the Eden Local Plan advises that the Council will always work proactively with applicants to find solutions which mean the proposals can be approved wherever possible, and to secure developments that improves economic, social and environmental conditions in the area.
- 8.2.5 This application seeks planning permission for the erection of a single detached dwellinghouse on land adjacent to Greystoke village, which is a designated Key Hub. This is considered to be a modest amount of market led development, beneath the scale of development necessitating an affordable housing contribution. The district has a sufficient housing land supply, with a demonstrated 7.33 year housing land supply against the Local Plan housing requirement, and other residential developments may be constructed locally such as the one proposed. The delivery of housing is still attributed positive weight in a planning balance due to economic and social benefits, and a wider national shortage of housing provision. However, there is no additional weight to be applied through a tilted balance in favour of granting development due to a sufficient and evidenced supply of housing land within the district.
- 8.2.6 The Design and Access Statement intimates personal circumstances for developing the site in relation to employment at an adjacent rural equestrian business. However, these have not been substantiated as an essential rural worker, and as such, the application has not been considered against Policy HS3. The personal circumstances of the applicants are not a material consideration in the determination of this planning application.
- 8.2.7 There are several residential properties currently advertised for sale in Greystoke, with a further 40 dwellings under construction just over a 100 metres from the application site, plus land with consent for single dwellinghouses currently advertised for sale in Penruddock less than 2.5 miles from the application site. In this regard, it is considered reasonable to suggest that there is suitable alternative provision for existing, new and potential development sites in the vicinity. A plan-led approach is taken to the lawful determination of planning applications, with NPPF paragraph 15 stating that '*The planning system should be genuinely plan-led*'. The following two paragraphs will assess the merits of the site for the principle of residential development of a single dwellinghouse, against the policy requirements of the Local Plan.
- 8.2.8 Residential development within such Key Hubs is a focus for development to sustain local services. Greystoke contains a number of local services, including a public house, post office, school, church, swimming pool and other leisure facilities. This level of

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services and facilities are similar to other designated Key Hubs within the district, and whilst public transport service is infrequent in this area, an additional dwellinghouse would make a modest contribution to the sustainability of local services. This is considered to be a sustainable location for residential development in accordance with the locational strategy for development, due to the services and facilities within walking distance from the site, with pavements between these services and the bridleway adjacent to the site.

8.2.9 Whilst some public consultation responses have contested that the site is outside of Greystoke and within 'other rural areas', given the proximity to the village church, walking facilities to the centre, and a much larger scale residential development currently under construction to the north of the B5288 forming the eastern end of the village, it is considered that the site is reasonably part of the Key Hub of Greystoke. As such, the proposal is considered to be a sustainable location for development, in accordance with Policies LS1, LS2, RUR1 and DEV1 of the Local Plan, and the principle of the development is considered to be acceptable. The delivery of a single dwellinghouse as part of the Key Hub such as this is considered to attribute positive weight in terms of economic and social benefits of a sustainable dwellinghouse, in a location to support local services and help achieve the delivery of suitable housing supply in the district.

8.2.10 Therefore, for the reasons detailed above, it is considered that the principle of the development of a residential dwelling in this location is acceptable subject to further assessment of all other material considerations.

8.3 Self and Custom Build

8.3.1 This proposal is for planning permission for a single dwellinghouse, considered to be a Self-Build and Custom House build house designed by whomever developed the land for their initial occupation.

8.3.2 The Self-Build and Custom Housebuilding Act 2015 places a duty on Authorities to grant enough suitable permissions on serviced plots to meet the need set out in the self-build register, for each year, within 3 years. Self-build and Custom build housing is defined as housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can be either market or affordable housing.

8.3.3 Eden District Council has been able to demonstrate sufficient self-build permissions to meet the registered demand, since the end of the first register base period. The legislation requires that all authorities must have granted sufficient planning consents for enough serviced plots, which are suitable for self and custom build to meet the demand for the period (demand is measured by the number of people joining the Council's Self Build and Custom Build Housing Register).

8.3.4 Eden District Council granted planning permission for sufficient properties within the register base period which fulfil the requirements of self and custom build development. The latest figures reported on 30 October 2020 marks four years since the end of the first register base period. The legislation requires that all authorities must have granted sufficient planning consents for enough serviced plots, which are suitable for self and custom build to meet the demand from the register. Between the 1st April 2016 and the 30th October 2020, Eden District Council received 111 applicants for entry onto its register. In response to this demand, Eden District Council has granted planning permission for 163 confirmed self and custom build dwellings in the period 1 April 2016

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to 30 October 2020. The Council has therefore, met and exceeded the requirements of the legislation by having sufficient self-build permissions to meet the registered demand for the preceding couple of years.

- 8.3.5 Whilst the requirement for providing self-build and custom build housing is acknowledged, such developments must be in accordance with the policies of the Local Plan as a whole. The requirement to provide self-build developments should rightly be afforded weight in the planning balance. However, the self build nature of the proposal does not attract such overriding weight that it should outweigh fundamental planning policies directing where the Council will accept residential development.
- 8.3.6 The Council is supportive of self-build and custom build housing and will continue to meet the required self-build permissions and comply with the Self-Build and Custom Housebuilding Act 2015. Furthermore, the Council does consider that weight should be given to self or custom build proposals in line with National Requirements. As such, the self-build nature of this proposal gains moderate additional weight in favour of the proposal. Whilst weight is rightly afforded to the self and custom build nature of the proposal, in light of the above it is considered that moderate weight should be attached to the self-build and custom build requirements of the Council in the determination of this planning application.

8.4 Landscape and Visual Impacts upon the setting of Heritage Assets

- 8.4.1 Section 12 of the National Planning Policy Framework (NPPF) and Policy DEV5 of the Eden Local Plan seeks to ensure that all new development is of an appropriately high quality design, which shows a clear understanding of the form and character of the locality.
- 8.4.2 Section 16 of the NPPF and Policy ENV10 of the Eden Local Plan attaches great weight to the conservation and enhancement of the historic environment, heritage assets and their setting, requiring all proposals for development to conserve or enhance the significance of heritage assets and their setting. In accordance with the Listed Building and Conservation Areas Act, when considering any application that affects a Listed Building, a Conservation Area or their setting, the local planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the heritage asset or its setting. This is reiterated by policy ENV10.
- 8.4.3 The application site is within close proximity to several Listed Buildings within 170 metres of the site, adjacent to and accessed from a bridleway that forms a key access to St Andrew's Church and the primary public viewpoint of The Old Rectory. These are Grade II* and Grade II Listed Buildings respectively, of national heritage importance and some of the 400,000 most important heritage buildings nationally.
- 8.4.4 The setting of The Old Rectory and northern bridleway approach to St Andrew's Church clearly contributes positively to the setting of these two heritage assets, as does the visibility of The Old Rectory through the existing grassland and tree strewn site, demonstrating the former connection between these two heritage assets as a house where the rector of the church lived. This land and existing approach to The Old Rectory is important to the setting of this heritage asset in itself, and clearly formed a woodland access to the property dating back to the First OS Map circa 1860, maintained as such other the following 100 years, and remaining as a visual setting of grassland and substantial mature trees to date. The site forms a key aspect of the aesthetic value of the heritage asset, and the primary public viewpoint of this heritage

asset as the public bridleway continues southwards to the west of the (new) Rectory towards St Andrew's Church.

- 8.4.5 The proposal seeks a new residential dwellinghouse within the proposed site, removing at least one of the existing trees and forming a vehicular access towards the highest topography point of the site for the siting of a new, modern design dwellinghouse. Whilst the design appears 1.5 storeys, and the submitted Heritage Assessment states this is a *'largely single-storey dwelling, designed to be low lying'*, the height from base to ridge is 7.05 metres tall, which is just 10cm short than the maximum ridge height of the two storey dwellinghouse to the west known as Crayside. Combined with the elevated topography of the site and contemporary design of the proposal, the residential development sought would have a much more imposing visual impact than neighbouring dwellinghouses of Crayside or The Rectory, despite being marginally shorter to the ridge as proposed.
- 8.4.6 Amended plans received seek to lower ground levels marginally, but this would still have a base of development elevated by circa 1.5 metres above the adjacent private road and public viewpoints from the bridleway, with a ridge line approximately 8.55 metres above this viewpoint. The dwellinghouse would be clearly visible in a prominent and conspicuous location in the foreground of The Old Rectory and approach to the Church of St Andrew. The close proximity of the proposed dwelling, circa 65 metres from The Old Rectory Listed Building, and its location on higher ground within the site along combined with its proposed height and scale would result in the proposed dwelling being prominent in views both to and from this Listed Building.
- 8.4.7 Furthermore, and as important as the negative impacts upon heritage setting as the building itself, is the vast domestic curtilage and associated domestic paraphernalia that would change the intrinsic character of the site, which runs up to the private access track tarmac edge to the circa 2 metre tall hedge between the application site and the curtilage of The Old Rectory. The proposed dwellinghouse and use of the entire site as domestic curtilage associated with this would undoubtedly detract from the important contribution this site makes to the setting of this heritage asset as existing. This negative impact would be exacerbated by the required loss of a tree adjacent to the sought access, making the proposed development even more prominent.
- 8.4.8 The retention of the existing circa 2 metre tall hedge and protected trees is insufficient to mitigate this impact nor separate the development impacts from the setting of the Listed Buildings. The site as existing, is characterised as open land containing grassland and mature trees, which has important connotations to the historic approach to the site, and makes an important contribution to the setting of this heritage asset. Similarly, the loose knit layout of existing dwellinghouses bordering open land in a spacious nature of development was highlighted as an important characteristic by a planning inspector in the dismissal of planning appeal APP/H0928/A/03/1135210, albeit when dismissing residential development immediately south of the site in 2004, also within the village of Greystoke. The proposal is considered to undermine the character of the area and setting of the national heritage assets.
- 8.4.9 The Listed Building and Conservation Areas Act 1990 and relevant local and national planning policies stipulate that great weight should be attached to the conservation and enhancement of the historic environment, heritage assets and their setting. In this instance, this great weight clearly weighs against the proposed development of the site in a planning balance determination. The development of a residential dwellinghouse at

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close proximity on an elevated site, and change of use of existing grassland and trees to form part of a significant scale domestic curtilage, will cumulatively have a detrimental and demonstrably harmful effect on land that has historically and currently makes a positive contribution to the setting of such heritage assets, which cannot be said for the proposed development and use.

- 8.4.10 This assessment is shared by the Conservation Officer, whom concluded that the proposal would cause considerable harm to the setting of heritage assets, resulting in moderate harm to the significance of heritage assets. Any such harm requires clear and convincing justification, weighed against the public benefits of the proposal. Such a planning balance assessment will form the conclusion of this report. However, the identified harm to heritage assets is considered to weigh greatly against this proposal, which is considered to be contrary to the requirements of Policy ENV10 and NPPF Section 16, in particular paragraphs 195, 197, 199, 200, 202.
- 8.4.11 Finally, it is noted that the development of the site has the potential to cause disturbance to archaeological assets relating to the medieval development of the village. However, this element could be satisfactorily resolved with an archaeological written scheme of investigation prior to commencement, with such investigation implemented during groundworks.

8.5 Scale and Design

- 8.5.1 Section 12 of the NPPF and Policy DEV5 of the Eden Local Plan seeks to ensure that all new development is of an appropriately high quality design, which shows a clear understanding of the form and character of the locality.
- 8.5.2 The proposed development offers accommodation across two floors, with a footprint of over 180sq.m creating a gross internal floorspace of circa 310sq.m, under a maximum ridge height of over 7 metres tall. Whilst the first floor space is partly between the ridge and eaves of the property, the scale of development is not that of a bungalow, but a large two storey dwellinghouse. The design of the property is bespoke and contemporary, with unique use of canopies and contemporary features including box eaves dormers.
- 8.5.3 Whilst Greystoke as a whole contains a number of terraced and semi-detached properties, with traditional large detached properties, the immediate vicinity of the application site is characterised by large detached two storey dwellinghouses in a spacious low density with open space between properties. Furthermore, each of the properties in the immediate vicinity has unique architectural features, using a mix of render, red sandstone and brick wall external elevations with reasonable complex roof forms of perpendicular ridges, lean-to projections, gable and hipped roofs, and even a cone atop a cylindrical two storey porch.
- 8.5.4 In this setting, from a design and scale perspective there is scope for a larger dwelling introducing alternative design features into the vicinity to appear congruent in this setting of similar scale properties designed individually, where there is no coherent streetscene vernacular or architecture as existing. Given the scale of the roofscape of the proposal and elevated position of the sought property, use of high quality natural roof material would be a key requirement given this visual prominence of this feature. As such, notwithstanding the negative impacts upon the setting of heritage assets due to proximity and juxtaposition of the contemporary design outlined in the previous section, the design and scale of the dwelling is considered to be consistent and

congruent to the visual context and streetscene when considered outside of these heritage sensitivities of the site.

