

<b>Agenda Item</b> A6	<b>Committee Date</b> 6 March 2017	<b>Application Number</b> 16/01572/OUT
<b>Application Site</b> Land Adjacent To Church Bank And Greenways Over Kellet Lancashire	<b>Proposal</b> Outline application for the erection of 15 dwellings and creation of a new access	
<b>Name of Applicant</b> The Late James Cottam (Senior) Will	<b>Name of Agent</b> Mr Matthew Atkinson	
<b>Decision Target Date</b> 17 March 2017	<b>Reason For Delay</b> Not applicable	
<b>Case Officer</b>	Mr Mark Potts	
<b>Departure</b>	No	
<b>Summary of Recommendation</b>	Approval (subject to the applicant entering into a legal agreement)	

**(i) Procedural Note**

A site visit was arranged for Committee Members to view this particular site prior to the Committee meeting. This was undertaken on 30<sup>th</sup> January 2017.

**1.0 The Site and its Surroundings**

- 1.1 The proposed development is located to the south of the village of Over-Kellet, with the site accessed off Greenways. The application site comprises pastureland that is grazed by cattle, and amounts to a site area of approximately 0.75 hectares. There are no buildings within the site, but the site is bound by hedgerows to the north west, to the north lies properties on Greenways and a mature pond, to the east the land rises steeply and contains a combination of Crags and Woodland. The site rises gradually from the west towards to the east, however the highest part of the site is within the south west corner of the site at approximately 86.5 metres Above Ordnance Datum (AOD). To the south lies agricultural land.
- 1.2 To the north-west of the site lies properties on Church Bank, with their rear gardens abutting the application sites boundary, to the north is Greenways which is a residential road with a mix of semi-detached and detached properties. To the east the land steeply rises with trees along its ridge with limestone pavement and crags being evident, and to the south lies agricultural land.
- 1.3 The site is not within a protected landscape. The site does lie adjacent to Over Kellet Pond which is a Biological Heritage Site (BHS) and the Kirk House Crags (to the east of the site) do benefit from being a Regionally Important Geological Site (RIGS) and also a Biological Heritage Site. The Kirk House Crags also benefit from a Limestone Pavement Order (LPO). The nearest SSSI is Morecambe Bay around 4.5km to the west (which is also RAMSAR, SPA and SAC protected). Footpath 12 passes the north-western fringe of the application site and Footpath 13 is located 50 metres to the south of the proposal. St Cuthbert's Church which is Grade II\* listed is located 180 metres to the south west of the site, with Kirkhouse (Grade II Listed) being located circa 140 metres to the south of the site. The majority of the site is included within a Mineral Safeguard Zone (Limestone). There are trees that are covered by Tree Preservation Orders on the boundaries of the application site in the form of TPO 391 (206), which relates to trees located at the rear of 14,13 and

12 Church Bank. To the east of the site lies Tree Preservation Order's 134 and 139 (1988) which relate to the trees located at Kirk House Crag Over-Kellet.

## **2.0 The Proposal**

2.1 The proposal seeks outline planning permission for the erection of 15 dwellings with an associated access off Greenways. The scheme also incorporates proposed improvements to the existing Public Right of Way (Footpath 12) that leads to Church Bank.

2.2 The applicant has submitted an indicative layout (to illustrate how the site could be developed) which consists of the provision of 15 dwellings based on the below;

- 2 x one bedroom dwelling,
- 4 x two bedroom dwelling,
- 5 x three bedroom dwelling,
- 3 x four bedroom dwelling,
- 1 x five bedroom dwelling.

All these units are proposed to be two storey in height. There is an existing footway on the north western corner of the site currently in the region of 1m in width, however this is proposed to be increased to 2m in width for a distance of 27m. Open Space and also a wildlife buffer zone are all included on the indicative layout. Boundary treatments are to consist of stone walls and hedgerows.

## **3.0 Site History**

3.1 A very similar planning application was submitted in 2016 under application reference 16/00934/OUT for 15 units however was withdrawn given officer concerns on ecology.

## **4.0 Consultation Responses**

4.1 The following responses have been received from statutory and non-statutory consultees:

Consultee	Response
<b>Over Kellet Parish Council</b>	<b>Objection</b> to the development, predominantly on the grounds of sensitivity of the location; Inadequate foul and surface water drainage; Access and Road Safety; Environmental Considerations (Great Crested Newts); Lack of amenities within the village; No employment within Over Kellet; Loss of Agricultural Land; No housing need has been evidenced by the applicant and no perceived demand; Detrimental impact onto properties on Church Bank; and Loss of Tourism to Over-Kellet.
<b>Greater Manchester Ecology Unit</b>	<b>No objection</b> (although there are significant nature conservation concerns with the development). Conditions should be attached to any consent that deal with newts and their habitats, a Habitat Management Plan for the adjacent Biological Heritage Site and surface and foul water drainage conditions.
<b>Natural England</b>	<b>No objection.</b>
<b>Public Realm Officer</b>	<b>No objection</b> , recommends 258m <sup>2</sup> of amenity space on the site together with a financial contribution of £37,138 towards off space play.
<b>Tree Protection Officer</b>	<b>No objection</b> , subject to conditions relating to the development being carried out in accordance with the Assessment, provision for a Arboricultural Method Statement and Tree Protection Plan.
<b>RSPB</b>	No observations received within the statutory timescales.
<b>County Highways</b>	<b>No objection</b> , subject to conditions relating to the main access being constructed to at least base course level and a condition relating to off-site highway improvements.
<b>Public Rights of Way Officer</b>	<b>No objection</b> , however the footpath to Church Bank should be tarmac surfaced to improve the walking surface for pedestrians and be a minimum of 2 metres in width.
<b>Ramblers Association</b>	No observations received within the statutory timescales.
<b>Strategic Housing Officer</b>	No observations received within the statutory timescales.

