



To: **Members of the South Lakeland Local Area Planning Committee**

Agenda

Dear Member

SOUTH LAKELAND LOCAL AREA PLANNING COMMITTEE

A meeting of the South Lakeland Local Area Planning Committee will be held as follows:

Date: Thursday 11 April 2024
Time: 10.00 am
Place: District Council Chamber, Kendal Town Hall, Lowther
Street Kendal LA9 4 DQ

Linda Jones
Chief Legal and Monitoring Officer
Westmorland and Furness Council

Enquiries and requests for supporting papers to:
Adam Moffatt - Democratic Services Officer
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MEMBERSHIP

Cllr R Audland
Cllr H Chaffey
Cllr P Dixon
Cllr J Filmore

Cllr V Hughes (Chair)
Cllr H Irving
Cllr A Jama
Cllr D Rathbone (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/mgCommitteeDetails.aspx?ID=265>

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/DISPENSATIONS

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 15 February 2024 (copy enclosed).

(Pages 5 - 18)

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. PLANNING APPLICATION NO. SL/2023/0163 - KENDAL NUTRICARE LTD FARLEY HEALTH PRODUCTS LTD, LAKE DISTRICT BUSINESS PARK, MINT BRIDGE ROAD, KENDAL LA9 6NL

To consider an Application for a new building on the existing car park to house a spray dryer, the existing covered walkway to be enclosed to create new access corridor and car park spaces to be reconfigured to suit building position.

(Pages 19 - 32)

8. PLANNING APPLICATION NO. SL/2023/0512 - 4 BRADDYLLS COURT, MAIN STREET, BARDSEA, ULVERSTON LA12 9SR

To consider an Application for a front porch and single storey wrap around side and rear extension.

(Pages 33 - 42)

9. PLANNING APPLICATION NO. SL/2023/0781 - LAND NORTH OF UNDERBARROW ROAD, KENDAL, LA9 5RS

To consider an Application for outline approval (some matters reserved) for the erection of eight self-build dwellings. (Resubmission of SL/2017/0575)

(Pages 43 - 62)

10. PLANNING APPLICATION NO. SL/2023/1156 (NMA) - LAND NORTH OF SYCAMORE CLOSE, ENDMOOR, KENDAL

To consider an Application for a non-material amendment following grant of planning permission SL/2017/0841 (Erection of 106 dwellings with associated infrastructure).

(Pages 63 - 70)

11. PLANNING APPLICATION NO. SL/2023/1158 - LAND NORTH OF SYCAMORE CLOSE, ENDMOOR, KENDAL

To consider an Application to regularise the built retaining wall by plots 35/70 (Retrospective).

(Pages 71 - 78)

12. PLANNING APPLICATION NO. SL/2024/0174 - 2 RUSLAND CRESCENT, ULVERSTON, LA12 9LT

To consider an Application for a rear and side extension and partial loft conversion, forming extended bedrooms, shower room and mezzanine to the first floor level and utility, extended kitchen/dining and sitting area, extended bedroom and removal of porch to ground floor level.

(Pages 79 - 86)

13. URGENT ITEMS

To consider any urgent items of business.

WESTMORLAND AND FURNESS COUNCIL SOUTH LAKELAND LOCAL AREA PLANNING COMMITTEE

Minutes of a Meeting of the **South Lakeland Local Area Planning Committee** held on Thursday, 15 February 2024 at 10.00 am at District Council Chamber, Kendal Town Hall, Lowther Street Kendal LA9 4 DQ

PRESENT:

Cllr R Audland
Cllr M Brereton
Cllr H Chaffey
Cllr P Dixon
Cllr J Filmore
Cllr V Hughes (Chair)
Cllr D Rathbone (Vice-Chair)

Officers in attendance:

Ms L Arnold	Senior Specialist - Development Management
Mr I Blinkho	Solicitor
Mr N Howard	Interim Head of Development Management
Mr A Moffatt	Democratic Services
Mr J Sheldrake	Specialist - Development Management

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

90. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors H Irving and A Jama.

91. MEMBERSHIP

Councillor M Brereton was present as a substitute in the absence of Councillor H Irving.

92. DECLARATIONS OF INTEREST/DISPENSATIONS

No declarations of interest were raised on this occasion.

93. EXCLUSION OF PRESS AND PUBLIC

There were no excluded items on the agenda.

Chair's Announcement

The Chair informed Members that Minute No. 98 Planning Application No. SL/2023/0512 – 4 Braddylls Court, Main Street, Bardsea, Ulverston, LA12 9SR had been withdrawn from the agenda.

94. PUBLIC PARTICIPATION

Members of the public had registered to speak on Minute No. 95 and Minute No. 97 below.

95. PLANNING APPLICATION NO: 2023/1111/FPA - ECCLERIGG HALL FARM, KILLINGTON, CARNFORTH LA6 2HB

Siting of 3 camping pods together with associated access, parking spaces, pedestrian footway and installation of package treatment plant (Resubmission of SL/2023/0652).

The Planning Officer presented Planning Application No. SL/2023/1111, which sought full planning permission for three self-catering holiday units at Ecclerigg Hall Farm, Killington, LA6 2HB.

Members' attention was drawn to the site location plan and photographs of the site particularly focusing on the proposed siting of the three units, which included views from the adjacent farm. It was noted that the site was set in open countryside and in an unsustainable location due to the reliance on private vehicles to access services.

Members were informed of the key issues with the development, which included the principle of development, impact on landscape, impact on highways safety, biodiversity and arboriculture and drainage. Full details of the application were provided, as set out within the report.

The Planning Officer explained that due to their construction, connection to services and physical attachment to the land, the proposed units had been considered as permanent buildings. He set out the details of the definition of permanent buildings in the context of the proposals and noted that the proposal had previously been refused and as no material change had been made with this application, it was recommended for refusal.

Members were informed of the details of a late representation, which had been submitted by the agent for the application and circulated by Councillor I Mitchell who had called-in the application. The Planning Officer responded to the points made in the late representation, which focused on a similar development, which had been approved by Planning Officers at South Lakeland District Council, planning policy at a national and local level and the need to provide opportunities for the agricultural economy to diversify and strengthen the local economy. He emphasised the earlier point that due to the proposals more permanent nature, the camping pods were not considered as caravans as they were not temporary or moveable.

The Interim Head of Development Management added that policy referred to in the late representation, Development Management 18, had two parts, the first relating to lightweight structures, the second more permanent structures. He noted that farm diversification was not an issue, the permanent nature of the proposed structures was the key issue with the development.

The Chair invited the two members of the public who had registered to speak to address the Committee.

Mrs P Bell addressed the Committee, speaking in support of the application.

Ms. G Burton, the agent for the application, addressed the Committee, speaking in support.

The Planning Officer and Interim Head of Development Management responded to the points made in the public participation.

Members queried the difference between the proposals being discussed and the case at Low Flan Farm and the difference between constructing in woodland or in a field. The Planning Officer explained that the difference was that Low Flan Farm was sited on a hillside and the pods were more movable than the proposed structures, the subject of the application. He added that if the proposed camping pods were constructed in woodland and had to be demolished to be moved to a new location, it was not possible to classify the structures as temporary or as caravans.

Members noted the similarity between the two cases and felt that a site visit may have been helpful to compare the proposed site with the site at Low Flan Farm. Clarity was sought on the definition and why the current proposals were different to the case that had been previously approved. The Planning Officer explained that if the structure had to be deconstructed to be moved it was not in the same class as a caravan. He added that the siting of the structures and lack of information on how they could be relocated following construction did not suggest that they were temporary structures.

Following a query regarding screening of the site and the level of tree cover, the Planning Officer explained that trees would have to be removed to provide a view from the proposed site location and that for any screening of the site, a bank of trees in the field would have to be planted.

Members discussed the potential of deferring a decision to allow for a site visit and requested further information on the definitions between camping pods and caravans. The Planning Officer explained that the definition was loose but case law helped by explaining that where there was a degree of permanence to a proposal, it was not considered as temporary. He reiterated his earlier points that the construction, connection to services and physical attachment to the land were all factors that weighed in favour of the opinion that the proposed units were permanent structures.

Councillor R Audland proposed that the application be deferred to allow the committee to understand the visual impact of the proposal. He was seconded by Councillor D Rathbone.

Members expressed their thanks to the Planning Officer for the thorough and clear report. It was added that a number of Members were convinced that the application should be granted planning permission without the need for a site visit.

Councillor R Audland withdrew the substantive motion to defer the application.

Councillor P Dixon proposed that the planning permission be granted and Councillor D Rathbone seconded the proposal for the following reason:-

The proposal would support farm diversification and would provide a clear benefit to the local economy.

In addition, it was considered that the exceptional circumstances referred to in DM 18 had been met as were all of the following criteria set out in DM18 for new and existing sites:-

- a) *be of a scale and design appropriate to the locality; and*
- b) *not have an adverse impact (individually or cumulatively) on the countryside or coast, in terms of landscape, character and visual amenity; and*
- c) *be capable of being effectively screened by existing landform, trees or planting. Additional effective landscaping may be needed to supplement existing landscaping; and*
- d) *not have an adverse impact on surrounding residential amenity; and*

- e) *not give rise to unacceptable impacts on the local road network, either through traffic generation from the site itself, or through cumulative impacts alongside other sites; and*
- f) *protect and enhance biodiversity assets; and*
- g) *be constructed of appropriate external materials and colours that are sympathetic to its locality; and*
- h) *demonstrate the delivery of tangible local economic benefits.*

The Solicitor noted that conditions would need to be drafted for the planning permission, if Members were minded to approve the application and this could be delegated to officers. Members requested that should this be the case, the conditions should include provision for external lighting and a landscaping scheme to provide screening of the site and a condition to ensure the land is reverted back to its original state upon the removal of the proposed structures. Furthermore, the units should be occupied for holiday purposes and not as permanent dwellings.

A vote was taken and it was

RESOLVED, that, for the reasons set out above:-

- (1) planning permission be granted; and
- (2) Planning Officers be delegated authority to draft conditions set out below:-

Condition (1) The development hereby permitted shall begin not later than three years from the date of this decision.

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.

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

- Location plan - P.01 - Rev:A - 05/12/2023
- Site plan - P.02 - Rev:A - 05/12/2023
- Plans and elevations - P.03 - Rev:Issue - 05/12/2023
- Biodiversity Metric 4.0 Calculation;
- Biodiversity survey and report;
- Preliminary Ecological Appraisal;
- Pre-development Arboricultural Report;

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

Condition (3) Prior to the first occupation of the approved development, details of the proposed landscaping shall be submitted to and approved by the Local Planning Authority. These details shall include:-

- proposed finished levels or contours
- means of enclosure
- car parking layouts
- other vehicle and pedestrian access and circulation areas
- hard surfacing materials
- minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting, etc.) ; and

- retained landscape features such as trees together with details of how they will be protected during construction.

Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment), schedules of plants, noting species, plant sizes and proposed numbers / densities and an implementation programme. The agreed scheme shall be carried out as approved to the agreed timetable. Any trees / shrubs which are removed, die, become severely damaged or diseased within five years of their planting shall be replaced in the next planting season with trees / shrubs of similar size and species to those originally required to be planted.

Condition (4) The parking and turning areas shall be constructed, marked out and made available for use and shall be retained as such thereafter. The parking spaces shall be used solely for the benefit of the occupants and visitors of the development hereby approved and for no other purpose.

Reason: In the interests of highway safety.

Condition (5) The proposed foul drainage system shall be implemented as approved prior to the first occupation of the holiday units.

Reason: To secure an acceptable foul drainage strategy.

Condition (6) Prior to the installation of any external lighting, a scheme for the provision of external lighting shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include full details of the location, design, luminance levels, light spillage and hours of use of all external lighting within the site.

The approved lighting scheme shall be implemented in full accordance of the approved details.

Reason: To safeguard and enhance the character of the area and to minimise light pollution.

Condition (7) The holiday units shall not be occupied other than as holiday accommodation. They shall not be used at any time as sole and principal residences by any occupants, and shall not be occupied for longer than 28 days at a time.

A register of all occupants of the accommodation hereby approved shall be maintained at all times and shall be made available for inspection by the Local Planning Authority on request. The register shall comprise consecutively numbered pages, which shall be kept in order, and each entry shall contain the name and address of the principal occupier together with the dates of occupation.

The application site shall be retained in the same ownership as Ecclerigg Hall Farm and the holiday units shall not be replaced without the written approval of the Local Planning Authority.

Reason: To secure the proposed development as a farm diversification scheme for Ecclelrigg Hall Farm and to safeguard the local tourist economy.

Condition (8) Following the cessation of the approved use, the site shall be restored to its prior condition with 12 months of the cessation of the approved use.

Reason: To prevent harm to the wider landscape.

96. PLANNING APPLICATION NO: 2023/1198/FPA - STEPHENSON CENTRE, ANN STREET, KENDAL LA9 6AA

Temporary pod to house 1 homeless individual in emergencies (Resubmission of SL/2022/0083).

The Planning Officer presented Planning Application No. SL/2023/1198, which sought temporary planning permission for the continued installation of a temporary homeless pod at Manna House, a homeless shelter in Kendal. The homeless pod had previously been granted a one year permission in November 2022 by the South Lakeland District Council Planning Committee.

Members' attention was drawn to photographs of the site and the homeless pod in the forecourt at Manna House. It was noted that there was no material change to the circumstances with the proposal together and there had been no reports of criminal behaviour since the November 2022 approval. Full details of the application were provided as set out in the report.

Following a question regarding the application coming back to Members in the future, the Interim Head of Development Management explained that in situations where anti-social behaviour had been reported, the application would be brought back to Members.

Members queried if any future applications could be delegated to officers to decide on a permanent application, subject to no anti-social behaviour issues. The Planning Officer explained that two years of the pod being in use was enough time to justify a permanent application.

Councillor D Rathbone proposed that planning permission be granted for 18 months, with any future decision being delegated to Planning Officers.

Members discussed the benefits of bringing the application back to committee and noted that residents had provided submissions on the application. It was felt that data on the use of the homeless pod would be beneficial to track any anti-social behaviour and the impact of the pod on residents.

Councillor D Rathbone withdrew his proposal.

Councillor V Hughes proposed that planning permission be granted for 18 months, with any future decisions being brought back to the Committee. Councillor R Audland seconded the proposal.

Members requested that on any future consideration of an application for the pod, Planning Officers bring data to provide information to give a clear picture on the use and of any anti-social behaviour linked to the pod.

A vote was taken and it was

RESOLVED, that planning permission be granted, subject to the following conditions:-

Condition (1) The development hereby permitted is granted for a temporary period only and will expire 18 months from the date of this permission. At the expiration of 18 months from the date of this permission, the use hereby permitted shall cease and the structure and associated equipment brought on to the land shall be removed within 3 months after the expiration of the permission and the land restored to its previous condition prior to the first siting of the structure.

Reason: The permission is granted as a trial period to, amongst other things, allow the operator to demonstrate that the proposal is capable of operating without causing a significant adverse impact upon the health and safety of the community.

Condition (2) The development shall be occupied in accordance with the Operator Scheme, the Operational Details, and the Fire and Flood Emergency Evacuation Plan submitted with the application.

Reason: In the interests of safeguarding the health, safety and living conditions of future and nearby occupants.

Condition (3) No individual shall occupy the accommodation hereby approved for more than five consecutive working days. A register of occupants of the accommodation shall be maintained at all times and shall be made available for inspection by the Local Planning Authority upon request. The register shall comprise consecutively numbered pages, which shall be kept in order, and each entry shall contain the name of the occupant together with the dates of occupation.

Reason: In the interests of the health and wellbeing of future occupants.

Condition (4) No individual shall occupy the accommodation hereby approved unless they have first undertaken all reasonable endeavours to present to the Local Housing Authority as homeless. Where contact with the Authority has not been immediately possible, they must be notified of the individual the next working day.

Reason: To ensure that the statutory homeless process is not undermined.

Condition (5) Following the provision of housing by the Local Housing Authority on an occupants housing status, that individual shall vacate the accommodation as soon as practicable.

Reason: To ensure the accommodation is used as a temporary measure by occupants whilst seeking assistance from the Local Housing Authority as the statutory provider.

97. PLANNING APPLICATION NO: SL/2022/0832 - LANE HOUSE BUSINESS PARK, KENDAL ROAD, KIRKBY LONSDALE, CARNFORTH LA6 2HH

Construction of 5 mixed use workspace units.

The Planning Officer presented Planning Application No. SL/2022/0832, which sought full planning permission for the construction of five mixed use work space units. Members were reminded of the details of the application, which had been deferred at the 6 July 2023 meeting and the 7 September 2023 meeting of the South Lakeland Local Area Planning Committee, and were shown photographs of the site and surrounding area as well as proposed site location plans and elevations.

Members were informed that the Planning Officer's recommendation remained as for refusal. However, it was noted that at the 7 September 2023 meeting, when Members were minded to approve the application contrary to the advice of officers but deferred the application to allow time for further consideration of the application, officers had proposed four reasons for refusal. Since that meeting further information had been provided and two of the reasons for refusal had been addressed. As a result of the earlier indication from Members, the Planning Officer had drafted a suite of proposed conditions, as set out in the report, should Members be minded to approve the application.

Mr John Metcalfe, the agent for the application, addressed the Committee and spoke in favour of the application.

Following a query from Members, the Planning Officer explained that any exceptional circumstances should be considered on a case by case basis; that there was no standard list of circumstances and this was a matter for the discretion of the Committee as the decision maker. The Solicitor added that such discretion must be exercised reasonably.