8.6 Ecology, Trees and Habitats

- 8.6.1 Section 12 and 15 of the NPPF and Policy ENV2 of the Eden Local Plan, requires proposals to take account of and complement natural elements, such as hedgerows, woodland and local topography and the tranquillity of the open countryside, and take account of and complement anthropogenic landscape elements, including settlement form, local architectural styles and building materials, and visually sensitive skylines, in accordance with the Cumbrian Landscape Assessment Toolkit.
- 8.6.2 Within the Eden Local Plan, Policy ENV1 requires new development to avoid loss or deliver net gain in levels biodiversity and geodiversity, affording significant weight and the highest levels of protection to local, national and internationally important designated environmental sites.
- 8.6.3 The application site is characterised by grassland and a number of mature trees, the majority of which are protected by tree preservation orders, including 6 individually protected trees in or immediately around the site, in addition to a group of trees protected within the northern boundary of the site under a grouped tree preservation order. These trees and others within the site are considered to make a considerable positive to the area and setting of heritage assets.
- 8.6.4 Whilst a tree survey detailing the location and calculated root protection areas of trees has been submitted with this application, this does not include an arboricultural impact assessment nor method statement to demonstrate that the proposal would not harm nor result in the loss of protected trees either through the development of the dwellinghouse/hardsurfacing or through construction practices during development. One tree will certainly be removed to facilitate the creation of the vehicular access to the site, however this tree is in poor condition as detailed within the submitted tree survey, and will need to be felled irrespective of the proposed development at the site.
- 8.6.5 Whilst the loss of a single category U tree is recommended within the tree survey irrespective of the proposal, the retention of all other trees on site is an important consideration of this proposal, not just because of the protected nature of these trees, but also the important contribution these make to the visual amenity and characteristics of the area and setting of national heritage assets. The Council's Arboriculturalist has raised concerns regarding the omission of an arboricultural impact assessment and method statement given the importance and protection of these trees, which has been exacerbated by the amended plans seeking changes in land levels around the dwellinghouse, which would result in further ground excavations and potential impacts upon the root protection areas of these protected trees.
- 8.6.6 The Council's Arboriculturalist concludes that, due to very constrained space to building a house, any changes to the levels would result in a negative impact on the retained mature trees, which have a low tolerance to damage, as would the sought surfacing and levels of parking and turning areas. As such, given the lack of information for a dwellinghouse sought in such close proximity to these trees, the proposal has failed to evidence that the development would suitably avoid and mitigate any undue pressure and impacts upon the existing mature trees within and around the site, which could result in their decline and premature removal. These potential and likely negative impacts upon these large protected trees are considered to be harmful to the amenity and character of the location and setting of listed buildings, contrary to

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policies ENV2 and DEV5 of the Local Plan, and NPPF Sections 12 and 15, in particular paragraphs 131 and 174.

- 8.6.7 The application site provides the potential for habitats and ecology, which would be impacted by the development of a dwellinghouse, hardsurfacing for accesses, domestication of such a large area and potential harmful impacts upon mature trees. Whilst additional habitats and mitigation would be required to ensure biodiversity net gain, from this ecological perspective the impacts are able to be mitigated through soft landscaping that could be controlled through planning condition.

8.7 Residential Amenity and Noise

- 8.7.1 Within the Eden Local Plan, Policy DEV5, in part, seeks to ensure that all new development *'protects the amenity of existing residents and business occupiers'*.
- 8.7.2 The proposed development is of ample scale, far in exceedance of the minimum standards of space, outlook and natural light required by the Nationally Described Space Standards, achieving generous standards of residential amenity for future occupants. Whilst some public consultation responses have raised concerns regarding impacts upon neighbouring amenity, at over 30 metres from the nearest existing dwellinghouse, the proposal would cause no undue harm with regards to overbearing, overshadowing nor overlooking impacts upon residential amenity at such distances.
- 8.7.3 Public concerns have also been raised regarding the increase in vehicle movements and headlights in an unlit area, and whilst this may be noticeable to neighbours, these occasional passing's by motor vehicles would not unduly impact residential amenity standards. However, given the nature of the site and proximity to dwellinghouses, a restriction on construction hours would be necessary and relevant to protect amenity standards during this more intensive phase of construction. Subject to such a planning condition, the proposal is considered to cause no undue impact upon residential amenity, in accordance with Policy DEV5 of the Eden Local Plan.

8.8 Infrastructure and Drainage

- 8.8.1 Policy DEV2 of the Eden Local Plan requires proposals to meet the sequential approach to development in flood risk areas, preventing inappropriate development areas at risk of flooding, whilst adhering to the hierarchy of surface water management.
- 8.8.2 The site is located at the edge of the village of Greystoke, with other existing dwellinghouse, and whilst no information has been submitted regarding access to mains electricity, water, and gas or sewerage infrastructure, given the proximity to the existing property it is considered likely these could be provided either through mains connections or off-grid equivalents for foul drainage.
- 8.8.3 Similarly, no information has been received regarding surface water drainage, other than the site plan detailing a soakaway. Whilst no information to evidence the feasibility of such a sustainable drainage system at this site is available, given the scale of the permeable grassland site, it is highly likely a suitable scheme could be engineered, and this could be controlled through a reserved matters stage as advised in the United Utilities consultation response. Therefore, despite the omission of information for consideration, it is considered that these matters could be satisfactorily controlled through planning conditions, compatible with Policy DEV2 of the Eden Local Plan.

8.9 Highways and Parking

- 8.9.1 Policy DEV3 seeks to direct development to locations accessible by public transport, to ensure that provide safe and convenient access for pedestrians, cyclists and disabled

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people, whilst preventing development that would result in a severe impact in terms of road safety and increased traffic congestion.

- 8.9.2 The site access is directly onto a private road serving several dwellinghouses as existing and leading to an equestrian centre. The western section of this access forms a bridleway, used by walkers and horse riders and part of the public right of way network. Whilst visibility to the south of the sought access is only constrained by mature tree trunks, to the north the neighbour's drystone boundary wall would restrict visibility from the access point to the bridleway and private road.
- 8.9.3 That being said, this road only serves three dwellinghouses and the equestrian centre beyond this point (which is noted to be within the ownership of the applicant), and it is a short distance of the public highway, and the nature of the private road would result in a significant reduction in vehicle speeds travelling in the vicinity. In addition, given the existing presence of domestic vehicle access to this private road, the addition of the further proposed access is considered to have no undue harmful impact upon highway or public safety, nor unduly impact the functionality of the bridleway through the modest increase in vehicle movements associated with a single dwellinghouse. Therefore, subject to precise details of the access, surfacing and provision of parking and turning facilities prior to first use, as recommended by the Highway Authority consultee, the proposal would cause no harm to the public highway network or functionality and safety of the bridleway.
- 8.9.4 A construction method statement would be necessary to ensure no blockage of this narrow private road during construction, and no harmful impact upon protected trees from construction activities, however this could be controlled through a pre-commencement planning condition. The site offers suitable provision for parking and turning of vehicles within the site, and as such subject to suitable mitigation and management during the construction phase, the proposed development is considered to cause no undue harm to the highway, public safety nor the bridleway, compatible with Policy DEV3 of the Eden Local Plan.

9. New Homes Bonus

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

10. Implications

10.1 Legal Implications

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

10.2 Equality and Diversity

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

10.3 Environment

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

10.4 Crime and Disorder

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

10.5 Children

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

10.6 Human Rights

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

11. Conclusion

- 11.1 It is considered that the proposal is contrary with the Development Plan for the following reasons which are not outweighed by material considerations:
- 11.2 The proposal is considered to be compatible with the Council's locational strategy for development, and the delivery of such a self-build dwellinghouse would deliver sustainable development through economic and social benefits of development and delivering upon the housing need within the district. These factors weigh in favour of the proposal, whilst the impacts upon residential amenity, public highway and ecology can be mitigated through planning conditions to ensure the proposal is neutral in these regards.
- 11.3 However, due to the presence of mature protected trees across the site, its undeveloped nature and historical connections and present day setting in close proximity to national heritage assets, the site is sensitive to change and makes a positive contribution to the character and visual amenity of the area as existing. Both the trees and the heritage significance of listed buildings are protected by separate legislation, local planning policies and the National Planning Policy Framework. These state that trees should be retained wherever possible, and great weight should be given to the conservation of the significance of designated heritage assets such as Listed Buildings.
- 11.4 Such harm should be weighed against the public benefits of the proposal established in paragraph 11.2 of this report. However, in a planning balance assessment, and in consideration of the sufficient housing land supply and self-build sites within the district, these benefits are considered to fall a long way short of outweighing the permanent harm caused to the setting of national heritage assets and protected trees within and around the site. This is particularly the case for this proposal, as should the development cause harm and loss of further trees, this would exacerbate the heritage harm already identified through the proposed modern dwellinghouse development and domestication of a large area existing undeveloped grassland and trees, which makes a significant positive contribution to the setting of listed buildings as existing.
- 11.5 Given the positive contribution the site makes to the visual amenity and character of the area, setting of national heritage assets and siting of substantial protected trees, the proposal fails to evidence how the site could be developed whilst having no undue

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impact upon protected trees. In any case, the dwellinghouse development and domestication of a large site as sought would harm the significance of national heritage assets through considerable harm to their setting in comparison to the existing site. Great weight is given to the conservation of the significance of heritage assets, which the proposal fails to achieve through the harm cause, which is not outweighed by the public benefits of the proposal in this case.

11.6 Therefore, the application is recommended for refusal.

Oliver Shimell
Assistant Director Development

Checked by or on behalf of the Monitoring Officer	04.08.2021
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Background Papers: Planning File 21/0252

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Date of Committee: 19 August 2021

Planning Application No: 20/0424

Date Received: 26 June 2020

OS Grid Ref: 346348 529996

Expiry Date: 26 September 2020
extension of time
agreed until 24
September 2021

Parish: Dacre

Ward: Dacre

Application Type: Full

Proposal: Change of Use of agricultural land for the siting of 73 lodge style caravans, landscaping and ancillary works

Location: Ullswater Heights Holiday Homes and lodge Park, Silver Howe, Flusco

Applicant: Leisure Resorts Ltd

Agent: Miss Wendy Sockett

Case Officer: Mr Ian Irwin

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



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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) A £6,600 financial contribution towards the Travel Plan Monitoring.

And the following conditions:

Time Limit for Commencement

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

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

Approved Plans

2. The development hereby granted shall be carried out strictly in accordance with the application form dated 25 June 2020 and the following details and plans hereby approved;
 - i. Location Plan, ref. H2-190903-2, dated 10 June 2020;
 - ii. Development Layout Plan, ref. H2-1900903-1, dated 10 June 2020;
 - iii. Phase 2 Land Quality Assessment, ref. 4179R1, dated 6 May 2021;
 - iv. Ecological Appraisal, ref. P20-114, dated June 2020;
 - v. Economic Benefit Report, dated February 2019;
 - vi. Flood Risk Assessment, Ullswater Heights Holiday Home and Lodge Park dated June 2020;
 - vii. Landscape and Visual Impact Assessment, dated May 2020;
 - viii. Landscape and Visual Impact Assessment, Viewpoint Photographs, dated May 2020;
 - ix. Landscape and Visual Impact Assessment, Site Survey Photographs, dated May 2020;
 - x. Planning, Economic, Design and Access Statement, dated June 2020;
 - xi. Transport Assessment, ref. P1430-160320 Ullswater Transport Assessment, dated June 2020;
 - xii. Travel Plan, ref. P1430-160320 Ullswater Travel Plan, dated June 2020;
 - xiii. Desktop Preliminary Environmental Risk Assessment, ref. AEL-4491-PP1-1011468, dated 19 October 2020;
 - xiv. Microdrainage Results, dated 20 October 2020;
 - xvii. Proposed Drainage Results, ref. 133201, Rev. 1, dated 19 October 2020;

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

Prior to commencement

3. Prior to the commencement of the development, details of a construction surface water management plan shall be submitted to the Local Planning Authority for

written approval. Once approved, those details shall be implemented for the duration of all construction works.

Reason: To ensure flood risk is not increased within the site or elsewhere.

4. Prior to the commencement of this hereby approved development a scheme of hard and soft landscape planting shall be submitted to the Local Planning Authority and approved in writing. The scheme shall include appropriate aftercare and management plans. Thereafter, the development shall be undertaken in accordance with the approved scheme, with all planting undertaken within the first available planting season. Any trees or other plants which die or are removed within the first five years following the implementation of the approved scheme shall be replaced during the next planting season. The landscape scheme proposed should be informed by the recommendations of the Ecological Appraisal, dated June 2020.

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

5. Prior to the commencement of the development hereby approved, a foul and surface water drainage scheme, including a maintenance plan shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme must include:
 - (i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water;
 - (ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations); and
 - (iii) A timetable for its implementation.

The approved scheme shall also 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 and pollution.

6. Prior to the commencement of the hereby approved development, full details of an Ecological Mitigation and Management Plan shall be submitted to the Local Planning Authority for written approval. The plan shall provide full details of how any potential impacts to any protected species that may be affected by the hereby approved development. Once approved, the plan shall be strictly adhered to for the duration of the development.

Reason: To ensure appropriate protection for protected species.

7. Prior to the commencement of the hereby approved development, full details of the precise design of the lodges to be constructed upon site, including details of construction materials and finishes, shall be submitted to the Local Planning Authority for written approval. Once approved, those details shall be adhered to for the lifetime of the development.

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

8. Prior to the commencement of the development, details of all external lighting affixed either to the lodges or within the site boundary shall be submitted to and approved in writing by the Local Planning Authority. The details shall comprise a light spill plan to demonstrate that the local dark sky will not be compromised and once approved shall be adhered to for the duration of the development.

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

Prior to use and occupation

9. Prior to the hereby approved development being brought into use The approved gas protection scheme within the remedial plan, shall be implemented and a verification report submitted to and approved in writing by the Local Planning Authority, prior to the development (or relevant phase of development) being brought into use.

Reason: To ensure appropriate contaminated land contamination measures are implemented prior to occupation of the hereby approved lodges.

On-going conditions

10. The occupation of the lodge style caravans indicated on the Development Layout Plan, ref. H2-1900903-1, dated 10 June 2020 shall be for holiday purposes only. The site operator shall maintain an up-to-date register of names and addresses of the occupiers of the lodge style caravans, including those that are owner occupied, together with their dates of occupation, and shall make the register available to the local planning authority upon request.

Reason: The development is not a permanent residential accommodation site and in the interests of the amenity and character of the area.

11. The hereby approved lodge style caravans located on site as indicated on the Development Layout Plan, ref. H2-1900903-1, dated 10 June 2020 shall be maintained to a good standard of repair to the satisfaction of the Local Planning Authority throughout their retention on site.

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

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

Reason: In the interests of road safety.