<b>Local Plans Team</b>	<b>No objection</b> - development in principle is acceptable as Over Kellet is listed as a sustainable village, however the impact on the Biological Heritage Site, Geological Heritage Site, together with landscape impacts need to be fully considered.
<b>County Council (Education)</b>	<b>No objection</b> and at the present moment in time would not seek an education contribution for either primary or secondary school provision. However given the number of pending planning applications they may seek a contribution of £20,303.59 for one secondary school place.
<b>County Council Mineral Safeguarding</b>	No observations received within the statutory timescales.
<b>Lancashire Police</b>	<b>No objection</b>
<b>Geo-Lancashire</b>	No observations received within the statutory timescales.
<b>Fire Safety Officer</b>	<b>No objection</b>
<b>Lead Local Flood Authority</b>	Initially objected however following receipt of amended drainage information. <b>No Objection</b> , subject to the provision of conditions controlling a surface water drainage scheme, management of surface water, and eliminating pollution throughout the construction phase.
<b>Conservation Officer</b>	<b>No objection</b> to the development assuming high quality design, landscaping and suitable boundary treatments.
<b>Environmental Health</b>	No observations received within the statutory timescales.
<b>Lancashire Wildlife Trust</b>	<b>Objection</b> on the basis that the ecological appraisal has under-estimated the impact of the Over Kellet Pond and fails to address the potential impacts on the local Great Crested Newt population and also the Biological Heritage Site.

## **5.0 Neighbour Representations**

5.1 At the time of compiling the report there has been **55** letters of objection received to the scheme outlining the issues below;

- Sustainability issues, including the site is not sustainable; the site is not within Over Kellet; poor quality bus service provision; high-density development in the countryside;
- Traffic and Highway safety concerns, including creation of a sea of cars and exacerbation of existing congestion on Greenways;
- Biodiversity concerns, including impact on preserved trees; loss of habitat for wildlife; detrimental Impact on the Biological Heritage and Geological Heritage Sites;
- Open space concerns, including loss of recreational area; the site has been submitted for consideration as a local green space; loss of well-used footpath;
- Flood and drainage concerns, including increased risk of flooding; and inadequate waste water infrastructure;
- Impact upon heritage assets;
- Amenity concerns, including loss of amenity and privacy to Church Bank properties;
- Concerns regarding the submission, including factual and drawing inaccuracies; poor quality of supporting data; red-edged plan incorporates boundary hedges;
- Land ownership concerns, including site entrance is not within applicant's control.
- No demand for large 4 bedroom homes – these homes should be one-two bedroom;

## **6.0 Principal National and Development Plan Policies**

6.1 National Planning Policy Framework (NPPF)

Paragraphs 7, 12, 14 and 17 - Sustainable Development and Core Principles  
Paragraph 32, 34 and 38 Access and Transport  
Paragraphs 49, 50 and 55 - Delivering Housing  
Paragraphs 56, 58, 60, 61 and 64 – Requiring Good Design  
Paragraphs 69,70, 72 and 73 – Promoting Healthy Communities  
Paragraph 103 – Flooding  
Paragraphs 109, 115,117,118 – Conserving the Natural Environment  
Paragraphs 128-134 – Conserving and Enhancing the Historic Environment

Paragraphs 186, 187, 196, 197, 203-206 – Decision-taking

## 6.2 Local Planning Policy Overview – Current Position

At the 14 December 2016 meeting of its' Full Council, the local authority resolved to undertake public consultation on:

- (i) The Strategic Policies and Land Allocations Development Plan Document (DPD); and,
- (ii) A Review of the Development Management DPD.

This enabled progress to be made on the preparation of a Local Plan for the Lancaster District. The public consultation period is from 27 January 2017 to 24 March 2017, after which (if the consultation is successful), the local authority will be in a position to make swift progress in moving towards the latter stages of; reviewing the draft documents to take account of consultation outcomes, formal publication and submission to Government, and, then independent Examination of the Local Plan. If an Inspector finds that the submitted DPDs have been soundly prepared they may be adopted by the Council, potentially in 2018.

The **Strategic Policies and Land Allocations DPD** will replace the remaining policies of the Lancaster District Core Strategy (2008) and the residual 'saved' land allocation policies from the 2004 District Local Plan. Following the Council resolution in December 2016, it is considered that the Strategic Policies and Land Allocations DPD is a material consideration in decision-making, although with limited weight. The weight attributed to this DPD will increase as the plan's preparation progresses through the stages described above.

The **Review of the Development Management DPD** updates the policies that are contained within the current document, which was adopted in December 2014. As it is part of the development plan the current document is already material in terms of decision-making. Where any policies in the draft 'Review' document are different from those adopted in 2014, and those policies materially affect the consideration of the planning application, then these will be taken into account during decision-making, although again with limited weight. The weight attributed to the revised policies in the 'Review' will increase as the plan's preparation progresses through the stages described above.

