

<b>Agenda Item</b>	A7
<b>Application Number</b>	22/00816/FUL
<b>Proposal</b>	Engineering works to create a surface water management scheme
<b>Application site</b>	Land Off Wyresdale Road Lancaster Lancashire
<b>Applicant</b>	Mr John Matthews
<b>Agent</b>	N/A
<b>Case Officer</b>	Mr Andrew Clement
<b>Departure</b>	Yes
<b>Summary of Recommendation</b>	Approval (subject to Section 106 Legal Agreement).

(i) **Procedural Matters**

The application has been advertised, and is considered to be a departure from planning policy due to implications on Urban Setting Landscape.

**1.0 Application Site and Setting**

1.1 The site lies on the eastern fringes of Lancaster located off Wyresdale Road, circa 2km to the east of Lancaster City Centre. The site totals circa 7.8 hectares, including the land area for the concurrent variation to the residential development (22/00817/VCN), however the vast majority of this site area seeks development for surface water drainage infrastructure across the sloping fields. To the north of the site lies a row of mature trees and Wyresdale Road beyond this. To the west lies a private access track, which once would have served Lancaster Leisure Park when it was a rare breed's farm. Beyond this is Well House Farm, and Well House, with Pottery Gardens residential area and Lancaster Leisure Park also sited to the west of the site. Some small-scale business units are located to the east, whilst to the south are residential cul-de-sacs of Colchester Avenue and Chelmsford Close. The boundary treatment to the north consists of a post and wire fence followed by tree planting. To the east and west lies stockproof fencing with some landscaping, protected trees and drystone wall, whilst to the neighbouring residential properties to the south and east are bounded by some domestic fencing softened by topography and vegetation/trees.

1.2 The majority of the site is within Flood Zone 1 and therefore at the lowest risk of flooding from tidal and river sources, however to the south of the site along the Burrow Beck and a tributary to the east, the site is within Flood Zones 2 and 3. A small area of the Wyresdale frontage is known to suffer from surface water flooding during 1in100 and 1in1000 year events, with even higher surface water flood risk in the aforementioned areas of Flood Zones 2 and 3 in the southern section of the site. The site is within an area at 50 to 75% susceptibility to groundwater flooding. Part of the north-western

boundary and southern area of the site are allocated as mineral safeguarded land. The majority of boundaries to the site and another linear section of woodland to the southeast of the Pottery Gardens are protected by Tree Preservation Orders (no.484, 583 and 654 (2011, 2016 and 2018)). The Grade I Listed Ashton Memorial is located 650 metres to the west of the proposal, with the wider park forming part of a Registered Park and Garden, which is located 400 metres from the site.

- 1.3 The Walton Le Dale/Slyne Distribution Pipeline runs to the east beyond the application site, though no development is proposed within any of its consultation zones. The site lies partially within Urban Setting Landscape within the Strategic Land and Policies DPD, with the wider site falling within a housing allocation for 'Land at Lancaster Leisure Park and Auction Mart, East Lancaster'. The site is within the larger site definition of potential impact upon designated AQMAs, which covers the vast majority of Lancaster and across to beyond Halton. The site is circa 1.5km east of the Lancaster Air Quality Management Area (AQMA), and approximately 3.3km from Morecambe Bay Special Protection Area (SPA), Special Area of Conservation (SAC), RAMSAR and the Lune Estuary Site of Special Scientific Interest (SSSI). The site is within an article 4 area removing permitted development rights for houses in multiple occupancy (HMO) and a Regulation 7 Direction to control 'To Let' signs.

## 2.0 Proposal

- 2.1 This application seeks planning permission for a surface water drainage scheme, which is to be delivered in association with a residential development currently seeking variation of conditions through concurrent application 22/00817/VCN (appearing on this agenda). The surface water drainage scheme includes swales to the east, north and western sides of the residential development area, which are included within the aforementioned concurrent variation of conditions application. The drainage then extends into the network of swales and overflow dams seeking planning permission through this planning application, located to the southwest of the residential development site and eventually leading to the Burrow Beck.

- 2.2 A series of swales would be dug into the existing hillside, aligned perpendicular to the fall of the land. The swales would be dug into the existing ground, and bunded on the downside slope through the reutilisation of spoil from the site works. Swales, basins and pipes are sought to control drainage flow to the south of the residential development site, managing overland flow and discharge rate. Prior to discharge to the watercourse, a series of stone check dams have been proposed within the swales to reduce the flow of the water as the elevation drops with the associated ground levels. The proposal includes the creation of 2no. bunded areas to the east / north of the watercourse, designed to attenuate any exceedance flood flow from the existing culverted watercourse.

