

Agenda Item	A8
Application Number	23/00398/FUL
Proposal	Erection of 49 dwellings (C3) with access, associated infrastructure including provision of bus turning circle, open space and landscaping
Application site	Site Of Former Pontins Holiday Camp Natterjack Lane Middleton Lancashire
Applicant	Mr D Petty, Middleton Towers SPV Ltd
Agent	Mr Paul Tunstall
Case Officer	Mrs Jennifer Rehman
Departure	Yes
Summary of Recommendation	Approve subject to conditions and a legal agreement.

(i) **Procedural Matter**

Representatives of the Planning Committee visited this site on the 12 June 2023 in preparation for the application being reported to committee after the summer period.

1.0 Application Site and Setting

1.1 The application site relates to three small parcels of land (totalling 2.4 hectares) within the wider Middleton Towers site, which is identified as a Development Opportunity Site (DOS) allocation in the Local Plan. Middleton Towers, once the former Pontins holiday site, is a 23-hectare site accessed solely from Carr Lane. The allocated site is located just over 1km west of Middleton village with Heysham village located approximately 3km north of the site. Overton is situated approximately 2.4km east (as the crow flies) of the site. It is bound by Ocean Edge Caravan Park, Middleton Nature Reserve and Heysham Industrial Estate to the north with Heysham Power station beyond. East of the site lies Carr Lane Meadows Biological Heritage Site and Middleton Holiday Park with open countryside to the south and a number of caravan sites situated alongside the coastline.

1.2 The allocated site currently comprises 53 existing dwellings, originally built as part of the first phase of the retirement village, and three grade II listed buildings (The Tower, Ye Olde Farmhouse and the Tudor Bar). Apart from the Tower, these buildings were previously communal leisure/management facilities for the existing development. The remainder of the wider site remains vacant in varying condition, with large parts overgrown with scrub vegetation. Currently the wider Middleton Towers site is divided into two distinct parcels. The northern parcel is completely undeveloped brownfield land following the demolition and removal of the remnants of the former Pontins holiday park. The southern parcel, which this application site lies within, is partly developed, and includes the 53 dwellings and additional development to the west, including the group of listed buildings.

- 1.3 Access is taken off Carr Lane (public highway) into the existing private gated estate. A small gatehouse sits adjacent to the site access though this is not manned on a permanent basis. Access to the estate is via a number keypad for residents of the development. There are no public rights of way through the site.
- 1.4 The application site is split across three parcels of land connected by a section of Natterjack Lane, which forms the main spine road running through the existing development.
- 1.5 The site is broken down into three main parcels of land:

Parcel A – Land north of Natterjack Lane/west of Lavender Way

This comprises 0.69 hectares of land. It currently consists of a small semi-circle of managed grassland which is open and accessible to residents. The remainder of this land is enclosed by fencing and is partly used as a site compound for the adjacent development and is vacant scrubland. A small stone substation occupies this parcel of land which is serviced by an existing access road. This section of the site is largely level with an elevation around 11.2 metres Above Ordnance Datum (AOD).

Parcel B – Land off Badgers Wood

This comprises 0.73 hectares of land that is open, accessible and largely well vegetated scrubland. This parcel of land benefits from an open space designation (amenity greenspace) in the Local Plan. A small corner of the site includes an area of managed grassland the remaining part of the site is unmanaged scrub. There is a fall in site levels from the east (c11.6m AOD) to the west (c8.6m AOD) of approximately 3 metres.

Parcel C – Land to the east of Lavender Way

This comprises 0.41 hectares of land that is currently fenced off and inaccessible to the existing development. There is some self-seeded trees and scrub but large areas of this land comprises made ground. The site levels are relatively flat with a gentle fall towards the northeastern corner. Levels at the southern and western boundaries of this plot range between 7m and 8.5m AOD falling to around 5.5m AOD to the north eastern corner.

All three parcels of land are connected by Natterjack Lane which is included in the application site boundary from its junction with Carr Lane. The application site includes a small area of managed grassland to the north of the access to the gated estate, opposite the existing gatehouse.

- 1.6 The access into the estate and parts of Parcel C lie within floodzones 2 and 3. The remainder of the application site lies within flood zone 1. Parcel C also lies immediately adjacent to the consultation zone for a high-pressure gas pipeline (Shell Stanlow-Heysham Ethylene).
- 1.7 Morecambe Bay Special Protection Area, Special Areas of Conservation and RAMSAR and the Lune Estuary Site of Special Scientific Interest immediately is located around 80 metres east of the site (at its closest point). In addition to the site's allocation as a Development Opportunity Site, the Local Plan's Countryside Area designation also sweeps across the whole site. The site and wider area is also located within the Heysham Gateway Regeneration Priority Area.

