



To: the Chair and Members of the Strategic Planning Committee

Agenda

Dear Member

STRATEGIC PLANNING COMMITTEE

A meeting of the Strategic Planning Committee will be held as follows:

Date: Thursday, 11 January 2024

Time: 10.00 am

Venue: District Council Chamber, Kendal Town Hall, Lowther Street, Kendal, LA9 4DQ,

A handwritten signature in black ink, appearing to read 'Linda Jones'.

Linda Jones
Chief Legal and Monitoring Officer
Westmorland and Furness Council

Enquiries and requests for supporting papers to: Jackie Currie

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MEMBERSHIP

Cllr R Audland
Cllr L Baker
Cllr H Carrick
Cllr F Cassidy

Cllr W Clark
Cllr P Dixon (Chair)
Cllr B McEwan
Cllr G Simpkins (Vice-Chair)

ACCESS TO INFORMATION

Agenda and Reports

Copies of the agenda and Part I reports are available for members of the public to inspect prior to the meeting. Copies will also be available at the meeting.

The agenda and Part I reports are also available on the Westmorland and Furness website

<https://westmorlandandfurness.moderngov.co.uk/ieListMeetings.aspx?Committeeld=223>

A G E N D A

1. Apologies for Absence

To receive any apologies for absence.

2. Membership

To receive details of any changes in membership.

3. Declarations of Interest/Dispensation

To receive declarations of interest by members of any interests on respect of items on this agenda, and to consider any dispensations.

Members may however, also decide, in the interests of clarity and transparency, to declare at this point in the meeting, any such disclosable pecuniary interests which they have already declared in the Register, as well as any other registerable or other interests.

4. Exclusion of Press and Public

To consider whether the press and public should be excluded from the meeting during consideration of any item on the agenda.

5. Minutes of the Previous Meeting

To consider the minutes of the previous meeting held on 19 September 2023 (copy enclosed).

(Pages 5 - 22)

6. Public Participation

Any Member of the public who wishes to make representations relating to an item on the agenda for this meeting should apply to do so no later than 0:01am (one minute past midnight) three working days before the date of the meeting. Anyone wishing to make representations to this meeting should contact the officer named on the front of the agenda, providing a written summary of the issues they intend to raise.

7. Application No SL2022/0305 - Land adjacent to Beetham Road, Milnthorpe

To consider a Planning Application for the erection of 111 houses, 6 bungalows and 8 apartments with associated roads, car parking, landscaping, infrastructure and access on land off Beetham Road, Milnthorpe (copy enclosed)

(Pages 23 - 114)

8. Application SL/2022/1159 - Fields to the North James Cropper PLC & west of Garnett Bridge Road, Burneside, Kendal, LA9 6PZ

To consider a Planning Application for the installation of a ground mounted 3MW solar photovoltaic array with associated infrastructure and landscaping at fields to the North James Cropper PLC & west of Garnett Bridge Road, Burneside, KENDAL, LA9 6PZ
(copy enclosed)

(Pages 115 - 132)

9. Urgent Items

To consider any urgent items of business.

WESTMORLAND AND FURNESS COUNCIL STRATEGIC PLANNING COMMITTEE

Minutes of a Meeting of the **Strategic Planning Committee** held on Tuesday, 19 September 2023 at 10.00 am at County Hall, Kendal, LA9 4RQ

PRESENT:

Cllr R Audland
Cllr L Baker
Cllr H Carrick
Cllr F Cassidy
Cllr P Dixon (Chair)
Cllr V Hughes
Cllr B McEwan
Cllr G Simpkins (Vice-Chair)

Officers in attendance:

Mr A Martin	Principal Planning Officer
Mr A Moffatt	Legal, Governance and Democracy Specialist (Democratic Services)
Mr C Parkes	Development Management Officer - Highways
Mrs L Tremble	Assistant Director Legal and Democratic Services (Eden)

PART I ITEMS CONSIDERED IN THE PRESENCE OF THE PUBLIC AND PRESS

16. APOLOGIES FOR ABSENCE

An apology for absence had been received from Councillor W Clark.

17. MEMBERSHIP

Councillor V Hughes acted as substitute for this meeting in Councillor W Clark's absence.

18. DECLARATIONS OF INTEREST/DISPENSATION

Whilst no Members declared a pecuniary interest in the item on the agenda, a number of members noted for transparency, that three of the public speakers were known to them, due to them being associated with Kendal Town Council and Westmorland and Furness Council.

19. EXCLUSION OF PRESS AND PUBLIC

There were no excluded items on the agenda.

20. MINUTES OF THE PREVIOUS MEETING

Members requested that the location of the application be included in the minutes of the previous meeting and all future meetings, as well as a description of the application.

RESOLVED, that the Chair be authorised to sign, as a correct record, the minutes of the meeting held on 13 July 2023, subject to the minor amendment set out above.

21. SL/2022/0921 - ERECTION OF 24 DWELLINGS WITH ASSOCIATED VEHICULAR ACCESS, ROADS AND FOOTWAYS, HARD AND SOFT LANDSCAPING, DRAINAGE AND OTHER ASSOCIATED WORKS - LAND AT BRIGSTEER ROAD (PHASE 3) , KENDAL

Planning Application No. SL/2022/0921 – Land at Brigsteer Road (Phase 3), Kendal – Erection of 24 dwellings with associated vehicular access, roads and footways, hard and soft landscaping, drainage and other associated works.

The Principal Planning Officer informed members of a full planning application, for 24 dwellings, which represented the third phase of development on an allocated housing site on the western side of Kendal at Brigsteer Road. Taking into account the main planning issues, and having considered the responses from consultees and third parties, the proposal was judged to be consistent with the relevant development plan policies and other material planning considerations.

The officer then gave members a presentation, which set out the report in detail, referring to site plans and photographs which showed an aerial view as well as key points of access on the site. Elevations were shown to give examples of the house types, including the affordable units.

The officer was recommending approval of the application.

The Chair then opened the meeting up to public participation.

Mr G Dearlove, a local resident, addressed the Committee, speaking in objection to the application.

Mr G Trimingham, a local resident, addressed the Committee, speaking in objection to the application.

Cllr S Long, Kendal Town Council, addressed the Committee, speaking in objection to the application.

Mr C Bagshaw, the Clerk to Kendal Town Council, addressed the Committee on behalf of the Town Council, speaking in objection to the application.

Cllr M Severn, Westmorland and Furness Councillor and Kendal Town Councillor, addressed the Committee as Ward Member in objection to the application.

Mr D Hayward, Land Manager for Story Homes addressed the Committee, speaking in support of the application.

The Chair thanked all of the public participation for their contribution to the meeting and made Members aware that a Highways Officer was in attendance to respond to any questions.

The Principal Planning Officer responded to the points raised within the public participation.

Members requested further information on the traffic modelling that had been undertaken. The highways officer explained that earlier iterations of the applicant's modelling had suggested a potential impact on the Bankfield/Greenside junction but that further work had confirmed that the junction would operate within capacity with no unacceptable impact on highway safety.

Members expressed concern regarding the phased approach of the development, it was felt that some aspects that may be considered unacceptable for Phase 3 may be later considered as acceptable for Phase 4. Furthermore, the methodology of the transport assessment was queried as the use of a new set of data had changed the pressure on the junction in the study. Members noted that a clear picture of the impact of the whole development was difficult when the phases were being approved separately.

In response, the Principal Planning Officer informed members that there were no policy requirement for the allocation to be developed comprehensively. Nevertheless, he believed the phased approach was on course to deliver the plan for the site with the development brief being followed closely by Story Homes. Members were reminded that only Phase 3 of the application was being considered at this meeting.

Regarding the traffic assessment, the Principal Planning Officer and Highways Officer explained that the focus of the initial assessment had used an unrealistic assumption that 100% of vehicles would use the junction to travel into Kendal. The assessment showed that the number of vehicles per hour resulting from Phase 3 was likely to have an impact on the junction at Bankfield Road/ Greenside. It was noted that Story Homes' traffic consultant had redistributed the trips to a more realistic split in the direction of travel, which was why the pressure on the junction had changed from the initial assessment. Members were informed that Phase 4 was a more marginal case and it was anticipated that further analysis of the junction would be done at that stage of development.

Members further expressed concern regarding the impact of traffic if the application was to be approved. The Principal Planning Officer explained that the former SLDC Planning Committee had established dedicated highway links to the boundaries of Phases 1 and 2 for use by the later phases. The Principal Planning Officer reminded Members that in considering development for Phase 3, it was important to ensure that at least one of those links was protected.

Members requested further information from Mr D Hayward, Story Homes. The Chair gave his permission following the request from Members.

Mr D Hayward, Land Manager for Story Homes addressed the Committee. He informed the Committee of the process to acquire the land and how the different phases of development would be brought forwards. He commented on the road link on the site, confirming that Story Homes was progressing a scheme for Phase of the allocation, and that this would be connected to existing development via the dedicated link in Phase 2.

Following a query relating to the status of the hedgerow, the Principal Planning Officer confirmed that the hedgerow was to be retained, and that trees were protected through the course of the development.

Members resolved to adjourn the meeting for a brief comfort break at 11.47 a.m.

The meeting reconvened at 11.54 a.m.

Following a request from the chair, a proposal to move the officer recommendations as set out in the report was put forward and seconded.

A separate proposal was made, to defer the application, in order to consider Phase 3 and 4 of the development together. The Chair reminded Members that the substantive motion must be considered before an alternative is put forwards.

Before moving to the vote, Members requested that the concerns raised during the meeting be acted on by officers in consultation with the developers.

Members moved to the vote and it was unanimously

RESOLVED, that the application be **GRANTED**, subject to:-

(1) a section 106 agreement covering the following issues:

Affordable housing

8 units of affordable housing, based upon:

- (1) a tenure mix of 4 x 1 Bed Rented Homes (Belford Type) to be rented at Affordable Rents Levels 2 x 2 Bed First Homes (Branford Type) to be sold at 40% discount on the Open Market Value to First Time Buyers only 2 x 2 Bed Shared Ownership (Branford Type); and
- (2) the Council's other standard clauses.
 - Not to allow the disposal of and/or occupation of more than nine full market value units until the 4 x 1 Bed Rented Homes (Belford Type) units have been made ready for occupation and written notification of such has been made to the council.

- Not to allow the disposal of and/or occupation of more than 15 full market value units until the remainder of the affordable housing units have been made ready for occupation and written notification of such has been made to the council. The one remaining full market value unit shall be a 5- bedroom house type.

On-site recreation and SuDS

Establishment of management and maintenance arrangements for all of the on-site open space and SuDS in accordance with an “On-Site Open Space Management Plan” and a “SuDS Management Plan” to be first agreed. The Suds Management Plan must contain clear arrangements for the ongoing maintenance of the drainage system over the lifetime of the development, including a maintenance schedule identifying all responsible parties. Thereafter, the on-site open space and SuDS must be established, managed and maintained in accordance with the agreed schemes for the lifetime of the development.

Off-site recreation

A financial contribution of £12,170 towards off-site open space. [This is a pro rata calculation based on the £44,625 agreed for the 88 dwellings in the Phase 1 and 2 permission].

The contribution to be used towards:

- (1) the provision / improvement of open space and recreation/play space provision within the main Stainbank Green allocation; or
- (2) the provision / improvement of open space and recreation/play space provision within the “Vicarage Road green wedge” if the remainder of the Stainbank Green allocation is not substantially complete by the end of 2030.

Biodiversity net gain

A financial contribution of £50,715, for onward transmission to Cumbria Wildlife Trust, for the establishment and future maintenance of 2.4 hectares of species rich pasture on former agricultural land adjoining Foulshaw Moss Nature Reserve.

- (2) the following conditions:-

Condition (1) The development hereby permitted shall be commenced before the expiration of THREE YEARS from the date hereof.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Approved plans

Condition (2) The development hereby permitted shall be carried out in accordance with the following approved plans:

- Location Plan – Phase 3, 40067.03.LP Revision B
- Site Layout PH3, 20101.01.03.SLPH3 Revision M
- Boundary Treatments Layout, 20101.03.03.BT Revision K
- Standard Boundary Treatments Layout 40014.03.03ST Revision D
- Elevations Treatment Layout – Phase 3, 40067.03.02 Revision K
- Hard Surfacing Layout, 20101.03.04.HS Revision K
- Site Section A-A, BRPH3-SS-AA Revision D
- Site Section B-B, BRPH3-SS-BB Revision D
- Site Section C-C, BRPH3-SS-CC Revision D
- Site Section D-D, BRPH3-SS-DD Revision D
- Landscape Structure Plan, 6219.09 Revision L
- Management Company Layout, 20102.01.07.MCL Revision C
- Parking Plan, 20101.01.03.PPPH3 Revision L
- Proposed External Levels, 101 Revision E
- Drainage Layout Plan, 120 Revision F
- Refuse Tracking, 20101.01.03.SLTR Belford M4(2), House Type
- Planning Elevation 1/46 (drawing number BEL-PL1/46) Branford M4(2), House Type
- Planning Elevation 1/44 (drawing number BFD-PLP1)
- Planning Elevation 1/44 (drawing number BFD-PL1/44) Cranford M4(2), House Type
- Planning Layout 1 (drawing number CND-PLP1)
- Planning Elevation 1/1 (drawing number CND-PL1/1) Hartford M4(2)S, House Type
- Planning layout 1 (drawing number HFD-PLP1)
- Planning Elevation 1/44 (drawing number HFD-PL1/44)
- Planning Elevation 1/45 (drawing number HFD-PL1/45) Linford M4(2)S House Type
- Planning Layout 1 (drawing number LFD-PLP1)
- Planning Elevation 1/4 (drawing number LFD-PL1/4)
- Planning Elevation 1/5 (drawing number LFD-PL1/5) Rutherford M4(2) House Type
- Planning Layout 1 (drawing number RTD-PLP1 Rev A)
- Planning Elevation 1/44 (drawing number RTD-PL1/44 Rev A)
- Planning Elevation 1/45(drawing number RTD-PL1/45 Rev A) Stanford M4(2)S House Type
- Planning Layout 1 (drawing number SFD-PLP1)
- Planning Elevation 1/44 (drawing number SFD-PL1/44)
- Planning Elevation 1/45(drawing number SFD-PL1/45) Wexford M4(2)S, House Type
- Planning Layout 2 (Corner) (drawing number WXD-PLP2)
- Planning Layout 2 (Corner) (drawing number WXD-PL244)

- Planning Layout 2 (Corner) (drawing number WXD-PLE245)

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

External materials

Condition (3) External walls and roofs of the dwellings hereby approved shall be finished in accordance with the materials shown on the approved Elevation Treatments Layout (40067.03.02 Revision K), and in accordance with natural stone and natural slate specifications that shall first have been submitted to, and approved in writing by, the local planning authority.

Reason: To ensure compliance with:

(1) policy CS8.10 (Design) of the South Lakeland Core Strategy; and

(2) policies DM1 (General Requirements for all development) and DM2 (Achieving Sustainable High Quality Design) of the South Lakeland Development Management Policies Development Plan Document.

Plot boundaries

Condition (4) No individual dwelling shall be first occupied until its boundary has been enclosed in accordance with the details shown on the approved Boundary Treatments Layout (20101.03.03.BT Revision K) and approved Standard Boundary Treatments Layout (40014.03.03ST Revision D).

Reason: To ensure compliance with:

(1) policy CS8.10 (Design) of the South Lakeland Core Strategy; and

(2) policies DM1 (General Requirements for all development) and DM2 (Achieving Sustainable High Quality Design) of the South Lakeland Development Management Policies Development Plan Document.

Condition (5) Plots 110 – 112 shall not be first occupied until the retaining walls and associated external works adjoining their boundaries, shown on, drawing 101 Revision E (Proposed External Levels), have been completed in accordance with a further specification that shall first have been submitted to, and approved in writing by, the local planning authority. For the avoidance of doubt, the exposed external faces of these retaining walls shall be finished in natural stone.

Reason: To ensure compliance with:

(1) policy CS8.10 (Design) of the South Lakeland Core Strategy; and

(2) policies DM1 (General Requirements for all development) and DM2 (Achieving Sustainable High Quality Design) of the South Lakeland Development Management Policies Development Plan Document.

Landscaping

Condition (6) No development shall commence until a timetable for the completion of all hard and soft landscaping of the site has been submitted to, and approved in writing by, the local planning authority. Hard and soft landscaping shall be completed in accordance with the following plans:

- Hard Surfacing Layout, 20101.03.04.HS Revision K
- Landscape Structure Plan, 6219.09 Revision L
- Proposed External Levels, 101 Revision E
- Management Company Layout, 20102.01.07.MCL Revision C

Thereafter, the landscaping shall be maintained for a period of not less than 30 years in accordance with the provisions of the Biodiversity Enhancement Management Plan, Brigsteer Road Phase 3, prepared by Urban Green and dated July 2023.

Reason: To safeguard and enhance the character of the area in accordance with policies LA1.3 (Housing Allocations) and LA2.7 (Stainbank Green) of the South Lakeland Land Allocations Development Plan Document and policy DM4 (Green and Blue Infrastructure, Open Space, Trees and Landscaping) of the South Lakeland Development Management Policies Development Plan Document.

Tree protection

Condition (7) No development shall commence within 15 metres of any tree or tree group identified for retention in the submitted Arboricultural Impact Assessment (AIA) until physical tree protection measures have been put in place (and confirmed as acceptable following a site inspection by the local planning authority's representative) in accordance with the details in the submitted Arboricultural Method Statement (AMS), comprising the following drawings:

- UG_1670_ARB_AMS_01 Revision 01,
- UG_1670_ARB_AMS_02 Revision 01 and
- UG_1670_ARB_AMS_SIGN_OFF Revision 01

Thereafter, the protection measures shall be kept in place for the duration of the construction phase of the development, and development shall proceed in accordance the further measures detailed in the AIA and AMS.

In addition to the general provisions with the AMS, work within the vicinity of Tree Group G21 (identified in the submitted Arboricultural

Impact Assessment (AIA), shall be carried out in accordance with the specific proposals within the letter titled "Preliminary Assessment of Arboricultural Impacts on Retained Tree T19 and Tree Group G21 from Proposed Drainage Strategy for Land at Brigsteer Road (Phase 3), Kendal", from Urban Green dated 24 August 2023.

For the avoidance of doubt, photographic records of all supervised excavations, along with any remedial works required during the excavations must be documented in the AMS Sign Off records.

Reason: To protect existing trees in accordance with policy DM4 (Green and Blue Infrastructure, Open Space, Trees and Landscaping) of the South Lakeland Development Management Policies Development Plan Document.

Accessible and adaptable homes

Condition (8) All of the dwellings hereby approved, other than the first floor Belford units, shall be constructed to meet the Building Regulations M4(2) standards for accessible and adaptable homes.

Reason: To secure an appropriate level of compliance with Policy DM11 of the Development Management Policies Development Plan Document.

Broadband

Condition (9) No individual dwelling hereby approved shall be first occupied until connected to the necessary infrastructure to enable access to high speed (superfast) broadband.

Reason: To comply with Policy DM8 (High Speed Broadband for New Developments) of the Development Management Policies Development Plan Document.

Photovoltaic panels

Condition (10) No development shall commence until a specification for the installation of photovoltaic panels on each dwelling has been submitted to, and approved in writing by, the local planning authority. Thereafter, no individual dwelling shall be first occupied until it has been provided with photovoltaic panels in accordance with the agreed specification.

Reason: To maximise opportunities for renewable and low carbon energy technologies in accordance with Appendix 1 of the South Lakeland Development Management Policies Development Plan Document.

Highways

Condition (11) No dwellings shall be occupied until the estate road including footways, cycleways, parking, and turning spaces, to serve such dwellings has been constructed in all respects to base course level and street lighting where it is to form part of the estate road has been provided and brought into full operational use.

Reason: In the interests of highway safety.

Condition (12) Plots 110 – 112 shall not be first occupied until the estate road connection to Phases 1 and 2 of the development (originally approved under reference SL/2020/0783) past Plot 60 has been constructed and made operational.

Reason: To maintain highway connectivity in accordance with: (1) policy CS10.2 (Transport impact of new development) of the South Lakeland Core Strategy; and (2) policy DM1 (General Requirements for all development) of the South Lakeland Development Management Policies Development Plan Document.

Condition (13) Plots 97 - 101 shall not be first occupied until the estate road connection to Phases 1 and 2 of the development (originally approved under reference SL/2020/0783) past Plots 68 and 69 has been constructed and made operational.

Reason: To maintain highway connectivity in accordance with: (1) policy CS10.2 (Transport impact of new development) of the South Lakeland Core Strategy; and (2) policy DM1 (General Requirements for all development) of the South Lakeland Development Management Policies Development Plan Document.

Travel plan

Condition (14) The measures identified in the Travel Plan approved under reference SL/2022/0838 (Discharge of condition 16 attached to planning permission reference SL/2020/0783) shall also be implemented in respect of all properties hereby approved, within 12 months of any occupation of the development.

Reason: To mitigate for the cumulative impacts of development, recognising that the transport impacts of Phase 3 are linked to, and additional to, the impacts of the previously approved Phases 1 and 2 (planning reference SL/2020/0783). To aid in the delivery of sustainable transport objectives.

Parking

Condition (15) No individual dwelling shall be first occupied until its parking provision, as indicated on the approved Parking Plan (20101.01.03.PPPH3 Revision L) and, where applicable, integral garages shown on the relevant house type designs, has been constructed and made available for use.

Reason: To ensure the timely provision of car parking in accordance with policy DM9 (Parking Provision, new and loss of car parks) of the South Lakeland Development Management Policies Development Plan Document.

Electric vehicle charging points

Condition (16) All dwellings shall be provided with electric vehicle charging points before first occupation.

Reason: To maximise opportunities for renewable and low carbon energy technologies in accordance with Appendix 1 of the South Lakeland Development Management Policies Development Plan Document.

Cycle parking

Condition (17) No development shall commence until a cycle parking plan, providing details of secure and convenient long stay cycle parking for residents, has been submitted to, and approved in writing by, the local planning authority. Thereafter, no individual dwelling shall be first occupied until it has been provided with cycle parking in accordance with the approved cycle parking plan.

Reason: To maximise opportunities for promoting sustainable transport in accordance with Appendix 1 of the South Lakeland Development Management Policies Development Plan Document.

Public rights of way

Condition (18) Plots 89 - 91 shall not be first occupied until a new public pedestrian link from the development to public footpath 536043 has been completed in accordance with a specification that shall first have been submitted to, and approved in writing by, the local planning authority. The specification must address working within the root protection areas of the protected trees that line public footpath 536043 and must include:

- (a) measures necessary to secure ongoing pedestrian access for the public over privately owned land; and

- (b) proposals for future maintenance. Thereafter, the link must remain available as a public connection for the lifetime of the development.

Reason: To improve pedestrian links in accordance with the expectations of policy LA2.7 of the South Lakeland Land Allocations Development Plan Document.

Condition (19) Plot 96 shall not be first occupied until a new public pedestrian link from the development to public footpath 536040 immediately south of plots 92 – 95 has been completed in accordance with a specification that shall first have been submitted to, and approved in writing by, the local planning authority. The specification must include:

- (a) measures necessary to secure ongoing pedestrian access for the public over privately owned land; and
- (b) proposals for future maintenance. Thereafter, the link must remain available as a public connection for the lifetime of the development.

Reason: To improve pedestrian links in accordance with the expectations of policy LA2.7 of the South Lakeland Land Allocations Development Plan Document.

Condition (20) Plots 106 - 107 shall not be first occupied until the new public pedestrian link from the development to public footpath 536040 (identified on Site Layout PH3, 20101.01.03.SLPH3 Revision M) has been completed in accordance with a specification that shall first have been submitted to, and approved in writing by, the local planning authority. The specification must address working within the root protection areas of tree group G21 identified in the submitted Arboricultural Impact Assessment (AIA) (accepting that a section of Group G21 will be lost to create the connection) and include:

- (a) measures necessary to secure ongoing pedestrian access for the public over privately owned land; and
- (b) proposals for future maintenance. Thereafter, the link must remain available as a public connection for the lifetime of the development.

Reason: To improve pedestrian links in accordance with the expectations of policy LA2.7 of the South Lakeland Land Allocations Development Plan Document.

Drainage

Condition (21) Foul and surface water shall be drained to separate systems.

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

Condition (22) No development shall commence until a further specification for the proposed geocellular soakaway system, confirming maintenance arrangement for the lifetime of the development, has been submitted to, and approved in writing by, the local planning authority.

Reason: To ensure the surface water system continues to function as designed and that flood risk is not increased within the site or elsewhere. [Ensuring ongoing maintenance in accordance with the agreed specification will be secured by an obligation in the recommended section 106 agreement]

Condition (23) No development shall commence until a construction surface water management plan has been agreed in writing with the local planning authority. Thereafter, the construction phase of the development shall proceed in accordance with the approved plan.

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

Condition (24) No development shall commence until a surface water drainage validation strategy has been submitted to, and approved in writing by, the local planning authority. The strategy must include a timetable for the phased submission of validation reports in respect of the main sustainable drainage system and exceedance routes. No dwelling shall be first occupied until the validation report for the relevant phase of the development has been submitted to, and approved in writing by, the local planning authority. The validation report should include confirmation of the infiltration rate at the design depth of the proposed geocellular soakaway, confirmation of the infiltration properties of any fill material in which infiltration devices will be used, and confirmation that the geocellular system is installed in accordance with good practice.

Reason: To ensure adequate provision is made for the management of surface water.

Construction management

Condition (25) Construction work shall not take place outside the hours of 0800 – 1800 Monday to Friday or 0900 – 1300 on Saturdays, nor at any time on bank holidays.

Reason: In the interests of safeguarding the amenity and ecological interest of the existing area in accordance with:

- (1) policy CS8.4 (Biodiversity and geodiversity) of the South Lakeland Core Strategy; and
- (2) policies DM4 (Green and Blue Infrastructure and Open Space) and DM7 (Addressing Pollution, Contamination Impact, and Water Quality) of the South Lakeland Development Management Policies Development Plan Document.

Condition (26) No blasting shall be undertaken as part of the construction process.

Reason: To safeguard the amenity of the area in accordance with policy DM7 (Addressing Pollution, Contamination Impact, and Water Quality) of the South Lakeland Development Management Policies Development Plan Document.

Condition (27) No development shall take place, including any works of demolition, until a Construction Environment Management Plan (CEMP) has been submitted to, and approved in writing by the local planning authority. The CEMP shall provide for:

- (i) a phasing scheme for the construction of the development, including timescales for the installation of the access roads, parking and turning areas;
- (ii) safe visibility at the access during the construction period;
- (iii) details of proposed crossings of the highway verge;
- (iv) dedicated areas for the parking of vehicles of site operatives and visitors;
- (v) dedicated areas for loading and unloading of plant and materials;
- (vi) dedicated areas for storage of plant and materials used in constructing the development;
- (vii) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- (viii) wheel cleaning facilities;
- (ix) the sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials on the highway;
- (x) cleaning of site entrances and the adjacent public highway;
- (xi) the management of junctions to and crossings of the public highway and other public rights of way/footway;
- (xii) the scheduling and timing of movements, details of escorts for abnormal loads, temporary warning signs and banksman/escort details;
- (xiii) measures to control the emission of dust and dirt during construction;
- (xiv) measures to control surface water run-off during construction;
- (xv) a rock pecking method statement;
- (xvi) measures to control noise and vibration.

Thereafter, the approved Construction Environment Method Statement shall be adhered to throughout the construction period.

Reason: To safeguard the amenity of the area in accordance with policy DM7 (Addressing Pollution, Contamination Impact, and Water Quality) of the South Lakeland Development Management Policies Development Plan Document.

Land contamination

Condition (28) Prior to the occupation of any residential dwellings a Verification Report demonstrating completion of the recommendations set out in the site investigation scheme and the detailed risk assessment detailed in the following documents has been submitted to, and approved in writing by the local planning Authority:

- 16-061-L2- Supplementary Geoenvironmental Investigation,e3p - September 2022-1-50
- 16-061-L2- Supplementary Geoenvironmental Investigation e3p[1]September 2022-51-125

The Verification Report shall include results of all remediation measures and sampling and monitoring carried out in accordance with the site investigation scheme and the detailed risk assessment recommendations to demonstrate that the site is suitable for residential occupation.

Reason: To safeguard the amenity of existing and proposed dwellings in accordance with policy DM7 (Addressing Pollution, Contamination Impact, and Water Quality) of the South Lakeland Development Management Policies Development Plan Document.

Condition (29) If during the course of development any visible contaminated or odorous material (for example, asbestos containing material, stained soil, petrol / diesel / solvent odour, underground tanks or associated pipework) not previously identified, is found to be present, development shall immediately cease. Thereafter, development shall only recommence in accordance with a method statement detailing the nature and degree of the contamination and the techniques proposed to remove it. The method statement must be prepared by a suitably qualified independent consultant and must first have been submitted to, and approved in writing by the local planning authority.

Reason: To safeguard the amenity of existing and proposed dwellings in accordance with policy DM7 (Addressing Pollution, Contamination Impact, and Water Quality) of the South Lakeland Development Management Policies Development Plan Document.

Archaeology

Condition (30) No development shall commence until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which shall first have been submitted to, and approved in writing by, the local planning authority.

This written scheme will include the following components:

- An archaeological evaluation;
- An archaeological recording programme the scope of which will be dependent upon the results of the evaluation;
- Where significant archaeological remains are revealed by the programme of archaeological work, there shall be carried out within one year of the completion of that programme, or within such timescale otherwise agreed in writing by the local planning authority, a post-excavation assessment and analysis, preparation of a site archive ready for deposition at a store approved by the local planning authority, completion of an archive report, and submission of the results for publication in a suitable journal.

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

- (1) policies CS2 (Kendal Strategy) and CS8.6 (Historic environment) of the South Lakeland Core Strategy; and
- (2) policy DM3 (Historic Environment) of the South Lakeland Development Management Policies Development Plan Document.

Biodiversity

Condition (31) No individual dwelling or block of flats shall be first occupied until it has been fitted with swift bricks in accordance with a scheme that shall first have been submitted to, and approved in writing by, the local planning authority.

Reason: To reinforce compliance with policy CS8.4 (Biodiversity and geodiversity) of the South Lakeland Core Strategy.

Condition (32) None of the dwellings hereby approved shall be first occupied until an information pack to be made available to future residents, highlighting the significance and sensitivity of the nearby Scout and Cunswick Scars Site of Special Scientific Interest (SSSI) (part of the Morecambe Bay Pavements Special Area of Conservation (SAC)), has been submitted to, and approved in writing by, the local planning authority.

Thereafter, the information pack shall be made available to all future residents for the lifetime of the development.

Reason: To reinforce compliance with policy CS8.4 (Biodiversity and geodiversity) of the South Lakeland Core Strategy.

22. URGENT ITEMS

There were no urgent items.