## 6.3 Lancaster District Core Strategy (adopted July 2008)

SC1 – Sustainable Development  
SC3 – Rural Communities  
SC4 – Meeting the District's Housing Requirements  
E2 – Transportation

## 6.4 Lancaster District Local Plan - Saved policies (adopted 2004)

E4 – Countryside Area

## 6.5 Development Management DPD

DM20 – Enhancing Accessibility and Transport Linkages  
DM21 – Walking and Cycling  
DM22 – Vehicle Parking Provision  
DM23 – Transport Efficiency and Travel Plans  
DM26 – Open Space, Sports and Recreational Facilities  
DM27 – Protection and Enhancement of Biodiversity  
DM28 – Development and Landscape Impact  
DM29 – Protection of Trees, Hedgerows and Woodland  
DM30 – Development affecting listed buildings  
DM32 – The Setting of Designated Heritage Assets  
DM34 – Archaeology  
DM35 – Key Design Principles  
DM37 – Air Quality Management and Pollution  
DM38 – Development and Flood Risk  
DM39 – Surface Water Run-off and Sustainable Drainage  
DM41 – New Residential dwellings

DM42 – Managing Rural Housing Growth  
DM48 – Community Infrastructure  
DM49 – Local Services

## 6.6 Lancashire Minerals and Waste Local Plan

M2 – Safeguarding Minerals (Minerals Safeguarding Areas)

## 6.7 Other Material Considerations

- National Planning Practice Guidance;
- Meeting Housing Needs Supplementary Planning Document;
- Lancaster City Council 2015 Strategic Housing Land Supply Statement (October 2015);
- Planning Advice Note – Open Space Provision within New Residential Developments.

## **7.0 Comment and Analysis**

7.0.1 The main issues to be considered in the determination of this application are:

- Principle of development;
- Design;
- Highways;
- Drainage;
- Landscape;
- Ecological Issues;
- Education Provision;
- Open Space;
- Heritage Considerations;
- Other Material Considerations

### 7.1 Principle of development

7.1.1 The site is located on land outside of the main urban area and is identified as ‘Open Countryside’ in the adopted Local Plan. The Council, via the Spatial Strategy described in the District Core Strategy and continued in the emerging Land Allocations document, would generally look to direct development to the main urban areas of the district, and this was very much the intention of Policies SC1 and SC2 of the Core Strategy. Whilst not precluding development outside such locations it would need to be demonstrated how the proposal complies with other policies within the Development Plan and ultimately the delivery of sustainable development.

7.1.2 DM DPD Policy DM42 seeks to promote wider opportunities for housing delivery within rural areas of the district, in accordance with the aims of national planning policy. Policy DM42 sets out a series of villages which the council would, in principle, support proposals for new housing. Policy DM42 identifies Over Kellet as a village where housing proposals would be supported in principle. Whilst the principle of housing development in Over Kellet is accepted, there are a number of considerations which need to be given to any planning application before concluding that residential development in this location would represent sustainable development. In particular reference should be made to paragraph 20.22 of the Development Management DPD which states;

*‘The council will support proposals for new housing development that contain or have good access to an appropriate range of local services that contribute to the vitality of these settlements. These services are local shops, education, health facilities and access to public transport and other valued community facilities. Proposals should demonstrate that they will have clear benefits to the local community and, in particular, will meet rural housing needs according to robust evidence (such as the Lancaster District Housing Needs Survey or other local housing needs survey)’.*

7.1.3 Given the site is identified as Open Countryside, saved Policy E4 of the adopted Local Plan is relevant to this planning application. This requires proposals in the Open Countryside to be in scale and keeping with the character and natural beauty of the landscape; appropriate to its surroundings in terms of siting, scale, materials, external appearance and landscaping; not result in an adverse effect on nature conservation or geological interests and make satisfactory arrangements for access, servicing, cycle and car parking provision.

7.1.4 Notwithstanding this, the Council is charged by Government (via National Planning Policy) with significantly boosting the supply of housing. Locally, DM DPD Policy DM41 states that residential development will be supported where it represents sustainable development. The Policy states that proposals for new residential development should ensure that available land is used effectively taking into account the characteristics of different locations; be located where the environment, services and infrastructure can or could be made to accommodate the impacts of expansion; and provide an appropriate mix in accordance with the Lancaster District Housing Needs Survey or other robust evidence of local housing need.

7.1.5 The Local Authority cannot demonstrate a 5 year housing land supply, and Paragraph 14 of the NPPF sets out the presumption in favour of sustainable development. It goes on to say that Local Planning Authorities (LPA's) should approve development proposals which accord with the development plan without delay, and that where a development plan is absent, silent or relevant policies are out-of-date the LPA should grant permission unless:

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework [NPPF] taken as a whole; or
- Specific policies in this Framework [NPPF] indicate development should be restricted.

As a consequence there is a clear expectation that, unless material considerations imply otherwise, opportunities for sustainable housing delivery should be considered favourably and officers have attached significant weight to this in terms of the planning balance.