2.0 Proposal

- 2.1 The application has been amended from 57 dwellings as original submitted to the current scheme. The applicant seeks full planning permission for 49 dwellinghouses across the three plots within the site. A breakdown of the development on each parcel of land is set out below:

Parcel	Total No. of dwellings	Size/type of dwellings
A	19	15 three-bed two storey dwellings 4 four-bed two-storey dwellings
B	23	2 four-bed dormer bungalows 21 three-bed dormer bungalows
C	7	7 three-bed dormer bungalows

- 2.3 The proposal includes six different housetype designs proposed in a combination of roughcast render and stone with slate roof coverings. All dwellings have been designed to exceed the

Nationally Described Space Standards. A small area of amenity open space is proposed to the west side of Parcel A which shall include a children's play area.

2.4 All three development parcels shall be accessed via Natterjack Lane within the existing gated estate. The proposal will involve extensions to the existing private road network within the estate to serve the development. Off-street parking is proposed (200%) to all the proposed dwellings with a small area of communal visitor parking provided to the north of the existing pavilion gardens. The application also proposes a new bus turning circle outside of the gated estate, north of the exiting gatehouse.

3.0 Site History

3.1 The site has a long and complex planning history. The site was formally occupied by Pontins holiday camp who had operated on the site since the late 1930s. The campsite closed around 1993/1994 and the land lay disused for some considerable time. Later in 2000, the applicant at the time applied for outline planning permission for a retirement village. This outline application was recommended for refusal by Officers but was overturned by Members and then "called in" for a decision by the Secretary of State (SoS). The SoS granted consent for the proposal, which involved the provision of a 650 dwelling retirement village with communal leisure, administrative and ancillary facilities. This consent is subject a S106 agreement and conditions.

3.2 The developer commenced the retirement village, but due to the economic downturn the development ceased leaving a small part of the development built out and the remaining parts of the site redundant.

3.3 Subsequent applications have sought the removal of the age restrictions imposed on each property and the condition controlling the use of the site as a retirement village on the grounds of its negative impact on viability and little prospect of the retirement village materialising. This resulted in a live consent for unrestricted residential development but limited to the housing types/formats and layouts permitted by subsequent reserved matters/full applications. More recently outline planning permission and a subsequent reserved matters for eight dwellings has been granted approval. This consent has been implemented. The implication of this permission affects the ability to lawfully implement the remaining parts of the approved residential development. There have also been more recent planning applications for the change of use of the listed buildings to provide holiday accommodation and an approval for the erection of a mixed-use café and shop with staff accommodation above. A summary of the most relevant planning history is set out below:

Application Number	Proposal	Decision
00/00156/OUT	Outline application for a retirement village comprising dwellinghouses, other residential accommodation, retail, leisure, recreation and ancillary administration; creation of a new access and circulation road.	Approved after Call-In by the Secretary of State subject to a legal agreement.
05/00740/REM	Reserved matters application for retirement village	Approved
07/00799/FUL	Section 73 application to amend details of layout of retirement village	Approved
09/01188/FUL	Erection of 33 dwellings with associated external work	Approved (relates to Badgers Wood)
13/00265/RENU	Renewal of planning application 09/01188/FUL for the erection of 33 no. dwellings with associated external works	Approved (relates to Badgers Wood and not lapsed)
13/00805/VLA	Variation of legal agreement on 00/00156/OUT to remove obligations relating to affordable dwellings and age restriction occupancy on the site only and to remove the restrictions on the on-site leisure facilities to allow use by the wider public (s106A application).	Allowed on appeal (phase 1 of wider site)
14/00787/VCN	Erection of a retirement village comprising dwelling houses and other residential accommodation, retail,	Approved

	leisure and recreation (pursuant to the removal of condition number 21 (xxi) on previously approved application number 00/00156/OUT relating to the use of the site as a retirement village.	
14/00789/RCN	Erection of 33 dwellings (pursuant to the removal of condition number 3 on previously approved application 13/00265/RENU (renewal of 09/01188/FUL) relating to restricted age occupancy)	Approved
15/01444/RCN	Outline application for the erection of a retirement village comprising dwellinghouses and other residential accommodation, retail, leisure, recreation and ancillary administration, and creation of a new access and circulation road (pursuant to the removal of parts xix and xxi of condition 21 on outline planning permission 00/00156/OUT relating to the use of the site as a retirement village and car free design)	Approved
15/01568/VLA	Variation of legal agreement on planning permission 00/00156/OUT to remove the age restriction on occupants and the requirements for car-free design, a bus service and use of on-site facilities by on-site residents only, and to vary the requirements for affordable housing provision and its phasing, and the requirements for a Travel Plan	Approved (phase 2 and 3 of wider site)
17/00579/FUL	Construction of coastal defence works comprising of rock filled gabion baskets and mattress approx. 100m in length	Approved
18/01593/OUT	Outline application for erection of 9 dwellings with associated access	Approved
19/00689/FUL	Retrospective application for site levelling and introduction of gabions along south site boundary	Approved
20/00464/REM	Reserved matters application for the erection of 8 dwellings (C3)	Approved
20/00477/FUL	Erection of a two storey building incorporating a shop (A1) and cafe (A3) on the ground floor and staff accommodation (C3) on the first floor with associated car parking and domestic garden area	Approved
22/01543/FUL	Change of use of a part of a mixed use unit comprising of 1 residential flat and ancillary office/leisure facilities to 3 holiday units	Approved
22/01544/LB	Listed building application for repairs to windows and doors, removal and construction of internal partition walls and insertion and infill of internal doorways	Approved

