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Planning Application no. SL/2021/0162

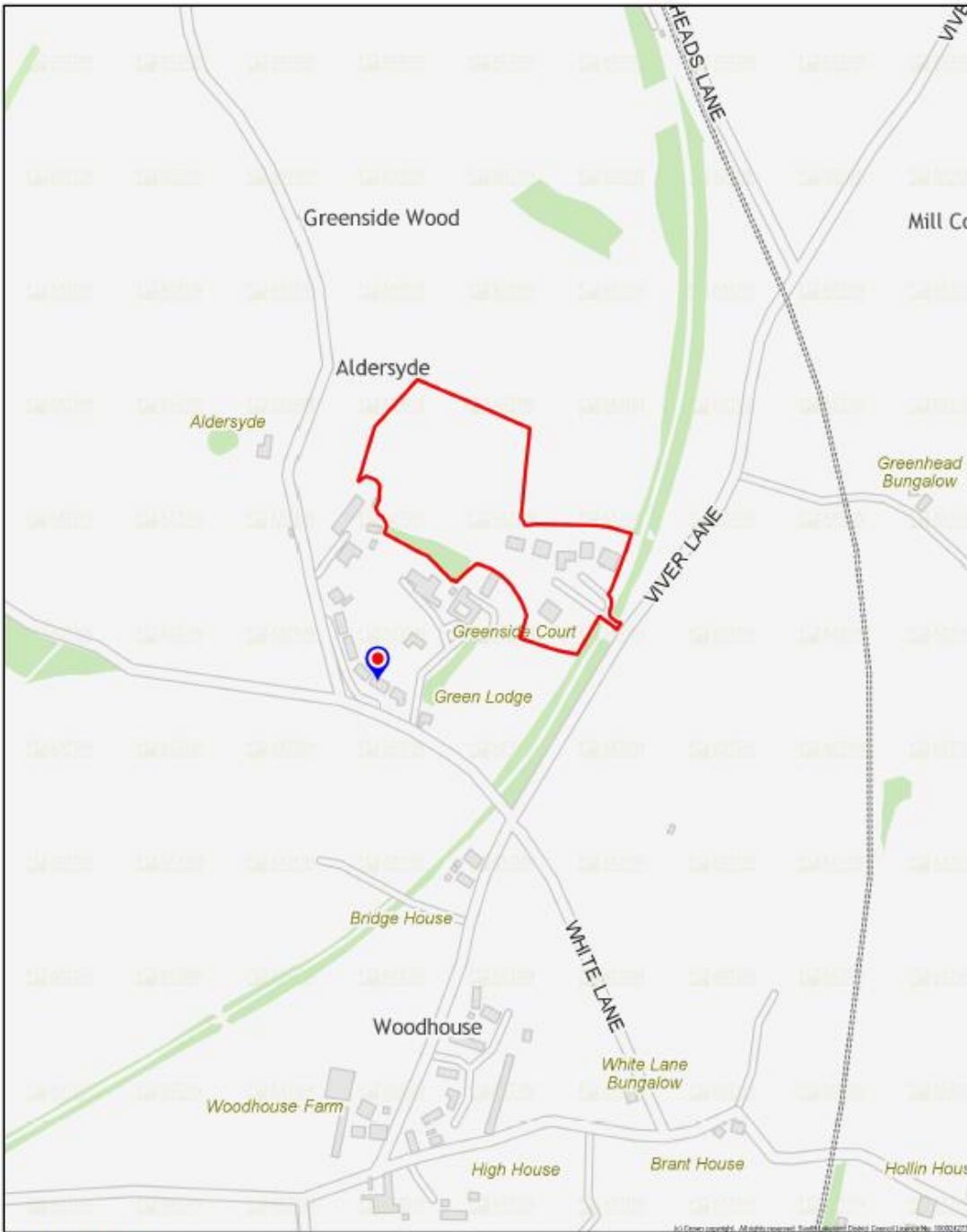
Land at Viver Green, Viver Lane,  
Hincaster, MILNTHORPE, LA7 7NA

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**SL/2021/0162**

Land at Viver Green, Viver Green MILNTHORPE LA7 7NA



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Printed on: 2022-05-23 12:51:35 by karen.shanks@SLDC

## Summary

SL/2021/0162

PARISH: Hincaster

Land at Viver Green Viver Lane Hincaster MILNTHORPE LA7 7NA

PROPOSAL: Variation of condition 1 (Approved plans) attached to planning permission SL/2015/0497 (20 dwellings, associated access road, landscaping and parking provision for Hincaster Trailway)

APPLICANT: Tretonia UK Ltd.