7.1.6 The site was put forward in the Strategic Housing Land Availability Assessment (SHLAA) 2015, however it was assessed as being undeliverable. The SHLAA proposal occupied 14.35 hectares and therefore was much larger than the application site, and was deemed undeliverable due to concerns with respect to the developments impact on the natural environment and could prejudice future access to minerals. The current application occupies just 0.75 hectares, and the site does not fall within any nationally important statutory designations (although around 1m of the access does fall within the Biological Heritage Site). Notwithstanding this, the SHLAA is just an evidence base document to assess the amount of land that could be made available for housing development, this can include green belt and also countryside land as well.

7.1.7 Many objectors have raised the concern that Over Kellet is not a sustainable location for a scheme of this scale. However DM DPD Policy DM42 is especially relevant for this application and as noted above new development in Over Kellet will be supported assuming the below criteria can be met;

- Be well related to the existing built form of the settlement;
- Be proportionate to the existing scale and character of the settlement unless exceptional circumstances can be demonstrated;
- Be located where the environment can accommodate the impacts of the expansion;
- Demonstrate good siting and design in order to conserve and where possible enhance the quality of the landscape; and,
- Consider all relevant policies within the Arnside and Silverdale Area of Outstanding Natural Beauty (AONB) DPD.

7.1.8 The proposed development is located on the southern fringes of Over Kellet and whilst it is greenfield it does feel very much part of the settlement given the presence of properties on Church Bank to the west and Greenways to the north, it is therefore considered that the scheme is well-related to the built form. At 15 units, (compared with a population of 761 in 2011) the scheme is considered to be proportionate to the existing scale of the village. Assuming high quality designs and materials were put forward at reserved matters stage, it is considered that the proposal, with associated open space, would be in keeping with the character of the settlement.

7.1.9 The scheme is in outline, however the applicant has submitted an indicative layout to show how 15 units can be accommodated on the site together with the open space provision. Whilst there are concerns with the schemes layout as proposed, it is considered that given the density of the scheme that a high quality scheme which represents good siting and design can be delivered here. For the reasons contained elsewhere within this report it is considered that in general the local environment can accommodate this form of development.

## 7.2 Design

7.2.1 Outline planning permission is being sought. This does not include (at this stage) precise matters of design such as layout. The purpose of an outline application is to establish the principle of development and the quantum of units that a site could reasonably accommodate, taking into account the site constraints. The applicants have supplied an indicative layout plan which shows how the 15 units could be accommodated on the site. The scheme shows provision for 7 detached dwellings and 8 semi-detached units; open space in the region of 470 square metres; 470 square metres for the pond buffer zone and the necessary access. There were concerns (with the withdrawn application) about the utilisation of the pond buffer zone as open space and the layout has been amended to show the retention of one of the outcrops and this land allocated as amenity space. The proposed layout has its strengths such as a strong approach into the site with two dwellings facing Greenways, and at the rear of the site following concerns at pre-application stage the units have been turned to face Nether Kellet Road. Internally however the scheme does appear quite suburban and car dominated. The case officer has significant reservations regarding the relationship between plots 13 and 14 relative to the proposed residential amenity space. Principally as users of the open space would be looking directly into the gardens of the adjacent units and it is felt that this area can be improved upon as can the relationship between plot 9 and the limestone outcrop.

7.2.2 A number of residents of Church Bank have objected. They enjoy pleasant views from the rear of their properties (many of which have low hedgerows to take advantage of the views). However, the 'right to a view' is not a material planning consideration that has weight in planning decisions. The right to an appropriate outlook however, does. To safeguard outlook, DM DPD Policy DM35 advises that there should be 21m between dwellings where windows of habitable rooms face each other. The closest habitable window to habitable window distance is in the region of 24.5m and therefore this exceeds the criteria in Policy DM35. Notwithstanding this, there are level differences between Church Bank and the application site of up to around 3 metres. Whilst not adopted by policy there is general good practice that for every ½ metre difference in levels there could be an additional metre separation provided. Such matters would be controlled at the Reserved Matters stage, if the current application is approved. All the gardens adhere to providing 50sq.m of usable garden space, and on the whole all benefit from 10m-long gardens. Whilst concern has been raised that the scheme is high density, based upon an area of 0.75 hectares this equates to a housing density in the region of 20 dwellings per hectare (which is not dissimilar to the local context). The Council's most recent Strategic Housing Land Availability Assessment discusses density in rural areas at 30 dwellings per hectare, and therefore it is considered acceptable and it is vital that efficient use of land occurs.

## 7.3 Highways

7.3.1 The local community have highlighted significant concerns in terms of road safety and the ability of the highway network to accommodate further development. The site has one point of access and to gain access this would be afforded by the B6254 (Kirkby Lonsdale Road) via Greenways. The speed and volume of cars travelling along Greenways and on Kirkby Lonsdale Road have been cited by the local community as a safety concern. The County Council as highway authority raise no objection to the scheme on either highway capacity, or highway safety grounds. Whilst they offer no objection, they raise specific observations regarding the provision of a turning head arrangement and provision of continuous footways within the scheme. There initially were concerns that the proposed footpath link would not be continuous, however a solution has been arrived at which allows for a physical connection between Footpath 12 and also the continuation of the existing arrangement from Greenways (in essence narrowing the carriageway from 5.5m to 3.5m, with a dropped kerb either side to allow for access). It is considered that this presents a solution to prevent cars travelling at speed whilst facilitating the use of this footway. The County recommend conditions to upgrade the two local bus stops to quality bus stop standards and that footway number 12 should be improved to allow for a safe pedestrian walking route. With respect to bus shelters, additional advice will be sought and a verbal update will be provided.