4.0 Consultation Responses

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

Consultee	Response
Middleton Parish Council	<p>Supports the principle of housing development at Middleton Towers brownfield site as advocated by policy DOS5. However, the Parish Council have concerns over the following matters that conflict with other policies in the Local Plan:</p> <ul style="list-style-type: none"> Public Transport (DM60) – Carr Lane is unfit to become a bus route. Consequently, the provision of a bus turning facility to provide adequate public transport is invalid. Road Access (DM60, D63 and DM64) – Carr Lane is not fit to support traffic from the development and is frequently blocked by flooding. Active Transport (DM61) - No footway or cycleway provision between the site and services in Heysham or Overton. Middleton has no services. The submission assertions the site is accessibility is misleading.

	<ul style="list-style-type: none"> Facilities (DM4 and SP2) – the scheme is exclusively for residential development with no provision for local services. <p>Without accessibility improvements, the LPA would be approving an unsustainable, car dependant suburb. Improvements to the local transport network is a key criterion of strategy planning policy DOS5 for this site.</p>
LCC Highways	<p>Objection. Recommends the LPA considered refusal of this application on the grounds that the development has an unacceptable impact on highway safety and does not meet the needs of pedestrians and cycles with neighbouring areas, as the site is remote. A summary of the mains reasons for opposition/concern are as follows:</p> <ul style="list-style-type: none"> The site is remote from the built environment and is considered low in terms of accessibility. Distances to amenities, even with suitable infrastructure, would be outside what could be considered reasonable distance in terms of design guidance. The pedestrian infrastructure in the area surrounding/leading to the site, as well as cycling infrastructure surrounding/leading to/within the site is exceptionally deficient and would result in a car dependant development with limited opportunities to mitigate impacts and enhance connectivity. There is no scope for the creation of new footways and the existing public bus services will not divert to the site. Access to many of the local schools' public transport services requires schoolchildren to walk ~1km on unlit lanes with no separation from vehicles. The proposal will increase potential conflicts between vehicles and vulnerable users. There are fundamental differences between a retirement village and open market housing, especially in relation to trip generation. Trip generation is not agreed. For a site of this nature, a masterplan including an infrastructure delivery strategy should be provided. The proposal represents inadequate piecemeal development. Vehicle access from Carr Lane has no separation from pedestrians and cyclists. Bus turnaround facility to be supported by a plan showing full DDA compliant bus stop/shelter. Internally, there is insufficient access details including visibility splays and comments over inadequate garage sizes. The width of the highway should be of sufficient width to support future development in the rest of the allocation. No regard to the King Charles III England Coastal Path. The Secretary of State for Environment, Food and Rural Affairs has approved the line of the King Charles III England Coast Path between Silverdale and Cleveleys. The approved line of the path crosses through Middleton Towers.
Lead Local Flood Authority	<p>No objection. The LLFA's initial objection has been removed following the submission of an adequate revised drainage strategy and recommend the following conditions:</p> <ul style="list-style-type: none"> Final surface water drainage scheme Construction Surface water Management Plan Sustainable Drainage System Operation and Maintenance Manual Verification Report of Drainage System <p>However, the LLFA note deficiencies in the submitted strategy which need to be revised when designing the final drainage scheme. The LLFA has also raised concerns in relation to the use of underground drainage features commenting such may not meet the NPPF definition of SuDS. Proposals that do not meet this definition, or that fail to provide clear evidence where this would be inappropriate, may be considered contrary to the National Planning Policy Framework. Notwithstanding the deficiencies, the LLFA do not object to the application and consider the above conditions necessary.</p>
United Utilities	<p>No Objection, subject to the development being carried out in accordance with the principles set out in the submitted Drainage Strategy with no surface water permitted to drainage to the public sewer. UU also recommend a sustainable drainage and management plan condition.</p>
Environment Agency	<p>No objection, subject to full compliance with the submitted FRA and the stated mitigation and foul drainage connecting to the mains sewer. The EA have not objected</p>