Grid Ref: E: 351070 N: 483964

Committee date: 16<sup>th</sup> June 2022

Case Officer: Nick Howard

A variation, and revocation if so required, to a S106 agreement and deed of variation relating to affordable housing was approved by members at the March 2022 committee. At that committee, it was agreed with members that the S73 application would be presented to committee.

The proposal is for the variation of condition 1 (Approved plans) attached to planning permission SL/2015/0497, which was for 20 dwellings. The variation relates to three plots 13, 15 and 16 and proposes to increase the ridge height of these dwellings by 0.45 metres.

## Recommendation

The recommendation is to approve the application.

### 1.0 Description and proposal

#### Site Description

- 1.1. The site is located approximately 5.5 miles to the south of Kendal and approximately 2 miles from Milnthorpe. The site is located to the south east of Hincaster, along the northern edge of a collection of dwellings at Greenside.
- 1.2. The application site originally included a former poultry farm and egg production/packing. The site has been partly constructed comprising of eight

dwelling with planning permission for a further 14 dwellings, providing a total of 22 dwellings.

- 1.3. The site is located in open countryside.

## Proposal

- 1.4. The proposal is for a variation of the approved plans of planning reference SL/2015/0497 which was for 20 dwellings. The proposal is to increase the height of three plots 13, 15 and 16 by 0.45 metres.

## Consultations

- 1.5. Natural England –No objections
- 1.6. Highway Authority and Lead Local Flood Authority has no objection to the proposed variations as it is considered that the variations will not have a material effect on existing highway conditions nor do they increase the flood risk on the site or elsewhere.
- 1.7. Environmental Health-No objections

## Public Responses

- 1.8. Six letters of representation were received, which all support the eventual completion of the site. Two have commented on the loss of affordable housing and consider the Council must deal with this aspect carefully. One neighbour was concerned that the dwellings were not be built in accordance of the approved plans and created potential overlooking into neighbouring properties.

## 2.0 Relevant planning history

- 2.1. The notable planning applications relating to the application site are as follows:
  - SL/2013/0594 – Outline planning permission granted for residential development 18<sup>th</sup> June 2014. The approval was in outline for an estimated development of 18 dwellings. The approval was subject to a S106 agreement which provided for three affordable on site units, an affordable housing contribution for three off site affordable dwellings of £414,750 and an educational transport contribution of £59850
  - SL/2015/0496- Two dwellings, construction of car park for Hincaster Trailway and car park for Growing Well Orchard approved 9<sup>th</sup> June 2016.

- SL/2015/0497 – Reserved matters approval on 9<sup>th</sup> June 2016 for 20 dwellings, associated access road, landscaping and parking provision for Hincaster Trailway. The three affordable housing units were identified as plots 18-20. This approval was subject to a S106 which provided for the provision of the on-site affordable housing provision before no more than six market houses were completed and occupied and the obligation to pay half the off-site affordable housing contribution prior to the occupation of seven residential units.
- SL/2018/0086- A modification of S106 agreement attached to planning permission SL/2015/0497 affordable housing contribution approved 13<sup>th</sup> June 2019. This approval allowed for a modification to the S106 agreement to allow the completion of nine market value houses before the on-site affordable housing provision was provided and to pay the Council half the off-site affordable housing contribution prior to the occupation of 10 units
- SL/2021/0161- Variation of S106 agreement- Approved in principle by members at March 2022 committee.

## 3.0 Relevant planning policies

### National Planning Policy Framework

Chapter 2, Achieving sustainable development

Chapter 4, Decision Making

### Local Development Policies

#### South Lakeland Development Management Development Plan Document Policies (DM)

DM1 – General Requirements for all development

## 4.0 Assessment

- 4.1. Policy DM1 of the Councils development management policies requires, amongst other things the delivery of acceptable levels of amenity, privacy and overshadowing for existing, neighbouring and future users and occupants and responds appropriately to the proposal site's locational context, local and settlement character and distinctiveness.

