## Eden District Council
### Planning Committee Agenda
#### Committee Date: 17 May 2018

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<th>Officer Recommendation</th>
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| 1       | **Planning Application No: 17/0883**  
Retention of 2 bow top caravans, ancillary ‘cabin/dayroom’ and compost toilet as a single residential caravan unit for one gypsy-traveller family and the proposed use of land for the siting of 2 shepherds huts and 2 horse drawn caravans for holiday use, creation of pond, hardstanding and ancillary works.  
Nutwood, Melmerby  
Mr Maurice and Ms Young | Recommended to:  
REFUSE  
With Reasons |
| 2       | **Planning Application No: 17/0922**  
Residential development with all matters reserved  
Land off Kirkby Stephen Grammar School, Kirkby Stephen  
The School Governors of Kirkby Stephen Grammar School | Recommended to:  
APPROVE  
Subject to Conditions |
| 3       | **Planning Application No: 18/0206**  
Proposed residential development  
Land behind Hunter Hall Farm, Great Salkeld  
Hunter Hall Developments Ltd | Recommended to:  
REFUSE  
With Reasons |
| 4       | **Planning Application No: 18/0124**  
Change of use of barn and part of field to tourist accommodation and garden  
Barn at Ladyswood House, Roundthorn, Penrith  
J Errington | Recommended to:  
REFUSE  
With Reasons |
| 5       | **Planning Application No: 18/0238**  
Residential development for up to four local occupancy houses each restricted to 150m2 with all matters reserved  
Land between Fern Bank and East View, Reagill  
K Hall | Recommended to:  
REFUSE  
With Reasons |
<p>| 6       | <strong>Planning Application No: 18/0142</strong> | Recommended to: |</p>
<table>
<thead>
<tr>
<th></th>
<th>Change of use from sandwich shop/takeaway to micro pub serving food, and including internal alterations, refurbishment and repairs. No 1 Croft Street, Kirkby Stephen. Mr S Howarth.</th>
<th>APPROVE Subject to Conditions</th>
</tr>
</thead>
</table>
| 7 | **Planning Application No: 18/0143**  
Listed Building consent for internal alterations, (including refurbishment and repairs.)  
No 1 Croft Street, Kirkby Stephen.  
Mr S Howarth | Recommended to:  
APPROVE  
Subject to Conditions |
| 8 | **Planning Application No: 18/0167**  
Former Fellside Foods Sausage Factory, North of Green Farm, Main Street, Shap  
Mealbank Properties Ltd | Recommended to:  
APPROVE  
Subject to Conditions |
Date of Committee: 17 May 2018
Planning Application No: 17/0883  Date Received: 09 October 2017
OS Grid Ref: 361398 538818  Expiry Date: 12 December 2017
Parish: Ousby  Ward: Hartside
Application Type: Full
Proposal: Retention of 2 bow top caravans, ancillary ‘cabin/dayroom’ and compost toilet as a single residential caravan unit for one gypsy-traveller family and the proposed use of land for the siting of 2 shepherds huts and 2 horse drawn caravans for holiday use, creation of pond, hardstanding and ancillary works.
Location: Nutwood, Melmerby
Applicant: Mr Maurice and Ms Young
Agent: Murdoch Planning Ltd
Case Officer: David Coates
Reason for Referral: The application is subject to a number of requests to make representations to the Planning Committee.
Agenda Item 1
REPORTS FOR DEBATE
1. **Recommendation**

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

In the absence of information to the contrary, it has not been demonstrated how the need for the proposal would outweigh the demonstrable harm to the distinctive character of the North Pennines AONB contrary to policies LS1, HS7, DEV1, DEV5, ENV2, ENV3 of the emerging Eden Local Plan and the Planning Policy for Traveller Sites and paragraphs 109 and 123 of the National Planning Policy Framework.

2. **Proposal and Site Description**

2.1 **Proposal**

2.1.1 The application (as amended) seeks approval for the retention of 2 bow top caravans and a cabin/dayroom ancillary building forming a single residential caravan unit together with the proposed use of land for the siting of 2 shepherds huts and 2 horse drawn caravans, formation of pond, hardstanding and ancillary works. The cabin/dayroom is of a temporary nature and is currently in use together with the 2 bow top caravans. The application is accompanied by a Design and Access Statement and a supplementary Access Statement.

2.2 **Site Description**

2.2.1 The site is in an isolated locations, approximately ¾ mile south east of Gamblesby and 1½ miles north of Melmerby. It covers an area of approximately 1 acre and comprises a small relatively flat area in the centre, with steep open grazed woodland forming a small valley at the western side of the site through which a small river flows. Grazed pasture land forms the remainder of the site. It is bounded by stone walls to the lonning, with hedges and wire fences forming the remaining boundaries. By reason of its isolation, access is only via unmade lanes/lonnings over fords with steep assents/decents as it follows the local topography.

3. **Consultees**

3.1 **Statutory Consultees**

<table>
<thead>
<tr>
<th>Consultee</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Highway Authority</td>
<td>In adequate information submitted.</td>
</tr>
<tr>
<td>Lead Local Flood Authority</td>
<td>The Lead Local Flood Authority (LLFA) do not have any records of flooding on this site and the Environment Agency (EA) surface water maps do not indicate that the site is in an area of risk. There is an ordinary watercourse Gill Beck which runs through the site, any work to the watercourse or proposed creation of a pond will need an Ordinary Watercourse Flood Defence Consent – the applicant would need to email LFRM Consent <a href="mailto:LFRM.consent@cumbria.gov.uk">LFRM.consent@cumbria.gov.uk</a> with details of the proposed works.</td>
</tr>
</tbody>
</table>

The following are detailed responses as outlined above:
3.1.1 Name of Consultee – Details of response received

Local Highways Authority comments

The closest Highway network is the C3004 Highway maintainable at public expense road, which leads to a track of poor standard, which eventually leads to the private access parking area identified on the plan.

This would be an intensification use of the track, no visibility splays have been shown on the details submitted, Cumbria County Council as Local Highway Authority would recommend the refusal. I have added the link to our Draft Design Guide where details of Parking requirements are towards the back starting at Appendix 1.

The use of the site access resulting from the proposed development would be likely to increase the conflict of traffic movements close to a junction which has restricted visibility for emerging vehicles resulting in additional danger and inconvenience to all users of the highway.

To support Local Transport Plan Policy: LD7, LD8

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) surface water drainage
(e) on site turning facilities
(f) its effect on local traffic conditions and public safety
(g) impact on sustainable travel

To support Local Transport Plan Policy: LD7, LD8

3.2 Discretionary Consultees

<table>
<thead>
<tr>
<th>Consultee</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parish Council</td>
<td>Ousby Parish Council: Object</td>
</tr>
<tr>
<td></td>
<td>Glassonby Parish Council: Object</td>
</tr>
</tbody>
</table>

The following are detailed responses as outlined above:

3.2.1 Name of Consultee – Details of response received

4. Parish Council/Meeting Response

<table>
<thead>
<tr>
<th>Parish Council/Meeting</th>
<th>Please Tick as Appropriate</th>
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<tbody>
<tr>
<td></td>
<td>Object</td>
</tr>
<tr>
<td>Ousby Parish Council</td>
<td>X</td>
</tr>
<tr>
<td>Glassonby Parish Council</td>
<td>X</td>
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</tbody>
</table>

4.1 Ousby Parish Council:
- Access issues – proposed arrangement not long term
- Access track not sustainable and for agricultural use
- Not supported by parishioners
- Isolated development
- Agricultural area
- Does not mention how it would meet core strategies
- Confusion of facilities – are they for tourism or the gypsy community
- Ousby Parish Community Plan supports sustainable tourism, but does not support additional caravan parks
- there are restrictions on other caravan parks in the area not allowing 365 days a year occupation

**Glassonby Parish Council:**

Glassonby Parish Council do not support the above application. As per the previous application for this site the Parish Council are concerned that it might set a president for other sites in the local area. The additional traffic on high streetIonning generated by a tourism business would cause further impact on an agricultural access lane that is already in poor condition. The part time residential access of this application is not as much of a concern.

Later Additional Comments:

Glassonby Parish Council would like an update on the above planning application. A few Council Members have heard from a number of residents in Melmerby that access to the above application is going to be in the Glassonby Parish via Westgarth Lonning. If this is the case, then the Parish Council would like the planning committee members to have a site visit to see the lane to access it.

Although the application site lies within Ousby Parish Council, the proposed access arrangements would involve passing through Glassonby Parish and therefore it was considered appropriate to consult both Parish Councils.

### 5. Representations

5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on 6 November 2017.

<table>
<thead>
<tr>
<th>No of Neighbours Consulted</th>
<th>No of letters of support</th>
<th>15</th>
</tr>
</thead>
<tbody>
<tr>
<td>No of Representations Received</td>
<td>89</td>
<td>No of neutral representations</td>
</tr>
<tr>
<td>No of objection letters</td>
<td>65</td>
<td></td>
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</tbody>
</table>

5.2 Letters of support were also received which provided the following comments:

- Meets criteria of sustainable development principles:
- Wanderlust has a no car policy
- Applicants are an example of living in harmony
- Provide stability for a travelling family
- Tourists will add to the local economy

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

- No proven need
Applicant does not meet ‘traveller’ status
Has been operating a business from a base for 10 years and can not be considered nomadic
Lack of parking, and causing cars to park elsewhere
Lack of access
Intrusion of cars
Loss of tranquillity
Damage to peaceful bridleway
Access by tractor only
Lead to abandoned vehicles in villages

Letters of objection raised the following non-material considerations:
- Lifestyle choice by the applicant
- Area littered with household debris
- Draw on natural water
- Pollution of water course
- Noise and light pollution
- Harm to wildlife

6. Relevant Planning History
17/0349 Change of use of land from agriculture to residential (comprising the siting of 2no horse drawn caravans) and the retention of a wooden utility cabin to be used in association with the residential use. Withdrawn

7. Policy Context
7.1 Development Plan

Core Strategy DPD Policy:
- CS1 - Sustainable Development Principles
- CS2 - Locational Strategy
- CS3 - Rural Settlements and the Rural Areas
- CS4 - Flood Risk
- CS5 - Transport and Accessibility
- CS7 - Principles for Housing
- CS9 - Housing on Rural Exception Sites
- CS10 - Affordable Housing
- CS11 - Provision for Gypsies and Travellers
- CS12 - Principles for Economic Development and Tourism
- CS15 - Tourism and the Visitor Economy
- CS16 - Principles for the Natural Environment
- CS18 - Design of New Development
- CS19 - Energy Conservation, Efficiency and Production in New Developments
- CS20 - Renewable Energy
- CS21 - Principles for Services, Facilities, Sport and Informal Recreation
- CS22 - Protection of Village Services and Facilities

Emerging Eden Local Plan 2014-2032:
- LS1 – Locational Strategy
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- HS7 – Gypsy and Traveller Sites
- DEV1 – General Approach to Development
- DEV5 – Design and New Development
- EC4 – Tourism Accommodation and Facilities
- ENV1 – Protection and Enhancement of the Natural Environment, Biodiversity and Geodiversity
- ENV2 – Protection and Enhancement of Landscapes and Trees
- ENV3 – The North Pennies AONB
- ENV8 – Land Contamination

**Supplementary Planning Documents:**
- Housing (2010)

7.2 **Other Material Considerations**
- Cumbria Landscape Character Guidance and Toolkit.
- DCLG – Planning Policy for Travellers Sites

**National Planning Policy Framework:**
- Building a strong, competitive economy
- Ensuring the vitality of town centres
- Supporting a prosperous rural economy
- Promoting sustainable transport
- Supporting high quality communications infrastructure
- Delivering a wide choice of high quality homes
- Requiring good design
- Promoting healthy communities
- Protecting Green Belt land
- Meeting the challenge of climate change, flooding and coastal change
- Conserving and enhancing the natural environment
- Conserving and enhancing the historic environment
- Facilitating the sustainable use of minerals

**National Planning Practice Guidance**
Planning Policy for Traveller Sites

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 of Development and Status of Gypsy-Travellers
- Landscape Character
- Access and Parking

8.2 **Principle**

8.2.1 The national planning policy position is contained within the NPPF and Planning Policy for Travellers Sites (first produced in 2012) and provides advice on Traveller – Gypsy Site and Annex 1 provides definition of Gypsies and Travellers as being:

*Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family’s or dependants’*
educational or health needs or old age have ceased to travel temporarily, but excluding members of an organised group of travelling show people or Circus people travelling together as such.

8.2.2 In determining whether persons are “gypsies and travellers” for the purposes of this planning policy, consideration should be given to the following issues amongst other relevant matters:
   a) whether they previously led a nomadic habit of life
   b) the reasons for ceasing their nomadic habit of life
   c) whether there is an intention of living a nomadic habit of life in the future, and if so, how soon and in what circumstances.

8.2.3 On 22 July 2015, a Technical Adjustment (“the Technical Adjustment”) was made to the NPPF at paragraph 49 stating:

"Following a recent High Court judgment (Wenman v Secretary of State), we are today making a technical adjustment to paragraphs 49 and 159 of the National Planning Policy Framework.

..... From today, those persons who fall within the definition of “traveller” under the Planning Policy for Traveller Sites, cannot rely on the lack of a five year land supply of deliverable housing sites under the National Planning Policy Framework to show that relevant policies for the supply of housing are not up to date. Such persons should have the lack of a five year supply of deliverable traveller sites considered in accordance with Planning Policy for Traveller Sites...”

8.2.4 It is considered that the wording of the policy needs to be carefully scrutinised. The technical adjustment to paragraph 49 does not refer to “applications for gypsy and traveller sites” or even “sites for persons who fall within the definition in the PPTS” instead it says “those persons who fall within the definition”. The PPTS was re-issued in August 2015.

8.2.5 Policy H, as set out in the PTTS, is relevant in determining planning applications, and para 24 indicates:

Local planning authorities should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:
   a) the existing level of local provision and need for sites
   b) the availability (or lack) of alternative accommodation for the applicants
   c) other personal circumstances of the applicant
   d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites
   e) that they should determine applications for sites from any travellers and not just those with local connections

8.2.6 The applicants claim traveller status, and from the information submitted with the planning application they contend they are persons who fall within the definition as set out in the PPTS. Their history and past life is of travelling around, but have ceased travelling on a temporary basis to allow their children to attend the local school at Kirkoswald which is approximately 3½ miles away. Their children catch the school bus in Gamblesby, and the head teacher of the Kirkoswald Primary School has confirmed their attendance and transport arrangements. Consideration under the Childrens Act 2004 has been made.
8.2.7 The proposal is to retain a private gypsy site for a single gypsy family only, comprising 2 bow top horse drawn caravans and an ancillary cabin/dayroom as a single unit. The ancillary cabin/day room is of some size measuring approximately 12m x 3.5m containing a kitchen area, stove, seating area, and day bed, with an additional room and a full length veranda/covered area to the front measuring approximately 12m x 3.5m to the front. A further extension is proposed measuring 12m x 3.5m would be attached to the rear. The combined footprint of the existing structure and proposed extension would measure 12m x 10.5m.

8.2.8 Conversely, objectors contend the applicant does not have traveller status, and submit media articles from 2007 and 2011 whereby it suggests that the applicants have in fact been operating a gypsy caravan repair business and the Wanderlusts gypsy caravan holiday business from ‘a base’ which points to them not having ‘nomadic lifestyle’ and they are in fact permanent residents. The objectors also refer to these businesses operating prior to the birth of the applicant’s children which objectors suggests add to the applicants’ sedatory lifestyle rather than a nomadic one. These points have been raised with the applicants/agent but at the time of writing this report, no response has been received. In the absence of the applicants’/agent’s response, there is some uncertainty over the applicants’ traveller status.

8.2.9 The applicants’ submission contend that the Council has an absence of a 5 year supply because the emerging Local Plan is not adopted in order to support the application, however not only can the emerging Local Plan be given substantial weight, there is contained within it a 5 year supply in any event.

8.2.10 The applicant was a resident of a property at Edenhall between July 2015 and May 2017 and the Council Tax section confirms this. Nevertheless having taken account of caselaw and appeal decisions, this short period of residing in a house does not have affect the travellers status claimed.

8.2.11 Where traveller status is established, consideration needs to be given as to whether there are any established gypsy-travellers sites or land allocated for such use. In this particular instance, there is a proposed allocation in the emerging Local Plan as an extension to an existing gypsy-traveller site at Lakeland View, on the northern periphery of Penrith. Whilst the Local Plan is not yet formally adopted, it is at a very advanced stage, and accordingly the committee can be confident that there is an adequate supply of gypsy-traveller sites as described in policy HS7 of the emerging Local Plan.

8.2.12 Whilst the Council does have an adequate supply of sites, case law and appeal decisions have indicated that it is not sufficient to simply for the existence of an adequate supply within the Council area, but to established whether the supply of sites is both suitable AND available for use by applicants. The applicant has made reference to the Court case of Doncaster MBC v SSCLG + Angela Smith to support their case that there are no suitable and available alternative sites. Caselaw (South Cambs v SSCLG + Brown) established that there is no burden on the applicant to prove there is no alternative available, nevertheless where alternative sites are demonstrated by the Council, it is appropriate for the applicant to comment on this.

8.2.13 The applicants indicate that Lakeland View is occupied by Romany Gypsies whereas they themselves are New Travellers and the two groups are incompatible with each other. It has also been suggested that the owner of Lakeland View says it is not available to the applicants and more latterly, that the site does not accept horses or
horses drawn vehicles. There are passing references to incompatibility of differing gypsy-traveller groups in other planning appeals elsewhere in the country which adds weight to the applicants’ case, but there is nothing in writing submitted as part of the application to substantiate the unavailability of the site. Furthermore, although the Lakeland View allocation is expressed as an extension, it is separated from the remainder of the Lakeland View by the ‘farmstead’ and appears very likely to be separately accessed from the highway and not through the ‘Romany Gypsy’ part. This adds to the physical separation of the existing and the proposed allocated land.

8.2.14 The applicant has been requested, on a number of occasions, to supply further details to corroborate and add clarity as to whether the Lakeland View allocation is both available and appropriate. Additional information has been received, however it is considered that the unavailability and inappropriateness of Lakeland View has not been adequately demonstrated in sufficient precise and unambiguous detail.

8.2.15 Even if the Lakeland View site was found to be either unavailable or inappropriate, this does not automatically give presumption to grant planning permission for the application site, as para 25 of the PPTS advises:

25. Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.

8.2.16 In this particular case, Nutwood is not only in the open countryside, but is isolated by reason of its difficult accessibility. As a result due consideration needs to be given as to whether a site for one single gypsy-traveller family is appropriate in this location within the AONB.

8.2.17 The second element of the planning application is for an ‘eco tourism’ site comprising of 2no horse drawn caravans and 2no shepherds huts as a means of income generation in the temporary cessation of their nomadic lifestyle. These would be completely ‘off grid’ with water from rainwater harvesting; composting toilets; and cooking via fire. The PPTS advises under Policy G at para 21 that consideration for mixed uses on gypsy-traveller sites or separate residential and business uses in close proximity.

8.2.18 The applicant currently operates a business of ‘travelling holidays’ called Wanderlusts with guests hiring a horse drawn caravan and being guided around the Eden area. The 2no shepherds huts would remain on the site, whereas the proposed 2no horse drawn caravans for holidays would either be on site, or ‘on the road’ travelling with guests.

8.2.19 Whilst the application is not an allocated site, it does propose a mixed use on the site, and this is broadly in line with the PPTS guidance notwithstanding the relatively isolated location of the application site.

8.3 Landscape Character

8.3.1 The site is remote and not easily accessed which adds to its remoteness. It lies within the North Pennines AONB. The AONB designation is to conserve and enhance the natural beauty of the area, and unlike National Parks, recreation is NOT a primary reason for the designation.