Members discussed the proposal to grant planning permission.

Councillor H Chaffey proposed that the application be granted planning permission, subject to the conditions as set out in the report. She felt that the application represented an opportunity to support the Kirkby Lonsdale economy and would encourage development of the local rural economy.

Councillor R Audland seconded the proposal. He added that it was crucial to strengthen local areas away from Kendal and that the application represented to support local businesses and provide economic benefit on a wider scale.

The Planning Officer noted that this would be an acceptable reason to go against the recommendation in the report and in this instance, would represent an exceptional circumstance.

The Planning Officer raised the point around a separate footpath which was discussed at the 7 September 2023 meeting. She noted that the Council had infrastructure funding and in principle, the policy team were supportive of establishing a link between the site and Kirkby Lonsdale.

Members continued discussion on the footpath and suggested that the South Lakeland Locality Board could influence the progress on the footpath.

The Planning Officer noted that although it may be unreasonable to deal with the footpath by condition, officers would support the development of the footpath to consolidate the sustainability of the site.

As it had been moved and seconded that planning permission be granted for the following reason:

Given the close proximity to Kirby Lonsdale the proposal would:

- Provide support for the Kirkby Lonsdale Economy and encourage development of the rural area;
- It would address the needs of and have potential benefits for the economy and local businesses;
- The development would address the lack of employment land in the area; and
- These benefits would represent an exceptional circumstance that would support the development in this location.

A vote was taken and it was

RESOLVED, that planning permission be granted, for the reasons set out above and subject to the following conditions:-

Condition (1) The development hereby approved shall begin not later than three years from the date of this decision.

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.

Condition (2) The development hereby approved shall be carried out in accordance with the following approved plans unless other conditions indicate otherwise:
- Drawing "meter housing plan and elevations" received 9 November 2022;
- Drawing No. 01 "UNITS 6 AND 7 PROPOSED PLAN AND ELEVATIONS" received 9 November 2022;
- Drawing No. 02 "UNITS 8 AND 9 PROPOSED PLAN AND ELEVATIONS" received 9 November 2022;
- Drawing No. 03 "UNIT 10 PROPOSED PLAN AND ELEVATIONS" received 9 November 2022; and
- Drawing No. 04 Rev A "SITE PLAN SKETCH LAYOUT" received 10 May 2023.

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

Condition (3) The development shall be constructed in accordance with the recommendations of the "Preliminary Ecological Appraisal" prepared by Envirotech NW Ltd and received 6 September 2023.

Reason: To conserve the natural environment.

Condition (4) The development shall be constructed in accordance with the recommendations of the "ARBORICULTURALIST'S REPORT" prepared by BHA Trees Ltd and received 6 September 2023.

Reason: To conserve the natural environment.

Condition (5a) Prior to commencement of the development, full details of foul and surface water drainage works shall be submitted to and be approved in writing by the Local Planning Authority.

Condition (5b) The duly approved details shall be implemented prior to first occupation of the development and shall be retained as such thereafter.

Reason: To ensure adequate provision for drainage.

Condition (6) Prior to commencement of the development, a scheme for the management and maintenance of the drainage systems shall be submitted to and approved in writing by the Local Planning Authority. The systems shall be managed and maintained in accordance with the approved scheme.

Reason: To ensure adequate management and maintenance of drainage.

Condition (7a) Prior to commencement of the development, a Contamination Assessment shall be submitted to and be approved in writing by the Local Planning Authority. This shall include a preliminary risk assessment and incorporate a site investigation scheme, options appraisal and remediation strategy, as necessary.

(7b) Where any duly approved Contamination Assessment identifies remediation measures are required, those measures must be implemented in accordance with a timetable to be agreed.

(7c) Where any remediation measures are required, a Validation Report shall be submitted to and be approved in writing by the Local Planning Authority prior to first occupation of the development. This shall confirm whether the remediation measures have been successful.

Reason: To prevent harm to the environment and human health from contamination.

Condition (8) Prior to first occupation of the development, a car parking and cycle storage scheme shall be submitted to and approved in writing by the Local Planning Authority. The parking and storage shall be constructed, marked out and made available for use prior to first occupation of the development and shall be retained as such thereafter.

Reason: To ensure adequate car parking and cycling storage provision.

Condition (9) Prior to first occupation of the development, full details of both hard and soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. These details shall include

- i. finished levels or contours;
- ii. means of enclosure;
- iii. other vehicle and pedestrian access and circulation areas;
- iv. hard surfacing materials; and
- v. planting plans and written specifications, including tree and shrub planting.

The hard landscaping works shall be implemented prior to first occupation of the development and the soft landscaping works either prior to first occupation or within the first planting season after first occupation. Any tree, shrubs or plants which are removed, die, become severely damaged or diseased shall be replaced in the next planting season with replacements of a similar size and species to those originally required to be planted.

Reason: To safeguard the character and appearance of the area, mitigate the loss of existing biodiversity features and achieve an environmental net gain for biodiversity.

Condition (10a) Prior to any above ground works, full details and samples of the external materials shall be submitted to and approved in writing by the Local Planning Authority.

(10b) The development shall be constructed in accordance with the approved materials and shall be retained as such thereafter.

Reason: To safeguard the character and appearance of the area.

Condition (11) Prior to first occupation of each unit, the solar panels of the respective building shall be installed in accordance with the approved details. The panels should sit flush with the roof plane and shall be maintained for their operational life.

Reason: To safeguard the character and appearance of the area and achieve sustainable design.

Condition (12) Prior to the installation of any external lighting, details of the lighting shall be submitted and approved in writing by the Local Planning Authority. The scheme shall include the location, design, luminance levels, light spillage and hours of use. Any lighting shall be installed in accordance with the duly approved details.

Reason: To safeguard the character and appearance of the area.

Condition (13) The units shall be used as offices and for no other purposes including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: To specify the terms of the permission.

98. PLANNING APPLICATION NO: SL/2023/0512 - 4 BRADDYLLS COURT, MAIN STREET, BARDSEA, ULVERSTON LA12 9SR

Planning Application No. SL/2023/0512 was withdrawn from the agenda for this meeting.

99. PLANNING APPLICATION NO: SL/2023/0540 - LAND OPPOSITE GRANGE OVER SANDS LIDO, THE PROMENADE. GRANGE OVER SANDS LA11 6DP

Proposed external electrical services cabinet and screening, associated with the upgrade of Grange Lido.

The Planning Officer presented Planning Application No. SL/2023/0540, which sought full planning permission for the installation of an external electrical services cabinet and screening, the application was submitted by the Council and was associated with the upgrade of Grange Lido.

Members' attention was drawn to photographs of the location and the proposed siting of the electrical services cabinet. Full details of the application, including the history of the site and the main issues of the application were provided as set out within the report. Details of the proposed screening and landscaping in relation to the miniature golf course and surrounding area were set out. A late representation had been received which advised the site was highly visible from the adjacent crazy golf course; area was part of the managed planting and concerns the equipment box would 'obstruct' the definitive line of the footpath. It was noted that the proposed location would not compromise the placement of a replacement crossing bridge over the railway.

Members requested further information of the history of the site. The Planning Officer explained that when the original Victorian bridge was deemed to be unsafe, the bridge was taken down and this footpath had been blocked with an alternative route provided for members of the public. If a bridge was to be reinstated at a later date it would not occupy the same footprint and the definitive line of the path would need to be diverted anyway,

It was noted that the current right of way still included the original footpath route, Members queried if this would be corrected due to the proposed installation of a high voltage infrastructure. The Planning Officer explained that the footpath department had been consulted and were aware of the need to formalise the diversion.

Councillor R Audland proposed that full planning permission be granted, subject to the conditions set out in the report and was seconded by Councillor P Dixon.

A vote was taken and it was

RESOLVED, that full planning permission be granted, subject to the following conditions:-

Time Limit for Commencement

Condition (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

Condition (2) The development hereby permitted shall be carried out in accordance with the drawings hereby approved, received on 13/07/2023

Proposed electrical switch gear and screening, 05

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

Materials

Condition (3) The development hereby permitted shall be constructed entirely of the materials details of which are shown on the approved plans and the application form received on 13/07/2023. The approved materials shall be retained thereafter, unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure the development is of a high quality design in accordance with Policy DM2 of the Development Management Policies Development Plan Document and Policy CS8.10 of the South Lakeland Core Strategy.

Landscaping

Condition (4) Within 3 months of the installation of the electrical services cabinet, details of the proposed landscaping, including species, size, distribution of the hedgerow planting and timetable for the proposed landscaping shall be submitted to the Local Planning Authority for approval in writing. The agreed scheme shall be carried out as approved to the agreed timetable. Any trees / shrubs which are removed, die, become severely damaged or diseased within five years of their planting shall be replaced in the next planting season with trees / shrubs of similar size and species to those originally required to be planted.

Reason: To ensure the development safeguards the character and appearance of the area and achieves a net gain in biodiversity in accordance with Policy DM1 and DM4 of the Development Management Policies Development Plan Document.

100. MINUTES OF THE PREVIOUS MEETING

The Solicitor addressed Members regarding Minute No. 86 – Planning Application No. SL/2023/0307 – Poachers Rest, 67 Jutland Avenue, Ravenstown, Grange-over-Sands, LA11 7LQ. He reminded Members of the details of the application, which represented almost a doubling in the size of the footprint of the dwelling and had been approved, subject to a new local occupancy provision and the conditions set out with the report.

Following the meeting, the Planning Officer had requested that the requirement for a new section 106 obligation to secure local occupancy be revisited, having regard to the existing section 106 obligation entered into in connection with the previous planning application for the dwelling. .

Members were asked if they were content with allowing the planning permission for the extension to be issued without a revised section 106 obligation, if officers were satisfied that the existing local occupancy restriction in the existing section 106 obligation continued to apply.

Members indicated they were content for the planning permission to be issued if the existing section 106 obligation continued to apply to the extended dwelling whereupon Councillor H Chaffey proposed that Members accept the proposal and the minutes subject to the amendment as described above and was seconded by Councillor R Audland.

A vote was taken and it was,

RESOLVED, that the Chair be authorised to sign the minutes of the meeting held on 21 December 2023, as an accurate record, subject to the amendment as set out above.

101. URGENT ITEMS

There were no urgent items.

The meeting ended at 12.38 pm

SOUTH LAKELAND LOCAL AREA PLANNING COMMITTEE REPORT

Planning Application Reference No. SL/2023/0163

Proposal: New building on existing car park to house a spray dryer, existing covered walkway to be enclosed to create new access corridor, car park spaces to be reconfigured to suit building position (MAJOR APPLICATION)

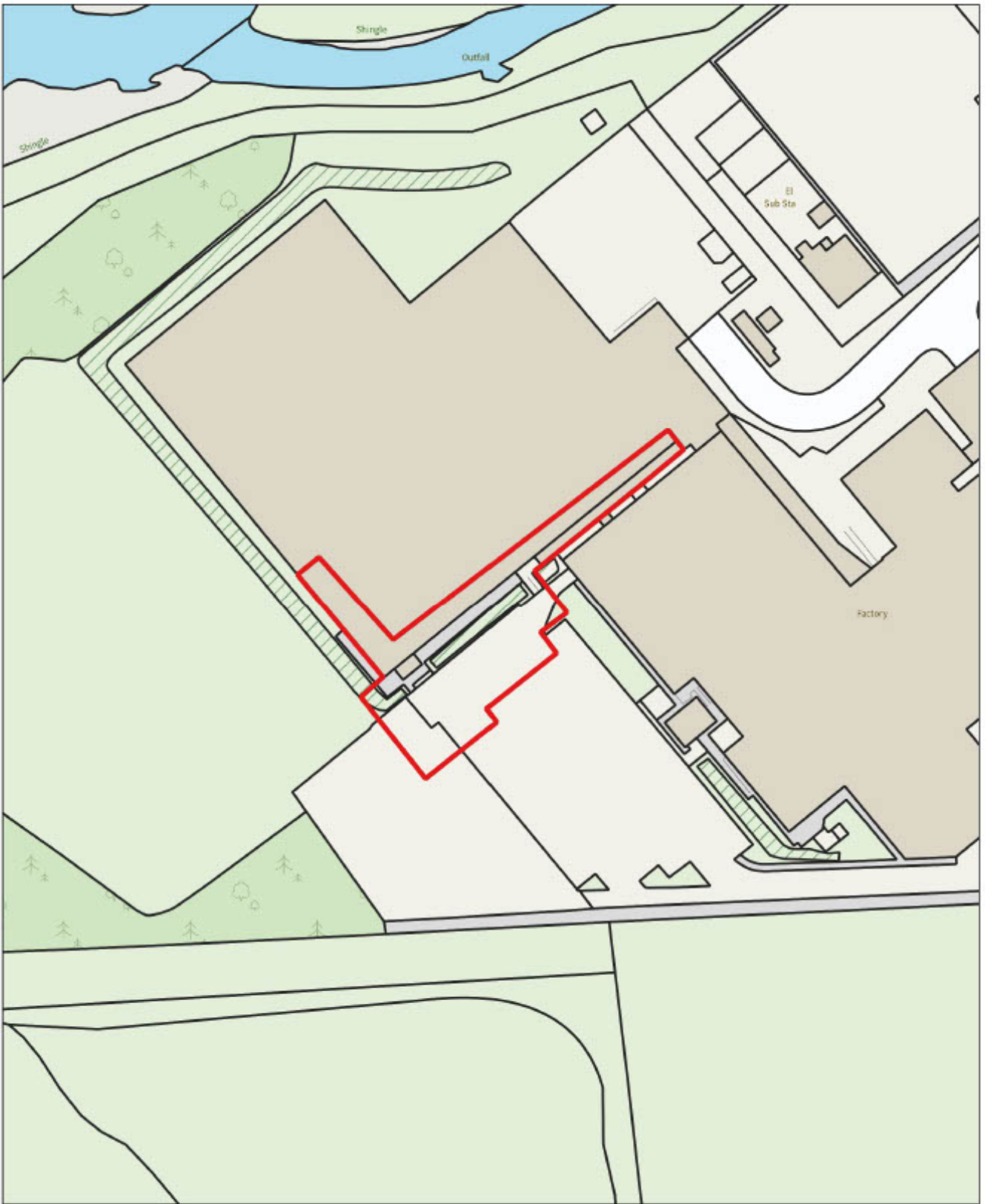
Location: Kendal Nutricare Ltd Farley Health Products Ltd Lake District Business Park Mint Bridge Road KENDAL LA9 6NL

Applicant: Remington - Kendal Nutricare Ltd

Committee Date: 11th of April

Reason for Committee Level Decision: Due to the economic significance of the proposal, it is considered beneficial for the application to be determined by councillors

Officer: J Sheldrake



SL/2023/0163 - Site Location Plan



Scale 1:1000

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1.0 SUMMARY

- 1.1 The application seeks planning permission for the construction of a 41 metre tall and 30.5 metre wide industrial building at Kendal Nutricare, an existing manufacturing site at the Lake District Business Park within the north of Kendal. Nutricare are a producer of baby formula (Kendamil).
- 1.2 The proposed building would accommodate a spray dryer used in the manufacturing of baby formula. The existing smaller spray dryer is a bottleneck in the manufacturing process, and the applicant has stated that the proposed spray dryer would allow production capacity to triple without any additional expansion. The applicant has stated that the proposal would result in the creation of up to 50 additional jobs over 3 years.
- 1.3 The proposed building would be considerably taller than any of the surrounding buildings and would, therefore, be very prominent on the skyline of north Kendal. Due to the height, scale, and visual massing of the proposed building, the proposal would cause significant harm to landscape character and visual amenity. Therefore, the proposal fails to accord with Policies CS1.1, CS8.2, and CS8.10 of the South Lakeland Core Strategy; Policies DM1 and DM2 of the South Lakeland Development Management Policies Development Plan Document; and the aims and objectives of the NPPF
- 1.4 The economic benefits are not considered to outweigh the wider visual harm and, therefore, the proposal is recommended for refusal.

2.0 RECOMMENDATION

- 2.1 The application is recommended for refusal.

3.0 THE SITE AND PROPOSAL

- 3.1 The application site falls within the development boundary of Kendal, within an existing industrial site, and within Flood Zone 3a. The site is immediately adjacent to the existing warehouse at Nutricare, and the proposed building would be located to the west of the existing spray dryer.
- 3.2 The land to the west of Nutricare will become a public park as a result of the Kendal Flood Risk Management Scheme (FRMS). To the west of the River Kent, there is a residential area. The land to the north of Nutricare is agricultural land, and the land to the south of Nutricare is used as playing fields.
- 3.3 The proposed building would measure 41 metres tall and 30.5 metres wide at its widest point. The upper 4 metres of the building would be setback from the south and east elevations. The building would be clad with white and grey powder-coated steel, and the visual massing would be partly broken-up by vertical banding to 37 metres above ground level and triangular banding at the upper level.

4.0 RELEVANT SITE PLANNING HISTORY

- 4.1 SL/2023/0237: *Erection of a warehouse extension to the existing factory together with access road, turning area* - withdrawn

- 4.2 SL/2022/0763: *Erection of ready to feed building* – withdrawn
- 4.3 SL/2022/0763: *Erection of new evaporator building* – approved

5.0 CONSULTATIONS

- 5.1 Town Council: No objection:

“No material objections, however, greening of the roof would be a preferable outcome, if feasible and, if not, then a suitable biodiversity gain would be required in the immediate locality. Attention was drawn to the increased noise that would result from the application and this is outlined in the response from 2a Kentrigg”.