13. Within 6 months of the development opening for business, the developer shall prepare and submit to the Local Planning Authority for their approval a Travel Plan which shall identify the measures that will be undertaken by the developer to encourage the achievement of a modal shift away from the use of private cars to visit the development to sustainable transport modes. The measures identified in the Travel Plan shall be implemented by the developer within 12 months of the development opening for business.

Reason: To aid in the delivery of sustainable transport objectives.

14. An annual report reviewing the effectiveness of the Travel Plan and including any necessary amendments or measures shall be prepared by the developer/occupier and submitted to the Local Planning Authority for approval, the Travel plan will then be monitored for a 5 year period.

Reason: To aid in the delivery of sustainable transport objectives.

15. If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall then be implemented as approved.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site.

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.

Note to developer:

1. This decision notice grants planning permission only. It does not override any existing legal agreement, covenant or ownership arrangement. It is the applicant's responsibility to ensure all necessary agreements are in place prior to the commencement of development.
2. The applicant must apply for a licence prior to disturbing any protected species, specifically Great Crested Newts and should obtain such from Natural England prior to the commencement of any development.

2. Proposal and Site Description

2.1 Proposal

- 2.1.1 This application is a full application for the change of use of existing agricultural land, for the siting of 73 lodge style caravans, landscaping and ancillary works. The site subject of this proposal is located adjacent (to the West) of the existing Ullswater Heights Holiday Homes and Lodge Park. The site is located at 'Flusco' and was previously utilised for mineral extraction, specifically limestone. Restoration works were undertaken on completion of the mineral workings.
- 2.1.2 As has been confirmed, this scheme proposes 73 lodge style caravans and these would provide additional capacity beyond the existing 162 holiday units located upon site the wider site. Therefore, if approved, this application would result in 235 holiday lodges at the site.
- 2.1.3 The ancillary works referred to would comprise the creation of internal roadways, additional parking, drainage and the formation of a new pond/wetland along with further landscaping proposals.
- 2.1.4 Access would continue to utilise the existing access, already in place for the site as is. The applicant confirms that over the intended 3 year construction period, 5 jobs would be likely to be created for that phase. Whilst once operational, up to 10.95 FTE roles would be created and a further 18.29 jobs that would be supported indirectly by the development being approved and subsequently implemented.
- 2.1.5 The landscaping proposed would extend to an area approximately 1.5 hectares in size and would comprise woodland a wildflower meadow the aforementioned pond and wetland. The existing hedgerow to the North would be strengthened, with further

planting and combined, the applicant contends that this allows the proposal to demonstrate enhanced biodiversity through the creation of these habitats.

- 2.1.6 In total, the scheme would provide a further 1.5 hectares of new woodland, 1.5 hectares of wildflower meadow, 70 'amenity' trees, 1,100 metres of new hedgerow along with a new pond and wetland area. The pond would be 370 sq. metres in size.
- 2.1.7 Drainage is intended to utilise surface water drainage to discharge directly to the existing ponds already established on site. This area would follow a similar approach and discharge to the proposed 370 sq. metre pond.

2.2 Site Description

- 2.2.1 The application site is an agricultural field of approximately 5.99 hectares in size. It is dominated by a topography that is rather flat and is bound by a mix of hedgerow and gorse.
- 2.2.2 The site is bordered to the south by the B5320. The A66 is approximately 1.6 kilometres away, also to the south. The nearest village, Newbiggin, is approximately 460 metres from the application site, to the East. The existing site is located adjacent to the proposal site, to the East too.
- 2.2.3 In the vicinity of the site is the Flusco Household Waste Recycling Centre (HWRC) (to the South). To the South-South-West, is the North Lakes Business Park. To the North, is open agricultural land, with sporadic agricultural type development. As well as Ullswater Heights, 'Flusco Wood Caravan Park' is located to the South-West, which is approximately, at the nearest points of each site boundary, 303 metres away.
- 2.2.4 There are no immediately adjacent residential dwellings, with the nearest being within the settlement of Newbiggin, approximately 440 metres to the East. To the North, the nearest dwellings are 'Station House', approximately 420 metres from the proposal site, 'Underwood' is approximately 345 metres to the South-West and 'Bank House' is approximately 455 metres to the South-East.
- 2.2.5 The site is not located in an area subject to any 'special' designation in terms of landscape or heritage zones and is noted to be located in designated Flood Zone 1. The site and surrounding area is known to be home to Great Crested Newts, a protected species. There are no other constraints considered relevant to the determination of this application.
- 2.2.6 The application has been 'screened' as per the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. It is considered that whilst the development falls within the criteria of Schedule 2 Development (Tourism and Leisure), the application does not comprise development for which the planning application would need to be accompanied by an Environmental Statement.

3. Consultees

3.1 Consultees

Consultee	Response
Cumbria County Council - Local Highway Authority	Responded initially on the 4 August 2020 and confirmed that the Local Highway Authority would have no objection to the proposed development. It was considered that improving pedestrian connectivity would be something that at that point, should be

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	<p>provided.</p> <p>Following this response, further discussions between the applicant and Local Highway Authority took place. On the 11 November 2020 an updated response was submitted (this was re-submitted on the 15 July 2021). It confirmed that, <i>'Cumbria County Council as Highways Authority has re-evaluated the application and the supporting Travel plan and Transport Statements provided in conjunction with the request for a footway link the site with the Village of Newbiggin, and given that there are limited benefits and attractors such as a bus service with in the village. It is therefore agreed that the provision of the previously mentioned footway would not be a viable request and due to land availability would be difficult to implement.</i></p> <p><i>The evidence which has been provided within the Travel Plan indicate that opportunities for more sustainable means of transport for visitors and employees are limited and as such it is highly likely that the preferred options would be to access the site by Car, this has also been represented and considered within the Transport Statement provided.</i></p> <p><i>As such CCC would request a Section 106 developer contribution of £6,600.00 towards Travel Plan monitoring over a period of 5 years. The monitoring will be undertaken and seek to assess the effectiveness of the Travel Plans aims and the delivery of the objectives specified by the applicant's consultants.</i></p> <p><i>It is also noted in recent communications that the applicant would be looking to improve the Public Rights of Way links in the area and the connectivity with the proposed Holiday Park, the proposal was not initially what CCC had been requesting however the plans and aims are well received and would be of a benefit to health and well being along with providing amenity value to the visitors of the Holiday Park.</i></p> <p><i>The applicant should be aware that there is a Weight limit restriction on the public highway network in this area, the weight limit is to prevent HGVs gaining access to the A66 through the village of Newbiggin, and as such this should be considered and communicated with any contractors throughout construction and on completion.</i></p> <p><i>As such Cumbria County Council as Local Highway Authority would request the inclusion of the following conditions in any permission the Local Planning Authority may consider granting'.</i></p>
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	<p>These conditions relate to access, travel plan and a travel plan report.</p> <p>The response concluded that <i>‘Cumbria County Council as both Local Highway Authority and Lead Local Flood Authority would have no objection to the proposed development, however we would request the inclusion of the mentioned conditions and a Travel Plan monitoring Fee of £6,600.00’.</i></p>
Cumbria County Council – Lead Local Flood Authority	<p>Responded initially on the 4 August 2020 and confirmed that ‘It should be noted that the application provides no details to demonstrate how the development site will be drained. The application site as indicated on the application form has been calculated as covering 5.99 hectares in size and as such CCC as LLFA would need to see the inclusion of a Flood Risk Assessment and Drainage Strategy to support the planning application of this size. As such, whilst the LLFA had no objection in principle to the scheme proposed, it considered that inadequate information in relation to surface water drainage had been provided at this stage.</p> <p>A further response, on the 15 July 2021 was provided. This stated that ‘Cumbria County Council as Lead Local Flood Authority has reviewed the Flood Risk Assessment (FRA) undertaken by JBA consulting and Dated June 2020 along with the drainage plans submitted by Northpoint Consulting drawing No N50 Rev:1 and would have no objection to the proposed development.</p> <p>The FRA provided indicates the flood risk to the development however it does not show the flood risk associated with the discharge of Foul drainage, Cumbria County Council and United Utilities have been working in partnership to resolve flooding issues down stream of the development. The main concern for both parties is the use of hot tubs on the holiday park and what impact the discharge and cleaning associated with the hot tubs would have on the receiving foul drainage network which is managed by United Utilities, as such CCC would request that the applicant continues to work with UU in dealing with the discharge.</p> <p>In terms of surface water flood risk the FRA covers the risk associated with the development and as such CCC would have no objection to the proposed surface water drainage proposal indicated on drawing No N50 Rev:1, however we would request the inclusion of the following condition in understanding the Surface Water Management Plan which would indicated how</p>

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	<p>the surface water will be managed throughout construction and on completion with an indication as to who will be responsible for the management and maintenance of the surface water system’.</p> <p>This condition relates to a surface water construction management plan.</p> <p>The response concluded that <i>‘Cumbria County Council as both Local Highway Authority and Lead Local Flood Authority would have no objection to the proposed development, however we would request the inclusion of the mentioned conditions and a Travel Plan monitoring Fee of £6,600.00’.</i></p>
Cumbria County Council – Minerals Planning Authority	<p>Responded on the 29 July 2021 and confirmed as follows <i>‘Thankyou for consulting us on the above application which falls within a Minerals Safeguarding Area for Limestone.</i></p> <p><i>The proposal is to extend an existing holiday lodge park in this location, also within the safeguarding area. As the safeguarding area extends across a significant area of surrounding open land I consider this proposal will not prevent access to the mineral resource in this locality for extraction in the future.</i></p> <p><i>I therefore consider that criterion 4 of Policy DC15 (Minerals Safeguarding) in the adopted Cumbria Minerals and Waste Local Plan is satisfied.</i></p> <p><i>Cumbria County Council as minerals planning authority therefore does not object to this application.</i></p> <p><i>As an officer observation, I also note that the Flusco HWRC site and Flusco Quarry are located to the south of the application site, on the opposite side of the highway. As the proposed new development will be set further back from these facilities than the closest part of the existing holiday park, it is my view that there will not be any issue in terms of potential disturbance that would prejudice any future operations at those facilities’.</i></p>
Environment Agency	<p>Were consulted on the 11 February 2020 and 11 May 2021. A response was received on the 13 May 2021. It stated that <i>‘We have reviewed the following reports submitted with this application:</i></p> <p><i>Phase One Planning Desktop Preliminary Environmental Risk Assessment issued for Ullswater Heights Holiday Home and Lodge Park, Flusco, Penrith, CA11 0JB produced by Argyll Environmental Limited (ref. AEL-4491-PP1-1011468, dated 19 October 2020; Phase 2 Land Quality Assessment; Ullswater Heights Holiday Homes and Lodge Park, Flusco, Penrith, CA11 0JB prepared for Argyll</i></p>

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	<p><i>Environmental Limited by Ground First Limited (ref. 4179R1, dated 6 May 2021).</i></p> <p><i>In review of the above reports, it should be noted that although the drilling technique limited the depth of borehole investigation and retrieval of groundwater samples, supplementary leaching analysis was undertaken to support the risk assessment.</i></p> <p><i>Elevated ammonia levels are a cause for concern for groundwater quality, but the source is more likely than not to be of agricultural origin as opposed to infill material.</i></p> <p><i>The ground investigation and risk assessment confirm the made ground to comprise naturally occurring spoil. The low levels of contaminants in soils do not pose a high level of risk to surface water and/or groundwater.</i></p> <p><i>Therefore we have no objections to the development providing the following condition is applied’.</i></p> <p><i>This condition related to during development, should contamination, not previously identified to cease works until an appropriate assessment and remediation strategy is agreed with the Local Planning Authority.</i></p>
Natural England	<p><i>Responded on the 21 July 2020 and confirmed ‘Due to the high population of great crested newts on site the standing advice needs to be applied and the applicant will need to apply for a European Protected Species Licence as outlined in the submitted Ecology Report’.</i></p>
Lake District National Park	<p><i>Responded on the 14 September 2020 and confirmed ‘No comments’ upon the proposal.</i></p>
Arboriculturalist	<p><i>Responded on the 14 July 2020 and confirmed ‘The LVIA supporting the proposal concludes that the scheme could be assimilated into the existing landscape with no significant residual landscape and visual effects and provides recommendations at section 8 to ensure this is achieved. It also includes a site layout plan on page 29 with indicative landscaping proposals. The recommendations and outline landscaping appear to me to be suitable measures, however, I could not see a fully detailed landscaping layout or landscape management plan that incorporate these details. I also noted that the existing ash tree on the northern boundary is to be retained but there are no details of how this tree will be protected during the construction phase. Should the scheme be considered for approval then this information would be essential, either as approved</i></p>

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	<i>documents and plans prior to determination or required by conditions attached to any forthcoming decision notice’.</i>
United Utilities	Responded on the 30 July 2020 and confirmed that were the application to be approved, they would wish to see conditions related to Surface and Foul water be attached to any subsequent decision notice.
Environmental Health Officer (EHO)	<p>Responded initially on the 3 July 2020 and requested a Phase 1 Contaminated Land Assessment to be completed for the site. This work was carried out by the applicant and a subsequent response on the 30 October 2020 was submitted by the Environmental Health Officer (EHO). This requested a further, Phase II site investigation to be carried out.</p> <p>The applicant therefore provided this information but further details were sought.</p> <p>This was also provided. The EHO assessed this further information and confirmed on the 29 June 2021 the following <i>‘Environmental Protection have reviewed submitted reports Phase One (undertaken by Argyll Environmental) and the final draft Phase 2 Land Quality Assessment (undertaken by Groundfirst) inclusive of further gas monitoring. Significantly elevated concentration reading for CH4 and CO2 where noted at BH05.</i></p> <p><i>On discussion with the consultant and applicant it was agreed gas control measures will be included within all caravan base structures within the eastern part of the site (made ground). A construction and verification standard was put forward by the consultant and is deemed acceptable’.</i></p> <p>The EHO requested conditions in relation to a gas protection scheme and the reporting of any unexpected contamination to be included in any subsequent approval of the scheme.</p>
Economic Development	Responded on the 2 August 2021 and confirmed that whilst the Economic Benefit Appraisal referred generally to National research with minimal reference to North-West and nothing specific to Cumbria – however, the final comments confirmed, <i>‘The document clearly demonstrates the value and volume of holiday parks and camping sites and the resulting economic benefit to the local area. The demand for high quality self-catering accommodation in Cumbria has increased over the last five years and particularly since the Covid pandemic’.</i>

4. Parish Council/Meeting Response

Parish Council/Meeting	Object	Support	No Response	Comments
Dacre	✓			

4.1 The Parish Council responded on the 31 July 2020 and confirmed:

‘Dacre PC wish to object in the strongest possible terms to this development.