7.3.2 The site is well located with respect to the local Public Rights of Way and there is a rather informal footway that skirts around the pond on its eastern side which is known to have some recreational value. Whilst no request has been made from the County Council for connections other than to footpath 12, there appears to be benefit to making a connection to footpath 13 (50m to the south) and also connecting to footpath 10. This would not only benefit users of the new dwellings but formalise the arrangement which already occurs. At the time of writing this report confirmation that

this was accepted by the applicant's agent is still awaited, however given this falls within the ownership of the applicant it can be addressed by means of condition.

#### 7.4 Drainage

7.4.1 The site is within Flood Zone 1 which has the lowest probability of flooding (less than 1 in 1,000 year annual probability of river or sea flooding <0.1%). Whilst the site area is under 1 hectare, a site-specific Flood Risk Assessment (FRA) was submitted, including some intrusive surveys of the site. The report states that 5 trial pits were excavated but only one was able to provide an infiltration rate (three were abandoned due to poor infiltration rates and one lay upon bedrock). This demonstrates that shallow infiltration drainage will be ineffective due to the low permeability of the superficial deposits, however dependent on the results of deep borehole testing, it may be apparent that there is limestone which could provide a means of infiltration assuming it is sufficiently fractured. A weakness of the proposal is that there is no drainage drawing which indicates the current surface water flow route or how this will be managed post development nor is there any indication on plan as to storage or infiltration and therefore the layout will likely need to be amended to account for this at reserved matter stage. These issues could be addressed by condition.

7.4.2 Many objectors have made reference to surface water concerns, with a number sharing photos of flooded gardens, the flooded public right of way and also parts of the development site under water. These concerns are noted and are taken into account in reaching this decision. It is also believed that the pond is spring-fed as opposed to stream-fed and there has been concern that the location of the proposed soakaway is likely to drain into the pond (therefore concern that one of the boreholes may well end up forming part of the pond). It should be noted that the scheme is in outline form, and the Lead Local Flood Authority raise no objection to the scheme, although they state that further information would be required to ensure that the proposal could proceed without posing an unacceptable flood risk to Church Bank and Greenways. This would need to be addressed by planning condition. Whilst the concerns of the local community are valid planning concerns, the site is within Flood Zone 1 and there is no statutory objection. With this in mind it is considered that subject to the provision of planning conditions (a detailed surface water drainage scheme, ongoing maintenance and also an Environmental Management Plan to ensure no harm occurs to either the adjacent pond or to residents on Church Bank and Greenways), then the development can be found acceptable. There is no reason to believe that the site cannot be drained for foul water with the applicant proposing to connect to the existing UU sewer on Nether Kellet Road, and therefore assuming foul and surface water drainage was drained on separate systems no harm should occur.

#### 7.5 Landscape

7.5.1 DM DPD Policy DM28 and the NPPF seek to attach great weight to the protection of nationally important designated landscapes. For the avoidance of doubt, it should be noted that the application site is not located within any such designation (e.g. AONB or National Park). Policy DM28 states that outside of protected landscapes the council will support development which is of scale and keeping with the landscape character and which are appropriate to its surroundings in terms of siting, design, materials, external appearance of landscaping. Given this is an outline application, matters associated with siting, design, materials and external appearance of landscaping will be determined at the reserved matters stage should this be supported by Members.

7.5.2. Officers share the concerns of local residents that the proposal will lead to an inevitable change in character of the application site and it is evident from third party representation that its current undeveloped nature is appreciated by local people. Many have talked about informal use of this area for play and the likes of sledging in the winter and all of this contributes to an experience of living within the countryside (notwithstanding the site is within third party ownership). During the Officer visits to the site it is clear that the site is well used (especially with dog walkers). As part of the emerging Land Allocations DPD the site is not identified as a Local Green Space. However it appears that an application has been made to include the site (as part of a wider 7.7 hectare site) as a Local Green Space (with the application being received as part of the second round of submissions). A conclusion has yet to be made on the merits of that application as to whether the site could benefit from this allocation. Local Planning Authorities must determine planning applications in a timely manner and cannot defer them indefinitely. To do so would almost certainly lead to an applicant appealing against 'non-determination' of the planning application. There is (in extreme circumstances) the option of refusing an application on the grounds of prematurity, however it is not considered that approval of this part of the site would undermine the plan making process.