## 3.0 Site History

- 3.1 A number of relevant applications relating to this site have previously been received by the Local Planning Authority. These include:

Application Number	Proposal	Decision
22/00817/VCN	Erection of 27 dwellings (C3) with associated access (pursuant to the variation of conditions 2, 5 and 6 on planning permission 18/00472/FUL to amend house types, access, layout, surface water management plans and install a substation)	Pending consideration Planning Committee
21/01434/PRETWO	Proposed engineering works to include installation of ponds and swales, residential development and updated drainage proposals for 18/00472/FUL	Advice provided
18/00472/FUL	Erection of 27 dwellings (C3) with associated access	Approved
17/00920/PRETWO	Pre-application advice service in 2017 on the basis of the erection of 28 dwellings	Advice provided
17/00945/FUL	Erection of 44 dwellings with associated access and landscaping	Refused

16/00591/FUL	Erection of 44 dwellings with associated access and landscaping	Withdrawn
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## 4.0 Consultation Responses

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

Consultee	Response
<b>Lead Local Flood Authority (LLFA)</b>	<b>No objection</b> , recommend drainage conditions for implementation, maintenance and management of full details of drainage, submission of a verification report for the implement proposed drainage scheme through pre-use/occupation planning condition, and a construction management plan relating to surface water drainage through pre-commencement planning condition.
<b>Engineering Team</b>	No observation received
<b>Tree Protection Officer</b>	<b>No objection</b> , original concerns addressed through amendments for swales outside root protection areas, reduced incursions into root protection areas and appropriate methodology for necessary works within such areas.
<b>United Utilities (UU)</b>	<b>No objection</b> to the natural flood risk management proposals to reduce overland flows, recommend that the pre-commencement condition for protection of water mains during construction.
<b>County Archaeology</b>	No observation received
<b>Environmental Health</b>	<b>No objection</b> , recommend planning conditions regarding hours and dust control during construction, and contaminated land.
<b>Environment Agency (EA)</b>	<b>No objection</b> , sought changes reflect earlier discussions between the applicant and EA. The scheme should have a positive effect on flood risk in the area by intercepting runoff to Wyresdale Road and slowing the flow of water in the tributary to Burrow Beck, particularly during high flows
<b>Planning Policy</b>	Request that the sites connectivity is considered, and that opportunities are explored
<b>Cadent Gas</b>	<b>No objection</b>
<b>Natural England</b>	<b>No objection</b> , no significant adverse impact upon statutory protected nature conservation sites.

4.2 The following responses have been received from members of the public, raising **Objections from 2** responders:

- Removal of trees
- Drainage and flood risk
- Potential sewage problems
- Noise
- Traffic
- Loss of wildlife habitats
- Privacy
- Lack of public consultation

## 5.0 Analysis

5.1 The key considerations in the assessment of this application are:

- Principle, drainage and flood risk
- Trees and ecology
- Neighbouring residential amenity
- Contamination, heritage and mineral safeguarding

5.2 **Principle, drainage and flood risk** (NPPF Sections 2. Achieving sustainable development, Section 4. Decision-making and 14. Meeting the challenge of climate change, flooding and coastal change, Strategic Policies and Land Allocations (SPLA) DPD policies SP1: Presumption in Favour of

Sustainable Development and H5: Land at Lancaster Leisure Park and Auction Mart, East Lancaster, and Development Management (DM) DPD policies DM29: Key Design Principles, DM33: Development and Flood Risk and DM34: Surface Water Runoff and Sustainable Drainage)