- 5.2 Highways and Lead Local Flood Authority Officer: No objection (recommended further details of the surface water drainage design prior to the commencement of the development).
- 5.3 Public Protection Officer: No objection (recommended a Phase 1 Contamination Survey prior to the commencement of development).
- 5.4 Environment Agency: No objection.
- 5.5 Lake District National Park Authority: No comment received.

6.0 REPRESENTATIONS

- 6.1 1 objection comment and 1 neutral comment were received from members of the public. Separately, a letter of support from the Cumbria Chamber of Commerce and a letter of support from the MP were received.

- 6.2 The following areas of concern were raised by the objector:

- Significant harm due to the scale of the proposed building relative to surrounding buildings;
- Impacts from noise and disturbance due to the increased working hours (24/7);
- Impacts from additional external lighting;
- Harm to the experience of the proposed community nature area beside the Nutricare site; and
- The proposed external colour should be blue; and
- The external conditions of existing concrete buildings and potential to clad them.

Note: the external condition of the concrete on existing buildings within the site is not a consideration of this application.

- 6.3 The reasons for support are as follows:

- The wider economic benefit and the benefit to the agricultural sector;
- The strategic importance of Nutricare as the sole UK supplier of baby formula;
- The potential for relocation if the planning application is not approved; and

- The amount of jobs the project could create and secure.

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 72 of the Planning (Listed Building and Conservation Areas) Act 1990 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

- [South Lakeland Core Strategy](#) - adopted 20 October 2010
- [South Lakeland Development Management Policies Development Plan Document](#) - adopted 28 March 2019.

Other Material Considerations

National Planning Policy Framework (NPPF)

- 7.3 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.
- 7.4 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.

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.
- 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.

Main Planning Issues

8.3 The main planning issues for this planning application are as follows:

- the principle of development and flood risk;
- the landscape and visual impact;
- the highways impact;
- contamination, noise, and odour; and
- drainage;
- sustainable construction;
- ecology, biodiversity net gain, and arboriculture; and
- economic benefit and planning balance.

Principle of development and flood risk

8.4 The application site falls within the settlement boundary of Kendal, within Flood Zone 3a, and within an existing commercial site.

8.5 The proposed use is considered Less Vulnerable under the Flood Risk Vulnerability Classification. Less Vulnerable development is acceptable in Flood Zone 3a and isn't subject to the flood risk exception test referred to in paragraph 164 of the National Planning Policy Framework, however, it is necessary to apply the flood risk sequential test, the methodology to direct development to lower flood risk areas, as the development is within an area of high flood risk and isn't within an allocated site.

8.6 There is a functional need for the spray dryer to be located adjacent to the existing milk feed building and the packaging warehouse, and there aren't any locations within the vicinity at a lower flood risk; therefore, the proposed development cannot be directed to any lower flood risk areas and is considered to pass the sequential test.

8.7 As the site is within the development boundary of Kendal, within an existing commercial site, and because the flood risk sequential test is passed, the proposed development is acceptable in principle.

Landscape and Visual Impact

8.8 The proposed building would be located within an industrial area and would be industrial in character; however, due to its considerable height, the building would have significant visual and landscape impacts. Visual impact are impacts arising from how people would be affected by changes (i.e. impacts on public amenity and how people would experience footpath and road journeys). Landscape impacts are impacts arising from harm to a landscape's aesthetic qualities and perceptual and experiential qualities (i.e. impacts on landscape features, sense of place etc.).

8.9 The application site is located within National Character Area 19 (South Cumbria Fells). NCA 19 includes Ulverston, Broughton-in-Furness, Windermere, Kendal, and Kirkby Lonsdale. The character area is relatively diverse but is characterised by a mixture of high fells, wooded valleys, and undulating lower hills.

8.10 The Cumbria Landscape Character Guidance identifies the landscape to the north

of its area as landscape subtype 7b (Drumlin Field) and the landscape further north and to the east as a mixture of landscape subtypes 7a (Foothills) and 7b (Low Fells). The Lake District National Park Authority Character Assessment identifies the land to the north and west as a mixture of landscape subtypes F (Rugged/Craggy Volcanic High Fell), H (Upland Valley), and K (Low Fell).

8.11 The open countryside to the north, the north-west, and the north-east of Kendal is largely undeveloped and sensitive to significant landscape change.

8.12 The townscape of Kendal is not identified as a separate landscape subtype within the Cumbria Landscape Character Guidance as the guidance focuses on the less-developed countryside outside of Kendal. The Core Strategy and the Development Management Policies Development Plan Document include policies to control landscape and settlement character.

8.13 Policy CS8.2 (Protection and enhancement of landscape and settlement character) states that “*Development proposals should 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 special qualities and local distinctiveness of the area;*
- *Distinctive settlement character;*
- *The pattern of distinctive features such as hedges, walls, traditional buildings, woodlands, hay meadows, wetlands, valleys, fells and rivers, and their function as ecological corridors for wildlife;*
- *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, Kendal Castle and Devil’s Bridge in Kirkby Lonsdale”.*

8.14 Policy CS8.10 (Design) states 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”.*

8.15 Policy DM1 (General Requirements for all development) states that “*Subject to other policies within the development plan, development will be acceptable provided it:*

- *ensures it responds appropriately to the proposal site’s locational context, local and settlement character and distinctiveness;*
- *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

- *ensures the conservation and enhancement of the special qualities and settings of the Lake District and Yorkshire Dales National Parks and the Arnside and Silverdale Area of Outstanding Natural Beauty, including views into and out of these designated landscapes, by supporting proposals only where it is demonstrated through a proportionate landscape assessment there would be no significant adverse effect upon their landscape character and visual amenity taking account of:*
 - o *the AONB Landscape and Seascape Character Assessment, and Cumbria Landscape Character Assessment & Toolkit*
 - o *the coastline and its particular sensitivities and character (seascape)*
 - o *cumulative and incremental impacts of development having regard to the effects of existing developments and the likely further impacts of the proposal in this respect*

8.16 Policy DM2 (Achieving Sustainable High Quality Design) states that “Development proposals should respond appropriately to local context, landscape and built and natural environment setting by:

- *identification of existing built and natural features that create a positive contribution to the locality and sense of place; seeking to incorporate these in the design;*
- *ensuring development creates a positive relationship with surrounding uses;*
- *including a high standard of landscaping and boundary treatment that retains and enhances the existing landscape and built characteristics of the locality and is considered as part of any green and blue infrastructure framework;*
- *designing schemes so they conserve important local public vantage point views;*
- *ensuring development is located sympathetically within the built and natural landscape, by avoiding locating buildings and other features on the top of slopes, ridges or other positions that would be unduly prominent;*
- *ensuring features that make up the roofscape respect that of the area in form, colour, height, size, shape, scale and materials; and*
- *ensuring development located at the edge of settlement locations presents a sympathetic transition between built up areas and the countryside, sensitive to its local setting...*

New development should ensure appropriate consideration has been given to the selection and choice of materials and finish by:

- *demonstrating regard has been given to those that prevail in the local area and ensure the choice is sympathetic to landscape characteristics and setting; and*

- *exploring opportunities to add interesting details, ornamentation and expressions of local craftsmanship, while avoiding excessive and inappropriate clutter.*”

- 8.17 The applicant has submitted a Landscape and Visual Impact Assessment (LVIA) and a series of photo visualisations of how the building would appear in the wider landscape.
- 8.18 The proposed building would measure 41 metres tall and 30.5 metres wide at its widest point. The upper 4 metres of the building would be setback from the south and east elevations. The building would be clad with white and grey powder-coated steel, and the visual massing would be partly broken-up by vertical banding to 37 metres above ground level and triangular banding at the upper level.
- 8.19 The existing 30 metre tall spray dryer is prominent on the skyline of Kendal and the proposed building would be considerably more prominent due to its considerable height and visual massing. The supporting photo visualisations show clear views of the building from vantage points in the landscape to the north and east, residential areas to the west, and raised areas to the south and east, including Kendal Castle. Skyline views of the building would be visible from several vantage points given the height of the proposed building and low height of other building within the vicinity.
- 8.20 Due to the considerable scale of the elevations and the lack of fenestration or architectural detailing, the building would appear very monolithic in character. From certain vantage points, the building would be obscured by the existing spray dryer and the Lake District Business Park building beside the indoor climbing centre, which would help limit the prominence of the building; however, from many vantage points there would be largely unobscured views of the building. The backdrops to the site from a number of viewpoints are broken-up by much smaller buildings, trees, and fells, and the monolithic building would, therefore, stand out very prominently. The changes in material banding, the inset at the upper 4 metres, and the partially broken-up south and east elevations would help to limit the extent of the visual massing but wouldn't be sufficient to mitigate the wider landscape impact.
- 8.21 Photo visualisations VP01 (view from the Lake District National Park to the west), VP15 (view from Kendal Castle), VP17 (view from the junction between the Burneside Road and the A6 Shap Road), and VP18 (the junction between the A6 and the road to Burneside) emphasise how visible the building would be from medium and longer-distance views. Photo visualisations from nearby viewpoints such as VP08 (view from the top of Mintsfleet Road) and VP16 (view from the A6 Shap Road beside Sainsbury's) show the lack of tall structures around the site and show how prominent the building would be from within Kendal. The lack of tall buildings surrounding the site would mean there would be a sudden shift in height (i.e. not a stepped gradation in height), which would add to the prominence of the building. Photo visualisations VP01 (view from the Lake District National Park to the west), VP15 (view from Kendal Castle) clearly show this effect and the monolithic character that the building would have set against the broken-up woodland and fell

backdrop.

- 8.22 The photo visualisations give a general indication of the visual impact of the proposal; however, it is also important to consider how visible the building would be at different times of the day and in lower angle winter light. Due to the lack of tall structures around the building, particularly to the south, the building would catch low-angle light throughout the day on sunny days during the winter and during sunrise and sunset. The sharp angles, the flat roof, and the monolithic, largely featureless elevations of the buildings would mean that the building would appear particularly prominent during periods of low-angle light. The lack of architectural detailing and fenestration to break up the facades would add to the prominence in low-angle light.
- 8.23 The applicant has not proposed any external lighting (it is assumed that there would be low-level security lighting) and there wouldn't be a steam column emitting from the top of the building (the supporting technical information shows that the spray dryer wouldn't include a steam outlet at the top), so the building wouldn't cause visual harm via light pollution or emissions (industrial sites such as the British Gypsum plant at Kirkby Thore cause additional visual harm due to steam emission from chimneys).
- 8.24 Overall, the proposal is considered to cause both landscape and visual harm. The proposal would cause significant harm to the wider landscape as it would significantly alter the wider character of the area, which is defined by neighbourhoods of low-rise, smaller buildings, and would erode the character of less developed areas to the west and the north from where it would be visible. The proposal would also cause harm to public amenity as the building would be very visible from residential areas such as Burneside Road to the west, public bridleways and footpaths along the River Kent, and residential areas towards the centre of Kendal.
- 8.25 The proposal would fail to protect, conserve, or enhance the special qualities and local distinctiveness of the area and the distinctive settlement character, contrary to Policy CS8.2; the development would not be of a character which maintains or enhances the quality of the landscape or townscape, contrary to CS8.10; the proposal would fail to respond appropriately to the proposal site's locational context, local and settlement character and distinctiveness, contrary to Policy DM1; the proposal would fail to protect or enhance the distinctive landscape and townscape, including its public visual amenities through good design, contrary to Policy DM1; and the proposal would fail to provide a sympathetic transition between the built-up area and the countryside, and show sensitivity to its local setting, contrary to Policy DM2.
- 8.26 Separately, the proposal would not have a significant impact on the setting of the Kendal Conservation Area, the setting of any listed buildings or scheduled monuments, or the setting of the Lake District National Park given the degree of separation from the site.

Highways and Parking

- 8.27 The proposed development would result in the partial development of the existing car park and the formalisation and improvement to an existing adjacent parking area. The formalisation and improvement to the existing adjacent parking area would offset the partial loss of the existing car park, and the proposal wouldn't significantly increase parking demand as the additional works would be spread over several different daytime and overnight shifts. The site access and the internal roads within the industrial park have low levels of traffic and are considered suitable for the minor intensification.
- 8.28 The Highways Officer has no objection to the proposal as it wouldn't result in a significant increase in parking demand.
- 8.29 Subject to the formalisation and improvement of the existing adjacent parking area, the proposal would provide an acceptable level of formalised parking and would have an acceptable impact on highways safety.

Contamination, Noise, and Odour

- 8.30 The applicant hasn't submitted a Contaminated Land Assessment. Subject to the submission of an assessment prior to the commencement of development and subject to controls over potential remediation of the site, the proposal would not result in any harmful impacts from contamination.
- 8.31 The applicant is required to operate under the noise and odour restrictions set out in their environmental permit and the site is located over 250 metres away from the nearest residential receptor. The permit, issued by the Environment Agency, is sufficient to prevent significant noise and odour pollution beyond the Nutricare site. Therefore, it is not necessary to carry an assessment of noise or odour impacts and conditions controlling noise and odour would not be necessary.

Drainage

- 8.32 The proposed building would be located on an area of hardstanding and would have a site area of approximately 800 square metres. The Environment Agency and the Lead Local Flood Authority have no objection to the proposal as the building wouldn't displace large amount of flood water during a flood event and surface water can be dealt with without increasing surface water discharge rates to the River Kent.
- 8.33 Wastewater from the site is partially treated on-site and then discharged for further treatment at the Kendal Wattsfield Wastewater Treatment Plant. The proposed spray dryer would utilise the existing foul drainage strategy which is considered acceptable, so no further information in relation to foul drainage is required.

Sustainable construction

- 8.34 Policy CS8.7 (Sustainable construction, energy efficiency and renewable energy) states that "*New commercial buildings of more than 1000 sq. m. will normally be*

required to meet the BREEAM 'very good' standard and by 2013 new buildings will need to achieve the BREEAM 'excellent' standard". BREEAM is a sustainability standard typically applied to larger public buildings such as schools and hospitals.

- 8.35 As the proposed building would be industrial and would be designed to lose excessive heat generated during the manufacturing process, it is considered unreasonable to require the applicant to submit a BREEAM assessment as it is very unlikely that the building could achieve a very good or excellent standard. Many industrial buildings, unlike residential and office buildings, are not built to be highly insulated or consider issues like solar gain. Environmental benefits can be achieved through biodiversity net gain in circumstances where the function of the building would prevent a high BREEAM score.

Ecology, Biodiversity, and Ecology

- 8.36 The ecological assessment submitted with the application concludes that the proposal wouldn't have a significant impact on ecology, and the wider site provides significant opportunities for biodiversity net gain.
- 8.37 The building would be located far enough away from any of the boundary trees to prevent significant arboricultural impacts. During construction, measures controlling the movement of vehicles and storage of waste would be necessary.

Economic Development and Planning Balance

- 8.38 Paragraph 12 of the National Planning Policy Framework (NPPF) states that "*The presumption in favour of sustainable development 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 (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed*".
- 8.39 The proposed development would clearly cause significant harm to landscape character and visual amenity and, therefore, conflict with policies CS1.1, CS8.2, and CS8.10 of the South Lakeland Core Strategy, and Policies DM1 and DM2 of the South Lakeland Development Management Policies Development Plan Document. Kendal Nutricare is the only UK producer of baby formula, an essential good, and the proposal would provide a significant local economic benefit and also a wider strategic benefit by reducing the reliance on foreign baby formula producers. Therefore, although the proposal would result in significant harm to landscape character and visual amenity, it is important to consider whether material considerations (i.e. the wider economic benefit) outweigh the harm that has been identified (i.e. indicate that the plan should not be followed).
- 8.40 There isn't a clear methodology for balancing visual harm against economic benefit (The Core Strategy, the Development Management Policies DPD, and the NPPF

only make general reference to the need to give significant weight to economic development) and each application should be assessed on its merits.

- 8.41 The proposal would provide direct economic benefits by directly providing up to 50 jobs over 3 years, tripling the output from the UK owned business, and providing additional demand for milk within the wider agricultural area. The proposal would also provide a wider strategic benefit by reducing the reliance on foreign baby formula producers.
- 8.42 It is acknowledged that the proposal would provide significant economic benefits; however, officers consider that an increased output could be achieved by a smaller and less visually impactful building. The applicant is currently able to produce baby formula by utilising a much lower and less visually impactful spray dryer. Functionally, it is clear that the process can be achieved with a lower building. It is accepted that a lower building would not produce the overall yields that the applicant is aiming to achieve; however, the desire to achieve maximum output from the factory should be balanced against the need to achieve an acceptable landscape and visual impact.
- 8.43 The proposal would provide a significant economic benefit; however, the economic benefit is not considered to outweigh the landscape and visual harm, particularly given that officers consider that there is opportunity for a lower building that could still provide significant increases in yield.

9.0 CONCLUSION

- 9.1 The proposed development would result in significant harm to landscape character and visual amenity and the economic benefits derived from the scheme are not considered to outweigh the harm the proposal would create, particularly given that the applicant could achieve increased production with a lower height spray dryer.
- 9.2 Therefore, it is recommended that planning permission be refused.
- 9.3 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.
- 9.4 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.

RECOMMENDATION

a) It is recommended that planning permission be refused for the following reason:

Reason (1) The proposed development would cause significant harm to landscape character and wider visual amenity due to its height, massing and scale relative to surrounding buildings. The harm is not considered to be outweighed by the economic benefits that can be derived from the proposal. Therefore, the proposal fails to accord with Policies CS1.1, CS8.2, and CS8.10 of the South Lakeland Core Strategy; Policies DM1 and DM2 of the South Lakeland Development Management Policies Development Plan Document; and the aims and objectives of the NPPF.