8.3.2 The Cumbria Landscape Character Guidance provides advice on the varying landscape types within Cumbria (outside National Parks). The application site lies
within landscape sub-type 11a (Foothills), and the advice and guidance describes how
development pressures can weaken the open–undeveloped character of the area. This
is because, even if development cannot be seen visually, its presence may have an
effect on the perceptual character of the area.

8.3.3 The ‘residential unit’ element is quite spread out, nevertheless, this and the shepherds
huts and horse drawn caravans would be largely out of sight, sited within the
undulating topography of the site. The hardstanding would be created adjacent to the
lonning, and if vehicles are parked on this, they would be visible from public viewpoints,
however it is proposed that visitors’ cars would be parked off site some distance.

8.3.4 The applicants’ two horses would graze the land, but no additional buildings/stables
are proposed for the horses as part of the application.

8.3.5 Policy ENV3 of the emerging Local Plan indicates that development will only be
permitted subject to criteria including: proposals will not have a significant or adverse
impact on the special qualities of the AONB; and will not lesson or harm the distinctive
character of the area. Policy ENV3 is included within the emerging Local Plan to afford
the AONB the highest degree of protection.

8.3.5 In view of the site’s isolation, and the highest protection afforded to the AONB, it is
considered that the introduction of tourism features and the increase in activity and
general busyness in an otherwise unspoilt and undeveloped area would be detrimental
to the distinctive character of the AONB, even though the majority of the application
site is largely hidden from view.

8.4 Access and Parking

8.4.1 The access to this remote isolated site is either from a long lonning from Melmerby, or
from the narrow rutted lonning from Gamblesby. The access and parking arrangements
for (1) the applicants; and (2) visitors to the Wanderlust holiday use. In the case of the
applicants, they predominantly access via Gamblesby, but either direction can only
realistically be accessed via 4x4 vehicles. The applicants would access the site and
park either on the hardstanding immediately next to the lonning, or up next the
cabin/dayroom which would not be readily visible. With regard to the guests, it is
proposed that they would park somewhere on the public highway, or somewhere in
nearby villages and be collected by the applicants and transported to the application
site for the duration of their stay or as part of their ‘travelling holiday’ travel around in
traditional gypsy caravans.

8.4.2 The applicants have provided a letter from a Gamblesby resident who is prepared to
offer 1 or 2 spaces for the applicants’ guests, provided this does not interfere with their
own guests’ parking, and that this arrangement is subject to review and could be
terminated if proved unsatisfactory. This offer of parking would not fulfill the level of
parking required for the application proposal, and the alternatives are for guests to
simply park on the highway or villages wherever they can. The applicants concede the
informality of this arrangement but contend that parking arrangements could be
controlled by planning condition. However as this land is outside the red and also out of
the applicants’ control, it would be appropriate for a Grampian condition. A further letter
from a resident or Little Salkeld has also indicated permission for Wanderlusts guests
to park and leave vehicles for the during of their stay with Wanderlusts, but provides
not information on numbers or longevity of this arrangement.

8.4.3 There is doubt as to the ability to secure appropriate parking, notwithstanding the
letters, as those offering the parking are not party to the application, and it is
considered it would be difficult to secure permanent parking by legal agreement. In any event, the private agreements could be removed and as such should be afforded very limited or little weight. Even if guests could be collected from parking elsewhere, the effect of the coming and going with 4x4 vehicles would increase the busyness of the area and is likely to lead to increased erosion of the narrow lonning.

8.4.4 The Highway Authority has removed its objection, but it seeks to impose a condition which would only allow access via the lonning next to the Hollies Farm, Gamblesby and that the applicant has a vehicular private right of access.

8.5 The Planning Balance

8.5.1 The applicants contend they have traveller status to meet the definition as set out in the PPTS. However, some doubt has been cast over this claim, and Members will be updated at the Planning Committee. Notwithstanding the status of the applicants, the Council has a 5 year supply of Gypsy-Traveller sites, and although the emerging Local Plan is not yet adopted it is at such an advanced stage as to be given substantial weight.

8.5.2 There are alternative sites at the Lakeland View allocation site, but it is a consideration of whether those sites are available and accessible. The applicants contend that as the emerging Local Plan is not adopted, the Council does not have a 5 year supply, and therefore any alternative or accessible locations and they place great emphasis on the Doncaster v Angela Smith caselaw. However in the Doncaster case, the Doncaster MBC did not have any evidence of a 5 year supply and therefore is not comparable to this Planning application. Although the applicants refer to the Lakeland View site not allowing horses or horse drawn vehicles there, there is no written corroboration for this. It is considered that the applicants have not provided sufficient evidence to substantiate the Lakeland View is not a suitable and accessible alternative site.

8.5.3 The proposal by reason of its isolation would result in harm to the distinctive character of the AONB, which has the highest level of protection. The proposal would introduce features associated with holiday use, albeit on a small scale, coming and going to collect guests, together with general busyness would be at odds with the unchanged character of the area. The balance is whether the landscape harm caused is outweighed by the applicants’ justification as travellers and where there are no suitable or available sites.

8.5.4 Access to the isolated site, is inherently difficult, and only accessible in reality by 4x4 vehicles. The Highway Authority after withdrawing its objection, has indicated its preferred route of access to be only from the north via Gamblesby. The access route via the lonning is a private right of way for vehicles along which there is a public footpath. The lonning is outside the application red line (no blue line is identified), and therefore is a route over which the applicant has no control. As a result, the access route falls outside the scope of the application, and it would be difficult for the Council to impose conditions relating to access routes as requested by the Highway Authority or parking provision on a 3rd party not subject to the planning application.

8.5.3 It is considered that the applicant has not sufficiently demonstrated that the alternative gypsy sites are either unavailable or inaccessible; and the proposed access and parking arrangements are outside the scope of the planning application. Therefore in the absence to the contrary, the applicant has not demonstrated how the need for the proposal outweighs the demonstrable harm the proposal would cause to the distinctive character of the North Pennines AONB.
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 **Children**

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

10.5 **Human Rights**

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

11. **Conclusion**

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

In the absence of information to the contrary, it has not been demonstrated how the need for the proposal would outweigh the demonstrable harm to the distinctive character of the North Pennines AONB contrary to policies LS1, HS7, DEV1, DEV5, ENV2, ENV3 of the emerging Eden Local Plan and the Planning Policy for Traveller Sites and paragraphs 109 and 123 of the National Planning Policy Framework.

Jane Langston
Deputy Director Technical Services

[Checked by or on behalf of the Monitoring Officer] ✓

**Background Papers:** Planning File 17/0883
Agenda Item 2
REPORTS FOR DEBATE

Date of Committee: 17 May 2018

Planning Application No: 17/0922  Date Received: 25 October 2017

OS Grid Ref: 377209 508972  Expiry Date: 31 January 2018
(.extension of time agreed until 8 June 2018)

Parish: Kirkby Stephen  Ward: Kirkby Stephen

Application Type: Outline

Proposal: Residential development with all matters reserved

Location: Land off Kirkby Stephen Grammar School, Kirkby Stephen

Applicant: The School Governors of Kirkby Stephen Grammar School

Agent: Sarah Beirne (Cowan & Co)

Case Officer: Mr Ian Irwin

Reason for Referral: This is a major residential application
### Agenda Item 2

**REPORTS FOR DEBATE**

1. **Recommendation**

   It is recommended that delegated power be given to the Assistant Director Technical Services to grant planning permission subject to a Section106 Agreement being entered into to the absolute satisfaction of the Deputy Chief Executive and the Assistant Director Technical Services requiring the provision of 30% affordable Houses as well as the following:

   - An agreement that proceeds of the development will be utilised in improving sporting provision at the school site only;

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

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

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

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

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

   **Prior to commencement**

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

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

   4. There shall be no commencement of the development, until plans illustrating appropriate visibility splays have been submitted to and approved in writing by the Local Planning Authority. The visibility splays plan will illustrate the provision provided at the junction of the access road with the county highway. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grown within the visibility splay.
which obstruct the visibility splays. The visibility splays shall be constructed before general development of the site commences so that construction traffic is safeguarded.

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

5. The development shall not commence until the access details have been submitted to and approved in writing by the Local Planning Authority. Once approved the access shall have been formed and constructed with 6 metre radius kerbs to give a minimum carriageway width of 4.8 metres and that part of the access road extending 15 metres into the site from the existing highway.

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

6. Prior to the commencement of the development plans shall be submitted illustrating a footway link from the site to the nearest existing footway. The plans shall demonstrate a safe method for pedestrians to access and egress the site.

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

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

**Reason:** The carrying out of this development without the provision of these facilities during the construction work is likely to lead to inconvenience and danger to road users. It is necessary for the condition to be on the basis that 'No development shall commence until' as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

8. Prior to the commencement of the development details shall be submitted to the Local Planning Authority detailing which highway fence/boundary wall is to be reduced in height to a level not exceeding 1 metre. Once approved these details shall be adhered to at all times.

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

9. Prior to the commencement of the development a Construction Phase Traffic Management Plan shall be submitted to and approved in writing by the Local
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REPORTS FOR DEBATE

Planning Authority. The Construction Phase Traffic Management Plan shall include details of:

- Details of proposed crossings of the highway verge;
- Retained areas for vehicle parking, manoeuvring, loading and unloading for their specific purpose during the construction of the development;
- Cleaning of site entrances and the adjacent public highways;
- Details of proposed wheel washing facilities;
- The sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials onto the highways;

Once approved, these details shall be adhered to at all times for the duration of the construction works.

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

10. Prior to the commencement of the development a landscape management plan shall be submitted to the local planning authority for written approval. The plan should include appropriate management plans for existing trees to ensure that visibility of the proposed access is not compromised. The plan shall also include details of all proposed planting, numbers, spacing, management and aftercare proposals. Once approved, the plan shall be adhered to at all times.

**Reason:** In the interests of the amenity of the area and to ensure that completed landscaping is of an appropriate standard. It is necessary for the condition to be on the basis that 'No development shall commence until' as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

11. Prior to the commencement of the hereby approved development a Construction Environmental Management Plan (CEMP) shall be submitted for written approval by the Local Planning Authority. The CEMP shall incorporate appropriate pollution prevention guideline measures to ensure that the natural environment is protected, in particular the River Eden Special Area of Conservation and the River Eden and Tributaries Site of Special Scientific Interest. Once approved, the plan shall be adhered to at all times.

**Reason:** To safeguard the integrity of the River Eden Special Area of Conservation and River Eden and Tributaries Site of Special Scientific Interest. It is necessary for the condition to be on the basis that 'No development shall commence until' as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

12. No development shall commence until a construction surface water management plan has been agreed in writing with the local planning authority. Once approved the aforementioned plan shall be adhered to at all times.

**Reason:** To safeguard against flooding to surrounding sites and to safeguard against pollution of watercourses downstream of the site and safeguard the
integrity of the River Eden Special Area of Conservation and River Eden and Tributaries Site of Special Scientific Interest. It is necessary for the condition to be on the basis that 'No development shall commence until' as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

13. Prior to the commencement of any development, a surface water drainage scheme and means of disposal, based on sustainable drainage principles with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the Local Planning Authority. The proposed scheme should meet the requirements of Sustainable drainage systems: non-statutory technical standards (March 2015).

The surface water drainage scheme must be restricted to existing runoff rates and unless otherwise agreed in writing by the Local Planning Authority, no surface water shall be discharged to the public sewerage system either directly or indirectly. The drainage scheme submitted for approval shall also be in accordance with the principles set out in the Statement of Drainage Principles dated 18th June 2014.

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

**Reason:** To ensure the surface water system continues to function as designed. It is necessary for the condition to be on the basis that 'No development shall commence until' as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

14. Prior to the commencement of the development details of future maintenance and operation of the intended surface water management plans are agreed in writing with the local planning authority. Once agreed those details shall be adhered to at all times.

**Reason:** To ensure the surface water system continues to function as designed. It is necessary for the condition to be on the basis that 'No development shall commence until' as compliance with the requirements of the condition at a later time could result in unacceptable harm contrary to the policies of the Development Plan.

15. Prior to the commencement of the development details of a 3 metre high close-boarded timber acoustic fence with a nominal mass of 15kg/m² as well as the location it shall be installed shall be submitted to the Local Planning Authority. Once approved, the acoustic fence shall be installed and maintained to function as an acoustic barrier for the duration of its retention on site. Should the fence become damaged or fail it shall be repaired or replaced to ensure the acoustic barrier retains its ability to function.

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

16. Prior to the commencement of the development details of noise insulation to
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include glazing, ventilation and other construction methods shall be submitted to the Local Planning Authority for approval. The details shall ensure that that appropriate internal noise levels are achieved on any subsequently constructed development. These details shall ensure that the following noise levels are achieved within any subsequent dwelling constructed on the site;

<table>
<thead>
<tr>
<th>Room Type</th>
<th>Noise Level (dB LA)</th>
<th>Time Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bedrooms</td>
<td>30</td>
<td>2300 hrs – 0700 hrs</td>
</tr>
<tr>
<td>Living rooms</td>
<td>35</td>
<td>0700 hrs – 2300 hrs</td>
</tr>
<tr>
<td>All Habitable Rooms</td>
<td>45</td>
<td>Max not exceeded more than 10 times per night (23:00 – 07:00) hours</td>
</tr>
</tbody>
</table>

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

Prior to occupation

17. Prior to the occupation of any dwellings associated with this development, plans approved which illustrate a footway link from the site to the nearest existing footway shall be constructed in full accordance with the approved details.

Reason: To ensure a minimum standard of access provision when the site is brought into use.

18. No dwellings shall be occupied until the vehicular access and turning requirements have been constructed in accordance with the approved plans.

Reason: To ensure a minimum standard of access provision when the site is brought into use.

19. Prior to the occupation of any dwelling constructed as a result of this permission, a validation report shall be submitted to the Local Planning Authority for written approval. The validation report shall be compiled by a competent person and provide confirmation that the internal noise levels on each of the properties achieves and meets appropriate standards. The levels which shall be achieved are as follows;

<table>
<thead>
<tr>
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<th>Noise Level (dB LA)</th>
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</tr>
</thead>
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</tr>
<tr>
<td>All Habitable Rooms</td>
<td>45</td>
<td>Max not exceeded more than 10 times per night (23:00 – 07:00) hours</td>
</tr>
</tbody>
</table>

Reason: To ensure the amenity of future occupants is protected.

Ongoing Conditions

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

Reason: To avoid vehicles entering or leaving the site by an unsatisfactory access or route and in the interests of Highway Safety.

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

08:00-18:00 Monday to Friday;
09:00-13:00 Saturday; and
No Activity on Sundays or Bank Holidays

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

21. During construction works there shall be no goods vehicle exceeding 3.5 tonnes permitted to arrive or depart between the hours of 0800-0930 and 14.30 - 15.40 on Mondays to Fridays.

**Reason:** To avoid conflict with vulnerable road users.

**Note to developer**

1. The level of cover to the water mains and sewers must not be compromised either during or after construction. A separate metered supply to each unit will be required at the applicant's expense and all internal pipe work must comply with current water supply (water fittings) regulations 1999. Should this planning application be approved, the applicant should contact United Utilities on 03456 723 723 regarding connection to the water mains or public sewers.

2. It is the applicant's responsibility to demonstrate the exact relationship between any United Utilities' assets and the proposed development. United Utilities offers a fully supported mapping service and we recommend the applicant contact our Property Searches Team at Property.Searches@uuplc.co.uk to obtain maps of the site.

   Due to the public sewer transfer, not all sewers are currently shown on the statutory sewer records, if a sewer is discovered during construction; please contact a Building Control Body to discuss the matter further.

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

   The NPPG clearly outlines the hierarchy to be investigated by the developer when considering a surface water drainage strategy. We would ask the developer to consider the following drainage options in the following order of priority:
   1. into the ground (infiltration);
   2. to a surface water body;
   3. to a surface water sewer, highway drain, or another drainage system;
   4. to a combined sewer.

   The comments made in this letter regarding site drainage reflect this approach.

   If the applicant intends to offer wastewater assets forward for adoption by United Utilities, the proposed detailed design will be subject to a technical appraisal by an Adoptions Engineer as we need to be sure that the proposal meets the requirements of Sewers for adoption and United Utilities’ Asset Standards. The proposed design should give consideration to long term operability and give United Utilities a cost effective proposal for the life of the assets. Therefore, should this application be approved and the applicant wishes to progress a Section 104 agreement, we strongly recommend that no construction commences until the detailed drainage design, submitted as part
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of the Section 104 agreement, has been assessed and accepted in writing by United Utilities. Any works carried out prior to the technical assessment being approved is done entirely at the developers own risk and could be subject to change.

2. Proposal and Site Description

2.1 Proposal

2.1.1 The proposal is for outline planning permission for a residential development with all matters reserved. Site layout (including access), design, scale and appearance of buildings and landscaping would be subject to a further reserved matters application should planning permission be granted. The applicant has indicated that the proposal could result in a total of 16 three to four bedroom dwellings being constructed upon this site.

2.1.2 The applicant advises that 30% of the dwellings would be affordable were the proposal to be approved. The applicant (Governors of Kirkby Stephen Grammar School) has also confirmed that all proceeds from the sale of the land would be utilised in the development of sporting and recreational facilities across the school site.

2.1.3 Although the intention is to utilise receipts from the sale of the land in order to improve sporting and recreational facilities on the site, the improvements intended would, in their own right, require planning permission. This permission, if granted, would not permit those improvements, however, it would ensure that a legal agreement was in place to ensure that the funds generated from the sale of land were ‘ring fenced’ for the improvement of sporting facilities on the school site.

2.2 Site Description

2.2.1 The site which is subject of this planning application is located to the west of Kirkby Stephen. It is a former playing field which the applicant advises has not been utilised in this manner for over 15 years.

2.2.2 To the south the site has an access onto the nearby Christian Head public highway where the Eden Mountain Rescue building is located. The applicant has produced an indicative plan which suggests a potential vehicular access being formed to the north-west of the site, onto the adjacent local highway network.

2.2.3 To the north the site is bounded by the Kirkby Stephen industrial estate and to the east by the Kirkby Stephen Health Centre. To the west is a public highway and beyond that more industrial units associated with the aforementioned industrial estate.

2.2.4 The proposal is for outline planning permission only but the applicant has suggested that final design would likely involve two-storey dwellings, with pitched roofs. Materials employed would be intended to be ‘sympathetic’ to the locality and would likely result in natural stone, render and slate roof coverings being utilised.