- 7.5.3 There have been a number of concerns raised with respect to loss of landscape. The site is rugged, bordered by dominant exposed limestone crags to the eastern boundary with mature trees and hedgerows to the south west. It is considered that the site has a feeling of being quite tranquil despite having properties located to the north and west. There would be a moderate landscape change in respect of the landscape character and also a moderate effect in terms of landscape designation features and vegetation. There would be a localised significant loss, however this would not lead to unacceptable adverse landscape effects to which constitute a significant environmental effect.
- 7.5.4 The site does have landscape value, and whilst Natural England do not object they consider that the Forest of Bowland AONB Unit should be consulted on the application given the site's proximity to the AONB. It should be noted that the application site is 1.89km to the AONB boundary and given the presence of the crags along the eastern boundary and the small scale nature of the proposal the officers are satisfied that there would be no harm created to the AONB through this development and therefore the Forest of Bowland AONB office have not been consulted.
- 7.5.5 It needs to be stressed that if the nationally important designated sites (such as the Arnside and Silverdale and Forest of Bowland AONBs) are to be protected from major development, in order to meet existing and future housing needs, landscapes that are not protected (such as the application site) and are well-related to existing sustainable settlements are the landscapes most likely to accommodate future development to meet the housing needs of the district. Whilst there would be a substantial change from greenfield to housing, given the confined nature of the application site, on balance it is considered that the scheme complies with Policy DM28 of the Development Management DPD and Policy E4 of the Lancaster City Local Plan.
- 7.6 Geology
- 7.6.1 The site lies adjacent to a Regionally Important Geological Site (RIGS) which is also protected in law by the associated Limestone Pavement Order. Geo-Lancashire whilst have not responded to consultation request however did so to the original application and initially objected as they considered that the site fell within the RIGS allocation, through discussions with officers they did withdraw this objection and agreed that the site does not fall within the designation. The observations of Geo Lancashire will be reported verbally. Officers are mindful of the adjacent crags which consist of exposed outcrops (and also the two outcrops that appear on the site itself). With respect to any interruption to the adjacent geology there is nothing before officers to come to a decision that this development will have any adverse impact on the RIGS site. It is therefore considered that the development is acceptable in this regard, and that as part of the ongoing management arrangement of the adjacent Crags there could be some net gain from this development proposal.
- 7.7. Ecological Issues
- 7.7.0 Impact of the development on amphibians
- 7.7.1 The application is accompanied by an ecological appraisal of the site which includes great crested newt surveys given the presence of the protected species in the Over Kellet pond (the pond supports five species of amphibian and to find a pond such as this is scarce). Whilst great crested newt surveys have been carried out, Lancashire Wildlife Trust and also a number of the local community raise serious reservations about the survey methods employed, together with the associated results. It is accepted between all parties that the pond supports great crested newts with the applicant's ecological report suggesting that there is a small population of the protected species. It has to be assumed that there could be a risk posed to the protected species as great crested newts feed on land, and will find day-time refuges and places for hibernation on land away from the pond. Parts of the site are 15 metres from the pond and it is reasonable to assume that associated marginal habitats will be used by the protected species and therefore could be harmed by this development proposal, for example the new access road.
- 7.7.2 Whilst there are concerns that the great crested newt population has been underestimated by Lancashire Wildlife Trust and also the local community, the view of Greater Manchester Ecology Unit is that there would be sufficient habitat on the site in terms of quantity, quality and connectivity to maintain the local population status of amphibians. This is on the understanding that the ecological mitigation and compensation measures (as noted within the applicant's submission) are

implemented, such as removing cattle poaching from the banks of the pond within the ownership of the applicant (the remainder falls within the control of the Lancashire Wildlife Trust); the implementation of the green buffer zone and amphibian friendly features in the development such as dropped kerbs adjacent to gully pots. The applicant had originally included open space adjacent to the pond that would provide a dual role (amenity and amphibian friendly), however officers were not satisfied that this would work in practice and subsequently an amended plan was provided which allows for a 470sq.m buffer zone around the pond. This is a reasonable buffer, on the provision that the buffer is managed in a way that is sympathetic to amphibians and the proposed management of the pond BHS for amphibians is secured and implemented. Conditions are recommended to deliver the improvements to Over Kellet Pond, including the buffer zone to be managed for amphibians, a 'capture and exclusion' exercise to be implemented during the construction works, and amphibian-friendly features to be incorporated into the development; all of which can offset any harm.

7.7.3 Due to the high level risk that great crested newts may be harmed, under the terms of the Habitats Directive and the Conservation of Habitats and Species Regulations 2010 (as amended), a Licence will be required from Natural England. The local planning authority will need to have regard to Regulation 9(1) and 9(5) of the Conservation of Habitats and Species Regulations 2010 and must consider;

- i) That the development is 'in the interest of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequence of primary importance for the environment;
- ii) That there is 'no satisfactory alternative'; and,
- iii) That derogation is 'not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range'.

7.7.4 In relation to point i) the applicant has provided additional information in so far as the provision of housing is supported by the Development Plan as Over Kellet is a village where new residential development is in principle supported. Additionally, given the great crested newt population is low, the mitigation proposed would enable a low level of harm to occur. It is also the case that the Government has indicated that sustainable housing developments that accord with the Development Plan could be said to meet the public interest test. It should be stressed that the delivery of housing is deemed to be of national significance (given as a nation we are building 100,000 fewer homes per year than what we need). In addition, the Local Planning Authority are not able to identify a 5 year housing land supply, and this scheme would contribute to both affordable and open market housing needs (bringing economic and social benefits) and given the potential harm to newts is low, officers consider that on balance this element of the test is passed.