The meeting ended at 11.59 am

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STRATEGIC PLANNING COMMITTEE REPORT

Planning Application Reference No. SL/2022/0305

Proposal: Erection of 111 houses, 6 bungalows and 8 apartments with associated roads, car parking, landscaping, infrastructure and access from Beetham Road, Land off Beetham Road, MILNTHORPE (AMENDED SCHEME)

Location: Land off Beetham Road MILNTHORPE

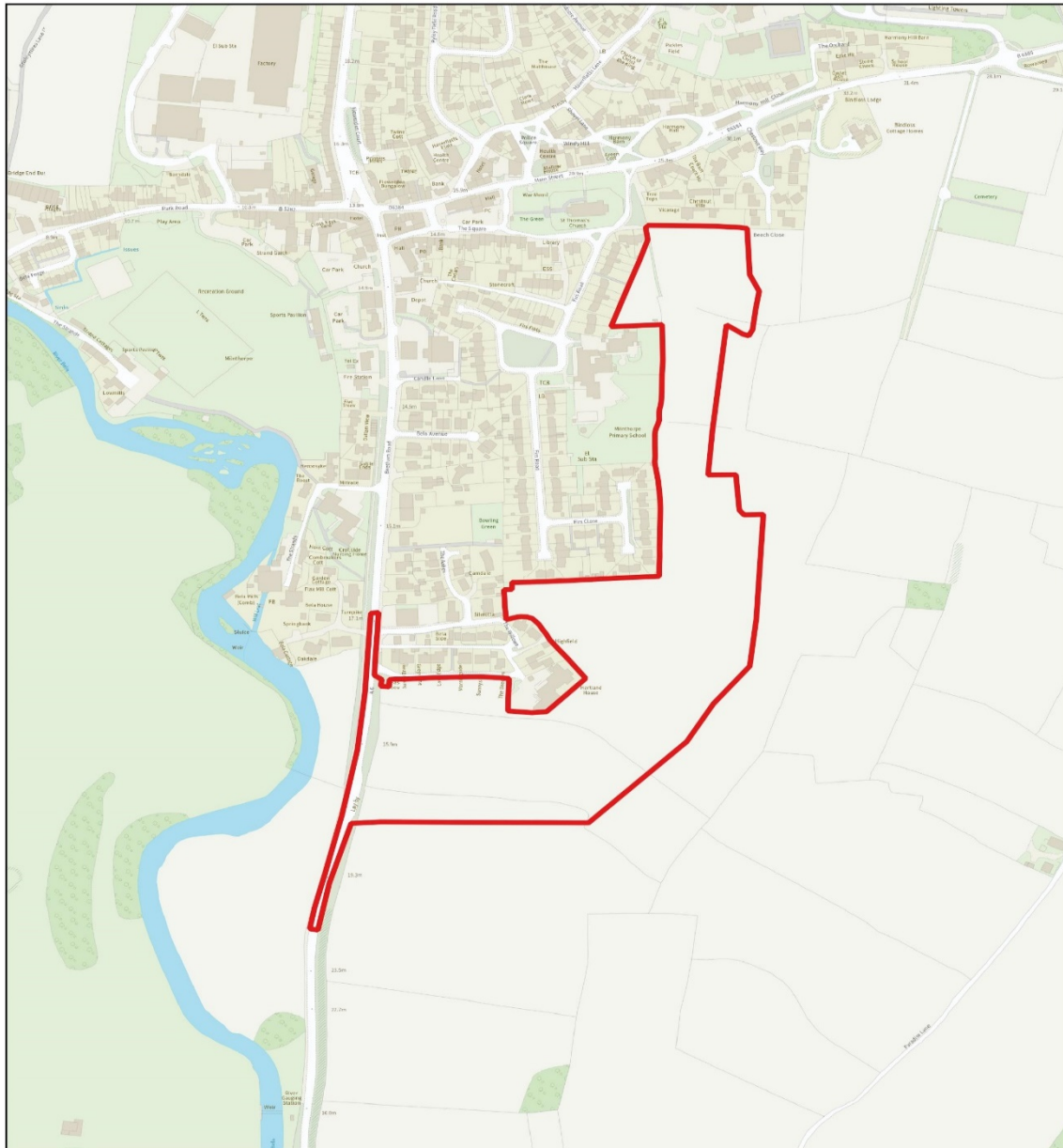
Applicant: Oakmere Homes Ltd

Committee Date: 11 January 2024

Case Officer: Andrew Martin

Reason for Committee Level Decision:

- Conflicts with the representations received from a Town or Parish Council where they are capable of being material planning considerations;
- Residential development comprising more than 100 dwellings or site area exceeding 3 hectares.



SL/2022/0305
Land off Beetham Road, MILNTHORPE



Scale 1:5000

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1.0 SUMMARY AND RECOMMENDATION

1.1 The application is recommended for approval subject to:

- a) adoption by the Strategic Planning Committee of the Shadow Habitat Regulations Assessment, Envirotech, V2, 01 April 2023, to meet the Council's responsibilities as a competent authority in accordance with The Conservation of Habitats and Species Regulations 2017 (as amended);

- b) completion of a section 106 agreement before planning permission is issued providing for the planning obligations set out in paragraph 10.1b below; and
- c) the conditions listed below in paragraph 10.1c being attached to the planning permission.

2.0 THE PROPOSAL

- 2.1 This is a full planning application, proposing 125 dwellings: 111 houses; 6 bungalows and 8 apartments. The application also includes details of associated roads, car parking, landscaping and drainage infrastructure.
- 2.2 The main vehicular access for the development is proposed from the A6.

3.0 SITE DESCRIPTION

- 3.1 The site is located on the south-eastern edge of Milnthorpe. The northern tip of the site is very close to the village centre and adjoins the Conservation Area, the former St. Thomas' Vicarage and more recent residential properties at Beech Close. It is bounded by open countryside to the east and south and by residential development and Milnthorpe Primary School to the west. The southern part of the site looks out over the grounds of Dallam Historic Park and the Arnside & Silverdale AONB. The site is in close proximity to Morecambe Bay Special Protection Area (SPA), Special Area of Conservation (SAC), Ramsar site and Site of Special Scientific Interest (SSSI).
- 3.2 The topography generally rises from west to east, from approximately 10m to 35m AOD in the south and approximately 35m to 45m in the north.

4.0 SITE PLANNING HISTORY

- 4.1 There is no relevant planning history for this site.

5.0 CONSULTATIONS

- 5.1 The application has been publicised on four separate occasions: (1) 01 April 2022, when the application was first registered; (2) 11 April 2023, following significant amendments (including the omission of Apartment Block C); (3) 14 June 2023 (a targeted consultation with certain properties in Firs Road and Firs Close following amendments along the boundary); and (4) 28 July 2023, a full re-consultation following further significant amendments to the proposal.

5.2 Milnthorpe Parish Council

12 May 2022

Following the May Parish Council meeting, where a large number of electors expressed concerns over the proposed development, I write on behalf of the Parish Council in support of a number of concerns, as follows:

- The development plans do not correlate with the original SLDC Development Brief of 2015. A number of the designated open spaces are now seeing properties being built. This is well documented in a number of residents responses to the development and these views are supported by the Parish Council

- The large building in the northern part of the development, which is on a previously declared open space, is much larger than previously believed. It is to be built on a significant slope, with the northern side being built up to create a building closer to 3 storeys. This is not in keeping with other properties that are proposed and not in keeping with other properties in the village. It appears that the property is circa 75 metres long, again not in keeping with other existing/proposed properties. Because the property is on the highest part of the development it is felt that it will dominate the skyline and be a 'blot on the landscape'. Whilst the provision for the over 55's is very laudable, provision via smaller blocks of apartments would be more in keeping with the existing feel of the village
- There is concern that the properties, in particular the apartment style properties may be purchased as second homes/holiday lets. A provision to ensure that this does not happen would be appropriate
- Previously communicated concerns were also raised around the ability of the village to provide adequate services for the additional population. In particular real concern was expressed over the sewage treatment. It is well known that Milnthorpe has had issues with this. Indeed, the Parish Council is awaiting a response from the Environmental Authority on concerns that it has. It is known that the EA has concerns over the existing levels. A substantial increase in sewage, without adequate provision for treatment, is not welcomed
- A major concern has been the lack of communication developer and the village residents. The potential for development on the land has been known for some time, so residents are generally not averse to the provision of new properties, however, they feel let down by not being able to discuss the development with those involved. It is not too late for this to happen. A public meeting involving the Developer, the Landowner, SLDC Representatives and the Case Office would be welcomed and is a sensible suggestion
- The development documents are not displayed in the village, being available only at Kendal Town Hall. This is not conducive to good relations. Milnthorpe is an independent village and should not be reliant upon a building in Kendal to provide access to the documents. Interestingly, whilst Kendal and Milnthorpe are both in the new county, they are likely to be in different parliamentary constituencies before the development is complete. Those residents that have ventured into Kendal have found it difficult to access the documents. Of course, the 1,100+ pages are available online, but many residents are unable to access documents in such a way and have not had access to the plans. Whilst other residents will always help, it is strongly felt that there should be a display, of the pertinent documents, within the village, so that ALL residents can see what is proposed. The MHub building was suggested as a suitable venue.

Milnthorpe Parish Council is mandated, under the Local Government Act of 1972 to operate on behalf of the Parish and all of its residents, therefore, it cannot comment on individual/personal concerns. However, the points raised relate to the village and the impact that the development will have on all residents.

The Parish Council wishes to support those concerns that relate to the village, in particular:

- The siting of properties on designated areas of open space
- The size of the apartment block on the northern part of the proposal
- The ability of existing service providers to meet increased demand, in particular the sewage treatment
- The distinct lack of meaningful communication

12 April 2022

Milnthorpe Parish Council has no objections to the development and is pleased with its design. However, there are a couple of concerns that it would like to raise.

- There is concern that the services currently available in the village will not be able to satisfy an increase in demand. In particular it feels that a c15 - 20% increase in population will substantially increase the need for services that are already stretched, in particular Doctors, Dentists, Care Work, Schools, Sewage, Waste Collection. The Council would like this to be addressed
- There is concern that the turning into the development from Beetham Road may require vehicles to be stationary and to then drive across the other side of the road. This is a very busy road and there is already concern that a lot of traffic enters the village at excessive speed. If vehicles are stationary, whilst waiting to turn right, this would create significant risk. The Council would like consideration to be given to creating a full roundabout at the junction of the new development and the A6. This would have the, not insignificant, advantage of slowing down traffic as it enters the 30mph limit.

It was also requested that, whilst the developers have all the building equipment on site, they are asked to create a car park close to Firs Close. This would solve a major parking problem in the area. It is accepted that the land is outside the development area, but it would be beneficial to make use of the developer expertise.

5.3 Minerals and Waste Planning Policy (Westmorland and Furness)

31 May 2022

No objection.

5.4 Conservation Officer (Westmorland and Furness)

31 July 2023

The proposed development overall has a low impact on the setting of heritage assets, however the impact of one element, apartment block B, is particularly harmful to the Milnthorpe conservation area and the non-designated heritage asset Church of St Thomas. Whilst the harm is considered to be less than substantial, it should be clearly and convincingly justified. No amended Heritage

Statement appears to have been provided to assess the impact of the amended plans on these assets. It is recommended that plans are reviewed to provide a more appropriate form and location of small unit accommodation. Failing this the above assessment of harm remains, which should be weighed against the public benefits of the proposal.

5.5 Local highway authority

17 July 2023

No objection subject to conditions addressing the following:

- Extension of the existing 30mph speed limit;
- Construction of a right turn lane into the site, a speed limit gateway feature, a new bus stop, and a traffic island crossing feature;
- Construction of estate road etc. to a standard suitable for adoption.
- Provision of construction access before development commences.
- Dwellings not to be occupied until served by new estate road.
- A construction management plan.
- Provision of convenient cycle storage.

5.6 Lead local flood authority

17 July 2023

No objection subject to conditions addressing the following:

- Submission of full details of the sustainable drainage system;
- Submission of a surface water drainage validation strategy;
- Arrangements for the future maintenance and operation of the surface water systems;
- Agreement of a construction surface water management plan.

5.7 Local education authority

02 October 2023

The local education authority has confirmed that there is sufficient primary and secondary school capacity to accommodate the anticipated pupil yield from this development

5.8 Countryside access

12 April 2023

Public Footpath 556006 runs through the proposed development area and must not be altered or obstructed before or after the development has been completed ...

If there is any deviation or obstruction of the legal alignment, then the developer must apply for a formal diversion of the public right of way.

5.9 Waste and Environmental Services (Refuse collection)

27 November 2023

... I am happy ... to modify one of the local highway authority standard conditions to address the outstanding issues in respect of refuse collection within the development of the land off Beetham Road, Milnthorpe.

... the HSE have made it a requirement for the council to eliminate reversing wherever possible and to only implement the use of a reversing assistant if the reverse cannot be eliminated and it is absolutely necessary.

5.10 Crime Prevention Officer, Cumbria Constabulary

15 August 2023

The published Detailed Landscape Proposals drawing is of great interest and depicts the deployment of landscaping elements to form strong boundary definition and establishment of front curtilages to these dwellings. This measure demonstrates compliance with Policy DM2 in ensuring clear and obvious demarcation of public and private space.

As per my previous response, I would welcome additional information from the applicant regarding street lighting and dwelling exterior lighting schemes and the proposed measures to protect dwellings and garages against forced entry.

26 April 2023

From my interpretation of the revised layout, natural surveillance opportunities across public realm have been significantly improved. Each of the three spaces I particularly pointed out [in an earlier consultation response dated 22 April 2022] shall now benefit from better casual supervision by the orientation of dwellings that now directly overlook them.

I repeat my recommendation regarding the deployment of physical boundary treatments to establish front garden curtilages for compliance with Policy DM2 (4) [which states]:

- ensuring there is clear and obvious demarcation between public and private spaces utilising appropriate physical boundary treatments or landscaping elements

The Street Lighting Design drawing only depicts Beetham Road. It is still not apparent if the link to the PRow shall be illuminated (adjacent to Units 91, 92), or around the POS to the north of the development (adjacent to Units 114, 115).

As there is no further published information regarding other security measures, I repeat my recommendations regarding dwelling exterior lighting and protection of dwellings against forced entry:

- Dwelling exterior lighting – utilisation of low-energy 'white' light sources, controlled by photocell, to illuminate private vulnerable areas throughout darkness. Care to be taken to avoid light nuisance and upward pollution

- Physical security – deployment of external doors and ground floor windows certified to PAS 24:2022 and including a pane of laminated (BS EN 356:2000) glazing as appropriate.
- Garage vehicle doors to be certified to LPS 1175 AR1 or equivalent security standard.

5.11 Cumbria Fire and Rescue

04 May 2023

Comments provided in respect of: (1) Building Regulations 2010; and (2) The Regulatory Reform (Fire Safety) Order 2005. The response also includes an advisory in respect of the use of sprinklers.

5.12 Historic Environment Officer

08 November 2023

I confirm the submitted written scheme of investigation (wsi) for an archaeological evaluation on land at Beetham Rd, Milnthorpe, is fine. The implementation of the evaluation outlined in the wsi will fulfil the requirements of part (i) of the condition I previously recommended.

(We will need to know the results of the evaluation to determine whether any further archaeological work will need to be undertaken to record any archaeological assets disturbed by the construction of the proposed development, as required by parts (ii) and (iii) of condition I recommended. This further archaeological work will require the submission of an additional wsi for approval and so, the submitted wsi does not fulfil parts (ii) & (iii) of the condition.)

I have no objection to the wording of the recommended condition being amended to reflect the submission of the evaluation wsi, if it gives the applicant some comfort. I suggest something along the lines of:

No development shall commence within the site until the applicant has secured the implementation of an archaeological evaluation in accordance with the approved document by Greenlane Archaeology entitled: 'Archaeological Evaluation Cover Sheet and Project Design'. Where significant archaeological assets are revealed in the evaluation, there shall be a requirement to submit an additional written scheme of investigation for approval by the Local Planning Authority for the investigation and recording of the archaeological assets.

The second written scheme of investigation, if required, will include the following components:

An archaeological recording programme the scope of which will be dependant upon the results of the evaluation;

There shall be carried out within one year of the completion of the programme of archaeological work on site, or within such timescale as otherwise agreed in writing by the LPA: a post-excavation assessment and analysis, preparation of a site archive ready for deposition at a store approved by the LPA, completion of an archive report, and submission of the results for publication in a suitable journal.

05 April 2022

The applicant has helpfully commissioned an archaeological desk-based assessment and a geophysical survey of the site. The results indicate that earthworks of former field systems and lynchets of unknown date survive on the site. A small number of geophysical anomalies of potential archaeological interest were also highlighted in the survey. I therefore consider that the construction of the proposed development will disturb archaeological assets of local significance.

Consequently, I recommend that, in the event planning consent is granted, the site is subject to archaeological investigation and recording in advance of development. I advise that this 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. I suggest the following form of words:

No development shall commence within the site until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority.

This written scheme will include the following components:

- i. An archaeological evaluation;
- ii. An archaeological recording programme the scope of which will be dependant upon the results of the evaluation;
- iii. Where significant archaeological remains are revealed by the programme of archaeological work, there shall be carried out within one year of the completion of that programme on site, or within such timescale as otherwise agreed in writing by the LPA: a postexcavation assessment and analysis, preparation of a site archive ready for deposition at a store approved by the LPA, completion of an archive report, and submission of the results for publication in a suitable journal.

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

5.13 The Gardens Trust

02 May 2023

We have studied the amended documents submitted and note the amended description of the application - Erection of 107 houses, 2 bungalows and 16 apartments with associated roads, car parking, landscaping, infrastructure and access from Beetham Road. We welcome the reduction in the number of housing units from 155 to 125, together with the retention of the hill-top above the development as green space as it can be seen from Dallam Tower and consider this will result in a slightly reduced visual impact on the long-distance views from the RPG and Dallam Tower itself.

We further note the redesigned access to the development from Beetham Road but are disappointed that, following the comments in our letter dated 25 April 2022, there has been no strengthening of the landscaping along this boundary. We consider this would both help to soften the the urban nature of the development adjacent to the Dallam Tower RPG and establish additional trees, should the existing ones succumb to Ash die-back disease.

5.14 Environment Agency

10 August 2023

No objection. (Response includes informatives for developer).

5.15 United Utilities

09 November 2023

Remains concerned regarding the proximity of proposed development to water assets. In addition, there is a risk that as the scheme progresses, the applicant, or any subsequent developer, may discover that their plans are not implementable in their existing form or that diversion of the assets is required.

16 August 2023

... we have concerns regarding the proximity of proposed development to our water assets. In particular the proposed cellular storage, new rising main and attention basin appear to be located on top of or in very close proximity to these assets which is not acceptable to United Utilities.

This application site is an allocated site within the South Lakeland District Council (SLDC) Local Plan Land Allocations Development Plan Document (DPD) dated December 2013. At the time of allocation the impact of the proposals upon the sewer network, pumping station and wastewater treatment works could not be fully assessed as no drainage proposals were available. The upgrade works referenced within the Inspector's Report to the SLDC Local Plan Land Allocations DPD (dated November 2013) were not specific to development proposals at this site or within Milnthorpe. Furthermore the Infrastructure Delivery Plan does not specify any upgrade requirements in Milnthorpe but does highlight the importance of foul only flows and a full investigation of the surface water hierarchy. The Infrastructure Position Statement identifies the Strand Pumping Station as requiring improvement however this conclusion was made in the absence of any detailed drainage proposals for the application site. With regard to these application proposals, as surface water is not connecting to the public sewer network, the impact will be minimal.

...

With regard to this planning application submission, as it is now confirmed that surface water is not connecting into the sewer network, the foul only flows from the proposed development will have a minimal impact on the sewer network. We have consulted with colleagues regarding these proposals and they have no concerns in relation to the impact of the development on the wastewater treatment works.

With regards to any impact on the wastewater network, this will be considered based on the detail now available and in accordance with our normal processes if planning permission is granted. Investment in our network is considered on a priority basis. We closely monitor the impact of all development proposals in our region and the list of sites for investment is continuously under review based on a system of prioritisation. In this instance, however, the approach to surface water drainage and the intention to only connect foul flows to the public sewer has really helped to manage the impact on our infrastructure.

... the [surface water] drainage proposals are acceptable in principle to United Utilities.

01 June 2023

... no concerns in relation to the impact of the development on the wastewater treatment works.

Following our review of the submitted Flood Risk Assessment and Drainage Strategy Report (ref CN 21045, Version V3, dated 12th March 2023) and associated drainage layout drawings (21045-GAD-00-00-DR-C-1001 Rev P05, 21045-GAD-00-00-DR-C-1002 Rev P04 and 21045-GAD-00-00-DR-C-1003 Rev P04), there is insufficient evidence to demonstrate the feasibility of the drainage proposals. Our observations are as follows:

- i. The trial pit information does not include infiltration rates or calculations. Please can the applicant submit;
- ii. The trial pits used for percolation testing were only 300mm deep - BRE365 requires them to be done at the anticipated depth and location of the soakaways; and
- iii. The ultimate outfall to watercourse is not shown on the proposed drainage plans.

When we are in receipt of the above information, we will be able to provide further additional comments.

5.16 Natural England

07 August 2023

The advice provided in our previous response [13 June 2023] applies equally to this amendment. The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

13 June 2023

Natural England has reviewed the submitted shadow Habitats Regulations Assessment (HRA) and, subject to the proposed mitigation of homeowner packs being secured through Condition, agree with the conclusion that there will be no adverse effect on the site integrity of the Morecambe Bay Ramsar and the Morecambe Bay and Duddon Estuary Special Protection Area (SPA).

5.17 NHS Lancashire and South Cumbria Integrated Care Board

01 August 2023

We have a dental practice in Milnthorpe, albeit there is a temporary shortage of dentists working there which is being addressed. There are no plans to commission another practice as once the existing practice is fully recruited to there should be sufficient capacity to meet demand.

28 July 2023

I refer to the planning application mentioned below. The ICB has reviewed the application and has decided that the impact brought about by the scheme will have a cumulative bearing on the Park View and Stoneleigh surgeries in Milnthorpe. We are currently in discussion with the PCN (Primary Care Network) to establish the exact scheme response in terms of building works. In due course there will be a request submitted to yourselves for support under the SLDC CIL Policy. This scheme along with others in the locality will require an appropriate estates response that will be captured on the application form. Plans are being prepared with a site now identified in Milnthorpe to allow a CIL submission to be made in due course

5.18 The Gardens Trust

09 August 2023

No further comments to add at this stage.

02 May 2023

We have studied the amended documents submitted and note the amended description of the application - Erection of 107 houses, 2 bungalows and 16 apartments with associated roads, car parking, landscaping, infrastructure and access from Beetham Road. We welcome the reduction in the number of housing units from 155 to 125, together with the retention of the hill-top above the development as green space as it can be seen from Dallam Tower and consider this will result in a slightly reduced visual impact on the long-distance views from the RPG and Dallam Tower itself.

We further note the redesigned access to the development from Beetham Road but are disappointed that, following the comments in our letter dated 25 April 2022, there has been no strengthening of the landscaping along this boundary. We consider this would both help to soften the the urban nature of the development adjacent to the Dallam Tower RPG and establish additional trees, should the existing ones succumb to Ash die-back disease.

5.19 Arnside & Silverdale Area of Outstanding Natural Beauty Partnership

31 August 2023

We have no objection, but we still have a few comments.

The Fencing Layout shows fences and includes some stone walls. We recommend the Council confirms that stone wall is natural limestone.

The AONB Partnership recommends that all new planting should be of locally-appropriate native species to conserve and enhance the special character of the area.

The impact on the setting of and views from within the AONB of any external lighting resulting from this proposed expansive housing development site must be taken into account. We note that lighting of 3000 Kelvins is still proposed. We recommend that in order to minimise light pollution and in line with current good practice and industry recommendations, lights with a colour temperature of a maximum of 2,700 Kelvins are used, with a dimming regime enforced at night and zero upward light lift. NPPF section 185¹ requires planning decisions to ensure that new development should 'c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation'. SLDC Local Plan policy DM2 (section 10) clearly reinforces this: "New development that requires external lighting should as appropriate: • use the minimum illumination required to undertake the task; and • minimise harm to the local amenity, wildlife, public and wider views through use of appropriate landscaping measures and sensitive forms of design; and • be designed in a manner that avoids glare and erosion of tranquillity and dark skies". A Good Lighting Technical Advice Note for Cumbria is currently in preparation by Friends of the Lake District in conjunction with and on behalf of all the Cumbria LPAs². The document is to be approved for use this Spring/Summer by the new Westmorland & Furness Council and will assist in the application and implementation of existing local plan policies such as DM2 (10), along with NPPF para. 185(c). As a significant development on the edge of a key service centre and in the setting of an AONB, this development should be taking a lead and applying the principles set out in the TAN, including the recommendations above.

Light pollution from Milnthorpe is already spreading south and eroding the darkness of the sky between

Milnthorpe and Beetham (see [<https://www.lightpollutionmap.info/>]) – it is important that the darkness of the sky is not further eroded by new development.

14 April 2022

This proposed development allocations site is within the setting of the Arnside & Silverdale AONB and is visible within the AONB from the Public Right of Way (PRoW) in Dallam Tower Deer Park and the Cockshot Lane.

We have no objection but have a few comments.

The Design and Access Statement states '3.7 All of the houses, bungalows and apartment buildings will use the same schedule of high quality external materials comprising part or full natural limestone (random coursed) or reconstituted stone façades and rendered (K Rend polar white) side and rear walls, together with natural slate roofs (Cupa). Most plots also have gables, bay windows and/or open or enclosed porches'. These designs are appropriate.

¹ Paragraph 191 in the December 2023 version of the NPPF.

² The Cumbria Good Lighting Technical Advice Note was published in November 2023.

The Material Finishes Layout states 'Render', 'Natural Limestone' and 'Recon stone (TBC)'. We recommend that the Council confirm that the Recon stone is in keeping with the natural limestone.

The Fencing Layout shows fences and includes some stone walls. There are also two drawings of stone walls, 900mm Natural StoneWall and 900mm Stone Wall with 900mm Feather Edge Fencing. We recommend the Council confirms that stone wall is natural limestone.

From Viewpoint 13 - View northeast towards the Application Site from the public footpath in Dallam Deer Park, the Landscape and Visual Assessment acknowledges that the application site is visible from parts within the AONB. It states that 'The Application Site is visible in northeast panoramic views towards the village from a short section of elevated public footpath through the Deer Park' and that 'The open farmland of the Application Site is visible around the eastern edge of the village. The southern part is substantially screened by mature trees along the A6 Beetham Road corridor but likely to be more extensively visible in winter views'. Views from Viewpoint 13 and also Viewpoint 12 - View northeast towards the Application Site from the access road to High Wood Edge, in the Arnside and Silverdale AONB it states 'There are occasional views of Milnthorpe from open slopes on elevated land to the east of Beetham Fell. Milnthorpe is partially visible in northeast panoramic views towards the village but substantially screened by intervening vegetation. Views of the village are likely to be more extensive in winter when leaf cover is reduced. The Application Site is barely discernible in summer views but is likely to be more visible in winter views'.

For predicted views it states 'Where visible, the Development would appear as a natural extension to the existing settlement and would not introduce features which would appear uncharacteristic of views of the village. In any event, the Development would not appear distinctly incongruous on the edge of an existing settlement where there are similar scale residential properties'. It is currently an extensive open greenfield site and part of the rural landscape of the setting of the AONB. This proposal will have an impact on views from the AONB. The AONB Partnership recommends that more tree planting within the development area is included as a condition as this could help reduce the visual impact on the AONB. New planting should be of locally-appropriate native species to conserve and enhance the special character of the area.

The impact on the setting of and views from within the AONB of any external lighting resulting from this proposed expansive housing development site must be taken into account. We recommend that in order to minimise light pollution, lights with a colour temperature of a maximum of 2,200 Kelvins are used, with a dimming regime enforced at night and zero upward light lift. NPPF section 185 requires planning decisions to ensure that new development should 'c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation'. SLDC Local Plan policy DM2 (section 10) clearly reinforces this: "New development that requires external lighting should as appropriate: • use the minimum illumination required to undertake the task; and • minimise harm to the local amenity, wildlife, public and wider views through use of appropriate landscaping measures and sensitive forms of design; and • be designed in a manner that avoids glare and erosion of tranquillity and dark skies".

5.20 Public Protection

09 August 2023

Further to consideration of the above planning application, which is understood to be in respect of further amendments, I advise there are no further comments or objections from Environmental Protection, however the original response dated 4 May 2022 remain valid

04 May 2022

No objection subject to conditions addressing the following:

- Measures for dealing with land contamination;
- Agreement to a Construction / Demolition Management Plan;
- Measures to protect air quality.

5.21 Housing Strategy Team

13 December 2023

The mix of units in is acceptable. Would prefer the affordable units to be 'pepper potted' around the development.

11 April 2022

This application generally does not meet SLDC affordable housing requirement of 35% ..., as such a full viability statement would need to be submitted to be considered by this council. At present, this application is not supported

6.0 REPRESENTATIONS

6.1 We have received a total of 66 representations since this application was first registered, 48 explicitly badged (or taken to be) objections and 18 explicitly badged (or taken to be) observations. Some individuals have written in several times in response to the various iterations of the proposals.

6.2 The key concerns raised are:

Principle

- Development not needed.
- Site is too large.
- Wrong location.
- Ignoring the steep land to the east of the school simply to boost developer profit should not be allowed.
- Land should be reserved for future expansion of the school.
- Large houses not what average local village residents will be able to afford.
- Development would be a magnet for second home owners.
- Milnthorpe will become a commuter village.
- Lack of public consultation.

Infrastructure

- Unacceptable impact on local infrastructure, particularly schools, medical services, dentists and chemists.
- Village amenities have declined since site was allocated.
- Milnthorpe lacks a youth centre.
- Drug crimes have increased; nearest police station is in Kendal.
- Development will overwhelm sewage treatment works.
- Reference to Rivers Trust report and overflows from Milnthorpe sewage treatment plant.
- Will Community Infrastructure Levy be used to fund local initiatives?

Affordable housing

- Less than policy-compliant provision of affordable housing cannot be justified.
- Financial viability seems to be taking precedence over development plan and local wishes of community.
- Costs of developing sloping site should have been obvious.
- The plan is not tenure neutral as there is obvious segregation of siting of affordable homes.

Character and design

- Layout, design and open spaces should seek to preserve and enhance the character of the adjoining conservation area.
- Heritage Statement is very subjective and dismissive.
- Milnthorpe lies between two national parks and the AONB adjoins the southern boundary.
- Milnthorpe is adjoined by other unprotected landscapes that also have value.
- Additional planting needed to screen development from the AONB
- Site levels need careful consideration.
- Plans have ignored the Development Brief.
- Apartments situated on slope are out of character for the area.
- Apartment Block C particularly intrusive [Apartment Block C has been removed from the latest iteration of the proposals].
- Unattractive approach to village from south.
- More bungalows would ease visual impact on local area.
- Adverse impact from street lighting.
- Does development take advantage of solar gain?
- Poor range of adaptable housing for older people and in particular those with physical impairment.

Living conditions

- Disturbance from construction process.
- Construction Management Plan needs to deal with whole development.
- Overshadowing, loss of privacy and noise disturbance to adjoining properties once the development is complete.
- Hartland House (a residential care home) would be surrounded on three of its four boundaries. Concerned for welfare of elderly residents. Boundary planting inadequate to mitigate potential impacts.

Access

- Site too large for a single vehicle access.
- Roundabout at junction with A6 would be preferable.
- Access will exacerbate congestion on A6.
- Pathways adjoining A6 into centre of village are narrow.
- The Ashes is unsuitable as an emergency access. It is a private road.
- Increased parking pressure on adjoining residential areas.
- Parking in village centre needs to be reviewed.
- All apartments will need ground floor EV charging points and visitor parking.
- Traffic calming needed.

Public right of way

6.3 What will happen to the public right of way that crosses the site?

Landscaping

- Existing mature hedgerows should be retained, particularly on southern boundary of village.
- Retention of hedges would ease transition between new and old development
- Commitment to maintaining trees and hedgerows needs to be monitored.
- Importance of some landscape and visual receptors downplayed.

Biodiversity

- Adverse impact on wildlife.
- Is nutrient neutrality an issue?

Flooding

- Concerned about flooding from surface water.
- Surface water drainage infrastructure needs to be managed and maintained in the future.

7.0 RELEVANT PLANNING POLICY

- 7.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 provides that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA Act) require local planning authorities to have special regard to the desirability of preserving listed buildings, their setting and any feature of special architectural or historic interest which they possess.
- 7.3 Section 72 of the LBCA Act requires that special attention is paid in the exercise of planning functions to the desirability of preserving and enhancing the character and appearance of a Conservation Area.

Local Plans

- [South Lakeland Core Strategy](#) (“the Core Strategy”) - *adopted 20 October 2010*
- [South Lakeland Local Plan Land Allocation Development Plan Document](#) (“the LADPD”) - *adopted 17 December 2013*.
- [South Lakeland Development Management Policies Development Plan Document](#) (“the DMDPD”) - *adopted 28 March 2019*.

Other Material Considerations

National Planning Policy Framework (NPPF) (December 2023)

7.4 The NPPF sets out governments planning policies for England and how these are expected to be applied. This is a material consideration in planning decisions.

7.5 At the heart of the NPPF is a presumption in favour of sustainable development (Paragraph 11). However, Paragraph 12 confirms that the presumption does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. In this case, the relevant sections of the NPPF are:

7.6 The following sections are considered relevant to this application:

2. Achieving sustainable development
4. Decision-making
5. Delivering a sufficient supply of homes
8. Promoting healthy and safe communities
9. Promoting sustainable transport
11. Making effective use of land
12. Achieving well-designed and beautiful places
14. Meeting the challenge of climate change, flooding and coastal change
15. Conserving and enhancing the natural environment
16. Conserving and enhancing the historic environment

7.7 [Supplementary Planning Document: South and East of Milnthorpe, Development Brief, April 2015 \(the “Development Brief”\)](#);

National Planning Policy for Waste (October 2014)

7.8 This is relevant to the issue of refuse collection, discussed further under the Planning Assessment section of this report.

South Lakeland District Council First Homes Interim Position Statement April 2022

8.0 PLANNING ASSESSMENT

The presumption in favour of sustainable development

8.1 Paragraph 8 of the National Planning Policy Framework (NPPF) introduces the overarching economic, social and environmental objectives central to achieving sustainable development. It is often forgotten that the social objective includes “ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations”.