2.2.5 The site is 0.70 hectares in size and is not subject to any relevant planning constraints.

3. Statutory Consultees

<table>
<thead>
<tr>
<th>Consultee</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highway Authority</td>
<td>Responded on the 27 November 2017 and confirmed that further information would be required in terms of visibility splays,</td>
</tr>
<tr>
<td>Consultee</td>
<td>Response</td>
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<tr>
<td>---------------------------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
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<tr>
<td>access, off-street parking, road construction and surface water drainage. The applicant provided additional information (including a speed survey) in response and the Highways Authority provided a further response on the 5 March 2018. The response confirmed that the additional information provided confirmed satisfactory results. Accordingly, the details were considered acceptable and that Highways had no objection to the proposal subject to the inclusion of conditions recommended (see section 1 of this report).</td>
<td></td>
</tr>
<tr>
<td>Housing Officer</td>
<td>Responded on the 17 November 2017 and confirmed that if the site was considered a natural extension to the town, due to its location, 30% affordable housing would be required in accordance with Policy CS10 and Planning Practice Guidance of sites of 11 or more dwellings. The response also confirms that there is evidenced need/demand for housing within the district of Eden particularly ‘2 and 3 bedroom homes to attract or retain young families, provide more affordable housing options, allow the older population to downshift more easily and address the present imbalances between stock size and household size’.</td>
</tr>
<tr>
<td>United Utilities</td>
<td>Responded on the 4 December 2017 and confirmed that the proposal was acceptable in principle to United Utilities. Conditions and informatives were requested to be attached to any subsequent grant of planning permission.</td>
</tr>
<tr>
<td>Policy Team</td>
<td>Responded on the 5 March 2018. The response confirmed the following, ‘Within the Kirkby Stephen Position Statement November 2017 the site was identified as KS5. The site was originally identified as a potential site for employment development, due to its strong association with the adjacent industrial estates. At that early stage it was considered that a residential development on the site would be inappropriate due to its juxtaposition with the adjacent industrial units to both the north and west. However, following a review on sites, it was confirmed by the landowner that they would not release the land for an employment use and would only consider it as a potential site for residential development. On the basis that the site was not deliverable for employment use, it's employment use allocation was removed’. The response further confirmed that, ‘The site therefore remains with no allocation on the basis that any proposal could come forward as a potential windfall site. It should be remembered that the allocations within the emerging local plan must be seen simply as a target and are not a cap for development. It would be for the detailed application that would demonstrate its suitability for development or otherwise, bearing in mind the</td>
</tr>
<tr>
<td>Consultee</td>
<td>Response</td>
</tr>
<tr>
<td>------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Local Lead Flood Authority</td>
<td>Responded on 27 November 2017 and confirmed that the developer would need to demonstrate how surface water discharge would be dealt with. Accordingly, conditions were requested to be attached to any subsequent grant of planning permission.</td>
</tr>
<tr>
<td>Natural England</td>
<td>Responded on 23 November 2017 and confirmed that the proposal could have an adverse effect on the integrity of the River Eden Special Area of Conservation (SAC). In addition it was noted that the proposal had the potential to damage or destroy the interest feature for which the River Eden and Tributaries Site of Special Scientific Interest (SSSI). Accordingly, Natural England confirmed no objection to the proposal, subject to appropriate mitigation be secured which in this instance was required to comprise both a Construction Environmental Management Plan and Surface Water Drainage Plan. Both of which are required as conditions within section 1 of this report.</td>
</tr>
<tr>
<td>Environmental Health Officer/Contaminated Land Officer</td>
<td>Responded on the 16 November 2017 with several concerns regarding the information submitted in support of the proposal. Further discussions were held between the Environmental Health Officer and applicant which resulted in the submission of further information – which comprised a further acoustic report with confirmation of an acoustic barrier to be included. On 5 April 2018 the Environmental Health Officer subsequently responded again and confirmed that the proposal was acceptable on the basis that conditions were requested to be attached to any subsequent grant of planning permission. On 22 November 2017 the Contaminated Land Officer confirmed no objection to the proposal. It was recommended that an informative be included in any subsequent grant of planning permission in order to ensure that if any unexpected ground conditions were found present on the site they would be dealt with.</td>
</tr>
</tbody>
</table>
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**REPORTS FOR DEBATE**

<table>
<thead>
<tr>
<th>Consultee</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Education Authority</td>
<td>Possible additional verbal update at the Planning Committee meeting. No response received so far.</td>
</tr>
<tr>
<td>Sport England</td>
<td>Responded on 17 November 2017 and confirmed no objection to the proposal. It was further added that the proposal was considered to meet the requirements of exception E5 of the Sport England adopted Playing Fields Policy. Finally, it was requested that a Section 106 legal agreement be prepared that secured planned sports improvement at Kirkby Stephen Grammar School.</td>
</tr>
</tbody>
</table>

4. **Parish Council Response**

<table>
<thead>
<tr>
<th>Town Council</th>
<th>Object</th>
<th>Support</th>
<th>No Response</th>
<th>No View Expressed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kirkby Stephen</td>
<td></td>
<td>√</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

4.1 Kirkby Stephen Town Council would like to SUPPORT the application on the basis of the following reasons:

4.2 The Town Council confirmed that the land was identified as a possible housing site in the town plan. At the time of writing (November 2013) the Council recognised that it would be ideally positioned for sheltered/extra care accommodation as it is well placed for accessing the local shops and amenities including the health centre. The council confirmed that in the absence of a scheme for sheltered housing, the Council is supportive of the site being used for general housing.

4.3 The Council confirmed their encouragement for bungalows to be included on the site as this type is considered to be in demand due an aging population. The Council further confirmed that the access to the site would need to be carefully considered given its proximity to the junction with the B6260 and C3057 which converge at Christian Head at Kirkby Stephen Grammar School.

4.4 The Town Council concluded their support for the proposal as not only would it be of benefit to the school when proceeds were

5. **Representations**

5.1 The application was advertised by means of a site notice posted on the 6 November 2017; a press notice advertised in the Herald on the 11 November 2018 and the following number of neighbour notifications were also dispatched on the 2 November 2017:

<table>
<thead>
<tr>
<th>No of Neighbours Consulted</th>
<th>32</th>
<th>No of letters of support</th>
<th>2</th>
</tr>
</thead>
<tbody>
<tr>
<td>No of objection letters</td>
<td>1</td>
<td>No of neutral representations</td>
<td>1</td>
</tr>
</tbody>
</table>

5.2 The one objection received in relation to this application cited the following concerns;

- The land is surrounded by commercial buildings operating long hours;
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- The mountain rescue base requires 24 hour access;
- Soulby Road is, in its current state unsuitable for housing access;
- The nearby crossroads are used by the Kirkby Stephen Grammar School at least twice a day;
- Kirkby Stephen town plan recommends the site be used for commercial use;
- The site is not a preferred site in the proposed Eden Local Plan;
- There is no regular bus service despite what the applicants Design and Access statement says;
- The use of ‘alien’ yellow sandstone should be discouraged.

5.3 Two letters of support (one ‘in principle’ from the Kirkby Stephen Mountain Rescue Team) has also been received along with two letters providing observations in relation to the proposal.

6. Relevant Planning History
6.1 There is no relevant planning history in relation to this site.

7.0 Policy Context

7.1 Development Plan
- Eden Local Plan 1996 ‘Saved’ Policies

Core Strategy DPD Policy:
- CS1 - Sustainable Development Principles
- CS2 - Locational Strategy
- CS4 - Flood Risk
- CS7 - Principles for Housing
- CS8 - Making Efficient Use of Land
- CS16 - Principles for the Natural Environment
- CS17 - Principles for the Built (Historic) Environment
- CS18 - Design of New Development
- CS21 – Principles for Services, Facilities, Sport and Informal Recreation

Supplementary Planning Documents:
- Housing (2010)
- Management of Conservation Areas (2011)

7.2 Other Material Considerations

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

National Planning Practice Guidance
The policies detailed above are the most relevant policies relating to this application

Emerging Local Plan (2014-2032)
• LS1 - Locational Strategy
• LS2 – Housing Targets and Distribution
• DEV1 – General Approach to New Development
• DEV3 – Transport, Accessibility and Rights of Way
• DEV5 – Design of New Development
• HS1 – Affordable Housing
• HS4 – Housing Type and Mix

8. Planning Assessment

8.1 Key/Main Planning Issues
• Principle
• Landscape and Visual Impact
• Housing Density
• Housing Need
• Affordable Housing Contribution
• Flooding and Environmental Impacts
• Infrastructure
• Playing Field
• Archaeology/Historic Environment
• Other matters

8.2 Principle
8.2.1 In terms of the principle of housing development, consideration is given to the development plan. This consists of both the ‘saved’ policies of the local plan (adopted in 1996) and the districts Core Strategy (2010). In addition, there is a Housing
Supplementary Planning document which assists in the determination process. Housing policy within the district as prescribed within these documents that comprise the development plan indicate that residential development should be directed to sustainable locations. These locations are indicated within the Core Strategy as ‘Key and Local Service centres’. Development may also be permitted in other locations dependent upon local need etc.

8.2.2 Such locations are considered ‘Key and Local Service centres’ because they are where local facilities and infrastructure is provided. In turn, it is considered such locations are ‘sustainable’ hence why they are the preferred locations for residential development. In this instance, Kirkby Stephen is a designated ‘Key Service Centre’ and accordingly is considered an appropriate location for proposals such as this.

8.2.3 In the emerging local plan, the Locational Strategy is set within draft Policy LS1. Kirkby Stephen is designated as a ‘Market Town’ which is one step below Penrith (designated as the ‘main town’) and above locations designated as ‘key hubs’. As a ‘market town’ the emerging local plan states that such locations have been identified and designated to focus ‘moderate’ development, including housing.

8.2.4 The emerging local plan is now at a stage where policies, such as draft Policy LS1, can be afforded significant weight in the determination of planning applications. Furthermore on reviewing the consultation responses on the major modifications on the draft local plan there were no unresolved objections in relation to the locational strategy and the designations for the settlements within the district.

8.2.5 Balanced against this, it is still recognised that paragraph 49 of the NPPF states “relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.”

8.2.6 At present Eden District Council is unable to demonstrate a five year land supply (it currently is only able to demonstrate a 3.35 year supply). In such circumstances policies related to housing are to be considered out-of-date and planning authorities are required to take account of the National Planning Policy Framework (NPPF). The NPPF notes within paragraph 14 that “where the development plan is out-of-date, planning permission should be granted unless…the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF…or specific policies in the NPPF indicate development should be restricted”.

8.2.7 Paragraph 14 states that where policies are considered out-of-date planning permission should be granted unless there are adverse impacts. Such impacts would need to be considered significantly harmful and would demonstrably outweigh the benefits of the proposal.

8.2.8 Recently a Supreme Court judgement (Case ID UKSC 2016/0078) Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and anor (Respondents) Richborough Estate Partnerships LLP and anor (Respondents) v Cheshire East Borough Council (Appellant) [2017] UKSC 37also provides further qualification on how significant the lack of a demonstrable five year housing land supply actually is. Fundamentally, the judgement reaffirms that where such a supply is not demonstrable, paragraph 49 of the NPPF is a key material consideration in that all relevant housing policies detailed in the development plan are to be considered out-of-date. In turn, the determination of such applications given that circumstance in Eden means that paragraph 14 is a key factor.
to consider in the determination process. Ultimately, unless significant and demonstrable harm can be demonstrated to outweigh the benefits of the proposal, the development should be granted planning permission ‘without delay’.

8.2.9 However, it is equally important to note that whilst the lack of a five year housing supply is a significant consideration in relation to this application, at a planning appeal in Allerdale (APP/G098/A/13/2193690), the Inspector noted that the lack of a five year housing supply is a temporary circumstance and as a short term problem it must be weighed against the permanent harm caused to the character of an area and the conditions of nearby residents. This is significant as the Council will be able to demonstrate approximately a 6.5 year land supply once the emerging local plan has been adopted and the emerging local plan is now at an advanced stage.

8.2.10 Furthermore, in accordance with paragraph 216 of the National Planning Policy Framework the emerging local plan has gained weight as it has progressed. That weight has increased since the completion of the major modification consultation period on the 21st August 2017 and consequently, the plan is now at a more advanced stage. On reviewing the consultation responses on the major modifications process there were no unresolved matters related to the proposal for Penrith, the three towns and the 13 key hubs providing for the majority of Eden’s supply of housing.

8.2.11 In effect whilst this leaves the district with a continuing lack of a five year land supply at the time of writing this report (April 2018) it is acknowledged that if further housing numbers are required, these would be mainly directed in the locations established under draft Policy LS1 in terms of locational strategy – effectively, the Market Towns, key hubs and Penrith.

8.2.12 In this instance the site is acknowledged to be located on the edge of the town. However, it is considered to be a site within close walking distance of local services and amenities within the town itself – and Kirkby Stephen is considered a Market Town therefore a suitable location for housing on appropriate sites.

8.2.13 It is noted that the site is not one of those ‘designated’ within the emerging Local Plan. Accordingly, the site would represent a ‘windfall’ which the Planning Portal defines as ‘sites which have not specifically identified as available in the Local Plan process. They normally comprise previously developed sites that have unexpectedly become available’.

8.2.14 It is further noted that within their response, the Policy team quantified that, ‘The site therefore remains with no allocation on the basis that any proposal could come forward as a potential windfall site. It should be remembered that the allocations within the emerging local plan must be seen simply as a target and are not a cap for development. It would be for the detailed application that would demonstrate its suitability for development or otherwise’.

8.2.15 Therefore, the fact the site is unallocated within the emerging Local Plan is not a factor that should prevent its acceptability as a development site. So, despite the only objectors concerns that this site was not designated in the emerging Eden Local Plan, that is not, in its own right, a reason to refuse this proposal.

8.2.16 Accordingly, for the reasons detailed above it is considered that the in terms of the principle of the proposed development, it accords with the Development Plan, the emerging Local Plan and National Planning Policy and can merit support.

8.3 Landscape and Visual Impact
8.3.1 A significant consideration in the determination of this planning application is the extent of the impact of the proposed development upon both the character of the area and local landscape. It is noted that the application site is a disused playing field which is located on the edge of the town, opposite the Grammar School.

8.3.2 Inevitably there would be a change in visual appearance were this land to be subject to the implementation of a residential development. However, the site is not subject to any landscape designation and its loss is not considered significantly harmful. Indeed, the land currently has a rather ‘tired’ appearance and any development would likely improve its appearance.

8.3.3 The properties to the north and west are business premises which form part of the Kirkby Stephen business park. These are not occupied permanently so visual impact issues are not considered significant in relation to this area, relative to the site. However, how a residential development would ‘sit’ relative to this setting, adjacent to an existing business park is inevitably open to interpretation. That being said, with appropriate siting, there is no obvious reason why this site could not accommodate some residential dwellings and appropriate landscaping in proximity to the industrial estate itself, the school and indeed the wider town.

8.3.4 In terms of the design, scale and appearance of the proposed development, it is noted that such matters are not proposed at this stage. This is due to the proposal being outline consent, looking at the principle of the development only. Notwithstanding, should planning permission be granted then an appropriate design would be sought in order to ensure the proposal remained ‘in-keeping’ with the locality.

8.3.5 Furthermore, the applicant would have to have due regard to the Housing Supplementary Planning Document (Housing SPD) and the separation distances required as per that document. Appropriate mitigation can ‘soften’ such impacts and whilst they would not prevent a landscape impact it can assist in making the proposal less intrusive than it may otherwise be. As such, any scheme would need to be extensively detailed to the satisfaction of the planning authority and in accordance with the aforementioned Policy CS18 of the Core Strategy and draft Policy DEV5 of the emerging local plan.

8.3.6 Therefore, whilst it is accepted that the proposed development would result in an impact upon the local landscape due to the loss of an open piece of disused school playing field, it is considered that the impact would not be significantly or demonstrably adverse. Therefore, from the aspect of landscape and visual amenity the proposal is considered acceptable and can be supported.

8.4 Housing Density

8.4.1 It is noted that the Council’s principles on housing density are outlined within Core Strategy Policy CS8, which advises that housing schemes should have a minimum density of 30 dwellings per hectare. In the case of the current application, as the application site covers an area of 0.7 hectares, this would means that the scheme proposed should achieve a density level of just over 23 dwellings per hectare.

8.4.2 Whilst the proposed level of housing is slightly below the recommended level in Core Strategy Policy CS8, the reduced level would enable the applicant to offer a less overbearing development than there otherwise would be which is considered appropriate for this site and its setting. In conclusion, the proposal need not be complied with in full in this instance. Furthermore, it is noted that whilst the emerging Local Plan does not specifically refer to a density ‘target’ it does, within emerging
Policy DEV5 entitled ‘Design of New Development’, seek proposals to ‘reflect the existing street scene through the use of appropriate scale, mass, form, layout, high quality architectural design and use of materials’.

8.4.3 It is also recognised that the Upper Eden Neighbourhood Development plan considers housing densities as part of Policy UENDP4 (entitled ‘Housing densities’). This policy reaffirms that the maintenance of the local character is of ‘higher’ significance than meeting the figures quoted in Policy CS8. Taking this balanced view, it is considered that the proposal can still contribute to the housing needs of the district (and nationally) and contribute affordable homes too. These contributions are worthy of being acquired despite the density aims of Policy CS8.

8.4.4 Therefore, for the reasons detailed above it is considered that the density of the proposed development is considered to be acceptable in this instance.

8.5 Housing Need

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

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

8.5.3 Therefore, it is accepted that a housing need does exist within the District (which is also a national need) which should be delivered within sustainable and appropriate locations such as Kirkby Stephen which is designated a ‘market town’. These locations are those such as Kirkby Stephen as identified by the districts Core Strategy and emerging Local Plan locational strategy.

8.6 Affordable Housing Contribution

8.6.1 The Districts Core Strategy includes Policy CS10 entitled ‘Affordable housing’, which confirms that the council aspires to a target of 30% affordable housing for schemes above a threshold of 4 units. In the light of the new advice from Planning Practice Guidance this threshold for the provision of affordable housing has been raised to schemes above a threshold of 11 units and above.

8.6.2 Indicative plans associated with this outline application suggest approximately 16 dwellings to be constructed if this permission was approved and subsequently implemented. A 30% affordable home contribution would therefore contribute potentially up to 5 affordable dwellings to the district. The precise composition of these properties is not yet known but those details could be discussed at the reserved matters stage to the satisfaction of the District Council.

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

8.7 Amenity Impacts

8.7.1 There has been one objection received in relation to proposed scheme and two observations received which did raise the issues of whether it was ‘wise’ to build
properties in proximity to an operational Industrial Estate. This is a legitimate query and one that has been considered by the Environmental Health Officer at length.

8.7.2 Policy CS18 of the Core Strategy and draft policy DEV5 of the draft local plan require that development protects the amenity of existing residents and provides an acceptable amenity for future occupiers of any potential development.

8.7.3 The Environmental Health Officer has been in lengthy discussions with the applicant and initially raised concerns over the proposal and the mitigation proposed by the applicant. The outcome of these discussions is that appropriate acoustic mitigation (in the form of an acoustic barrier and appropriate glazing) is sufficient to deal with these concerns and so accordingly cited no concerns in their response requesting that appropriate conditions be attached to any subsequent grant of planning permission.

8.7.4 In terms of the delivery times, these will be restricted by condition to ensure that the developer delivers at times that do not conflict with the beginning and end of the school day which are when the local highway network will be busier.

8.7.5 Accordingly, it is not considered that this proposal would have any significantly demonstrable harm in terms of noise, dust or vibration. It is accepted that were this application be granted planning permission there are likely to be limited amenity impacts during any construction works. However, paragraph 123 of the NPPF acknowledges this and with appropriate conditions, limiting construction hours and deliveries, can help protect amenity during such works and so therefore, in themselves, the construction works are not a reason to refuse this proposal.

8.7.6 Accordingly, it is not considered that this proposal would have any significantly demonstrable harm in terms of amenity of the area contrary to Policy CS18 of the Core Strategy and draft policy DEV5 of the draft local plan. It is accepted that were this application granted planning permission there are likely to be amenity impacts during any construction works. However, as noted, paragraph 123 of the NPPF acknowledges this and with appropriate conditions, limiting construction hours, can help protect local amenity during such works. Such a condition is drafted in section of this report, limiting the hours of construction to protect such amenity.

8.8 Flooding and Environmental Impacts

8.8.1 The site is located within a Flood Zone 1 which is a location that has a low probability of flooding (less than 1 in 1000 chance annually). Accordingly, with appropriate risk-based sequential testing, this site was considered appropriate for residential dwellings in terms of flooding.

8.8.2 The Planning Statement indicates that surface water would be dealt with via infiltration in the ground via, soakaways and permeable surfaces. Given that the proposal is at the outline stage, the applicant has advised that detailed site investigations would be carried out at the reserved matters stage. The applicant has also confirmed that a new foul sewer would be constructed to then connect into the existing sewer network.

8.8.3 Policy CS4 of the districts Core Strategy confirms that development ‘should have regard to the flood zone typologies’. In regard to the emerging local plan, draft Policy DEV2 entitled ‘Water Management and Flood Risk’ confirms that ‘new development’ should ‘meet the sequential approach to development in flood risk areas’. Paragraph 103 of the NPPF indicates that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere.
8.8.4 The Lead Local Flood Authority have been consulted upon this application and confirmed that they had no objection to the proposal on the basis that conditions related to surface water and drainage be attached to any subsequent grant of planning permission.