7.7.5 The reason that the previous application was withdrawn was due to the applicant failing (in the opinion of officers) to consider alternatives to the proposed development. Additional information has been supplied by the applicant on 14<sup>th</sup> February 2017 and they have also submitted a licence application form (although the applicants did not submit this to Natural England) which considers alternatives, namely looking at the sites identified in the Strategic Housing Land Availability Assessment, of which there is only one site that is deemed deliverable (site number 559 at Old Hall Farm suitable for potentially 4 dwellings). As this report previously recalls, the application site was considered undeliverable in the context of a wider site that encompassed 14.35 ha, therefore very different from the application site. The scheme has evolved to include a buffer zone between the pond and the development, and features of a package of mitigation that would enable the local great crested newt population to be maintained. There is therefore nothing before officers to suggest that any of the alternative sites put forward by the applicant would have a less effect on protected species (whether that be bats or great crested newts) and in light of there being no objection from Natural England, there is nothing to suggest a licence would not be granted. The Local Planning Authority has had due regard to the Regulations and consider that sufficient information (coupled with the amendments to the scheme) has been supplied to enable point ii) to be passed.

7.7.6 With respect to part iii), this element has been assessed by GMEU who consider that the development is compatible with sustaining the local great crested newt population, subject to mitigation being put in place. Notwithstanding the concerns expressed by Lancashire Wildlife Trust (and indeed residents), the absence of statutory objections from Natural England or the Council's ecological advisors GMEU, means that Regulation 9 (5) does not require a planning authority to carry out the assessment that Natural England has to make when deciding whether there would be a breach of Article 12 of the Habitats Directive.

## 7.8 Impact of the development on Flora

7.8.1 The site has nature conservation value as there are species such as common knapweed, lady's bedstraw, common birds foot trefoil, harebell, fairy flax and eyebright within the site, with this localised on the south western outcrop (adjacent to Plot 9). GMEU have advised it would be prudent to retain this outcrop, or that compensation should be sought for the loss. The applicant is not willing to amend the layout, however it is considered that there would be gain in ensuring the future management of the adjacent Over Kellet Crags occurs, and therefore this could compensate for the harm caused to the outcrop within the curtilage of Plot 9. It is considered that this can be controlled by means of planning condition, however the preference should be for this to be retained and the layout subsequently amended to cater for this (which it is considered could occur given the densities of housing being proposed.).

## 7.9 Impact of the development on the hydrology

7.9.1 The site is likely to drain towards the existing pond and therefore with the proposed amendments to the ground levels this will have an impact on the pond. Notwithstanding this, a significant part of the Over Kellet Crags BHS will still continue to drain into the pond. Conditions ensuring a site drainage plan which includes measures to maintain water levels within the pond and prevent contamination should be attached to any consent.

7.9.2 In conclusion, despite local concerns regarding the accuracy of the great crested newt surveys, no surveys to the contrary have been supplied and the Council's ecological advisor raises no objection to the scheme (although recommends a number of planning conditions and has their own concerns). Should Members choose to support the scheme conditions should be attached to any permission which require a buffer zone to be provided between the pond and the development, a capture and exclusion exercise, amphibian friendly features to be built into the development and the adjacent BHS sites managed appropriately for amphibians.

## 7.10 Education Provision

7.10.1 There has been local concern that there is insufficient school capacity locally, especially in the local primary school which is Wilson's Endowed Church of England Primary School (located approximately 150m to the north-west). Lancashire County Council (as Education Authority) states that there is currently adequate provision for primary school places locally without requiring a financial contribution (admittedly some of these primary schools that have capacity, are not those that are closest, for example Carnforth Christ Church School) and Our Lady of Lourdes Catholic Primary School. With respect to secondary provision the County consider that there is currently provision without seeking a financial contribution, however given the pending applications that have still to be determined (notably Brewers Barn which is for 158 units 16/00335/OUT) they are seeking a contribution for 1 secondary school place (Carnforth High School). Contributions can only be requested when they are reasonable in scale and kind, and at the time of drafting this report the schemes the County refer to are either pending determination, withdrawn or refused (although still within the timescales for appeal). On this basis it is not considered that their request would not pass the tests of reasonability.

## 7.11 Open Space

7.11.1 Whilst in outline form, the indicative layout shows how open space could be delivered on the site. The scheme proposes 370sq.m of amenity space on site (in between Units 13 and 14) and 100sq.m to the north-west of plot 15, and also offers 470sq.m as a buffer zone between Kellet Pond and the nearest dwelling. Initially the scheme only proposed the buffer zone adjacent to the pond to be used as amenity space however amenity space and habitat for newts are somewhat incompatible with one-another and therefore the applicant proposed additional open space within the site itself. There are reservations as expressed in Paragraph 7.2.1 of how useable this space actually is, however these are issues that can be addressed at reserved matter stage.

7.11.2 An off-site contribution has been requested of £37,138. The Public Realm Officer (through liaison with local residents and the Parish Council), have suggested that the public have access to the outdoor sports facilities on the school site and includes football and tennis facilities, and subject to

need, then a contribution should be made to upgrade these facilities. There is also evidence that the public are allowed to access play facilities on the school grounds and therefore a contribution of £17,100 has been sought to upgrade the play area. These are issues that should be explored by the applicant and separate discussions should occur with the Parish Council/School to establish if there is indeed a need here. Confirmation is still awaited that the applicant is amenable to entering into a legal agreement to secure monies for off-site open space (and this will be reported verbally to Members), however because the number of units and also the bedroom numbers are unknown at present this should be re-assessed at Reserved Matters stage should Members be minded to approve the scheme.