Objective 10 of the Eden Local Plan 2014 - 2032 indicates that sustainable tourism should “maximise social and economic benefits in a manner which is acceptable to the local community and does not reduce environmental quality.” The applicant has made no attempt to engage with either the local community or the parish council. This attitude is in distinct contrast to previous large-scale developments in the parish. For example, the applicants for Raven Crag (08/0731), Flusco HWRC (3/05/9003, and Blencowe Business Park (11/0001) have met with the local community and the parish council to identify the mutual benefits a development might bring, and worked together to address potential local issues. Unfortunately the applicant has not felt it appropriate to communicate with either the Parish Council or the local community at any stage.

The proposed seventy-three new sites together with the existing 130 premises at Ullswater Heights will dwarf the local Newbiggin community of only 90 households. The development is proposed in open countryside on agricultural land, as the applicants have amply demonstrated in their viewpoint photographs. The scale and ambition is such that the development has, or will have, the potential to impact the wider Eden area on a similar scale to the Centre Parks complex.

The parish council considers that some parts of the supporting documentation commissioned by the applicant in support of the application are superficial and naive. For example;

local roads are given invented names (Newbiggin Road) instead of the County Council designations (C3019);

the distance from the development to the Clickham Inn is given as a crow-fly measurement (700m) instead of its real-life distance on public routes (2000m);

bus routes 132 and X9 offer such a limited service (one day a week or less) that they cannot be seriously be regarded as a travel option;

the local accident data referenced does not identify that accidents at the A66 / C3019 junction are more likely to involve visitors to the area;

no reference is made to the unavoidable steep ascent to the site for visitors arriving on cycle or foot via the only access road, the U3148.

Given the superficiality of the material presented and the failure to engage with the local community the planning committee may wish to consider the integrity of this application.

The parish council also has particular concerns over the impact of a development of this size on the local infrastructure.

Transport

On the C3019 through Newbiggin village there are four farms. Stock movements and equine activities are very frequent. EDC designates the road as a cycle route to

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Keswick. The length to Stainton is narrow and has no footway. A CCC Highways traffic monitor in 2015 showed more than 150 vehicles/hr used the road, 50% of which were exceeding the statutory speed limit, and 13% of which were HGVs.

In the past, vehicular traffic through Newbiggin has been considered to have such a significant impact on the community that planning conditions or statutory measures were imposed;

1994 – County Council agree that contractor's traffic to the Flusco landfill site will not traverse Newbiggin;

2005 (3/05/9003) – County Council impose planning conditions to require appropriate signage at the site and on the A66 directing traffic to and from the Flusco HWRC to avoid Newbiggin;

2011 (11/0001) EDC impose conditions on a site at Blencowe Business Park to require that traffic should avoid a traverse of Newbiggin;

2013 – 2016 speed limits are reduced, newly imposed or extended in Newbiggin;

2015 – County Council propose a weight limit in Newbiggin;

2018 – Police work with the local community to implement Speedwatch in Newbiggin.

Sadly the applicants either have not investigated or choose to ignore these efforts by local authorities to minimise vehicle impact on the local community of Newbiggin.

Instead they choose to present, without explanation, 'anticipated trip generation in an (undefined) hourly "peak period".'

Further, the applicants concede in the final paragraphs of their transport assessment (3.10) and their travel plan (surprisingly also 3.10) that it is difficult to envisage visitors and staff accessing the site other than by car. Even with the applicants' efforts at an fanciful 'travel plan marketing and information' strategy, it is difficult to see in the real world how this can be squared with EDC policy EC4, "arrangements have been made to provide access by means other than the private car". As a result, the parish council is concerned that overall this proposal will have a negative effect on the EDC net zero carbon plan, and on the village of Newbiggin.

Foul water

Foul water from the applicant's site drains via a 6-inch main under Howgate, Newbiggin. For many years in heavy rainfall this sewer has overflowed into the public highway and has backed-up to issue into local properties. At the request of the parish council United Utilities investigated the sewer and found that the overflow was related to inappropriate connections of surface water drainage to the foul water system. Although some of these have been disconnected United Utilities have expressed concern that the land overlying the sewer continues to host illegal connections which may influence its performance. Accordingly the parish council are concerned that an additional load on an already overstretched system will result in overflows occurring even during everyday rainfall conditions, impacting on the property and environment of Newbiggin residents'.

5. Representations

5.1 A press notice was published in the Herald on the 11 July 2020.

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

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

- Noise levels will be increased from site;
- The scale of the development and site as a whole will be too large;
- The scheme would result in significant additional traffic movements;
- The proposal would have an unacceptable landscape impact;
- The sewer system is at capacity.

6. Relevant Planning History

On land adjacent to the application site:

Application No	Description	Outcome
19/0539	Discharge of conditions 15 (Aerial image of site showing proposed location of bird and bat boxes) and condition 18 (travel plan) attached to planning permission ref: 09/0190.	Approved
19/0428	Retrospective change of use of agricultural land to petting zoo and siting of stables/field shelters.	Granted
19/0392	Variation of condition 2 (plans compliance) To include layout and design, and discharge of condition 10 (materials and colour of caravans/lodges), 16 (hard and Soft landscaping works) and 17, (external lighting) attached to approval 09/0190.	Granted
17/0205	Certificate of lawfulness for confirmation that work can continue on the development of the holiday park as it was lawfully commencing in accordance with planning permission 09/0190.	Granted
09/0190	Change of use to holiday park comprising 172 caravans/lodges with ancillary buildings and landscaping works.	Granted

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;

- 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;
- ENV1 - Protection and Enhancement of the Natural Environment, Biodiversity and Geodiversity;
- ENV2 - Protection and Enhancements of Landscapes and Trees;
- ENV5 – Environmentally Sustainable Design;
- EC4 - Tourism Accommodation and Facilities;
- ENV8 – Land Contamination;
- ENV10 – The Historic Environment.

7.2 Other Material Considerations

National Planning Policy Framework July 2021:

- Achieving sustainable development;
- Decision-making;
- Making effective use of land;
- Achieving well designed places;
- Meeting the challenge of climate change, flooding and coastal change;
- Conserving and enhancing the natural environment;
- Building a strong, competitive economy;
- Supporting a prosperous rural economy.

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

8. Planning Assessment

8.1 Key/Main Planning Issues

- Principal of development
- Design
- Landscape and Visual Impacts
- Drainage
- Natural Environment
- Amenity
- Highway Safety
- Contaminated Land
- Historic Environment
- Other Matters

8.2 Principle

- 8.2.1 In terms of the principle of any 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 Policy LS1 of the Eden Local Plan, entitled 'Locational Strategy' sets out the hierarchy of settlements where development should be focused in the most sustainable locations, the most sustainable being Penrith, the Market Towns and Key Hubs.
- 8.2.3 The Local Plan document confirms that that in relation to Policy LS1 *'the following policy sets out our settlement hierarchy and shows which areas we expected to be the focus for residential, employment and commercial provision'*.
- 8.2.4 Policy DEV1 entitled 'General Approach to New Development' states that *"Planning applications that accord with policies in this Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise. Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permissions unless material considerations indicated otherwise – taking into account whether:*
- Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or*
 - Specific policies in that Framework indicate that development should be restricted'.*
- 8.2.5 Policy EC4, entitled 'Tourism Accommodation and Facilities' states that large scale tourism development that *'would result in a substantial increase in visitor numbers will only be permitted if the following criteria are met:*
- The development proposed improves the range or quality of tourism and facilities in the area;*
 - The site is close to the strategic road network;*
 - They offer substantial economic benefits to the district;*
 - The development offers the highest possible standards of siting, design and landscaping;*
 - The traffic generated by the proposal will not have an unacceptable impact on nearby settlements or the local network;*
 - Arrangements have been made to provide access by means other than the private car;*
 - The tranquillity and dark skies associated with the open countryside are not compromised'.*
- 8.2.6 Chapter 6 entitled 'Building a strong, competitive economy' of the National Planning Policy Framework (NPPF) states that *"Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future"*. When specifically referring to the rural economy, it also states that planning decisions should enable *"the sustainable growth and expansion of all types of business in rural areas", "the development and*

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diversification of agricultural and other land-based rural businesses” and “sustainable rural tourism and leisure developments which respect the character of the countryside”.

- 8.2.7 In terms of Policy EC4, the extant permission essentially confirms that the site is already considered acceptable but in relation to the criterion of Policy EC4 the following consideration has been given to the scheme:
- 8.2.8 *The development proposed improves the range or quality of tourism and facilities in the area* – It is considered that the development would contribute to the tourism facilities in the area and that the existing facilities, which are of a high standard, would be replicated in this scheme. Accordingly, it is considered that the application would comply with this particular criterion of Policy EC4.
- 8.2.9 *The site is close to the strategic road network* – The application site would utilise an already well established highway access point which does not involve a lengthy access drive. It is therefore considered to be very close to the existing strategic road network and therefore complies with this criterion of Policy EC4.
- 8.2.10 *They offer substantial economic benefits to the district* – The application has been supported by quite significant amounts of information which suggests that there are economic benefits. This is included in an ‘Economic Benefit Final report’. The applicant also advises that the development would involve the creation of 10.95 FTE roles would be created and a further 18.29 jobs that would be supported indirectly. The roles referred to as ‘indirect jobs’ are related to construction via suppliers of materials, equipment and service industries (bars, restaurants etc.) where guests would utilise local pubs, restaurants, cafes and the like. The Economic Development team have confirmed that *‘The document clearly demonstrates the value and volume of holiday parks and camping sites and the resulting economic benefit to the local area. The demand for high quality self-catering accommodation in Cumbria has increased over the last five years and particularly since the Covid pandemic’*. It is considered that there is both a demand for this type of development and that there would be an economic benefit to the district were such a scheme approved and subsequently implemented.
- 8.2.11 *The development offers the highest possible standards of siting, design and landscaping* – It is recognised that the site is rather open, with long distance views to the West. To the East is the existing caravan site whilst the area to the South is bound by the public highway (to which the site has access and egress). To the North is open agricultural land. The scale of development is significant so there would be some landscape harm in that it would be some potential long ranging views of the development, although this would be softened over time by the potential for landscape planting and even so, being visible does not in itself constitute ‘harm’.
- 8.2.12 The site in this case is previously developed having been utilised in mineral extraction. The applicant proposes a good landscaping scheme which would augment existing planting and improve its overall quality, likely to enhance the biodiversity of the area. In consideration then of the criterion of the policy, it is considered that the scheme would deliver a good standard of landscaping and would be located on previously developed land.
- 8.2.13 The design of the units is noted to intend to replicate those already in use on the wider site. These are good quality lodges and it was also noted that the site was very well maintained. Given the previously developed nature of the site it is recognised that the viable future uses of this land could be somewhat limited and in some respects it makes sense to consider the extension of the existing holiday site. Given that there is

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an existing site adjacent, we can therefore assess the type and intended design of units utilised their rather than rely solely on the interpretation of plans. In respect of this, we can see that the units are well maintained and are of a good quality.

8.2.14 The applicant's proposals would therefore involve 'more of the same' but with further landscape planting to augment that already exists on site boundaries and within the proposed site itself. In that respect, the location of the proposed application, with these aspects of proposed landscaping too, is considered acceptable in principle. As is the design of the proposed units, given they are similar to those already located upon site, it would be difficult to rationally explain why such design approaches was unacceptable now given the backdrop of the existing site.

8.2.15 *The traffic generated by the proposal will not have an unacceptable impact on nearby settlements or the local network* – this aspect of the scheme has been considered by both the Local Highway Authority and Highways England and is discussed later in this report. However, given the comments received, it is considered that the development would not result in an unacceptable impact on the local highway network. Accordingly, the scheme is considered to comply with this criterion of Policy EC4.

8.2.16 *Arrangements have been made to provide access by means other than the private car* – In relation to this the applicant has confirmed their intention to provide a minibus to transport customers a pick up and drop off 'shuttle' service. The service would drop off customers in Penrith, Pooley Bridge, Glenridding and Keswick and return them back to the site toward the end of the day. This is considered to be a very positive element of the proposal and is well supported by officers. As such, this aspect of the application is considered to accord with the criterion of Policy EC4.

8.2.17 *The tranquillity and dark skies associated with the open countryside are not compromised* – It is noted that the existing development has not had any significantly detrimental impacts upon the tranquillity and dark skies of the area and it is not considered likely that this proposal would increase such impact. On site visit, the site has appeared most tranquil to the case officer and whilst there would be a bigger number of guests potentially on the wider site were this application approved, the area of the site these guests would be located over would increase to accommodate them. There is no significant lighting proposed other than the pedestrian down lighting already used on site. This is very low level lighting and would not be considered to have any impact upon the night sky. As such, the scheme is considered to comply with the criterion of Policy EC4. In any event, a condition is recommended to be attached to any subsequent approval of this scheme, requiring details of the external lighting to be fitted on site to be approved by the Local Planning Authority prior to any works commencing.

8.2.18 Accordingly then, the principle of the development is considered acceptable and accords with the requirements of Policy EC4. Furthermore, the scheme is considered to comply with the NPPF which confirms that sustainable rural tourism and leisure developments, which respect the character of the countryside should be supported.