8.8.5 Accordingly, it is considered that the development could proceed without undue or significant harm relative to flood risk and is unlikely to result in flood events on site or elsewhere and can be supported.

**Ecology**

8.8.6 Policy CS16 of the Eden District Core Strategy seeks to ensure that protection is afforded to designated with international, national or local importance. Although this policy does not seek to prevent development outright, it is clear that the direction is that appropriate protection should be provided for if development is approved where sites are of significant importance.

8.8.7 In this instance the site subject to this application is not afforded any landscape designation nor is it subject to any special ecological designation. Indeed the site is considered to be of low ecological value. It is therefore considered that this proposal would not have any significant and demonstrable harm in ecological terms were it to be approved and subsequently implemented.

**8.9 Infrastructure**

8.9.1 It is noted that the one objection received in relation to this proposal made reference to the existing highway network as being 'unsuitable' and local concerns regarding it. The Highway Authority has been consulted in relation to this proposal.

8.9.2 The initial response received required further information and a speed survey was completed by the applicant and the Highways Authority request.

8.9.3 Paragraph 32 states, ‘All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe’.

8.9.4 The direction of paragraph 32 is explicit – in order to refuse a proposal on the basis of Highways grounds, the development would have to demonstrably ‘severe’ cumulative impacts.

8.9.5 In this instance, the applicant has provided additional information in relation to highways for the benefit of the Highways Authority to consider. The response from the Highways Authority (included in Section 3 of this report) is clear – that no such ‘severe’ impact would result as a consequence of this proposal being granted planning permission and implemented. It is therefore considered unreasonable to refuse this
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application on highways grounds – accordingly the proposal is considered acceptable in a highways impact context.

8.9.6 Therefore, for the reasons detailed above, in terms of the local infrastructure it is considered that on the basis of the Highways Authority response, it is capable of coping with the proposed development without any additional significant adverse effects. Accordingly, the proposal is considered to merit support.

8.10 Playing Field

8.10.1 The site is currently an unused playing field owned by the Local Education Authority. Accordingly, proposals to develop such a site need to take account of relevant policies related to such parcels of land. Paragraph 74 of the NPPF advises that ‘Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
- the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss’.

8.10.2 The NPPF also emphasises the importance of ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. To this end, within Paragraph 72 it states that “Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:

- give great weight to the need to create, expand or alter schools; and
- work with school’s promoters to identify and resolve key planning issues before applications are submitted”.

8.10.3 As has been established paragraph 74 of the NPPF is clear that existing open space and/or sports and recreational buildings and land should not be built upon. There are caveats to this though and these relate to any assessments that may have been undertaken to clearly show that a site has a surplus of playing field or if the loss would be replaced with better provision or the development is for alternative recreational provision which outweighs the proposed loss.

8.10.4 The applicant has confirmed that were this proposal to be approved the funds from the proceeds of sale would be utilised in providing updated sporting facilities associated with the school. These would comprise a proposed artificial sports pitch – this would be floodlit and ultimately be available for the local community to utilise outside of normal school hours. It should be noted that such a development would, in its own right, require planning permission which would need to be sought separately.

8.10.5 Section 8 of the NPPF, entitled ‘Promoting Healthy Communities’, reinforces the role that the planning system can have in facilitating healthy, inclusive communities. Specifically, paragraph 70 states that planning policies and decisions should ‘plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of
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worship) and other local services to enhance the sustainability of communities and residential environments’.

8.10.6 Policy CS21 of the Core Strategy confirms that the ‘Council will work with partner organisations’. Criterion 5 of the policy states that the Council will also ‘meet the formal and informal sport and recreation needs of the District’.

8.10.7 Whilst this proposal is not directly for the construction of such a sporting facility it is acknowledged that it is inextricably linked to such a potential facility. So, although it is accepted that this application would not immediately result in the artificial sports pitch being constructed, it is understood that funds associated with the sale of the land would be ‘ring fenced’ by legal agreement for use in such a proposal in the future. Such a facility, that would enhance the school’s own facilities as well as provide a community facility would represent a significant planning ‘gain’. This is even more significant when the existing use (or perhaps put best, lack of use) of the site is considered.

8.10.8 In this instance Sport England have also confirmed that they do not object to the proposal as they consider the proposal to meet one of their exception policies (Policy ref. E5). Sport England confirmed that ‘it came to light that the capital receipt from the sale of the land is to be ring fenced for sports improvements with community use on the school site….therefore, Sport England has considered that although this does not technically meet any of the policy exceptions the sporting benefits gained by the outcome of the application can broadly meet policy exception E5’. Policy exception E5 states as follows, ‘The proposed development is for an indoor/outdoor sports facility of sufficient benefit to sport to outweigh the detriment caused by the loss of playing field’.

8.10.9 On this basis then it is considered that given the response provided by Sport England they consider the proposed development of playing field to be ‘broadly’ in accordance with their exception Policy E5. Accordingly, the proposed development of playing field, in this instance, can be supported.

8.11 Other Matters

8.11.1 One matter that is worthy of consideration is that the site, given its proximity to the existing industrial estate, appears to be an ideal location for further employment land usage.

8.11.2 Draft Policy EC2 entitled ‘Protection of Employment Sites’, states that ‘planning permission for non-employment uses on land allocated for employment development will not be permitted unless there is no reasonable prospect of a site being used for that purpose’.

8.11.3 In this instance the site is not allocated for employment use and therefore this proposal would not be contrary to draft Policy EC2. The Policy response is explicit in that it confirms this site would be considered a ‘Windfall’ site and therefore the site should not be considered unacceptable purely because it was not identified as available for housing in the emerging Local Plan. Indeed, it is acknowledged that in the emerging local plan sufficient employment land has been allocated without the inclusion of this site.

8.11.4 The Policy response also acknowledges that the sites landowner would not release the land for employment use anyway. Therefore, whilst it may seem logical to utilise the land for that purpose, the landowner’s position appears such, that this ideal will never be realised.
8.11.5 It is noted that the objector to the application refers to the Mountain Rescue Team requiring 24 hour access to their building. The Mountain Rescue Team were consulted in relation to this proposal. They support the proposal in principle but do have some concerns. These are specifically;

- Call outs can be made at any time and the vehicles left by volunteers can remain unattended in the area for some time – occasionally causing some congestion. The proposed scheme will, in the view of the Mountain Rescue Team, remove the future possibility of providing off-street parking;

- Without additional land for parking, training, future expansion and development of the base facility could mean the long-term presence of the Rescue Team is compromised;

- The road towards Soulby, from its junction at ‘five ways corner’ outside the Grammar School is currently unable to cope with traffic volumes as is with the road narrow and difficult for two cars to pass each other.

8.11.6 On these specific points, the scheme proposed shouldn’t deny the Mountain Rescue Team any of their existing parking areas but if they park on the specific land subject to this proposal, that land is not theirs. It is noted the valuable and commendable voluntary service the Mountain Rescue Team provide, but the land is not within their ownership or control and unfortunately, the Land Owner wishes to sell it.

8.11.7 It is also acknowledged that the Rescue Team would like to expand but this is not a material planning consideration in relation to this proposal. The Planning Authority can only determine the application in front of them, which the landowner has sought – the inability of the Rescue Team to reach a deal with the landowner to acquire the land subject of this proposal is unfortunately not within the remit of the Local Planning Authority to take account of when determining this application.

8.11.8 The specific concerns raised in relation to the Highway are noted – but these are dealt within paragraph 8.9 of this report. Ultimately, Highways concerns are noted, but the Highways Authority has given their considered view in relation to this scheme.

9. **New Homes Bonus**

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

10. **Implications**

10.1 **Equality and Diversity**

10.1.1 The Council must have regard to the elimination of unlawful discrimination and harassment, and the promotion of equality under the Equality Act 2010.
10.2 Environment
10.2.1 The Council must have due regard to conserving bio-diversity under the Natural Environment and Rural Communities Act 2006.

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

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

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

11. Conclusion
11.1 On balance this scheme provides two potential planning gains. Firstly, affordable housing, in a location where the Planning Authority wishes to see housing built, and the proceeds of sale for the land being ring fenced for use on sport facilities at the school.

11.2 It is important to remember that this proposal would only facilitate the potential improved sporting facilities on the school site as they in themselves would need planning permission. However, were this development to be approved, the approval would require a legal agreement which, in part, would require the proceeds be utilised for proposed sporting improvements on the school site.

11.3 The extant and emerging local plans illustrate the importance of healthy communities, as does the NPPF. Whilst this proposal is not for such a development, its ability to facilitate such development on the school site, must be considered relevant as it would ultimately result in planning ‘gain’. This gain is considered significant, particularly given the underuse of the site as it is – which is a tired piece of land with no consistent use at all.

11.4 In such circumstances then, the benefit of the scheme is not only that it provides affordable homes in a ‘Market Town’ of the district, but it also would potentially facilitate enhanced sporting facilities at the school site, which in turn would be a community asset, used by the wider community outside of normal school hours to the benefit of the school, its pupils and the wider public. These benefits are considered significant benefits.

11.5 The location of the site is acknowledged to be adjacent to the existing industrial estate, however, the Environmental Health Officer is satisfied that future occupants of the dwellings could live their without significant amenity issues. These are down to the proposed mitigation measures which include appropriate glazing to be installed on any dwelling constructed and an acoustic fence to be installed on site.

11.6 The concerns related to Highways are also acknowledged. However, the response from the Highways Authority is such, that it is clear they do not consider the proposal would result in any significant Highways concerns.
11.7 On this basis then, the proposal is not considered to be likely to result in any significant amenity or highways impacts. Balanced against this are the perceived gains of the proposal, referred to above which substantially outweighs the loss of the land and accordingly it is concluded that planning permission should be granted.

Jane Langston
Assistant Director Technical Services

Background Papers: Planning File 17/0922
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REPORTS FOR DEBATE

Date of Committee: 17 May 2018
Planning Application No: 18/0206 Date Received: 13 March 2018
OS Grid Ref: 355025 536780 Expiry Date: 13 June 2018
Parish: Great Salkeld Ward: Lazonby
Application Type: Outline
Proposal: Proposed residential development
Location: Land behind Hunter Hall Farm, Great Salkeld
Applicant: Hunter Hall Developments Ltd
Agent: Mr Graham Norman
Case Officer: David Coates
Reason for Referral: The application is a major development and is subject to an objection from a Statutory Consultee.
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1. **Recommendation**

That the application is refused for the following reasons:

i) The development is contrary to the aims and criteria of draft Policy LS1 of the emerging Eden Local Plan in the absence of sufficient justification;

ii) The development would result in an inappropriate extension to the settlement adversely altering its character and resulting in landscape harm, contrary to draft Policy DEV5 of the emerging Local Plan;

iii) The development proposed unrestricted dwellings with no local occupancy requirements contrary to draft Policy HS2 of the emerging Local Plan;

iv) The development would result in unacceptable adverse impacts upon the existing highway network and highway safety due to the inappropriateness of the of the proposed access, contrary to draft Policy DEV4 of the emerging Local Plan.

v) The development would adversely affect the form of the settlement within the landscape setting contrary to draft Policy ENV2 of the emerging Local Plan and the Cumbria Landscape Character Guidance and Toolkit.

The adverse impacts of the proposed development significantly and demonstrably outweigh the benefits of the proposed residential development in accordance with paragraphs 14 and 49 of the National Planning Policy Framework.

2. **Proposal and Site Description**

2.1 **Proposal**

2.1.1 The application seeks outline planning permission for residential development on land behind Hunter Hall Farm, Great Salkeld with all other matters reserved. This proposal is a re-submission of 17/0904 which was refused planning permission by members of this committee in February 2018. That 17/0904 scheme was for 9 detached dwellings and a terrace of 3 affordable dwellings. The scheme subject of this application proposed 100% affordable housing includes a viability appraisal but ultimately offers no difference in provision to the refused scheme. Therefore as there is no difference in the submission, the same considerations are still relevant and apply.

2.1.2 The proposed development seeks outline approval for up to 12 residential dwellings as shown on indicative plans. The applicant has suggested that there would be a likely split of nine detached open market dwellings and three affordable terraced houses, each with a shared access onto the existing public highway. The applicant’s, through the submitted viability assessment, assert the 9 detached dwellings are required to make the 3 affordable houses as part of the scheme economically viable.

2.1.3 Access to the site would be achieved via a single point of access servicing each of the properties. This access would utilise the existing access to the farmstead, off the main village thoroughfare. In order to improve the size of the access to the site, an existing barn is due to be partially demolished which is presently adjoining the north of the farmhouse range.

2.1.4 As the current proposal is for outline planning permission, at this stage matters relating to the site layout, form, design, scale and appearance of the buildings, drainage and access would be subject to a further reserved matters application should planning
permission be granted. The applicant has however indicative plans demonstrating how the layout of the site could achieve up to 12 houses and possible access details. Notwithstanding the indicative plans submitted, the current application seeks approval for the principle of residential development at the site only.

2.1.5 In line with the requirements of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended 2015), it is considered that the whilst the development falls within the criteria of Schedule 2 Development (Part 10 Infrastructure Projects (b)), the application does not meet or exceed the threshold criteria, by virtue of being less than 5 hectares and for less than 150 residential dwellings. Therefore, the application need not be accompanied by an Environmental Impact Assessment.

2.2 Site Description

2.2.1 The application site is located on the edge of the village of Great Salkeld, on land to the rear of Hunter Hall Farm. Great Salkeld, like many villages within the District is linear in form following the road network. This village edge piece of land is currently an undeveloped and greenfield site in a low intensity agricultural use. The site has a gentle west to east slope running through it, with the land to the west being topographically higher than the village of Great Salkeld.

2.2.2 The houses currently forming the edge of Great Salkeld are located to the immediate east of the site. This eastern boundary is considered to form the current development limit for the village. The application site is surrounded by expanses of agricultural land and open countryside to the north, west and south. A number of steel containers are located within the field to the north of the site, but these units are not considered to be within the settlement limits. As such, the application site would represent an extension to the footprint of the village into the surrounding open countryside.

2.2.3 The site is enclosed by a dry stone wall along the northern, eastern and southern boundaries of the site. The western edge of the application site is not presently enclosed, due to it forming part of the two larger fields.

2.2.4 To the east of the site at a distance of approximately 35 metres is Hunter Hall School and Former Stables which is a Grade II Listed Building, listed for its architectural or historical significance.

2.2.5 The application site is located within a Flood Zone 1, being at the lowest risk of flooding. The application site is also located within the Great Salkeld Conservation Area.

2.2.6 Great Salkeld lies within but close to periphery of landscape sub-type 6 (Intermediate Farmland) which extends primarily to the west of the village. The vision and guidelines for development indicates that existing village forms (linear or nuclear) will be conserved or enhanced.

3. Consultees

3.1 Statutory Consultees

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<th>Consultee</th>
<th>Response</th>
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<tr>
<td>Highway Authority – Cumbria County Council</td>
<td>Responded on 27 November 2017 noting that the proposed development would result in an intensification of the use of the existing access, which would not be wide enough to service 12 dwellings in addition to the previously approved conversion of a</td>
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barn to three dwellings. As such, it is recommended that the application be refused on the basis of a lack of information to demonstrate that the proposal is acceptable in terms of:

- Access
- Visibility splays
- Its effect on local traffic conditions and public safety
- Impact on sustainable travel.

Further information was provided by the applicant following receipt of this consultation response, providing further details in relation to the available visibility splays from the proposed site access.

Following the submission of this additional information, a further response was provided by Cumbria County Council confirming that there is still an objection to the proposed access due to its width not being in accordance with the Cumbria Design Guidance. The access proposed is 4.1 metres wide, which given it would serve more than 5 dwellings would need to be 4.8 metres wide. Therefore, it was recommended that the application be refused on the basis that the access road is of an insufficient width to accommodate the likely increase in traffic.

Further plans were provided by the applicant demonstrating that the road width of 4.8 metres could be achieved. In response to this information, Cumbria County Council provided a third consultation response in which it was noted that whilst a width of 4.8 metres meets the requirement of the Cumbria Design Guide, the access to be formed into the site is constrained by adjacent buildings. In addition, the spacing of the access with the junction on the opposite side doesn’t comply with a junction spacing requirement of 25 metres. As such, Cumbria County Council continue to recommend that the application is refused on the basis that the proposed access serving the development is inadequate to accommodate the likely increase in traffic.

Environment Agency
Responded on 07 November 2017 making no comments to the application.

Local Lead Flood Authority – Cumbria County Council
Responded on 27 November 2017 noting that there are no records of the site having flooded, with the nearest Flood Zones 2 and 3 being located approximately 300 metres from the site.

3.2 Non-Statutory Consultees

<table>
<thead>
<tr>
<th>Consultee</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Historic Environment Officer – Cumbria County Council</td>
<td>Responded on 14 November 2017 noting that the site lies in an area of archaeological potential and as such the construction of the proposed development has the potential to disturb buried</td>
</tr>
<tr>
<td>Consultee</td>
<td>Response</td>
</tr>
<tr>
<td>---------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>archaeological assets.</td>
<td>It was recommended that archaeological evaluation and recording takes place prior to the commencement of the development. This evaluation should be in the form of a Written Scheme of Investigation which should be secured through the imposition of a condition.</td>
</tr>
<tr>
<td>United Utilities</td>
<td>Responded on 04 December 2017 raising no objection to the proposal provided that conditions are attached to any decision notice as may be issued requiring further details on foul and surface water to be submitted.</td>
</tr>
<tr>
<td>Conservation Officer</td>
<td>Responded on 17 November 2017 providing detailed comments on the importance and significance of the Great Salkeld Conservation Area.</td>
</tr>
<tr>
<td></td>
<td>It was noted that the removal of a dry stone wall has the potential to cause harm to the historic fabric of the area and should be reincorporated into the final design of the site, although its loss is likely outweighed by the benefits of the scheme. The indicative layout is sympathetic to the settlement and form of the village. The landscaping scheme should not reduce the visual link between the site and the Church which is a key part of the aesthetic value of the site.</td>
</tr>
<tr>
<td></td>
<td>Further comments were provided in relation to the required design of the buildings, however such comments are more relevant to a Reserved Matters application should planning permission be granted. It was concluded that the proposed development has the potential to be in accordance with the emerging Local Plan subject to approval of design details.</td>
</tr>
<tr>
<td>Natural England</td>
<td>Responded on 17 November 2017 raising no objection to the proposal as the development is unlikely to have a significant effect on the interest features for which the River Eden SAC has been classified.</td>
</tr>
<tr>
<td>Housing Officer</td>
<td>Responded on 22 December 2017 noting that the village of Great Salkeld is classed as a Smaller Village and Hamlet under the emerging Local Plan Policy LS1. It is not considered that the development meets the definition of ‘rounding off’ or ‘infill’. In addition the development may not be considered to be small-scale. Any housing would need to be limited to meeting local demand only as per appendix 6 of the emerging Local Plan.</td>
</tr>
</tbody>
</table>

4. Parish Council Response

<table>
<thead>
<tr>
<th>Please Tick as Appropriate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Town Council</td>
</tr>
</tbody>
</table>
4.1 No response has been received from Great Salkeld Parish Council to date.