- 8.2 Paragraph 9 of the NPPF is clear that these objectives should be delivered through the preparation and implementation of development plans and the application of the policies in the NPPF; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.
- 8.3 To these ends paragraph 11 of the NPPF states that plans and decisions should apply a presumption in favour of sustainable development. Paragraphs 11(c) and 11(d) tell us that for decision-taking this means:
- c) approving development proposals that accord with an up-to-date development plan without delay; or
 - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed³; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 8.4 Paragraph 12 of the NPPF tells us that:

Where a planning application conflicts with an up-to-date development plan [...] permission should not usually be granted.

The principle of development

- 8.5 Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 make clear that to the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise.

The development strategy

- 8.6 In terms of applying the NPPF's presumption in favour of sustainable development, those policies within the Council's development plan that establish the plan area's overall development strategy are among the most important.

³ The policies referred to are those in the NPPF (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 187 of the NPPF) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 72 of the NPPF); and areas at risk of flooding or coastal change.

- 8.7 Core Strategy policy CS1.2 (The Development Strategy) identifies a four-tier, sustainable settlement hierarchy for the District comprising: (1) the Principal Service Centres of Kendal and Ulverston at the top, where the majority of new housing and employment development will be concentrated; (2) three, Key Service Centres including Milnthorpe; (3) 17 smaller Local Service Centres; and (4) finally, a disperse pattern of “Rural Settlements” comprising smaller villages and hamlets. The Land Allocations DPD identifies development boundaries for the three tiers of service centres; the acceptability or otherwise of the principle of development in Rural Settlements is governed by DMPDP policy DM13 (Housing Development in Small Villages and Hamlets outside the Arnside and Silverdale AONB). Areas beyond the limits of any settlement are regarded as being within open countryside, wherein there is a general presumption against new development.
- 8.8 Although the Core Strategy is now 10 years old, its approach towards focusing development within, or on the edge of, identified settlements (as amended by DMDPD policy DM13) remains up-to-date for purposes of applying the NPPF.
- 8.9 Policy LA2.11 of the Land Allocations DPD allocates 7 hectares of land for residential development south and east of Milnthorpe. The allocating policy is reproduced below:

POLICY LA2.11: LAND SOUTH AND EAST OF MILNTHORPE

Purpose:

To ensure that the site delivers high quality sustainable development and that landscape, transport, drainage and biodiversity impacts are effectively mitigated.

A DEVELOPMENT BRIEF WILL BE PREPARED TO GUIDE THE DEVELOPMENT OF THIS SITE.

AS WELL AS OTHER CORE STRATEGY POLICY REQUIREMENTS, DEVELOPMENT MUST MAKE PROVISION FOR THE FOLLOWING:

**A SUBSTANTIAL, HIGH QUALITY LANDSCAPED FRONTAGE TO THE A6;
PEDESTRIAN AND CYCLE LINKAGES TO THE VILLAGE CENTRE;
REINFORCEMENT OF EXISTING TREE GROUPS;
MITIGATION MEASURES TO OFFSET ANY POTENTIAL FOR ADVERSE
IMPACT TO THE EXISTING HIGHWAYS NETWORK;
A HABITAT SURVEY AND SAFEGUARDING AND REINFORCEMENT OF
AREAS OF BIODIVERSITY INTEREST.**

Implementation

SLDC to prepare Development Brief. By Development Industry and Social Housing Providers through Development Management process.

Monitoring

Through Local Plan - Core Strategy monitoring framework – net additional dwellings by settlement, gross affordable housing completions.

- 8.10 The preamble to the policy (paragraph 3.65) summarises the main constraints and opportunities presented by the site:

This 7ha site occupies rising ground south and east of Milnthorpe. The Strategic Housing Land Availability Assessment identifies considerable potential in this area land around 155 dwellings could meet development needs during the plan period. Key issues for this site include mitigating landscape impacts, particularly around the frontage of the site with the A6 where it both forms the entry point to the village

and lies opposite very high quality landscape in the form of Dallam Park in the AONB. There is a group of trees in the centre of the site and there is a need for a high quality approach to landscaping in this area as well as sensitively designed access arrangements. A further issue is achieving satisfactory links with the village centre. A public footpath offers an important opportunity to create a direct pedestrian and cycle link from the development to the village centre. The Urban speed limit (30-40mph) should be extended past the site access, in order to help ensure safe access to the site and present a gateway into Milnthorpe.

- 8.11 Policy LA1.3 anticipates the allocation contributing 155 dwellings to the overall supply of housing within the plan area. The relevant excerpt from the policy, including indicative phases, is reproduced below:

POLICY LA1.3: HOUSING ALLOCATIONS					
Purpose:					
To allocate available, deliverable and sustainable sites for a range of types and sizes of new housing to meet the needs of all sectors of the community.					
THE FOLLOWING SITES, IDENTIFIED ON THE POLICIES MAP, ARE ALLOCATED FOR HOUSING DEVELOPMENT					
Settlement	Name	Area(Ha)	Dwellings Indicative Phase		
			1	2	3
			2013-2018	2018-2023	2023-2025
MILNTHORPE	LAND SOUTH AND EAST OF MILNTHORPE	7	20	30	105

- 8.12 The latest South Lakeland Housing Land Annual Position Statement⁴ still regards the site as deliverable in NPPF terms, but does not now anticipate it starting to contribute to supply until 2026/27.

- 8.13 The Development Brief referred to in the policy was adopted in April 2015⁵. The forward to the Development Brief states:

This Development Brief has been prepared by South Lakeland District Council in accordance with the Local Plan Land Allocations Development Plan Document to provide guidance - including on layout and design principles - for the development of land South and East of Milnthorpe. It provides additional guidance on the interpretation of Policy LA2.11 of the South Lakeland Local Plan – Land Allocations (adopted December 2013) and other relevant Local Plan policies. It was adopted by South Lakeland District Council on 29th April 2015 as a Supplementary Planning Document and forms a material consideration when determining any planning application submitted for the site.

- 8.14 For the purposes of applying section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004, the Development Brief does not form part of the development plan. However, it is an important material consideration.

⁴ South Lakeland Housing Land Annual Position Statement, 31 March 2022, published December 2022

⁵ Supplementary Planning Document: South and East of Milnthorpe, Development Brief, April 2015

- 8.15 The boundary of the current application site is largely coincident with the land allocated by policy LA2.11, but there are notable deviations. Approximately 0.9 hectares of the allocation to the east of Milnthorpe Primary School and south of Chestnut Way are omitted from the application, with the applicant asserting that this area is too steep to develop viably. To compensate for this, and in an attempt to get closer to the number of units anticipated by the Land Allocations DPD, the application site includes a ribbon of land extending to 0.6633 hectares beyond the eastern boundary of the allocation. Overall, therefore, the application site extends to 6.69 hectares (0.31 hectares less than the allocation) and proposes 125 dwellings (30 less than that anticipated by Land Allocations policy LA1.3). The deviations in relation to the allocation boundary are clearly defined on the “Application site and housing allocation site boundary comparison plan”, which appears in Appendix 1 of the applicant’s Planning and Affordable Housing Statement⁶.
- 8.16 Development beyond the boundary of Milnthorpe, which includes the land allocated by policy LA2.11, is not supported by the development plan; for the reasons explained above it is regarded as an incursion into the open countryside, which is inconsistent with the objectives of the development strategy. Therefore, the proposal is in conflict with the development plan on this point. However, numerous legal judgements have established that a breach of a particular development plan policy – even a policy expressed in very trenchant terms – does not necessarily equate to a failure to accord with the development plan *as a whole*, which is the test when applying section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004. That remains a matter of judgement. The conclusion of this report returns to this issue in the context of the other key planning considerations discussed below.

Sustainable construction

- 8.17 Core Strategy policy CS8.7 (Sustainable construction, energy efficiency and renewable energy) states that all new residential development and conversions will be required to meet the Code for Sustainable Homes, which covers a range of initiatives including: the use of low water volume fittings and grey water systems and rainwater harvesting; orientation to maximise solar gain and high levels of insulation.
- 8.18 Policy CS8.7 is now out-of-date; the Code for Sustainable Homes was withdrawn in 2015 and replaced by optional Building Regulations standards relating to water consumption, access and a new national space standard. These can only be required by local planning authorities where they have gathered “evidence to determine whether there is a need for additional standards in their area, and justify setting appropriate policies in their Local Plans”⁷. To that end, the DMDPD includes a policy in respect of the optional Building Regulations standards relating to access – DMDPD policy DM 11 (Accessible and adaptable homes), discussed further below.

⁶ Planning and Affordable Housing Statement, Oakmere Homes Ltd., March 2022, Smith & Love

⁷ The Government’s Planning Practice Guidance on “Housing: optional technical standards” (paragraph 002)

- 8.19 The optional Building Regulations are in addition to their mandatory counterparts, which continue to control the majority of other construction standards – including Part F (ventilation) and Part L (conservation of fuel and power). From 2025 these will include more rigorous requirements as part of the government’s mandatory Future Homes Standard (FHS). The aim of the FHS is to ensure that new homes built from 2025 will produce 75-80% less carbon emissions than homes built under the current Building Regulations
- 8.20 With its commitment to the FHS it is clear that, other than the through the limited matters covered by the optional Building Regulations, the Government is not intending to use the planning system as the vehicle for delivering its targets for carbon reduction, insofar as they are influenced by detailed house design. That is to be the role of the Future Homes Standard.
- 8.21 Having said that, there are still areas where the local planning authority can encourage appropriate interventions. Principle 9 in Policy DM2 (Achieving Sustainable High Quality Design) of the DMDPD states:
- “New development should incorporate measures that support and enhance habitat creation and urban greening ensuring that provision reflects the local biodiversity evidence base and reduces the factors contributing to, and responds to the effects of climate change.”
- 8.22 A footnote to the policy describes these as:
- “...measures that seek to reduce need to travel and provide for sustainable transport, provide opportunities for renewable and low carbon energy technologies, promote low carbon design approaches, promote water and energy conservation, support management of waste in a sustainable manner, manage and reduce risk of flooding, and provide multi-functional green infrastructure.”
- 8.23 The footnote cross refers to Appendix 1 in the DMDPD, which sets out a non-exhaustive list of seven “measures that should be considered.” Where relevant, these are discussed further under the relevant heading(s) in other sections of this report.

Accessible and adaptable homes

- 8.24 With certain exceptions, policy DM11 of the DMDPD expects all new homes to meet the optional Building Regulations Requirement M4(2): Category 2 – Accessible and Adaptable Dwellings and, on schemes of over 40 dwellings, for 5% of the units to meet the Building Regulations M4(3) wheelchair adaptable standards.
- 8.25 The updated “Accessible and Adaptable Homes Statement”, submitted in support of the latest iteration of the site layout, confirms that 83 of the 125 units (66%) will meet the M4(2) standard and that 6 units (4.8%) will meet the M4(3) standard.
- 8.26 The four flats on the upper floor of Apartment Block B will not meet either the M4(2) or M4(3) standard on account of their not being serviced by a lift, acknowledged as an exemption by policy DM11). Elsewhere, the applicants state that the steeply sloping site makes full compliance impractical, also acknowledged as a potential exemption by policy DM11 where meeting the standards “is not practically achievable given the physical characteristics of the site”.

- 8.27 Establishing finished floor levels on a sloping site is a particular challenge, with the final levels being set through balancing a range of considerations, including compliance with the M4(2) and M4(3) standards. Other considerations include matters such as drainage gradients and, crucially in this case, achieving satisfactory relationships between existing and proposed dwellings on the site boundary. The latter is discussed in detail below under the “living conditions” heading. However, in essence, it is fair to say that insisting on full compliance with the M4(2) and M4(3) standards on the site boundary (whilst retaining a reasonable yield of dwellings from the allocation) would establish some unneighbourly relationships.

Affordable housing

- 8.28 Core Strategy policy CS6.3 (Provision of affordable housing) states that:

“On all schemes of nine or more dwellings in the Principal/Key Service Centres [...] no less than 35% of the total number of dwellings proposed [shall be] affordable.”

- 8.29 The policy also acknowledges that:

Exceptionally, a lower requirement for affordable housing will be acceptable where there is clear evidence that it would make the development unviable.

- 8.30 Where an applicant considers that the provision of affordable housing would render a development unviable then the Core Strategy clearly places the onus on them to make the case. This is consistent with the Government’s more general Planning Practice Guidance on Viability, which states (in paragraph 008) that:

Where a viability assessment is submitted to accompany a planning application this should be based upon and refer back to the viability assessment that informed the plan; and the applicant should provide evidence of what has changed since then.

The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and viability evidence underpinning the plan is up to date, and site circumstances including any changes since the plan was brought into force, and the transparency of assumptions behind evidence submitted as part of the viability assessment.

- 8.31 Paragraph 008 I also clear that:

Any viability assessment should reflect the government’s recommended approach to defining key inputs as set out in National Planning Guidance.

- 8.32 In this case Oakmere Homes contends that there are exceptional circumstances which make it impossible to deliver 35% affordable housing. Various iterations of its financial viability have been submitted since this application was submitted, with the final version received 03 October 2023. This proposes 18 affordable housing units, 14.4% of the total, although it was subsequently increased to 19 units (15.2%). The various viability appraisals are all available to read in full online.

- 8.33 As is usual in these circumstances, Oakmere’s position has been subjected to an independent review; in this case by CP Viability Ltd (CPV), with support from an

independent quantity surveyor (RCS Construction Services Limited). CPV's final assessment (09 November 2023) is also available to view online. CPV accepts that the development cannot make a full 35% contribution of affordable housing, but concludes that the development is able to contribute 24 units (19.2%).

- 8.34 The appraisals from Oakmere and CPV are each structured to address the key inputs set out in National Planning Guidance. And, following a review of the evidence, there is now agreement on most of the issues. The differences, which result in the disparity of five units between the two appraisals, essentially stem from two inputs: build costs and preliminaries. The potential impact of the Future Homes Standard has also featured in more recent discussions. These issues are discussed further below.

Build costs

- 8.35 Oakmere and CPV are essentially agreed on a base build cost of approximately £1,375 per sq. m. for all units within the scheme. However, Oakmere has added an additional figure of approximately £112 per sq. m. to reflect what they describe as their "higher standard specification". They have applied this to all 125 dwellings, including the affordable units. This results in Oakmere's total build costs being approximately £440K higher than those expected by CPV.
- 8.36 CPV (and RCS) are critical of the fact that this "higher standard specification" only appears to feature as a cost and is not reflected in a higher gross development value. It also seems counterintuitive to accept it as a cost in the construction of the affordable units. Applying the base build cost to the 18 affordable units in Oakmere's last full appraisal would create a budget to fund at least one additional affordable housing unit. Oakmere has subsequently conceded this point and has increased its affordable housing offer to 19 units.

Preliminaries

- 8.37 Preliminaries in construction often apply to identifiable costs that do not fit within any specific work sections. Typically they include things such as site security and staff welfare facilities. In this case they are factored into the "Abnormal" costs which appear in both Oakmere and CPV's appraisals.
- 8.38 RCS Construction Services Limited (acting on behalf of the Council) has stated that they would expect preliminaries to fall within the range of 8% to 15%, with the upper end of the range reflecting the costs experienced by smaller / non-national housebuilders. Oakmere uses a figure of 14.42%, consistent with a contention throughout its submission that the company is not a "volume" housebuilder and does not enjoy the same economies of scale as larger national concerns. CPV is not convinced by this argument and, taking what it describes as a more cautious approach, applies a mid-range figure of 11.5%. This difference of opinion leads to Oakmere's abnormal costs being approximately £240,000 higher.

Future Homes Standard (FHS)

- 8.39 The Future Homes Standard is introduced in the discussion of sustainable construction above. The GOV.UK website states that the "Future Homes Standard will require new build homes to be future-proofed with low carbon heating and world-leading levels of energy efficiency". These requirements, which will be

introduced by 2025, will undoubtedly represent an additional cost for residential developers, although it is a moot point whether those costs will be fully recoverable through higher sales values, at least in the early years. Oakmere's viability consultants take the view that the new requirements will not be seen "as tangible added value items to purchasers so in essence they will be an increased capital cost with little if any corresponding enhanced value." They also note that local plan viability assessments are typically factoring in a cost of c. £7,500 - £8,500 per unit to cover FHS.

- 8.40 Oakmere's quantity surveyor takes the midpoint of this range (£8,000) in assessing the likely impact on the current scheme and applies it to 101 of the proposed dwellings (the yield from 2025 onwards) to give an overall cost of £808,000. An error means that this figure was omitted from Oakmere's latest full financial appraisal (03 October 2023), but if it factored in now it clearly offsets any potential gains that might be achieved in pursuing the issues in respect of build costs and preliminaries discussed above.
- 8.41 The full impacts of the FHS on the viability of residential schemes will not be known for some time; for the moment it is a matter of professional speculation. It will certainly come with a cost, but the extent to which that cost can ever be recovered through sales values is a moot point, although experience suggests that new planning requirements do eventually become "absorbed" into the process. However, in the short term, and within the anticipated build-out period of the current scheme, it is likely to represent an unrecoverable cost, at least in part. Whether that cost will match Oakmere's prediction is a matter of judgment.

Affordable housing – conclusion

- 8.42 Assessing what might be a viable contribution of affordable housing in this case has taken a considerable amount of time and involved a number of different specialists, with professional opinion now focused at the ends of a range spanning 19 to 24 units (15.2 – 19.2%) – before taking into account the potential effects of the FHS. Were we to refuse this application then the potential impacts of the FHS would undoubtedly feature prominently in evidence in the event of an appeal, with the likely result that the viable number of affordable housing units would eventually settle closer to (or even at) 19. That is not considered to be a sound basis for defending an appeal.

- 8.43 Oakmere's updated affordable housing offer now takes the following form:

Affordable rent

8no 1 bed apartment block Plots 118 – 125

First Homes

2no 1bed Caldew house type Plots 76 & 77

4no 2 bed Rothay house type, Plots 72, 73, 74 & 75

Shared Ownership

5no 2 bed Rothay house type, Plots 78 – 82

- 8.44 The accords with the expectations of the South Lakeland District Council First Homes Interim Position Statement April 2022 and is judged by the Council's Housing Strategy Team to be a good match to demand in Milnthorpe.

Market housing mix

8.45 Policy CS6.2 of the Core Strategy expects:

“New developments offer a range of housing sizes and types, taking account of the housing requirement of different groups of society, including the need to deliver low cost market housing as part of the overall housing mix.”

8.46 And paragraph 3.3.3 of the Development Brief is clear that:

The development will provide a mix of housing types and tenures based on the local evidence base (current at the time any proposal is made) and viability considerations and subject to further discussions with the District Council.

8.47 The latest evidence base relevant to Milnthorpe is the Council’s Strategic Housing and Economic Needs Assessment (SHENA)⁸, which summarises the need for market housing within the legacy South Lakeland area of the District (2020 – 2040) across key tenures as follows:

	1-bed	2-bed	3-bed	4+ bed
Market Housing	5-10%	45-50%	35-40%	5-10%

8.48 The SHENA was commissioned as plan-making tool and, as with the Strategic Housing Market Assessment (SHMA) that preceded it, the SHENA is not intended to be prescriptive. Paragraphs 10.35 and 10.36 state:

Although the analysis has quantified this on the basis of the market modelling and an understanding of the current housing market, it does not necessarily follow that such prescriptive figures should be included in the plan making process (although it will be useful to include an indication of the broad mix to be sought across the study area) – demand can change over time linked to macro-economic factors and local supply. Policy aspirations could also influence the mix sought.

The suggested figures can be used as a monitoring tool to ensure that future delivery is not unbalanced when compared with the likely requirements as driven by demographic change in the area. The recommendations can also be used as a set of guidelines to consider the appropriate mix on larger development sites, and the Council could expect justification for a housing mix on such sites which significantly differs from that modelled herein. Site location and area character are also however relevant considerations for the appropriate mix of market housing on individual development sites.

8.49 The proposed mix of the 106 market housing units in the latest iteration of the applicant’s layout breaks down as follows:

	1-bed	2-bed	3-bed	4+ bed	Total
No.	4	6	32	64	106
%	3.8%	5.7%	30.2%	60.4%	100%

8.50 This is clearly a poor match to the expectations of the SHENA, with a bias towards

⁸ Strategic Housing and Economic Needs Assessment, April 2023 (Published November 2023)

larger units. However, Oakmere Homes is convinced that this is a good reflection of demand within the Milnthorpe area and the Council's viability consultants have confirmed that a mix closer to the expectations of the SHENA would further undermine the viability of the scheme, resulting in a lower yield of affordable housing.

Impact on local services

- 8.51 Many of the representations we have received query the ability of local services to deal with the increased pressures that will inevitably arise from the additional housing proposed by this development; some consider that the development is unacceptable in principle for this reason.
- 8.52 To a large extent this point is moot: the site is allocated in an up-to-date development plan, which means that the principle of a development of this scale is already established. The impact on local services was a consideration when the site went through the various consultative stages leading to adoption, and different aspects of this are discussed in the Inspector's Report into the Land Allocations DPD9. The Inspector's Report acknowledges that certain impacts would likely need mitigation through infrastructure improvements, either secured directly by statutory undertakers or funded (in whole or in part) by financial contributions through planning obligations.
- 8.53 Since 2015 development in that part of Westmorland and Furness covered by the former South Lakeland District Council has also been subject to the Community Infrastructure Levy (CIL). The relevant Infrastructure Funding Statement contains a (CIL) Infrastructure List, identifying those infrastructure projects that should be wholly, or partly, funded by CIL.

Policy position

- 8.54 At a general level, the Core Strategy seeks to improve the health and wellbeing of all residents. Policy CS9.1 (Social and community infrastructure) states that, amongst other things:

Major development and regeneration schemes should ensure that appropriate social and community infrastructure (including health and cultural facilities) is in place from the onset.

- 8.55 More specific requirements are picked up by other development plan policies and are discussed further below.

Education

- 8.56 Core Strategy policy CS7.3 (Education and skills) supports the modernisation and enhancement of provision for education and training through, amongst other things:

Ensuring that, where appropriate, development proposals make a contribution to education and training needs.

⁹ Report on the Examination into The South Lakeland Local Plan: Land Allocations Development Plan Document, November 2013

- 8.57 In this case, the local education authority has confirmed that there is sufficient primary and secondary school capacity to accommodate the anticipated pupil yield from this development.

Health services

- 8.58 In its consultation response to the application, the NHS Lancashire and South Cumbria Integrated Care Board (ICB) has confirmed that “the scheme will have a cumulative bearing on the Park View and Stoneleigh surgeries in Milnthorpe” and that discussions are ongoing with the PCN (Primary Care Network) to “establish the exact scheme response in terms of building works”. A request for CIL funding will be made in due course.

- 8.59 “Health Care facilities” are included within the (CIL) Infrastructure List.

- 8.60 Separately, on this issues of dental services (raised in a number of the representations) the ICB has stated:

We have a dental practice in Milnthorpe, albeit there is a temporary shortage of dentists working there which is being addressed. There are no plans to commission another practice as once the existing practice is fully recruited to there should be sufficient capacity to meet demand.

Foul drainage

- 8.61 A number of the representations we have received query the capacity of Milnthorpe Sewage Treatment Works to handle the foul drainage generated by this proposal. There is reference to data published by The Rivers Trust showing the number of times, and for how long, each year the sewer storm overflow at the treatment plant spills into the River Bela. For 2022 the overflow spilled 26 times for a total of 297.73 hours.

Policy position

- 8.62 Foul sewage was an issue considered at the time this site was allocated for development. Paragraphs 118 and 119 from the Inspector’s report into the Land Allocations DPD read as follows:

118 It is clear that the Plan will lead to the need for additional works to the waste water treatment and public sewer network, including upgrading and/or increasing the capacity. The areas most particularly likely to be affected, to some extent or another, are northwest Kendal, Ulverston, Cartmel, Grange-over-Sands, Milnthorpe, Endmoor, Flookburgh/Cark and Burneside. This is detailed in the Infrastructure Delivery Plan (IDP) [Ex068]. Housing delivery in the Plan has been phased to reflect this, with affected sites generally indicated as likely to come forward later. This is to allow time for the financing of the necessary works to be secured and for those works to be implemented. To this end, United Utilities has given assurances that it will seek the necessary funding from Ofwat, the Water Services Regulation Authority.

119 I have no doubt that the timely delivery of the necessary waste water and sewerage systems is among the risks to the Plan. But it is clear that both United Utilities and the Council are cooperating on an ongoing

basis to overcome the issues. Their Statement of Common Ground [Ex037], the correspondence from United Utilities and the IDP all support this. From this evidence, United Utilities' commitment to seeking funding for the necessary works is unambiguous. While finance from Ofwat cannot be guaranteed, it seems to me all that could be done is being. Overall, the Council and United Utilities are doing all they realistically can to create the conditions necessary for the Plan's successful delivery. With this in mind, the provision of waste water and sewer infrastructure is not a matter which undermines the Plan's soundness.

- 8.63 More recently, DMDPD policy DM1 (General Requirements for all development) states that subject to other policies within the development plan, development will be acceptable provided (amongst other things) it ensures the provision of necessary infrastructure, including foul water disposal, in a sustainable and viable manner.

Discussion

- 8.64 United Utilities has not provided any up-to-date information on what it has done in respect of upgrading and/or increasing the capacity of the waste water treatment and public sewer network serving Milnthorpe, but it has stated unequivocally that it has "no concerns in relation to the impact of the development on the wastewater treatment works". That might seem counter-intuitive given the reported sewer storm overflows, but in the absence of any concern from United Utilities we are obliged to accept that position. Paragraph 194 of the NPPF is clear that:

The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.

- 8.65 In that context, United Utilities' operation of its wastewater infrastructure is regulated by the Environment Agency (EA), which has confirmed the following:

As a regulator through the Environmental Permitting regime, we issue Environmental Permits for discharges from public sewage systems and treatment works. It is the responsibility of the network operator to ensure that any increase in load on their network is managed such that they can still comply with existing permit requirements. We will work with the network operator to try and ensure they comply with their permits and where they cannot, we seek to bring them back into compliance through the regulatory tools available to us.

- 8.66 United Utilities continues to express concerns about the potential impact of the development on its assets near the proposed entrance to the site, making the point that if its concerns are not addressed at this stage then the development may not be implementable in its current form. The developer contests this, and has provided drawings in an attempt to provide reassurance.

- 8.67 This is essentially a private matter between the parties concerned. Planning permission would not give the developer the right to compromise United Utilities' assets, or, indeed, any other third party interests. Therefore, if United Utilities' assets are ultimately affected then the developer will need to find a solution.

Flood risk

Policy position

- 8.68 The application site lies with Flood Zone 1, which is at the lowest risk of flooding by rivers or the sea. This was a significant factor in allocating the site for development, ensuring consistency with Core Strategy policy CS8.8 (Development and flood risk).
- 8.69 Policy CS8.8 also acknowledges the risk of flooding from other sources, and in particular surface water. The policy states that all new development will only be permitted if it can be demonstrated that (amongst other things): it would not have a significant impact on the capacity of an area to store floodwater; measures required to manage any flood risk can be implemented; surface water is managed in a sustainable way; and provision is made for the long term maintenance and management of any flood protection and/or mitigation measures.
- 8.70 This has been reinforced by DMDPD policy DM1 (General Requirements for all development) which expects all new development to be provided with the necessary infrastructure for dealing with surface water disposal.
- 8.71 The stated purpose of DMDPD policy DM6 (Flood Risk Management and Sustainable Drainage Systems) is "[t]o ensure existing and new development is not exposed to flood risk and to prioritise the promotion of Sustainable Drainage Systems." To that end it states that:

Development proposals should include the use of appropriate sustainable drainage systems which are designed to control surface water run off close to where it falls and mimic natural drainage systems as closely as possible.

- 8.72 Furthermore, the policy states that:

Surface water should be managed at the source, with reduced transfer and discharge elsewhere.

- 8.73 And, consistent with the Government's Planning Practice Guidance¹⁰, the policy expects surface run off to be discharged as high up the following hierarchy of drainage options as reasonably practicable:

- into the ground (infiltration at source);
- to a surface water body;
- to a surface water sewer, or other suitable surface water drainage system;
- to a combined sewer.

¹⁰ Paragraph: 080 Reference ID: 7-080-20150323

- 8.74 It is an underlying principle in the various components of the District's development plan and in relevant Government policy and guidance that development should not increase flood risk elsewhere.

Discussion

- 8.75 The application is accompanied by a Flood Risk Assessment & Drainage Strategy Report ("the FRA"), version 5 of which was submitted in July 2023. The FRA confirms that soakaway tests demonstrate that the northern and central sections of the site can be drained through ground infiltration, the preferred option in the relevant planning policy and guidance. Consequently, these areas of the site will incorporate permeable surfaces and geocellular soakaways, together with highways swales and associated attenuation features all designed to mimic greenfield infiltration rates for a 1:100 year event, with an appropriate allowance for climate change. Incorporating permeable surfaces, and other features that reduce flood risk also meets one of the criteria in to Appendix 1 in the DMDPD (see the "Sustainable Construction" section of the report above).
- 8.76 For the southern section of the site, surface water will be collected via a variety of means into a formal drainage network that will eventually be discharged by pipe into the River Bela, the next best option in the relevant planning policy and guidance referred to above. Once again, the infrastructure will be designed to discharge at the greenfield rate for events with a return period of 1:100 years, with an appropriate allowance for climate change.
- 8.77 The lead local flood authority has confirmed that the latest FRA and associated drawings are acceptable in principle and it raises no objection to the application subject to a number of conditions, including a requirement to submit a more detailed scheme based upon the agreed principles. The lead local flood authority is also seeking assurances in respect of the long-term management of the approved scheme. It is proposed to address this via a Surface Water Drainage Management Scheme to be established through a section 106 agreement. This will include passing to the site management company responsibility for certain key pieces of infrastructure within private gardens, such as exceedance channels.

Access

Policy position

- 8.78 Core Strategy policy CS10.2 (Transport impact of new development) expects "Development will be designed to reduce the need to travel and to maximise the use of sustainable forms of transport appropriate to its particular location", an objective which underpinned the overall development strategy for the District which led to Milnthorpe being identified as a Key Service Centre and the current site being allocated for development. Nevertheless, the allocating policy itself (policy LA2.11 of the Land Allocations DPD) is clear that, amongst other things, the development must make provision for:

Mitigation measures to offset any potential for adverse impact to the existing highways network.

- 8.79 Specifically, the preamble to the policy LA2.11 states that:

The Urban speed limit (30-40mph) should be extended past the site access, in order to help ensure safe access to the site and present a gateway into Milnthorpe.

- 8.80 DMDPD policy DM1 (General Requirements for all development) states that subject to other policies within the development plan, development will be acceptable provided (amongst other things) it:

ensures adequate and safe movement of pedestrians, cyclists and motor vehicles, and provision of parking / servicing.

- 8.81 We also need to have regard to paragraph 115 of the NPPF, an element of government policy that has come to carry considerable weight in planning appeal decisions. It states:

Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Discussion

- 8.82 The application is supported by a Transport Assessment (TA)¹¹, which has been scrutinised by the local highway authority in formulating its consultation response.
- 8.83 By way of general introduction to this discussion it is important to reiterate that amongst the reasons why this site has been allocated for development is that its relatively convenient access to local facilities and public transport by means other than the car (or, where necessary, shorter car journeys) reduces the overall need to travel and thereby improves sustainability.

Estate road design

- 8.84 Following various amendments to the proposal, and subject to a number of conditions, the local highway authority has confirmed that it is satisfied with the main estate access serving the development and the internal road layout. It should be noted that much of the internal road layout is proposed to be maintained by a private management company, with the only the first 100m of the estate road being offered for adoption¹². This is the developer's prerogative; neither the local planning authority nor the local highway authority can insist that roads are offered for adoption. However, the local highway authority is recommending conditions to ensure that: (1) the private roads are constructed to a standard suitable for adoption; and (2) any integrated surface water drainage infrastructure is maintained in accordance with a schedule of maintenance.

Connectivity

- 8.85 The allocating policy for the site is clear that, amongst other things, the development must make provision for:

Pedestrian and cycle linkages to the village centre.