	on flood risk grounds, but this does not remove the need for the LPA to apply and assess the sequential test.
Engineers	At the time of compiling this report, no comments received.
GMEU	<p>The following comments have been received:</p> <ul style="list-style-type: none"> • There remains a level of uncertainty about whether or not the proposed mitigation measures currently proposed for this impact (recreational disturbance) will be effective. Further information is required to address this point, and the probable requirement for further mitigation measures to be proposed. • The substrates and vegetation present are not typical of the important sand dune systems and foreshore habitats included within the designated sites, and the botanical diversity is not exceptional. • GMEU accept that the development is unlikely to affect any specially protected species. • Landscaping proposals are limited and do not reference the coastal location and local landscape. The landscape plans need to be revisited. Ponds would be useful addition locally for BNG. • BNG is heavily reliant on planting 'urban trees', which are not necessarily suitable in this location. If urban trees are discounted, there is no meaningful biodiversity gain.
Natural England	<p>No objection. Following the submission of an amended sHRA, NE are now satisfied that the development, with the identified mitigation, would not result in adverse effects on the integrity of the designated conservation sites. The mitigation includes:</p> <ul style="list-style-type: none"> • Provision of homeowner packs. • Installation of interpretative information boards/signage in key locations around the proposed site. • Provision of on-site public open space. • Retention of existing dense blackthorn and bramble along the upper shoreline and additional planting to maintain natural screening of the proposal from the nearby designated sites. • Stopping of any construction works between November to February, if a wider voluntary restraint or statutory suspension of waterfowl shooting comes into force within the Morecambe Bay Area. <p>These measures must be secured as part of the planning permission. NE also highlights the policy for this section of the shoreline is 'No Active Intervention' meaning no investment in coastal defences. As such, NE advice the LPA to determine whether there is appropriate development for this coastal location, as it may be at risk from coastal erosion in the future.</p>
RSPB	At the time of compiling this report, no comments received to the application.
Arboricultural Officer	No objection. Following the submission of amendments, the landscaping of the site has attempted to improve connectivity around the site with increased native boundary hedge planting and tree planting. It is noted that additional planting is proposed outside the planning area.
Environmental Protection Team	<p>Objection on the grounds of no Air Quality Assessment (AQA) and recommends refusal on this basis. If the LPA are minded to approve the application, the following conditions are recommended:</p> <ul style="list-style-type: none"> • Submission of an AQA and necessary mitigation • Site investigation, remediation strategy and validation report for land contamination • No soil importation without validation • Hours of construction • Scheme for dust control
Lancashire County Council (School Planning Team)	No objection. No education contribution required based on their August 2023 assessment.
Conservation Team	No objection. Following the submission of amendments, the Conservation Team are satisfied that the amended landscaping proposals would mitigate the harm to the significance of the listed buildings and their setting.

Historic England (HE)	No statutory requirement to consult HE.
Economic Development Team (Business Support)	No objection , subject to the imposition of a pre-commencement condition for a full ESP. The submitted ESP does not meet the policy requirements at this stage.
Waste and Recycling Team	No objection . The City Council waste and recycling fleet current service the gated estate.
Public Realm	No objection subject to securing the following requirements: <ul style="list-style-type: none"> • Onsite amenity greenspace (1062.6m2) • Financial contributions towards: <ul style="list-style-type: none"> ○ £64,439.10 - Outdoor sports provision to improvements to Middleton playing fields and changing facilities ○ £30,360.00 – Young person’s provision to improvements to Pump Track and School Lane Play Area ○ £18,216.00 – Parks and gardens provision towards Heysham village green improvements.
Lancashire and South Cumbria Integrated Care Board (ICB) NHS	No objection , subject to securing £35,692 towards the reconfiguration at Bay Medical group for additional clinical capacity. If the contribution is not sought, the ICB would object to the development.
Lancashire Fire Service	No objection . Standard advice provided in relation to ensuring the development is designed to meet Part B5 Building Regulations in relation to access and facilities for the Fire Services.
Lancashire Constabulary	No objection . The constabulary have recommended the proposal be designed to Secure by Design 2019 Design Guide and have provided standard advise in relation window and door specification, lighting, parking and landscaping areas to be well overlooked, boundary treatments to prevent access to intruders and construction site security.
Health, Safety and Resilience Service (Lancashire County Council)	No objection Lancashire County Council Resilience Service have received no objections to the application from the following organisations: <ul style="list-style-type: none"> • EDF Heysham Power Stations • Lancashire County Council • Lancaster City Council • Lancashire Fire and Rescue Service • Lancashire Constabulary • North West Ambulance Service • Environment Agency • Office for Nuclear Regulation Therefore, all agencies can accommodate the changes within the off-site emergency plan for Heysham Power Stations.
EDF Heysham Power Station	At the time of compiling this report, no comments received to the application.
Office Nuclear Regulation	No comment – does not meet their consultation criteria.
Civil Contingencies Officer (City Council)	At the time of compiling this report, no comments received to the application.
Cadent Gas	No objection
Electricity North West	Advises there is ENWL apparatus within the vicinity of the proposed works and have provided standard conditions and information regarding electricity mains.
ORSTEAD	Provides advise on working in close proximity to underground services and relevant legislation to be adhered to.
Shell UK	Comments received indicating no effect to the Shell pipeline.