5. **Representations**

5.1 The application was advertised by means of a site notice posted on 16 November 2017 and the following neighbour notifications:

<table>
<thead>
<tr>
<th>No of Neighbours Consulted</th>
<th>39</th>
</tr>
</thead>
<tbody>
<tr>
<td>No of objection letters</td>
<td>3</td>
</tr>
<tr>
<td>No of letters of support</td>
<td>0</td>
</tr>
<tr>
<td>No of letters of observation</td>
<td>1</td>
</tr>
</tbody>
</table>

5.2 The letters of objection received, raised the following points:

- Traffic levels will be dangerous and excessive in addition to existing development;
- The entrance to the site is likely to be dangerous, not helped by the road junction opposite;
- There is no school in the village. Will local schools be able to cope with and take extra pupils?
- Will local medical facilities be able to cope?
- The development is too large for a greenfield site;
- The emerging Local Plan requires development in Great Salkeld to be of an appropriate scale and meet local demand only. This development does not meet this criteria;
- The principle of residential development is not established as the proposal does not accord with the provisions of Policies LS1 and HS2 of the emerging Local Plan;
- The development would result in adverse impacts upon the Great Salkeld Conservation area and is therefore, contrary to the emerging Eden Local Plan and the NPPF;
- The development would result in adverse harm to the setting of the Grade II Listed Hunter Hall and is therefore, contrary to the emerging Eden Local Plan and the NPPF;
- The access to the site does not accord with the provisions of the Cumbria Design Guide or Design Manual for Roads and Bridges;
- No ecological assessment of the site has been submitted in support of the planning application;
- The adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole.

5.3 The letter of observation raised the following points:

- The field floods due to prolonged heavy rainfall and has on numerous occasions;
- Has a percolation test been undertaken for the proposal and at an appropriate time of the year?
Agenda Item 3
REPORTS FOR DEBATE

- The soakaways would be only five metres from our house which raises concerns of increased flood risk;
- It is likely that the field drains and culverts in the field may need replacing to reduce the flood risk;
- There is no public transport in the village or school and shop as suggested by the applicant

6. Relevant Planning History

6.1 The planning history considered most relevant to the determination of this planning application involves:

17/0944 Proposed Residential Development Refused 02 Feb 2018

7.0 Policy Context

7.1 Development Plan

Eden Local Plan:
- ‘Saved’ Policy NE1 Development in the Countryside

Core Strategy DPD Policy:
- CS1 Sustainable Development Principles
- CS2 Locational Strategy
- CS3 Rural Settlements and the Rural Areas
- CS5 Transport and Accessibility
- CS7 Principles for Housing
- CS16 Principles for the Natural Environment
- CS17 Principles for the Built (Historic) Environment
- CS18 Design of New Development

Emerging Local Plan:
- LS1 Locational Strategy;
- DEV1 General Approach to New Development
- DEV4 Infrastructure and Implementation
- DEV5 Design of New Development
- HS1 Affordable Housing
- HS2 Housing in Smaller Villages and Hamlets
- ENV1 Protection and Enhancement of the Natural Environment, Biodiversity and Geodiversity
- ENV4 Protection of and Enhancement of Landscape and Trees
- ENV10 The Historic Environment
Due to the advanced stage of adoption of the emerging Local Plan and following confirmation from the Planning Inspector, substantial weight is now afforded to the above draft policies in the determination of this planning application.

**Supplementary Planning Documents:**
- Housing (2010)

### 7.2 Other Material Considerations
- Cumbria Landscape Character Guidance and Toolkit

**National Planning Policy Framework:**
- The presumption in favour of sustainable development
- Core planning principles
- Delivering a wide choice of high quality homes
- Requiring good design
- Conserving and enhancing the natural environment
- Conserving and enhancing the historic environment
- Annex 1 – Implementation

### 8. Planning Assessment

#### 8.1 Key/Main Planning Issues
- Principle
- Landscape and Visual Impact
- Historic Environment
- Affordable Housing Contribution
- Infrastructure
- Other Matters

#### 8.2 Principle

8.2.1 In terms of the principle of this application, consideration and assessment of its acceptability is made in relation to the policies contained within the Development Plan and to the National Planning Policy Framework (NPPF). This consists of the 'saved' policies of the Local Plan (adopted in 1996), the districts Core Strategy (2010) and the draft Policies within the emerging Local Plan (2014-2032).

8.2.2 In terms of weight, of increasingly more significance is the emerging Eden Local Plan (2014-2032), which in accordance with paragraph 216 of the NPPF, is now being afforded significant weight in the determination of planning applications as a consequence of its advanced stage of adoption. That weight has increased since the completion of the major modification consultation period on the 21st August 2017 and consequently, the plan is now at a more advanced stage. It is noted that a further consultation exercise was undertaken in December 2017 which was completed in January 2017. This relates to very specific issues, which are, the Town Plans for both Alston and Kirkby Stephen, Policy DEV3 entitled ‘Transport, Accessibility and Rights of Way, HS2 entitled ‘Housing in the Smaller Villages and Hamlets’ and ENV10 entitled
‘The Historic Environment’. On reviewing the consultation responses on the major modifications process there were no unresolved matters related to the proposal for Penrith, the three towns and the 13 key hubs providing for the majority of Eden’s supply of housing. This position has been confirmed by the Planning Inspector for the emerging Local Plan.

8.2.3 In effect whilst the district is still temporarily unable to demonstrate a five year land supply, it is acknowledged that if further housing numbers are required, these would be directed in the locations established under draft Policy LS1 in terms of locational strategy – effectively, the key hubs and Penrith rather than locations designated as ‘villages or hamlets’ or indeed ‘local service centres’ unless overriding exceptions can be demonstrated.

8.2.4 Within the emerging Local Plan draft Policy LS1 designates the village of Great Salkeld as a ‘Smaller Village and Hamlet’, which is considered to be of limited sustainability in terms of housing development due to the lack of facilities, shops, services, schools and public transport links. In such locations, the development of greenfield sites would only be permitted in exceptional circumstances and restricted to infill sites which fill a modest gap between existing buildings within the settlement, or rounding off which provides a modest extension beyond the limit of the settlement to a logical and defensible boundary. In both circumstances housing development would be further limited to meeting a local connection criteria, secured through a Local Occupancy condition in accordance with draft Policy HS2 of the emerging Local Plan.

8.2.5 In the case of the current proposal, the development is not considered to be infill or rounding off development and proposes no local occupancy restrictions. The application would clearly represent an extension to the footprint of the settlement into surrounding undeveloped and open countryside land, beyond the existing development limit of the settlement. Whilst there are a number of sheds located to the north of the site, this is not considered to form part of the settlements built form. To the south and west of the site are expanses of unrestricted land which demonstrates that the site is not within the current settlement limit of the village and does not represent an ‘infill’ development.

8.2.6 Furthermore, in light of the application site occupying a village edge location, the site is surrounded by expanses of open and rolling countryside and agricultural land to the north, south and west. Although there are stone walls diving field boundaries, it is considered that there are no strong or defensible boundaries to the north, east or west, which would prevent or restrict the development from flowing out into the surrounding undeveloped countryside. As such, the development cannot be considered to be a rounding-off development.

8.2.7 The application therefore in its’ siting, location and with the justification as submitted, is not considered to “exceptionally” comply with the criteria concerns and aim of draft Policy LS1 of the emerging Local Plan. Therefore, the application is contrary to the Development Plan.

5 Year Land Supply

8.2.8 It is noted that planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. At the present time, Eden District Council is technically unable to demonstrate a five-year housing land supply as required by the National Planning Policy Framework (NPPF). At the present time Eden can demonstrate 3.33 year supply of available and deliverable
housing land. Therefore, in accordance with paragraph 49 of the Framework “relevant policies for the supply of housing should not be considered up to date of the local planning authority cannot demonstrate a five-year supply of deliverable housing sites”. As such, the development plan policies relating to the supply of housing are considered out-of-date and afforded less weight in the planning assessment.

8.2.9 Furthermore, the NPPF notes within paragraph 14 that “where the development plan is out-of-date, planning permission should be granted unless…the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF...or specific policies in the NPPF indicate development should be restricted”.

8.2.10 This position is supported by a recent Supreme Court judgement in Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and anor (Respondents) Richborough Estate Partnerships LLP and anor (Respondents) v Cheshire East Borough Council (Appellant) [2017] UKSC 37 has provided further clarity and case law on how the impacts of paragraphs 14 and 49 of the National Planning Policy Framework are to be applied to applications for housing development in the absence of a five year housing land supply. This ruling emphasised that the test set out in paragraph 14 covers all aspects of a proposed development and not just related to polices that restrict housing. Furthermore, the ruling makes it clear that paragraph 14 is the primary test to be considered rather than the National Planning Policy Framework taken as a whole.

8.2.11 However, notwithstanding the above Court Judgement, the Council can still have regard to its housing policies in the planning balance when it falls short of the 5 year housing land supply. In a further recent Court ruling the Judge advocated that there will be many cases in which restrictive policies, whether general or specific in nature, are given sufficient weight to justify the refusal of planning permission despite their not being up-to-date under the policy in paragraph 49 of the NPPF in the absence of a five-year supply of housing land (Suffolk Coastal DC v. Hopkins Homes Ltd. [2016] EWCA Civ 168). Even if a policy is ‘out of date’ it does not become irrelevant; it must not be ignored or not applied. The weight to be given to such a policy will be for the decision maker.

8.2.12 As noted previously, due to the advanced stage of adoption and confirmation from the Planning Inspector, draft Policy LS1 of the emerging Local Plan is afforded substantial weight in the determination of this planning application. The proposed development is not in compliance with the policy LS1 to such an extent that this in itself demonstrates significant and demonstrable harm which would cause irreparable, permanent harm to the character and setting of the settlement to an extent which would outweigh the benefits of the scheme. For this reason, the proposal is not considered to represent a sustainable or appropriate development.

8.2.13 Of further significance in relation to the Council’s lack of a five-year housing land supply, is that once the emerging Local Plan is adopted, the Council will be able to demonstrate a 6.41 years housing land supply. This assessment is based upon information held as at 01 April 2017 and the following sites delivering housing within the next five years:

i) sites under construction;

ii) sites with planning permission;

iii) allocated sites;
v) sites awaiting a Section 106 Legal Agreement;
vi) a small windfall allowance.

8.2.14 Therefore, whilst Paragraph 14 is triggered by this application, the proposal fails to meet the test of sustainable development due to the conflict with draft Policy LS1 of the emerging Local Plan. On this basis the proposed development is not considered to constitute sustainable development and planning permission should be refused. The principle of the development in this location is not established and cannot be supported.

8.3 Landscape Harm and Visual Impact

8.3.1 A further consideration in the determination of this planning application is the impact of the proposed development upon the character and visual appearance of the local landscape. The Council’s Development Plan largely seeks to protect the open countryside from unjustified and inappropriate development. In this instance, this is given particular importance due to the contribution that the surrounding undeveloped countryside around the settlement makes to the character, setting and appearance of the Great Salkeld Conservation Area.

8.3.2 It is acknowledged that the application site is in a relatively discreet location, positioned to the immediate rear of the existing settlement limit. However, Great Salkeld is a linear village in form, and is located within the landscape subtype 6 (intermediate Farmland) as identified within the Cumbria Landscape Character Guidance and Toolkit, of which this Council is a joint author. Here guidance indicates that development should be well related to distinctive built forms, which should help protect and enhance historic stone built villages with distinctive nuclear or liner forms. In the case of Great Salkeld, whilst the village does have a centre nucleated around the church, it is nevertheless a village settlement pattern which is largely linear in character. This proposal would result in a significant enlargement of village and diluting the physical linear settlement pattern of the village.

8.3.3 In terms of the built environment, an appropriate high quality design, scale and appearance of the proposed buildings may enable the development to tie-in to the adjacent settlement. However, such matters would be for consideration at a Reserved Matters stage due to the outline nature of the development.

8.3.4 The application proposes an extension of the settlement, the scale of which is questionable in terms of its size, into surrounding open-countryside with no justifiable need demonstrated. The appropriateness of the scale of the development is also questionable and it is considered that the proposal represents an unjustified and unacceptable loss of an area of agricultural and undeveloped land detrimental to the linear character of the village, and its wider setting. Although the impact of the landscape harm could be lessened by the location of the application site and through some landscaping mitigation, an inappropriate extension to the settlement would result in landscape harm and adversely alter the character of the village contrary to draft Policies DEV5 and ENV2 of the emerging Local Plan.

8.4 Flooding and Environmental Impacts

8.4.1 An objector to the application has raised concerns in relation to the potential risk of flooding which may occur as a result of the proposed development of the site, noting that the site already floods which would be exacerbated by 12 further houses.
8.4.2 Policy CS4 of the districts Core Strategy confirms that development ‘should have regard to the flood zone typologies’. In regard to the emerging local plan, draft Policy DEV2 entitled ‘Water Management and Flood Risk’ confirms that ‘new development’ should ‘meet the sequential approach to development in flood risk areas’.

8.4.3 Although the concerns of the objector are duly noted, the application site is located within a Flood Zone 1, being at the lowest risk of flooding. In addition, it is noted that no objections to the proposal have been registered to the application by either the Environment Agency or by Cumbria County Council in its role as Lead Local Flood Authority. Whilst no drainage details have been provided at this outline stage, there is no suggestion that adequate drainage could not be achieved for the site in the event that planning permission was granted. Due to the outline nature of the application, it would be appropriate for further details to be secured though the imposition of condition and considered at a Reserved Matters Stage in light of the lack of objection or concerns raised by any statutory consultee and that the site is positioned within a Flood Zone 1.

8.4.4 Therefore, it is considered that matters relating to flood risk do not represent sufficient justification for the refusal of this application in this instance.

8.5 Historic Environment

8.5.1 The application site is located within the Great Salkeld Conservation Area and that special attention needs to be paid to the ‘desirability of preserving or enhancing the character or appearance of that area’, as required under s72 of the Act.

8.5.2 Within the Development Plan, Policy CS17 of the Eden District Core Strategy confirms the principles for the built environment, relevant to areas such as designated Conservation Areas should seek to ‘conserve and enhance buildings, landscapes and areas of cultural, historic or archaeological interest including conservation areas…’. In addition draft policy ENV10 of the emerging Local Plan, indicates ‘the Council will place great weight to conservation and enhancement of the historic environment, heritage assets and their setting which help make Eden a distinctive place’

8.5.3 Paragraph 131 of the NPPF states that in determining planning applications, local planning authorities should take account of ‘the desirability of new development making a positive contribution to local character and distinctiveness’. Paragraph 133 states that ‘where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss’.

8.5.4 Paragraph 134 states that ‘where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal’.

8.5.5 There is a slight disagreement between the Council’s Conservation Officer and an objector to the application, regarding the extent of the impacts of the proposal upon the Conservation Area and Historic Environment. At the current time, matters relating to the layout, design, appearance and scale of the proposed development would be considered at a reserved matters stage. At such time the impact of the proposed development upon the character of the built form of the Conservation Area and nearby Listed Buildings would be further considered.
8.5.6 However, based upon the comments provided by the Council’s Conservation Officer it is reasonable to suggest that the impact of the proposed development upon the built form of the historic and built environment does not, in itself, give rise to sufficient reason to refuse the current outline planning application the application raises concerns in relation to the impact of the development upon the setting of the Conservation Area.

8.6 Affordable Housing

8.6.1 The proposed development is outline and as such the layout or number of dwellings would not be finalised in the event that planning permission is granted. However, the indicative layout suggests that up to 12 units would be created. Under policy CS10: affordable housing, the council aspires to a target of 30% affordable housing for schemes above a threshold of 4 units. In the light of the Council's current Affordable Housing Contribution Policy, the threshold for the provision of affordable housing has been raised to schemes above a threshold of 11 units and above.

8.6.2 In the case of the current application, the applicant provides a viability assessment with a range of affordable housing mix to justify proposing three affordable dwellings as part of the development within the site. This equates to 25% affordable housing within the scheme. Due to the application being outline at this stage, the breakdown of affordable housing in terms of tenure and housing types is not yet known.

8.6.3 The applicants contend in the submission, that policy LS1, as an exception, permits open market housing to enable affordable housing provision to be viable. However, for this application the affordable housing provision is the same as previous refused scheme and in any event, policy LS1 indicated open market housing ‘may be acceptable to facilitate significant affordable housing’. The affordable housing provision is remains the same as the refused scheme, and the gain of 3 affordable housing unit is insufficient out outweigh the harm identified as well as the none compliance of the scheme as a whole with policy LS1.

8.7 Infrastructure

8.7.1 Although approval for access is not being sought through this outline application, matters pertaining to safe and acceptable access to a site are important considerations.

8.7.2 In consultation with Cumbria County Council in its role as Highway Authority, concerns have been raised to the application on the basis that the development represents an intensification of the use of the access point. The extent of the intensification would raise concerns in relation to the suitability of the use access point itself resulting in highway safety issues and concerns generated by the predicted levels of traffic from the development.

8.7.3 The concerns of Cumbria County Council have been drawn to the attention of the applicant, resulting in the submission of further information. However, in subsequent consultation responses, Cumbria County Council continue to maintain concerns to the proposal in relation to the appropriateness of the proposed access. As such, the application raises doubt that safe and appropriate access to the site can be achieved, contrary to draft Policy DEV4 of the emerging Local Plan which requires existing infrastructure to be able to meet the demands of new development.

8.7.4 For the reasons detailed above, it is considered that the proposed development would result in unacceptable adverse impacts upon the local highway network.
8.8 Other Matters

8.1 One letter of objection raises concerns that the site has not been assessed for its ecological value. This would not be a requirement of an outline application which is solely looking at the principle of residential development.

8.2 Notwithstanding, it is noted that the application site forms an area of low intensive farmed agricultural land, which is unlikely to be species or habitat rich. Furthermore, it is noted that no objections have been raised to the proposal by Natural England in consultation. As such, it is likely that the impact of the development upon the ecology would not represent grounds to warrant the refusal of this planning application.

9. New Homes Bonus

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

10. Implications

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

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

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

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

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

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

11.1 The proposed development would result in the loss of a greenfield site at Great Salkeld which is not considered to be an infill or rounding-off development, contrary to the requirements of draft Policy LS1 of the emerging Local Plan. The application does not meet the locational criteria of draft Policy HS2 of the emerging Local Plan, by proposing unrestricted residential dwellings in a Smaller Village and Hamlet.

11.2 The development would result in a degree of landscape harm by virtue of being an inappropriate and unjustified extension of the settlement into surrounding open countryside land.

11.3 The applicant has failed to demonstrate that safe or appropriate access to the site can be achieved. Further concern has been raised by Cumbria County Council relating to the local highway networks capacity to absorb the traffic levels likely to be generated by the development.

11.4 The affordable housing provision remains the same as the refused scheme, and the gain of 3 affordable housing unit is insufficient out outweigh the harm identified as well as the none compliance of the scheme as a whole with policy LS1.

11.5 Accordingly, the proposal is recommended for refusal.

Jane Langston  
Assistant Director Technical Services

**Background Papers:** Planning Files 17/0944 and 18/0206
Date of Committee: 17 May 2018
Planning Application No: 18/0124
OS Grid Ref: NY 353928, 531505
Parish: Penrith
Ward: Penrith North
Application Type: Full
Proposal: Change of use of barn and part of field to tourist accommodation and garden
Location: Barn at Ladyswood House, Roundthorn, Penrith
Applicant: J Errington
Agent: Miss R Lightfoot, PFK Planning
Case Officer: Caroline Brier
Reason for Referral: This application is before Members as a Member has requested a hearing
Agenda Item 4

REPORTS FOR DEBATE
2. Recommendation

| It is recommended that planning permission be refused for the following reasons: |
| 1. The development is contrary to Core Strategy Policy CS18 and emerging Eden Local Plan Policies RUR3 and DEV5, as it would result in a substantial extension that would be detrimental to the character and appearance of the barn. |

2. Proposal and Site Description

2.1 Proposal

2.1.1 The proposal seeks to change the use of an agricultural barn and part of an agricultural field to tourist accommodation and garden.

2.1.2 The existing barn measures 9.5 x 6.2 metres and is 6.7 metres high. It has a dilapidated side lean-to with no roof which measures 4 x 6.2 metres and is 3.9 metres in height lowering to 2.5 metres.