¹¹ Transport Assessment, DTPC, February 2022

¹² The relevant areas are shown on Management Co. Plan 076/P/14

- 8.86 This is reinforced in the preamble to the policy, which identifies as an issue:
- ... achieving satisfactory links with the village centre. A public footpath offers an important opportunity to create a direct pedestrian and cycle link from the development to the village centre.
- 8.87 The indicative Land Use Proposals Map in the Brief (Figure 1.3) also identifies the connection of the public footpath (no. 556006) with the village centre as a new pedestrian / cycle link, along with another at the eastern end of The Willows.
- 8.88 The submitted layout responds positively to these points, showing hard-surfaced connections of a suitable width to both of the boundary connections identified in the Development Brief. Larger scale drawings show how each connection will function as: (1) a pedestrian / cycle link (with bollards to prevent access by cars); and (2) an emergency vehicle access (EVA), meeting the standards specified in the Chief Fire Officer's consultation response. The provision of these connections to the site boundary, and to the appropriate standards, can be covered by planning conditions,.
- 8.89 Whether or not these connections can immediately, or indeed ever, function as the "pedestrian and cycle linkages" anticipated by the allocating policy is a moot point, because the applicants do not control any land beyond the red line boundary and, save for public footpath no. 556006, there are no other public rights of way or adopted roads linking from the site boundary to the village centre. So, whilst the applicants can complete the necessary infrastructure on their side of the boundary, they are in no position to deliver beyond that. Having said that, the local highway authority has confirmed that it will be working separately to secure the necessary links. In the meantime, the EVAs will function as planned; the local highway authority makes the point that in a danger to life situation the emergency services do not have to worry about land ownership issues.

Wider highway impacts

- 8.90 Many of the representations we have received are concerned about the impacts of the development on the wider area through increased traffic movements. There is a fear that the proposed development will add to existing traffic pressures through the centre of the village, increasing congestion, adding to incidents of speeding and generally posing an increased risk to pedestrians, particularly the vulnerable, who use the existing narrow footways.
- 8.91 As an allocated site, a certain level of impact has already been assumed and judged to be acceptable. However, the allocating policy does expect the development to make provision for mitigation measures to offset any potential for adverse impact to the existing highways network. This is addressed in the applicant's TA.
- 8.92 The TA follows an "industry standard" approach to assessing highway capacity and road safety, beginning with a series of traffic surveys. The results of these surveys are then "growthed" using national forecasting data to establish a baseline position in 2027, five years from the application date. This forecast does not include an assessment of any other sites allocated in the development plan; it is the local highway authority's position that none of the remaining sites in the plan will have any appreciable impact.

- 8.93 The increased traffic flows from the development itself have been calculated using the TRICS¹³ database. TRICS is a comprehensive database of traffic and multi-modal transport surveys, covering a wide range of development types. It is widely used by both transport planning consultants and local authorities to establish potential levels of trip generation for proposed developments. The output from the TRICS database is then interpreted into a flow diagram, identifying the likely split of journeys. When added to the growthed survey data this provides the basis for analysing the impacts on existing and/or proposed junctions, again using industry standard modelling techniques. In this case the local highway authority requested that the modeling considered: (1) the proposed site entrance junction onto the A6; and (2) A6 / B5282 / B6384 signalised Junction. The proposals for the new site entrance include: (a) a new right-hand turning lane; (b) moving the existing 30mph speed limit further south; (c) retention of the gateway feature at the existing 30mph speed limit; (d) a new pedestrian crossing of the A6 with central refuge; and (e) new bus stops on both sides of the carriageway. In both cases the modelling shows that the junctions will operate well within the relevant safety and efficiency criteria. This conclusion has been accepted by the local highway authority, on the basis of a number of proposed planning conditions – including requirements that: (1) no development commences until the 30mph speed limit has been relocated; and (2) none of the houses are first occupied until the other measures listed above have been constructed and are operational. Most of this work will require a separate agreement with the local highway authority under section 278 of the Highways Act.

Refuse collection

- 8.94 Core Strategy policy CS8.9 (Minerals and waste) states that the Council will expect development to (amongst other things) consider how easily the development site can be incorporated into the recycling and waste collection rounds and the adequacy of access for the collection vehicles. And paragraph 8 the National Planning Policy for Waste states:

When determining planning applications for non-waste development, local planning authorities should, to the extent appropriate to their responsibilities ensure that:

...

new, non-waste development makes sufficient provision for waste management and promotes good design... This includes providing adequate storage facilities at residential premises, for example by ensuring that there is sufficient and discrete provision for bins, to facilitate a high quality, comprehensive and frequent household collection service

- 8.95 Furthermore, among the “List of Measures that support and enhance habitat creation, urban greening and respond to the effects of climate change” contained within Appendix 1 to the DMDPD, is a requirement for:

Sufficient and well-designed visually unobtrusive space for bin collection/recycling [...] either within the curtilage of a dwelling or building or through formal parking provision where communal buildings are provided.

- 8.96 The Council’s Waste and Environmental Services Team has been consulted on

¹³ Trip Rate Information Computer System database

the various iterations of the layout plan to ensure that the requirements for refuse collection are properly factored in. And the layout has been modified in places in response. The number of cul-de-sacs remains a concern; they necessitate undesirable reversing maneuvers. However, for the reasons explained above, cul-de-sacs are inevitable in this case given the configuration of the allocation. The site layout now indicates bin collection points to minimise reversing distances and the Waste and Environmental Services Team is content that further detail can be resolved through the standard highway conditions.

Public rights of way

- 8.97 Public footpath no. 556006 crosses the site, extending southwards from The Green behind Milnthorpe Primary School and Firs Close before crossing the open part of the site to its southern boundary. It is evident from the submitted plans that this footpath will need to be diverted in places to avoid conflicts with the proposed layout. Diversion of footpaths is a separate legal process, which, in this case, will require an order to be made under section 257 of the Town and Country Planning Act 1990. Any grant of planning permission does not pre-empt or fetter that process, although, separately, the local planning authority should be satisfied that the amenity of the right of way can be safeguarded, as far as is practicable within the context of the proposed development.
- 8.98 In this case the alignment of footpath no. 556006 is largely unaffected by the development and it is clear that, even on its current alignment, it will be able to follow an attractive route alongside tree-lined roadways and passing through areas of public open space. Even where a diversion seems necessary, around plots 58 and 59, there is an obvious opportunity to re-route it through the adjoining area of open space.

Character

Policy position

- 8.99 Core Strategy policy CS1.1 (Sustainable Development Principles) expects "[...] high quality, localised and appropriate design [to be] incorporated into all developments to retain distinctive character/sense of place and enhance the existing built environment." It is a further requirement of Core Strategy policy CS8.2 (Protection and enhancement of landscape and settlement character) that development proposals should demonstrate that their location, scale, design and materials will protect, conserve and, where possible, enhance (amongst other things): (1) the special qualities and local distinctiveness of the area and distinctive settlement character in general; and (2), in particular, the special qualities of the environment associated with the nationally designated areas of the National Parks and Arnsdale and Silverdale AONB including their settings; and (2) the setting of, and views into and from the AONB, the National Parks, conservation areas and individual built/manmade features that contribute to landscape and settlement character such as St Anthony's Tower [...].
- 8.100 Policy CS8.10 expects that:

The siting, design, scale and materials of all development should be of a character which maintains or enhances the quality of the landscape or townscape and, where appropriate, should be in keeping with local vernacular tradition

8.101 Furthermore, policy CS8.10 states:

Designs that support and enhance local distinctiveness will be encouraged. New developments should protect and enhance key local views and features / characteristics of local importance and incorporate layouts that reinforce specific local distinctiveness.

8.102 Subject to other policies in the development plan, DMDPD Policy DM1 (General Requirements for all development) states that development will be acceptable provided, amongst other things, it: (1) responds appropriately to the proposal site's locational context, local and settlement character and distinctiveness; (2) ensures the protection and enhancement of the District's natural, built and historic environment qualities and its distinctive landscapes and townscapes, including their public visual amenities through good design; and (3) ensures the protection, conservation and enhancement of the special qualities and settings of the Lake District National Park, including views into and out of this protected designated landscape, by supporting proposals only where it is demonstrated through a proportionate landscape assessment there would be no adverse effect upon their landscape character and visual amenity.

8.103 Policy DM2 (Achieving Sustainable High Quality Design) supports development provided certain design principles are met. These include ensuring that development: (1) responds appropriately to local and settlement character and reinforces and promotes local distinctiveness; and (2) responds appropriately to local context, landscape and built and natural environment setting. It also states that "[new] development should deliver variety, diversity and interest by [...] avoiding bland monotonous forms of development that promote little interest and variety".

8.104 The objective of these development plan policies is strengthened in the NPPF, which states at paragraph 131 (under the heading of "Achieving well-designed and beautiful places") that:

The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

8.105 The "Vision for South and East Milnthorpe" set out in the Development Brief expects development to:

- deliver a range of well-designed, attractive and energy-efficient homes that will meet the current and future needs of the local and wider community as well as blending in with the local character of the area;
- create an attractive residential gateway on the edge of Milnthorpe village, taking advantage of its location close to the village centre and set within an attractive landscape overlooking the Arnside & Silverdale Area of Outstanding Natural Beauty (AONB) and Dallam Park;
- provide a high quality frontage to the A6; and
- provide accessible green spaces of high value to people and wildlife.

8.106 In introducing the section on design principles, the Development Brief states:

The design of the South and East Milnthorpe site should take full account of the character of the immediate and wider setting [...] Key influences on character include history, geography, climate, topography and building materials, as well as local culture. Milnthorpe has a distinctive character. The predominant use of local stone or lime-based render provides a distinctive appearance and grey colour to many buildings in the town. Local grey slate as a roofing material is readily distinguishable in the town for example.

8.107 To assist in meeting the objectives of the development plan policies in general, and the expectations of the Brief in particular, Figure 1.2 of the Brief presents a Constraints and Opportunities Map and Figure 1.3 presents a Land Use Proposals Map. These are both indicative drawings; neither is intended to be followed slavishly, but they do provide a useful touchstone against which to assess some of the main design considerations.

Discussion

Community engagement

8.108 Under the heading of “Achieving well-designed places”, paragraph 137 of the NPPF states:

Design quality should be considered throughout the evolution and assessment of individual proposals. Early discussion between applicants, the local planning authority and local community about the design and style of emerging schemes is important for clarifying expectations and reconciling local and commercial interests. Applicants should work closely with those affected by their proposals to evolve designs that take account of the views of the community. Applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably than those that cannot.

8.109 There is criticism in the representations we have received that proactive and effective engagement with the community in this case has been poor. In response, the applicants have stated that we:

... did a letter drop to 200+ addresses around the site as well as the [Parish Council] before submission and Oakmere issued large scale plans to a number of residents who requested them.

8.110 Members will need to weigh in the overall planning balance the extent to which the expectations of NPPF paragraph 137 have been met in this case. However, it is fair to say that many of the design criticisms that have emerged in the representations we have received, and which have resulted in significant changes to the proposal since it was first submitted, could have been addressed through pre-application engagement with the community, potentially speeding up the process and also fostering a sense that planning can be a proactive rather than reactive activity.

Urban design

8.111 The overall form of the development now being advanced by this application is a good match with the Brief's Land Use Proposals Map. A main estate road runs

virtually the entire length of the site, served from a single vehicular access off the A6 south of The Willows. Much of the development is accessed directly from this road, a consequence of the relative narrowness of the site, but there are a number of cul-de-sacs providing access to development in wider parts of the site.

8.112 Paragraph 3.5.5 of the Development Brief states that:

Provision of cul-de-sacs should normally be avoided in context of permeability unless particular site conditions dictate that a cul-de-sac design is the most appropriate way to develop the site.

8.113 This allocation presents a case where cul-de-sacs are a prerequisite to an efficient development; the site is too narrow to accommodate the circular connections that would generally be preferable. And this is acknowledged (indicatively) on the Brief's Land Use Proposals Map.

8.114 The frontage to the A6 provides a landscape buffer, consistent (in principle) with the expectations established by Figures 1.2 and 1.3 of the Brief and other areas of public open space are proposed to coincide with the areas so marked indicatively on Figure 1.3. Much of the main estate road is shown fringed by trees, consistent with the Brief's expectations of a "green corridor", and more recent guidance in the NPPF. The proposed development also shows publically accessible routes from within the development to the two "pedestrian / cycle links" indicated in figure 1.3 of the Brief. All of these points are discussed in further detail below.

8.115 The "grain" of the development is largely determined by the site topography, with the bulk of the units orientated within a few degrees of north-south to follow the contours of the site. This is not the optimum way "to ensure maximum solar gain and facilitate the maximum benefit of solar panels (PV and thermal)", which is the expectation of the Brief (para. 3.11.4)¹⁴, but, in this case, re-orientating the bulk of the houses east-west would be working against the topography, resulting in something incongruously at odds with the established character of the village. Following the topography in the manner proposed allows the houses to present active frontages to the highway, which is a tenet of good urban design, and recognised as such in the Cumbria Design Guide. As well as being inherently more attractive, promoting active frontages has other recognised advantages – such as reducing traffic speeds and increasing passive surveillance. In this case it would also likely involve less groundworks, meaning less movement of material, thereby reducing the disruption associated with the construction process.

8.116 The latest iteration of the proposals includes 24 different house types (including variations), all standard designs that the applicant employs across a range of development sites. The majority of the units will be detached and there is nothing bespoke to Milnthorpe in general, or the application site in particular, save for some adjustments to individual units to address plot-specific concerns. This will result in the planned estate having a rather homogenous feel. Having said that, the individual designs are attractively proportioned and will incorporate a range of locally distinctive features, including projecting gables, stone window surrounds and projecting bay windows and porches. They will also be constructed from materials which are well represented in the area – natural limestone and render for

¹⁴ Appendix 1 to the DMDPD also encourages, amongst its list of measures that respond to the effects of climate change, orientating buildings where they can optimise energy efficiency, solar gain and maximise daylight levels.

the walls and natural slate for the roofs.

- 8.117 Only one of three originally proposed apartment blocks remains: Apartment Block B. This is positioned towards the northern end of the site, close to the boundary with Milnthorpe Conservation Area. The merits of this are discussed further under the “Heritage impacts” section of this report.
- 8.118 The various iterations of the design since the application was first registered have included changes to reinforce good urban design. Long views now generally terminate on active building frontages and all of the public open space and pedestrian/cycle connections are now overlooked to create attractive framing and introduce passive surveillance. The design of the house on plot 89 remains weak. It is the easternmost of a semi-detached pair of Brathay house types that sits to the west of an area of public open space that broadly coincides with “Open Space” area C in figure 1.3 of the Development Brief. Ideally this unit would present a full frontage to the open space, requiring either a bespoke design or a different house type. Disappointingly, the applicants do not have a standard house type that fits this situation and have only been prepared to go bespoke insofar as adding a side entrance and a projecting gable to what otherwise remains a Brathay house type. This is a missed opportunity to lift the urban design quality.
- 8.119 Overall, despite the limitations imposed by the use of (predominantly detached) standard house types, and despite some misgivings over design details, the scheme responds well to the expectations of the Development Brief and the challenging topography of the site.

Heritage assets

- 8.120 The site directly abuts Milnthorpe Conservation Area to the north, which includes a number of listed buildings. To the south-west the site lies on the opposite side of the A6 from Dallam Tower, which is included on the Register of Parks and Gardens of Special Historic Interest at Grade II. The application is supported by a Heritage Statement¹⁵ to assess the potential impact on these various heritage assets. The Landscape and Visual Assessment (LVIA)¹⁶ which accompanies the application, and is discussed in more detail under the “Landscape impact” section of this report, also contains some helpful analysis. Further discussion of the impact of the development on Dallam Tower continues under the “Landscape impact” section of this report.

Legislative and policy context

- 8.121 Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that:

In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the

¹⁵ Heritage Statement in connection with Proposed Housing development on land to the south east of Milnthorpe (east of Beetham Road), C.J.O’Flaherty, February 2022

¹⁶ Land off Beetham Road, Milnthorpe, Residential development, Landscape and Visual Assessment, PDP Associates, June 2023

building or its setting or any features of special architectural or historic interest which it possesses.

- 8.122 Section 72(1) states that in determining planning applications in a conservation area “special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.” Section 72(1) does not refer specifically to the setting of conservation areas; although this is picked up in development plan policy – see below.

Core Strategy

- 8.123 In identifying “Protecting and enhancing the quality environment” as a key issue the Core Strategy acknowledges that the “rich built heritage of the area has a significant cultural value that requires protecting and enhancing.” This then feeds into the strategic objective of the Core Strategy to “protect the historic environment from harmful change, including listed buildings, buildings of local importance, conservation areas, scheduled ancient monuments and historic parks and gardens.”

- 8.124 Policy CS8.6 (Historic environment) is explicit that the Core Strategy supports a number of objectives, including:

The safeguarding and, where possible, enhancing of historic environment assets, including their characteristic settings and any attributes that contribute to a sense of local distinctiveness. Such assets include listed buildings and features (both statutory and locally listed), conservation areas, scheduled ancient monuments and registered parks and gardens.

The production of conservation area management plans to identify and explain how the Council will seek to preserve and enhance the special interest of such areas. [and]

The safeguarding and, where possible enhancement of, locally important archaeological sites and features within the historic environment.

South Lakeland Development Management Policies Development Plan Document (DMDPD)

- 8.125 Subject to other policies in the development plan, Policy DM1 (General Requirements for all development) states that development will be acceptable provided, amongst other things, it “ensures the protection and enhancement of the District’s natural, built and historic environment qualities [...]”.
- 8.126 Policy DM2 (Achieving Sustainable High Quality Design) supports development provided certain design principles are met. These include ensuring that development: (1) responds appropriately to local and settlement character and reinforces and promotes local distinctiveness; and (2) responds appropriately to local context, landscape and built and natural environment setting. It also states that “[n]ew development should deliver variety, diversity and interest by [...] avoiding bland monotonous forms of development that promote little interest and variety”
- 8.127 Policy DM3 (Historic Environment) states “Development proposals will safeguard and, where appropriate, enhance all heritage assets and their settings, in a

manner that is appropriate to their particular significance.” It then goes on to provide general advice on “Assessing Significance and Impact” and more detailed advice on what that means for: (1) listed buildings; (2) historic parks, gardens and landscapes; (3) conservation areas; and (4) non designated heritage assets of local significance.

8.128 Specifically in respect of conservation areas, policy DM3 states:

Development proposals affecting, or within the setting of a Conservation Area will be expected to preserve or enhance its special character and appearance.

Other material considerations

NPPF

8.129 Section 16 of the NPPF, Conserving and enhancing the historic environment, provides Government policy on how local planning authorities should meet their statutory obligations in respect of heritage assets, as set out above. The thrust of the Government’s policy insofar as it is relevant to the current planning application is summarised below.

8.130 In determining applications that are likely to affect heritage assets, paragraph 200 of the NPPF establishes that:

... local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum, the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

8.131 Paragraph 195 requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal, including development affecting its setting, taking account of available evidence and any necessary expertise. Local planning authorities are required to take this into account when considering the impact of a proposal on a heritage asset.

8.132 The NPPF defines “significance” for the purposes of applying its heritage policy as:

The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset’s physical presence, but also from its setting. For World Heritage Sites, the cultural value described within each site’s Statement of Outstanding Universal Value forms part of its significance.

8.133 “Setting of a heritage asset” is defined as:

The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting

may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

8.134 In determining applications, paragraph 197, requires local planning authorities to take account of: 8i7

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

8.135 When considering the impact of a proposed development on the significance of a designated heritage asset, paragraph 199 is clear that great weight should be given to the asset's conservation. This is irrespective of the level of any potential harm to its significance.

8.136 The NPPF defines "conservation" for the purposes of applying its heritage policy as:

The process of maintaining and managing change to a heritage asset in a way that sustains and, where appropriate, enhances its significance."

8.137 Paragraph 205 states that any harm to, or loss of, significance to a designated heritage asset, should require clear and convincing justification. Paragraph 206 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 total loss is necessary to achieve substantial public benefits that outweigh that harm or loss ...

8.138 Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, paragraph 207 is clear that this harm should still be weighed against the public benefits of the proposal, albeit that those benefits are not explicitly required to be "substantial".

8.139 This begs the question: how to assess if there is substantial harm? To which the Government's Planning Practice Guidance offers the following answer:

What matters in assessing whether a proposal might cause harm is the impact on the significance of the heritage asset. As the National Planning Policy Framework makes clear, significance derives not only from a heritage asset's physical presence, but also from its setting.

Proposed development affecting a heritage asset may have no impact on its significance or may enhance its significance and therefore cause no harm to the heritage asset. Where potential harm to designated heritage assets is identified, it needs to be categorised as either less than substantial harm or substantial harm

(which includes total loss) in order to identify which policies in the National Planning Policy Framework (paragraphs 194-196) apply¹⁷.

Within each category of harm (which category applies should be explicitly identified), the extent of the harm may vary and should be clearly articulated.

Whether a proposal causes substantial harm will be a judgment for the decision-maker, having regard to the circumstances of the case and the policy in the National Planning Policy Framework. In general, terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting.

While the impact of total destruction is obvious, partial destruction is likely to have a considerable impact but, depending on the circumstances, it may still be less than substantial harm or conceivably not harmful at all, for example, when removing later additions to historic buildings where those additions are inappropriate and harm the buildings' significance. Similarly, works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all. However, even minor works have the potential to cause substantial harm, depending on the nature of their impact on the asset and its setting.

Non-designated heritage assets

8.140 The NPPF's definition of heritage assets embraces:

A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including local listing).

8.141 Paragraph 209 of the NPPF goes on to state:

The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm of loss and the significant of the heritage asset.

Discussion

Milnthorpe Conservation Area

Significance

8.142 In assessing the contribution that setting makes to the significance of Milnthorpe Conservation Area for the purposes of applying the policy set out above, the Milnthorpe Conservation Area Character Appraisal ("the Character Appraisal")

¹⁷ These cross-references to the NPPF in the Planning Practice Guidance remain to be updated.

provides some helpful analysis.

- 8.143 Section 6.1 of the Character Appraisal, which assesses “spatial structure”, makes the following observation:

The principal structuring element within the conservation area is the large open public space that contains the small urban market place called The Square at its west end, and the larger, more open and much more formal green space, containing the church and graveyard, that is known as The Green, at its eastern side.

- 8.144 There is also the observation at paragraph 6.1.6 that:

Open countryside or immediate landscape setting is not a significant feature of the conservation area, the boundary of which is drawn quite tightly around the pre-1900 buildings and developed plots in the centre of the settlement.

- 8.145 Section 6.2, which assesses “townscape character” expands upon the significance of The Green with the following narrative:

At the eastern end is The Green, a slightly elevated and quite formal almost rectangular space containing the significant landmark and skyline interest of the Church of St Thomas with its sturdy tower and conspicuous corner pinnacles. Surrounding the church is a small, attractively stone walled churchyard with revetted masonry walls that are lower to the western ‘front’ and taller to the other sides, and which have good quality ashlar stone piers with triangular copings at various points around the perimeter. To the centre of the south churchyard wall, and opposite the modest west door to the church is a shallow flight of stone steps which helps reinforce a very significant visual axis from the Square. This churchyard is set within deep but plain grassy verges and enclosed within a perimeter band of very distinctive, evenly spaced mature trees which attractively filter views towards the church and give the setting a very verdant character. This carefully laid out space is very distinctive in visual terms and contributes very positively to the special character and appearance of the conservation area. Views towards and into this space from much of The Square to the west, and from the neighbouring Main Street, which forms the northern edge of this space, are of considerable importance. The two storey houses along the eastern edge provide further important and attractive edge definition to the space, while the south eastern corner is unique in being the only part of the conservation area that allows for a narrow view up the slight gradient to the south east over open fields towards a number of tall hedgerow trees beyond.

- 8.146 The final sentence is significant, because the “open fields” referred to comprise the northern end of the application site. And it is here where the setting of the conservation area is most likely to be affected. Counterintuitively, Map 2 in the Character Appraisal, which analyses townscape character through a series of annotations, includes no reference to this view amongst those it identifies as important, perhaps consistent with the view expressed in paragraph 6.1.6 that “Open countryside or immediate landscape setting is not a significant feature of the conservation area ...” Nevertheless, on the ground, it is evident that views into, and out of, the conservation area through this gap deserve further consideration in determining the current planning application.

- 8.147 The setting of the conservation area can be appreciated at a greater distance in various directions, notably from: St. Anthony's Close to the north (illustrated in Viewpoint 8 in the LVIA); the public footpath west of Dallam Chase/Kirkgate (illustrated in Viewpoint 10 in the LVIA); and from public footpath no. 556006 to the south as it crosses the application site (illustrated in Site Photograph S3 in the LVIA). However, these views are appreciated across a foreground of 20th century development and some open farmland. Extending the settlement boundary as proposed would have no appreciable impact on the setting of the conservation area when viewed from these locations, reinforcing the point made in paragraph 6.1.6 of the Character Appraisal.
- 8.148 Also relevant to the setting of the conservation area, section 6.3 of the of the Character Appraisal considers "architectural quality", cross-referring to Map 3, which categorises buildings in the conservation area under one of four headings: (1) listed buildings; (2) unlisted buildings that make a particular positive contribution to the special architectural or historic interest of the area; (3) unlisted buildings that, because of their moderate or very slight intrinsic architectural interest, have a largely neutral impact on the special architectural or historic interest of the area; and (4) buildings that have a damaging or detrimental impact on the special architectural or historic interest of the area.
- 8.149 Considering all of the above, and insofar as the current application site is concerned, it is reasonable to conclude that it is only through the gap in the south-eastern corner of The Green where the setting of Milnthorpe Conservation Area makes any appreciable contribution to its overall significance. Furthermore, from a site inspection, it is evident that only the view out of the conservation area makes any positive contribution to setting, a view shared by the Council's Conservation Officer. The view back is relatively unremarkable. The Vicarage is prominent, and is identified in the Brief as a building that makes a positive contribution to the conservation area. But, its principal contribution comes from the front elevation it presents to The Green; the side elevation to the application site is not without architectural interest, but it is not a key component of the setting of the conservation area. The view through to the heart of the conservation from the point at which public footpath no. 556006 meets The Green is attractive, but is narrow and quickly constrained by the rear / side elevations of existing properties on the application site boundary as one moves further away.

Impact

- 8.150 Having assessed the setting of the conservation area, and the limited extent to which that setting contributes to the overall significance of the conservation area, the algorithm in the NPPF then requires us to consider how that significance is impacted by the proposals. The allocation of the site for housing is an important context in that assessment; once the principle of housing was accepted in the development plan, the setting of the conservation area was always going to change. It just remains to ensure that any change either preserves, or enhances, the established character.
- 8.151 When this application was submitted, the northern part of the site featured a large apartment block (Apartment Block C), which would have dominated the view from The Green out of the conservation area in a particularly incongruous manner. Many of the representations received at that time were critical of this element of the scheme. The apartment block has now been removed, but it is still worth

making the point that its impact on the setting of Milnthorpe Conservation Area, even with the limited contribution of that setting to the overall significance of the conservation area, could not reasonably have been argued to either preserve or enhance the established character.

8.152 The latest iteration of the proposals for the northern section of the site features two tiers of housing to the east of public footpath no. 556006, aligned with north-south axes along the topography, and a block of eight apartments (Apartment Block B) facing onto the footpath from the west, immediately to the rear of housing in Firs Road. A significant area of public open space adjoins the boundary of the application site with the conservation area, overlooked to varying degrees by the two tiers of housing. Apartment Block B completes this composition by channeling views along the public footpath and connecting roadway to the south. This configuration is a good match with the indicative layout in Figure 1.3 (Land Use Proposals Map) of the Development Brief.

8.153 Our Conservation Officer is generally content with this arrangement, but she does have misgivings about Apartment Block B, summarised as follows:

Whilst the apartment block is located about 50m from Fir Road, its massing and height would appear to dwarf the existing dwellings on the road, and act as a landmark to the east. This is likely to compete to some extent with the significance of the Church of St Thomas [a non-designated heritage asset] as a landmark in the area, being within relative proximity and located on higher grounds. This is considered inappropriate due to the residential status of the proposed new building, and its low architectural merits, especially in comparison to the church. In addition, the proposed apartment block is an urban typology which is alien within a rural town such as Milnthorpe and would further stand out within an suburban area composed of low-rise semi-detached or detached dwellings (this includes the proposed new dwellings). Its proposed crisp white render finish would also clash with the grey or buff tones of the existing buildings, which is consistent both within and outside the conservation area. As such, the proposed apartment block B fails to preserve a positive setting of the conservation area and a non-designated heritage asset.

8.154 Overall, she concludes that Apartment Block B would be harmful to the setting of the conservation area, albeit less than substantially so in NPPF terms.

8.155 The first point to make in considering these comments is that protecting the setting of the conservation area is not part of the statutory responsibility imposed by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. It is, however, a consideration in applying the relevant NPPF and development plan policies.

8.156 Apartment Block B is the only remaining apartment block in the scheme; Apartment Blocks A and C having been removed through various design iterations; the latter because of its potential impact on the conservation area as described above. Apartment Block B now has the largest footprint of any single building within the development and although providing only two floors of residential accommodation, and presenting a conventional two-storey façade to the east, its impact is exaggerated by the rising topography of the site, meaning that it effectively presents three storeys to the west. This is illustrated on Section H-H on drawing 076-P_SITESEC_2(G). The building has an unremarkable design,

albeit that it does maintain an overall consistency with the main design themes of the site, including architectural detailing and external materials – render, natural stone and natural slate. Also, and significantly, it remains a key component of the reworked group of buildings at the northern end of the application site.

- 8.157 Views of Apartment Block B from within the conservation area will be limited. It will be most noticeable in the gap referred to above, where it will be seen in the context of the other buildings clustered around the public open space proposed to the south of the Vicarage. This should present an attractive and inviting gateway to the new development. It will not be the most prominent building in this view; the tiers of housing proposed to the east will all generally start from higher finished floor levels as the ground rises. The lower residential floor level of Apartment Block B will be set at approximately 30.8m, whilst the finished ground floor level for the middle tier of housing (plots 115 – 117) will be set at between 29m and 31.50m and for the highest tier of housing (110 - 114) they will be set between 33m and 33.5m. This is a natural response to the topography, typical of other areas of the village. The apartment block may be glimpsed through other gaps between existing buildings, but these views will be insignificant.
- 8.158 Whilst the Conservation Officer's misgivings are noted, it seems very unlikely that Apartment Block B would ever be seen as a competing landmark with the Church of St Thomas. From the limited positions from which it could be viewed, it would always be seen in the context of other buildings and its residential character makes it too unremarkable in its design. It is also noteworthy that had the applicants not chosen to exclude from the application site the higher ground in the north-east corner of the allocation, identified as appropriate for housing in Figure 1.3 of the Development Brief, then the visual impact of the development in views out from the conservation area would have been greater. Taking all of this into account, it would be difficult to argue that the current proposals result in harm, even the less than substantial harm identified in the Conservation Officer's comments. Nevertheless, this is a judgment and if Members feel that this element of the development is harmful then they will need to weigh that against any public benefits of the scheme in the final planning balance.

Listed buildings

- 8.159 There is only one listed building whose setting has the potential to be impacted by the development: Laburnum House on Main Street – listed grade II. The setting of this building is an important component of its significance, particularly in the way it contributes to, and is read as part of, the framing of The Green. The application site does feature in this setting, through the gap described under the discussion of the conservation area above, although obliquely and to a minor extent. The proposed development is judged to have a neutral impact on this setting and, by extension, a neutral impact on the significance of Laburnum House as a heritage asset.

Archaeology

- 8.160 The application is supported by an archaeological desk-based assessment and a geophysical survey of the site¹⁸. The results indicate that earthworks associated

¹⁸ Land Off Beetham Road, Milnthorpe, Cumbria, Archaeological Desk-Based Assessment and Geophysical Survey, Greenlane Archaeology, February 2022

with former field systems and lynchets of unknown date survive on this site. The survey also highlighted a number of other features of potential archaeological interest. As things stand, these qualify as non-designated heritage assets for the purposes of applying NPPF policy set out above. To ensure that these assets are properly assessed, the Council's Historic Environment Officer has recommended a condition requiring the site be subject to archaeological investigation and recording in advance of development.