4.2 The following responses have been received from members of the public (in relation to the initial submission and amended consultation:

3 letters of objection. A summary of the main planning reasons for opposition include:

- The proposal is more larger houses generating a tremendous increase in traffic.
- Carr Lane is not fit for large increases in traffic and unlikely to support buses.
- Carr Lane is in poor condition and floods making is unpassable for smaller vehicles following heavy rain.
- Lack of drainage services/provision, impact on water supply that already runs at low pressure.
- Lack of a recreational area for children
- Loss of privacy and overlooking
- Lack of affordable housing

5 letters of support. A summary of the main reasons for support include:

- The application will improve the quality, feel and design of the wider village which, since 2008, has been distressed by developers and banks going into receivership and development ceasing.
- The development accords with planning policy and intends to foster a well-designed and safe built environment.
- One resident states, in 60 years, never known the area to have flooded.
- The parcels either side of Badgers Wood are well designed and better landscaped.
- However, concerns regarding access, scale, amount, design and amenity standards and flood risk are noted for the parcel to the rear of 2 Natterjack Lane.
- The development should remain a gated community.

Dynamo Cycle Campaign objects to the application on the grounds there is no provision for cycling or walking to the development. The agreement that cycling is facilitated by low traffic levels on largely rural roads ignores the fact this could be the first of other phases of development on the site which would significantly increase traffic levels.

5.0 Analysis

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

- Principle of development
- Fall-back considerations
- Transport Matters
- Flood risk and Drainage
- Cultural heritage
- Biodiversity
- Open Space, Design and Landscape
- Housing Matters
- Residential Amenity
- Sustainable Design and Renewable Energy
- Infrastructure contributions
- Other Matters

5.2 **Principle of Development** (NPPF paragraph 7 – 12 (Achieving Sustainable Development), paragraph 47 (Determining applications), Chapter 5 (Delivering a Sufficient Supply of Homes) and Chapter 11 (Making effective use of land); Strategic Policies and Land Allocations (SPLA) DPD policies SP1 (Presumption in Favour of Sustainable Development), SP2 (Lancaster District Settlement Hierarchy), SP3 (Development Strategy for Lancaster District), SP6 (The Delivery of New Homes), H2 (Housing delivery in rural areas of the district), DOS5 (Land at Middleton Towers Development Opportunity Site), EC5 (Regeneration Priority Areas) and SG13 (Heysham Gateway, South Heysham Development Management); Development Management (DM) DPD policies, DM1 (New Residential Development and Meeting Housing Needs) and DM4 (Residential Development Outside Main Urban Areas)).

5.2.1 The Strategic Policies and Land Allocations DPD (SPLA DPD) sets out the district's strategic development strategy, advocating an urban-focussed approach to future growth (Policy SP3). This is reflected in Policy SP2 which sets out the district's settlement hierarchy. Lancaster is identified

as a regional centre where the majority of future growth will be directed, followed by other urban areas and then identified rural sustainable settlements. In this case, the site is located outside of any of the district's urban areas and away from any of the identified rural sustainable settlements. In fact, the site is isolated from any rural settlement. Whilst residential development would generally be discouraged in such a location, the site forms part of a strategic Development Opportunity Site (DOS5) and is located within the Heysham Gateway Regeneration Priority Area (SG13/EC5).