2.1.3 The proposed two storey side extension would incorporate the stone from the lean-to and measure approximately 6.3 x 6.2 metres, with a height of 6.5 metres. This is 0.2 metres lower than the existing barn, 2.3 metres longer than the existing lean-to and 2.6 metres higher.

2.1.4 The proposed garden area measures approximately 316m² and would run around the north west, north east and south east of the barn with the track running to the south west.

2.1.5 The proposed materials include sandstone to the elevations and slates to the roof, both of which match the existing barn. The doors and windows are proposed to be timber. A sandstone wall and timber stock fence is proposed for the boundary treatment and a permeable gravelled area for vehicles.

2.1.6 Internally the proposal would provide a large kitchen area, bathroom, drying room and bedroom on the ground floor and a further 4 bedrooms, bathroom and en-suite at first floor.

2.2 Site Description

2.2.1 The application site lies to the north west of Ladyswood House, an agricultural workers dwelling within the same ownership as the proposal site and approximately 1.5 miles north east of Penrith. The site lies approximately 240 metres from the u3487 Stagstones road. An existing rough rubble farm track exists to the site from the public highway. The nearest residential property is approximately 195 metres to the west, the access track passes directly behind this property.

3. Consultees

3.1 Statutory Consultees

<table>
<thead>
<tr>
<th>Consultee</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highway Authority</td>
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</tr>
<tr>
<td>Lead Local Flood Authority</td>
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</tr>
</tbody>
</table>
3.2 Discretionary Consultees

<table>
<thead>
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</thead>
<tbody>
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<td>No objection</td>
</tr>
<tr>
<td>United Utilities</td>
<td>No comment</td>
</tr>
</tbody>
</table>

The following are detailed responses as outlined above:

3.2.1 Environmental Health – As water will be supplied through the mains supply there is no objection.

3.2.2 United Utilities – ‘have no comment to make on the application’.

4. Parish Council/Meeting Response

<table>
<thead>
<tr>
<th>Town Council</th>
<th>Object</th>
<th>Support</th>
<th>No Response</th>
<th>No View Expressed</th>
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</thead>
<tbody>
<tr>
<td>Penrith Town Council</td>
<td></td>
<td></td>
<td></td>
<td>✔</td>
</tr>
</tbody>
</table>

4.1 Penrith Town Council – Raised no objections, however would like the applicants to give consideration to amending the internal layout, particularly the living areas given that the building could potentially accommodate 10 people.

5. Representations

5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on 21st February 2018.

<table>
<thead>
<tr>
<th>No of Neighbours Consulted</th>
<th>No of letters of support</th>
<th>No of Representations Received</th>
<th>No of neutral representations</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

5.2 Councillor Breen has called for this application to be heard before the Planning Committee for the following reasons:

‘Farm Diversification will enhance the local tourism offer; contribute to economic development by bringing income into the local economy whilst also providing employment opportunity’.

6. Relevant Planning History

<table>
<thead>
<tr>
<th>Application No</th>
<th>Description</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>17/0878</td>
<td>Convert barn into bunk house accommodation and change of use of part of field to garden</td>
<td>Withdrawn</td>
</tr>
<tr>
<td>09/0937</td>
<td>Change of use from redundant barn to agricultural workers dwelling</td>
<td>Withdrawn</td>
</tr>
</tbody>
</table>
7. Policy Context

7.1 Development Plan

Core Strategy DPD Policy:
- CS1 - Sustainable Development Principles
- CS3 - Rural Settlements and the Rural Areas
- CS12 - Principles for Economic Development and Tourism
- CS14 - Employment Development in Rural Areas
- CS15 - Tourism and the Visitor Economy
- CS18 - Design of New Development

Emerging Local Plan (2014-2032)
- LS1 - Locational Strategy
- RUR3 – Re-use of Redundant Buildings in Rural Areas
- RUR4 – Employment Development and Farm Diversification in Rural Areas
- DEV5 – Design of New Development
- EC4 Tourism Accommodation and Facilities

7.2 The policies detailed above are the most relevant policies relating to this application. Paragraph 216 of the NPPF states ‘from the day of publication, decision-takers may also give weight (unless other material considerations indicate otherwise) to relevant policies in emerging plans according to [inter alia] the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given)’. Due to the stage of adoption of the emerging Local Plan, the Inspector has confirmed that substantial weight can now be afforded to the above policies in the determination of this current planning application.

7.3 Other Material Considerations

National Planning Policy Framework:
- Building a strong, competitive economy
- Supporting a prosperous rural economy
- Requiring good design

National Planning Practice Guidance

8. Planning Assessment

8.1 Key/Main Planning Issues
- Scale and Design
- Landscape and Visual Impacts
- Natural Environment
8.2 Principle

8.2.1 Policy CS3 of the Core Strategy looks to support a sustainable agricultural industry including the facilitation of appropriate rural economic diversification.

8.2.2 Policy LS1 of the emerging Eden Local Plan sets out the settlement hierarchy in which the areas the Council expects to focus new development. Roundthorn is classed as ‘Smaller Villages and Hamlets’, however this barn is outside of the main cluster of properties and as such is considered to be within ‘Other Rural Areas’ in which development is restricted to the re-use of traditional buildings, the provision of affordable housing as an exception to policy only or where proposals accord with other policies in the Local Plan.

8.2.3 Policy RUR3 applies specifically to the re-use of redundant traditional rural buildings and structures for (inter alia) tourism (including holiday accommodation). It requires each of the following criteria to be met:

- The building is capable of conversion without the need for extension, significant alteration or full reconstruction.
- It can be demonstrated that the building is of sufficient architectural quality to make it worthy of retention.
- The proposal is of a high quality design, retaining the design, materials and external features that contribute positively to the character of the building and surroundings.
- The building and its curtilage can be developed without having an adverse effect on the historic environment, the character of the local landscape or its setting.
- It can be demonstrated that there is no significant impact on local biodiversity including protected habitats and species.
- The building can be serviced by existing utilities, or where the provision of new utilities is necessary, such provision can be achieved without resulting in unacceptable adverse impacts on the landscape or rural character of the area.
- The building is adjacent to or in close proximity to an existing habitable dwelling and the public road network, or where this is not the case and the conversion of such a building is justified, the building is capable of being converted without causing adverse harm to the landscape or rural character of the area.
- Access is in place or can be created without damaging the surrounding area’s rural character.
- The proposal will not conflict with existing land uses.

It is noted that this policy also requires for permitted development rights where appropriate to be removed from the building and curtilage when granting planning permission.

8.2.4 Policy CS12 seeks to promote the diversification and strengthening of the rural economy. CS14 encourages the re-use of suitable redundant traditional rural buildings that are of a scale and type sympathetic to the area within which they are proposed. Emerging policy RUR4 echo’s the Core Strategy policies.
8.2.5 Policy CS15 looks for the majority of new tourism facilities to be directed towards the Key and Local Services Centres. Policy EC4 states that Small scale tourism development will be permitted for permanent structures (e.g. new holiday cottage) where it meets one of the following criteria:

- Any proposed new-build development is located within a Town or Key Hub;
- The proposal involves the re-use of an existing building, or previously developed land;
- The proposed development forms part of a farm diversification scheme;
- The development proposed is located outside of a Town and Key Hub, but due to the nature of the development proposed it relies upon a specific geographic resource or countryside location, and the specific location selected for the development can be justified.

The Council may impose planning conditions to avoid permanent residential use of such sites where they are located in the open countryside.

8.2.6 Policy CS18 and DEV5 requires (inter alia) for developments to reflect the existing street scene through the use of appropriate scale, mass, form, layout, high quality architectural design and use of materials.

8.2.7 Whilst this proposal meets a number of the policy requirements set out above, it falls foul of the specific criteria to be met under policy RUR3. The first point requires the building to be capable of conversion without the need for extension and this application proposes a large two storey extension. The proposal is also considered to be contrary to CS18 and DEV5; as the extension is of a scale that detracts from the character and appearance of the barn. Therefore this proposal is not considered to be supportable in principle.

8.3 Scale and Design

8.3.1 The proposed extension to the barn would measure approximately 6.3 x 6.2 metres, with a height of 6.5 metres. This is a further 2.3 metres beyond the existing footprint and adds an additional floor. This would create an extension that would be approximately two thirds of the size of the original barn. This is considered to be a substantial increase in the scale of the barn which would highlight a domestic use instead of providing a sympathetic conversion.

8.3.2 In discussions with the applicant/agent, advice was provided that in order to preserve the agricultural character and appearance of the barn, the derelict lean-to should be retained and the Council would be willing to accept a slight increase in height of this section to accommodate a useable area, however would expect it to be on the same footprint with a lean-to roof. By retaining similar proportions, the character and appearance of the barn would be less likely to be harmed.

8.3.3 The design of the proposal retains the existing features and would add 7 windows to the existing barn and 1 roof light. The design and number of new openings to the existing barn is considered to be sympathetic and retain the agricultural character of the building.
8.3.4 The proposed extension would see 4 windows and 2 doors. As mentioned at point 8.3.2, this element is not considered to retain the character and appearance of the barn and the conversion of the existing lean-to would be preferable.

8.3.4 The proposal is therefore not considered to be in accordance with policy RUR3, CS18 and DEV5 and as such is not supportable.

8.4 Landscape and Visual Impacts

8.4.1 The barn is existing within the landscape and is viewed within the vicinity of Ladyswood House and Hyde Grove. Whilst in an elevated position, it is quite well hidden in the landscape due to the rolling hills.

8.4.2 It is not considered that the conversion of this barn would cause an adverse impact on the landscape or visual amenity; however it is considered that the increase in size to the building would add to its prominence within the traditional rural landscape and detract from the rural character of the area.

8.5 Residential Amenity

8.5.1 The closest neighbouring property is approximately 195 metres away and located at the entrance to the track off Stagstones Road. It is not considered that this proposal would impact on their living conditions or amenity.

8.5.2 The only other residential property within the vicinity is Ladyswood House which is part of the farmstead unit and is located approximately 100 metres from the proposal site.

8.6 Natural Environment

8.6.1 A Bats, Barn Owls and Breeding Birds survey supports the application and concludes that ‘the building had no signs of barn owls or bats, barn swallows and pigeon activity was noted’. So long as works were carried out in accordance with the report the European Protective Species Licence should not be required.

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

The development is contrary to Core Strategy Policy CS18 and emerging Eden Local Plan Policies RUR3 and DEV5, as it would result in a substantial extension that would be detrimental to the character and appearance of the barn.

Jane Langston
Deputy Director Technical Services

Checked by or on behalf of the Monitoring Officer ✓

Background Papers: Planning File
<table>
<thead>
<tr>
<th><strong>Date of Committee:</strong></th>
<th>17 May 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Planning Application No:</strong></td>
<td>18/0238</td>
</tr>
<tr>
<td><strong>Date Received:</strong></td>
<td>22/3/18</td>
</tr>
<tr>
<td><strong>OS Grid Ref:</strong></td>
<td>6033 1761</td>
</tr>
<tr>
<td><strong>Expiry Date:</strong></td>
<td>17/5/18</td>
</tr>
<tr>
<td><strong>Parish:</strong></td>
<td>Crosby, Ravensworth</td>
</tr>
<tr>
<td><strong>Ward:</strong></td>
<td>Crosby, Ravensworth</td>
</tr>
<tr>
<td><strong>Application Type:</strong></td>
<td>Outline</td>
</tr>
<tr>
<td><strong>Proposal:</strong></td>
<td>Residential development for up to four local occupancy houses each restricted to 150m² with all matters reserved</td>
</tr>
<tr>
<td><strong>Location:</strong></td>
<td>Land between Fern Bank and East View, Reagill</td>
</tr>
<tr>
<td><strong>Applicant:</strong></td>
<td>K Hall</td>
</tr>
<tr>
<td><strong>Agent:</strong></td>
<td>Daniel Addis, Burnetts</td>
</tr>
<tr>
<td><strong>Case Officer:</strong></td>
<td>Mat Wilson</td>
</tr>
<tr>
<td><strong>Reason for Referral:</strong></td>
<td>The Officer recommendation is contrary to the view of the Parish Council</td>
</tr>
</tbody>
</table>
Agenda Item 5
REPORTS FOR DEBATE
1. **Recommendation**

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

   1. The development is contrary to the aims and criteria of draft Policy LS1 of the emerging Eden Local Plan and Policy CS2 of the Core Strategy in the absence of sufficient justification.
   2. The development would result in an inappropriate extension to the settlement adversely altering its character and resulting in landscape harm, contrary to draft Policy DEV5 of the emerging Local Plan and Policy CS16 of the Core Strategy.
   3. The adverse impacts of the proposed development significantly and demonstrably outweigh the benefits of the proposed residential development in accordance with paragraphs 14 and 49 of the National Planning Policy Framework.

2. **Proposal and Site Description**

   2.1 **Proposal**

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

      2.1.2 The application is in outline with all matters reserved. No layout plan is provided but the application specifies the development would be for up to four dwellings each subject to a local occupancy restriction and limited to 150m² as required by policy. The application is accompanied by a Supporting Statement, a Heritage Statement, and a Coal Mining Risk Assessment.

      2.1.3 This submission follows refusal of application 17/1075 which was for the same proposal but which is now accompanied by additional supporting information.

   2.2 **Site Description**

      2.2.1 The application relates to land on the west side of the road running through the hamlet of Reagill. The application site is a parcel of land carved from a grazing field sloping down to the road, and extends 50m back from the highway, ranging 100m between Fern Bank to the north and East View to the south.

      2.2.2 The site is within the farming hamlet of Reagill which is not a designated Local Service Centre as defined by the Core Strategy or a Key Hub in the emerging Local Plan.

      2.2.3 In terms of constraints the site is designated Coal Authority High Risk Zone and has a public right of way running across the field down to the road. Yew Tree Farm on the opposite side of the road is a Grade II listed Park & Garden. The site is not within a Conservation Area or a Flood Zone.

3. **Consultees**

   3.1 **Statutory Consultees**

<table>
<thead>
<tr>
<th>Consultee</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highway Authority</td>
<td>In principle Cumbria County Council would have no objection to the development of this site.</td>
</tr>
<tr>
<td></td>
<td>The site is currently used as agricultural land area</td>
</tr>
</tbody>
</table>
and it is appreciated that there is existing access onto the public highway; however the development intends to create 4 properties, with this in mind it would be seem that the existing access point would be inadequate to serve 4 properties.

Visibility splays of 2.4m x 215m are required as the national speed limit applies. Conditions addressing access gates, drainage, provision of access and parking are recommended.

### Local Lead Flood Authority
No objections subject to details of surface water drainage scheme

### 3.2 Discretionary Consultees

<table>
<thead>
<tr>
<th>Consultee</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>United Utilities</td>
<td>No comments in respect of this application although previous comments for 17/1075 are pertinent: Surface water drainage should be in accordance with the hierarchy of sustainable drainage. UU have no waste water assets in the area. A water main crosses the site and an access strip of no less than 3m either side will need to be retained in order to allow for maintenance.</td>
</tr>
<tr>
<td>County Archaeologist</td>
<td>The site lies in the centre of Reagill which was a medieval manor and village, first mentioned in 13th century documents. Reagill retains its medieval layout and field systems and well preserved archaeological earthwork remains, that are believed to relate to the medieval village, are recorded on the site of the proposed development. It is therefore likely that the proposed construction work will disturb archaeological assets. It is therefore recommended that, in the event planning consent is granted, an archaeological evaluation and, where necessary, a scheme of archaeological recording of the site be undertaken in advance of development. It is advised that this programme of work should be commissioned and undertaken at the expense of the developer and can be secured through the inclusion of a condition in any planning consent granted.</td>
</tr>
<tr>
<td>Environmental Health</td>
<td>Standard condition requested to address potential contamination</td>
</tr>
<tr>
<td>Housing</td>
<td>This is an outline planning application and therefore the precise number of dwellings is not yet known.</td>
</tr>
</tbody>
</table>
However, should the number of dwellings increase to between 6 and 10, a commuted sum would be required (in addition to the local occupancy restriction) as per Policy LS1.

Policy HS2 requires that in Smaller Villages and Hamlets on Greenfield sites a condition or legal agreement restricting occupancy to only those meeting local connection criteria, defined in Appendix 6, will be applied.

4. Parish Council/Meeting Response

<table>
<thead>
<tr>
<th>Parish Council/Meeting</th>
<th>Object</th>
<th>Support</th>
<th>No Response</th>
<th>No View Expressed</th>
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</thead>
<tbody>
<tr>
<td>Crosby Ravensworth Parish Council</td>
<td></td>
<td>✓</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

4.1 The Parish Council responded as follows:

The application received full support

5. Representations

5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on 6 April 2018.

| No of Neighbours Consulted | 4 | No of letters of support | 3 |
| No of Representations Received | 5 | No of neutral representations | 2 |
| No of objection letters | 0 | |

5.2 Two local residents have submitted letters of observation but which raise the following considerations against the application:

- This development cannot be regarded as infill and is a major extension to the village, even with just four houses on a green field site
- The continuing lack of detail in the application, its apparent lack of compliance with policy LS2 and the fact that it would be a major change to the environment of the village means more information should be sought
- The proposal is believed to be out of scale with its environment and the visual impact of 4 dwellings at this location would degrade from its rural farming character
- It would detract from the famous Image Garden opposite which itself is an important part of the Cumbrian heritage
- Reagill has extremely limited village facilities and almost non-existent public transport links but is surrounded by larger villages that are better suited with facilities and services to sustain communities
Agenda Item 5

REPORTS FOR DEBATE

- Properties tend to be on the market for considerable time before being sold so whom would be the potential purchases of these new dwellings?

5.3 The responses submitted to the Parish Council and forwarded by the agent included the following comments in support:

- Local occupancy dwellings are supported in the hope that it will make them more affordable to local younger people.
- Most houses are bought up by people moving into the community who have more disposable income. One respondent would like to own a property in the parish but cannot afford current market-led house prices.
- Another respondent states that he has no chance of affording his own property locally. He would like to buy a plot and build his own house.
- The building of family homes for young local people will bring the village back to life.
- The development would be a great opportunity for young people to obtain their own house in the village.

5.4 Non-material comments received regarding the application:

- More detail is provided relative to the previous application, and local occupancy housing is to be welcomed but it would have been better if the applicant submitted a detailed application then it could be properly judged.

6. Relevant Planning History

74/0197 – Construction of a single dwelling: Approved but not implemented.

17/1075 - Outline Application for residential development with all matters reserved: Refused on 12 March 2018 for the following reasons.

1) The development is contrary to the aims and criteria of draft Policy LS1 of the emerging Eden Local Plan and Policy CS2 of the Core Strategy in the absence of sufficient justification.

2) The development would result in an inappropriate extension to the settlement adversely altering its character and resulting in landscape harm, contrary to draft Policy DEV5 of the emerging Local Plan and Policy CS16 of the Core Strategy.

The adverse impacts of the proposed development significantly and demonstrably outweigh the benefits of the proposed residential development in accordance with paragraphs 14 and 49 of the National Planning Policy Framework.

7. Policy Context

7.1 Development Plan

Local Plan 2014-2032

This plan, though not yet adopted, is now at an advanced stage and those policies not subject of further modification can be given substantial weight in the planning balance, including:

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

Policies subject to further consultation carry moderate weight:

HS2 Housing in the Smaller Villages and Hamlets

**Core Strategy DPD Policy:**
- CS1 Sustainable Development Principles
- CS2 Locational Strategy
- CS7 Principles for Housing
- CS18 Design of New Development

**Supplementary Planning Documents:**
Housing SPD incorporating Residential Development Guidelines.

### 7.2 Other Material Considerations

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

On 11 May 2016, the Court of Appeal reversed a previous High Court ruling and backed government plans to exempt small development sites from the need to have affordable housing included on them.