Landscape impact

- 8.161 It is explicit in Land Allocations policy LA2.11 that, amongst other things, landscape impacts must be effectively mitigated through the development of this site. Of particular importance in this regard is the fact that the site is set within an intrinsically attractive landscape, overlooking the Arnside & Silverdale Area of Outstanding Natural Beauty (AONB) and Dallam Park, the latter included on the Register of Parks and Gardens of Special Historic Interest at Grade II. The allocating policy is also explicit in its expectation of a "substantial, high quality landscaped frontage to the A6".
- 8.162 To address these issues (and others) the application is accompanied by a Landscape and Visual Assessment (LVIA)¹⁹. This was updated in June 2023 to reflect changes to the scheme and to correct an earlier assumption that the proposed development coincided precisely with the development plan allocation – more of which below.
- 8.163 The LVIA has been prepared in accordance with the Guidelines for Landscape and Visual Impact Assessment, Third Edition (GLVIA), published jointly by the Landscape Institute and Institute of Environmental Management and Assessment, which is the industry standard for such assessments. LVIAs prepared in this way undertake separate landscape and visual appraisals.
- 8.164 A landscape appraisal deals with the effects of change and development on landscape as a resource, generally based upon national and local landscape character assessments. This includes how the proposal will affect the elements that make up the landscape, the aesthetic and perceptual aspects of the landscape and its distinctive character. The LVIA submitted in this case uses the Landscape Character Guidance and Toolkit published by Cumbria County Council, (March 2011) as part of the baseline data. Applying the toolkit, the application site lies within landscape character Sub Type 7a (Low Drumlins), summarised as:
- ...a working landscape defined by its pronounced patterns of drumlins and regular field patterns.
- 8.165 (A drumlin is an oval or elongated hill, formed by the streamlined movement of glacial ice sheets across rock debris, or till.)
- 8.166 A visual appraisal deals with the effects of change on the views available to people and their visual amenity. This includes how the surroundings of individuals or groups of people may specifically be affected by changes in the content and character of views as a result of the change or loss of existing elements of the

¹⁹ Land off Beetham Road, Milnthorpe, Residential development, Landscape and Visual Assessment, PDP Associates, June 2023

landscape and/or the introduction of new elements.

Deviations from the allocation boundary

- 8.167 LVIA proceeds on the assumption that the site is allocated for development, and many of the individual assessments use that fact as a baseline, comparing the impact(s) of what is proposed against what might reasonably be expected on an allocated site. That assumption is incorrect, because the application site boundary deviates from the boundary of the allocation in certain places. It is correct that the LVIA has assessed what is actually proposed, and that assessment will be helpful in applying the final planning balance, wherein Members will need to consider (amongst other things) the landscape and visual impacts associated with the proposed breaches of the settlement boundary. However, in applying that balance, Members will need to be satisfied that the landscape and visual impacts have not been downplayed (inadvertently) because of the LVIA's incorrect starting assumption.
- 8.168 The deviations in relation to the allocation boundary are defined on the "Application site and housing allocation site boundary comparison plan", which appears in Appendix 1 of the applicant's Planning and Affordable Housing Statement. On the face of it, the fact that certain areas of the allocated site are now to be left undeveloped can only be a good thing in terms of landscape and visual impact; the more challenging issue is whether developing areas outside of the allocated site proposed by way of compensation results in disproportionately detrimental effects.
- 8.169 The two areas to be left undeveloped are towards the northern end of the allocation. The larger area is positioned to the east of Milnthorpe Primary School and measures approximately 175m north-south (along the line of the contours) and approximately 43m east-west (across the contours). This area lies generally between the 40m and 46m contours and "Gradient Section GA – GA" in Appendix 1 is annotated to show that this area has an average gradient of 1 in 4. The smaller area to be left undeveloped is in the extreme north-east corner of the allocation. It measures approximately 100m north-south (along the line of the contours) and approximately 30m east-west (across the contours), lying between the 40m and 44m contours.
- 8.170 The larger of the two areas proposed by way of compensation extends for approximately 250m along the south-eastern boundary of the allocation, a strip of land generally 25m across positioned between the 34.5m and 36.5m contours at the southern end and the 32.5m and 42.5m contours at the northern end. Neither the boundary of the allocation, nor the extended boundary of the application site, coincides with any physical feature on the ground in this area; they are both just arbitrary lines on a map. "Gradient Section GB – GB" and "Gradient Section GC – GC" in Appendix 1 are annotated to show average gradients across this extension to the allocation of 1 in 10 and 1 in 18 respectively. Approximately 19 of the proposed dwellings are accommodated wholly or partly within this area.
- 8.171 The smaller of the two boundary extensions is proposed further north, extending for approximately 84m along the eastern boundary of the allocation. It is generally around 10m deep, extending between the 43.5m and 46.5m contours. It provides the rear garden space for approximately six of the proposed dwellings.

8.172 The extent to which these deviations are significant in terms of landscape and visual impact is explored further in each of the sub-headings below.

Landscape appraisal

8.173 The submitted landscape appraisal concentrates on five landscape receptors, and assesses the significance of any impacts during three phases of the development – (1) construction; (2) operation / completion; and (3) residual – against the sensitivity of each receptor to change. This is summarised below. The LVIA contains a brief narrative on the nature of the impact to each receptor, which is reproduced below under the relevant heading.

8.174 The conclusions of the landscape appraisal are accepted, except where stated otherwise.

Landscape receptor 1 - The site and adjoining land (Table 7)

8.175 The LVIA assigns medium sensitivity to change to this receptor, with a high magnitude of change anticipated during the construction phases of the development and a medium magnitude of change once the development is complete, resulting in an impact of moderate significance in the long-term.

8.176 The LVIA summarises the nature of the impact in this case as follows:

There would be an inevitable change in the character of the site due to the change in land use. These changes would be perceived from land/properties overlooking or adjoining the site, from travellers using the A6 Beetham Road and from a limited number of viewpoints in the wider landscape, including land in adjoining designated areas.

During construction the open pasture across the site would be lost. Several mature hawthorn trees would be felled to accommodate construction works. The landform would be locally remodelled to accommodate the access/distributor road and residential plots, while broadly retaining existing gradients across the site from east to west. The public footpath would be temporarily diverted during the construction works.

The development would introduce residential buildings and associated infrastructure on land currently used as pasture, on the edge of the settlement. The development would not appear distinctly incongruous when viewed in the local landscape/urban context which includes residential properties outside the historic core of the village. The Development would not introduce features in the landscape which are not already present in local views.

The inevitable loss of pasture cannot be mitigated by the landscape proposals associated with the Development, but any such loss would be expected for any development on this allocated site. The proposed landscape works would mitigate for the minor loss of existing vegetation and would significantly enhance the extent of green infrastructure across the site. Overall, there would be an increase in green infrastructure and local biodiversity due to the landscape proposals and planting within private gardens.

There would be an inevitable change in local settlement/landscape pattern, but any such change would be expected for any development on this allocated site.

The northern field would be reduced in size and a new field boundary formed along the eastern edge of the Development. At completion there would be a change in the settlement limit, but this would not result in a perceived eastward shift of the settlement, where the eastern extent of Milnthorpe is clearly defined by existing properties off The Orchard. As a result, there would be no reduction in the gap between Milnthorpe and Ackenthwaite.

- 8.177 The impact on trees and hedgerows and the landscaping and biodiversity proposals associated with this development are discussed further below.

Landscape receptor 2 - Published landscape character areas (Table 8)

- 8.178 Landscape receptor 2 considers the impact on the relevant, published landscape character areas: (1) NCA 20 (Morecambe Bay Limestones) from the National Character Area Profiles (published by Natural England); and (2) Sub Type 7a (Low Drumlins) and, indirectly, Sub Type 3a (Open Farmland and Pavements) from the local Landscape Character Guidance and Toolkit. It assigns a medium sensitivity to change for each, leading to a predicted impact of minor adverse or neutral significance in the long-term.

- 8.179 The LVIA summarises the nature of the impact in this case as follows:

The Application Site is located on the edge of an existing settlement outside the historic core of the village. There would be a change in the local landscape/settlement pattern due to the Development, but this pattern has been substantially altered by post war housing in the C20th. The existing settlement limit is of no historic significance and largely defined by post war housing located outside the historic centre.

The introduction of development would inevitably alter the character of the site, but these changes would introduce features which are typically associated with an existing settlement and would not result in a significant change in the character of the village. The most notable change would be the loss of open fields with scattered trees. In themselves, these landscape features have limited value except at a local level, but they do complement the parkland character of the Deer Park. Such changes would be expected for any housing development on this allocated site. The change in settlement edge would be perceived from a relatively small area of land, generally within 1.0km of the Application Site. There would be a loss of open slopes around Milnthorpe Hill, but the broad topographical characteristics would be retained and the development would nestle below visible ridgelines. Over time, the Development would appear as a natural extension to the village. The Application Site is not prominent in the landscape beyond 1.0km but it is visible in some elevated viewpoints with panoramic views. Where this occurs, the development would not significantly alter the nature or quality of panoramic views towards the coast, Lake District National Park or the [AONB].

Landscape receptor 3 - The setting of Milnthorpe Conservation Area (Table 9)

- 8.180 This is discussed in more detail under the “Heritage Assets” section of this report.

Landscape receptor 4 - The setting of Milnthorpe village (Table 10)

- 8.181 Landscape receptor 4 considers the impact of the development on the wider setting of the village, not just the conservation area. The LVIA assigns a medium

sensitivity to change to this receptor, with a low magnitude of change anticipated during the construction phases of the development and once the development is complete, resulting in an impact of minor adverse significance in the long-term.

8.182 The LVIA summarises the nature of the impact in this case as follows:

The Development would alter part of the southern and eastern setting of the village through the loss of open farmland and the introduction of built development and landscape infrastructure, however, the Development would not introduce landscape elements which are uncharacteristic of existing views. There would be no loss of view of key features in the Conservation Area except from the public footpath through the Application Site. There would be a change in the nature of the setting around the Vicarage due to the Development. Such changes would be expected for any development on the allocated housing land.

The wider setting of the village to the south and east is visible from elevated locations in the northern and western part of the village, from a short section of Beetham Road and from occasional elevated viewpoints in the Dallam Tower Deer Park and AONB. The most extensive views are from the public footpath through the Application Site.

Where visible, the Development would alter the immediate setting of the village through the change in settlement limit and the loss of farmland in the view, however, the Development would not introduce landscape elements which are uncharacteristic of existing views. There would be no loss of view of key features visible in the wider setting of the village except for the occasional loss of view of St Anthony's Tower, fleetingly visible from the public footpath through the Application Site. Any such effects would be expected for any Development on the allocated housing land.

Landscape receptor 5 - The setting of Arnside and Silverdale AONB/Dallam Tower Deer Park (Table 11)

8.183 Landscape receptor 5 considers the impact of the development on the setting of Arnside and Silverdale AONB in general, and Dallam Tower Historic Garden in particular. The latter, a designated heritage asset, sits entirely within the AONB, abutting its north-east boundary and sitting on the far side of the A6 from the south-west corner of the application site.

8.184 The development plan policies and other material considerations relevant to the setting of Dallam Tower Historic Garden are presented in the Heritage Assets section of the report.

8.185 As far as the AONB is concerned, Core Strategy policy CS5 (The East (including Milnthorpe and Kirkby Lonsdale) states that the Council and its partners will aim to ensure that new development safeguards and enhances the natural environment – notably the AONB. Policy CS8.2 (Protection and enhancement of landscape and settlement character) expects development proposals to demonstrate that their location, scale, design and materials will protect, conserve and, where possible, enhance:

The special qualities of the environment associated with the nationally designated areas of the National Parks and Arnside and Silverdale AONB including their settings;

The setting of, and views into and from the AONB ...

8.186 More recently, paragraph 182 of the NPPF states:

Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

8.187 The LVIA assigns a high sensitivity to change to Arnside and Silverdale AONB in general, and Dallam Tower Historic Garden, with a low magnitude of change anticipated during the construction phases of the development and once the development is complete, resulting in an impact of moderate/minor significance in the long-term, meaning that the proposed scheme would have a slight change on the landscape and would affect few receptors.

8.188 The LVIA summarises the nature of the impact in this case as follows:

The Development would alter part of the southern and eastern setting of the village through the loss of open farmland and the introduction of built development. Visual and physical changes would also occur along a short section of Beetham Road, where it adjoins the Application Site and forms the new access.

Milnthorpe village and Beetham Road form part of the immediate and wider setting of the AONB, to the east of Dallam Tower Deer Park. This setting is visible from Beetham Road, from residential properties in the village (including dwellings bordering the Application Site), from the public footpath through the Application Site and, to a less extent, from The Strands recreation ground. This setting is also visible in distant, elevated views, however, any changes in distant panoramic views would be barely perceptible in the wider landscape.

The Development would not introduce landscape elements which are uncharacteristic of existing views. There would be perceived change in the settlement limit and a loss in open farmland around the eastern edge of the village, but these changes would not significantly alter the nature of views from public viewpoints except for users of the public footpath through the site. These receptors, together with residents in properties overlooking the site would experience the greatest change in the setting of the AONB and Deer Park through the loss of open view, the introduction of built development and the notable shift in the settlement edge, south towards the AONB.

Setting of Dallam Tower Historic Garden

8.189 To address this issue it is first necessary to assess what contribution the setting of Dallam Tower Historic Garden in general, and the application site in particular,

makes to the significance of the heritage asset. The Heritage Statement submitted in support of this application concludes that the application site makes no notable contribution to heritage significance, stating:

This is mainly because of its scale, location and the lack of inherent heritage interest associated with the site (typical farm land). The proposals site therefore lacks heritage significance, either in itself or through its contribution to the neighbouring designated heritage assets.

8.190 That is not an unreasonable conclusion; viewing Dallam Tower Historic Garden from locations where the application site intrudes into its setting it is evident that very little of significance to the heritage asset will be affected.

8.191 To the very limited extent that the setting of the Historic Garden is a factor, the submitted Heritage Statement concludes that:

Whereas the new development will effectively bring the southern periphery of Milnthorpe closer to the north eastern boundary of the estate, the dynamic visual and physical barrier of Beetham Road will remain a dominant feature, and land south of the site will still provide a complimentary expanse of green space that mirrors the estate to the west. In essence the impact of the proposed development will be benign.

8.192 That too is not an unreasonable conclusion.

8.193 The local planning authority is obliged to consult The Gardens Trust in instances where a property on the Register of Parks and Gardens of Special Historic Interest is likely to be affected. In this case, The Gardens Trust has not objected, noting that the scheme (as amended) “will result in a slightly reduced visual impact on the long-distance views from the RPG and Dallam Tower itself”. However, it does also admit to being:

... disappointed that, following [earlier comments], there has been no strengthening of the landscaping along this boundary. We consider this would both help to soften the urban nature of the development adjacent to the Dallam Tower RPG and establish additional trees, should the existing ones succumb to Ash die-back disease.

8.194 The landscaping proposed as part of this scheme is discussed in more detail below. However, given that The Gardens Trust has raised the planting adjoining the A6 in the context of Dallam Tower Historic Garden, it would make sense to discuss that particular aspect of the proposals under the current heading.

8.195 The allocating policy for this site (policy LA2.11 of the Land Allocations DPD) states that as well as other Core Strategy requirements, development must make provision for (amongst other things) a substantial, high quality landscaped frontage to the A6. This appears indicatively as Amenity Open Space A on Figure 1.3 in the Development Brief.

8.196 The site frontage with the A6 is currently marked by four early-mature trees, a cherry and three ash growing to the west of a substantial roadside hedge. One of the ash trees is to be felled to make way for the main site access, along with a short section of the hedge. The proposals for this area show a landscape strip extending into the site by approximately 12 – 15m from the back of the retained

hedge, with a SuDS pond to the south of the new access and an “orchard area using locally-historic fruiting plum and damson varieties” to the north, planted on a 4m grid. All of this will be underpinned by grassland. Whether all of this amounts to being “substantial” (the policy expectation) is a moot point, but the effect, as a foil to the formal row of houses that define the entrance to the site, has the potential to be very attractive once the landscaping matures.

- 8.197 The proposed southern boundary of the site, which will also be within the setting of the Historic Park, is less structured; comprising a hotchpotch of elevations, albeit shielded by the retention of the existing hedgerow – more of which below.
- 8.198 Taking all of the above into account, and noting particularly the limited extent to which the setting of Dallam Tower Historic Garden contributes to its significance as a heritage asset, the proposals are judged to be in conformity with the relevant development plan policies, leading to no harm in NPPF terms.

Setting of the AONB

- 8.199 The Arnside & Silverdale Area of Outstanding Natural Beauty Partnership has not objected to the proposal, although it has offered some comments, including a request that has requested that:

... in line with current good practice and industry recommendations, lights with a colour temperature of a maximum of 2,700 Kelvins are used, with a dimming regime enforced at night and zero upward light lift.

- 8.200 Paragraph 191 of the NPPF states that, amongst other things, planning policies and decisions should ensure that new development limits the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation. And, to that end, DMDPD policy (Achieving Sustainable High Quality Design) expects all new development that requires external lighting should as appropriate:

- use the minimum illumination required to undertake the task; and
- minimise harm to the local amenity, wildlife, public and wider views through use of appropriate landscaping measures and sensitive forms of design; and
- be designed in a manner that avoids glare and erosion of tranquility and dark skies

- 8.201 Lighting associated with individual houses is a difficult matter to control, but not so street lighting, which is in any event likely to be the most significant source of potential light pollution from this development. It is recommended that this issue is resolved through a planning condition, requiring submission of, and agreement to, further details of street lighting to achieve the minimum potential for light pollution consistent with the relevant road safety standards and the advice in the recently adopted Cumbria Good Lighting Technical Advice Note.

Visual appraisal

- 8.202 The LVIA’s appraisal of visual effects was undertaken based on field work supplemented by viewpoint analysis recommended in best practice guidance. A number of viewpoints were identified to represent a range of effects likely to be

generated by the development on local receptors or to illustrate specific visual effects or features in the landscape.

8.203 The following ten viewpoints were selected for the visual appraisal, representing the effects on different end users from different locations. The visual appraisal is supported by 14 viewpoint photographs, annotated to identify the position of the application site, along with certain key buildings / features.

- Visual receptor group 1
Residents in properties off The Willows/The Ashes/Firs Close/Firs Road
- Visual receptor group 2
Residents in properties in the Vicarage/ Beech Close
- Visual receptor group 3
Residents/visitors to Milnthorpe (excluding Receptor Groups 1 and 2)
- Visual receptor group 4
Travellers using the A6 Beetham Road
- Visual receptor group 5
Users of The Strands recreation area
- Visual receptor 6
Visitors/walkers in Dallam Tower Deer Park (public viewpoints)
- Visual receptor 7
Visitors/walkers/residents in the AONB
- Visual receptor group 8
Users of public footpath 556006 through the Application Site
- Visual receptor group 9
Users of public footpath 556011(west of Dallam Chase)
- Visual receptor group 10
Visitors/walkers around Heversham Head

8.204 For each visual receptor group the appraisal: describes the existing view; describes the predicted view; assesses the sensitivity of the receptor; describes the magnitude of the predicted change; and, finally, assesses the likely significance of any impacts across the construction, operational (immediate completion) and residual (long-term) phases of the development. The following discussion concentrates on the residual impact, which includes the mitigating effect of landscaping, except where stated otherwise.

8.205 For visual receptor groups 1, 2 and (in part) 3, which consider adjoining residents to the scheme, the visual appraisal concludes residual impacts on views as varying between major/moderate adverse, moderate adverse and minor adverse. This is unsurprising. However, it is a well-established principle that the protection of private views carries no weight in the planning process. Nevertheless, adjoining residents can still expect reasonable standards of amenity in terms of privacy, sunlight and daylight, and these are discussed below under the “Living conditions”

section of the report.

- 8.206 For all the remaining visual receptor groups bar one (group 8, discussed further below) the residual impact on views is judged to be either minor adverse or neutral. That should probably be regarded positively, given the potential impact of such a large number of new dwellings on a greenfield site.
- 8.207 For visual receptor group 8, users of public footpath 556006 through the application site, the LVIA's visual appraisal concludes a residual impact of major/moderate adverse. Again, this is unsurprising; a walk which for the most part is currently across open fields will be transformed into a walk through a housing estate. But, given the allocation of the site for development, this is unavoidable. Having said that, once the footpath is suitably diverted the route will not be unpleasant; much of it which follow tree-lined roadways and pass through areas of public open space.

Biodiversity

National and international designations

- 8.208 Policy CS8.4 (Biodiversity and geodiversity) includes a statement that:

“Development proposals that would have a direct or indirect adverse effect on nationally, subregional, regional and local designated sites and non-protected sites that are considered to have geological and biodiversity value, will not be permitted unless:

- They cannot be located on alternative sites that would cause less or no harm;
- The benefits of the development clearly outweigh the impacts on the features of the site and the wider network of natural habitats; and
- Prevention, mitigation and compensation measures are provided.”

- 8.209 In this case Natural England advises that the proposal is close to Morecambe Bay, which is designated as a Site of Special Scientific Interest (SSSI) a Special Protection Area (SPA), a Ramsar site and a Special Conservation Area (SAC). Natural England further advises that the development creates the potential for recreational disturbance to the many birds which frequent these areas.

- 8.210 SPAs and SACs are so-called “European Site” for purposes of Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (as amended) (“the 2019 Regulations”). Westmorland and Furness Council is termed a “competent authority” for the purposes of the 2019 Regulations, meaning that in situations where it intends to permit a project with potential effects on a “European Site” (and/or a Ramsar site), either alone or in combination with other plans or projects, further consideration of those effects may be necessary through a Habitat Regulations Assessment (HRA). In this case, for the reasons outlined above, Natural England advises that an HRA should be undertaken, to assess potential impacts in more detail and to propose mitigation where necessary. If mitigation is deemed necessary, Natural England suggests that this could include providing more recreational space on the development site for dog walking, the provision of home owner packs highlighting the sensitivity of the nearby coast, and, potentially, developer contributions to the interpretation strategy for Morecambe Bay.

8.211 A HRA involves four stages.

- Stage 1 involves screening to determine if the development is likely to have a significant effect on a European site whether a full Appropriate Assessment (AA) is required;
- If required, Stage 2 involves undertaking an AA to determine whether the project will adversely affect the integrity of any given European site(s), in view of their conservation objectives. Conservation objectives specify the overall target for a site's qualifying features (habitats and species/populations listed in Annex I and II of the 2017 Regulations) in order for that feature to be maintained or restored, to reach favourable conservation status.
- Stage 3 is triggered if significant adverse effects are identified in stage 2. This stage requires alternative options to be examined to avoid significant impacts on European sites.
- If it is deemed that the project should proceed for Imperative Reasons of Overriding Public Interest (IROPI), Stage 4 involves an assessment of compensatory measures which would be required.
- In any situation where a planning application has the potential for effects on a European Site the applicant is under an obligation to provide the information necessary to inform the HRA. In this case the applicants have gone further and produced a full "Shadow Habitats Regulations Assessment" ("Shadow HRA")²⁰, which the local planning authority can adopt to fulfil its obligations under the 2019 Regulations if it is satisfied with its conclusions. This approach is now commonplace.

8.212 In this case the Shadow HRA considers the potential effects from: (1) the direct and indirect impacts of the construction phase of the development; (2) the impacts from the operational phase of the development (once it is built and occupied); and (3) the potential cumulative impacts from other developments. It concludes that no significant adverse impacts are likely. Nevertheless, "in order to minimise impacts as far as possible, home owner information packs will be made available to all new occupants of houses."

8.213 Natural England has confirmed that:

... subject to the proposed mitigation of homeowner packs being secured through Condition, agree with the conclusion that there will be no adverse effect on the site integrity of the Morecambe Bay Ramsar and the Morecambe Bay and Duddon Estuary Special Protection Area (SPA).

Biodiversity net gain (BNG)

8.214 DMDPD policy DM4 (Green and Blue Infrastructure, Open Space, Trees and Landscaping) expects all development proposals to result in environmental net gains for biodiversity, states that all development proposals:

...should, unless it can be demonstrated that it is not possible, result in environmental net gains for biodiversity, green and blue infrastructure and

²⁰ Shadow Habitat Regulations Assessment, Envirotech, V2, 01 April 2023

demonstrate how the use of multifunctional green and blue infrastructure will deliver wider requirements and objectives.

8.215 This reflects advice in paragraph 180 of the NPPF. And it also anticipates the fact that from 2024 the Environment Act 2021 establishes a statutory requirement for major developments to include a minimum 10% BNG in England.

8.216 The allocating policy for the site is clear that, amongst other things, the development must make provision for:

A habitat survey and safeguarding and reinforcement of areas of biodiversity interest.

8.217 To address these points the application is supported by two key documents: (1) a Preliminary Ecological Appraisal²¹; and (2) a Biodiversity Net Gain Assessment (the BNG Assessment)²². The BNG Assessment calculates 'biodiversity units' using the Defra biodiversity metric 4.0 and following the methods set out in Defra's biodiversity metric 4.0 user guide. (Defra's biodiversity metric has been developed as a standard approach for calculating BNG in advance of the implementation of the relevant provisions of the Environment Act.) The calculations are based on the area or (in the case of hedges) the length of habitats found on the site; their distinctiveness, condition, strategic significance and connectivity.

8.218 Based upon the Preliminary Ecological Appraisal, the BNG Assessment establishes a baseline for the site of 13.16 habitat area units and 2.14 terrestrial linear biodiversity units (hedges). And evaluating the proposed landscaping scheme for site, the BNG Assessment calculates post-development values of 16.90 biodiversity area units and 5.57 terrestrial linear biodiversity units. These represent increases of 3.74 biodiversity area units (i.e. a net gain of 28.43%) and 3.44 terrestrial linear biodiversity units (i.e. a net gain of 160.72%).

8.219 It might seem counterintuitive that developing open fields in the manner proposed should achieve an on-site biodiversity net gain, but it is not unusual where, as in this case, much of the existing site comprises improved grassland of relatively low biodiverse interest. However, delivering the BNG in this case will require robust mechanisms to ensure that proposed landscaping (including the retention of existing hedges) is delivered and thereafter maintained. This is discussed further below.

Site-specific biodiversity measures

8.220 The Preliminary Ecological Appraisal confirms that the site has been subject to a full botanical survey, and further surveys to establish the presence or absence of notable species. The headline conclusions of this work are:

The plant species assemblages recorded at the site are all common in the local area and are considered to be of low ecological value. Domestic gardens and sympathetically landscaped open space is considered to offer habitat of equal or greater ecological value.

²¹ Preliminary Ecological Appraisal, Beetham Road, Milnthorpe, Envirotech Ecological Consultants, March 2023

²² Biodiversity Net Gain V4, Beetham Road, Milnthorpe, Envirotech, 20 July 2023.

None of the hedgerows around the site perimeter were considered important under the Hedgerow Regulations (1997).

Birds are likely to utilise scrub, hedgerows and trees on site for nesting between March and September. Any vegetation clearance should therefore be undertaken outside of this period.

No other notable or protected species were recorded on the site²³.

- 8.221 Amongst the measures to promote sustainable construction listed in Appendix 1 of the DMDPD are:

Biodiversity features such as bat boxes, swift bricks and hedgehog highways and other features that create or enhance locally relevant biodiversity habitats ensuring that provision reflects local biodiversity evidence base.

- 8.222 The proposed development clearly present opportunities in this respect, and it is recommended that these are secured through the implementation of an Ecological Design Strategy, incorporating beneficial features into the design of the houses, open spaces etc. as appropriate. This can be addressed by a planning condition.

Existing trees and hedges

- 8.223 There are a number of trees and hedgerows within and abutting the proposed application site.

- 8.224 DMDPD policy DM4 (Green and Blue Infrastructure, Open Space, Trees and Landscaping) states:

New development should positively incorporate new, and protect and enhance existing trees unless there are clear and demonstrable reasons why their removal would aid delivery of a better development overall.

- 8.225 A footnote to the policy explains that in this policy “trees” should be read to include single trees, tree groups, woodlands and hedgerows.

- 8.226 The allocating policy for the site is clear that, amongst other things, the development must make provision for:

... reinforcement of existing tree groups.

- 8.227 On this point the preamble to the policy explains that:

There is a group of trees in the centre of the site and there is a need for a high quality approach to landscaping in this area as well as sensitively designed access arrangements

- 8.228 To address these points the application is accompanied by an Arboricultural Impact Assessment (AIA)²⁴. The AIA puts every tree and hedge on the site (likely to be directly or indirectly affected by the development) into a tree retention

²³ Some representations refer to bats overflying the application site and adjoining gardens, but the Preliminary Ecological Appraisal reveals no evidence of bat roosts.

²⁴ Land off Beetham Road, Milnthorpe, BS5837:2012, Tree Survey Report, PDP Associates, February 2022 (Updated June 2023)

category, conforming to the best practice established in the British Standard: "Trees in Relation to Design, Demolition and Construction to Construction - Recommendations" (BS 5837) (2012). The hedges are also assessed against the criteria established in the Hedgerow Regulations (1997) in the separate Preliminary Ecological Appraisal (see above), with the conclusion that none qualifies as "important" as defined by the Regulations.

- 8.229 The British Standard details the steps that should be taken to ensure that trees are appropriately and successfully retained when a development takes place. The AIA provides more details of the four broad categories, but, in essence, they are: (A) trees of high quality with an estimated life expectancy of at least 40 years; (B) trees of moderate quality with an estimated life expectancy of at least 20 years; (C) trees of low quality with an estimated life expectancy of at least 10 years, or young trees with a stem diameter below 150mm; and (U) trees of very low quality that offer little or no amenity value. Of the fourteen individual trees assessed by the AIA, nine are category B and five are category C. The single tree group is category C. And the six hedges are all classified as category B.
- 8.230 Five individual trees are proposed for removal to facilitate the development: T2, T3 and T4 (all category C hawthorns; T5 (a category C ash) and T12 (a category B ash). The latter abuts the A6 and needs to be removed to create the main site access. Also to be removed are all the trees in Group G1, an area of self-sown scrub in the north-west corner of the site (category C sycamore, elm, hawthorn and bramble). Various sections of hedges H4 and H6 are to be removed to facilitate: (a) the main site access; and (b) vehicular connections between different parts of the site. And one individual tree is to undergo tree surgery; T7 (a category B oak) is to lose a lower limb.
- 8.231 The group of trees referred to in the preamble to the allocating policy is actually identified as two individual trees in the AIA: T6 and T7 (both category B oaks). Both are proposed for retention in the development, to stand within an area of open space, broadly corresponding with Open Space C identified illustratively on Figure 1.3 in the Brief.
- 8.232 The Council's arboriculturist considers that the AIA provides an accurate representation of the trees and hedges on the site. He also concurs with the conclusions of the Preliminary Ecological Appraisal in respect of the hedges, although he makes the point that whilst they may not be "important" as defined by the Hedgerow Regulations, they are nevertheless "very important for the amenity of the area, to soften the appearance of the development in the landscape". In his opinion "[e]very effort should be made to retain and protect the hedges through the development phase, and require the retention of both new and existing hedges within the development in perpetuity". If this development is approved, the Council's arboriculturist recommends that "the applicants should provide a Tree Protection Method Statement detailing the timing and phasing of tree and hedgerow protection measures throughout the site. These protection measures should be in accordance with the recommendations within BS5837". This can be covered by a planning condition.
- 8.233 It is inevitable that the development of this allocation will have some impact on trees and hedges; the site access needs to be taken from the A6 where there are a group of existing trees, and it would be impossible to establish a functioning road layout within the site itself without removing some of the existing hedges. Within

these constraints the direct impact of the current proposal has been minimised.

Proposed landscaping

8.234 The application is accompanied by a detailed landscaping scheme, which combines the retention of certain trees and hedges with extensive amounts of new planting, including street trees along the main estate road, new hedges along much of the eastern boundary and planting schemes for each of the proposed areas of public open space and other incidental areas which fall outside of the individual plot boundaries. The development will appear very raw in the early stages, but as the proposed planting matures it will help to assimilate the development into the wider landscape.

8.235 As discussed above, the landscaping scheme also delivers a positive biodiversity net gain, and this needs to be secured in the long term. It is proposed that this is achieved through a Public Open Space, Landscape and Hedgerow Management Scheme established through the proposed section 106 agreement. This will establish a scheme of maintenance and management for the lifetime of the development, which will bind upon all interested parties - including the site management company, any registered providers of affordable housing and all individual homeowners. It is proposed that the responsibilities of the site management company extend beyond its land ownership interests to include the management and maintenance liability for a number of existing hedges that form the common boundaries between residential plots. Retained hedges within residential curtilages are always under greater threat from the vagaries of individual homeowners' aspirations for their gardens and it is hoped that by effectively passing responsibility for these hedges to a single third party that risk can be reduced. It has been confirmed that the hedge on the southern boundary (an important foil to the development as a whole) is excluded from the application site and will remain the responsibility of the adjoining landowner, currently Dallam Estate. Dallam Estate has confirmed that it has:

"... kept this hedge outside of the sale to Oakmere so that it maintains absolute control of the boundary and can ensure that it provides a screen to the development, thus preventing a homeowner cutting it down to gain a view etc. The Estate will maintain this hedge in the long term ...".

8.236 The proposed landscaping around Apartment Plot B has been bolstered in the latest iteration of the landscaping plans, to help further soften the appearance of the building when approached from the conservation area, as discussed in the Heritage assets section of the report above, and to help ameliorate the impact on adjoining development to the west.