8.3 Design

8.3.1 Policy DEV5 states development which "*shows a clear understanding of the form and character of the district's built and natural environment, complementing and enhancing the existing area and reflecting the streetscene through use of appropriate scale, mass, form, design and materials*" could be supported.

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8.3.2 If further 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 Chapter 12 of the NPPF, entitled *'Achieving well-designed places'* states at Paragraph 126 that, *'good design is a key aspect of sustainable development'*.

8.3.4 Paragraph 130 advises that *'Planning Policies and decisions should ensure that developments:*

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

8.3.5 Paragraph 134 says that *'Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:*

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- a) *development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or*
- b) *outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.*

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

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

8.3.7 Paragraph 154 of the NPPF states that '*New development should be planned for in ways that:*

- a) *avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure; and*
- b) *can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards'.*

8.3.8 The scheme would, as has been established the siting of 73 caravans which have a 'lodge' style and these would replicate the ones in use on site. This type of design for these caravans has already been considered acceptable on the existing/adjacent site, and as such, it is considered difficult to now consider such an approach completely unacceptable in this locality. Nevertheless, an assessment of the proposed lodges, specifically related to this application must be made.

8.3.9 In that respect, the type of application is noted to be for 'lodge' style caravans and as such, the visual appearance of them will obviously reflect this. The materials proposed are again, intended to replicate those already in use on the operational existing site. Whilst it is equally noted that the applicant has not entirely confirmed the exact

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specification, their intentions are to replicate what is already available on the existing, operational site and would be subject to further approval through the imposition of appropriate planning conditions.

- 8.3.10 To that end, the assessment is based upon the generic acceptability of such units, notwithstanding the precise design and materials to be utilised is not precisely confirmed.
- 8.3.11 It is therefore considered that whilst the intentions of the applicant to replicate those lodges already located on the adjacent site, this decision, if it were to approve the lodges, includes a condition requiring the submission of final design and materials to be submitted to the Local Planning Authority for written approval prior to the commencement of any works on site.
- 8.3.12 Accordingly, such a condition is attached to the suite of draft conditions contained within this report and it is recommended such is imposed were this application approved by this committee.
- 8.3.13 The applicant has, however confirmed, that maximising daylight and passive solar gain will be achieved by the proposed layout of the lodges and the scheme proposes sustainable urban drainage systems (SuDS). Whilst all units will be manufactured to BS3632 standards.
- 8.3.14 In addition to these environmentally sustainable design approaches, the applicant runs a shuttle service for customers to explore the locality and in addition already has some electric charge points at the existing site. Further charging points and a 'district' heating scheme for the existing and proposed site are also being considered by the applicant – although these intentions are well supported by officers, they can be afforded no weight in the planning balance as they are not formally proposed as part of this scheme.
- 8.3.15 Internal footpaths are intended to link both sites together to allow holidaymakers the ability to walk around the wider site and the applicant's intentions to provide new hedgerow, enhancement to existing hedgerow, a wetland area, new meadows and further woodland planting would offer biodiversity gains and improve the overall value of the site. These are considered benefits of the scheme as proposed and are afforded weight in favour of the scheme, in the planning balance.
- 8.3.16 It is considered that the scheme as proposed would result in a development similar in outward visual appearance to that already located on adjacent land and run by the applicant. Whilst the final details are noted to yet be decided, the imposition of a condition requiring this formal detail to be provided prior to the commencement of any approved scheme.
- 8.3.17 It will then be for the applicant to detail appropriate design and materials at that stage. The applicant's intentions to replicate the existing lodges is considered acceptable in principle. It is recognised that this site would be augmented by further landscaping which in this case, is considered to be an appropriate method to limit any potential landscape harm. Even so, the landscape harm the scheme would have is considered minimal in any event.
- 8.3.18 The applicant's environmentally sustainable approach is also considered acceptable. They have confirmed that the layout takes account of solar gain, will utilise lodges constructed to minimum British standards and already run a shuttle service to offer guests a more sustainable form of transport to sight-see in the locality, should they wish to utilise it. Furthermore, the wider site would still benefit from existing electric

vehicle charging points. Should demand increase, the applicant would consider the installation of more.

8.3.19 Overall then, the principle of the intentions of the applicant to replicate the type of lodge they already utilise on their existing business here, is considered acceptable. The specific details though, would be required to be submitted prior to the commencement of any permission given by this committee.

8.3.20 Accordingly, the development is considered to accord with Policy DEV5, ENV5, the NPPF and in respect of these aspects of the scheme, recommended for approval.

8.4 Landscape and Visual Impacts

8.4.1 A consideration in relation to this application is the Landscape and Visual Impact of the proposal.

8.4.2 Policy DEV5 also seeks to ensure that development protects and where possible enhances the rural landscape. One of its several criterion states that development should ensure that it *'Protects and where possible enhances the district's distinctive rural landscape, natural environment and biodiversity'*.

8.4.3 Policy ENV2 entitled 'Protection and Enhancements of Landscapes and Trees' confirms that *'new development will only be permitted where it conserves and enhances distinctive elements of landscape character and function'*. It also confirms that as per criterion 5, the *'tranquillity of the open countryside'* should be taken account of by any proposals submitted by an applicant.

8.4.4 In assessing the visual impact of the proposal, consideration should be given to Paragraph 130 of the NPPF which confirms that *'Planning Policies and decisions should ensure that developments:*

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

8.4.5 The applicants have produced a comprehensive Landscape and Visual Impact Assessment (LVIA) which details what they consider to be the impacts of the development upon the local and wider landscape, along with what mitigation, if any could be offered to limit any potential impact.

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- 8.4.6 This reaffirms that as part of the scheme, if approved, it would involve the planting of approximately 1.5 hectares of woodland, 1.5 hectares of wildflower meadow and a pond/wetland area with 70 amenity trees. Existing hedgerow will also be enhanced along the northern boundary of the site. The assessment considers that there would be no significant landscape or visual effects were this scheme approved and subsequently implemented. This is considered to represent both appropriate landscape and biodiversity mitigation for the development of the site.
- 8.4.7 Any site, that is currently undeveloped would change in visual appearance were it then developed. But it is also important to note that this site has had former land uses (mineral extraction) and as such, whilst in its current restored appearance, it is acknowledged that the site and indeed the surrounding area, have been subject to intensive operations and activities. In this regard, the appearance of the land cannot be considered to be previously undeveloped as it has been extensively altered by the historic mineral extraction use of the site and it is recognised now to be 'man made' due to the restoration that has been undertaken there.
- 8.4.8 Indeed, the lodges to the East-North-East of the application site are located upon the former quarry too. Nevertheless, it is recognised that the scheme would change the outward visual appearance of this particular site, although not to a significantly harmful extent. The proposed plan in this instance would be to combine significant landscaping, forming bands of trees, to essentially separate the 'bands' of lodges as proposed.
- 8.4.9 Any landscaping proposed, were it to 'screen' development that was considered unacceptable, would not, in its own right, be appropriate. However, in this instance, the use of the land, to extend and expand an existing business, is considered an appropriate, in principle land-use given this land in particular is a restored mineral extraction site.
- 8.4.10 Without landscaping, the scheme would be seen against the backdrop of the existing lodges. This would not be preferable and the landscape mitigation not only softens these wider landscape impacts, but also, notably, provides an ecological and biodiversity gain. It would turn, existing rye grassland into a far more diverse landscape, which is considered most beneficial.
- 8.4.11 It is noted that one objector considers any landscaping to take time to fully become established. This is acknowledged. But in its own right, this is not considered a reason to refuse the scheme as a whole. The landscaping would provide a beneficial adjunct to the scheme as proposed and is considered appropriate in this instance.
- 8.4.12 It is also acknowledged that the development would have a cumulative impact in terms of landscape impact. But the landscaping proposals for this particular development are such that over time, whilst it would remain part of the wider site, would provide a distinct internal boundary between it and the other lodges. In that respect, it would be seen as a complete, independent site, with all the lodges not being visible from one single view. As such, the cumulative impact in terms of Landscape is not considered to be significantly harmful, or to such an extent that warrants the refusal of this application.
- 8.4.13 Possible impacts upon the UNESCO Lake District National Park have also been considered. Whilst long range views of distant fells can be observed from the site, it is not considered that there would be any significant, demonstrable impacts upon the National Park. Simply being able to observe the fells, or being able to observe a

particular object in the landscape from say, the aforementioned fells, would not necessarily equate to 'harm'.

8.4.14 In order to assist in the assessment of the potential impact that the development could have upon the designated Lake District National Park, Officers have consulted the National Park Authority. They duly considered the plans and have offered no comments upon the application.

8.4.15 Paragraph 176 of the NPPF confirms that, *'Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues'*.

8.4.16 The site is clearly not located within the National Park but there is potential for certain types of development to have an impact on such designated areas. However, no such impact is considered reasonable to be concluded in this case. The National Park Authority themselves are noted to have offered no comment upon the scheme.

8.4.17 The overall finished design of the units proposed as part of this application is acknowledged to not yet be completely confirmed, with intentions to match those already in use on the operational business site next door. To that end, the condition, referred to in the previous section of this report will ensure that an assessment of the final design is completed prior to any formal development could be completed.

8.4.18 Accordingly, the proposal is considered compliant with Policies DEV5 and ENV2 of the Eden Local Plan as well as the NPPF and would not have any significantly detrimental or demonstrable impacts upon the local landscape.

8.5 Drainage

8.5.1 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 'Meeting the challenge of climate change, flooding and coastal change confirms in paragraph 154 that *'New development should be planned for in ways that:*

- a) avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care*

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should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure; and

- b) can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards'.*

8.5.4 Paragraph 159 states that, *'Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere'.*

8.5.5 Paragraph 162 of the NPPF states that, *'The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding'.*

8.5.6 Paragraph 167 states that, *'When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*

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

8.5.7 Paragraph 169 states that *'Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:*

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

8.5.8 The concerns related to drainage from objectors and the existing system being unable to cope with more demand are noted. These are common concerns in relation to development proposals. As part of the application process, the Lead Local Flood Authority (LLFA) and United Utilities were consulted upon the application as Statutory Consultees.

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- 8.5.9 United Utilities have made it clear that they would wish to see conditions be imposed upon any subsequent permission. Whilst the LLFA sought further information in terms of surface water drainage.
- 8.5.10 The applicant provided this additional information and the LLFA subsequently responded, confirming that they had no objection to the application. However, they did confirm that they had liaised closely with United Utilities upon the application and that some concerns still remained. However, the conditions requested by United Utilities and indeed the LLFA will require final details to be submitted for approval, prior to any development, should this application be approved, be commenced upon site, which would allay these concerns.
- 8.5.11 On the basis of the responses received from the consultees, there is no reason to doubt at this stage, that an appropriate drainage system can be implemented upon the site. The site is recognised to be located within a Flood Zone 1 (being at the lowest risk of flooding) and not instances of historic flood events have been identified by any Statutory Consultee. As such, this approach is consistent with previous decisions made by the Local Planning Authority and the Planning Committee.
- 8.5.12 The concerns of the objectors are noted but given the views of both the LLFA and United Utilities, it is considered that given they consider an appropriate scheme could be provided for the site, it would not be reasonable to refuse the scheme on drainage grounds.
- 8.5.13 As such, conditions are considered appropriate and they are recommended to be imposed upon any subsequent approval, which would require the submission of the formal, final detail, to be considered by the Local Planning Authority and relevant consultees (the Lead Local Flood Authority and United Utilities) prior to any commencement of the development. Were it not considered that such a scheme could be achieved, the request for conditions would be unreasonable. At this stage, there is considered to be a solution possible and those final details will need to be submitted by the developer in due course if this application is approved.
- 8.5.14 Accordingly, there are no concerns that the scheme in itself would be contrary to Policy DEV2 and the NPPF. On that basis, the scheme is considered to be compliant with Policy DEV2 of the Local Plan and the NPPF and should be supported.

8.6 Natural Environment

- 8.6.1 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'*.
- 8.6.2 Chapter 15 of the National Planning Policy Framework (NPPF) entitled 'Conserving and enhancing the natural environment' confirms the national guidance on such matters. Paragraph 174 states that *'Planning policies and decisions should contribute to and enhance the natural and local environment by:*
- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
 - b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and*

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other benefits of the best and most versatile agricultural land, and of trees and woodland;

- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;*
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate’.*

- 8.6.3 As has been noted earlier in this report, the site is known to have Great Crested Newts located upon it. Natural England were consulted up and confirmed their reliance upon the current ‘standing advice’. The standard advice essentially requires developers to ensure that they take full and proper account of any protected species located upon a site proposed for development.
- 8.6.4 The Natural England response noted that the Ecological Appraisal completed did offer mitigation and that the applicant would need to apply for a European Protected Species Licence in order to do any work in association with these protected creatures.
- 8.6.5 The appraisal summarised the number of Great Crested Newts population within the Holiday Park as existing and that the specific application site was considered to be likely to offer suitable foraging habitat for Great Crested Newts.
- 8.6.6 Accordingly, the applicant understands that mitigation to prevent harm to these protected species is a requirement and is accordingly offered. An Ecological Mitigation and Management Plan is suggested, which would be developed, submitted and if acceptable, approved, prior to construction works taking place upon the site. Although it is recognised that such mitigation plans must be provided to gain the European Protected Species Licence, from a planning perspective, given standing advice, for a development of this scale, the Local Planning Authority needed to understand this too and a condition requiring this detail to be provided prior to any development commencing on site is considered reasonable.
- 8.6.7 The applicant, therefore, confirmed within their submitted Ecological Appraisal, that the scheme as proposed could proceed without harm to the Great Crested Newts or indeed any other protected species.
- 8.6.8 The appraisal confirms that there are 5 waterbodies within proximity to the site and of those 2 are considered excellent for Great Crested Newts (one 490 metres to the East and the other 290 metres South-East), 1 is considered good (40 metres to the South), 1 is considered average (40 metres to the South) and 1 poor (240 metres to the East).
- 8.6.9 It is noted that the appraisal considered the existing grassland to have low ecological value overall and that an existing ash tree would be retained and incorporated into the overall landscape plan. Further recommendations were also suggested by the ecology report:

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- *Existing grass space, sown with an appropriate native wildflower and grassland mix suitable for local surface geology together with native broadleaved tree and shrub planting;*
- *Trees should include those laden with berries as an important source of nectar for invertebrates along with fruit and berries that are suitable for birds, mammals and a variety of invertebrate species;*
- *Hedgerow should be of native species and the new wetland habitat should be specifically designed for great crested newts but also a range of associated flora and fauna.*

8.6.10 Officers concur with these recommendations and as such a condition is proposed related to landscaping which will be expected to take account of these recommendations attached to the draft conditions within Section 1 of this report.