- 4.2. The previously approved development was for 20 dwellings. The proposal is for the variation of the approved plans, which involves an amendment to three plots 13, 15 & 16. Plot 13 is a detached dwelling (House Type H3) and is located in the north west corner of the site. Plots 15/16 are a pair of semi detached properties (House Types H6A/H6B) and are located close to the western boundary of the site. The amendments include increasing the height of the dwellings by 0.45 metres and minor variations to the design of the dwellings to accommodate the increase in height. The approved designs of the dwellings were unusual and of a high quality. The proposed variations are considered to retain the integrity of the design of the approved dwellings. The minor increase in height of the three dwellings is not considered to compromise the appearance of the dwellings.
- 4.3. One representation was received on the grounds that some of the dwellings within the estate were not constructed in the exact approved positions. These slight positional changes were approved by a previous non-material amendment and did not involve the plots which are the subject of this application. With regard to any potential overlooking, the plots are set towards the rear of the site well away from any existing neighbouring properties and the proposed minor increase in height would not result in any harmful impact on the living conditions of neighbouring residents. Furthermore, comments were made in respect of the loss of affordable housing. This was dealt with in the application to vary and revoke the S106 Agreement and is not relevant to this application. Notwithstanding that, the comments required the Council to carefully consider the issue of the loss of affordable housing. Officers consider this issue was discussed in detail at the March 2022 committee and as stated is not relevant to this s.73 application.
- 4.4. Overall, the proposal would not be harmful to the appearance of the residential development and the character of the area. The proposal therefore accords with Policy DM1.

## 5.0 Recommendation

- 5.1 The recommendation is to approve subject to the conditions set out below.

Condition (1) The development hereby permitted shall be carried out in accordance with the following approved plans:- 9867/3/12/Rev B Location Plan; 9867/3/1/ Rev G Site Layout Plan; E1815.03A Site Survey; 9867/3/2 House Type H1; 9867/3/3 Rev A House Type H2; 9867/3/4, House Type H3; 9867/3/4 Rev P00, House Type H4; 9867/3/6 Rev A House Type H5; 9867/3/8 Rev A, House Type H6; 9867/3/8 Rev P00, House Types H4 ABC; 9867/3/15. Site Sections AA and BB; 9867/3/16. Street Elevation; 9867/3/17. Visibility splay plan; 139.700 Street Scene. 139.200

Rev I Landscape Strategy Drawing; 139.300 Rev D Structural Landscaping Plan; 139.400 Rev B Boundary Treatments; 139.501 Rev C Hard Landscaping 1; 139.502 Rev C Hard Landscaping 2; 139.503 Rev A Entrance Feature Detail; 139.601 Soft Landscaping 1; 139.602 Soft Landscaping 2; 139.603 Soft Landscaping 3; 139.604 Soft Landscaping 4; 139.605 Soft Landscaping 5; and Arboricultural Method Statement (Rachel Atkinson).

Reason: For the avoidance of doubt and in the interests of proper planning.

Condition (2) The development shall be carried out in accordance with the approved Landscape Strategy Drawing No 139.200. Rev I and approved Arboricultural Method Statement (Rachel Atkinson).

Reason: To safeguard and enhance the character of the area and secure high quality landscaping in accordance with Policy DM4 of the Councils Development Management Policies.

Condition (3) a) No superstructure shall be erected until samples and details of all the materials to be used in the construction of the external surfaces of the development hereby approved have been submitted to and approved in writing by the local planning authority. b) Development shall be carried out in accordance with the approved details of materials unless otherwise agreed in writing with the local planning authority.

Reason: To ensure the development is of a high quality design in accordance with Policy DM4 of the Councils Development Management Policies.

Condition (4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development of the type described in Class A - gates, fences, walls etc, Part 2 Minor Operations of Schedule 2 of that Order shall be undertaken without the express permission of the Local Planning Authority.

Reason: The dwellings and their garden areas have been designed to minimize their impact on landscape / settlement character in accordance with Policy CS8.2 of the South Lakeland Core Strategy, and the local planning authority wish to retain control over gates walls and fences.