Living conditions

8.237 Many of the representations we have received raise concerns about the potential impact that the proposed development will have upon the living conditions of existing properties.

8.238 The application site abuts existing development on its western and northern boundaries. In common with other situations where green field housing allocations adjoin existing development, many of the houses surrounding the current application site have clearly been positioned and designed to take advantage of

their immediate juxtaposition with the countryside. Many retain open boundaries with the application site, maximising their views, and it is obvious that others have been extended and/or had their gardens laid out to the same end. Some rear gardens are also very shallow in depth. In all these circumstances, the perceived impact of new development can be far greater than might otherwise be the case.

8.239 The relationships between existing and proposed dwellings in this case are further complicated by the topography; the application site generally rises to the east, meaning that many of the proposed houses will be on higher ground relative to their existing neighbours. Responding to changing levels is a feature of the wider area, and contributes much to the attractive character of the village. However, in terms of living conditions, it presents some significant challenges to the current proposals.

8.240 Figure 1.2 in the Development Brief²⁵ identifies the edges of the allocation which abut existing development as “sensitive to existing housing/school”, acknowledging that the relationships on these boundaries will need careful consideration. Also on this point, section 3.16.1 of the Brief (referring to the Southern Sector of the allocation identified on Figure 1.3) states:

It is inevitable that the new development will impact on the views enjoyed by the occupiers of the houses that currently back onto open fields. Therefore it is important to ensure that the siting of buildings retains privacy levels and avoids buildings close to garden fences.

8.241 Some representations refer to lost or curtailed views from specific properties. It is a well-established principle that the impact of development on private views is not a material consideration in the determination of a planning application, although the impact on public views can be. The impact of development on the outlook from private dwellings is a material consideration. Loss of outlook occurs where development would have an adverse overbearing effect that would result in an unduly oppressive living environment for existing and/or future residents.

Policy position

8.242 DMDPD policy DM1 (General Requirements for all development) establishes that, subject to other policies within the development plan, development will be acceptable provided that, amongst other things, it:

ensures the delivery of acceptable levels of amenity, privacy and overshadowing for existing, neighbouring and future users and occupants through:

- provision of adequate spatial separation distances between existing and proposed properties and buildings; and
- retention and/or provision of adequate public, private and shared spaces and landscaping”

8.243 The DMDPD does not define appropriate spatial separation distances; these remain to be determined on a case-by-case basis, having regard to established local character and site-specific circumstances, including, as is relevant in this case, changes in ground levels. However, in terms of privacy, there are various “rules-of-thumb” that can be used as a starting point. For example, it is not

²⁵ Constraints and Opportunities Map

uncommon to see 20m or 21m cited as the minimum desirable separation distance between elevations containing windows to habitable rooms facing each other cross private gardens. Which, by extension, reduces to 10 or 10.5m where windows to habitable rooms are facing blank elevations.

- 8.244 The impact on daylight and sunlight is generally assessed using Building Research Establishment (BRE) guidance²⁶, which, as a starting point, holds that suitable standards for habitable rooms are achieved when a 25 degree vertical angle projected perpendicularly from the centre of the lowest windows remains unobstructed (“the BRE Guidance”). If this angle is bisected then it can be a trigger for more detailed analysis.

Impacts within the development

- 8.245 The relationships between the 125 units within the proposed development achieve appropriate standards in the context of DMDPD policy DM1.

Impacts with existing development

- 8.246 The following analyses consider the relationships between existing development and the dwellings proposed to abut the western and northern boundaries of the application site. The analyses are based upon: (1) information contained within the topographical plan submitted with the application²⁷; (2) the updated site sections submitted with the application²⁸ (which, in turn, are based upon the topographical plan referred to in (1)); and (3) visual inspection. In the following discussion, reference to sections that are prefaced “R5” refers to drawing 076/P-SSC-R5 Revision C; all others refer to drawing 076/P-SITESEC_2(H) except where stated otherwise.
- 8.247 Although an Ordnance Survey plan has been used as the base for many of the drawings, the topographical survey provides a more accurate assessment of the existing situation. This is evident on drawing 076/P-SITESEC_2(H) where the topographical information overlays the Ordnance Survey base.
- 8.248 The following discussion proceeds under the headings of plot numbers within the proposal. References to finished ground floor levels (AOD) appear as FFL. The analysed relationships represent the principal potential impact; secondary impacts are assumed to be no worse and are not analysed further unless there is the potential for cumulative impacts. By default, property-to-property distances refer to the original as-built position of existing houses, although later extensions are referred to where relevant.
- 8.249 A number of the analyses relate to Hartland House, a large residential care home accessed via The Willows. It contains 31 rooms and is capable of accommodating 32 residents. Different elements of the proposed development will abut the boundary of Hartland House on all sides. The care home has been created through the conversion and extension of an existing building, resulting in a

²⁶ Building Research Establishment (BRE) guide ‘Site Layout Planning for Daylight and Sunlight: a good practice guide, 2nd Edition’

²⁷ Topographical Survey, 22K004/001 A

²⁸ 076/P-SITESEC_2(H), 076-P-HARTSEC(A), Site Sections 076/P-SITESEC_DE(A) and 076/P-SSC-R5 Revision C

complex footprint and a great variety of eaves and ridge heights. Key points of the building have been surveyed for the purposes of assessing the impact of the proposed development and drawing 076-P-HARTSEC(A) includes three site sections. These are discussed further below.

Plot 1

- 8.250 The proposed house on Plot 1 is a Grasmere house type, a four-bedroom, two-storey unit with a FFL of 17.20m. It presents a gable to existing development to the north, with a door to a utility room at ground floor and a landing window at first floor. Section A-A shows the property relative to Sunny Brae in The Willows, which sits at a slightly higher level (18.20m) at a distance of 19.398m. The house on Plot 1 would not breach the BRE Guidance in respect of sunlight and daylight and, given that it is not presenting any habitable rooms to its existing nearest neighbour, there would be no unreasonable overlooking or loss of privacy.

Plot 13

- 8.251 The proposed house on Plot 13 is an Ullswater house type, a four-bedroom, two-storey unit with a FFL of 18.70m. It has an L-shaped footprint, with a double garage on the northern limb, which is separated from existing properties to the north by a distance of 19.70m. The habitable part of the house is on an east/west axis, with a ground floor living room window and first floor master bedroom window looking directly towards principal elevations to existing properties in The Willows, albeit at a distance of no less than 29m. Section B-B shows the relationship with Lane Edge to the north, an existing dwelling with a FFL of 19.09m. The house on Plot 13 would not breach the BRE Guidance in respect of sunlight and daylight and, given the generous separation distance between existing and proposed habitable rooms, there would be no unreasonable overlooking or loss of privacy.

Plot 12

- 8.252 Plot 12 features a Kirkstone house type, a four-bedroom, two-storey unit with a FFL of 20.00m. It is orientated on an east/west access, with habitable rooms windows at ground and first floor looking directly towards principal elevations to existing properties in The Willows, the closest being Morningside at a distance of approximately 31.5m. The submitted topographical information shows that Morningside has eaves and ridge levels of 25.84m and 28.81m respectively. This compares with 25.27 and 28.03 respectively for the proposed Kirkstone. Given these levels and the proposed separation distance, Plot 12 would not breach the BRE Guidance in respect of sunlight and daylight and there would be no unreasonable overlooking or loss of privacy.

Plot 14

- 8.253 Plot 14 features another Kirkstone house type, this time with a FFL of 21.40m. It is orientated on an east/west access, with habitable rooms windows at ground and first floor looking directly towards principal elevations to existing properties in The Willows, the closest being Sunnyside at a distance of approximately 32.50m. The submitted topographical information shows that Sunnyside has eaves and ridge levels of 25.71m and 28.03m respectively. This compares with 26.67 (+0.96m) and 29.43 (+1.04m) respectively for the proposed Kirkstone. Given these levels and the proposed separation distance, Plot 14 would not breach the BRE Guidance in

respect of sunlight and daylight and there would be no unreasonable overlooking or loss of privacy.

Plot 15

- 8.254 Plot 15 features another Kirkstone house type, this time with a FFL of 23.30m. It is orientated on an east/west access, with habitable rooms windows at ground and first floor looking towards existing properties in The Willows and a secondary gable looking east facing Hartland House.
- 8.255 The closest property in The Willows is The Beeches, a chalet bungalow orientated north/south, with its main outlook east/west. It presents a secondary gable to the application site at a distance of approximately 26m to the front face of the proposed Kirkstone. The submitted topographical information shows that The Beeches has eaves and ridge levels of 24.4m and 28.39m respectively. This compares with 28.57 (+4.17m) and 31.33 (+2.94m) respectively for the proposed house. The more dramatic differences in building heights this case stem from the fact that The Beeches is effectively a single storey property, albeit with rooms in the roof. Given the aspect of The Beeches, combined with the proposed separation distance, the house on Plot 15 would not breach the BRE Guidance in respect of sunlight and daylight and there would be no unreasonable overlooking or loss of privacy.
- 8.256 The house on Plot 15 will also set up an oblique relationship with the front elevations of nos. 1 and 2 Highfield, a pair of semi-detached properties positioned approximately 36m to the north-east with eaves and ridge heights of 29.72m and 32.36/32.38m respectively, higher than the proposed Kirkstone by 1.15m and 1.03/1.05m respectively. Given these levels differences, together with the oblique relationship and the separation distance, the relationship between the house on Plot 15 and nos. 1 and 2 The Willows would not breach the BRE Guidance in respect of sunlight and daylight and there would be no unreasonable overlooking or loss of privacy.
- 8.257 The east gable of the proposed Kirkstone unit on Plot 15 will face the south-west corner of Hartland House, over a distance of approximately 24.5m between the two buildings. Hartland House sits considerably higher than the proposed development at this point, with the ridge to the main building set at 33.45m relative to 30.175m on Plot 15. The relationship is illustrated in Section C-C on drawing 076-P-HARTSEC(A). There are habitable room windows at ground and first floor in this part of the care home, but the opposing elevation of Plot 15 is secondary, containing a window to a WC and a door at ground floor and a bathroom window at first floor. In all of these circumstances, and for this particular element of Hartland House, the Kirkstone unit on Plot 15 would not breach the BRE Guidance in respect of sunlight and daylight and there would be no unreasonable overlooking or loss of privacy.
- 8.258 The larger part of the space between Plot 15 and Hartland House at this point is taken up by the latter's parking and vehicle maneuvering areas, although there is a small landscaped amenity/sitting area for residents abutting the western boundary. At the moment this enjoys an open view across the application site, separated by a ranch-style wooden fence. In the original submission this view would have been completely blocked by the garage to (what was then) the Ullswater house type on Plot 14, and although the protection of private views is not a material planning

consideration the applicant's reassessment of the layout in the light of the initial round of comments has sought to address this issue. The Kirkstone unit now proposed improves the situation appreciably, leaving an unobstructed view west from the amenity area, albeit that this will be across the front gardens and private drives to Plots 12, 14 and 15 as opposed to the existing open field. The outlook from this part of Hartland House was always going to change because of the adjoining field being allocated for residential development and, in those circumstances, the revised layout maintains a reasonable relationship with the existing amenity area.

Plots 23 -26 (Overview)

8.259 Plots 23 – 26 are a line of four detached properties, each presenting its principal rear elevation towards the southern boundary of Hartland House. The FFLs increase progressively as the properties climb the rising ground in this part of the site. The eaves and ridge heights for the Bowfell and Kirkstone house types on Plots 23 and 24 are more or less equivalent to the corresponding element of Hartland House and, given the separation distances and oblique angles that will be established by these properties, no adverse impacts are anticipated. However, Plots 25 and 26 deserve more detailed consideration.

Plots 25

8.260 Plot 25 is another Kirkstone house type, in this case presenting its principal rear elevation directly towards the narrow southern elevation of Hartland House, with a separating distance of approximately 20m. There are habitable room windows in both the ground and first floor of this elevation of the care home.

8.261 Plot 25 has a FFL of 28m and eaves and ridge heights of 33.27m and 36.02m respectively. The surveyed eaves and ridge heights for the closest element of Hartland House are 31.23m and 33.65m. There is no site section for this relationship, but it is possible to extrapolate from the information available to confirm that the BRE Guidance will not be breached in respect of sunlight and daylight. The separation distance is the minimum that the rule-of-thumb would usually regard as acceptable in terms of privacy and overlooking, although any impacts in this case will be exacerbated by the difference in levels. And the building will loom. However, by way of mitigation, the proposed landscaping scheme shows the intervening hedge to be retained and new woodland planting on the boundary with Hartland House.

Plot 26

8.262 Plot 26 is shown with a Borrowdale house type, another four-bedroom, two-storey design. As with Plot 25, the Borrowdale will present its principal rear elevation directly towards the narrow southern elevation of Hartland House, albeit with a slightly greater separation distance of approximately 21.8m.

8.263 Plot 26 has a FFL of 29.5m and eaves and ridge heights of 34.54 and 37.78 respectively. The surveyed eaves and ridge heights for the closest element of Hartland House are 31.23m and 33.65m. There is no site section for this relationship either, but as with Plot 25, it is possible to extrapolate from the information available. The BRE Guidance is satisfied in this case by virtue of the fact that the 25 degree angles extended perpendicularly from the centre of the

windows in Hartland House are not bisected by the house on Plot 26. In terms of overlooking, the separation distance exceeds the rule-of thumb minimums, and the window-to-window relationships are slightly oblique. And, as with Plot 25, the retention of the intervening hedge and the proposals for additional planting will soften the relationship. Having said that, the building will loom and the sense of being overlooked will be appreciably increased by the change in levels; the difference between the surveyed FFL for Hartland House and the FFL for plot 26 is 3.2m.

Plot 38

- 8.264 Plot 38 is shown with a split-level Bowfell house type; a detached four-bedroom unit with a lower ground floor level of 30.95m and an upper ground floor level of 32.15m. The house is orientated south-west / north-east, with its principal rear elevation looking obliquely towards the southern and south-eastern elevations of Hartland House at a minimum separation distance of 35m. The difference between the surveyed FFL for Hartland House and the lower ground floor level for plot 38 is 4.66m. The BRE Guidance is satisfied in this case (the house on Plot 38 does not bisect the 25 degree angle extended perpendicularly from the centre of any existing window) and the potential for overlooking is mitigated by the generous separation distance and the oblique nature of the relationship, even taking into account the dramatic change in levels. As with Plots 25 and 26, the retention of the intervening hedge and the proposals for additional planting will soften the relationship.

Plots 39 to 42

- 8.265 Plots 39 to 42 are four detached houses contained within a run of properties that front the main estate road as it moves north through the application site. These properties present rear elevations to the south-western elevation of Hartland House, which contains numerous windows to habitable rooms. Each of the four proposed houses is elevated relative to Hartland House, and each adopts a split-level design in response to the rising ground. This results in separate upper and lower ground floor levels (LGFL and UGFL) and an overall increase in eaves and ridge heights (relative to their non-split-level counterparts) on the elevation to the LGFL. In this case that means taller rear elevations facing Hartland House.
- 8.266 The following table summarises the LGFL and UGFL for plots 39 to 42. The “+” columns denote the height of each LGFL and UGFL above the surveyed FFL of Hartland House (26.291m). The Distance column denotes the shortest separation distance to Hartland House, in metres.

Plot No.	Type	LGFL	LGFL+	UGFL	UGFL+	Distance
39	Bowfell	30.95	4.659	32.15	5.859	27.52
40	Wasdale	30.95	4.659	32.15	5.859	33.99
41	Grasmere	30.80	4.509	32.00	5.709	28.42
42	Wasdale	30.70	4.409	31.9	5.609	26.80

- 8.267 As an example, the relationship between Plot 39 and Hartland House is illustrated on Section A-A on drawing 076-P-HARTSEC(A).
- 8.268 None of these relationships breaches the BRE Guidance, meaning that there will be no issues in respect of daylight and sunlight. The separation distances all

exceed the rule-of-thumb minimum and a significant area of landscaping is proposed on the boundary. However, as elsewhere on the boundary to Hartland House, the buildings will loom and the sense of being overlooked will be appreciably increased by the change in levels.

Plot 68

8.269 Plot 68 contains a Brathay house type that sits to the north of Hartland House. It is one half of a pair of two-storey, three-bedroom, semi-detached properties, accessed from a private drive within the proposed estate. Plot 68 presents a gable end to Hartland House, with windows to a WC at ground floor and a bathroom at first floor. The opposing elevation to Hartland House features windows to habitable rooms at ground and first floor, some contained within a projecting gable. The separation distance between this projecting gable and the house on Plot 68 ranges between approximately 10m and 14.65m. The house on Plot 68 will be set with a FFL of 25.70m, approximately 0.6m lower than Hartland House. The resulting relationship is illustrated on Section C-C on drawing 076-P-HARTSEC(A).

8.270 The BRE Guidance will not be breached, meaning that there will be no issues in respect of daylight and sunlight. (Section C-C shows Hartland House clipping the 25 degree line projected from the side elevation of Plot 68, but there are no habitable rooms in this elevation). And the all but blank gable to Plot 68 means that there will be no issues in respect of privacy or overlooking. Nevertheless, Plot 68 does come close to the boundary, meaning that the outlook from habitable rooms in the north-east elevation of Hartland House will be constrained, albeit that the impact will be mitigated by the roof design of Plot 68 (the Brathay for this plot has been designed with a bespoke hipped roof) and intervening planting.

Plots 69 – 70

8.271 Plots 69 and 70 are proposed with a pair of semi-detached Rydal house types, single-storey, one-bedroom units. These will present their rear elevations to existing development to the south-west: very obliquely to no. 5 The Willows (a chalet bungalow) over a separation distance of approximately 11.7m and less obliquely to nos. 1 and 2 Highfield (a semi-detached pair of two-storey properties) at a minimum separation distance of approximately 28m. The eaves and ridge heights of both proposed properties are 26.89m and 30.33m respectively, comparing with 25.92m and 29.89m for no. 5 The Willows and 29.72m and 32.36/32.38 for nos. 1/2 Highfield. There are no site sections for these relationships, but it is possible to extrapolate from the information available to confirm that the BRE Guidance will not be breached in respect of sunlight and daylight.

8.272 No. 5 The Willows currently has an open boundary with the application site, but the proposed Fencing Layout shows this to be enclosed by an 1800mm high feather-edged fence once the development is complete. This will effectively eliminate any potential overlooking between ground floor windows. There will still be the potential for overlooking of the units proposed on Plots 69 and 70 by the rooflights in no. 5 The Willows, but this will be very oblique. The two Rydal units will be very obvious in the outlook from no. 5 The Willows, but not to the extent that would be unacceptable given the established character of development in the area.

8.273 The generous separation distances to nos. 1/2 Highfield will mitigate any potential for overlooking in that direction to a reasonable level.

Plots 71 – 73

8.274 Plots 71 – 73 are proposed as a terrace of three Rothay house types, each a two-storey, two-bedroom unit. The terrace will rise from west to east with FFLs of 21.700m, 22.150m and 22.600m respectively. At its western end the terrace will present a blank gable to no. 2 The Ashes at a separation distance of approximately 13m and more obliquely towards nos. 4 and 6 The Ashes at a minimum separation distance of approximately 11.75m. The western end of the proposed terrace, which is proposed with a hipped roof, will have eaves and ridge heights of approximately 27m and 30m respectively, compared to 25.56m and 29.07m on no. 2 The Ashes. The relationship is shown on section I-I, albeit incorrectly because it does not show the hipped roof at the western end of the terrace. Nevertheless, the section demonstrates that, even with the hipped roof, a 25 degree angle projected from the northern end of the rear of no. 2 The Ashes will be clipped by the ridge of the proposed terrace. But the interruption is negligible and not judged to be significant.

8.275 There are no windows in the proposed terrace looking towards properties in The Ashes and so there will be no direct overlooking. But, as elsewhere on the border of the application site, the new house will mark a distinct change in living conditions for existing properties, bringing domestic activity close to the boundary, albeit not to the extent that would be uncharacteristic of the immediate area. No. 2 The Ashes already has an enclosed boundary to the application site, whereas that to nos. 4 and 6 The Ashes is more open. No additional boundary treatment is shown on the proposed Fencing Layout.

8.276 The rear of the terrace on plots 71 – 73 also faces slightly obliquely towards the gable end of no. 68 Firs Road, over a separation distance of approximately 23.5m. This is illustrated in Section R5G-G on drawing 076/P-SSC-R5 Revision C, which passes through Plot 73. It is evident from this section that the BRE Guidance will be satisfied and that no unreasonable overlooking is likely.

Plots 74 – 77

8.277 Plots 74 – 77 comprise a short terrace of four two-storey properties, two Rothay house types and two Caldew house types. The submitted drawings show the northern end of the terrace (plot 74) presenting the blank gable of a Rothay house type towards nos. 70 and 72 Firs Road, a semi-detached pair of two-storey properties. The existing properties have relatively shallow back gardens immediately behind their principal rear elevations, as short as 5.5m, with no. 72 having reduced the space further with a single storey extension.

8.278 The relationship with no. 72 Firs Road (incorrectly labelled as 57 on some of the drawings) appears as Section E-E on drawing 076/P-SITESEC_2(H). It also appears as Section R5H-H on drawing 076/P-SSC-R5 Revision C, but this has not been updated to reflect later changes to the design of plot 74 to add a hipped roof²⁹. Section E-E also shows the single storey rear extension to the rear of no. 72, a later addition which comes to within 2.5m of the site boundary. This is an

²⁹ Shown on drawing 076/ROTH74_3 Revision A

example of the manner in which some existing properties have seemingly been extended in the expectation that adjoining land will remain undeveloped.

- 8.279 The separation distance between the original rear face of no.72 and the blank gable of the house on plot 74 is approximately 13.7m, which is reasonable in the circumstances. A line projected at 25 degrees perpendicularly from the rear of the principal rear elevation of no.72 at 24m AOD (approximating to the centre of the original ground floor windows) would not be bisected by the house on plot 74. The separation distance from the rear of the single storey addition reduces to approximately 10.7m and it can be seen from Section E-E that a 25 degree line projected from 24m AOD would be clipped by the proposed house, even with its amended hipped roof design. The clipping is modest and although it will lead to some loss of daylight and sunlight this will occur through a narrow arc and is judged to be reasonable in the circumstances.

Plots 78 - 80

- 8.280 Plots 78 - 80 are proposed as another terrace of three Rothay house types. The terrace will rise from west to east with FFLs of 25.100m, 25.550m and 26.000m respectively. Back garden depths will typically be approximately 10.5m. The rear face of the terrace will set up a slightly oblique relationship with the gable end of no. 55 Firs Road, looking across the rear garden of no. 72 Firs Road, at a distance of approximately 24.5m, and a sharply oblique relationship with no. 72 Firs Road itself at a distance of approximately 19m. These relationships are judged to be reasonable in the circumstances.

Plots 81 – 82

- 8.281 Plots 81 – 82 are a pair of semi-detached Rothay house types with FFLs of 26.950m and 27.400m respectively. Back garden depths will be approximately 9.5m. The rear face of these units will look towards rear gardens and a small area of allotments in Firs Road and Firs Close. Building-to-building relationships with existing properties will be oblique and at distances in excess of 25m. These relationships are judged to be reasonable in the circumstances.

Plots 83 – 85

- 8.282 Plots 83 - 85 are proposed as another terrace of three Rothay house types. The terrace will rise from west to east with FFLs of 28.500m, 28.950m and 29.400m respectively. Back garden depths will typically be approximately 9.5m. The rear elevation of these units will face the rear gardens of nos. 20 and 21 Firs Close, and will look directly towards the gable end of no. 21 Firs Close at a distance of just under 26m and obliquely towards no. 20 Firs Close at a distance of approximately 17m. Section R5I-I on drawing 076/P-SSC-R5 Revision C illustrates the relationship with no. 21 Firs Close. These relationships are judged to be reasonable in the circumstances.

Plot 86

- 8.283 Plot 86 is proposed as a single storey Grizedale unit, with a FFL of 30.500m. It is proposed at an angle to the boundary of the site, looking slightly obliquely towards the rear faces of nos. 19 and 20 Firs Close (an existing pair of semi-detached properties) at a minimum separation distance of approximately 16.5m (no. 20 Firs

Close). The choice of a single storey unit in this position justifies a separation distance less than 20/21m rule-of-thumb minimum, albeit that in this case the advantage of using a single storey unit is slightly reduced given the higher ground level on the application site side of the boundary. This is illustrated on section R5J-J on drawing 076/P-SSC-R5 Revision C, which shows a section through plot 86 and no. 20 Firs Close. Nevertheless, the BRE Guidance will not be breached and the relationships are judged to be reasonable in all other circumstances.

Plot 87

8.284 Plot 87 is proposed as a single storey Grizedale unit, this time with a FFL of 31.700m. As with plot 86 it is proposed at an angle to the boundary of the site, looking obliquely towards no. 19 Firs Close at a separation distance of approximately 17m and more directly towards the gable end of no. 18 Firs Close at a separation distance of approximately 24m. The change in levels across the site boundary means that the ridge and eaves heights of the proposed single storey Grizedale unit are virtually on a par with the existing two-storey properties; in fact, they are slightly higher relative to no. 19 Firs Close. Therefore, arguably, this separation distance in particular should achieve at least the 20/21m rule-of-thumb minimum. The justification for it not doing so in this case stems from the oblique nature of the relationship and the fact that the proposed Grizedale still contains only a single floor of accommodation. Furthermore, the BRE Guidance will not be breached. Nevertheless, the relationship with no. 19 Firs Close remains one of the more challenging boundary relationships within the proposed development.

Plots 88 and 89

8.285 Plots 88 and 89 are proposed as a pair of semi-detached Brathay house types, two-storey, three-bedroom units with FFLs of 32.650m and 33.100m respectively. There is a slightly oblique outlook from the rear towards no. 18 Firs Close at a separation distance of approximately 23m and a sharper oblique relationship with no. 19 Firs Close at a separation distance of approximately 19m. These combinations of distances and angles mean that the general principles underpinning the rule-of-thumb for separation distances are observed, as is the BRE Guidance. Nevertheless, this is another instance where the proposed units are likely to loom in the outlook from existing properties. For example, at 33.100m the FFL for plot 89 will be only approximately 1m below the eaves of no. 20 Firs Close.

Plot 101

8.286 Plot 101 is proposed as a detached Bowfell unit, a two-storey, four-bedroom house type. It is the westernmost of three Bowfell units stepping up the site at a prominent location midway along the main estate road. Plot 101 has a FFL of 37.500m and presents a blank gable to the closest existing properties - nos. 17 and 18 Firs Close, which are positioned approximately 22m to the west.

8.287 Topographical changes are at their most dramatic in this area of the site, resulting in the FFL for plot 101 being approximately 0.68m below the ridge of nos. 17 and 18 Firs Close. This appears on an extended version of Section J-J, where it is apparent that a 25 degree line extended perpendicularly from the centre of the lowest windows to the rear of no. 17 Firs Close will be cut, failing the initial test in the BRE Guidance. In some circumstances this might prompt further analysis to

establish whether any impact is likely to be severe, but it is evident in this case that the effect will be limited. Plot 101 occupies only a very narrow arc in the outlook from the rear of no. 17 Firs Close; beyond that, the outlook remains relatively open. Having said that, this is another area where the natural rise of the site topography means that new development will loom.

Plots 102 – 106

8.288 Plots 102 to 106 comprise a run of five “1328” house types, detached four-bedroom units designed to accommodate severe changes in level by presenting two storeys to the front and a single storey to the rear. The front faces in this case will look towards the rear of nos. 9 – 14 Firs Close at distances ranging between approximately 31m and 34m. Section G-G on drawing 076/P-SITESEC_2(H), is typical of the relationship that will be created by this run of properties, showing a section through plot 102 and no. 14 Firs Close. The BRE Guidance is satisfied in these relationships and, notwithstanding the level changes, the separation distances should mitigate overlooking to a reasonable degree. However, as elsewhere, the natural rise of the site topography means that new development will loom.

Plot 114

8.289 Plot 114 is proposed as a detached Windermere house type at the northern end of the scheme, south of existing properties in Chestnut Way and Beech Close. There are no sections for this part of the development, but it is evident from the site levels and separation distances that no unacceptable relationships are proposed.

Plots 118 – 125

8.290 Plots 118 – 125 comprise a block of eight one-bedroom apartments (Apartment Block B) positioned to the east of properties at the northern end of Firs Road. The building is proposed on a split level, with two floors of residential accommodation sitting above a partial undercroft of parking to the rear (west). The FFLs for the three floors of the building are: 27.225m (undercroft parking); 30.275m (ground floor residential); and 35.700m (first floor residential). The two storeys on the front (east) elevation measure approximately 5.3m to the eaves and 8.8m to ridge. The three storeys to the rear measure approximately 8.3m to the eaves and 11.5m to the ridge.

8.291 Existing properties to the west in Firs Road are set at an appreciably lower level, as illustrated on Section H-H. This is annotated to show no. 17 Firs Road with a FFL of 22.48m, and eaves and ridge heights of 27.03m and 30.04m respectively. A 25 degree angle projected from 1m above the FFL of the existing property (taken to correspond with the centre of the rear ground floor window) is not bisected by the proposed building, indicating that the BRE Guidance will not be breached in respect of sunlight and daylight.

8.292 The separation distances to the nearest properties in Firs Road are approximately: 32.25m (15 Firs Road); 38.70m (17 Firs Road); and 39.22m (21 Firs Road). These exceed the 20/21m rule-of-thumb, acknowledging the fact that the appreciable levels difference will exacerbate the potential for overlooking. There are two bedroom and two kitchen diner / living room windows on each floor of Apartment Block B looking towards Firs Road, with the FFL for the ground floor

accommodation in Apartment Block B roughly level with the ridge height of the existing properties.

- 8.293 Notwithstanding compliance with the BRE Guidance and the relatively generous separation distances, Apartment Block B sets up one of the more challenging boundary relationships within the proposed development; it will be a dominant feature when viewed from properties in Firs Road, particularly nos. 13 – 19, albeit occupying a relatively narrow arc of view. The proposed landscaping in this part of the site has been reinforced to reduce that dominance.

Construction management

- 8.294 The construction process will inevitably lead to a measure of disruption. It is commonplace now to ameliorate these impacts through: (1) agreement of, and adherence to, a Construction Environment Management Plan; and (2) a restriction on working hours. Relevant conditions are included within the recommendation.

Land contamination

- 8.295 The application was submitted with an initial Phase 1 - Preliminary Risk Assessment³⁰ and a subsequent Site Investigation & Ground Assessment³¹. The assessments identify potential risks from radon and asbestos (in made up ground) and propose remediation methods for both. More recently we have received a Remediation Method Statement (RMS).
- 8.296 The Council's Public Protection Team confirms that these assessments have been completed in line with current best practice and has recommended a condition requiring a Validation / Completion Report to confirm that the work proposed within the RMS has been completed satisfactorily.

Air quality

- 8.297 The air quality assessment submitted with this application³² recommends the promotion of various sustainable travel options, including the promotion of a car club. The applicant's viability assessment (discussed under the Affordable Housing heading above) allocates a sum for this purpose. It is recommended that the detail of this is resolved via a planning obligation.

9.0 CONCLUSION

- 9.1 This is a full application, proposing 125 dwellings on a site broadly coincident with the boundaries of an area allocated for residential development by policy LA2.11 of the South Lakeland Local Plan Land Allocation Development Plan Document. The application site does deviate from the allocation boundary in places, excluding high ground in the north-east and including a compensatory area in the south-east. This is contrary to the development strategy of the development plan, but having

³⁰ Phase 1 - Preliminary Risk Assessment, LAND OFF BEETHAM ROAD, MILNTHORPE, bEk Enviro Ltd., January 2021

³¹ Site Investigation & Ground Assessment, LAND OFF BEETHAM ROAD, MILNTHORPE, Report Ref: BEK-20813-2 (Rev A), bEk Enviro Ltd., February 2022

³² Air Quality Assessment for Proposed residential development at Beetham Road, Milnthorpe, Cumbria, LA7 7QG, Martin Environmental Solutions, February 2022

assessed the changes against relevant policies and other material considerations, the impacts are considered to be negligible and the proposal is judged to be in accordance with the development plan as a whole. However, given that the excluded part of the allocation still enjoys a presumption in favour of development, it will be necessary to negate this via a planning obligation in order to fully justify the breach of the development boundary proposed in this case.