8.6.11 It is considered that overall, the landscaping proposed along with utilising the recommendations proposed by the applicants own ecologists can ensure that the site achieves a biodiversity gain, by taking an existing site, of overall low ecological value and enhancing it with a range of new planting, creation of a waterbody and the inclusion of a range of native trees, shrubs and wildflowers.

8.6.12 The applicant's intention in relation to the Ecological Mitigation Licence to ensure that existing population of Great Crested Newts is correctly managed and that the mitigation offered is considered acceptable and in order to be permitted to conduct any activity with these protected species, will require a formal licence from Natural England. Nevertheless, in this case, details will also be required to be submitted to the Local Planning Authority for written approval.

8.6.13 Policy ENV1 confirms that schemes should enhance existing assets. In this case, there is limited scope to do so but the applicant's intention is to create assets instead. This is considered appropriate and would allow the development to improve the ecological value of the site and improve its biodiversity. Accordingly, these intentions are supported by officers.

8.6.14 It is therefore considered that the proposal is compliant with Policy ENV1 of the Eden Local Plan as well as the NPPF and can be supported on the basis that appropriate condition(s) are imposed upon any subsequent grant of planning permission.

8.7 Residential Amenity

8.7.1 A further aim of Policy DEV5 is to ensure that development '*Protects the amenity of the existing residents and business occupiers and provides an acceptable amenity for future occupiers*'. Criterion 'f' of Paragraph 130 of the NPPF states that decisions should ensure that development '*create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience*'.

8.7.2 It is noted that there are no immediately adjacent residential properties to the site and that as such, there are considered to be limited impacts, in terms of noise, overlooking, overshadowing or a development being overbearing to neighbouring dwellings.

8.7.3 It is recognised that the site is proposed for holiday use, with no permanent residents and as such, the occupants would be transient, utilising the site as either a base for sight-seeing or even as a place of rest. The site prohibits guests making excessive noise to impact those others staying on site and these are considered appropriate

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measures to deal with any possible noise issues though other powers are available to the Council in regards to Statutory Noise Nuisances in the unlikely event that any such issues arose.

- 8.7.4 In addition, there is scope for potential cumulative impacts from noise but the site immediately to the East is subject to the same rules and also has limited noise receptors in its vicinity. It is noted that the Environmental Health Officer has offered no concerns in relation to noise and the development proposed.
- 8.7.5 In this respect then, there are no concerns from an amenity perspective and accordingly, the scheme is considered to comply with Policy DEV5 of the Eden Local Plan and merits support.

8.8 Highways

- 8.8.1 Policy DEV3 of the Eden Local Plan, entitled 'Transport, Accessibility and Rights of Way' states that *'development will be refused if it will result in a severe impact in terms of road safety and increased traffic congestion. Development should provide safe and convenient access for pedestrians, cyclists and disabled people'*.
- 8.8.2 Paragraph 111 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'*.
- 8.8.3 Paragraph 112 states that *'within this context, applications for development should:*
 - a) *give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;*
 - b) *address the needs of people with disabilities and reduced mobility in relation to all modes of transport;*
 - c) *create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;*
 - d) *allow for the efficient delivery of goods, and access by service and emergency vehicles; and*
 - e) *be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations'*.
- 8.8.4 It is noted that there are concerns raised by some objectors in relation to potential highway impacts and this is a further concern raised by the Parish Council. These concerns are understood and it is noted that the response received by the Parish Council refers to previous permissions granted in the area that encouraged traffic to not utilise travelling through Newbiggin – one from 2011 (ref. 11/0001) granted by Eden District Council specifically requested a condition that required details of the routes vehicles would utilise to and from the site. That particular permission had a specific limit to its duration until 2014. The most recent permission that was found for this site, ref. 12/0795 included no such restriction.
- 8.8.5 Regardless, this application must be considered in its own right and conditions restricting the route of vehicles are considered to fail to meet the tests applied when

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forming such conditions and would not be supported by the case officer in this instance.

- 8.8.6 The requirements of the planning consideration in this case is whether or not the development would lead to unacceptable impacts in terms of road safety and/or the residual impacts would be severe. In this case, it is noted that there would be guests attending the site, were it approved and became operational, via car.
- 8.8.7 The power units of these cars is of course, unknown, but it is recognised that the sale of new fossil fuel based vehicles will end, presently, by 2030. The applicant also utilises a shuttle service which can allow visitors to tour the area without the use of their own car, should they so wish. This offer is well supported by officers but it is recognised that no planning condition could compel occupants to use this service, which will be a personal choice for any potential guest to decide.
- 8.8.8 The applicants intend to utilise the already established site access so no new access would be required onto the existing highway network. This scheme was supported by a Travel Plan and Transport Statement and these, along with the application as a whole, has been assessed by the Local Highway Authority.
- 8.8.9 The response from the Local Highway Authority notes that the local area has weight restrictions in place, which prevent heavier vehicles accessing Newbiggin. In addition, they confirm no objection to the application, subject to the inclusion of specific conditions, as detailed/included within the proposed conditions in Section 1 of this report.
- 8.8.10 These comments are considered to confirm that no such unacceptable road safety or severe residual impacts are likely as a consequence of this development being implemented. Neither has any harm been identified in regards to the highway network, from a safety or capacity perspective by the Highway Authority as the Statutory Consultee. As such, it would be unreasonable to refuse the scheme on such grounds. No demonstrable, significantly detrimental impacts are considered to be reasonably concluded on the basis of the Local Highway Authority response.
- 8.8.11 Accordingly, it is considered that the proposal is compliant with Policy DEV3 and the NPPF and merits support.

8.9 Contaminated Land

- 8.9.1 The contaminated land survey submitted in support of the application confirms the previous land uses – confirmed as limestone quarrying being undertaken on the Eastern part of the site and a soil heap being located on the site also. These activities, along with a filled pond and a slurry bed are considered as potential sources of contamination.
- 8.9.2 Policy ENV8 entitled 'Land Contamination' states that *'The Council will approve development on land that is contaminated or where contamination is suspected, subject to other policies if:*
- *Adequate contaminated land assessments prepared by a suitably competent person are submitted prior to any planning decision being taken, to determine whether or not unacceptable risks to human health or the environment arise from the proposals.*
 - *Where necessary, suitable remediation is carried out to ensure safe development'.*

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- 8.9.3 Paragraph 174 of the NPPF states, *‘Planning policies and decisions should contribute to and enhance the natural and local environment by:*
- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*
 - b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*
 - c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;*
 - d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
 - e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and*
 - f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate’.*
- 8.9.4 The scheme was therefore considered by the Council’s Environmental Health Officer (EHO). The initial response requested further assessment of potential gas monitoring issues. The applicant duly provided this information and had discussions with the Environmental Health Officer on the issue.
- 8.9.5 A further response was therefore provided by the EHO which confirmed this further monitoring had been undertaken. As a result of this, the EHO considered that were the scheme to be approved, in order to not object to the scheme, mitigation measures would be required.
- 8.9.6 The applicant has confirmed construction and verification standards it would intend to meet and these were assessed and supported by the EHO. This was formally submitted as part of the application and is included as part of the ‘approved plans’ within the draft conditions in this report but also specifically required as a condition were this application be approved.
- 8.9.7 In addition the EHO requested a further condition in relation to unexpected contamination being discovered during any works, in line with that requested by the Environment Agency.
- 8.9.8 The EHO further confirmed that they had assessed the detail provided by the applicant and confirmed that they had no objection to the scheme, subject to the imposition of to the condition referred to above.
- 8.9.9 On the basis of the information submitted and imposition of conditions as requested, it is considered that the scheme can be supported. The applicant has provided appropriate assessments and mitigation which the Environmental Health Officer has considered and supports.

8.9.10 Accordingly, the proposal is considered to accord with Policy ENV8 as well as the NPPF and can be supported.

8.10 Historic Environment

8.10.1 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'.

8.10.2 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*'.

8.10.3 This is further supported by paragraph 197 of the National Planning Policy Framework which notes 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'.*

8.10.4 Paragraph 201 states '*Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:*

- a) the nature of the heritage asset prevents all reasonable uses of the site; and*
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and*
- d) the harm or loss is outweighed by the benefit of bringing the site back into use'.*

8.10.5 The site is recognised to be a restored mineral site and therefore, it is considered, that there would be very limited scope for any historic asset to be harmed by this development as proposed.

8.10.6 On this basis it is considered that the scheme would have no significant detrimental impacts on the historic environment and as such can be considered compliant with Policy ENV10 of the Eden Local Plan and the NPPF.

8.11 Other Matters

- 8.11.1 It is noted that Parish Council have questioned the 'integrity' of the application for failing to engage with the local community and what they perceive is 'superficial' information provided in the supporting documentation.
- 8.11.2 To clarify, there is no obligation for any applicant to engage with any public body or consultee prior to submitting a planning application. Whilst it is always recommended, it is in no way a formal obligation and in itself does not represent a material consideration in the determination of this application, nor a reason to refuse a planning application. To then suggest that the applicants then lack integrity because of this is not considered an acceptable conclusion to draw.
- 8.11.3 In relation to the application being 'superficial' again, this is an opinion which can have no bearing upon the determination of the planning application. Whilst the opinion of the Parish Council is therefore noted upon these matters, in the interests of fairness, it is important that these aspects of the comments received are responded to and even more importantly, clarified that these factors do not represent a base upon which to refuse this application and are not material planning considerations that can be afforded any weight in the planning balance.

9. Implications

9.1 Legal Implications

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

9.2 Equality and Diversity

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

9.3 Environment

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

9.4 Crime and Disorder

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

9.5 Children

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

9.6 Human Rights

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

10. Conclusion

- 10.1 This scheme is for a tourism development and whilst is considered upon its own merits and rights, is noted to be a proposed extension of an existing tourism development. The land is noted to have limited value and indeed use, with it being a former mineral extraction site now restored.

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- 10.2 In that regard, utilising the site for a more productive use, is, in principle considered acceptable. The assessment of the application is made within this report but ultimately, the decision is based upon the benefits of the scheme, which the applicant considers would be related to the potential monies generated by visitors to the site (suggested at circa £2.46 million of *'direct and indirect induced visitor expenditure and GVA'*) along with the creation of 10.95 full time jobs once the site was operational.
- 10.3 The potential impacts of such a scheme are landscape, drainage, highway impacts and potential impacts on ecology and in particular protected species.
- 10.4 In terms of landscape impacts, these are considered to be limited. Whilst you can observe the fells of the UNESCO Lake District National Park, simply being able to observe something does not constitute harm. Even so, the National Park Authority themselves have not offered any comments upon the scheme. The landscape planting proposed will not hide the scheme, nor should it as that in itself would not necessarily be acceptable and neither is it a requirement of the Local Plan. However, it would augment the development and existing hedgerow, ultimately offering an enhanced value to the site in terms of biodiversity and although this will take time to become established, that is no justification to refuse the scheme.
- 10.5 Concerns related to drainage and highways are also understood. There is, of course, potential for detrimental impacts in relation to both of these issues if they are not properly assessed and where necessary, addressed. In this case, the applicant's intentions in relation to drainage are considered acceptable in principle to the Lead Local Flood Authority and indeed United Utilities, but it will be for the applicant to submit final details prior to the commencement of any subsequently approved scheme for approval. This is considered acceptable to both consultees in this case and there is no reason to doubt at this stage that an engineered solution cannot be provided. Were that so, no such conditions would be sought.
- 10.6 The potential highway impacts are also appreciated. But again, in order to justify a refusal of a scheme such as this purely because there would be an increase in traffic movements, does not demonstrate harm. In this regard decisions must be made solely in regards to the demonstrable impacts of any such increase. The assessment of the Local Highway Authority is that they have not raised any objection in terms of highway impact from a safety or capacity perspective. The Local Planning Authority has no reason to doubt this assessment from a Statutory Consultee, neither has any form of assessment been undertaken or provided by objectors which demonstrates or warrants an evidential view to the contrary. As such, refusing the scheme on such grounds, without any credible, demonstrable evidence to the contrary, would not be justified.
- 10.7 The site is recognised to have potential for foraging Great Crested Newts and the applicant is well aware of this population, even encouraging and improving their habitat on the existing site. However, they remain an important consideration of this scheme. Their potential impact has been assessed by an ecological appraisal and it is recognised that in order to proceed with any works on this site a licence, issued by Natural England would be required. This will involve a separate process between the applicant and Natural England but from a planning perspective, it is considered that were that licence approved, the works would not have a significantly detrimental impact upon these protected creatures.
- 10.8 Even so, in order to ensure the Local Planning Authority is fully aware of the processes the applicant will undertake, a condition detailing this, to be submitted prior to any works being carried out on site, is recommended.

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- 10.9 The details submitted as a whole, are, for the reasons articulated throughout this report considered acceptable and merit support. Accordingly, the proposal is recommended for approval.