- 5.2.1 This application seeks planning permission for various drainage swales, dams and attenuation features as part of an extensive surface water drainage scheme associated with a residential development of 27 dwellinghouses, currently seeking a variation to accommodate this drainage scheme. The entire site is within housing allocation H5, and the loss of this land for potential residential development is a negative of the proposal, although this needs to be viewed in the context of the proposed drainage development facilitating residential development, albeit unfortunately on a smaller portion of this land allocation. The proposal has been designed to mitigate the impacts of this associated development, as is the situation with the existing consent at the site. However, this proposed drainage scheme sought through this application should also have a positive effect on flood risk in the area, as detailed within the consultation response from the EA.
- 5.2.2 The proposal will intercept runoff from Wyresdale Road, slowing the flow of water in the tributary to Burrow Beck, particularly during high flows, resulting in a betterment in terms of flood risk downstream. The LLFA, who assess surface water drainage, have recommended a planning condition regarding mitigation measures for surface water during construction, However, the consultation response from the LLFA seeks to control the submitted surface water drainage details sought as part of this proposal, with no objection from this consultee. Further to the EA no objection, which concludes a beneficial flood risk reduction of the proposal, United Utilities also raise no objection, subject to construction management details to protect existing subterranean water mains infrastructure during construction. Such protection measures, drainage arrangements during construction, and other matters regarding the construction phase of land engineering works associated with this development, could all be controlled through planning condition for a comprehensive Construction Management Plan. Subject to such a planning condition, the surface water drainage arrangements are considered to be acceptable, and the proposal would result in a betterment to flood risk downstream along the Burrow Beck. This betterment weighs in favour of this proposal.
- 5.2.3 The consultation response from LLFA also seeks a planning condition regarding a verification report for the construction surface water management scheme. Whilst this is a valid request, given this proposal is for a surface water management scheme only, there is no logical trigger for the submission of such a report through this consent, as the associated residential development has been granted through an existing permission, and proposed through a separate concurrent variation to this permission. As such, requirement for a verification report should be controlled through legal agreement, which would also be necessary to tie the two consents together and ensure the implementation of drainage as part of the associated residential development, should both applications be granted. As such, this has not been included within recommended planning conditions, but should form part of a legal agreement, if permission is granted subject to delegation back to officer to undertake such an agreement.
- 5.3 Trees, ecology and landscape (NPPF Sections 15. Conserving and enhancing the natural environment, Strategic Policies and Land Allocations (SPLA) DPD policies EN5: Local Landscape Designations and SP8: Protecting the Natural Environment and SP8: Protecting the Natural Environment, and Development Management (DM) DPD policies DM43: Green Infrastructure, DM44: The Protection and Enhancement of Biodiversity, DM45: Protection of Trees, Hedgerows and Woodland and DM46: Development and Landscape Impact)
- 5.3.1 The tree impacts associated the associated variation to residential development as part of concurrent application 22/00817/VCN have been reported on the concurrent committee report. It is worth noting that this proposal would also cover these impacts (three additional tree removals from the parent consent at the site), however this proposal would not duplicate those removals. As such, these will not be reassessed within this application. For the wider drainage proposal beyond the extents of concurrent application 22/00817/VCN, a further two trees are required to be removed to accommodate the first overflow attenuation dam, due to the location of the earth bunding to create this overflow dam. These are category B2 beech and sycamore trees, which should ideally be accommodated within proposed development, despite the fact that these trees are beyond the tree protection measures on site, and therefore are unprotected. Unfortunately, there does not appear to be a feasible way of retaining these trees sought for removal whilst delivering the proposed drainage

infrastructure. These tree removals weigh modestly against the proposal, however it is worth noting that this would have a neutral visual landscape impact, as the extent and location of removals limits wider landscape impact. A scheme to mitigate these tree removals is recommended through a soft landscaping planning condition, to ensure replacement planting and associated ecological aspects are delivered. However, given the category of these trees, this still generates modest harm weighing against this proposal, despite the reduced harm through replacement planting, which would be expected to achieve a policy required 3:1 ratio of 3 trees planted for every tree removed.

5.3.2 The site comprises an area of semi-improved grassland, with pockets of tall ruderal vegetation and scrub to the margins, with scattered and groups of trees across the site. The two aforementioned trees for removal have been assessed as having negligible potential for bat roosts within the submitted Ecological Appraisal, and notwithstanding these unfortunate tree removals, the proposed drainage scheme primarily impacts semi-improved grassland. The proposed development would constitute swales and surface water drainage features, which should encourage greater ecological value to the site, permeating existing grassland with elements of wetland formed by earth bunds. Subject to grass seeding all earthworks, for ecological and visual impact/landscaping reasons, combined with replacement tree planting, it is considered that the proposal would have no undue impact upon ecology. The ecological impact of this proposal should delivery a positive impact, although such benefits have not been substantiated within the submitted Ecological Appraisal, and as such only very limited positive weight could be applied to this.

5.4 Neighbouring residential amenity and open space (NPPF Sections 8. Promoting healthy and safe communities and 12. Achieving well-designed places and Development Management (DM) DPD policy DM29: Key Design Principles and DM61: Walking and Cycling)

5.4.1 The application site is extensive in scale, in an area bordering countryside with the associated noise and lighting environment, particularly in the evenings and night-time. This will make developments more noticeable to neighbouring residential dwellinghouses, although the proximity to Wyrse Dale Road and Lancaster Leisure Park generates existing noise and artificial light impacts, particularly during normal daytime hours. To control potential adverse impacts during more sensitive evening and night-time hours, particularly with regard to potential artificial lighting of extensive areas during nightfall, hours of construction should be controlled as part of a comprehensive construction management plan condition.