- 9.2 The application contributes less than 35% affordable housing, but the applicants have submitted a viability assessment to justify their position. This has been independently scrutinised and found to be sound. Therefore, a lower contribution of affordable housing is policy compliant in this case.
- 9.3 Consultation responses demonstrate that existing infrastructure either has adequate capacity to deal with the demands of the development, or, as in the case of health care provision, can be made so by drawing upon the Community Infrastructure Levy (CIL). United Utilities has stated that it has “no concerns in relation to the impact of the development on the wastewater treatment works”. A scheme for dealing with surface water has been agreed in principle with the lead local flood authority.
- 9.4 A new road junction will be created onto the A6. This will include a right-hand turn lane and an extension of the 30mph speed limit. Two additional emergency vehicle accesses are also proposed, which could also function as additional pedestrian / cycle connections. These measures can be controlled by conditions and the local highway authority considers the proposal acceptable.
- 9.5 The sloping nature of the site presents many design challenges, from ensuring that, as far as possible, the proposed dwellings achieve the level access to meet appropriate standards for accessible and adaptable homes, to maintaining appropriate relationships with existing properties and protecting the character of the village. Those have been the objectives in negotiating changes to the scheme since it was first submitted, and whilst the development shown on the latest iteration of the site layout remains prominent, and will have an appreciable impact on the outlook from some existing properties, it is judged to strike a reasonable balance.
- 9.6 The Council’s Conservation Officer considers that the impact of Apartment Block B (the only remaining apartment block in the development) will be harmful to the setting of Milnthorpe Conservation Area, albeit less than substantially so in NPPF terms. That is a point Members will need to consider. If Members do conclude less than substantial harm then they will need to be satisfied that it is outweighed by the public benefits of the development. The public benefits of delivering a major housing allocation are considerable.
- 9.7 The site occupies a sensitive position in the landscape, overlooking the Arnside & Silverdale Area of Outstanding Natural Beauty (AONB) and Dallam Park, the latter included on the Register of Parks and Gardens of Special Historic Interest at Grade II. Landscape impact has been assessed through a Landscape and Visual Assessment (LVIA), which confirms to current best practice. The conclusions of the LVIA are that, with appropriate landscaping, the development need not have a significant impact. To that end, the development includes an appreciable landscape buffer on the frontage to the A6 along with a commitment to retaining existing hedges (as far as is practicable) as part of a broader landscape scheme,

which includes the planting of street trees along the main estate road.

- 9.8 The proposal is close to Morecambe Bay, which is designated as a Site of Special Scientific Interest (SSSI) a Special Protection Area (SPA), a Ramsar site and a Special Conservation Area (SAC). The potential impact of the development on these receptors has been explored through a Habitat Regulations Assessment (HRA), which concludes no significant impact, subject to some modest mitigation. Natural England concurs with this conclusion. If Members accept this view too, then they will need to adopt the applicant's HRA in order to meet the Council's responsibilities as a competent authority in accordance with The Conservation of Habitats and Species Regulations 2017 (as amended).
- 9.9 The development will achieve a biodiversity net gain exceeding 10%. And a condition is recommended to secure further biodiversity enhancements within the fabric of the scheme.
- 9.10 In summary, it is considered that the proposed development is in accordance with the development plan, there are no material considerations that indicate the decision should be made otherwise and with the planning conditions proposed, any potential harm would reasonably be mitigated. Therefore, having regard to the presumption in section 38(6) of the Planning & Compulsory Purchase Act 2004, and having considered the impact on heritage assets in accordance with sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA Act), it is recommended that planning permission is granted, subject to necessary planning obligations and conditions.
- 9.11 Under Section 149 of the Equality Act 2010 Local Planning Authorities must have due regard to the following when making decisions (i) eliminating discrimination, (ii) advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, and (iii) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics are age (normally young or older people) disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.
- 9.12 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.

10.0 RECOMMENDATION

- 10.1 The application is recommended for approval subject to:
- a. adoption by the Strategic Planning Committee of the Shadow Habitat Regulations Assessment, Envirotech, V2, 01 April 2023, to meet the Council's responsibilities as a competent authority in accordance with The Conservation of Habitats and Species Regulations 2017 (as amended);
 - b. completion of a section 106 agreement before planning permission is issued providing for the following planning obligations :

Affordable housing

Delivery of 19 affordable housing units, in accordance with the following mix:

Affordable rent

- 8 no. 1 bed apartments

First Homes

- 2 no. 1 bed Caldew house types
- 4 no. 2 bed Rothay house types

Shared Ownership

- 5 no. 2 bed Rothay house types

Safeguarding of areas of allocation not being developed

The land identified as “Area inside of SLDC Allocation - 9012m² (2.23 acres)” on drawing 076/P-ALLCOM_1 shall not be subject to any form of development (as defined in the Town and Country Planning Act 1990) unless and until it is allocated for a particular form of development in a future review of the current development plan.

Roads and Footpaths Management Scheme

No development shall commence until a Roads and Footpaths Management Scheme has been submitted to and agreed in writing by the local planning authority containing provisions to ensure the management and maintenance in perpetuity of all non-adopted roads and footpaths.

Surface Water Drainage Management Scheme

No development shall commence until a Surface Water Drainage Management Scheme has been submitted to and agreed in writing by the local planning authority containing provisions to ensure the management and maintenance in perpetuity of all non-adopted elements of the approved surface water drainage scheme (including channels etc. for exceedance flows);

Public Open Space, Landscape and Hedgerow Management Scheme

No development shall commence until a Public Open Space, Landscape and Hedgerow Management Scheme has been submitted to and agreed in writing by the local planning authority containing provisions to ensure the management and maintenance in perpetuity of all areas of public open space, street trees and the Defined Hedgerows. The Public Open Space, Landscape and Hedgerow Management Scheme will bind the Approved Organisation, any registered providers and all individual homeowners.

(The “Defined Hedgerows” are the existing hedgerows that currently cross and bound the site, minus the areas lost to facilitate approved development.)

Approved Organisation

None of the approved dwellings shall be first occupied until an Approved Organisation (i.e. a management company) has been established and approved in writing by the local planning authority. The areas of the site for which the Approved Organisation has direct and indirect control shall be clearly identified on a plan.

The purpose of the Approved Organisation **is** to take on responsibility for the management and maintenance in perpetuity of: (1) those areas of the site outside the private curtilages of the dwellings and the areas passed to registered providers; and (2) the Defined Hedgerows, all in accordance with: (1) the Roads and Footpaths Management Scheme; (2) the Surface Water Drainage Management Scheme; and (3) Public Open Space, Landscape and Hedgerow Management Scheme.

The Approved Organisation and/or its representatives shall have reasonable rights of access onto land within the application site not directly within its control in order to fulfil the obligations set out in the management schemes.

The Roads and Footpaths Management Scheme shall include the provision and maintenance in perpetuity of access by pedestrians and cyclists from within the application site to the application site boundary at the emergency vehicle access points identified on the following drawings:

- Northern Emergency Vehicle Access, CBO-0784-003
- Southern Emergency Vehicle Access, CBO-0784-004 A

A scheme for the promotion of active travel options

Establishment of a car club.

c. the following conditions:

Condition (1): The development hereby permitted shall be commenced before the expiration of THREE YEARS from the date hereof.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Approved plans

Condition (2): The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan 076-SLP-01 Revision C

Topographical Survey, 22K004/001 A

Site Layout

Site Plan (Coloured), 076-P-02C Revision O

Electric Vehicle Charging Points

Electric Vehicle Charging Points & Bike Storage Layout, 076/EvCh/01, Revision D

External Materials

Material Finishes Layout, 076/MF/01 Revision F

Surface Treatments

Surface Treatments Layout, 076/ST/01 Revision E

Landscaping

Detailed Landscape Proposals c-1912-01 Rev G (Sheet 1 of 3)

Detailed Landscape Proposals c-1912-02 Rev H (Sheet 2 of 3)

Detailed Landscape Proposals c-1912-03 Rev G (Sheet 3 of 3)

Southern Boundary Arrangement c-1912-12

Trees

Survey of Existing Trees c-1912-04

Highway Tree Planting Pit Detail c-1912-11

Fencing

Fencing Layout, 076/F/01 Revision E

Southern Boundary Arrangement c-1912-12

Fence to Eastern Boundary Behind Plots 104-116 076-CLF-01

900mm Natural Stone Wall SD-SW-06.02

1800mm Feathered Edge Timber Fence SD-FT-08

900mm Stone Wall with 900mm Feather Edge Fencing SD-SW-09

1200mm Natural StoneWall SD-SW-06.03

Street Scenes

Street Scenes A, B & C 076/P-STREET_1 A1 (SUPERSEDED except for Scene A-A)

Street Scenes & Sections Road 5, 076/P-SSC-R5 Revision C

Site Sections

Site Sections, 076/P-SITESEC_2 Revision H

Site Sections 076/P-SITESEC_DE(A)

Hartland House site sections 076-P-HARTSEC (A)

Construction Management

Proposed CMS Layout 076-P-11.B

Management Company

Management Co. Plan 076/P/14

Drainage

DRAINAGE LAYOUT SHEET 1, 21045-GAD-00-00-DR-C-1001 P09

DRAINAGE LAYOUT SHEET 2, 21045-GAD-00-00-DR-C-1002 P07

DRAINAGE LAYOUT SHEET 3, 21045-GAD-00-00-DR-C-1003 P06

EXCEEDANCE ROUTE SHEET 1, 21045-GAD-00-00-DR-C-1005 P06

EXCEEDANCE ROUTE SHEET 2, 21045-GAD-00-00-DR-C-1006 P05

EXCEEDANCE ROUTE SHEET 3, 21045-GAD-00-00-DR-C-1007 P05

MANHOLE SCHEDULES SOUTH, 21045-GAD-00-00-DR-C-1011 P03

MANHOLE SCHEDULES SOUTH SHEET 2, 21045-GAD-00-00-DR-C-1012 P03

MANHOLE SCHEDULES CENTRAL, 21045-GAD-00-00-DR-C-1013 P03

MANHOLE SCHEDULES NORTH, 21045-GAD-00-00-DR-C-1014 P02

DRAINAGE LONGSECTIONS (SOUTH) SHEET 1, 21045-GAD-00-00-DR-C-1021
P04

DRAINAGE LONGSECTIONS (SOUTH) SHEET 2, 21045-GAD-00-00-DR-C-1022
P04

DRAINAGE LONGSECTIONS (CENTRAL) SHEET 3, 21045-GAD-00-00-DR-C-
1023 P04

DRAINAGE LONGSECTIONS (NORTH) SHEET 4, 21045-GAD-00-00-DR-C-1024
P04

DRAINAGE LONGSECTIONS (NORTH) SHEET 5, 21045-GAD-00-00-DR-C-1025
P01

IMPERMEABLE AREAS PLAN SHEET 1, 21045-GAD-00-00-DR-C-1041 P04

IMPERMEABLE AREAS PLAN SHEET 2, 21045-GAD-00-00-DR-C-1042 P04

IMPERMEABLE AREAS PLAN SHEET 3, 21045-GAD-00-00-DR-C-1043 P04

DRAINAGE DETAILS SHEET 1, 21045-GAD-00-00-DR-C-1061 P02

DRAINAGE DETAILS SHEET 2, 21045-GAD-00-00-DR-C-1062 P03

DRAINAGE DETAILS SHEET 3, 21045-GAD-00-00-DR-C-1063 P03

EXTERNAL WORKS LEVELS SHEET 1, 21045-GAD-00-00-DR-C-1401 P05

EXTERNAL WORKS LEVELS SHEET 2, 21045-GAD-00-00-DR-C-1402 P04

EXTERNAL WORKS LEVELS SHEET 3, 21045-GAD-00-00-DR-C-1403 P05

ROAD LEVELS SHEET 1, 21045-GAD-00-00-DR-C-1501 P04

ROAD LEVELS SHEET 2, 21045-GAD-00-00-DR-C-1502 P04

ROAD LEVELS SHEET 3, 21045-GAD-00-00-DR-C-1503 P02

ROAD LEVELS SHEET 4, 21045-GAD-00-00-DR-C-1504 P03

ROAD LEVELS SHEET 5, 21045-GAD-00-00-DR-C-1505 P03

HIGHWAY LONGSECTIONS SHEET 1, 21045-GAD-00-00-DR-C-1511 P02

HIGHWAY LONGSECTIONS SHEET 2, 21045-GAD-00-00-DR-C-1512 P03

HIGHWAY LONGSECTIONS SHEET 3, 21045-GAD-00-00-DR-C-1513 P02

HIGHWAY LONGSECTIONS SHEET 4, 21045-GAD-00-00-DR-C-1514 P02

HIGHWAY LONGSECTIONS SHEET 5, 21045-GAD-00-00-DR-C-1515 P02

HIGHWAY LONGSECTIONS SHEET 6, 21045-GAD-00-00-DR-C-1516 P03

HIGHWAY LONGSECTIONS SHEET 7, 21045-GAD-00-00-DR-C-1517 P02

HIGHWAY CONSTRUCTION DETAILS SHEET 1, 21045-GAD-00-00-DR-C-1531
P02

HIGHWAY CONSTRUCTION DETAILS SHEET 2, 21045-GAD-00-00-DR-C-1532
P02

HIGHWAY KERBING LAYOUT (SOUTH) SHEET 1, 21045-GAD-00-00-DR-C-
1555 P03

HIGHWAY KERBING LAYOUT (CENTRAL) SHEET 2, 21045-GAD-00-00-DR-C-
1556 P03

HIGHWAY KERBING LAYOUT (NORTH) SHEET 3, 21045-GAD-00-00-DR-C-
1557 P03

REFUSE VEHICLE TRACKING SHEET 1, 21045-GAD-00-00-DR-C-1571 P02

REFUSE VEHICLE TRACKING SHEET 2, 21045-GAD-00-00-DR-C-1572 P02

REFUSE VEHICLE TRACKING SHEET 3, 21045-GAD-00-00-DR-C-1573 P02

Site Access

Revised Access Proposal CBO-0784-002

Emergency Vehicle Accesses

Northern Emergency Vehicle Access, CBO-0784-003

Southern Emergency Vehicle Access, CBO-0784-004 A

House Types

1328 House Type Floor Plans and Elevations 076/1328/SPLU_3

1270 House Type Floor Plans and Elevations 076/1270/SPLD_3

Apartments B - Plans & Elevations 076/APART_B_1 B

Borrowdale House Type Floor Plans and Elevations 076/BORR_3

Bowfell V2 House Type Floor Plans and Elevations 076/BOW(V2)_3

Bowfell V2 (SLD) House Type Floor Plans & Elevations 076/BOW/SPL(V2)_3

Brathay – Plans & Elevations 076/BRA_3

Brathay (Plots 88 & 89) (SK1) Plans & Elevations, 076/BRA_88&89

Caldew - Plans & Elevations, 076/CAL_3

Eskdale (SLU) House Type Floor Plans and Elevations 076/ESK/SPLU_3

Gowan House Type Floor Plans and Elevations 076/GOW_3

Grasmere House Type Floor Plans and Elevations 076/GRAS_3

Grasmere (SLD) House Type Floor Plans & Elevations 076/GRAS/SPLD_3

Grasmere (SLU) House Type Floor Plans & Elevations 076/GRAS/SPLU_3

Grizedale – Plans & Elevations 076/GRIZ_3

Hawkshead House Type Floor Plans and Elevations 076/HAWK_3

Kirkstone House Type Floor Plans and Elevations 076/KIRK_3

Rothay - Plans & Elevations 076/ROTH_3

Rothay - Plans & Elevations (Plot 74), 076/ROTH74_3 A

Rothay - Plans & Elevations (Plot 71), 076/ROTH71_3

Rydal - Plans & Elevations 076/RYD_3

Ullswater - Plans & Elevations 076/ULLS_3

Wasdale House Type Floor Plans and Elevations 076/WAS/SPLU_3

Wasdale (SLD) House Type Floor Plans and Elevations 076/WAS/SPLD_3

Wasdale (SLU) House Type Floor Plans and Elevations 076/WAS_3

Wastwater - Plans & Elevations 076/WAST_3

Windermere Split Up - Plans & Elevations 076/WIND_3

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

External materials

Condition (3): External walls of the dwellings hereby approved shall be finished in accordance with the materials shown on the approved Material Finishes Layout (076/MF/01 Revision F). Roofs shall be finished in natural slate (Estillo 3) and where natural limestone is proposed this shall be sourced from Pennington Quarry, Underbarrow Road, Kendal, or such other source as shall first have been agreed in writing by the local planning authority. Render shall be KRender (Polar White).

Reason: To ensure compliance with: (1) policy CS8.10 (Design) of the South Lakeland Core Strategy; and (2) policies DM1 (General Requirements for all development) and DM2 (Achieving Sustainable High Quality Design) of the South Lakeland Development Management Policies Development Plan Document.

Plot boundaries

Condition (4): Other than for plots 6, 7, 8 17, 18, 29 and 30 (see condition 5 below) no individual dwelling shall be first occupied until its boundary has been enclosed in accordance with the details shown on the approved Fencing Layout (076/F/01 Revision E) and the further detail provided on the following drawings: (1) Fence to Eastern Boundary Behind Plots 104-116 (076-CLF-01); (2) 900mm Natural Stone Wall (SD-SW-06.02); (3) 1800mm Feathered Edge Timber Fence (SD-FT-08); (4) 900mm Stone Wall with 900mm Feather Edge Fencing (SD-SW-09); and (5) 1200mm Natural Stone Wall (SD-SW-06.03). Natural stone used in boundary walls shall match the specification agreed in compliance with condition 3.

Reason: To ensure compliance with: (1) policy CS8.10 (Design) of the South Lakeland Core Strategy; and (2) policies DM1 (General Requirements for all development) and DM2 (Achieving Sustainable High Quality Design) of the South Lakeland Development Management Policies Development Plan Document.

Condition (5) None of the dwellings on plots 6, 7, 8 17, 18, 29 and 30 shall be first occupied until the common boundary with these plots and the field to the south has been completed in accordance with the details shown on drawing c-1912-12 (Southern Boundary Arrangement).

Reason: To ensure compliance with: (1) policy CS8.10 (Design) of the South Lakeland Core Strategy; and (2) policies DM1 (General Requirements for all development) and DM2 (Achieving Sustainable High Quality Design) of the South Lakeland Development Management Policies Development Plan Document.

Ecological Design Strategy

Condition (6) No development shall commence until an Ecological Design Strategy has been submitted to, and approved in writing by, the local planning authority.

The objective of the strategy must be to maximise the potential for on-site biodiversity gains (to a more granular level than the government's Biodiversity Metric) through the construction of the approved houses and the implementation of the associated landscaping. This can be achieved by the incorporation of initiatives such as (but not limited to) green roofs and walls, wildlife routes and crossings and the creation of new wildlife features, e.g. bespoke bat roosts, bird nesting features (including swift bricks) and wildlife ponds. The Strategy must include provision for maintenance of any features for a period of not less than 30 years. Thereafter, the development must proceed in accordance with the approved Strategy.

Reason: To ensure compliance with policies DM2 (Achieving Sustainable High Quality Design) and Policy DM4 (Green and Blue Infrastructure, Open Space, Trees and Landscaping) of the South Lakeland Development Management Policies Development Plan Document

Landscaping

Condition (7) The hard and soft landscaping of the site shall be completed in accordance with the following drawings and documents:

- Detailed Landscape Proposals c-1912-01 Rev G (Sheet 1 of 3)
- Detailed Landscape Proposals c-1912-02 Rev H (Sheet 2 of 3)
- Detailed Landscape Proposals c-1912-03 Rev G (Sheet 3 of 3)
- Southern Boundary Arrangement c-1912-12
- Surface Treatments Layout, 076/ST/01 Revision E
- Highway Tree Planting Pit Detail c-1912-11
- The Ecological Design Strategy approved in compliance with condition 6.

Reason: To ensure compliance with policies DM2 (Achieving Sustainable High Quality Design) and Policy DM4 (Green and Blue Infrastructure, Open Space, Trees and Landscaping) of the South Lakeland Development Management Policies Development Plan Document

Condition (8): No development shall commence until there has been submitted to, and approved in writing by, the local planning authority a timetable for the implementation of the approved hard and soft landscaping. Thereafter, the development must proceed in accordance with the approved timetable.

Reason: To ensure compliance with policies DM2 (Achieving Sustainable High Quality Design) and Policy DM4 (Green and Blue Infrastructure, Open Space, Trees and Landscaping) of the South Lakeland Development Management Policies Development Plan Document

Tree protection

Condition (9): No development shall commence until a Tree and Hedge Protection Method Statement has been submitted to, and approved in writing by, the local planning authority. The Method Statement must include provisions for the protection of all trees and hedges identified for retention in the submitted Tree Survey Report - PDP Associates, February 2022 (Updated June 2023) – and must accord with British Standard BS 5837 (2012): "Trees in Relation to Design, Demolition and Construction - Recommendations". Thereafter, the measures

contained within the approved Tree and Hedge Protection Method Statement must be retained for the duration of the construction phase of the development.

Reason: To protect existing trees in accordance with policy DM4 (Green and Blue Infrastructure, Open Space, Trees and Landscaping) of the South Lakeland Development Management Policies Development Plan Document.

On-site open space

Condition (10): None of the dwellings hereby approved shall be first occupied until a timetable for the laying out and completion of all areas of on-site open space has been submitted to, and approved in writing by, the local planning authority. Thereafter, all areas of on-site open space shall be laid out and completed in accordance with the agreed timetable.

Reason: To ensure the timely provision of public open space in accordance with policies CS8.3a (Accessing open space, sport and recreation) and CS8.3b (Quantity of open space, sport and recreation) of the South Lakeland Core Strategy.

Accessible and adaptable homes

Condition (11): 83 of the dwellings hereby approved shall be constructed to meet the Building Regulations M4(2) standards for accessible and adaptable homes and six (plots 61, 62, 69, 70, 86 and 87) shall be constructed to meet the Building Regulations Category M4(3) standards.

Reason: To secure an appropriate level of compliance with Policy DM11 of the Development Management Policies Development Plan Document.

Broadband

Condition (12): No individual dwelling hereby approved shall be first occupied until connected to the necessary infrastructure to enable access to high speed (superfast) broadband.

Reason: To comply with Policy DM8 (High Speed Broadband for New Developments) of the Development Management Policies Development Plan Document.

Electric vehicle charging

Condition (13): No individual dwelling hereby approved shall be first occupied until it has been provided electric vehicle charging facilities in accordance with the details shown on drawing 076/EvCh/01, Revision D - Electric Vehicle Charging Points & Bike Storage Layout.

Reason: To ensure compliance with policy DM2 (Achieving Sustainable High Quality Design) of the South Lakeland Development Management Policies Development Plan Document

Access

Condition (14): No development other than the construction of the main access to the site shown on the Revised Access Proposal prepared by CBO Transport (CBO-0784-002) shall commence until: (1) the main access to the site has been completed to a standard suitable to serve the construction of the remainder of the development; and (2) the existing 30mph speed limit on Beetham Road has been extended in accordance with the details contained within the Revised Access Proposal prepared by CBO Transport (CBO-0784-002).

Reason: In the interests of highway safety.

Condition (15): None of the dwellings hereby approved shall be first occupied until there has been provided on Beetham Road: (1) a right turn lane into the site; (2) a speed limit gateway feature; (3) a new bus stop; (4) a traffic island crossing feature; and (5) a new footway linking the site entrance to the nearest existing footway on Beetham Road - all broadly in accordance with the details contained within the Revised Access Proposal prepared by CBO Transport (CBO-0784-002).

Reason: In the interests of highway safety.

Condition (16): No development shall commence until there has been submitted to, and approved in writing by, the local planning authority further details confirming that the carriageway, footways, footpaths, cycleways and refuse collection facilities serving this development will be designed, constructed, drained and lit to a standard: (1) suitable for adoption in accordance with the standards laid down in the current Cumbria Design Guide; and (2) that complies with the "Requirements for refuse and recycling provision at new developments", published by South Lakeland District Council in April 2012. The further details must include longitudinal/cross sections.

Dwell areas should be provided at transition points between roads where one of those roads has a significant gradient or it should be demonstrated that the absence of a dwell area will not adversely affect the operation of the road.

Road lighting should be provided at the lowest levels of luminance compatible with achieving a standard suitable for adoption.

Reason: To ensure a minimum standard of construction in the interests of highway safety.

Condition (17): No individual dwelling hereby approved shall be first occupied until the estate road serving it, including footways, cycleways, and turning areas, has been constructed in all respects to base course level in accordance with the details approved by condition 16 and street lighting where it is to form part of the estate road has been provided and brought into full operational use.

Reason: In the interests of highway safety.

Emergency vehicle accesses / pedestrian cycle links

Condition (18): None of the dwellings on plots 69 - 76 shall be first occupied until the Southern Emergency Vehicle Access, shown on drawing CBO-0784-004 A, has been completed and made available for use in a manner that: (1) also

allows unrestricted pedestrian and cycle access from within the application site boundary; and (2) is lit to the standards approved in compliance with condition 16. The Southern Emergency Vehicle Access shall thereafter be retained as completed for the lifetime of the development.

Reason: To facilitate emergency vehicle access and wider connectivity for pedestrians and cyclists in accordance with the expectations of the Supplementary Planning Document: South and East of Milnthorpe, Development Brief, April 2015.

Condition (19): None of the dwellings on plots 115 - 117 shall be first occupied until the Northern Emergency Vehicle Access, shown on drawing CBO-0784-003, has been completed and made available for use in a manner that: (1) also allows unrestricted pedestrian and cycle access from within the application site boundary; and (2) is lit to the standards approved in compliance with condition 16. The Northern Emergency Vehicle Access shall thereafter be retained as completed for the lifetime of the development.

Reason: To facilitate emergency vehicle access and wider connectivity for pedestrians and cyclists in accordance with the expectations of the Supplementary Planning Document: South and East of Milnthorpe, Development Brief, April 2015.

Parking

Condition (20): No individual dwelling hereby approved shall be first occupied until its allocated parking provision has been completed and made available for use.

Reason: To ensure the timely provision of car parking in accordance with policy DM9 (Parking Provision, new and loss of car parks) of the South Lakeland Development Management Policies Development Plan Document.

Cycle storage

Condition (21): No individual dwelling hereby approved shall be first occupied until it has been provided cycle storage facilities in accordance with the details shown on drawing 076/EvCh/01, Revision D - Electric Vehicle Charging Points & Bike Storage Layout.

Reason: To ensure compliance with policy DM2 (Achieving Sustainable High Quality Design) of the South Lakeland Development Management Policies Development Plan Document

Drainage

Condition (22): No development shall commence until full details of the sustainable drainage system proposed to serve the development, in accordance with the principles set out in the Flood Risk Assessment and Drainage Strategy report (July 2023, Ref: CN21045V5, M & P Gadsden Consulting Engineers Ltd) and Design Note (July 2023, M & P Gadsden Consulting Engineers Ltd), have been submitted to, and approved in writing by, the local planning authority. The sustainable drainage system must fully address: (1) the management of off-site flows; (2) dealing with impermeable surfaces within the site; (3) the design and delivery of off site features such as the proposed new outfall to the River Bela; and (4) integration with the landscaping proposals listed within condition 7 to ensure

that no existing or proposed landscaping features are compromised. Additionally, the sustainable drainage system must incorporate: (1) hydraulic design and treatment design; and (2) an implementation timetable.

Infiltration design shall be confirmed and corrected by infiltration testing at the effective design depth to BRE Digest 365 standard, at locations and depths that are reasonably similar to the locations and depths of the proposed infiltration devices.

Treatment Design (e.g. for the basin and for any proprietary treatment devices) shall be in accordance with the recommendations of the SuDS Manual.

The exceedance drawing shall show how the flow will be guided when proposed to flow against the natural topography, e.g. along contours.

Thereafter, the approved sustainable drainage system must be implemented in accordance with the agreed timetable.

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

Condition (23): No development shall commence until a surface water drainage validation strategy has been submitted to, and approved in writing by, the local planning authority. The strategy must include a timetable for the phased submission of validation reports in respect of the construction of the main sustainable drainage system and exceedance routes. As a minimum a construction validation and a pre final occupation validation shall be submitted. A validation report shall include confirmation of the seasonally high groundwater level and details of any remedial measures taken. No dwelling shall be first occupied until the validation report for the relevant phase of the development has been submitted to, and approved in writing by, the local planning authority.

Reason: To ensure adequate provision is made for the management of surface water.

Construction management

Condition (24): Construction work shall not take place outside the hours of 0800 – 1800 Monday to Friday or 0900 – 1300 on Saturdays, nor at any time on bank holidays.

Reason: In the interests of safeguarding the amenity and ecological interest of the existing area in accordance with: (1) policy CS8.4 (Biodiversity and geodiversity) of the South Lakeland Core Strategy; and (2) policies DM4 (Green and Blue Infrastructure and Open Space) and DM7 (Addressing Pollution, Contamination Impact, and Water Quality) of the South Lakeland Development Management Policies Development Plan Document.

Condition (25): All works of demolition and construction shall be carried out in accordance with Construction Method Statement, Revision C, received 27 November 2023.

Reason: To safeguard the amenity of the area in accordance with policy DM7 (Addressing Pollution, Contamination Impact, and Water Quality) of the South Lakeland Development Management Policies Development Plan Document.

Condition (26): No development shall commence until a Construction Surface Water Management Plan has been submitted to, and approved in writing by, the local planning authority. Thereafter, the approved Construction Surface Water Management Plan shall be adhered to for the duration of the construction phase of the development.

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

Contamination

Condition (27): No individual dwelling hereby approved shall be first occupied until there has been submitted to, and approved in writing by, the local planning authority, a Validation/Completion Report in respect of ground contamination issues (if any) relating to that dwelling, in accordance with section 5 (Reporting) of the Remediation Method Statement prepared by BEK Geo-Environmental Consulting (Report Ref: BEK-20813-3) dated November 2023, and having regard to earlier contamination assessments contained within the following documents: (1) BEK – ‘Phase 1 – Preliminary Risk Assessment – Land off Beetham Road, Milnthorpe’ Report Ref: BEK-20813-1, dated January 2021; and (2) BEK – ‘Site Investigation & Ground Assessment – Land off Beetham Road, Milnthorpe’ Report Ref: BEK-20813-2, dated February 2022.

Reason: To safeguard the amenity of the area in accordance with policy DM7 (Addressing Pollution, Contamination Impact, and Water Quality) of the South Lakeland Development Management Policies Development Plan Document.

Archaeology

Condition (28) No development shall commence until the developer has secured the implementation of an archaeological evaluation in accordance with the approved document by Greenlane Archaeology entitled: ‘Archaeological Evaluation Cover Sheet and Project Design’. Where significant archaeological assets are revealed in the evaluation, there shall be a requirement to submit an additional written scheme of investigation for approval by the local planning authority for the investigation and recording of the archaeological assets.

The second written scheme of investigation, if required, will include the following components:

- An archaeological recording programme the scope of which will be dependent upon the results of the evaluation;
- There shall be carried out within one year of the completion of the programme of archaeological work on site, or within such timescale as otherwise agreed in writing by the LPA: a post-excavation assessment and analysis, preparation of a site archive ready for deposition at a store approved by the LPA, completion of an archive report, and submission of the results for publication in a suitable journal.

Reason: To afford reasonable opportunity for an examination to be made to determine the existence of any remains of archaeological interest within the site and for the preservation, examination or recording of such remains, in accordance with (1) policies CS8.6 (Historic environment) of the South Lakeland Core Strategy; and (2) policy DM3 (Historic Environment) of the South Lakeland Development Management Policies Development Plan Document.

Biodiversity

Condition (29): None of the dwellings hereby approved shall be first occupied until an information pack to be made available to future residents, highlighting the significance and sensitivity of the nearby Morecambe Bay Ramsar and the Morecambe Bay and Duddon Estuary Special Protection Area (SPA), has been submitted to, and approved in writing by, the local planning authority. Thereafter, the information pack shall be made available to all future residents for the lifetime of the development.

Reason: To reinforce compliance with policy CS8.4 (Biodiversity and geodiversity) of the South Lakeland Core Strategy.