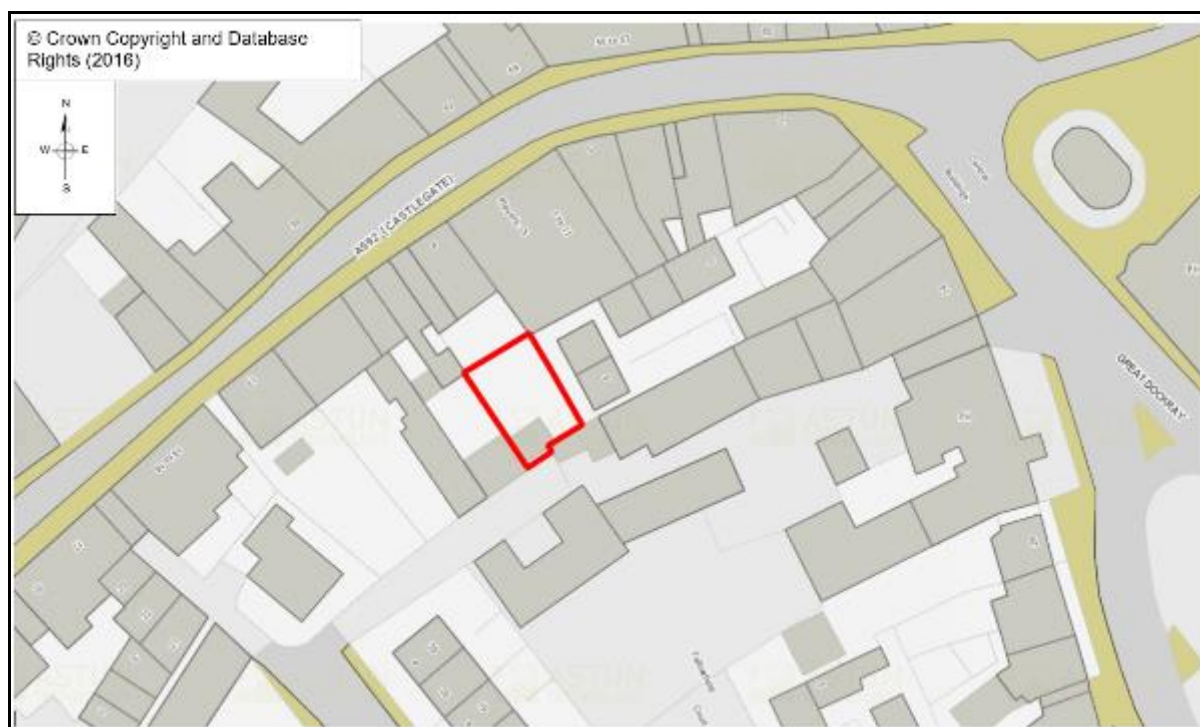
Oliver Shimell
Assistant Director Development

Checked by or on behalf of the Monitoring Officer	04.08.2021
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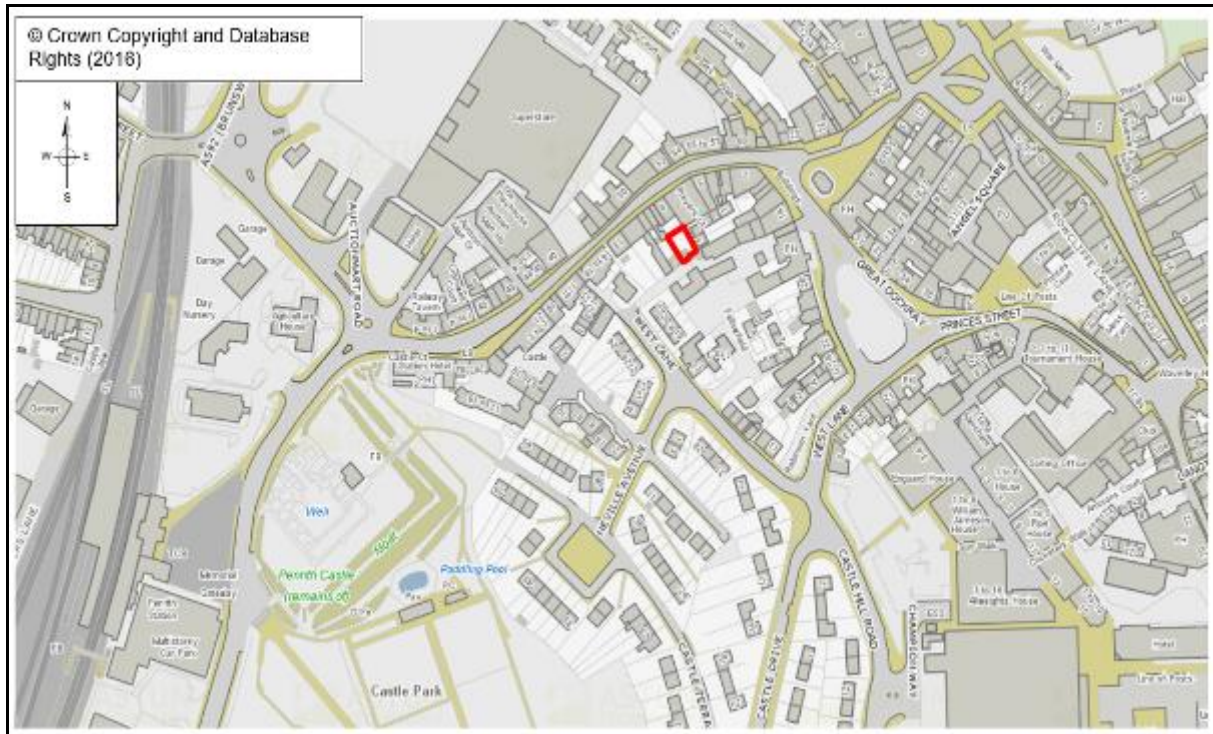
Background Papers: Planning File 20/0424

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Date of Committee:	19 August 2021		
Planning Application No:	20/0404	Date Received:	22 June 2020
OS Grid Ref:	NY 351430, 53005	Expiry Date:	20 August 2021
Parish:	Penrith Parish	Ward:	Penrith South
Application Type:	Full		
Proposal:	Proposed residential dwelling		
Location:	Land at Gloucester Yard, Penrith		
Applicant:	Mr and Mrs Naylor		
Agent:	Graham K Norman (Architect) Ltd		
Case Officer:	David Thompson		
Reason for Referral:	The application is recommended for approval contrary to objections from the Town Council		



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1. Recommendation

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

Time limit for commencement

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

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

Approved Plans

2. The development hereby granted shall be carried out in accordance with the drawings hereby approved:
 - i Application Form received 20/05/2020
 - ii As Proposed Location Plan (116-138A -01) received 20 May 2020
 - iii As Existing Plan, Sections and Elevations (116-138A-02) received 20 May 2020
 - iv As Proposed Site Plan (116-138A=03C) received 20 May 2020
 - v As Proposed Ground Floor Plan, Elevations and Section (116-138A-04A) received 20 May 2020
 - vi As Proposed First and Second Floor Plan, Sections and Elevations (116-138A-05) received 20 May 2020
 - vii As Proposed Site Sections (116-138A-06) received 04 December 2020
 - viii Design and Access Statement (116-138A) received 30 June 2020

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

Permitted Development Restricted

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and/or re-enacting that Order) no development falling within Schedule 2, Part 1, Class A, B, C, D and E of Part 1 Schedule 2 to that Order shall be carried out without the express permission of the Council in writing.

Reason: To prevent the overdevelopment of the site and to safeguard the living conditions of adjoining properties and the visual appearance of the building.

Details of Landscaping

4. No development shall take place until full details of both hard and soft landscape works, including a phased programme of works, have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved prior to the occupation of any part of the development or in accordance with the programme agreed by the Local Planning Authority. Any trees or other plants which die or are removed within the first five years following the implementation of the landscaping scheme shall be replaced during the next

planting season.

Reason: To ensure that the development is landscaped in the interest of the visual character and appearance of the area.

Details of Walls and Fences

5. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The development shall be carried out in accordance with the approved details.

Reason: To protect the visual appearance of the area and the living conditions of neighbouring occupiers.

Construction Hours

6. 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.

Surface Water Drainage System

7. Prior to the commencement of development a construction surface water management plan shall be submitted to and agreed in writing with the local planning authority. Thereafter, all works shall be undertaken in accordance with the approved plan.

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

Foul and Surface Water Connection

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

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

2. Proposal and Site Description

2.1 Proposal

- 2.1.1 This proposal is a full planning application for the erection of a three storey dwelling with an integral garage.
- 2.1.2 The building would have a full height of 8.462m, a depth of 12.950m and a width of 6.5m. The level courtyard garden would be 5.8m in depth. The property would have tall bi folding doors and windows that have a vertical emphasis, reflecting the compact plot size of the site. At ground floor level the proposed dwelling will have a hall study/bedroom and cloakroom. The staircase leads up to a landing serving two further bedrooms and a bathroom. The staircase then rises again to an open plan kitchen, dining and living room at second floor level. Additional amenity space would be provided by the proposed balustrades.
- 2.1.3 The site is has vehicular access from the service road of Gloucester Place itself, which runs between Great Dockray and West Lane.

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2.2 Site Description

- 2.2.1 The application site is a rectangular plot of land that has an area of 121sqm, on which there is a single storey storage building in the south west corner of the yard. The site is at the rear of 9 Castlegate. To the east of the site is a part one, part two storey building that is use as a hairdressing salon. Gloucester Way is a narrow cobble stoned service path that has predominantly small ancillary buildings along its way that are built in the traditional dry sandstone style. The application site is within the Penrith Conservation Area but there are no listed buildings nearby.

3. Consultees

3.1 Statutory Consultees

Consultee	Response
Highway Authority	<p><i>A response was received on the 30 July 2020 advising that inadequate information has been submitted to satisfy the Local Planning Authority that the proposal is acceptable in terms of: a) access b) visibility splays c) off-street parking d) on site turning facilities e) its effect on local traffic conditions and public safety f) impact on sustainable travel.</i></p> <p><i>Following negotiations with the applicants a revised response was received on 17 August 2020 stating that although the proposed development cannot meet the off street parking requirement that are set out in the Cumbria Development Design Guide for a 3 bedroom dwellings of 2 parking spaces per unit, account has been the sustainable location of the proposed development, which would have with good access to public transport and City Centre services.</i></p> <p><i>Consequently, the County Council has no objection to the proposed development.</i></p> <p><i>It should however be noted that the Cumbria County Council Parking Enforcement Team have stated that no resident parking permits can be allocated to new developments as there is currently no spare capacity.</i></p>
Local Lead Flood Authority	<p><i>The Lead Local Flood Authority (LLFA) have records of minor surface water flooding to Castlegate, which indicate a 0.1 percent (1 in 1000) chance of flooding occurring each year and the Environment Agency (EA) surface water maps do not indicate that the site is in an area of risk.</i></p>

3.2 Discretionary Consultees

Consultee	Response
United Utilities	<p><i>A response was received on the 19 May 2020 advising of the following: The proposals are acceptable in principle. A condition is recommended that drainage shall be carried out in accordance with the Drainage</i></p>

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	<p><i>Plan proposing surface water discharging into soakaway and that no surface water will be permitted to drain directly or indirectly in to the public sewer. A further condition is recommended requiring that foul and surface water to be drained on separate systems.</i></p>
EDC Conservation Officer	<p>Conservation Officer statement</p> <p>Heritage value</p> <p><i>The proposed development site is located within Penrith conservation area. The conservation area has many characteristics one of which is its yards – they form a significant feature of Penrith’s townscape and result from the town’s medieval layout based on long narrow burgage plots. Yards run perpendicular to the direction of a street and are accessed via alleyways that pierce the main street elevation with an archway or doorway, usually pedestrian in scale but often large enough for carriages. Beyond that, a yard is usually defined by long, usually one or two storey, buildings to left and right and terminated by either a tall wall or by a building constructed across the width of the yard, parallel to the main street.</i></p> <p><i>Each yard is unique with its own character. They would have functioned more like streets or courtyards with buildings of different uses facing in to the shared spaces. However today the yards have a more backland character.</i></p> <p><i>The proposed development site is located off Gloucester Arms Yard nestled behind Great Dockray and Castlegate. This yard is of interest due to its scale and unity of style. The older buildings are of rubblestone but later buildings are of coursed masonry with ashlar details and orderly fenestration patterns. A degree of grandeur and formality is fitting for this area as it would have been a busy stabling area for guests to the Gloucester Arms Hotel.</i></p> <p><i>Existing units around Gloucester yard have a variety of uses including: offices, hair salon, tattoo parlour and dental surgery. The dental surgery is located within a modern building with render exterior. The land immediately to the east of the proposed development site contains 5 late 20th century residential dwellings. The western end of the yard accessed from West Lane has some private vehicular access. As such the area currently has a more ‘backland’ nature without a strong architectural character.</i></p> <p><i>Historic maps show that the proposed development site has historically been development land although the function of the buildings is unknown it is assumed they were ancillary. The site is currently undeveloped with</i></p>

remnants of previous buildings and a single storey storage building. It is bordered to the north by the rear of no.9 Castlegate, and to the south by a building in use as a hairdressing salon.

Overall the proposed development site has low historic interest, it contributes to our understanding of how the immediate area incorporating Gloucester Yard developed.

Impact Assessment

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 says local planning authorities should pay special attention to preserving or enhancing the character or appearance of conservation areas.

Paragraph 193 of the NPPF 2019, states 'When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance'.

Paragraph 206 of the NPPF 2019 states 'Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably'.

Policy ENV10 of the emerging Local Plan states 'proposals in conservation areas will be expected to preserve and enhance their special architectural and historic interest'. Also development proposals should be of high quality and sensitive design that takes account of scale, density, height and materials.

The proposed development comprises of the erection of a three storey dwelling with an integral garage accessed from the private road off Gloucester Place/ Yard. The proposed dwelling is of contemporary design and materials consisting of smooth render cladding and natural timber weatherboarding, a barrel vaulted roof finished in profiled steel, and composite timber/aluminium windows and doors.