SOUTH LAKELAND LOCAL AREA PLANNING COMMITTEE REPORT

Planning Application Reference No. SL/2023/0512

Proposal: Front porch and single storey wrap around side and rear extension

Location: 4 Braddylls Court, Main Street Bardsea ULVERSTON LA12 9SR

Applicant: Mr Michael Dickinson

Committee Date: 11th April 2024

Reason for Committee Level Decision:

The Parish Council has objected to the proposal and the application is recommended for approval.

Officer: David Gibson



1.0 SUMMARY

- 1.1 Full planning permission is sought for the erection of a front porch and wrap around extension to the side and rear.
- 1.2 The works to the side and rear would have a flat roof and would be of a relatively contemporary design. Materials would be a mixture of stone and render
- 1.3 One objection has been received from the Parish Council, and two objections have been received from adjoining neighbours.
- 1.4 Amended plans have been received which moves the rear extension to the south, to lessen the impact on the property to the north, and to increase the amount of useable amenity space to the rear of the property. The amended plans also show that the proposed southern elevation of the extension would not be built on top of the existing boundary wall.
- 1.5 It is considered that the proposed works would not have a significant adverse impact on the amenity of the neighbouring residents, would not have an adverse impact on the character of the area, and would not have an adverse impact on highway safety.

2.0 RECOMMENDATION

- 2.1 The application is recommended for approval with conditions

3.0 THE PROPOSAL

- 3.1 Full planning permission is sought for the erection of a front porch and a wraparound extension to the side and rear. The front porch would have a pitched roof. The side and rear extension would have a flat roof. Windows would be placed in the side and rear elevations.
- 3.2 The rear extension has been moved to the south to move it away from the property to the north in an attempt to lessen the impact on the adjoining property. Windows would be placed in the southern and west elevations of the proposed dwelling.
- 3.3 A new fence was originally shown on the plans between the application site, and the property to the north, 3 Braddylls Court. Reference to this new fence has been removed from the proposed plans

4.0 SITE DESCRIPTION

- 4.1 The application site relates to a semi-detached dwelling. A residential property lies to the north, west and east of the site. Agricultural land lies to the south of the site.

- 4.2 Access is gained to the site from an existing entrance on the eastern boundary.
- 4.3 Dwellings of differing sizes and styles are located in the immediate vicinity.

5.0 SITE PLANNING HISTORY

- 5.1 None relevant to this application

6.0 CONSULTATIONS

- 6.1 Urswick, Bardsea and Stainton Parish Council – Objections to the development
- 6.2 “Loss of light for the next door neighbour and therefore overshadowing The areas of the gardens are small and to put an extension and a high fence on the boundary would encroach significantly on light and space for the next door property.

Visual impact – the 4 identical properties that 4 Braddylls Court is one of all currently have approx. 3 foot fences which presumably were part of the original permission, designed to maintain an open outlook. The visual impact of the high fence and extension is both inappropriate to the area where the houses sit in Bardsea and would negatively change the character of the 4 properties.

Overdevelopment – for the reasons above we feel the plans represent overdevelopment, inappropriate to the site.

The plans represent a change to the boundary wall which does not belong to the applicant. We feel this is completely unnecessary and again not in keeping with the surroundings.”

Additional comments have been received to the amended drawings –

“there are ongoing concerns about the appearance of the rear extension which will now be continuous with the wrap around side extension. The combined size relative to the available space at the rear and side of the property is disproportionate and certainly out of keeping with the other 3 properties that form the 2 matching pairs of semis as originally built.

The amended plans show that the now continuous southern face of the proposed extension to have been moved northward but only by a matter of inches I suspect. The plans still require a lowering of the existing stone boundary wall with the extension touching it. This would not be acceptable for grazing cattle in the field. In terms of digging footings the wall is likely to have to be taken down and rebuilt. Ownership of the wall, trespass, damage to property etc whilst not a planning consideration could well become a matter for litigation.

Based on the original PC response to the application, it is accepted that the new plans address some of the concerns that were made regarding loss of light, overshadowing and encroachment on Number 4.

However, in terms of the other objections submitted, these still stand as they were originally expressed. In fact in terms of the visual impact, opinion is that the now continuous aspect as viewed from the south with a lowered field wall will be even more intrusive and the extension literally looks to have been “shoe horned” into the available space with little consideration for its visual appearance in the context of the site that it is proposed to occupy.”

7.0 REPRESENTATIONS

7.1 Two objections have been received from members of the public.

7.2 3 Braddylls Court – Objects to the development -

- loss of light
- overbearing impact
- loss of view
- canopy overhanging neighbours land
- Loss of garden space
- concerns over noise and disturbance from building work
- Fence would lead to overbearing impact
- Impact on character of the rural area

7.3 Owner of the field to the south of the application site – Objects to the development –

- Changes to the boundary wall which is not in the ownership of the applicant. Wall is used to house livestock. Lowering wall could create a route for escape or lead to structural issues
- Concerns over the overhanging of the boundary
- Overdevelopment of the site
- Design of the extension would impact on the approach to Bardsea
- Loss of garden space
- Lack of separation distances between properties

7.4 An additional consultation exercise was carried out after the amended plans were received. Additional comments were received from the owner of the field to the south of the site reiterating that the wall is not within the ownership of the applicant and that building work could not be carried out.

8.0 RELEVANT PLANNING POLICY

8.1 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.

8.2 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.

South Lakeland

- South Lakeland Core Strategy - adopted 20 October 2010
- South Lakeland Local Plan Land Allocation Development Plan Document Policies - adopted 17 December 2013.
- South Lakeland Development Management Policies Development Plan Document - adopted 28 March 2019.

Other Material Considerations

National Planning Policy Framework (NPPF)

- 8.4 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.
- 8.5 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:
- 8.6 The following sections are considered relevant to this application:

9.0 PLANNING ASSESSMENT

The presumption in favour of sustainable development

- 9.1 Paragraph 8 of the National Planning Policy Framework (NPPF) introduces the overarching economic, social and environmental objectives central to achieving sustainable development.
- 9.2 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.

Main Planning Issues

- 9.3 The main planning issues for this planning application are as follows:
- Landscape and Visual Impacts
 - Impact on residential amenity

- Drainage
- Biodiversity
- Highway Safety

Landscape and Visual Impacts

- 9.4 National and Local Policy requires development to take account of the settlement vernacular features and character. Policy CS1.1 requires that development is of a high quality and that localised and appropriate design is incorporated to retain distinctive character/ sense of place and to enhance the existing building. Policies CS8.2 and Policy CS8.10 require 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. Policies DM1 and DM2 require that development responds appropriately to the proposal site location context, local and settlement character and distinctiveness.
- 9.5 The bulk of the proposed development is located to the rear and side. A small porch would also be erected to the front of the dwelling. The extension to the side would be set back from the front elevation of the dwelling and would be much lower than the host dwelling. It would be visible when viewed from the south, but when visible from the public realm, given the low profile, high quality design, and the limited width, the proposed extension would be seen within the context of the dwelling. The design and use of high quality materials would ensure that it would assimilate well with the host dwelling and would not create an incongruous feature in the immediate and wider area. It is considered that it would assimilate relatively well with the host dwelling.
- 9.6 Concerns have been received stating that the development would have a significant adverse impact on the character of the area and the entrance into Bardsea. It is considered that the development, due to its limited width and height, would be seen within the context of the dwelling and would not have a significant adverse impact on the character of the area. It would be single storey, and is considered to be subservient to the host dwelling.
- 9.7 Concerns have also been raised over the lowering of the boundary wall, specifically, the impact this would have on the character of the area. This element of the works would be minor and would not have a significant impact on the character of the area in the opinion of the Planning Officer. The agent has stated that the applicant owns the wall and is within their rights to lower the wall without planning consent. This matter is a civil issue between both parties and ownership is not a planning matter. Notwithstanding this, the proposed extension that would result from the works is considered to be acceptable in terms of its visual impact.
- 9.8 Concerns have been raised over overdevelopment of the site. The plot is considered to be large enough to accommodate a moderate extension. The property would still maintain adequate amenity space to the rear and front of the dwelling for a property of this size. The relocation of the extension away

from the northern boundary would create adequate useable private amenity space at the rear of the property.

- 9.9 Overall the proposals are considered to be compliant with Policy DM2 of the DM DPD which requires that new development should be “well proportioned, positioned and in scale with its surroundings...by avoiding the creation of dominant or incongruous extensions and alterations to existing buildings.”

Residential Amenity

- 9.10 Policy DM1 of the DM DPD requires that development should ensure the delivery of acceptable levels of amenity, privacy and overshadowing for existing, neighbouring and future users and occupants. An objection has been received which relates to the potential for the creation of an overbearing impact, loss of light, and loss of view towards to the sea.
- 9.11 The proposed development to the rear would be located off the boundary with the adjoining property to the north. The amended plans show that the scheme would accord with the 45 degree code. Furthermore, the scheme would have a flat roof with a limited height. The extension would not be significantly larger than could normally built under permitted development. Given the above, it is considered that on balance, the works to the rear would not have a significant impact on the neighbouring property to the north. The extension would be seen as a compromise between the need for space by the applicant and an acceptable impact on the neighbouring residents. With regards to the front extension, this would be a minor porch extension, located close to the door of the property to the north. It would not lead to the creation of a significant overbearing impact on the property to the north.
- 9.12 Due to the location of the development, the layout of the property and its neighbours, and the separation distances involved there would be no significant overshadowing impact from this minor development to the rear, side, and front.
- 9.13 The proposed windows in the development would replicate the views from the host dwelling and would not lead to a loss of privacy given the existing boundary treatment, and the distance from the existing boundaries. Whilst two small windows are located in the eastern elevation of the property to the west, one of these windows serves a bathroom and is obscurely glazed, and the other, given the angle in relation to the development, would not be directly overlooked to an extent that would warrant refusal of the application. It is therefore considered that the development would not lead to the loss of privacy for the neighbouring residents.
- 9.14 Overall, it is considered that the development would not cause significant neighbouring amenity harm through the material considerations of overshadowing, overlooking or causing matters of an overbearing nature.

Drainage

- 9.15 Surface water would be disposed of through the existing measures. The existing drainage is considered to be an appropriate arrangement that would not result in run off increasing the risk of flooding.
- 9.16 Based on the above the proposed development is considered to comply with Policy DM6 and DM7 of the Development Management Policies DPD and Para 159 of the NPPF.

Biodiversity

- 9.17 The NPPF para 170 (d) requires that proposals minimise impacts on and provide net gains for biodiversity. This is echoed through Local Policies DM1 and DM4, which require that unless it can be demonstrated that it is not possible, all development proposals should result in net gains for biodiversity.
- 9.18 A condition will be placed on any permission requiring a bat or bird box be installed to ensure a net gain in biodiversity in accordance with the above policies.

Highway Safety

- 9.19 The development would not lead to an increase in the number of vehicles entering or leaving the site or need for car parking. The existing access arrangements will not be altered. The access and level of parking on site is acceptable and would accord with Policy DM9 and the parking standards within the Cumbria Design Guide.

Other Issues

- 9.20 An objector has raised concerns that the works would overhang the southern boundary wall. Amended plans have been received which shows that the canopy would not overhang the boundary. The agent has stated that the works would be built on land owned by the applicant through the signing of Certificate A on the application form. Land ownership is a civil issue between the two parties and is not a material planning consideration.
- 9.21 Concerns have also been raised over the lowering of the wall and subsequent building on top of it by the land owner to the south of the application site. Reference is made to the Part Wall Act in the objection. This is a separate piece of legislation and is outside the control of the Planning Department. This is an issue between the two parties and is not a material planning consideration.
- 9.22 An objection has been received which relates to loss of view towards the sea. The loss of view is not a material planning consideration and this cannot be taken into account when determining a planning application. A neighbour does not have the right to a view over private land.

10.0 CONCLUSION

- 10.1 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.
- 10.2 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.
- 10.3 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.

RECOMMENDATION

- a) 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 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

2. The development hereby granted shall be carried out in accordance with the drawings hereby approved:

- i) Proposed Plans, Elevations & Site Block Plan - 2304 03D - A1, received 21st December 2023
- ii) Location Plan, received 3rd July 2023
- iii) Site survey, received 3rd July 2023

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

Materials

3. The development hereby permitted shall be constructed entirely of the materials, which are shown on the submitted application form and 'Proposed Plans,

Elevations & Site Block Plan - 2304 03D - A1'. The approved materials shall be retained thereafter, unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure the development is of a high quality design in accordance with Policy DM2 of the Development Management Policies Development Plan Document and Policy CS8.10 of the South Lakeland Core Strategy.

Bat/Bird Box

4 Within 4 weeks from the completion of the development, a bat/bird box shall be installed within the site. The bat/bird box shall be retained for the life of the development. A native tree shall be planted within the first planting season following the substantial completion of the development.

Reason: To ensure the development achieves a net gain in biodiversity in accordance with Policy DM1 and DM4 of the Development Management Policies Development Plan Document.

SOUTH LAKELAND LOCAL AREA PLANNING COMMITTEE REPORT

Planning Application Reference No. SL/2023/0781

Proposal: Outline Approval (some matters reserved) for the erection of 8 self-build dwellings (Resubmission of SL/2017/0575).

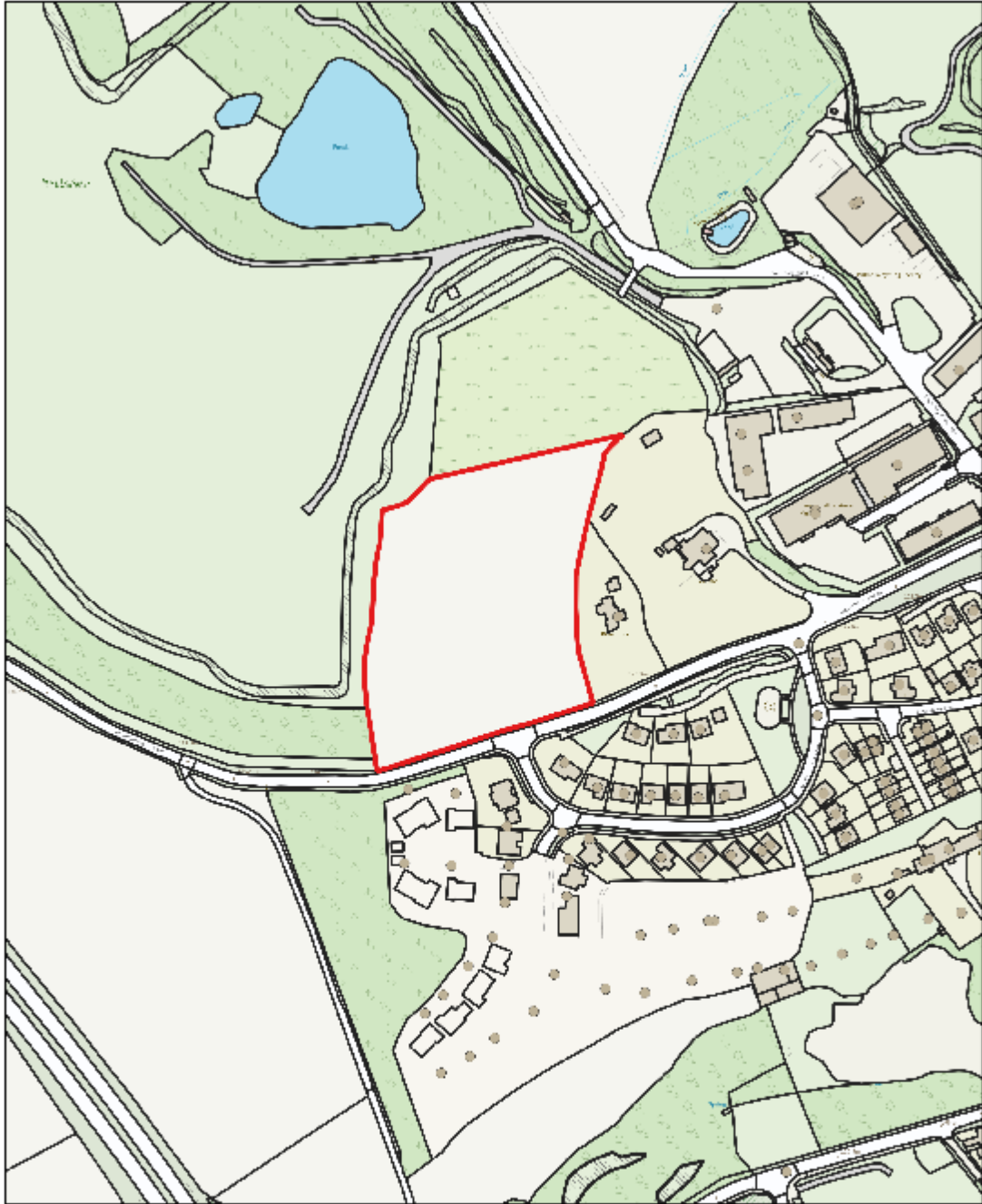
Location: Land North of Underbarrow Road, Kendal, LA9 5RS

Applicant: Mr F and M Pennington

Committee Date: 11th April 2024

Reason for Committee Level Decision: Councillor Thornton called the application in.