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STRATEGIC PLANNING COMMITTEE REPORT

Planning Application Reference No. SL/2022/1159

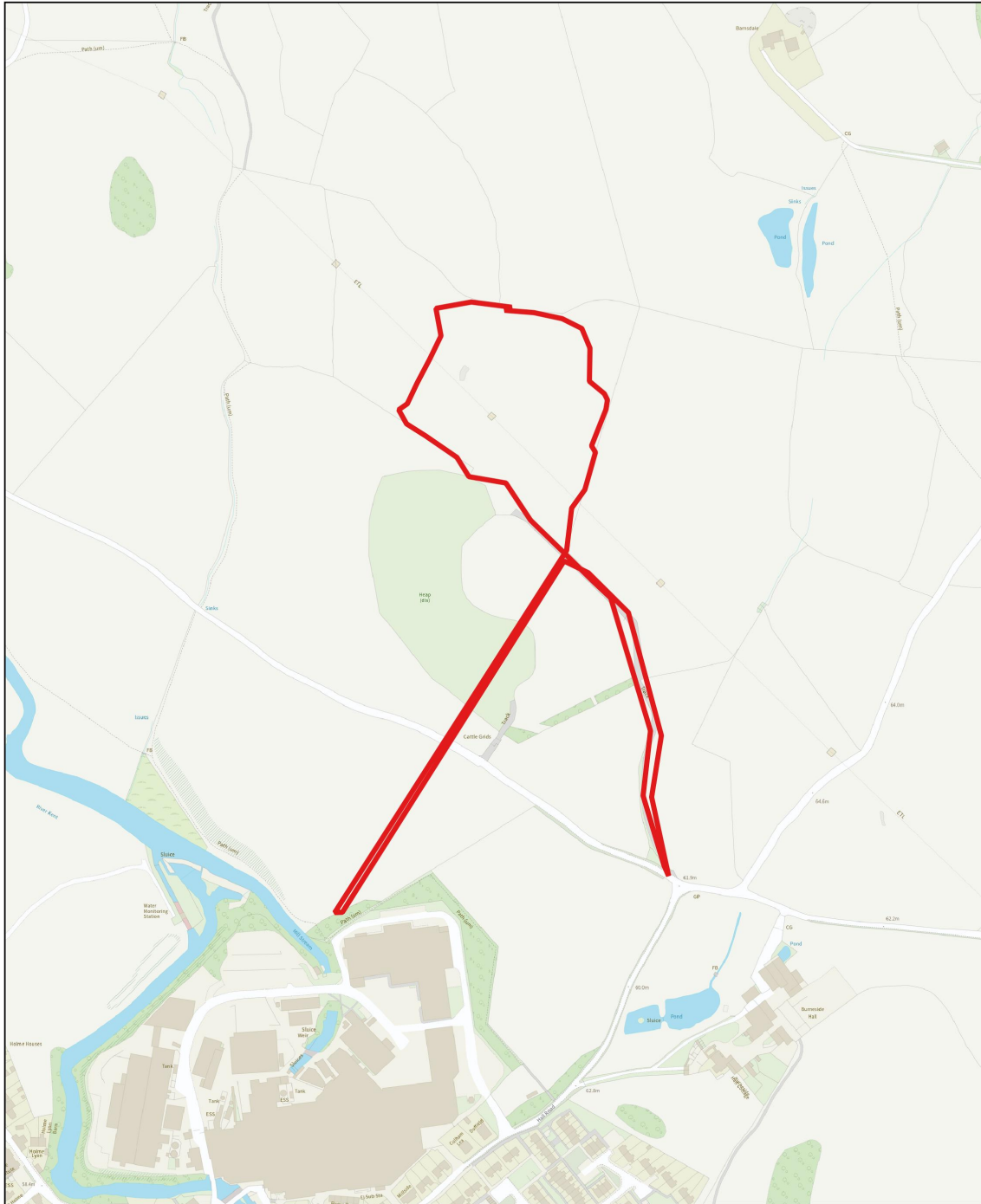
Proposal: Installation of a ground mounted 3MW solar photovoltaic array with associated infrastructure and landscaping

Location: Fields to the North James Cropper PLC & west of Garnett Bridge Road, Burneside, KENDAL, LA9 6PZ

Applicant: Mr Mark Cropper

Committee Date: 11 January 2024

Reason for Committee Level Decision: Site area 7.56 hectares



SL/2022/1159
Fields to the North James Cropper PLC & west of Garnett
Bridge Road, Burnside, KENDAL, LA9 6PZ



Scale 1:5000

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1. Summary

- 1.1 Full planning permission is sought for installation of a ground mounted 3MW solar photovoltaic array with associated infrastructure and landscaping.
- 1.2 The proposal will utilise the existing vehicle track associated with the former tip and incorporates landscape planting. This planting will provide biodiversity enhancements as well as mitigate views of the proposal from the surrounding area.
- 1.3 It is considered that the visual impact on the character and appearance of the wider area would be limited and screening will be provided to help mitigate the intrusion. The proposal would provide renewable energy to a local business, and support the transition to a low carbon future in a changing climate.
- 1.4 The application is presented to the Strategic Planning Committee as the site exceeds an area of 5 hectares.

2.0 RECOMMENDATION

- 2.1 It is recommended that the application be approved with conditions.

3.0 THE PROPOSAL

- 3.1 The proposal is for the installation of a ground mounted 3MW solar photovoltaic array together with associated infrastructure. The proposal will utilise the existing vehicle track associated with the former tip and incorporates landscape planting. This planting will provide biodiversity enhancements as well as mitigate views of the proposal from the surrounding area.
- 3.2 There will be a buried HV connection cable running from the proposed development to Croppers Paper Mill, with the proposal to generate approximately 2,400,000kWh per annum for the business and offset around 607 tonnes of CO2 annually.

4.0 SITE DESCRIPTION

- 4.1 The site comprises agricultural land associated with Burneside Hall and covers of an area of approximately 7.56 hectares. This is situated to the north of Burneside village and approximately 380m to the north of James Cropper Mill. The nearest residential properties are Barnsdale, situated in an elevated position approximately 330m to the north; Houseman Tenement Farm approximately 480m to the west and Burneside Hall approximately 450m to the south. A former tip site associated with the mill is immediately to the south of the site.
- 4.2 The Landscape character of the land is Drumlin Field, whose key characteristics are tracks of high drumlins, rounded tops with steep sides, distinct landform grain, hedges and stone walls form strong boundaries, streams and wet hollows are found in the valleys and dips between drumlins. The land is classified as Grade 4 Agricultural Land. The land rises towards the north.
- 4.3 The proposed solar panel array is situated in the north western part of the site with mitigation tree and scrub planting to the north east, south east, south and south west.

5.0 SITE PLANNING HISTORY

- 5.1 James Cropper Plc is an established paper mill situated on a site approximately 390m to the south, south west of the proposed solar array. There are numerous applications relating to the operation of that site. Immediately to the south the proposed site is a landfill site related to James Cropper.
- 5.2 There is no specific planning history for this site.

6.0 CONSULTATIONS

6.1 Arboriculturalist

Pre-Development Arboricultural Report provides an accurate representation of the trees on the site and providing the development is carried out in accordance with the recommendations of the Arboricultural report, the development should only have a minimal impact upon a small number of trees. No trees are proposed to be removed for the development.

- 6.2 Mitigation Tree and Scrub planting is proposed in various locations around the site, with shelterbelts, hedgerow improvements and wall repairs proposed to further screen the site. The woodland edge and mitigation tree planting requires careful planning to ensure the trees chosen are varied and suitable for the purpose. The tree and scrub planting adjacent to the overhead power lines must be low growing species that will not interfere with the easement for the power lines.
- 6.3 There is a great opportunity to increase the biodiversity of the site through careful species selection. Hedgerow trees and shrubs should be a mixture of 6 to 8 species. I recommend that the applicants submit a detailed planting plan for the tree, shrub and hedgerow planting prior to the commencement of development, in the event that planning approval is granted. The landscaping plan should include species mix, spacing's, timing of planting, tree protection from herbivores, and a maintenance plan for a period of no less than five years from the date of planting.

6.4 Local Highway Authority

We have no objections to the proposal.

- 6.5 We accept the conclusion of the Glint and Glare Assessment which classifies the risk to road users on C5057 Garnet Bridge Road near Barnsdale (corresponding to receptors 18, 19, and 20 in the Assessment) as Low - None. The line of sight from the receptors to the solar arrays is not in a forward direction to the parts of the arrays that would generate glint and glare.
- 6.6 The temporary works to take place within the C5056 public highway and public footpath 575002 will each require a Temporary Traffic Regulation Order and must not take place without obtaining the necessary order. The improved access will require a permit under Section 184 Highways Act in addition to planning permission.

6.7 Lead Local Flood Authority

Further information should be submitted to satisfy the Local Planning Authority that

the development is acceptable in terms of flood risk and safeguarding watercourses in accordance with Local Plan Policy DM6.

- 6.8 Our understanding is that the Barnsdale Runner watercourse splits to the north of the site with one branch of the watercourse heading across the site in culvert through the solar arrays as indicated by the blue dotted line in the map below. This is the natural route for a watercourse because it follows the low ground as is indicated by the EA surface water flood risk mapping.
- 6.9 The watercourse should be protected and enhanced as it passes through the development site by restoring it to an open channel to provide benefits for flood risk and biodiversity and to mimic natural drainage patterns.
- 6.10 We accept that surface water flood risk will not be increased as a result of the proposal. The Flood Risk Assessment (FRA) proposes soil control measures to mitigate for any increased rates of runoff due to compaction or erosion. We agree with this and recommend that this mitigation is secured by condition.

6.11 Historic Environment Officer

I agree with the submitted heritage statement that there is a low potential for the construction of the proposed development to disturb significant archaeological assets. I therefore confirm that I have no objections to the application and I do not wish to make any recommendations.

6.12 Lake District National Park Authority

No response

6.13 Environment Agency

No objection to the proposed development, subject to the inclusion of the contaminated land condition.

6.14 Natural England

River Kent

The application site is located close to Barnsdale Runner watercourse, which is a tributary of the River Kent Special Area of Conservation (SAC).

- 6.15 To prevent contaminated run-off and silt entering the watercourse during the construction phase a detailed Construction Environmental Management Plan (CEMP) should be secured through an appropriate condition. The CEMP should also outline the pollution prevention measures that will be put in place for constructing the associated connection cable trench.
- 6.16 During the operational phase there is also a risk of compacted ground leading to increased silt laden surface water run-off entering the tributary. A Soil Management Plan should be secured through an appropriate Condition.
- 6.17 Protected Species
- The submitted Preliminary Ecological Appraisal (PEA) recommends further Great Crested Newt (GCN) surveys. These will need to be undertaken prior to granting

planning permission and can't be conditioned. The other recommendations outlined in the PEA should be conditioned.

6.18 Burneside Parish Council

Burneside Parish Council supports renewable energy given the climate crisis and thus this application but would like to make the following comments:

- It was noted that the area of the proposed site does seem quite large and that it will be visible from a number of locations.
- It is noted that the screening planting does not appear to have been undertaken at the solar array that was granted permission and has been constructed south of Burneside village (approval condition).

6.19 Neighbours / third parties

16 responses were received, raising the following issues and objections:

- James Cropper PLC have a huge factory roof space that they could use more effectively for solar panels(they have a small amount on a few spaces at the moment) and therefore the scale of this planning is uncalled for
- They could install a covered car park with solar panels above, much less detrimental on the beauty of the land surrounding the factory
- This particular field is well away from their factory and will destroy virgin field used for agriculture
- The field is close to natural ponds and wet land so is of great environmental significance
- There seems little screening of the development and no information of the type to enhance biodiversity
- Mark Cropper has other land which better lends itself to a solar farm, such as the adjacent wasteland
- Loss of good quality grazing land and main cow pasture for one of the few remaining local dairy farms and sole dairy farm in Burneside, which will compromise the viability of that farm
- The loss of the thriving farming community is disgraceful and shortsighted
- The footprint of imported foods is impacting on the environment and firms wishing to offset their carbon footprint should do so within the boundaries of the factory
- Supporting local farming will help reduce food miles helping protect the environment and battle global warming
- In January 2022 Mark Cropper took 1200 acres of farmland back into his own hands some of which is adjacent to the paper mill and closer in proximity. This would better lend itself to the solar panels
- Detrimental to natural beauty of the area
- Visual impact on the national park
- Glare from the panels
- No benefit to the wider community
- A recent proposal to build a house on a green field site for a local resident was rejected so why would this proposal be considered when it is clearly more invasive

- The factory site itself is already very much unsightly so perhaps a wind turbine could be effected there which wouldn't affect wildlife, and could also offer locals cheaper electric
- Whilst renewable energy is always welcome this should not be to the detriment of other businesses
- The Design and Access Statement advises the site is low quality agricultural land. This is incorrect the land is good quality and main cow pasture
- There is no map showing the extent of the full land ownership of the applicant. This is important in assessing the current location for the Solar Farm
- The proposal does not follow the sequential test for solar farms, alternative sites should be considered
- The applicant sets a precedent by siting the solar farm a considerable distance away from the connected factory. Therefore all land within the same radius should be considered, which includes a better site to the north west

7.0 RELEVANT PLANNING POLICY

7.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 provides that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.

7.2 Local Plans

South Lakeland

Core Strategy October 2010 – adopted 20 October 2010

South Lakeland Development Management Policies Development Plan Document – adopted 28 March 2019

7.3 Other Material Considerations

National Planning Policy Framework (NPPF)

7.4 The NPPF sets out governments planning policies for England and how these are expected to be applied. This is a material consideration in planning decisions.

7.5 At the heart of the NPPF is a presumption in favour of sustainable development (Paragraph 11). However, Paragraph 12 confirms that the presumption does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. In this case, the relevant sections of the NPPF are:

7.6 The following sections are considered relevant to this application:

- 2. Achieving Sustainable Development
- 4. Decision making
- 14 Meeting the challenge of climate change, flooding and coastal change
- 15. Conserving and enhancing the natural world.

8.0 ENVIRONMENTAL IMPACT ASSESSMENT

- 8.1 The proposal does not comprise Schedule 1 development, as defined in the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2017) ('the EIA Regulations').
- 8.2 The development falls within Schedule 2, Part 3(a) of the EIA Regulations, as it relates to an "industrial installation for the production of electricity", where the area of development exceeds 0.5hectares. The site is also located within a SSSI Impact Risk Zone whereby SSSI's are considered to be a "sensitive area", as defined in regulation 2(1) of the EIA Regulations. Notwithstanding this having regard to the EIA Screening Matrix in Schedule 3 of the EIA Regulations, it is considered that the proposed development would not have a significant effect on the Environment, having regard particularly to the magnitude and spatial extent, nature, intensity and complexity, probability of the impact, expected onset, duration, frequency and reversibility of the impact and the possibility to effectively reduce the impact.
- 8.3 It is not therefore deemed to amount to EIA development requiring the submission of an Environmental Statement (ES).

9.0 PLANNING ASSESSMENT

The main issues under consideration are:

- The principle of the development including assessment of agricultural land and site selection.
- The effect of the proposal upon the character and appearance of the landscape of the surrounding area.
- The effect of the proposal on the nearby heritage assets.
- The effects of the proposal upon the living conditions of nearby local residents.
- Biodiversity and ecological impacts.
- Highways and flooding impacts.

Principle of development

- 9.1 Core Strategy policy CS1.1 Sustainable Development Principles in relation to this proposal require opportunities are taken to mitigate against climate change, protect the countryside for its intrinsic beauty, take account of and enhance landscape character and ensure high quality design.
- 9.2 Policy CS7.7 advises that the Core Strategy will support the realisation of opportunities provided by energy development and the low carbon economy through supporting, in principle (where protection of the environment is assured and designated areas are safeguarded), appropriately locates schemes which will increase energy production from the full range of renewable sources.
- 9.3 Policy DM21 seeks to promote and encourage appropriate renewable energy proposals where they:
1. Minimise landscape impacts and protect landscape character, based on a thorough landscape and visual appraisal where required;

2. Respect local character and the historic environment;
 3. Fully assess their potential impact on nature conservation interests and can demonstrate that any adverse impacts can be avoided or sufficiently mitigated;
 4. Safeguard residential and local amenity by fully assessing and appropriately mitigating potential effects including visual intrusion, glint and glare, shadow flicker, noise, smell or other pollutants;
 5. Are sensitively designed in response to their context to minimise their visual impact, paying careful attention to the scale, siting and massing of the technology and associated structures and supporting infrastructure;
 6. Incorporate appropriate landscaping to mitigate their visual impact and enhance their surroundings;
 7. Are compatible with existing civil or military aviation or telecommunications installations and will not affect their operations;
 8. Can be satisfactorily served by the local highway network and will not have unacceptable impacts on it during their construction and operational phases;
 9. Include measures for the removal of the technology and restoration of the site should the technology become non-operational; and
 10. Will not have unacceptable cumulative adverse impacts with other installed permitted renewable and low carbon energy projects and vertical infrastructure structures.
- 9.4 Paragraph 157 of the NPPF also advises that the planning system should support the transition to a low carbon future in a changing climate. Furthermore Para. 163 advises when determining planning applications for renewable and low carbon development, LPAs should not require applicants to demonstrate an overall need for renewables or low carbon energy and recognise that even small scale projects provide a valuable contribution to significant cutting greenhouse gas emissions and approve the application if its impacts are (or can be made) acceptable.
- 9.5 The proposal is for the installation of ~6,800 ground mounted solar photovoltaic modules orientated in a southerly direction. The proposed development will be constructed on agricultural land and is expected to have an operational life of 40 years. The energy generated from the solar array will be used by Croppers Paper Mill although there will be a connection to the National Grid to redirect the energy generated in the event of this being surplus to the Paper Mill's needs and usage at any given time.
- 9.6 Adopted policies are largely supportive of renewable energy developments in open countryside locations as long as they do not have a severe landscape impact. Therefore subject to other policy requirements the proposal would be acceptable in principle.
- 9.7 **Design/Character and Appearance**

Core Strategy Policies CS1.1, CS8.2; DMDPD Policies DM1 and DM2, in addition to the NPPF all require development to be of a high quality that maintains or

enhances the quality of the existing character and distinctiveness and makes an overall positive contribution to the locality.

- 9.8 The proposed development comprises the installation of ground mounted solar photovoltaic modules orientated in a southerly direction. Each module will measure 1755mm by 1048mm and will be raised approximately 800mm above ground level. The modules will be mounted on fabricated metal frames anchored to the ground with steel piles driven to a depth up to 1.5 metres. No foundations will be required.
- 9.9 The modules will be laid out in parallel rows running east to west across the field(s). There will be a 5 metre spacing between each row for ease of access and to prevent any overshadowing. The solar arrays have been positioned to take account of the overhead power line and there is 20 metre easement, where no solar arrays will be positioned, to maintain access to the overhead cables by Electricity North West.
- 9.10 The application is accompanied by a Landscape and Visual Appraisal Report, which identifies the low and slightly undulating nature of the landscape in the site extends around the site and this undulating landform quickly screens views of the site from distances greater than 150m west, 300m east, 700m north and 600m south. The higher landform of the Lakeland Fells and Yorkshire Dales is visible in all directions and provides a backdrop to views from in or near the site; this rising landform also creates small areas where the site is visible from outside its immediate vicinity.
- 9.11 The panels would be tilted from the horizontal giving rise to a maximum height to the top of the panel of no more than 3m from ground level. The panels are designed to absorb light and hence minimise solar glint and glare. The proposals also include perimeter stock-proof fencing, access tracks and all ancillary grid infrastructure and associated works.
- 9.12 The proposal includes siting of the PV panels and associated infrastructure within lower lying parts of the site, avoiding distinctive and elevated drumlin topography. Planting mitigation is also proposed to minimise the visual intrusiveness of the proposal. This includes roadside hedgerows to be gap planted and maintained at 2-3m in height; additional hedgerow planting along the southern stock proof fencing boundary and existing field boundary hedgerow gap planting improvements and additional native woodland tree and woodland edge scrub planting blocks to the north east, east and south west of the panels.
- 9.13 The report concludes that the development would have limited impact on the landscape fabric, and the scale of the development would be in keeping with the local landscape. The existing field pattern and boundaries would be retained, and the low-level development would follow the local contours of the landscape avoiding the distinctive, rounded, elevated tops of the local drumlin topography. New hedgerow and woodland tree and scrub planting and field boundary improvements would be beneficial in nature.
- 9.14 The visual effects would be limited to local areas up to 400m from the site and occasional areas on higher ground of approximately 1.2km from the site. The low level nature of the development would mean that effects would be limited, views of the skyline would not be broken and longer distance views of the surrounding hills and towards the LDNP would not be interrupted.

9.15 In consideration of point 9 of DM21, a condition could be included to ensure all equipment if removed from the site should the equipment cease to be used or become redundant.

9.16 **Designated Heritage Assets**

9.17 There are a number of listed buildings and structures within 1km of the application site with the closest being Burneside Hall and Laithwaite Farmhouse. However given the intervening rolling landscape and screening it is considered there will be no effect on these buildings or their setting.

9.18 **Residential amenity**

9.19 DMDPD policy DM1 requires that all development ensures the delivery of acceptable levels of amenity, privacy and overshadowing for existing, neighbouring and future users and occupants.

9.20 The nearest properties are Barnsdale, situated in an elevated position approximately 330m to the north; Houseman Tenement Farm approximately 480m to the west and Burneside Hall approximately 450m to the south. Given the undulating nature of the site and surrounding areas, much of the proposal would not be visible from the wider area, although parts may be visible from Barnsdale and Houseman Tenement Farm situated on higher land levels to the north and east. Proposed planting along the intervening boundaries would further mitigate any impact.

9.21 Given the degree of separation and extent of the screening it is not considered that the proposal would significantly impact on the amenity of the neighbouring occupiers.

9.22 **Biodiversity**

9.23 DMDPD policy DM4 and para 174 (d) of the NPPF requires all development to result in environmental net gains for biodiversity.

9.24 The application was submitted with a Preliminary Ecological Appraisal and a Biodiversity Net Gain Assessment.

9.25 The Preliminary Ecological Appraisal concluded that if the recommendations detailed in the report and good working practices are implemented, then no ecological features are expected to be adversely impacted by the proposed development. However it also identified that further surveys should be undertaken of the pond to the north of the site to determine if a GCN population is still present and to determine population size.

9.26 Natural England responded to advise that they had no overall objections subject to a condition for the submission of an Environmental Management Plan, which could be secured by condition. However in line with the submitted PEA a further Great Crested Newt survey would be required to be carried out prior to the granting of any approve.

9.27 A Great Crested Newt Survey Report was subsequently provided. The results from the 2023 survey confirm the presence of GCN within 73m of the proposed site, it is therefore considered that the survey area could be inhabited by a small

population of GCN during the terrestrial period of their year. Given the data collected and the local records obtained it can be concluded that terrestrial and/or aquatic GCN are likely to be present or passing through the works area and therefore a European Protected Species Mitigation Licence will be required to undertake the works.

- 9.28 The report advises that the fields offer poor habitat, but the dry-stone walls offer suitable refuges. Additionally, the walls connect the ponds to areas of suitable overwintering habitat in the old quarry. A one-way amphibian fence should be installed around the working area. It is considered that pitfall trapping will not be necessary given the footprint of the solar development is within the low-quality habitat. Any works to disturb drystone walls will need to be supervised by the ecologist under the EPS licence and any GCN found moved to a suitable refuge on site.
- 9.29 Natural England were consulted on the Great Crested Newt Survey but did not respond to raise any further objections.
- 9.30 With regard to Biodiversity Net gain, the site comprises predominantly pasture land which is categorised as Grade 3 and 4. The area the solar panels will occupy will be on Grade 4 land, with the Grade 3 land to the south. It is also noted the intention for the grass to be reinstated and continued use for grazing.
- 9.31 The Biodiversity Net Gains Assessment identifies the base level of the current biodiversity and puts forward proposed habitat enhancements. These include lowland mixed deciduous woodland and mixed scrub planting. In addition to providing screening to mitigate the visual impact of the proposal, this achieves a BNG in habitats of 9.48% and hedgerow units of 100%.
- 9.32 It is accepted that the proposed solar farm would not have considerable effects on the surrounding ecology and would result in a biodiversity net gain.
- 9.33 **Access and flooding**
- 9.34 The proposal incorporates the existing field access and access track, formerly used for the tip. The proposal includes the repositioning of the gateway approximately 7m further into the field. This will allow construction traffic to access the site without causing any obstruction to the highway. A Glint and Glare Assessment has also been submitted.
- 9.35 The Highways Authority have confirmed that the Glint and Glare Assessment which classifies the risk to road users on C5057 Garnet Bridge Road near Barnsdale (corresponding to receptors 18, 19, and 20 in the Assessment) as *Low - None*. The line of sight from the receptors to the solar arrays is not in a forward direction to the parts of the arrays that would generate glint and glare. As such they have no objection to the proposal.
- 9.36 The application is accompanied by a Flood Risk Assessment which identified that the site lies within flood zone 1. The site is at medium risk of surface water flooding, however this poses no risk to the panels at 800mm above ground water. There will be negligible increase in low permeability cover on site resulting in negligible surface runoff.
- 9.37 The Lead Local Flood Authority advised that the FRA proposes soil control measures to mitigate for any increased rates of runoff due to compaction or erosion

was agreeable. However they requested further information with regard to a culverted watercourse. They have advised that they understand that the Barnsdale Runner watercourse splits to the north of the site with one branch of the watercourse heading across the site in a culvert through the proposed solar arrays. The applicant has responded to advise that there is no evidence of a culvert traversing the site and mapping which dates back to the 1800s does not at any point show an open watercourse which could have been culverted. The information was passed to the LLFA, who have not responded further. In view of this it is considered that it could be conditioned for the provision of further ground investigation works to determine if and where the culvert may be prior to construction.

10.0 CONCLUSION

In summary, it is considered that the proposed development is in accordance with the development plan, there are no material considerations that indicate the decision should be made otherwise and with the planning conditions proposed, any potential harm would reasonably be mitigated.

- 10.1 Under Section 149 of the Equality Act 2010 Local Planning Authorities must have due regard to the following when making decisions (i) eliminating discrimination, (ii) advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, and (iii) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics are age (normally young or older people) disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.
- 10.2 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. RECOMMENDATION

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

Time Limit for Commencement

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

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

Approved Plans

2. The development hereby granted shall be carried out in accordance with the drawings hereby approved:

Site Plan, NJCPV-SitePlan-RevD-151222-ARC received 19/12/2022

Substation enclosure plan, 081214-DNOC-SEP-20150116-r100, received 19/12/2022
 Ground Mounts, NJCS-Ground Mounts RevA- 151222-AC, received 19/12/2022
 General Layout, NJCPV – Application Boundary RevH-061222-ARC, received 19/12/2022
 Application Boundary, NJCPV – Application Boundary RevE-050922-ARC, received 23/01/2023
 Rail Based Receptors, NEO01126/0031/A, received 23/01/2023
 Road Based Receptors, NEO01126/0021/A, received 23/01/2023
 Residential Based Receptors, NEO01126/0011/A, received 23/01/2023
 Heritage Statement, received 19/12/2022
 Planning Statement inc Screening Request, received 19/12/2022
 Design and Access Statement, received 19/12/2022
 Pre-development Arboricultural Report, received 19/12/2022
 Preliminary Ecological Report, received 19/12/2022
 Biodiversity Net Gain Assessment, received 19/12/2022
 Landscape and Visual Appraisal Appendices 0102, received 19/12/2022
 Landscape and Visual Appraisal Appendices 0102 13122, received 19/12/2022
 Solar Module Glare and Reflectance Technical Memo, received 23/01/2023
 Visibility Assessment Evidence, received 23/01/2023
 Rail Receptor Glare Report, received 23/01/2023
 Road Receptor Glare Report, received 23/01/2023
 Residential Receptor Glare Report, received 23/01/2023
 Glint and Glare Assessment, received 23/01/2023
 Flood Risk Assessment, received 27/02/2023
 Great Crested Newt Survey Report, received 06/07/2023

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

3. The development hereby approved shall be carried out in complete accordance with the recommendations included within the Preliminary Ecological Appraisal.

Reason: : For the avoidance of doubt and to prevent harm to protected species in accordance with Policy DM1 of the Development Management Policies Development Plan Document and Policy CS8.4 of the South Lakeland Core Strategy.

4. The development hereby approved shall be carried out in complete accordance with the mitigation strategy included within the Great Crested Newt Survey Report received 06/07/2023.

Reason: : For the avoidance of doubt and to prevent harm to protected species in accordance with Policy DM1 of the Development Management Policies Development Plan Document and Policy CS8.4 of the South Lakeland Core Strategy.

Landscaping

5. No development shall commence until a detailed landscaping scheme for the tree, scrub and hedgerow planting has been submitted to, and approved in writing by the Local Planning Authority. The scheme shall include details of: (i) planting plans; (ii) existing vegetation to be retained; (iii) written specifications and schedules of proposed plants noting species mix, planting sizes and

proposed numbers/spacing's; (iv) an implementation timetable; v) tree protection measures from herbivores and (vi) a schedule of landscape maintenance proposals for a period of not less than five years from the date of completion of the scheme. Thereafter, the development and the approved landscaping scheme shall be implemented and maintained in accordance with the agreed details and timetables.

Reason: To safeguard and enhance the character of the area and increased biodiversity net gain in accordance with Policy DM4 (Green and Blue Infrastructure, Open Space, Trees and Landscaping) of the Development Management Policies Development Plan Document.

Contamination

6. No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:
 - a. A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site
 - b. A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
 - c. The results of the site investigation and the detailed risk assessment referred to in (b) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - d. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (c) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: These details are required to be approved before the commencement of development to prevent harm to the environment in accordance with Policies DM1 and DM7 of the Development Management Policies Development Plan Document and the National Planning Policy Framework - Chapter 15, Conserving and enhancing the natural environment.

7. No development approved by this planning permission shall commence until a Soil Management Plan has been submitted to and approved in writing by the Local Authority. This should include details for the prevention of compaction of the soil during the operational phase to prevent silt laden surface water run-off. Thereafter, the construction phase of the development shall proceed in accordance with the approved Soil Management Plan.

Reason: These details are required to be approved before the commencement of development to prevent harm to the environment in accordance with Policies DM1 and DM7 of the Development Management Policies Development Plan Document and the National Planning Policy Framework - Chapter 15, Conserving and enhancing the natural environment

8. No development shall commence until a Construction Environment Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The Construction Environment Management Plan shall include:

- details of designated areas for construction vehicle parking, manoeuvring, loading and unloading;
- details of storage areas for construction plant and materials;
- details of measures to control the emission of dust and dirt during construction;
- measures to control noise and vibration from plant, equipment and procedures during construction, including from any rock pecking and excavations;
- confirmation of an embargo on the burning of waste material;
- details of a construction lighting scheme, designed to minimise light spillage from the site boundary;
- procedures for the cleaning of site entrances and the adjacent public highway;
- details of proposed wheel washing facilities;
- procedures for the sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials on the highway;
- management of junctions to and crossings of the public highway;
- details of surface water management during the construction phase and
- a biosecurity protocol to protect the adjacent River Kent SSSI.

Thereafter, the construction phase of the development shall proceed in accordance with the approved Construction Environment Management Plan.

Reason: In the interests of safeguarding the amenity and ecological interest of the existing area in accordance with: (1) Policy CS8.4 (Biodiversity and geodiversity) of the South Lakeland Core Strategy; and (2) Policies DM4 (Green and Blue Infrastructure and Open Space) and DM7 (Addressing Pollution, Contamination Impact, and Water Quality) of the Development Management Policies Development Plan Document.

Ground Investigation

9. No development approved by this planning permission shall commence until a comprehensive ground investigation is carried out to establish the course of any culverted watercourse traversing the site. The details of the finding of the ground investigation shall be submitted to and approved in writing by the Local Authority.

In the event that a presence of a culvert is established, details of the revised fixings of the photovoltaic panels to be erected near to the culvert shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the panels shall be installed in accordance with the approved details.

Reason: These details are required to be approved before the commencement of development to prevent harm to the environment and increased risk of flooding both on and off site in accordance with Policies DM1, DM6 and DM7 of the Development Management Policies Development Plan Document and the National Planning Policy Framework - Chapter 15, Conserving and enhancing the natural environment

Renewable energy

- 10 Written Notification of the commencement of the generation of electricity shall be provided to the Local Planning Authority no later than 14 days after the commencement of the generation of electricity. The Solar Panels and associated infrastructure shall be removed from site before the expiry of 25 years from the commencement of the generation of electricity.

Not later than 12 months before the expiry of the permission hereby granted, a decommissioning and site restoration scheme shall be submitted for the approval of the local planning authority. The approved scheme shall be implemented within 12 months of the expiry of the permission hereby granted.

Reason: To ensure that the turbine is removed once the temporary period of installation has expired in order to protect the surrounding landscape in accordance with Policies DM1 and DM2 of the Development Management Policies Development Plan Document and Policies CS8.2 and CS8.10 of the South Lakeland Core Strategy.

11. Within 12 months of the solar farm hereby permitted ceasing to be used for the generation of electricity, it shall be permanently removed from the land and the site restored in accordance with a decommissioning and site restoration scheme which has been submitted to and approved in writing by the local planning authority.

Reason: To ensure that the solar panels are removed should they become redundant in order to protect the surrounding landscape, in accordance with Policies DM1, DM2 and DM21 of the Development Management Policies Development Plan Document and Policies CS8.2 and CS8.10 of the South Lakeland Core Strategy

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