

## **SOUTH LAKELAND LOCAL AREA PLANNING COMMITTEE REPORT**

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**Planning Application Reference No. 2023/1158/FPA**

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

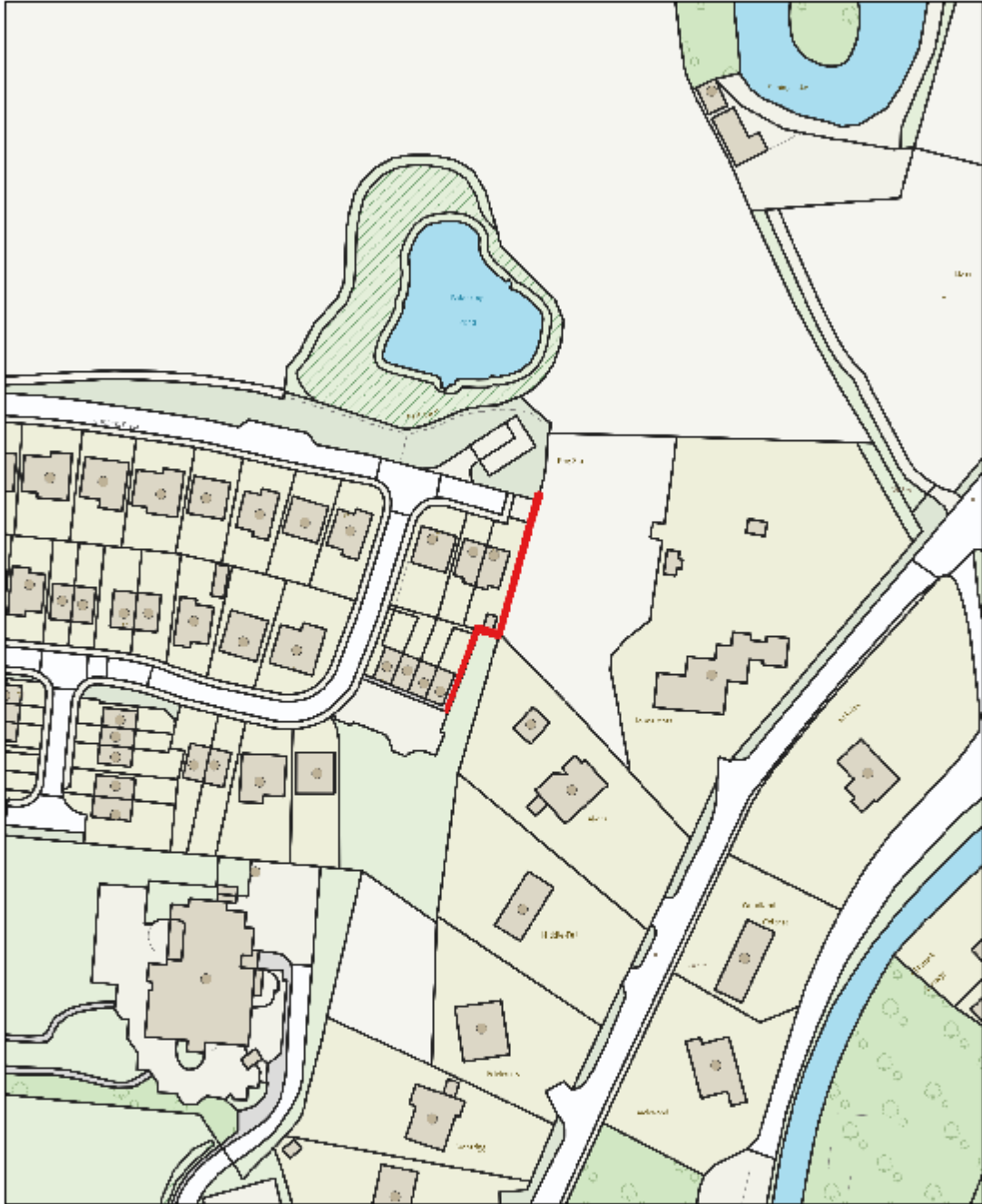
**Location:** Land North of Sycamore Close, Endmoor, Kendal

**Applicant:** Story Homes

**Committee Date:** 11<sup>th</sup> 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

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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:

<b>Consultee:</b>	<b>Nature of Response:</b>
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.
<b>Neighbour Responses:</b>	
Four letters of objection were received from neighbouring occupiers, their comments can be summarised as follows: <ul style="list-style-type: none"><li>- Unneighbourly and retrospective development.</li><li>- Wall is constructed of blocks, with no suitable facing, which is not in keeping visually with the area.</li><li>- Wall is adjacent to another land owners boundary, raises concerns for future maintenance.</li><li>- Seeking reassurance that the wall is to a safe design and construction, with a suitable maintenance plan.</li></ul>	

- 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.