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

### 8. Planning Assessment

#### 8.1 Key/Main Planning Issues
- Housing policies
- Impact on character of the area
- Residential amenity
- Highway implications
- Surface water and Foul water drainage
- Environmental impacts

#### 8.2 Principle

8.2.1 The site is located within the hamlet of Reagill which lacks the services and functions to constitute a Key or Local Service Centre as defined in the Core Strategy. As such in terms of the Core Strategy policies the site is a Smaller Village, Hamlet or Open
Agenda Item 5

REPORTS FOR DEBATE

Countryside location, where development is restricted under the housing policies to that meeting an identified need.

8.2.2 The forthcoming replacement Local Plan is now at a stage where many of its policies can be attributed substantial weight. Policy LS1 sets out the hierarchy of settlements where development should be focused in the most sustainable locations, being the Market Towns and Key Hubs. Settlements offering a lower provision of services and facilities are termed as Smaller Villages and Hamlets, where the Policy states that development ‘will be restricted to infill sites, which fill a modest gap between existing buildings within the settlement; or rounding off, which provides a modest extension beyond the limit of the settlement to a logical, defensible boundary; existing development and the reuse of traditional rural buildings and structures’.

8.2.3 Policy HS2 further restricts development in the Smaller Villages and Hamlets to housing ‘of an appropriate scale, which reflects the built form of adjoining and neighbouring development to the site and the service function of the settlement, where it meets all of the following criteria:

- Where development is restricted to infilling and rounding off of the current village settlement pattern, in accordance with Policy LS1.
- The building does not contain more than 150m2 internal floorspace (gross).
- In the case of Greenfield sites a condition or legal agreement restricting occupancy to only those meeting local connection criteria, defined in Appendix 6, will be applied.

‘Local occupancy restrictions will not be applied where suitable housing comes forward on previously developed land.’

8.2.4 Until such time as the emerging Local Plan is formally adopted then there is still a shortfall in the demonstrable five year land supply; however if further housing numbers were required, these would be directed in the locations established under draft Policy LS1 in terms of locational strategy – effectively, the key hubs and Penrith rather than locations designated as ‘villages or hamlets’ unless overriding exceptions can be demonstrated.

8.2.5 The Locational Strategy and the Housing Targets and Distribution policies - LS1 and LS2 – are both accepted as sound by the Inspector dealing with the Local Plan and as such these policies can be given substantial weight. Although the finer detail on housing in the Smaller Villages and Hamlets, such as the size limit on houses, is given in policy HS2 which being subject to consultation carries only moderate weight at this stage, the locational strategy policy is clear on the nature of development that will be accepted in the Smaller Villages.

8.2.6 Development in the Smaller Villages and Hamlets will be permitted were it meets the criteria set out in Policies LS1 and HS2.

The development proposed in Reagill is considered to be contrary to policy for the following reasons:

Scale – there are 19 registered dwellings in Reagill. The application indicates the development would be for 4 dwellings. The proposal therefore constitutes a 20% increase in dwellings in the village; even in the Key Hubs which is the next stage up in the settlement hierarchy, increases in village size above 10% will not normally be supported.
Infill or rounding off – the application site extends for 100m along the road and bleeds into the countryside without any physical boundary at the rear. It is not considered that the scheme constitutes a modest infill site.

Furthermore, the proposal is for only 4 dwellings on an area of land extending to almost half a hectare. The scheme is considered to be an artificially low density and, even if housing was considered appropriate in this location, it would not represent the optimal use of land.

8.2.7 As such, there is no support or justification for the principle of housing development on this site.

8.2.8 The Supporting Statement provided with the application clarifies that the dwellings proposed by the scheme would be for local occupancy and restricted to 150m², as required by Policy HS2. It further goes on to challenge the reasons for refusal of the previous application, asserting that the proposal is acceptable in terms of scale, impact on the character of the area, and meeting the criteria for infill housing.

8.2.9 It is considered however that the previous reasons for refusal remain valid. The scale of development would represent a 20% increase in size of the village; it would affect the character of this dispersed rural hamlet through a concentration of modern built development on a greenfield site; and it would constitute a significant infill development occupying a wide expanse of pasture land. The Local Plan does not define what should constitute a ‘modest’ infill but it is considered that the application site could not be construed as modest.

8.2.10 The application does attract some support from residents wishing to benefit from local occupancy housing but a proposal of this nature should be substantiated by a Housing Needs Survey to quantify the level of local housing need. Furthermore there is no guarantee that the houses proposed would be within the means of young local people to afford. Whilst the dwellings would have a local occupancy restriction, this would be more than counteracted by the size of the development site, the potential costs of remediating the site to address the problems of its mining legacy, and the desirable rural location, all indicative that the dwellings would realistically be priced relatively high in order for the developer to achieve any viable return. The proposal does not therefore adequately substantiate how an identified need would be met, as required by Policy CS2 of the Core Strategy.

8.3 Built Environment

8.3.1 The application site is opposite the Image Garden, a Grade II listed Park and Garden. It is likely that were permission granted, a detailed scheme could be set out which did not affect the setting of this Heritage Asset.

8.3.2 Although the proposal is in outline only, the application description indicates the intention is to develop four dwellings. Policy DEV5 of the emerging Plan stipulates that ‘new development will be required to demonstrate that it…optimises the potential use of the site’. On a site extending to almost half a hectare, the resultant housing density would be an inefficient use of residential land and is therefore not acceptable.

Furthermore the development of four new dwellings is likely to have an urbanising impact on a rural settlement, to the detriment of the village character. Whilst no detailed plans are provided at this stage, it is considered that any development of this agrarian space would be detrimental to the rural character and appearance of the streetscene.
8.4 Residential Amenity

8.4.1 Given the large scale of the application site and the small number of dwellings proposed, were permission granted it is very likely there would be large gaps between the new houses and the existing properties to the north and south. The development would not unduly affect the privacy or amenity of neighbouring dwellings.

8.5 Landscape Impact/Natural Environment

8.5.1 The application site runs on into the open countryside. The landform, rising up away from the road, would amplify the intrusion of built development onto this open area of land, increasing its prominence. A public footpath runs through the application site. Developing this area of land would be harmful to the rural character of the area.

8.5.2 The indicative plans do not suggest any trees would be felled. Were permission granted, a landscaping scheme would be agreed through the reserved matters submission.

8.6 Infrastructure

8.6.1 A bus shelter lies adjacent to the site. The grass verge is very wide, although the visibility splays of 215m required by the Highway Authority are unlikely to be achievable. It may be that a speed survey could demonstrate lower average speeds in which case reduced splays may be acceptable. Were permission granted, matters of access, parking, turning, and access surfacing would be addressed through conditions.

8.7 Other Considerations

8.7.1 The site is within the Coal Mining High Risk Area due to the proximity of multiple mine shafts or ‘bell pits’ to the west of the site. The Coal Mining Risk Assessment submitted with the application recommends that intrusive site investigations be carried out in order to establish the possible presence of shallow coal seams beneath the site and whether these seams contain mine workings. Should mine shafts be found then the appropriate remedial action should be taken; however the report concludes that the mining stability risks posed can be mitigated by routinely adopted measures.

8.7.2 Matters of scale and design, layout, access and landscaping would be considered as part of the subsequent reserved matters application should outline approval be granted.

9. New Homes Bonus

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

10. Implications

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

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

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

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

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

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

11. **Conclusion**
11.1 The proposed development would result in the loss of a greenfield site at Reagill which is not considered to be an infill or rounding-off development, contrary to the requirements of draft Policy LS1 of the emerging Local Plan.

The development would result in a degree of landscape harm by virtue of being an inappropriate and unjustified extension of the settlement into surrounding open countryside land.

The proposal constitutes an inefficient use of land at very low density.

Furthermore, developing this tract of land would compromise the village character by introducing a modern housing development into a rural farming community.

It is therefore recommended for refusal.

Jane Langston
Deputy Director Technical Services

Checked by or on behalf of the Monitoring Officer  ✔

**Background Papers:** Planning File
### Agenda Item 6

**REPORTS FOR DEBATE**

<table>
<thead>
<tr>
<th>Date of Committee</th>
<th>17 May 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Planning Application No</td>
<td>18/0142</td>
</tr>
<tr>
<td>Date Received</td>
<td>10/02/18</td>
</tr>
<tr>
<td>OS Grid Ref</td>
<td>77486 08560</td>
</tr>
<tr>
<td>Expiry Date</td>
<td>24/04/18</td>
</tr>
<tr>
<td>Parish</td>
<td>Kirkby Stephen</td>
</tr>
<tr>
<td>Ward</td>
<td>Kirkby Stephen</td>
</tr>
<tr>
<td>Application Type</td>
<td>Full</td>
</tr>
<tr>
<td>Proposal</td>
<td>Change of use from sandwich shop/takeaway to micro pub serving food, and including internal alterations, refurbishment and repairs.</td>
</tr>
<tr>
<td>Location</td>
<td>No 1 Croft Street, Kirkby Stephen.</td>
</tr>
<tr>
<td>Applicant</td>
<td>Mr S Howarth.</td>
</tr>
<tr>
<td>Agent</td>
<td>As above.</td>
</tr>
<tr>
<td>Case Officer</td>
<td>D Cox.</td>
</tr>
<tr>
<td>Reason for Referral</td>
<td>Neighbouring objector has requested the opportunity to present their concerns to Committee.</td>
</tr>
</tbody>
</table>

![Map of Kirkby Stephen](image.png)
1. **Recommendation**

| It is recommended that planning permission is *Approved* subject to the following conditions:
<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Time limit for commencement</strong></td>
</tr>
<tr>
<td>1. The development permitted shall be begun before the expiration of three years from the date of this permission.</td>
</tr>
<tr>
<td><strong>Reason</strong>: 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.</td>
</tr>
<tr>
<td><strong>Approved Plans</strong></td>
</tr>
<tr>
<td>2. The development hereby granted shall be carried out in accordance with the Plan drawings hereby approved: Location and proposed floor-plan layout Plan Ref Nos 1 and 3 as dated received by the Local Planning Authority on the 27th and 26th February 2018 respectively.</td>
</tr>
<tr>
<td><strong>Reason</strong>: To ensure a satisfactory development and to avoid any ambiguity as to what constitutes the permission.</td>
</tr>
<tr>
<td>3. The range of food sold at the premises shall be in accordance with the written details received on 9th April 2018 and there shall be no change in the range of food sold unless appropriate measures are undertaken and agreed in writing by the Local Planning Authority.</td>
</tr>
<tr>
<td><strong>Reason</strong>: For the avoidance of doubt and to ensure a satisfactory form of development.</td>
</tr>
<tr>
<td>4. The range of food sold at the premises shall be limited such that there will be no frying of food. At no time whatsoever shall a fryer be installed or utilised for the preparation of food at these premises without the written prior written approval of the Local Planning Authority.</td>
</tr>
<tr>
<td><strong>Reason</strong>: For the avoidance of doubt and to ensure a satisfactory form of development.</td>
</tr>
</tbody>
</table>

2. **Proposal and Site Description**

2.1 **Proposal**

2.1.1 The application (as amended) seeks full detail approval for the change of use from sandwich shop/takeaway (Use Class Order A1 (Shops) to micro pub serving food (Mixed Class A3/A4 (Drinking establishment/café), and including internal alterations. The floor area of the application site/building is approx. 57 sq metres.

2.1.2 Based on detail supplied by the applicant, the (micro-pub/café) undertaking proposed as well as the retail of craft beers/spirits (alcohol) within the UCO A4 (Drinking Establishments), would also seek to initially provide food and for private parties/special occasions. The type of food to be provided on such occasion would be cold platters, soups and things that would not cause excessive vapours/steam/grease such as would require the installation of an external extractor system. The applicant proposes the continued use of the existing small electric oven and extra fan installed. Staff numbers in the kitchen are to be a max of two.
2.1.3 Hours of opening proposed are shown as being from 10am to 11pm Mon-Fri, 11am to 11pm Sat and from 12 (mid-day) to 11pm Sundays and Bank Holidays.

2.1.4 The full application is also accompanied by a separate Listed Building application (Ref No 18/0143).

2.1.5 No external changes are proposed, with repairs to existing windows being undertaken by a local joiner to match the existing fabric and details.

2.2 Site Description

2.2.1 The application site, No 1 Croft Street, a designated Grade II Listed Building comprises the former “Megabites Baguettes” sandwich shop and takeaway, which fronts/faces both onto Market Street, and Croft Street, and is located centrally in the designated Conservation and Primary Shopping Areas of the Market Town and Key Service Centre of Kirkby Stephen.

2.2.2 The existing retail shop business premises also has an associated first floor, one bedroom flat (accessed from ground floor via internal staircase and the existing ground floor shop premises). The applicant has indicated that this present first floor residential flat use will instead be utilised for storage and staff (bathroom/toilet) facilities.

2.2.3 The existing sandwich shop (now closed) was established approx. 18 years ago, and ran as such until recently. Fittings, including counters, electric oven and bars are still in existence within the ground floor retail outlet, with pedestrian access via the existing main/front door off Market Street/Croft Street. On-street parking provision is to be found in the vicinity.

2.2.4 The application site and premises (located within the central market and Primary Shopping area of Kirkby Stephen), is sited between two residential properties, Fletcher House (B&B) and front garden (to the South) and (attached) No 2 Croft Street (to the West) as well as opposite (across Croft Street) Gorton House (to the North).

2.2.5 Croft Street is a small lane and public right of way, connecting the central Market Street with Faraday road (to the West).

2.2.6 The site and area as a whole is located centrally within the designated Market Town and Conservation Area of Kirkby Stephen.

3. Consultees

3.1 Statutory Consultees

<table>
<thead>
<tr>
<th>Consultee</th>
<th>Response</th>
</tr>
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<tbody>
<tr>
<td>Highway/LLF Authority</td>
<td>No objection</td>
</tr>
<tr>
<td>Environmental Health</td>
<td>No objection subject to conditions.</td>
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<tr>
<td>Conservation Officer</td>
<td>The proposals overall are considered to be in accordance with conservation policies contained within the NPPF, Planning Act 1990 and Eden Core Strategy (CS17)</td>
</tr>
</tbody>
</table>

4. Parish Council Response

<table>
<thead>
<tr>
<th>Parish Council/Meeting</th>
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<th>Support</th>
<th>No Objection</th>
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The Town Council Response is as follows:

**The Town Council Supports the application**

The Town Council had received a letter of objection which was read out at the meeting. The objector felt that the pavement conditions outside the premises were unsafe in relation to the serving of alcohol. It was agreed that this was a licensing matter and not a planning matter. The Town Council disagreed with the basis of the objection and fully supports the application which brings a commercial building back into use.

5. **Representations**

5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on 8 March 2018.

<table>
<thead>
<tr>
<th>No of Neighbours Consulted</th>
<th>4</th>
<th>No of letters of support</th>
<th>0</th>
</tr>
</thead>
<tbody>
<tr>
<td>No of Representations Received</td>
<td>4</td>
<td>No of neutral representations</td>
<td>0</td>
</tr>
<tr>
<td>No of objection letters</td>
<td>4</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The issues of concern in the Objections received are summarised as follows:

- possible noise/smoking impacting on neighbouring amenity.
- external repairs would compromise the buildings’ character.
- the resulting premises would not meet adequate Disabled Access provision.
- any change in signage should be the subject of separate application and approval.
- use of this nature and in this location may cause noise and adverse amenity impact given the mixed use (commercial and residential) nature of the area.
- competition with other struggling pubs and clubs in the Town
- absence of waste storage provision

6. **Relevant Planning History**

None.

7. **Policy Context**

7.1 **Eden Core Strategy**

- Plan Policy CS1 Sustainable Development Principles
- Plan Policy CS2 Locational Strategy
- Plan Policy CS17 Principles for the Built (Historic) Environment
- Plan Policy CS18 Design of New Development
- Plan Policy CS23 Hierarchy of Retail Centres

**Eden Local Plan – Consolidated Version**

- Proposed Plan Policy LS1 – Locational Strategy
- Proposed Plan Policy DEV5 – Design of New Development.
Proposed Plan Policy ENV10 – The Historic Environment
Proposed Plan Policy EC7 – Town Centres and Retailing
Proposed Plan Policy ENV10 – The Historic Environment

National Planning Policy Framework (NPPF):
- Requiring good design
- Section 134, designated heritage assets

8. Planning Assessment

8.1 Key/Main Planning Issues
- Town Centre Retailing and business economy
- Character and amenity of the area, including neighbouring property.
- Preservation of the Historic Environment

8.2 Principle

8.2.1 Proposed Plan Policy LS1 “Locational Strategy” (as Modified) identifies Kirkby Stephen as a Market Town. Market Towns are to be the focus for moderate development appropriate to the scale of the Town.

8.2.2 Proposed Plan Policy EC7 – Town Centres and Retailing identifies the application site as being located within the Designated Primary Shopping Area within the Key Settlement and Market Town of Kirkby Stephen.

8.2.3 The application site and premises are a designated Grade II Listed Building, the whole located within the designated Kirkby Stephen Conservation Area.

8.2.4 As considered, the relevant Policies of the above as Modified Local Plan Submission are therefore:
- Proposed Plan Policy LS1 – Locational Strategy (as Modified), and
- Proposed Plan Policy DEV5 - Design of New Development.
- Proposed Plan Policy EC7 – Town Centres and Retailing

8.2.5 The proposal is for conversion (through change of use) from an existing sandwich/takeaway (Use Class Order A1 (Shops) to micro pub serving food and (Mixed Use Class A3/A4 (Drinking establishment/café). The development and use as proposed, being within the designated Primary Shopping area, of a Key Market Town, is considered to reasonably comply, both locationally and in terms of proposed use, with the aims and criteria concerns of the relevant proposed Town Centres and Retailing Uses designation. Adopted Core Strategy Policies CS2 “Locational Strategy” and CS23 “Hierarchy of Retail Centres”, and proposed Local Plan Policy LS1 – “Locational Strategy” and Policy EC7 – “Town Centres and Retailing” are held to reasonably apply here.

8.2.6 The application has the support of the Town Council, and no objection is raised by Highway/LLFA, Environmental Health and Conservation Officer. The Authority has however been in receipt of objections from neighbouring owner occupiers. These however predominantly relate to concern over the continued use of a building and
shop, in a mixed use area, and where similar such uses already operate and reasonably happily coincide.

8.2.7 The application site/premises, as an A1 UCO use have historically been used (over a period of 18 years) for the preparation and sale of food for consumption off the premises. Public rights of way, including Market and Croft Street already exist, as does access to and from the shop to those areas.

As a proposed use, the Authority is sensitive to the issue of potential adverse amenity issue in terms of neighbouring amenity (and which can include noise, smell and anti-social behaviour) however while there are no objections (subject to condition) from the relevant Statutory undertakers, it is also to be noted that there are separate enforcement regimes (Police) and legislation (Environmental Health), should and if such “anti-social” occurrences take place.

Given the above factors, the development proposed is considered to reasonably comply with the relevant aims and criteria concerns of both adopted Plan Policy CS23 “Hierarchy of Retail Centres” and Proposed Plan Policy EC7 – “Town Centres and Retailing”.

8.3 Landscape and Built Environment Visual Impacts

8.3.1 The Planning (Listed Buildings and Conservation Areas) Act 1990 s 66(1) requires a decision-maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Policy CS17 of Eden District Core Strategy also requires proposals to conserve and enhance listed buildings and their settings. The proposed development relates to the ongoing re-use of a Grade II Listed Building which is located within the designated Kirkby Stephen Conservation Area.

8.3.2 In terms of such designated Heritage Asset considerations, Section 134 of the NPPF states ‘Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use’. Overall the proposal, and accepting the need for minor repairs as identified, will conserve and enhance the significance of the listed building. The proposed change of use of the building to a micro-pub will bring the existing vacant building back into use and is considered to be an acceptable use for this historic building. It is considered that the development proposed will therefore reasonably accord with the relevant aims of adopted Core Strategy Policies CS17 “Principles for the Built (Historic) Environment”, CS18 “Design of New Development”, and proposed Local Plan Policies DEV5 – “Design of New Development” and ENV10 – “The Historic Environment”.