5.2.2 The proposed site forms part of a large strategic allocation (DOS5), which stems from its former use as a holiday camp and its historic planning consent for a self-contained retirement village. The Council recognise that a large portion of the allocation is previously development land in need of regeneration, which supports the regeneration aspirations for the wider Heysham Gateway Priority Area (in the sense of redevelopment existing brownfield land). The wider Priority Area is focussed primarily on economic growth around the port and Bay Gateway and does not concern the Middleton Towers site directly. Policy DOS5 is directly relevant. It supports sustainable development that will deliver the regeneration of this important brownfield site. The policy goes on to state that the Council will require development to be taken forward through a comprehensive approach addressing the following issues:

1. The proposed uses are compatible with existing residential uses already constructed on site.
2. The proposal must enhance its levels of connectivity and accessibility to the nearby urban areas via improvements to public transport, the highway, cycling and pedestrian networks.
3. The proposal does not have a detrimental visual impact on the landscape value of Morecambe Bay.
4. The proposal will need to take account of the recommendations for mitigation harm and/or maximising enhancements as set out in the Council's Heritage Impact Assessment for the site.
5. That consideration be given to the need for coastal defences.
6. That consideration is given to the SFRA and associated flood risks connected within the site with all applications submitted by a site-specific flood risk assessment highlighting appropriate mitigation measures.
7. The protection of the setting of the listed building and its viability as a leisure facility.

Policy DOS5 also requires proposals to have due regard to the close proximity of Heysham Power Station in relation to its continued and potential future expansion and will need to demonstrate that no internationally designated site would be adversely affected by the development either alone or in combination with other proposals.

5.2.3 Policy DOS5 imposes a preference for the completion of the extant consent (a matter discussed below). The acceptance, in principle, for housing development at this site is further supported in the Local Plan under policy SP6 which sets the Council's housing requirements and anticipated delivery from allocated sites and policy H2, where Middleton Towers (DOS5) contributes significantly to housing delivery on allocated sites in the rural areas of the district.

5.2.4 The planning history was a material consideration in the allocation of the wider Middleton Towers site as a Development Opportunity Site. For the purposes of context, the Secretary of State when granting the original planning permission recognised the unique nature and character of the proposals (i.e. a self-contained village meeting the needs of the aging population) and the regenerative benefits the proposal would bring notwithstanding concerns over access and traffic. For similar reasons, the Council at the plan-making stage, remained supportive of the original proposal, but recognised this may not be a feasible option for the site and where this development can be demonstrated not to be viable the council will consider alternative proposals.

5.2.5 The planning history referenced in this report highlights the challenges the Middleton Towers site has faced, with all relevant parcels of the site having now had the age restriction clauses removed from the respective legal agreements (along with other obligations) along with the conditions requiring the development be a 'retirement village'. These applications were supported by viability and marketing evidence at the time demonstrating the retirement village was highly unlikely to progress. Other conditions and obligations were removed on the basis they failed to meet the legal tests of precision and enforceable. The Planning Inspector in deciding one of these historic applications (APP/A2335/Q/14/2211913), neatly concluded the '*original s106 did not succeed in achieving what it had set out to achieve*' (i.e. a self-contained retirement village) and the relevant

obligations '*no longer continued to serve a useful planning purpose*'. The Inspector was also certain there was little prospect of the approved scheme being built-out. Since the applications to vary the legal agreement/conditions were accepted, there has continued to be very little development or developer interest on the site, except for the outline planning permission and subsequent reserved matters for 8 dwellings.

- 5.2.6 In terms of alternative proposals to the retirement village, policy DOS5 indicates the Council will consider the potential for residential, employment and tourism uses. However, all would need to demonstrate how the accessibility and overall sustainability of the site could be enhanced. To help achieve sustainable alternative proposals, policy DOS5 states that development (not the site allocation) should be taken forward through a comprehensive approach. Unlike other strategic policies, this policy does not require a masterplan for the whole site or any strategic infrastructure delivery, therefore the policy expectation of what a comprehensive approach consists of can only mean development has to address the requirements/criteria listed in the policy (and repeated in paragraph 5.2.2).
- 5.2.7 The site allocation is broadly split into two areas with the northern parcel of the site undeveloped and outside the applicant's control. The southern parcel has pockets of completed development and pockets of both brownfield and greenfield land which remain undeveloped. Within the southern parcel of the allocation whilst the appearance of existing development is to a high quality, the area feels and looks incomplete. It is reasonable to conclude that the principle of the redevelopment of the proposed site (across the three parcels) will substantially help regenerate this part of the wider allocation.
- 5.2.8 There is a strong presumption to support proposals which involve the regeneration and re-use of previously developed land. There is no doubt that the proposed development will positively contribute to the regeneration of part of this existing brownfield site within the Development Opportunity Site allocation. The principle of housing on this site is also enshrined in the Local Plan with a clear expectation the site would be capable of delivering substantial housing across the site's allocation. Therefore, the principle of development is supported subject to meeting the criteria set out in policy DOS5, which is assessed against the main planning considerations discussed in the remaining parts of Section 5 of this report.