Case Officer: Charlotte Pinch



SL/2023/0781
Land to north of Underbarrow Road,
KENDAL LA9 5RS



Westmorland
& Furness
Council

Scale 1:2500

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1.0 SUMMARY

- 1.1 Outline planning permission (with some matters reserved) is sought for the erection of 8 self-build dwellings at Land North of Underbarrow Road, Kendal.
- 1.2 The proposal would not be acceptable for 8 key reasons and as such is recommended for refusal.
- 1.3 The application is reported to Planning Committee, in accordance with the Council's Constitution and Scheme of Delegation, at the request of a Councillor due to the planning history of the site and the Council's wish for more self-build sites within the area.

2.0 RECOMMENDATION

- 2.1 Planning permission be refused.

3.0 THE PROPOSAL

- 3.1 Outline planning permission, including access, layout and scale, is sought for the erection of eight, self-build detached dwellings.

4.0 SITE DESCRIPTION

- 4.1 The site is currently a grass field sited between a large existing detached two storey dwelling and a woodland beyond the western boundary which forms the boundary with the Lake District National Park and designated World Heritage Site. The site is bounded by natural stone walls, the front wall has currently been rebuilt and is set back with a central access being formed.
- 4.2 Opposite the site is a large new residential estate, by Oakmere Homes, which is nearly complete and occupied.
- 4.3 To the west of the site is Kendal Fell Quarry. Information available regarding the quarry is that it is still operational. It lies within the Lake District National Park and is subject to blasting and has the potential for noise, which is considered further in this report.
- 4.4 The application site is 1.3 hectares in total and is currently used a grazing land. The site is approximately 1km from Kendal Town Centre. The site is within the development boundary of Kendal, forming the boundary with the Open Countryside, LDNP and mineral safeguarding area to the north and west.

5.0 SITE PLANNING HISTORY

- 5.1 SL/2017/0575 – Outline: Erection of 8 self-build dwellings with vehicular access. Refused. 2022.

- 5.2 The application was very similar to the current proposal, on the same site, access, number of units and scale, with a slightly amended layout. The application was held in abeyance for a number of years in order to fit with the timescales of the large scale residential development to the south of Underbarrow Road, primarily with regards to highways issues.
- 5.3 The application was refused under delegated powers, in November 2022, for 8 reasons, relating to;
 - 1. Insufficient information to assess the visual impact of the proposal on the adjacent UNESCO World Heritage Site (LDNP).
 - 2. Insufficient information to assess the significance of heritage assets and the impact of the proposal on the adjacent UNESCO World Heritage Site (LDNP).
 - 3. Low density housing, without adequate justification, with no affordable housing.
 - 4. No up to date ecological survey, to assess impacts, or information to demonstrate biodiversity net gain.
 - 5. Insufficient information to demonstrate adequate on-site surface water and foul drainage details.
 - 6. Insufficient information to assess the potential for pollution (dust, noise and vibration) on the proposed dwellings.
 - 7. No accessible and adaptable homes statement.
 - 8. No broadband statement.

6.0 CONSULTATIONS AND REPRESENTATIONS

The following persons/organisations were consulted in relation to the development:

Consultee:	Nature of Response:
W&F (Highways and LLFA)	<p>Highways – There is a similar layout of the site as shown in the revised drawing to that of the previous application.</p> <p>I refer to our response under the previous application SL/2017/0575. It is now evident that a 30mph speed limit has since been physically implemented and signposted and this confirms that the splays showing 60m in both directions are acceptable.</p> <p>LLFA – Referring to the response under SL/2017/0575, in particular making reference to comments raised on 16th August 2019, the applicant proposed to discharge surface water run-off into a quarry pond which has no outlet, we had concerns over this. No SuDS has been provided for this method of surface water runoff.</p> <p>From looking at the revised drainage strategy, it makes reference to the previous applications, the method of discharging surface water run-off is to remain as into a quarry pond, which we recommend refusal.</p> <p>7/2/24 LLFA – Further consideration of Drainage Strategy and Flood Risk Assessment Ref: J1108 Rev2,</p>

	<p>we would be willing to approve this based on conditions outlined in LLFA response to SL/2017/0575 at reserved matters stage, in relation to this application.</p> <p>We would prefer the use of a different SuDS techniques such as geocellular soakaways but as the application is at outline stage, the geocellular calculations show that SuDS drainage is possible so we wouldn't have any objections to this.</p>
W&F Historic Environment Officer	<p>Records indicate that the site lies in an area of archaeological potential. A geophysical survey that was undertaken in advance of a residential development immediately to the south of the site revealed a number of features of potential archaeological interest including the remains of what appear to be a possible prehistoric burial site or a round-house. Furthermore, the course of a Roman road runs close to the site and Roman finds have been recovered during archaeological investigations on another housing scheme to the south. It is therefore considered that there is the potential for buried archaeological assets to survive on the application site and that they would be disturbed by the construction of the proposed development.</p> <p>If planning consent is granted, then a pre-commencement condition should be applied to require the archaeological investigation to be undertaken.</p>
W&F Public Protection	<p>No objection, although a condition relating to contamination investigations and remediation measures prior to the commencement of development would be required.</p>
United Utilities	<p>Following the review of the submitted drainage documents (Drainage Strategy Ref: J1108-FW-01 Dated 27/10/2023), the plans are not acceptable to United Utilities. This is because the plan provided shows a connection but the proposed connection does not appear to be to a public sewer as stated in the drainage strategy. We request the applicant confirms whether they believe the sewer in question is public or private.</p>
Kendal Town Council	<p>No material objections.</p> <p>The committee welcomed a development which enabled self-build opportunities into the housing mix. With the various improvements to the application, and appropriate conditions relating to the comments already made by statutory consultees, they commended the application.</p>

Kendal Swifts	<p>Require the installation of a minimum of four integral swift nest bricks per property, to be secured by condition.</p> <p>We feel it is important that any condition is for integral bricks which are easily and cheaply incorporated at the building stage, and are permanent. External boxes are not permanent and will require maintenance and eventual replacement.</p>
Neighbour Responses:	
<p>Three letters were received, two in support and one raising an objection.</p> <p>The two letters in support were received from local estate agent firms in the local area, their comments are summarised as follows:</p> <ul style="list-style-type: none"> - There is a need for low density high quality development in the area. - Allocated employment land in the area which will bring business owners and entrepreneurs to the area, in need of larger houses. - Site not suitable for high density development, due to the skyline and viewpoints. - Larger plot sizes and accommodation is in demand. - High level of interest from people outside the area/southern England wanting larger properties, due to good transport connections in the area. - Lots of provision for smaller scale and affordable properties in the area. <p>The one letter of objection received, their comments can be summarised as follows:</p> <ul style="list-style-type: none"> - Road safety concerns with vehicles exceeding the 30mph speed limit. - Will impact outlook for existing newly built properties to the south of Underbarrow Road. - Loss of open green space and habitat for wildlife. - Existing road used as a rat run to the dual carriageway, by many cars and large lorries. 	

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.

Local Plans

South Lakeland

- *South Lakeland Core Strategy - adopted 20 October 2010*
- *South Lakeland Development Management Policies Development Plan Document - adopted 28 March 2019.*
- *South Lakeland Local Plan Land Allocations DPD*

Other Material Considerations

National Planning Policy Framework (NPPF) (2023)

- 7.2 The NPPF sets out the Government's planning policies for England and how these are expected to be applied. This is a material consideration in planning decisions.
- 7.3 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:
- 7.4 The following sections are considered relevant to this application:
- Section 2: Achieving sustainable development.
 - Section 4: Decision Making.
 - Section 5: Delivering a sufficient supply of homes.
 - Section 11: Making effective use of land.
 - Section 12: Achieving well-designed and beautiful places
 - Section 14: Meeting the challenge of climate change, flooding and coastal change
 - Section 16: Conserving and enhancing the historic environment
- 7.5 Cumbria County Council Minerals and Waste Development Scheme plan (adopted Sept 2017): Kendal Fell Quarry, in addition to being an active quarry, is identified as a possible Household Waste Site under policy SAP1, as site SL1B.

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.
- 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.

Main Planning Issues

8.3 The main planning issues for this planning application are as follows:

- Dwelling mix, density and affordable housing.
- Landscape Impact
- Heritage Impact
- Foul Drainage
- Pollution
- Contamination
- Ecology and Biodiversity
- Broadband

Principle of Development

8.4 The site is located within the development boundary of Kendal, forming the far western boundary, directly adjacent to the open countryside and LDNP.

8.5 In accordance with Policy LA1.1 of the Land Allocations DPD, development needs of settlements should be met within the defined development boundaries. Moreover, Policy CS1.2 of the Core Strategy states that development should be concentrated in the Principal Service Centres of Kendal and Ulverston.

8.6 As a result, given the application site's location within the development boundary of Kendal, the principle of residential development in this location is acceptable.

Self-Build Housing

8.7 The application is proposed to comprise of 8 self-build dwellings. Policy DM12 deals with self-build housing and states that the Council will actively support proposals for the sustainable development of self-build and custom build homes, in the following locations:

- Within Principal, Key or Local Service Centres
- Within or on the edge of small villages and hamlets in accordance with policy DM13 (Housing Development in Small Villages and Hamlets);
- On rural exception sites in accordance with policy DM14 (Rural Exception Sites)

8.8 The proposed development is within a Principal Service Centre and accordingly self-build plots are acceptable. It should be noted however, that self-build schemes do not override the acceptability of other planning policies.

Dwelling Mix, Density and Affordable Housing

8.9 Policy CS6.2 deals with the dwelling mix and type. The policy states that new development should 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.

8.10 Whilst it is acknowledged that the exact details of the size and type of the dwellings proposed on this site are not yet known, given it is an outline application, it is clear from the submitted site plan that it will comprise of 8 larger properties. I note the two letters of support from local estate agents in the area,

and appreciate that large executive houses are very appealing to certain purchasers; however. this is directly contrary to the evidenced housing need within the district.

- 8.11 A recent Rightmove search showed that within 5 miles of Kendal there was over 100 4+ bedroom properties for sale, with nearly 50 of those being 5+ bedrooms. Interestingly, a search in the same area for 2 and 3 bedroom properties identified 120 properties for sale, which is slightly more than the 4+ bedroom properties, but not significantly more to argue there is a need for more larger properties in the area.
- 8.12 The 2023 Westmorland and Furness Strategic Housing and Economic Needs Assessment (SHENA) states that within the South Lakeland area for market housing, the area is most in need of 2 bedroom properties (53%), followed by 3 bedroom properties (31%). There is only a 1% need for 4+ bedroom properties. As this proposal is for 8 large, detached, executive style properties, it does not meet the dwelling mix requirements of this area or take account of the housing requirement and therefore is contrary to Policy CS6.2.
- 8.13 Furthermore, Policy CS6.6 focuses on making effective and efficient use of land and buildings. Most importantly Point 4 of the Policy states meeting the target of an average density of at least 30 dwellings per hectare for all housing development. Higher densities will be sought on appropriate sites, particularly those:
- Close to transport hubs such as bus stations or main bus routes;
 - In or adjoining Kendal, Ulverston, Grange, Milnthorpe and Kirkby Lonsdale centres.
- 8.14 In some circumstances, a lower density below 30 dwellings per hectare will be supported if:
- There is proven need;
 - Environmental constraints mean that it is not suitable for high-density development.
- 8.15 In line with policy this application site, of 1.3 hectares, could accommodate 39 dwellings (30 dph). This proposal for 8 dwellings across the 1.3 hectare site, equates to just 6 dph, which is significantly lower than the 30 dph stated in policy.
- 8.16 It is acknowledged that the policy allows for a lower density in some circumstances, if there is a proven need or environmental constraints mean that it is not suitable for a high-density development.
- 8.17 Paragraph 1.3-1.8 of the submitted planning statement seeks to justify and address the reason for a lower density housing scheme. This focuses on a pre-application undertaken in 2014, with subsequent discussions undertaken with a previous employee of the LPA in 2015, prior to the submission of the previous application in 2017. Despite the fact this pre-application was undertaken 10 years ago, the area around the application site has changed significantly since then including the larger development to the south of Underbarrow Road and the LPA has adopted additional development plan documents since then, no evidential justification or clear points relating to proven need or environmental constraints to preclude a higher density development have been presented. Discussions

undertaken 10 years ago can be given very little factual weight in this assessment, especially against a significantly altered environment.

- 8.18 As such, insufficient justification has been provided and despite raising this with the applicant's agent during the application process, no further information has been provided.
- 8.19 Finally, Policy CS6.3 deals with the provision of affordable housing, stating that planning permission for the erection of new dwelling or conversion of existing buildings to dwellings will be permitted provided that the scheme provides local affordable housing in accordance with key criteria. Of relevance is the criteria which states; on all schemes of nine or more dwellings in the Principal/Key Service Centres, and three or more dwellings outside of these areas, no less than 35% of the total number of dwellings proposed are affordable.
- 8.20 It is important to make clear, as a result of the low density of housing proposed on this site the proposal does not trigger the threshold for affordable housing. One more dwelling on the site would trigger this need.
- 8.21 If, in accordance with Policy CS6.6, 39 dwellings were proposed in line with the 30 dph requirement, the site could provide up to 14 affordable dwellings if a full 35% provision was met. This would provide significant benefit to the evidenced unmet need for affordable housing within the district.
- 8.22 Therefore, this proposal is contrary to Policies CS6.2 and CS6.6.

Landscape Impact

- 8.23 This is a greenfield site rising above the adjacent allocated housing site, which is now almost at completion of development. The site lies on the boundary with the Lake District National Park, as designated UNESCO World Heritage Site. NPPF sets out the considerations that need to be applied to such areas, including consideration of cultural value.
- 8.24 In addition, The Cumbria Landscape Character Appraisal shows the site as being within Landscape Character type 3a Coastal Limestone – Open Farmland and pavements. The key characteristics of this area are:
- Steep scarp limestone slopes, limestone pavement or other rocky outcrops
 - Grazed land with stone wall field boundaries
 - Rough pasture as open common or fell in higher areas
 - Sporadic scrub and woodland on steep scarp slopes
 - Stately homes and parklands in lower areas
 - Extensive open and uninterrupted views from high ground
- 8.25 The perceptual quality section includes that: *“This is a rare and unusual landscape which is varied and interesting due to the range of limestone features and the strong sense of history derived from pre-historic features and medieval enclosure patterns”*.

8.26 Whilst the section on development describes:

“Planned and incremental expansion of villages and towns could result in a loss of vernacular character, the small dispersed settlement pattern, and a proliferation of settlement fringe development. This could erode the distinctive character of the area”

and sets out a number of guidelines such as, preserving distinct forms of settlement and intimate relationship to the scale and form of the landscape; and, ensure new developments respect the scale, traditional form and materials of villages and do not infill important open spaces such as orchards and gardens integral to their character.

- 8.27 The Cumbria Landscape Character Guidance also includes a toolkit. This explains the role and importance of landscape and provides advice in relation to site specific landscape character assessments.
- 8.28 The submitted site contours (plan 2015 by Spatial Data Ltd) shows contour levels of between 135.45m nearest to Underbarrow Road, rising to the 139.13m to the north west corner of the site. The gradient rises across and towards the centre of the site, slightly levels out to a small plateau in the centre of the site, before gently rising to the north west corner and across the site. Levels provided along Underbarrow Road are given around 134m. The drainage strategy (para 2.2) calculates the gradient across the site is 4%.
- 8.29 It is noted that there has been a history of LVIA submissions since 2017. A report, Appraisal of Landscape and Visual Effects by Westwood Landscape was submitted with the application, June 2017. 3D images, as well as wire frames of the predicted landscape changes were included. This report includes pre-application advice given from the LPA in 2014.
- 8.30 The LVIA identifies the LDNP and that this is a “statutorily designated landscape afforded the highest status of protection in relation to landscape and scenic beauty by National Planning Policy”. It also considers the Development Brief of the site for housing to the south.
- 8.31 However, the LVIA is based on the scheme as originally proposed, for ten dwellings and a site plan 9975/1, which is on a different layout/house type layouts. It also considers the landscape strategy devised (but is for the original layout and only included in the LVIA - further landscape concept plans were submitted some time later and on a different layout for 8 dwellings). It also states it is based on an outline application with all matters reserved apart from access (and not therefore in accordance with the application form submitted) and that is based upon parameters set out in the Design and Access Statement by Bywater and Tweddle (this has not been submitted to the LPA).
- 8.32 An independent review of the LVIA was undertaken on behalf of the applicants in response to requests for a revised LVIA following revisions and concerns raised over layout/scale/appearance), by Stephenson Halliday (May 2019). This clearly states it was on the basis of 8 dwellings (despite the LVIA being undertaken for 10 dwellings). This review is stated to take into account case officer comments, any learnings from appeal decision SL/2017/0575, Cumbria Landscape

Character Guidance and Toolkit and LVIA guidance (2013). It finds that the submitted LVIA is robust and appears in line with best practice, baseline conditions are identified and described appropriately, viewpoints selected are rational and appropriate. It states that in terms of landscape effects the submitted LVIA ‘provides clear and transparent analysis on the susceptibility of the landscape to the proposed development and considers the sensitivity judgement is transparent and reasonable. The LDNP is rightly identified as a high sensitivity landscape.