Given the topography of the land in the area, the small plot size and the scale of surrounding buildings the proposed size and scale of the new building is considered to be appropriate. The group of taller buildings which the proposed building would contribute to would create a 'terminus' to the Yard.

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	<p><i>The proposed contemporary design and materials is in contrast to the historic buildings in the area but is not considered to detract from the character of the area. Instead it clearly differentiates itself as a modern infill development.</i></p> <p><i>Overall the proposed development is considered to meet those policies outlined above within the Planning Act 1990, NPPF 2019 and Eden Local Plan ENV10.</i></p>
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4. Town Council Response

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

- 4.1 A response was received on the 5 August 2020 stating the following:

“The application site on the edge of the Penrith Conservation Area and, although there are no listed buildings close by it is an area of older residential buildings that enhance the character of the area.

The contemporary design is incongruous and not felt to enhance the area, it is out of scale with the surrounding buildings and is too industrial in design.

Inadequate parking is provided with the development. For a 3 bed development, Cumbria County Council would expect 2 parking spaces. This area already has pressure for parking.

Should planning permission be approved there should be archaeological research and excavation and recording prior to any development taking place”.

5. Representations

- 5.1 Letters of consultation were sent to nearby neighbours on the 9 April 2020 and a site notice was posted on 14 April 2020. A re-consultation took place on the 2 July 2020 following revised plans being submitted.

No of Neighbours Consulted	28	No of letters of support	0
No of Representations Received	0	No of neutral representations	0
No of objection letters	0		

6. Relevant Planning History

- 6.1 None recorded.

7. Policy Context

7.1 Development Plan

Eden Local Plan (2014-32)

- LS1 Locational Strategy
- DEV1 General Approach to New Development
- DEV2 Water Management and Flood Risk

- DEV5 - Design of New Development
- ENV10 – The Historic Environment
- PEN1 – A Town Plan for Penrith

Supplementary Planning Documents:

- Housing (2010)

7.2 Other Material Considerations

National Planning Policy Framework (2021):

- 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

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

8. Planning Assessment

8.1 Key/Main Planning Issues

- Principle
- Landscape and Visual Impacts
- Residential Amenity
- Scale and Design
- Impact on the Character and Appearance of the Built Environment

8.2 Principle

- 8.2.1 Policy LS1 of the Eden Local Plan sets Penrith as the highest in the settlement hierarchy where the Council expects the focus for residential, employment and commercial provision.
- 8.2.2 Policy DEV1 of the Eden Local Plan advises that the Council will always work proactively with applicants to find solutions which mean the proposals can be approved wherever possible, and to secure developments that improves economic, social and environmental conditions in the area.
- 8.2.3 Policy DEV2 of the Eden Local Plan requires new development to be in a location which (inter alia) avoids risk to the water supply, or includes sufficient mitigation measures to ensure that there is no risk to water supply.
- 8.2.4 The Local Lead Flood Authority and United Utilities both advise that the proposal is a minor development that would not have an adverse impact on the local water supply. The LLFA also state that the application site is in a low risk flood area and that the proposed development would not worsen that.
- 8.2.5 Policy DEV5 of the Eden Local Plan requires developments to show a clear understanding of the form and character of the districts built and natural environment, complementing and enhancing the existing area. It also looks for proposals to protect the amenity of the existing residents and provide an acceptable amenity for future occupiers.
- 8.2.6 Policy LS1 sets out the locational strategy for development in Eden. The policy gives support for new development within Penrith which is the main town within the Eden

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District, stating that as the main town in the district Penrith will benefit from sustained development. This is also an objective of Policy PEN1.

- 8.2.7 It is considered that this proposal meets the aims and requirements of the above mentioned policies in principle. The application site is located within the centre of Penrith, which is identified as at the apex of the settlement hierarchy for development purposes. Policies have been shaped for Penrith in recognition of this to ensure that the town can continue to offer a range of housing that meets the needs of residents and that in turn encourages economic growth and viability. This will be subject to further consideration on the impact on landscape, neighbouring amenities and the scale and design which are discussed in the following sections of this report.

8.3 Landscape and Visual Impacts

- 8.3.1 Policy DEV5 of the Eden Local Plan requires that proposed development demonstrates that it shows clear understanding of the form and character of the District's built environment, complementing and enhancing the existing area.
- 8.3.2 Chapter 12 'Achieving well-designed places' of the National Planning Policy Framework (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 which states that development should *"reflect the existing street scene"*.
- 8.3.3 The application site and its surroundings has a functional appearance that is typical of the rear of any urban town centre street, as the application site is located alongside a single width back entry area that acts as a service road for commercial properties along Castlegate. As such, due to its functional nature, the site is not a conspicuous feature in the public realm and it is not an important part of the conservation area.
- 8.3.4 Indeed, if there is an opportunity for development of a more contemporary nature to be introduced, it is considered that the application site is an appropriate place to locate it. It is also possible to say that a pastiche reproduction of the more prominent traditional buildings in the town centre would be more inappropriate in scale and form than the proposed development. In this regard therefore, it is considered that no conflict would arise with Policy DEV5 or the guidance in the NPPF.
- 8.3.5 It is considered therefore that due to its backland site and location, the proposed development would have a neutral impact on its immediate surroundings and that as such the proposal meets the aims and requirements of policy DEV5 for development to be acceptable in terms of impacts on the landscape and visual amenity.

8.4 Residential Amenity

- 8.4.1 Policy DEV5 of the Eden Local Plan states that development should *"optimise the potential use of the site and avoids overlooking"*, *"protect the amenity of existing residents"* and provide an *"acceptable amenity for future occupiers"*. This is supported by Chapter 12 Achieving well-designed places of the NPPF which states that new development should provide *"a high standard of amenity for existing and future users"*.
- 8.4.2 The proposed dwelling has a three storey building on its western boundary that is similar in height and proportions to the proposal and it has a blank gable end wall. On the eastern boundary are two single storey storage buildings. To the immediate north of the site is 9 Castlegate, a two storey dwelling. The applicants have been careful to locate the principal windows of the property on the south eastern elevation to ensure

that overlooking and loss of privacy for neighbouring residential amenity would be minimised.

- 8.4.3 The proposed building would result in no loss of light nor appear over dominant in relation to its immediate surroundings. In addition, the proposed residential use is regarded as an appropriate use for a town centre location that would be in keeping with other such uses in the immediate locality. Therefore, the development would not be an incongruous use that would result in any discernible adverse impacts upon neighbouring amenity beyond those associated with the lawful use of the building.
- 8.4.4 The proposed development is considered to have been designed and located to protect neighbouring amenities as far as possible. It is considered that the proposal would protect the amenity of existing and future occupiers and as such meets the aims and requirements of policy DEV5 of the Eden Local Plan and the guidance in the NPPF.

8.5 Scale and Design

- 8.5.1 Chapter 12 of the NPPF and Policy DEV5 of the Eden Local Plan requires the design of new development to be to high standard, reflecting the form and character of the locality and reflect the existing street scene through the use of appropriate scale, mass, form, layout, high quality architectural design and use of construction materials.
- 8.5.2 Policy ENV10 of the Eden Local Plan says the Council will require proposals for development to conserve and enhance the significance of heritage assets and their setting. Also development proposals should be of high quality and sensitive design that takes account of scale, density, height and materials. Policy DEV5 of the Eden Local Plan supports scheme that are of a high quality which reflects local distinctiveness.
- 8.5.3 The proposal has a very contemporary design and palette of materials. It can best be described as having a townhouse form and layout, having the scale of a two storey building, but with rooms in the roof space. The proposed dwelling would have a barrel vaulted roof and it would be clad in a smooth render finish with natural timber/fibre cement weatherboarding at second floor level. The curved roof will be finished with a profiled steel 'standing seam' roofing system in a blue/grey shade. All windows and doors will have composite timber/aluminium clad frames.
- 8.5.4 The site is within a streetscene that is dominated by minor scale buildings that strong architectural character. Given the backland location of the application site and its relatively small plot size, it is considered that in these circumstances, the proposal would have no adverse impact on the substantive part of the conservation area and its strong architectural integrity.
- 8.5.5 The design that is proposed can reasonably be described and considered as modern and contemporary in nature. Design is noted to be a subjective matter, particularly when they may affect heritage assets. However, it is not the purpose or place of the Planning System to impose personal preferences for design. Instead, the design of each proposal should be considered entirely on its own merits, taking into account each proposal, its locality and any impacts that would arise.
- 8.5.6 The Eden Local Plan does not require new development within Conservation Areas or within the setting of Listed Buildings to always need to be traditional in design, or constructed from traditional materials. Instead, any proposal must be considered in relation to whether or not the design and materials complements a Conservation Area and surrounding heritage assets, and can be reasonably said to preserve or enhance the appearance, character, significance and setting of any such affected assets.

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8.5.7 Where a contemporary design is proposed within a Conservation Area or setting of a Listed Building, this in itself should not just be considered inappropriate or unsuitable. Instead, such design will require a greater degree of scrutiny and consideration beyond those taken for a more traditional design and finish. In the case of the current application it is important to assess the proposals in the context of the existing building, and whether the nature of the design proposed and use of the cladding materials and window fenestration proposed for example, would impact upon the character of the Conservation Area, street scene, and nearby Listed Buildings, and what extent that impact would be.

8.5.8 The proposal is considered to meet the aims and requirements policy DEV5 of the Eden Local Plan as it shows a clear understanding of the form and character of the area through its scale, mass and form. It is considered to be of a high quality design and proposes high quality contemporary materials which would conserve the character of the Conservation Area, for the reasons detailed above, in accordance with Policy ENV10 of the Eden Local Plan.

8.6 Impact on the character and appearance of the built environment (LB's/CA)

8.6.1 The application site is located within the south western edge of the Penrith Conservation Area, which was designated in 1975 and has been extended since. The predominant building style is Georgian, as this was when the greater part of the town underwent its existing form of development. However, like so many English market towns, the layout has its origins in the medieval period.

8.6.2 The chief characteristic of the townscape is its permeability, as although the focal point of the town centre is the Market Square, the layout is not dominated by a single 'High Street'. This enables greater pedestrian circulation to take place, which is facilitated by a pattern of interconnecting courtyards and passage ways, where openings are often incorporated into the facades of individual buildings.

8.6.3 It is likely that Gloucester Yard, historically, would have fulfilled such a role, acting perhaps as part of a stable yard for the nearby Gloucester Arms Hotel, which was once a coaching inn. Now, it has more of a 'backland' function in the townscape of the conservation area.

8.6.4 Spatially therefore, the application site is not a coherent part of the conservation area and has none of the characteristics that distinguish it. The Conservation Officer has concurred with this view, observing that the proposed development would not detract from the historic character of the buildings in the conservation area and that "Instead it clearly differentiates itself as a modern infill development" that would be an enhancement of the immediate streetscene, which would provide a strong terminus to the rather piecemeal pattern of development along the yard itself.

8.6.5 Therefore, due to the appropriateness of the design proposed, and the limited visual impact/prominence that the application site has to the character and appearance of the wider Conservation Area, it is considered that the proposed development would result in no adverse impacts upon the historic environment and can be said to conserve. As such, the development is considered to reasonably preserve the character of the Conservation Area and therefore, accord with the requirements of Policy ENV10 of the Eden Local Plan in this regard.

8.7 Other

8.7.1 Infrastructure

- 8.7.2 Within the Eden Local Plan, Policy DEV3 notes that *‘development will be refused if it will result in a severe impact in terms of road safety and increased traffic congestion. This is supported by paragraph 109 of the NPPF which affirms that ‘development should only be prevented or refused on highway safety grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe’.*
- 8.7.3 The Highways Authority have reconsidered their assessment in the light of negotiations with the applicants and have taken into account the sustainable town centre location of the application site and the proximity to public transport hubs. They have concluded that the fact that the three bedroom dwelling cannot provide at least two off street parking spaces should not warrant refusal.
- 8.7.4 The Highways Authority have done this in recognition of the fact that Penrith is the service centre for the District and is a sustainable and well connected location, where people do not need to rely exclusively on car borne travel and have access to alternative forms of transport such as buses, cycling and walking. In such circumstances it is considered that the usual parking standards can be relaxed.
- 8.7.5 Within the Eden Local Plan, Policy DEV2 seeks to ensure that new development would not result in any increased flood risk, and ensure that developments incorporates Sustainable Drainage Systems (SUDs) where practicable. The Lead Local Flood Authority and United Utilities have not raised any objections providing the development is carried out in accordance with the drainage plan and that no surface water will be permitted to drain directly or indirectly in to the public sewer.
- 8.7.6 Therefore, for the reasons detailed above, it is considered that the proposed development can be serviced by appropriate infrastructure and would not result in any adverse impacts upon highway safety or capacity, nor result in any increased flood risk. As such, the proposal is considered to be in-compliance with Policies DEV2 and DEV3 of the Eden Local Plan.

9. New Homes Bonus

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

10. Implications

10.1. Legal Implications

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

10.2 Equality and Diversity

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

10.3 Environment

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

10.4 Crime and Disorder

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

10.5 Children

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

10.6 Human Rights

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

11. Conclusion

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

11.2 The proposal for the erection of a dwelling within a residential curtilage has been designed and located to make the best use of the land available without adversely impacting on any neighbouring properties.

11.3 It is concluded that the proposal is acceptable and compliant with policies LS1 and DEV5 of the Eden Local Plan, in that an appropriate high quality design is proposed and that there would be no adverse impacts upon neighbouring amenity or to the character and appearance of the area, including the conservation area, in accordance with Policy ENV10 of the Eden Local Plan.

11.4 Therefore, the application is considered to be supportable and is recommended for approval.

Oliver Shimell
Assistant Director Development

Checked by or on behalf of the Monitoring Officer	04.08.21
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Background Papers: Planning File 20/0404