5.3 **Fallback Considerations**

- 5.3.1 In several supporting documents accompanying the planning application, the applicant heavily relies on the extant planning permission as fall-back and considers this to be a significant material consideration. The extant planning permission being the retirement village development secured under outline planning permission (00/00156/OUT) and its subsequent reserved matters (05/00740/REM). Until relatively recently the Council shared this position. However, having considered the implications of the recent Supreme Court judgment in 'Hillside Parks Ltd v Snowdonia National Park [2022] UKSC 30 ("Hillside")', and having taken legal advice the Council finds itself in a different position. The judgment is considered to have particular implications for the use of so called "drop in" planning permissions where large sites are subject to later revisions by the use of "drop in" planning applications in relation to portions of the wider site. Put plainly, the implication of so-called "drop in" planning permissions can render originally approved development physically incapable of being completed (where it is material) and therefore no longer capable of being lawful. This is relevant to this site in the context of the approval and subsequent implementation of the recent eight-dwelling scheme. Perhaps unknowingly at the time, the Council has granted what is in effect a "drop in" application which gives rise to the 'Hillside' effect. The difference between the original masterplan and the "drop in" for 8 units, based upon the approved layout (associated with the reserved matters) is physically different in terms of layout, housing types and density (it was approved as a block of apartments with open space, access and parking to the coastal edge). The "drop-in" permission replaces this with large, detached dwellings sitting within spacious plots and is regarded material and with no indication that the original permission was or is severable.
- 5.3.2 Overall, the effect of this application renders the original permission incapable of further implementation and incapable of amounting to a true fallback position. However, even if it were lawful, one basic principle regarding fallback is that there must be a 'real prospect' of a fallback proposal being implemented and 'real prospect' can simply mean a 'possibility'. There is no evidence before the Council to suggest the original planning permission would be implemented

(even if it could). In fact, the evidence within previous planning applications/decisions is enough to reaffirm there is no realistic prospect of the delivery of the retirement village development. Contrary to the applicant's position on this matter, it is considered that there is no fallback position to be given weight in the determination of the application.

5.4 **Transport Matters – Accessibility and sustainable travel, access strategy and layout and traffic impacts** (NPPF: Chapter 9 paragraphs 104-109 (policy) 110-113 (Promoting Sustainable Transport) and Chapter 12 paragraph 126 and 130 (Achieving well-design places); Strategic Policies and Land Allocations (SPLA) DPD policies: DOS5 (Land at Middleton Towers Development Opportunity Site), SP10 (Improving Transport Connectivity) and T2 (Cycling and Walking Network): Development Management (DM) DPD policies DM29: Key Design Principles, DM57 (Health and Well-being), DM58 (Infrastructure Delivery and Funding), DM60 (Enhancing Accessibility and Transport Linkages), DM61 (Walking and Cycling), DM62 (Vehicle Parking Provision), DM63 (Transport Efficiency and Travel Plans) and DM64 (Lancaster District Highways and Transport Masterplan).

5.4.1 Access Strategy

The proposed site will be accessed via Carr Lane. Carr Lane links Middleton Towers (and other holiday parks) to Middleton Road, which is the road connecting the area to the regional highway network (A589 or the A683). Carr Lane is an adopted minor road with a minimum width of 4.9m and an average width of 6.1m and is bound by mature roadside/field hedgerows. It has a speed limit of 30mph with some sharp bends and poor forward visibility at several points along its length. It is approximately 1.4km from Natterjack Lane where the development is proposed to the junction with Middleton Road. Around 1km of Carr Lane has no footway and no street lighting. Carr Lane is the only route to and from the site and is effectively a large cul-de-sac.

5.4.2 The proposed development will be accessed through the existing gated access off Carr Lane onto the existing internal estate roads. All three plots will be accessed off Natterjack Lane. The development does not propose any changes to the gated access arrangement - this will remain. Natterjack Lane is a private, unadopted road with 2-metre-wide footway provision alongside the 6 metre wide carriageway. There is generally only a footway to one side of the carriageway and in some cases this is segregated. A 20pmh speed limit is imposed within the estate. The roads have street lighting and dropped kerbs at street junctions.

5.4.3 Access to Parcel C (serving seven dwellings) is located adjacent to No.2 Natterjack Lane and is immediately located next to the gated access. There is already an access road serving this parcel of land approved under the reserved matters approval for the retirement village which will be utilised. The internal road serving Parcel C will have a new 6 metre wide road with a 2 metre wide footway to one site including a turning head at the end of the proposed cul-de-sac. Properties proposed on Parcel B would be accessed off the existing road around Badgers Wood. Parcel A is also accessed off an existing access junction off Natterjack Lane which will loop around to form a through road to a second access directly opposite the recent development of eight houses. The proposed development will involve the provision of additional footways around Badgers Wood and along sections of Natterjack Lane, as well as the proposed minor roads in the proposed estate layout. Off street parking in accordance with the maximum standards set out in the DM DPD are provided, together with cycle provision (within the curtilage of each dwelling) and EV charging points (now required by Building Regulations). An additional seven communal parking spaces are proposed close to the open space next to the existing community pavilion. Amended plans to the site layout and housetypes have been received to increase the size of internal garages to meet current standards (6m x 3m). These changes address one of the concerns raised by the highway authority.