- 8.33 It is considered that no weight should be given to the independent LVIA assessment as this clearly did not recognise the LVIA showed 10 dwellings, not the 8 dwellings they clearly state that they have considered – and being of a different layout would produce different visual effects/impact (due to different orientation of the plots) and also is not informed by a Heritage Statement.
- 8.34 A further LVIA Review was undertaken in October 2023 by Galpin Landscape Architecture, and submitted as part of this planning application. This review follows the methodology as set out in the initial 2017 appraisal. As discussed above, this was based on 10 dwellings which is not the case here. Whilst I do not dispute the overall conclusion of the LVIA Review, that given the changes in the landscape and the additional built form since 2017, this would result in a reduced visual and landscape impact of the proposed new development, over and above the 2017 LVIA, the review fails to include key pieces of information, evidence or considerations. It includes a listing of viewpoint numbers and descriptions, however no map or details to indicate the location of the viewpoints is included. In addition, no photos from the viewpoints to establish the new baseline view on which these assessments are being made are shown. Moreover, no reference or assessment is made to the visual or landscape impact on the LDNP or WHS, apart from one sentence; “4.12 There would be no direct effects on the Lake District National Park (LDNP) as intervisibility is restricted by woodlands on the west side of the site”, which is a very vague and presumptuous statement.
- 8.35 In addition, the review also makes a number of misleading and conflicting statements. There is a consistent acknowledgement throughout the review that the Ghyll Manor development to the south of Underbarrow Road, in addition to the Brigsteer Rise development further afield, have changed the character of the landscape, are visible within many of the viewpoint assessments and have extended the appearance of built form from the towns development boundary. However then contradictorily concludes, in the visual assessment of viewpoints, that there is ‘no’ or ‘low’ change from the previous visual baselines. This follows, that by noting a change in the character of this area by virtue of additional residential built form, which would therefore reduce the visual impact of further built form, that a higher density of housing on this application site would therefore be acceptable and be more in keeping with this change in landscape character. However, the review continues to argue that a reduced density housing scheme would be better, with no reasoning or evidence of harm as to why a higher density would not be acceptable.
- 8.36 Finally, it is important to note the statement in Para 5.4 of the Review Assessment which states: *“the introduction of the Ghyll Manor housing development on the south side of Underbarrow Road has changed the landscape*

character of the immediate surroundings. The proposed development would be in keeping with this changed landscape character.” As discussed above, this would not provide evidence to fulfil the two exemptions to allow a lower density development, in accordance with Policy CS6.6.

- 8.37 Taking into account the significant change in the landscape character around the site since 2017 and 2019, the implementation of a large housing development immediately adjacent to the application site, and further afield at Brigsteer Rise and that over 7 years has passed since the substantive LVIA was carried out, a LVIA review assessment is not considered sufficient. A full revised LVIA should be undertaken and submitted.
- 8.38 In addition the submitted LVIA falls short as no up to date photos or evidence has been provided as part of the 2023 LVIA Review, despite these being requested from the applicant’s agent, which are fundamental to support and evidence the LVIA report given the significant change in the landscape since the previous assessment. Moreover, there still remains no assessment of landscape impact on the Lake District National Park as a heritage asset. Therefore, the information as submitted is not considered to be an adequate basis on which to assess the landscape and character impacts of the proposed development.

Heritage and Archaeology

- 8.39 Policies CS8.6, DM1 and DM3 require development proposals to protect and enhance the historic environment and to safeguard and, where appropriate, enhance all heritage assets and their settings in a manner that is appropriate to their significance and which can include the need to undertake prior evaluation to a decision being made. Policy CS2 states it is important to Kendal to ensure that greenfield development is sympathetic to the landscape (and historic) character of Kendal.
- 8.40 Whilst there are no nearby Listed Buildings or Conservation Area, the site lies immediately on the boundary to the UNESCO World Heritage Site/Lake District National Park, which legislation defines as a designated heritage asset. In accordance with policy CS8.6 and in particular policy DM3 and the requirements of the NPPF (paragraph 200) a Heritage Asset assessment/statement (Statement of Significance and Impact, in accordance with policy DM3) is required.
- 8.41 A section is included within the submitted planning statement, entitled Heritage Statement. This acknowledges the presence of the Lake District World Heritage Site and includes 3 paragraphs which seek to consider the current application against the heritage asset.
- 8.42 Para 3.9 focuses on the adjacent quarry site, its location within the WHS and its allocation within the Lake District Local Plan.
- 8.43 Para 3.10 focuses on the development on the land south of Underbarrow Road, for which a report was carried out by independent consultants to confirm no impact on the 10 attributes of the WHS. I am not in receipt of this report and therefore cannot comment on the accuracy of these claims.

- 8.44 The final paragraph, Para 3.11 concludes that given the development to the south of Underbarrow Road was acceptable, therefore this proposal would cause less than substantial harm.
- 8.45 No assessment has been undertaken of the application site, its relationship with the heritage asset, the value of the heritage asset and or how the proposal would impact the heritage asset. Each planning application and site must be assessed on its own merits, as such, relying on historic assessments and information for adjacent sites is not adequate to comply with policy requirements.
- 8.46 A further assessment has been requested from the applicant's agent during the application process; however, nothing further has been provided.
- 8.47 The significance of the heritage asset, including its cultural value, needs to be assessed together with any potential for impact on, or mitigation measures that could be taken to inform, or offset any harm, from the proposed development in respect of landscaping, layout, scale and appearance of the development, including proposed materials.
- 8.48 The W&F Historic Environment Officer has identified that the site could have archaeological interest, requiring a condition for archaeological evaluation and recording to be undertaken.
- 8.49 As a result, further to the reasons set out above, having regard to the absence of a suitable Heritage Assessment and having regard to the NPPF, the application as submitted fails to consider the impact of, and considerations of the adjacent Lake District National Park and UNESCO World Heritage Site as a heritage asset.

Highways and Access

- 8.50 Policy CS10.2 of the South Lakeland Core Strategy deals with the transport impact of new development. It requires that proposals should provide for safe and convenient access on foot, cycle, public and private transport, addressing the needs of all. In addition the proposal should be capable of being served by safe access to the highway network without detriment to the amenity or character of the locality.
- 8.51 Similarly the NPPF Para 114-117 seeks to ensure that safe and suitable access can be achieved for all users, with particular emphasis in Para 116 on giving first priority to pedestrian and cycle movements, whilst creating places that are safe, secure and attractive, to minimise the scope for conflicts between pedestrians, cyclists and vehicles.
- 8.52 Moreover, Policy DM9 requires that all development should have acceptable levels of parking and take into account a number of factors including type of development, location, public transport, visual impact, extent of on street parking and encouragement of low emission vehicles.
- 8.53 A site plan has been submitted as part of the application detailing the proposed vehicular access point into the site, set to the west of the existing vehicular access to the development south of Underbarrow Road. The plan shows 2.4m x 60m visibility splays in both directions, crossing land within the applicant's ownership, with the stone field wall set behind the visibility splay, allowing for a new footway.

- 8.54 Given the scale of the site and large plot sizes for each dwelling, there is ample space for sufficient parking provision on site.
- 8.55 Confirmation was received from the Highways Authority on 19th December 2023, stating that there is a similar layout of the site as shown in the revised drawing to that of the previous application on the site. It is noted that a 30mph speed limit has been implemented and signposted, this confirms that the visibility splays proposed of 60m in each direction are acceptable.

Drainage and Flooding

- 8.56 Policy DM6 states that surface water should be managed at source, with reduced transfer and discharge elsewhere, following the hierarchy of options. Proposed methods of surface water drainage should be based on evidence of an assessment of ground conditions and should reflect the non-statutory technical standards for sustainable drainage systems. Measures intended to assist with surface water management should be made clear as part of any submission.
- 8.57 A Drainage Strategy and Flood Risk Assessment Report (Ref: J1108 Rev2) has been submitted as part of the application. This proposes, following percolation testing on site, that surface water discharge to ground is possible. Investigations showed a good depth of soil, with some shallow areas of fractured limestone bed rock. All roof areas would drain to soakaways and permeable paving across drive ways, main access road and pavements.
- 8.58 Despite raising concerns in an initial consultation response, for which the most up to date drainage information had not been considered, W&F LLFA responded subsequently to confirm the updated details are acceptable for this outline application as the calculations provided show that SuDS drainage is possible. Further information would be required regarding the specific SuDS techniques proposed. As such, no objection is raised in this regard.
- 8.59 With regards to foul water drainage, Policy DM6 states that the first presumption will be for new development to drain to the public sewerage system, non-mains drainage would not be acceptable in sewered areas.
- 8.60 The submitted Drainage Strategy Report (Ref: J1108 Rev2) states that provision has been made within the existing development to the south of Underbarrow Road, for a new foul water connection. An application to United Utilities will be submitted for a new foul water connection to be established.
- 8.61 A consultation response from United Utilities was received during the course of the application process, to state that they have reviewed the submitted plan Drainage Strategy Ref: J1108-FW-01 Dated 27/10/2023. However, the plan is not acceptable. This is because the plan shows a connection but the proposed connection does not appear to be a public sewer as stated in the drainage strategy.
- 8.62 It was requested that the applicant confirms whether they believe the sewer in question is public or private. The agent responded to state that this is an 'administrative matter' as the sewer in question is awaiting formal adoption. They suggested that this be secured by means of a Grampian condition if the adoption has not been undertaken by the time this planning application is determined.
- 8.63 No further information has been provided or confirmation given when this sewer may be adopted. The sewer is located on third party land, not within the control of the applicant. Given the levels of uncertainty, a Grampian condition would not be

appropriate as the LPA do not have sufficient levels of certainty to ensure this is achievable.

Pollution, Contamination, Minerals and Waste

- 8.64 Policy DM7 which seeks to address pollution, contamination impact and water quality states that new development should be located in areas where there is no pollution or where exposure to pollution and contamination is adequately remediated or removed to acceptable levels.
- 8.65 Taking into account the location of the application site, there is potential for pollution, in the form of noise and vibration impacts from the nearby by-pass (A591) and blasting as part of the adjacent quarry operations. The submitted Planning Statement as part of this application states that the quarry is in the ownership of the applicants and two of the self-build plots are for occupation by them, which will help ensure the quarrying activities will not have significant adverse effects on the development of the site for residential purposes. The statement refers to conditions from a 1997 and 2016 planning permissions for the quarry to control noise levels from the quarry. It is stated the 55dB level was considered acceptable for the development to the south of Underbarrow Road. It further states that double glazing, sound attenuating trickle ventilators and traditional building envelope constructions will ensure sufficient sound insulation for habitable rooms, to protect future occupiers of dwellings from quarrying operations. No formal noise assessment has been submitted as part of the application.
- 8.66 This does not adequately address the issues that could be caused to the proposed residential properties in terms of their proximity to the authorised quarry activity which expires in 2042 (or future activities/indicated 'redevelopment' proposals) and/or the potential for any change of ownership of the quarry site or consideration of noise (including blasting), vibration impacts and air quality (e.g. dust) or the impact of new residential development in close proximity to the quarry activities. This application site is significantly closer to the quarry than the development to the south of Underbarrow Road. There are records of complaints regarding blasting noise and vibration from properties more distant than those proposed; there is a risk the proposed development could constrain the permitted quarry operations including those agreed by the existing planning permission.
- 8.67 In this respect, further information would be required by the applicant to demonstrate that any proposed dwellings would not be affected by, or can be adequately mitigated from, any quarrying or permitted quarrying operations, in addition to by-pass noise. In the absence of such information, this would be contrary to Policy DM7.
- 8.68 With regards to contamination on the land, Policy DM7 states the possibility of contamination should be considered when determining individual planning applications in relation to all land subject to or adjacent to previous industrial uses, and where uses are proposed that are particularly sensitive.
- 8.69 Given this sites location directly adjacent to an existing, operational quarry, as well as the proposal being for a sensitive use, housing, contamination is a key consideration.

- 8.70 Policy DM7 goes on and is explicitly clear that, where development is proposed on such land or includes such uses a land contamination assessment will be required to establish the nature and extent of the contamination. It is the developer's responsibility to secure safe development and provide the necessary information. The minimum information that should be provided by an applicant is the report of a Preliminary Investigation. The findings of this will determine if further investigation is needed.
- 8.71 A Phase 1 Desk Study Contamination Report was submitted with the application, however, this is dated December 2016, and as such is out of date. This has been confirmed by W&F Public Protection, as such their consultation response ask for full details to be submitted. This has been raised with the applicant's agent during the course of the application. However, no updated report has been forthcoming.
- 8.72 Based on the information provided in the outdated report, to which we can give very little weight, it confirms that the site is located adjacent to areas of known landfill but due to the historic nature of these and the need to install radon gas protection measures, these would mitigate for any potential for landfill gas being present on the site. Unexpected land contamination could be found and it is recommended that should significant quantities of made ground materials of visual or olfactory evidence of soil or groundwater contamination professional assistance should be sought. In the absence of an up to date contamination assessment, this would be contrary to Policy DM7.

Ecology, Biodiversity and Trees

- 8.73 Policy CS8.1 focuses on Green Infrastructure. This requires the protection of species, habitats and wildlife corridors where biodiversity conservation and enhancement is affected by development, as well as conserving and enhancing existing trees and woodlands. Further to this, Policy CS8.4 deals with biodiversity and geodiversity and echoes the requirements to enhance and restore the biodiversity value of land or buildings.
- 8.74 An Extended Phase 1 Habitat Survey Report, by SK Environmental Solutions Ltd., was submitted with the application. However, this was dated 18th June 2015. Therefore it is out of date and the findings cannot be relied upon. This was raised with the applicant's agent during the course of the application, however no further report was forthcoming.
- 8.75 Moreover, Policy DM4 of the Development Management DPD is clear in stating that all development proposals should, unless it can be demonstrated that it is not possible, result in environmental net gains for biodiversity. These gains should be quantitative and should be clearly demonstrated as a net gain as a result of development. These requirements are also confirmed by Para.180 of the NPPF.
- 8.76 No information has been provided as part of this application with regards to biodiversity net gain, or a biodiversity baseline calculation to establish whether biodiversity net gain can be achieved on or off site.
- 8.77 Overall it is considered that the submitted application does not meet the requirements of national and local planning policies and fails to adequately address ecological interest on site or put forward sufficient information on which to address biodiversity net gains.

Accessible and Adaptable Homes

- 8.78 Policy CS6.2 requires that new developments will offer a range of housing size and types, and that all new housing should be easily adaptable for everyone. Policy DM11 requires that new homes are accessible and can be easily adapted to meet the changing need of their occupants over their lifetime. It is required that all new homes meet the optional Building Regulations Requirement M4(2): Category 2 – Accessible and Adaptable Dwellings.
- 8.79 An Accessible and Adaptable Homes Statement has been submitted as part of the application confirming that all 8 of the dwellings would comply with M4(2) requirements. As such, this would be acceptable.

Broadband

- 8.80 Policy DM8 requires that all new development of two houses or more demonstrates how they will provide future occupiers with sufficient broadband connectivity. The policy clearly states the information which should be provided with development proposals, including a 'Broadband Statement', early engagement with providers and an assessment of feasibility of providing fibre to the premises infrastructure. The information provided should be proportionate to the scale of the development.
- 8.81 Paragraph 2.6 of the submitted Planning Statement states:
“DM8 – *High Speed Broadband for new developments*. The surrounding properties can all receive super-fast broadband.”
- 8.82 The provision of broadband is considered an important element. The lack of information provided was brought to the agent’s attention during the application process, however, no further information was forthcoming. This one sentence in the planning statement is insufficient, it does not evidence any engagement with providers or an assessment of fibre infrastructure to the site. As a result, this does not fulfil the requirements of Policy DM8.

9.0 CONCLUSION

- 9.1 In assessing the material issues, this proposal is not acceptable on 8 grounds. This includes; dwelling mix and density, landscape and character impacts, potential impacts on the UNESCO World Heritage Site of LDNP, suitable foul water connections, pollution impacts on residential amenity, insufficient information to assess the extent of land contamination, insufficient ecological assessment or evidence of biodiversity net gain and no evidence of achievable broadband connectivity. Therefore this application is recommended for refusal.
- 9.2 The Local Planning Authority has acted positively and proactively in determining this application within a timely manner. However the proposed development raises fundamental issues which are contrary to local and national planning policies and which are incapable of being addressed within this application.
- 9.3 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.

9.4 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.

RECOMMENDATION

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

1. The information submitted does not provide adequate justification for 8 detached dwellings on a 1.3ha site, which does not meet the dwelling mix requirements or housing need of the area, contrary to Policy CS6.2 of the South Lakeland Core Strategy; and does not provide adequate justification for a low density development, therefore not making effective and efficient use of the land, contrary to Policy CS6.6 of the South Lakeland Core Strategy.
2. The proposed development lies immediately adjacent to the UNESCO World Heritage Site Lake District National Park, in an elevated hillside position, surrounded by designated open countryside, for which the landscape and visual impact of new development is critical. The application presents conflicting and insufficient information to provide an adequate basis on which to assess the landscape and character impacts of the proposed development. As such, this is contrary to Policy CS1.1, CS2, CS8.1 and CS8.10 of the South Lakeland Core Strategy, and Policy DM1 and DM2 of the South Lakeland Development Management Policies Development Plan Document
3. The application does not provide an assessment of the significance of heritage assets, by virtue of the sites location immediately adjacent to the UNESCO World Heritage Site Lake District National Park, nor the potential impacts of the proposed development on the heritage asset. As such this is contrary to Policy CS8.6 of the South Lakeland Core Strategy, Policy DM1 and DM3 of the South Lakeland Development Management Policies Development Plan Document and Para. 200 of the National Planning Policy Framework (2023).
4. Inadequate information has been submitted to confirm, that connection to a public foul water sewer is achievable as part of the development. As such, this is contrary to Policy CS1.1 of the South Lakeland Core Strategy and Policy DM1 and DM6 of the South Lakeland Development Management Policies Development Plan Document.
5. Insufficient information has been submitted to adequately assess the potential for pollution (particularly dust, noise and vibration) impacts on residential amenity of the proposed dwellings and future occupiers from activities at the adjacent Kendal Fell Quarry and A591 By-Pass. As such this is contrary to Policy DM1 and DM7 of the South Lakeland Development Management Policies Development Plan Document and Para. 180(e) and 191 of the National Planning Policy Framework (2023).
6. Insufficient and outdated information has been submitted to adequately assess the nature and extent of land contamination present on the site, which has potential impacts

on the environment and safety of future occupiers. As such this is contrary to Policy DM1 and DM7 of the South Lakeland Development Management Policies Development Plan Document and Para. 180(e) and 191 of the National Planning Policy Framework (2023).