5.4.2 A consultation response from colleagues within the Planning Policy team raises connectivity aspirations across the site to delivery sustainable travel provisions. A review of the Sustainable Travel SPD is currently being prepared, with the draft form currently at public consultation. This document provides potential links across the site to Lancaster Leisure Park and Coulston Road. Whilst this isn't directly related to this drainage development proposal, and the early stages of the plan can be afforded very limited weight, this has been raised with the planning agent. There are existing topographical constraints across the site to providing usable walking and cycling provision, however it is noteworthy that this development does not prejudice any future delivery of walking or cycling connections across the site. Clearings are provided to the associated concurrent residential development. Therefore, whilst it would not meet the tests of a planning condition to impose cycling and walking provision or public open space across the site through this proposal, the application does not prevent the delivery of such facilities in the future, which can be explored as the Sustainable Travel SPD progresses through any future planning applications.

5.5 Contamination, heritage, and mineral safeguarding (NPPF Sections 15. Conserving and enhancing the natural environment, 16. Conserving and enhancing the historic environment and 17. Facilitating the sustainable use of minerals, and Development Management (DM) DPD policies, DM31: Air Quality Management and Pollution, DM39: The Setting of Designated Heritage Assets, DM42: Archaeology)

5.5.1 Given the greenfield nature of the site and former agricultural and equestrian use, it is considered reasonable to include a planning condition associated with land contamination on the site. This would be primarily to protect construction workers during the development of the drainage scheme, as there is no proposal for greater public access to the site than existing, and in the current scenario surfaces water drains across the site. Dust could generate contamination and pollution from the associated earthworks during the construction of the proposed drainage. This can be mitigated to acceptable levels through a comprehensive construction management plan, as recommended within

the Environmental Health consultation response, which can be controlled through planning conditions.

5.5.2 The site has the capability to impact on below ground archaeology, however trial trenching undertaken as part of the associated immediately adjacent residential development site revealed nothing of archaeological merit. Whilst this application site covers a wider area, given that the development would remain grassland and soft landscaping, with no permanent cap or development preventing any future investigation of the site, the proposal is considered to have no undue impact upon archaeology. County Archaeology return no consultation response to this proposal. The earthworks to facilitate the drainage scheme will have nominal visual impact and no undue impact upon the setting of heritage assets, subject to a planning condition to ensure this is grass seeded.

5.5.3 The application site contains mineral safeguarding areas. However, given that the site will remain grassland and soft landscaping, this would not restrict nor prevent any future extraction activities across the site, albeit these are considered unlikely given the lack of convenient access combined with the proximity to sensitive receptors such as neighbouring dwellinghouses.

## **6.0 Conclusion and Planning Balance**

6.1 The proposal seeks to deliver a sustainable drainage scheme at the site, in conjunction with concurrent variation of conditions application 22/00817/VCN. This will achieve acceptable drainage arrangements of this residential development, with the added benefits of delivering a betterment in terms of flood risk, which is attributed moderate weight given the betterment to flood risk downstream along the Burrow Beck. Whilst the loss of two trees, in addition to those with the approved and varied residential development area, is unfortunate, and similarly the loss of potential housing land weighs against this proposal, it is important to consider that the proposal facilitates the delivery of 27 much needed dwellinghouses, whilst reducing flood risk downstream in locations where the impacts of flooding are particularly harmful. Subject to soft landscaping and grass seeding to mitigate the tree removals and visual impacts of the proposed earthworks, the benefits of facilitating deliverable homes and reducing flood risk downstream are considered to outweigh the additional tree losses and the wider housing allocation being occupied by such an extensive drainage scheme. There are potentially unacceptable impacts during the construction phase of the proposed drainage, however these can be satisfactorily mitigated through a comprehensive construction management plan through planning conditions.

## **Recommendation**

That Planning Permission BE GRANTED subject to the following conditions, and a s106 agreement to reflect this permission in terms of drainage associated with the adjacent residential development approval:

<b>Condition no.</b>	<b>Description</b>	<b>Type</b>
1	Timescale	<b>Control</b>
2	Accord with approved plans	<b>Control</b>
3	Construction management plan (hours of construction, SW drainage, dust and protection of water main)	<b>Pre-commencement</b>
4	Contaminated land	<b>Control</b>
5	Soft landscaping	<b>Pre-commencement</b>
6	AIA	<b>Control</b>
7	Implement/manage/maintain approved drainage details	<b>Control</b>
8	Ecological mitigation	<b>Control</b>
9	Grass seed all earthworks	<b>Control</b>

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

In accordance with the above legislation, Officers have made the recommendation in a positive and proactive way to foster the delivery of sustainable development, working proactively with the applicant 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