## 7.12 Heritage Considerations

7.12.1 The site is not within a Conservation Area (this is located approximately 280m to the west), however there is St Cuthbert's Parish Church (Grade II\* listed building) located 180m to the south west of the application site and Kirk House (Grade II) is located 140m to the south of the application site. The principal setting of the Listed buildings is not compromised and so there are no justifiable objection. The setting of the site does however endorse the need for high quality design, appropriate landscaping and suitable boundary treatment. Given this it is considered that the scheme complies with Policies DM30, DM31 and DM32 of the DM DPD and that due regard has been paid to Section 66 of the Planning (Listed Building and Conservation Area) Act 1990.

## 7.13 Other Material Considerations

7.13.1 Concern has been raised with regards to a parcel of land that is required to gain access to the site, which does not fall within the control of the applicant. The relevant notice has been signed, and has been advertised in the press, and therefore the LPA are content that the applicant has followed the appropriate procedure. Concern has also been raised that boundary hedgerows belonging to Church Bank could not be maintained; however the applicants have provided a buffer zone for allow for maintenance, this issue can be addressed as part of any subsequent reserved matters application.

7.13.2 The public representations highlight concerns regarding the accuracy of the submitted drawings and cross-sectional plans, suggesting that these underestimate the impact of the development. It is easy to see why there is some ambiguity regarding finished ground levels, because the plans are indicative at this outline stage. However, any Reserved Matters application will need further survey work before permission can be considered. At this stage, officers have comfort that given the separation distances involved and the requirement that precise finished floor levels will need to be agreed, a scheme will be capable of being accommodated without harm to amenity.

7.13.3 Many have cited a number of properties for sale within the village at present and there is no perceived demand for any new homes. This is a flawed argument – any housing market will have houses that are displayed for sale at any given time. It is not an indicator that there is already a sufficient supply of housing. The Housing White Paper, published by the Government within the last month, re-emphasises the facts that there is a current high demand and low supply of housing. Over Kellet is a village where residential development is supported in principle. If this outline application is approved, then the Reserved Matters application will need to ensure that local needs are met. Whilst no comments have been offered by the Strategic Housing Officer, it has been previously suggested that the affordable offering would be better suited by providing 2 x 1-bedroom houses, 2 x 2-bedroom houses and 2 x 3-bedroom houses.

7.13.4 The land is identified as a Mineral Safeguard Area, the County Council as mineral planning authority for Lancashire have not responded to the planning application, however it is not considered that development of this site would prejudice any future mineral application given its close proximity to residential dwellings.

## **8.0 Planning Obligations**

8.1 Should outline consent be granted, it is recommended that the following contributions should be sought. These requirements are considered to meet the tests set out in paragraph 204 of the NPPF.

- The provision of up to 40% of affordable housing to be based on a 50:50 (social rented : shared ownership) tenure split as required by Policy (percentage, tenure, size, type, phasing to be address at Reserved Matters stage based on local housing needs and viability);

- Public Open Space contribution to be assessed at reserved matters stage;
- Long term Open Space Maintenance; and,
- Kirk House Biological Heritage Site – Enhancement and Improvement Measures.

## **9.0 Conclusions**

- 9.1 The proposed development is located within a sustainable rural settlement and the scheme would provide 6 affordable homes (40% of the total units) and proposes market homes in a location of the district where the LPA would seek to support sustainable housing schemes. The proposed density is considered appropriate to the surroundings and it is considered that a high quality scheme (utilising high quality materials) could be delivered on the site without causing loss of amenity for the adjacent properties on Church Bank.
- 9.2 The scheme has generated public opposition, but officers consider that issues associated with nature conservation and the developments impact on the hydrology of the area can be made acceptable by utilising planning conditions and this is a view supported by both the Lead Local Flood Authority and Greater Manchester Ecology Unit. It is considered that the development is acceptable from a highways perspective, and there is capacity in the local schools, and off-site contributions that would go towards open space, which would ensure that the village could support this development. With the above in mind, Members are advised that the scheme can be supported.

## **Recommendation**

That subject to the applicant entering into a legal agreement to include for the provisions identified in Paragraph 8.1, Outline Planning Permission **BE GRANTED** subject to the following planning conditions.

1. Timescales
2. Approved Plans
3. Access Plan
4. Offsite Highway works
5. Surface Water Drainage
6. Foul Drainage
7. Surface Water Management Scheme
8. Provision of Open Space
9. Development in Accordance with AIA
10. Provision of Tree Protection Plan / Arboricultural Method Statement
11. Unforeseen contaminated land assessment.
12. Ecological Enhancement Measures
13. Provision of electric vehicle charging points.
14. Removal of Permitted Development Rights
15. Finished Floor Levels to include site levels
16. Public rights of way

## **Article 35, Town and Country Planning (Development Management Procedure) (England) Order 2015**

In accordance with the above legislation, the City Council can confirm that it has made the recommendation in a positive and proactive way to foster the delivery of sustainable development, working proactively with the agent to secure development that improves the economic, social and environmental conditions of the area. The recommendation has been made having had regard to the impact of development, and in particular to the relevant policies contained in the Development Plan, as presented in full in the officer report, and to all relevant material planning considerations, including the National Planning Policy Framework, National Planning Practice Guidance and relevant Supplementary Planning Documents/ Guidance.

## **Background Papers**

None.