7. The application does not provide an up to date ecological survey of the site or relationships to adjacent areas, nor has a biodiversity baseline assessment been submitted to confirm whether a biodiversity net gain can be adequately achieved on the site. Consequently, the proposed development conflicts with Policy CS8.1 and CS8.4 of the South Lakeland Core Strategy, Policy DM4 of the South Lakeland Development Management Policies Development Plan Document and Paragraph 180 of the National Planning Policy Framework.

8. The application is not accompanied by a statement of information that demonstrates how the proposed dwellings will provide future occupiers with broadband connectivity and as such fails to accord with the requirements of Policy DM8 of the South Lakeland Development Management Policies Development Plan Document.

The Local Planning Authority has acted positively and proactively in determining this application within a timely manner. However the proposed development raises fundamental issues which are contrary to local and national planning policies and which are incapable of being addressed within this application.

SOUTH LAKELAND LOCAL AREA PLANNING COMMITTEE REPORT

Planning Application Reference No. 2023/1156/NMA

Proposal: Application for a non-material amendment following grant of planning permission SL/2017/0841 (Erection of 106 dwellings with associated infrastructure).

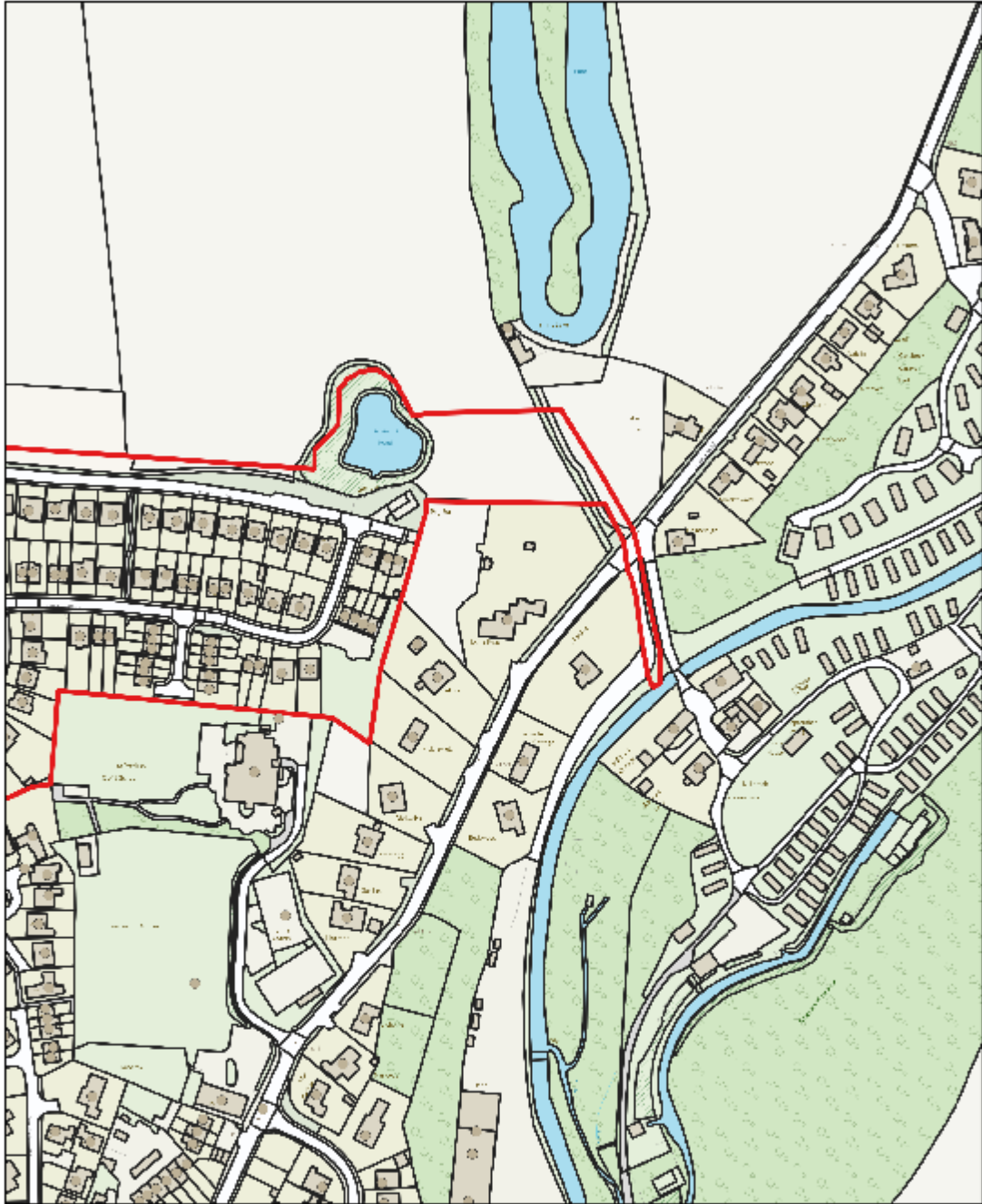
Location: Land North of Sycamore Close, Endmoor, Kendal

Applicant: Story Homes

Committee Date: 11th April 2024

Reason for Committee Level Decision: Councillor Call In.

Case Officer: Charlotte Pinch



2023/1156/NMA
Land North of Sycamore Close
Endmoor



Westmorland
& Furness
Council

Scale 1:2500

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1.0 SUMMARY

- 1.1 A non-material amendment is sought for a revised boundary treatment scheme along the eastern boundary of the site, over and above that previously approved under application SL/2017/0841 at Land North of Sycamore Close, Endmoor.
- 1.2 It is recommended that the proposed change is accepted as non-material, and therefore the amendment be granted.
- 1.3 The application is reported to Planning Committee, in accordance with the Council's Constitution and Scheme of Delegation, at the request of a Councillor due to the sensitivity and public interest in the site.

2.0 RECOMMENDATION

- 2.1 It is recommended that the proposed change to the proposed boundary treatment scheme is accepted as non-material, and therefore the amendment be granted.

3.0 THE PROPOSAL

- 3.1 This application proposes a revised boundary treatment scheme along the eastern boundary of the site, over and above that previously approved under application SL/2017/0841.
- 3.2 Planning permission SL/2017/0841 approved boundary treatment along the eastern boundary of the site to comprise of 1.8m close boarded fencing. This has not yet been implemented.
- 3.3 This revised proposal seeks to amend the boundary treatment on the eastern boundary to comprise of:
 - 1.8m feather edge fence along the southern, south eastern corner and southern section of the eastern boundary. In addition to a section adjacent to Plot 35.
 - Retained natural landscaping, trees and hedgerow.
 - 1.1m metal railing, atop existing brick boundary wall, to the side of Plot 35.
 - 1.2m heavy duty stock proof fencing, with wooden posts, netting and wire adjacent to the substation.
 - 1.2m post and three rail fencing, for a short section on the northern end of the eastern boundary.
- 3.4 The revised boundary treatments are detailed in 'Boundary Treatments Plan' END-SL-003 Rev AH (28.11.23). In addition to specification details of the 'Heavy Duty Stock Proof Fence' 40020-SD0001 RevA and '1850mm High Open Boarded Fence' SD100-A-001 RevA.
- 3.5 There are no other alterations proposed to the approved plans or conditions.

4.0 SITE DESCRIPTION

- 4.1 This is an ongoing development of 106 dwellings to the east of the A65 and west of Gatebeck Road, on the northern edge of Endmoor. The site is within the development boundary of Endmoor.

- 4.2 The development is proceeding in accordance with planning permission SL/2017/0841.

5.0 SITE PLANNING HISTORY

SL/2017/0841

Erection of 106 dwellings with associated infrastructure.

Approved with Conditions.

SL/2020/0573

Application for a non-material amendment following a grant of planning permissions SL/2017/0841 (Erection of 106 dwellings with associated infrastructure).

Plot 17 and 20 handed to the opposite orientation. Reposition plot 87 by 300mm.

Approved. 2020.

SL/2020/0812

Application for a non-material amendment following a grant of planning permissions SL/2017/0841 (Erection of 106 dwellings with associated infrastructure).

Relocation of the electricity sub-station away from Plot 13.

Approved. 2020.

SL/2023/0514

Application for a Non-Material amendment following a grant of planning permission SL/2017/0841 (Erection of 106 dwellings with associated infrastructure).

Withdrawn. 2023.

6.0 CONSULTATIONS

The following persons/organisations were consulted in relation to the development:

Consultee:	Nature of Response:
Cllr Battye	Would like to highlight local residents concerns, of Gatebeck Road, Endmoor, whose back gardens are alongside this development. Looking for reassurance that the boundary treatment will protect their privacy and the agreed works will be implemented.

Preston Richard Parish Council	Object. Proposed amendments to the boundary treatment compromise privacy and visual amenity for existing residents outside the site. Non-adherence by the developer to the originally approved permission.
Neighbour Responses:	
<p>Two letters of objection were received from neighbouring occupiers, their comments can be summarised as follows:</p> <ul style="list-style-type: none"> - Retrospective works are unacceptable. - Impacts on residential amenity. - Proposed fencing will not stop people entering neighbouring properties land. - Compromised security, noise and privacy as a result of amended boundary treatment. <p>One letter of comment was received from a neighbouring occupier, their comment can be summarised as follows:</p> <ul style="list-style-type: none"> - Revised plan proposes to erect 1.8m fence along the boundary with an adjacent dwelling. Which is in accordance with the original permission. - No objections were raised in this regard to the original permission, therefore no objections are raised to this amendment. 	

7.0 RELEVANT PLANNING POLICY

7.1 Section 96A(1) of the Town and Country Planning Act 1990 states:

A local planning authority may make a change to any planning permission (granted following an application to the authority), relating to land in their area if they are satisfied that the change is not material.

7.2 Section 96A(3) makes clear that:

The power conferred by subsection (1) includes power to remove or alter existing conditions.

7.3 Under the heading of Flexible options for planning permissions the Government's Planning Practice Guidance states:

'There is no statutory definition of non-material. This is because it will be dependent on the context of the overall scheme an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application'

8.0 PLANNING ASSESSMENT

The Non Material Amendment

- 8.1 The proposed amendment to the boundary treatment, as detailed above, seeks to replace a previously approved continuous 1.8m close boarded fence along the eastern boundary of the site.
- 8.2 Concerns have been raised by neighbouring occupiers regarding compromised privacy and residential amenity as a result of the boundary treatment amendments. Over and above the boundary treatment previously approved under application SL/2017/0841, a section of fencing will not be implemented on the rear boundary of 'Akora', by virtue of the existing mature, dense hedgerows and trees which run along this boundary and provide significant screening between the development and 'Akora'.
- 8.3 A length of 1.8m close boarded fencing is proposed adjacent to Plot 35, as previously approved. From the side of the dwelling in Plot 35 north up to the existing drainage pond is to comprise of a section of 1.1m metal railings atop an existing retaining wall, a section of 1.2m heavy duty stock proof fencing and a section of 1.2m post and three rail fence. All of which have been used elsewhere within the development.
- 8.4 Whilst it is acknowledged that the proposed railings and post and rail fencing will not provide the same level of reduced visibility between the development site and existing dwellings to the east, namely 'Holme Moss'. It would provide a clear hard barrier around the development site and be of benefit visually to the character of the area, providing a softer boundary treatment and allow landscape views beyond the development site, preferable to a harsh opaque barrier.
- 8.5 With regards to detrimental impacts on residential amenity, over and above a 1.8m close boarded fence in this location, it must be acknowledged that the property of 'Holme Moss' is located 40m to the east of the site boundary, with the properties garden being 26m from the site boundary at the closest point, further to the north this increases to 34m. 'Holme Moss' is located at a lower land level than the development site, with a small paddock which would not be considered domestic garden area, separating the two sites. 'Holme Moss' also benefits from mature soft landscaping around the domestic garden area in which the dwelling is set, significantly reducing visibility of the dwelling from the development site. Taking this into account and when looking east from within the development site, it is not considered that the proposed replacement of a 1.8m closes boarded fence, with a combination of metal railings and post and rail fencing would result in unacceptable impacts on privacy or residential amenity to existing or future occupiers.
- 8.6 Whilst it is acknowledged that the amended boundary treatment is not in accordance with that approved under application SL/2017/0841, the proposed amended boundary treatments would not result in significant detrimental impacts on residential amenity or the character of the area.
- 8.7 In this context the proposed amendment is considered to be non-material.

Cumulative Impacts

- 8.8 Section 96A requires a consideration of the effect of the proposed change and the cumulative effects of any other non-material amendments that may have

approved. To date there have been two, both approved in 2020. These were for amendments to two plots design, one plot siting and relocation of a substation. Having considered the detail of these various proposals it is concluded that the chance of any cumulative impacts is very remote.

9.0 CONCLUSION

- 9.1 In assessing the proposed amendment to the boundary treatment, it is considered this change on balance would result in no material impacts on residential amenity or the character of the area.
- 9.2 In summary, it is recommended that the proposed change is accepted as non-material and the amendment be granted.
- 9.3 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.
- 9.4 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 proposed change is accepted as non-material and the amendment be granted.

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SOUTH LAKELAND LOCAL AREA PLANNING COMMITTEE REPORT

Planning Application Reference No. 2023/1158/FPA

Proposal: Regularise the built retaining wall by plots 35/70 (Retrospective)

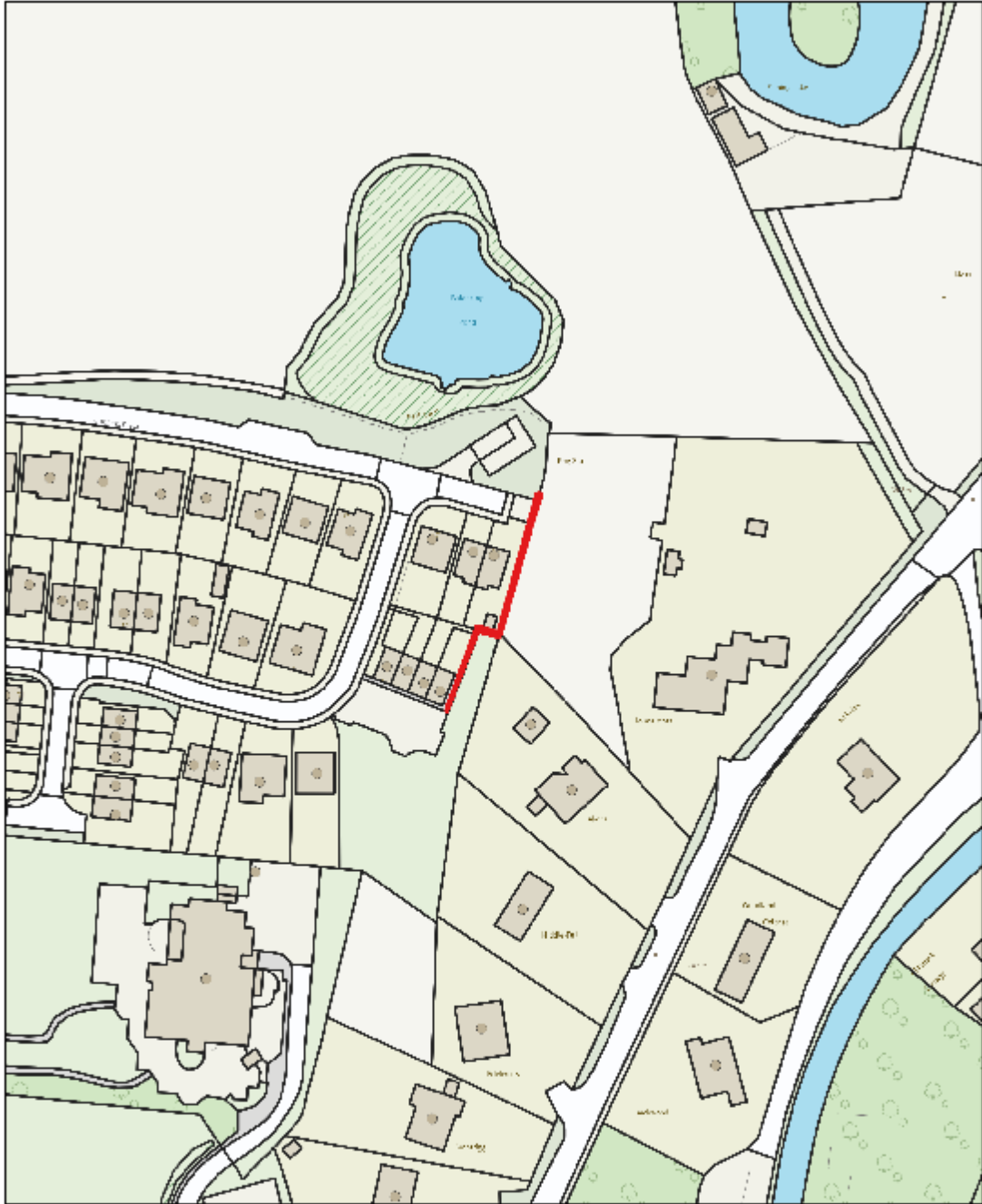
Location: Land North of Sycamore Close, Endmoor, Kendal

Applicant: Story Homes

Committee Date: 11th April 2024

Reason for Committee Level Decision: Councillor Call In.