8.5 Infrastructure/Highway Safety

8.5.1 The application site is located centrally within the Kirkby Stephen Town Centre. There are no objections from the County Council as Highway Authority, and it is to be noted that there is readily available on street parking provision in the nearby vicinity.

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 Notwithstanding neighbouring concerns raised, and on balance of such considerations, the proposed development is considered to be reasonably in accordance with the adopted Core Strategy and proposed Eden Local Plan (as proposed) as part of the development plan and which are not outweighed by material considerations and therefore the application is recommended to be approved.

Jane Langston  
Assistant Director Technical Services

Checked by or on behalf of the Monitoring Officer ✔

**Background Papers**: 18/0143 (associated Listed Building Application)
Agenda Item 7
REPORTS FOR DEBATE

Date of Committee: 17 May 2018

Planning Application No: 18/0143  Date Received: 19/02/18

OS Grid Ref: 77486 08560  Expiry Date: 24/04/18

Parish: Kirkby Stephen  Ward: Kirkby Stephen

Application Type: Listed Building

Proposal: Listed Building consent for internal alterations, (including refurbishment and repairs.)

Location: No 1 Croft Street, Kirkby Stephen.

Applicant: Mr S Howarth.

Agent: As above.

Case Officer: D Cox.

Reason for Referral: (In association with the Full application Ref No 18/0142) A neighbouring objector has requested the opportunity to present their concerns to Committee.
1. **Recommendation**

<table>
<thead>
<tr>
<th>Time limit for commencement</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The development permitted shall be begun before the expiration of three years from the date of this permission.</td>
</tr>
</tbody>
</table>

   **Reason:** In order to comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

   **Approved Plans**

   2. The development hereby granted shall be carried out in accordance with the Plan drawings hereby approved: Location and proposed floor-plan layout Plan Ref Nos 1 and 3 as dated received by the Local Planning Authority on the 27th and 26th February 2018 respectively.

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

   3. Repairs and refurbishments to the external ground floor window/s shall be undertaken in accordance with a scheme of works to be submitted to and agreed in writing by the Local Planning Authority as such.

   **Reason:** In the interests of visual amenity and to secure a satisfactory form of development on the site.

2. **Proposal and Site Description**

2.1 **Proposal**

   2.1.1 Listed Building consent is sought for internal alterations comprising removal of existing, tired and dated modern fixtures and fittings and small scale installation of themed “up-cycled” materials and furniture.

   2.1.2 (Associated application 18/0142 seeks full detail approval for the change of use from sandwich shop/takeaway (Use Class Order A1 (Shops) to micro-pub serving locally sourced brewed beers and food (Mixed Class A3/A4 (Drinking establishment/café), and including internal alterations.).

   2.1.5 Limited external changes are proposed, again with limited matching repairs to existing windows being undertaken by a local joiner again to match the existing fabric, finish and detailing.

2.2 **Site Description**

   2.2.1 The application site, No 1 Croft Street, a designated Grade II Listed Building comprises the former “Megabites Baguettes” sandwich shop and takeaway, which fronts/faces both onto Market Street, and Croft Street, and is located centrally in the designated Conservation and Primary Shopping Areas of the Market Town and Key Service Centre of Kirkby Stephen.

   2.2.2 The existing retail shop business premises also has an associated first floor, one bedroom flat (accessed from ground floor via internal staircase and the existing ground
floor shop premises). The applicant has indicated that this present first floor residential flat use will instead be utilised for storage and staff (bathroom/toilet) facilities.

2.2.3 The existing sandwich shop (now closed) was established approx. 18 years ago, and ran as such until recently. Fittings, including counters, electric oven and bars are still in existence within the ground floor retail outlet, with pedestrian access via the existing main/front door off Market Street/Croft Street. On-street parking provision is to be found in the vicinity.

2.2.4 The application site and premises (located within the central market and Primary Shopping area of Kirkby Stephen), is sited between two residential properties, Fletcher House (B&B) and front garden (to the South) and (attached) No 2 Croft Street (to the West) as well as opposite (across Croft Street) Gorton House (to the North).

2.2.5 Croft Street is a small lane and public right of way, connecting the central Market Street with Faraday road (to the west).

2.2.6 The site and area as a whole is located centrally within the designated Market Town and Conservation Area of Kirkby Stephen.

3. Consultees

3.1 Statutory Consultees (18/0142)

<table>
<thead>
<tr>
<th>Consultee</th>
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<td>Kirkby Stephen Town Council.</td>
<td></td>
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<td></td>
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The Town Council Response is as follows:

**The Town Council Supports the application**

The Town Council had received a letter of objection which was read out at the meeting. The objector felt that the pavement conditions outside the premises were unsafe in relation to the serving of alcohol. It was agreed that this was a licensing matter and not a planning matter. The Town Council disagreed with the basis of the objection and fully supports the application which brings a commercial building back into use.

5. Representations

5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on 8 March 2018.
The issues of concern in the Objections (received in relation to associated Full Detail Application) are summarised as follows:

- possible noise/smoking impacting on neighbouring amenity.
- external repairs would compromise the buildings’ character.
- the resulting premises would not meet adequate Disabled Access provision.
- any change in signage should be the subject of separate application and approval.
- use of this nature and in this location may cause noise and adverse amenity impact given the mixed use (commercial and residential) nature of the area.
- competition with other struggling pubs and clubs in the Town
- absence of waste storage provision

6. Relevant Planning History

None.

7. Policy Context

7.1 Eden Core Strategy

Plan Policy CS1 Sustainable Development Principles
Plan Policy CS2 Locational Strategy
Plan Policy CS17 Principles for the Built (Historic) Environment
Plan Policy CS18 Design of New Development
Plan Policy CS23 Hierarchy of Retail Centres

Eden Local Plan – Consolidated Version

Proposed Plan Policy LS1 – Locational Strategy
Proposed Plan Policy DEV5 – Design of New Development.
Proposed Plan Policy ENV10 – The Historic Environment
Proposed Plan Policy EC7 – Town Centres and Retailing
Proposed Plan Policy ENV10 – The Historic Environment

National Planning Policy Framework (NPPF):

- Requiring good design
- Section 134, designated heritage assets

8. Planning Assessment

8.1 Key/Main Planning Issues

- Town Centre Retailing and business economy
- Character and amenity of the area, including neighbouring property
- Preservation of the Historic Environment

### 8.2 Principle

#### 8.2.1 Proposed Plan Policy LS1 “Locational Strategy” (as Modified) identifies Kirkby Stephen as a Market Town. Market Towns are to be the focus for moderate development appropriate to the scale of the Town.

#### 8.2.2 Proposed Plan Policy EC7 – Town Centres and Retailing identifies the application site as being located within the Designated Primary Shopping Area within the Key Settlement and Market Town of Kirkby Stephen.

#### 8.2.3 The application site and premises are a designated Grade II Listed Building, the whole located within the designated Kirkby Stephen Conservation Area.

#### 8.2.4 As considered, the relevant Policies of the above as Modified Local Plan Submission are therefore:

- Proposed Plan Policy LS1 – Locational Strategy (as Modified), and
- Proposed Plan Policy DEV5 - Design of New Development.
- Proposed Plan Policy EC7 – Town Centres and Retailing

#### 8.2.5 The proposal is for conversion (through change of use) from an existing sandwich/takeaway (Use Class Order A1 (Shops) to micro pub serving food and (Mixed Use Class A3/A4 (Drinking establishment/café). The development and use as proposed, being within the designated Primary Shopping area, of a Key Market Town, is considered to reasonably comply, both locationally and in terms of proposed use, with the aims and criteria concerns of the relevant proposed Town Centres and Retailing Uses designation. Adopted Core Strategy Policies CS2 “Locational Strategy” and CS23 “Hierarchy of Retail Centres”, and proposed Local Plan Policy LS1 – “Locational Strategy” and Policy EC7 – “Town Centres and Retailing” are held to reasonably apply here.

#### 8.2.6 The application has the support of the Town Council, and no objection is raised by Highway/LLFA, Environmental Health and Conservation Officer. The Authority has however been in receipt of objections from neighbouring owner occupiers. These however predominantly relate to concern over the continued use of a building and shop, in a mixed use area, and where similar such uses already operate and reasonably happily coincide.

#### 8.2.7 The application site/premises, as an A1 UCO use have historically been used (over a period of 18 years) for the preparation and sale of food for consumption off the premises. Public rights of way, including Market and Croft Street already exist, as does access to and from the shop to those areas.

As a proposed use, the Authority is sensitive to the issue of potential adverse amenity issue in terms of neighbouring amenity (and which can include noise, smell and anti-social behaviour) however while there are no objections (subject to condition) from the relevant Statutory undertakers, it is also to be noted that there are separate enforcement regimes (Police) and legislation (Environmental Health), should and if such “anti-social” occurrences take place.
Given the above factors, the development proposed is considered to reasonably comply with the relevant aims and criteria concerns of both adopted Plan Policy CS23 “Hierarchy of Retail Centres” and Proposed Plan Policy EC7 – “Town Centres and Retailing”.

8.3 Landscape and Built Environment Visual Impacts

8.3.1 The Planning (Listed Buildings and Conservation Areas) Act 1990 s 66(1) requires a decision-maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Policy CS17 of Eden District Core Strategy also requires proposals to conserve and enhance listed buildings and their settings. The proposed development relates to the ongoing re-use of a Grade II Listed Building which is located within the designated Kirkby Stephen Conservation Area.

8.3.2 In terms of such designated Heritage Asset considerations, Section 134 of the NPPF states ‘Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use’. Overall the proposal, and accepting the need for minor repairs as identified, will conserve and enhance the significance of the listed building. The proposed change of use of the building to a micro-pub will bring the existing vacant building back into use and is considered to be an acceptable use for this historic building. It is considered that the development proposed will therefore reasonably accord with the relevant aims of adopted Core Strategy Policies CS17 “Principles for the Built (Historic) Environment”, CS18 “Design of New Development”, and proposed Local Plan Policies DEV5 – “Design of New Development” and ENV10 – “The Historic Environment”.

8.5 Infrastructure/Highway Safety

8.5.1 The application site is located centrally within the Kirkby Stephen Town Centre. There are no objections from the County Council as Highway Authority, and it is to be noted that there is readily available on street parking provision in the nearby vicinity.

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 Notwithstanding neighbouring concerns raised, and on balance of such considerations, the proposed development is considered to be reasonably in accordance with the adopted Core Strategy and proposed Eden Local Plan (as proposed) as part of the development plan and which are not outweighed by material considerations and therefore the application is recommended to be approved.

Jane Langston
Assistant Director Technical Services

Background Papers: 18/0142 (associated Full Detail Application)
**Agenda Item 8**

**REPORTS FOR DEBATE**

Date of Committee: 17 May 2018

Planning Application No: 18/0167  Date Received: 27/2/18

OS Grid Ref: 3564 5143  Expiry Date: 1/6/18

Parish: Shap  Ward: Shap

Application Type: Full


Location: Former Fellside Foods Sausage Factory, North of Green Farm, Main Street, Shap

Applicant: Mealbank Properties Ltd

Agent: Mark Deverill, HM Architecture

Case Officer: Mat Wilson

Reason for Referral: The application is for a Major Development
1. **Recommendation**

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

   1. The development permitted shall be begun before the expiration of three years from the date of this permission.
   2. The development hereby granted shall be carried out strictly in accordance with the following details and plans hereby approved:
      i. Location plan ref 5367-05 dated Feb ‘18
      ii. Proposed Site & Building Plan ref 5367-03 rev E dated 26.02.18
      iii. Proposed Elevations ref 5367-04 rev A dated 08.02.18
   3. Prior to the commencement of development a site investigation to effectively characterise the site, based on the relevant information identified within the Phase 1 desk study submitted as supporting evidence with the planning application, shall be carried out by a competent person in accordance with the current U.K. requirements for sampling and analysis. A report of the site investigation shall be submitted to and approved in writing by the local planning authority. Where a site investigation identifies unacceptable levels of contamination, the report shall include a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. Where remediation has been necessary, a verification report, to demonstrate that the works have been completed to the agreed standard, prepared by a competent person shall be submitted to and approved in writing by the local planning authority.

   **Reasons**

   1. In order to comply with the provisions of the Town and Country Planning Act 1990.
   2. To ensure a satisfactory development and to avoid any ambiguity as to what constitutes the permission.
   3. In order to ensure any contamination of the site is properly remediated. The condition requires compliance pre-commencement so that any land contamination issues are identified, and where remediation is required then this can be planned in to achieve the most cost effective, sustainable solution during the build programme.

2. **Proposal and Site Description**

2.1 **Proposal**

2.1.1 The scheme proposes to redevelop the existing factory at the former Fellside Foods Sausage Factory in Shap. The description of the site as ‘Junction 39 Business Park’ is the applicant’s own.
2.1.2 Part of the factory complex has been refurbished and is already occupied by the applicant. The proposal is to demolish the remaining buildings and to construct a new series of factory buildings suitable for uses within the B2/B8 use classes, for general industry and warehousing. The application indicates 15 full time jobs will be provided.

2.2 Site Description

2.2.1 The factory complex is set 50m back from the main A6 road through Shap, beyond a grazing field belonging to the adjacent farm. It comprises a series of factory units and office buildings, mostly in a poor state of repair. The buildings are generally portal frame profiled metal clad type structures with lower level office accommodation fronting the road to the northern end, this section being finished with dry dashed render. Building heights vary between 4m for the office units up to 11m for the large storage building at the back of the site.

2.2.2 The nearest dwellings are Green Farm farmhouse to the south, although this is entirely separated from the site by agricultural buildings, and the dwellings on the east side of Main Street facing the application site at a distance of 65m.

2.2.3 A row of trees on the roadside verge provides some screening, although the factory is prominently seen from the access road which continues to Brackenber Lodge to the southwest.

2.2.4 The site is not within a Conservation Area or a vulnerable Flood Risk Area. Green Farm House to the south of the site is a Grade II listed building. No other planning constraints apply.

3. Consultees

3.1 Statutory Consultees

<table>
<thead>
<tr>
<th>Consultee</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highway Authority</td>
<td>Cumbria County Council as Local highway authority and Lead Local Flood Authority would have no objection to the proposed demolition and erection of new industrial unit.</td>
</tr>
</tbody>
</table>

3.2 Discretionary Consultees

<table>
<thead>
<tr>
<th>Consultee</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parish Council</td>
<td>Council viewed the plans and voted unanimously in favour of the application, saying that it will be good to see the site tidied up and back in use.</td>
</tr>
<tr>
<td>Environmental Health</td>
<td>The planning application includes an Environmental report informed by a site walkover. The recommendations of this report are that an intrusive ground investigation should be undertaken. Consequently the EHO raises no objections subject to the site investigation being carried out and the results submitted for approval by the local planning authority, prior to the commencement of development.</td>
</tr>
</tbody>
</table>
4. Parish Council/Meeting Response

<table>
<thead>
<tr>
<th>Parish Council/Meeting</th>
<th>Object</th>
<th>Support</th>
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<th>No View Expressed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shap Parish Council</td>
<td></td>
<td>✔️</td>
<td></td>
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</tr>
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</table>

5. Representations

5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on 19 May 2017.

<table>
<thead>
<tr>
<th>No of Neighbours Consulted</th>
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<th>No of letters of support</th>
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</tr>
</thead>
<tbody>
<tr>
<td>No of Representations Received</td>
<td>0</td>
<td>No of neutral representations</td>
<td>0</td>
</tr>
<tr>
<td>No of objection letters</td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

6. Relevant Planning History

6.1 No recent planning history pertinent to the current scheme.

7. Policy Context

7.1 Development Plan

Saved 1996 Local Plan Policy

- EM7 Extension of Existing Sites and Premises
- EM8 Re-use of Industrial or Commercial Sites

Core Strategy DPD Policy:

- CS12 Principles for Economic Development
- CS18 Design of New Development

Local Plan 2014-2032

This plan, though not yet adopted, is now at an advanced stage and those policies not subject of further modification can be given substantial weight in the planning balance, including:

- DEV1 General Approach to New Development
- DEV5 Design of New Development
- EC3 Employment Development in Existing Settlements

7.2 Other Material Considerations

National Planning Practice Guidance

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

8. Planning Assessment

8.1 Key/Main Planning Issues

- Principle
- Landscape and Visual Impacts
8.2 Principle

8.2.1 The scheme proposes to replace dilapidated factory units with modern purpose-built industrial units. It will bring back into use commercial premises which have lain dormant for several years.

8.2.2 Within the emerging Eden Local Plan, Draft Policy EM7 supports the extension of existing employment sites within the District. Core Strategy Policy CS12 seeks to protect suitable existing and allocated employment land for its intended purpose.

8.2.3 The development is therefore considered to be acceptable in principle.

8.3 Landscape and Visual Impacts

8.3.1 The existing factory buildings are unsightly and detract from the amenity of the area. This is exacerbated by the redundancy of the site, the inactivity and neglect further compounding its visual harm.

8.3.2 Refurbishment of the existing factory buildings has been considered by the applicant but it is apparent that, with the exception of the warehouse and office building on the western edge of the site which have already been upgraded and are now occupied, none of the factory units are suitable to refurbish and refit for the applicant’s purposes.

8.3.3 The applicant is therefore investing in providing modern commercial buildings on the site which will considerably enhance the visual aspect of the site. There will however be an increase in scale. The buildings currently seen most prominently from the road are 3m high at the eaves rising to 7m at the ridge. The new factory unit will be 6m high at the eaves with an 8m ridge height. Offsetting this increase in massing is the roof design, which will be hipped, and the re-siting of the building 4m back into the site, away from the main road.

8.3.4 The buildings will be finished in composite steel cladding coloured Moorland Green, to reduce the visual prominence of the site.

8.3.5 It is considered that the replacement factory units are appropriate in scale and design. The landscape and visual impacts of the proposals on the amenity of the area are considered to be acceptable.

8.4 Residential Amenity

8.4.1 Although no comments have been received in writing, one local resident has raised concern verbally that the new factory units may be used for industrial processes which result in disamenity for residents through noise, smell or disturbance.

8.4.2 The supporting statement indicates that within the new structures activities will be mainly warehousing and distribution with some manufacturing of notice boards and display boards, part of the tenant’s portfolio of products. This would seem to fall within the B1 use class, which relates to business uses and industrial processes which can be carried out in any residential area without detriment to the amenity of that area. It was put to the applicant that the new structures may be restricted by condition to B1
use, in order to ensure that no potentially detrimental processes are carried out in the units which are within 70m of the nearest dwellings. The applicant was keen however to maintain the B2/B8 use so as not to restrict potential future use of the site, either by the tenant or potential future occupiers.

8.4.3 Whilst the neighbour’s concerns are understood, it is evident that the former food-processing factory was a B2 General Industry use and so all manner of industrial processes could be carried on within the existing buildings within the scope of existing planning consents. There would therefore be no justification in seeking to mandate a B1 Business and Light Industry use only on the site. Any potential future uses would still be subject to Environmental Health legislation on noise, smell and disturbance.

8.4.4 It is considered therefore that the development is acceptable in terms of impact on residential amenity.

8.5 Infrastructure
8.5.1 No additional impact.

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

The scheme will renew an existing vacant and dilapidated factory which is currently a blight on the character and amenity of the area. It will enhance the visual aspect of the site and bring back into use a commercial premises, providing employment and contributing to the District’s economy. The scheme is considered acceptable in terms
Agenda Item 8
REPORTS FOR DEBATE

of scale, appearance, finished materials and landscape impact. In the absence of any significant or demonstrable material adverse impact the proposal is considered to be in accordance with the NPPF and the development plan.

Jane Langston
Assistant Director Technical Services

Background Papers: Planning File