Case Officer: Charlotte Pinch



2023/1158/FPA
Land North of Sycamore Close
Endmoor



Westmorland
& Furness
Council

Scale 1:1250

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1.0 SUMMARY

- 1.1 Full planning permission is retrospectively sought for the installation of a retaining wall adjacent to the eastern boundary of Plots 35 and 70 at Land North of Sycamore Close, Endmoor.
- 1.2 The proposed development would be acceptable in principle and would not result in a detrimental impact on visual or residential amenity. Therefore, the proposal satisfactorily complies with current local and national planning policy, and as such is recommended for conditional approval.
- 1.3 The application is reported to Planning Committee, in accordance with the Council's Constitution and Scheme of Delegation, at the request of a Councillor due to the sensitivity and public interest in the site.

2.0 RECOMMENDATION

- 2.1 Planning permission be granted, subject to conditions.

3.0 THE PROPOSAL

- 3.1 Full planning permission is retrospectively sought for the installation of a retaining wall adjacent to the eastern boundary of Plots 35 and 70.
- 3.2 The wall is of a reinforced concrete cavity construction, with a maximum height of 1.5m and a width of 350mm. It has created a reduced land gradient between the boundary of the site and garden level of the housing plots, a 2.3m level difference over a 5m separation distance.
- 3.3 The height and finished floor levels of Plot 35 and 70 remain unchanged.

4.0 SITE DESCRIPTION

- 4.1 The application site relates to an area of land currently under development, for a 106 dwelling housing scheme, to the north of Endmoor. The site is to the east of the A65 and west of Gatebeck Road.
- 4.2 The retaining wall is sited adjacent to the eastern boundary of the site, along the eastern plot boundary of Plot 70 and 35.

5.0 SITE PLANNING HISTORY

SL/2017/0841

Erection of 106 dwellings with associated infrastructure.

Approved with Conditions.

SL/2020/0573

Application for a non-material amendment following a grant of planning permissions

SL/2017/0841 (Erection of 106 dwellings with associated infrastructure).

Plot 17 and 20 handed to the opposite orientation. Reposition plot 87 by 300mm.

Approved. 2020.

SL/2020/0812

Application for a non-material amendment following a grant of planning permissions

SL/2017/0841 (Erection of 106 dwellings with associated infrastructure).

Relocation of the electricity sub-station away from Plot 13.

Approved. 2020.

SL/2023/0514

Application for a Non-Material amendment following a grant of planning permission

SL/2017/0841 (Erection of 106 dwellings with associated infrastructure).

Withdrawn. 2023.

6.0 CONSULTATIONS AND REPRESENTATIONS

The following persons/organisations were consulted in relation to the development:

Consultee:	Nature of Response:
Preston Richard Parish Council	Object. Height of the new dwellings compared to those on Gatebeck Road is concerning, noting that several tons of soil were brought to this end of the site to raise the level substantially. Concerns regarding the stability of the land and the need for the retaining wall. Unhappy with retrospective works.
Neighbour Responses:	
Four letters of objection were received from neighbouring occupiers, their comments can be summarised as follows: <ul style="list-style-type: none">- Unneighbourly and retrospective development.- Wall is constructed of blocks, with no suitable facing, which is not in keeping visually with the area.- Wall is adjacent to another land owners boundary, raises concerns for future maintenance.- Seeking reassurance that the wall is to a safe design and construction, with a suitable maintenance plan.	

- Overshadowing impacts from the wall, combined with fencing above.
- Loss of existing natural landscaping on the boundary of the site.
- Concerned works have not been carried out in accordance with the original permission.

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.

Local Plans

South Lakeland

- *South Lakeland Core Strategy - adopted 20 October 2010*
- *South Lakeland Development Management Policies Development Plan Document - adopted 28 March 2019.*

Other Material Considerations

National Planning Policy Framework (NPPF)

7.2 The NPPF sets out the Government's planning policies for England and how these are expected to be applied. This is a material consideration in planning decisions.

7.3 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:

7.4 The following sections are considered relevant to this application:

Section 2: Achieving sustainable development.

Section 4: Decision Making.

Section 12: Achieving well designed places.

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.

- 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.

Main Planning Issues

- 8.3 The main planning issues for this planning application are as follows:

- Principle of development.
- Impact on visual amenity.
- Impact on residential amenity.

Principle of development

- 8.4 In accordance with Policy CS1.2 of the Core Strategy Endmoor is a Local Service Centre, where 21% of the district's new housing and employment development should be focused. This proposed development is within the development boundary of Endmoor.
- 8.5 This retrospective application for a retaining wall is part of a larger housing development scheme, as approved under application SL/2017/0841, which has almost reached completion. This wall is a minor addition to the wider development, and as such is an acceptable form of development in principle.

Visual Impact

- 8.6 Policy CS8.10 of the Core Strategy states that development proposals should demonstrate that their location, scale, design and materials will protect and conserve the special qualities and distinctiveness of the area.
- 8.7 In addition, Policy DM2 of the Development Management DPD requires that development proposals should ensure that development creates a positive relationship with surrounding uses, including a high standard of boundary treatment that retains and enhances the existing landscape and built characteristics of the locality. Development should ensure connectivity with neighbouring uses, spaces and streets. Furthermore, new development should take into account topographical features, including orientation, height and siting.
- 8.8 The wall is sited within the development site, forming the eastern boundaries of Plots 35 and 70. The wall is located in an area of the site which is not readily visible or adjacent to any of the main access points to the development. It would have a maximum of height of 1.5m, which is not of an incongruous or disproportionate scale in relation to the surrounding built form.
- 8.9 The wall is of a reinforced concrete cavity construction and clad in buff colour brickwork, to reflect the materials used in the adjacent dwellinghouses, which is considered acceptable.

Impact on Residential Amenity

- 8.10 Policy DM1 of the Development Management DPD requires that development must ensure acceptable levels of amenity, privacy and overshadowing for existing, neighbouring and future users.
- 8.11 The wall is set away from the eastern boundary of the site. The levels directly adjacent to the site boundary and the garden levels of Plots 35 and 70 remain unchanged. The wall provides a robust boundary, where otherwise would have been a graduated mound. Given the significant separation distance between the wall and the closest dwellings to the east, taking into account its maximum height of 1.5m, this would not be considered an overbearing addition.
- 8.12 It is considered that the wall will not cause amenity harm to adjacent existing or future occupiers within or outside of the development site.

9.0 CONCLUSION

- 9.1 In assessing the material issues, the retrospective development is considered to be acceptable in principle. It does not cause unacceptable detrimental impacts on the character of the area or residential amenity, inside or outside of the development site, subject to the application of suitable conditions.
- 9.2 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, with the planning conditions proposed.
- 9.3 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.
- 9.4 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.

RECOMMENDATION

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

Condition (1) The development hereby permitted shall be retained in accordance with the following approved plans:

Location Plan Retaining Wall END-SL-LPRW Received 08 December 2023

Plot 70 Cross Section Received 21 February 2024

Reinforced concrete cavity retaining wall height 1500mm maximum 60-10 Rev D
Received 21 February 2024

External Works Sheet 2 of 2 40-13-02 Rev C4 Received 21 February 2024

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

Condition (2) The materials used for the external surfaces of the development hereby approved shall be retained as Tay Buff Multi Brickwork.

Reason: To ensure the development is of a high quality design.

SOUTH LAKELAND LOCAL AREA PLANNING COMMITTEE REPORT

Planning Application Reference No. SL/2024/0174

Proposal: Rear and side extension and partial loft conversion forming extended bedrooms, shower room and mezzanine to first floor level and utility, extended kitchen/dining and sitting area, extended bedroom and removal of porch to ground floor.

Location: 2 Rusland Crescent ULVERSTON LA12 9LT

Applicant: Mr and Mrs Gary and Helen O'Neill

Committee Date: 11th April 2024

Reason for Committee Level Decision:

The Parish Council has objected to the proposal and the application is recommended for approval.

Officer: David Gibson



Location plan

Scale 1:1250

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1.0 SUMMARY

- 1.1 Full planning permission is sought for the erection of an extension to the side and rear, a dormer window in the rear elevation, and a partial loft conversion.
- 1.2 One objection has been received from the Parish Council, and one objection have been received from adjoining neighbours.
- 1.3 It is considered that the proposed works would not have a significant adverse impact on the amenity of the neighbouring residents, would not have an adverse impact on the character of the area, and it would not have an adverse impact on highway safety.

2.0 RECOMMENDATION

- 2.1 The application is recommended for approval with conditions

3.0 THE PROPOSAL

- 3.1 Full planning permission is sought for the erection of a single storey side and rear extension of the dwelling and a dormer window to the rear.
- 3.2 The rear projection would have glazing in the rear elevation. This glazing takes up most of the rear elevation. A small covered area would also be erected to the rear.
- 3.3 The side extension would have a sloping roof and would be set back from the front elevation of the dwelling.

4.0 SITE DESCRIPTION

- 4.1 The site is a semi-detached dormer bungalow. The property has dwellings to the front, side and rear. Dormer windows exist in the immediate and wider area. Other properties in the area have been extended.
- 4.2 The property to the north has been extended to the rear. This property has windows in the rear elevation.
- 4.3 The boundary of the property to the east is located over 10 metres from the rear of the property, and the dwelling to the east is located over 20 metres from the rear of the application property.

5.0 SITE PLANNING HISTORY

- 5.1 None relevant to this application

6.0 CONSULTATIONS

6.1 Ulverston Town Council – Objections to the development

6.2 “This has been approved with the caveat of reducing the size or changing the plans for the large window which is overlooking the property opposite. This will reduce the impact of the neighbour’s privacy.”

6.3 Tree Officer – No objections subject to condition

7.0 REPRESENTATIONS

7.1 One objection has been received from a member of the public

7.2 43 Mountbatten Road – Objects to the development -

“1) Loss of Privacy Every window (9/10 in total) on the rear elevation of the proposed development looks directly at our property. The view through the double height windows from the elevated mezzanine area will be over the garden and into our main bedroom. The proposed dormer window overlooks our garden and offers uninterrupted views of our patio area and our living area. The size of the dormer would give us a loss of privacy and a feeling of enclosure.

2)Other Negative Effects We are concerned at the light pollution in the darker months. The double height windows will throw bright light across our property. Illuminating the whole area.”

8.0 RELEVANT PLANNING POLICY

8.1 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.

South Lakeland

- South Lakeland Core Strategy - adopted 20 October 2010
- South Lakeland Local Plan Land Allocation Development Plan Document Policies - adopted 17 December 2013.
- South Lakeland Development Management Policies Development Plan Document - adopted 28 March 2019.

Other Material Considerations

National Planning Policy Framework (NPPF)

- 8.4 The NPPF sets out government’s planning policies for England and how these are expected to be applied. This is a material consideration in planning decisions.
- 8.5 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:
- 8.6 The following sections are considered relevant to this application:

9.0 PLANNING ASSESSMENT

The presumption in favour of sustainable development

- 9.1 Paragraph 8 of the National Planning Policy Framework (NPPF) introduces the overarching economic, social and environmental objectives central to achieving sustainable development.
- 9.2 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.

Main Planning Issues

- 9.3 The main planning issues for this planning application are as follows:
- Visual Impacts
 - Impact on residential amenity
 - Drainage
 - Biodiversity
 - Highway Safety

Landscape and Visual Impacts

- 9.4 National and Local Policy requires development to take account of the settlement vernacular features and character. Policy CS1.1 requires that development is of a high quality and quality and that localised and appropriate

design is incorporated to retain distinctive character/ sense of place and to enhance the existing building. Policies CS8.2 and Policy CS8.10 require 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. Policies DM1 and DM2 require that development responds appropriately to the proposal site's location context, local and settlement character and distinctiveness.

- 9.5 The proposed works would not be overly prominent when viewed from the public realm, with the majority of the works being located to the rear or set back from the front elevation. The proposed design and materials would ensure that it would assimilate well with the host dwelling. The proposed dormer is of a similar design to other dormers in the area. Although it is quite large, the applicant would have a fall back option because given the dormer's size and location it would be permitted development and would not require planning consent, if taken in isolation. Therefore, it is considered that the proposed development is acceptable in principle.
- 9.6 Overall the proposals are considered to be compliant with Policy DM2 and Policy DM3 of the DM DPD which requires that new development should be "well proportioned, positioned and in scale with its surroundings...by avoiding the creation of dominant or incongruous extensions and alterations to existing buildings."

Residential Amenity

- 9.7 Policy DM1 of the DM DPD requires that development should ensure the delivery of acceptable levels of amenity, privacy and overshadowing for existing, neighbouring and future users and occupants. An objection has been received, which relates to the potential for the creation of an overbearing impact, loss of light, and loss of view towards to the sea as a result of the proposal.
- 9.8 The proposed development to the rear would have a relatively large projection. The extension would project approx. 3m along the northern boundary and would have a flat roof minimising the impact on the property to the north of the site. With regards to the property to the south, this property is approximately 10m from the proposed side extension. This part of the proposed extension is single storey and has a sloping roof away from the neighbouring property and therefore would have a limited impact.
- 9.9 Objections have been received from a neighbour and from the Parish Council relating to loss of privacy. The proposed high level glazing in the rear extension would be located approximately 10 metres from the rear boundary with the

neighbouring dwelling to the east, and would overall be located over 20 metres from the rear elevation of the neighbouring property. The proposed dormer would be located approximately 18 metres from the rear boundary and approximately 29 metres from the rear elevation of the property to the east.

- 9.10. The new glazing at first floor level in the rear extension would be high level. It should be noted that internally the first floor would be set back from the windows at first floor level, further reducing the potential for any overlooking. Notwithstanding this, the separation distance of approximately 20 metres between the proposed rear windows and the neighbour's rear elevation is sufficient to protect the privacy and amenity of the neighbouring residents.
- 9.11 Given the above, the proposal would not have a significant impact on the neighbouring properties. The extensions would be seen as a compromise between the need for space by the applicant and an acceptable impact on the neighbouring residents.
- 9.12 Due to the location of the development, the layout of the property and its neighbours, and the separation distances involved there will be no overshadowing impact or significant loss of privacy from this development to the properties to the side and rear. Accordingly, the proposal is considered to comply with Policy DM1.

Drainage

- 9.13 Surface water will be disposed of through the existing measures. The existing drainage is considered to be an appropriate arrangement that will not result in run off increasing the risk of flooding.
- 9.14 Based on the above the proposed development is considered to comply with Policy DM6 and DM7 of the Development Management Policies DPD and Para 159 of the NPPF.

Biodiversity

- 9.15 The NPPF para 170 (d) requires that proposals minimise impacts on and provide net gains for biodiversity this is echoed through Local Policies DM1 and DM4, which require that unless it can be demonstrated that it is not possible, all development proposals should result in net gains for biodiversity.
- 9.16 A condition will be placed on any permission requiring a bat or bird box be installed to ensure a net gain in biodiversity in accordance with the above policies.

Highway Safety

- 9.17 The development will not lead to an increase in the number of vehicles entering or leaving the site or need for car parking. The existing access arrangements

will not be altered. The access and level of parking on site is acceptable and would accord with Policy DM9 and the parking standards within the Cumbria Design Guide.

Other

- 9.18 A tree is located at the rear of the site. The Tree Officer has stated that the works are unlikely to impact on the tree but a Tree Protection Plan and Arboricultural Method Statement for the scheme should be submitted prior to works commencing on site.
- 9.19 It is considered that given the fact that the trees are located a significant distance from the proposal, and the tree is not protected, a standard condition will be placed on any approval stating that works cannot be carried out in close proximity to the tree. This will ensure that the tree is protected without the need for unnecessary expense for the owner of the property.

10.0 CONCLUSION

- 10.1 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.
- 10.2 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.
- 10.3 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.

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 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

2. The development hereby granted shall be carried out in accordance with the drawings hereby approved:

- i) 01B received 02/02/2024
- ii) 02B received 02/02/2024

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

Materials

3. The development hereby permitted shall be constructed entirely of the materials details of which are shown on the submitted application form and i) 01B received 02/02/2024 and ii) 02B received 02/02/2024 The approved materials shall be retained thereafter, unless otherwise approved in writing by the Local Planning Authority.

Reason: To ensure the development is of a high quality design in accordance with Policy DM2 of the Development Management Policies Development Plan Document and Policy CS8.10 of the South Lakeland Core Strategy.

Bat/Bird Box

4 Within 4 weeks from the completion of the development, a bat/bird box shall be installed within the site. The bat/bird box shall be retained for the life of the development. A native tree shall be planted within the first planting season following the substantial completion of the development.

Reason: To ensure the development achieves a net gain in biodiversity in accordance with Policy DM1 and DM4 of the Development Management Policies Development Plan Document.

Tree Protection

5 No fires shall be lit within 10 metres of the nearest point of the canopy of any retained tree, no equipment, machinery or structure shall be attached to or supported by a retained tree, no trenches shall be excavated or services installed in the root protection area and no mixing of cement or use of other contaminating materials or substances shall take place within the root protection area that seepage or displacement could cause them to enter a root protection area.

Reason: To ensure the protection and retention of important landscape features.