5.4.4 The access arrangements to each of the three parcels of land are based on previously approved access roads, albeit adopted to suit the proposed residential development. The local highway authority has indicated the roads are not to adoptable standards, but in any case this estate would not be adopted due to the gated access. It is considered the layout of the estate roads are not unsafe. All roads would be managed and maintained (as they do now) under an estate management scheme. This would be controlled by legal agreement.

5.4.5 Whilst the roads are not to adoptable standards, the access arrangements and highway design is close to that previously approved for the retirement village development. The local highway authority has commented that visibility splays for each of the access junctions have not been provided on

detailed access drawings. However, these junctions have previously been approved and the proposed layout does not appear to impede necessary sightlines. Subsequently, the precise construction details of the access and estate roads and footways, including visibility splays, can be controlled by condition. On the whole, the proposed layout is considered acceptable and will safely accommodate vehicle and pedestrian movements within the estate itself and would provide suitable vehicle and cycle parking. Although comments have been raised on some internal matters, the local highway authority have not objected specifically on these matters. Subject to conditions for the final construction details of the access roads, footways and parking provision, the internal layout is considered acceptable and accords with the requirements of policy DM29, elements of DM60 and DM62 of the DM DPD.

5.4.6 Accessibility and Sustainable Travel

Policy SP10 of the SPLA DPD and policies DM60, DM61 and DM63 seek to direct new development to sustainable locations to ensure new development provides and encourage opportunities for a range of transport options and to reduce the overall need to travel. This policy approach aligns with the Council's development strategy (policy SP3) and is reflective of the principal objectives set out in the NPPF (paragraphs 104-105) to promote sustainable transport in planning policy and decision-taking. However, the site is the subject of its own site-specific development opportunity site allocation, having had the benefit of residential approvals in the past and with a further expectation of housing coming forward on the site. Criteria 2 of policy DOS5 is relevant and requires proposals to enhance the levels of connectivity and accessibility to nearby urban areas, stating that this should be achieved via improvements to public transport services and improvements to the highway, cycling and pedestrian networks. Unfortunately, this policy does not require a masterplan for the whole allocation or any form of strategic infrastructure delivery. There is no indication in the policy how improvements to public transport and cycle/pedestrian infrastructure could be improved and/or delivered given Carr Lane forms the only realistic access for all modes to the site. Nevertheless, there remains a strong presumption that accessibility improvements are required for alternative proposals on the site.

5.4.7 The distance between the site and the closest sustainable settlement (Overton) and closest Key Service Centre (Heysham) is approximately 2.5km and 3.5km respectively. The nearest bus stop for access to the wider area is located on Middleton Road approximately 40m from the junction with Carr Lane. The No.5 bus service operates between Overton and Carnforth with an hourly service Mon – Sunday. Additional school buses also operate from this bus stop. The closest rail station is located at Heysham Port just over 4km from the site. However, there is one daily service run from this station. Regular rail services are provided at Morecambe over 6km away. The site is remote from any designated cycle routes. The Local Plan identifies an aspirational route via the public right of way (FP121004) circa 310 metres north of the wider Middleton Towers site entrance. There is a bus stop adjacent to the site for school children attending Overton St Helens.

5.4.8 Due to the remote location of the site opportunities for sustainable travel are less than what would be expected in a sustainable settlement or urban area. The NPPF (paragraph 105) recognises there will be varying opportunities to maximise sustainable travel between rural and urban areas, and this should be taken into account at both the plan-making and decision-making.

5.4.9 The applicant indicates that there are existing opportunities for travel by sustainable transport modes for a variety of journey purposes and local living, including:

- Growing residential community at Middleton Towers may provide greater opportunities for the sustainable travel initiatives, such as car sharing.
- Retail unit and café with planning permission within 200 metres of the site now in the applicant's control.
- Carr Lane is similar in character to existing designated cycle routes in the vicinity (e.g. Lancaster Road).
- Network of PRoW in the vicinity available for leisure purposes, accessed from existing adopted highway which also forms part of the network.
- School bus service to Overton Church of England Primary School.

5.4.10 The distances people are prepared to walk and cycle depends on a number of factors. These include age, fitness, journey purpose and the safety and attractiveness of the route. Guidelines are provided on maximum suggested distances for commuter, school and leisure trips by the Chartered Institution

of Highways and Transportation. These are widely accepted and are stated as 2km for walking and 5km for cycling, subject to the infrastructure being in place to support active travel.

- 5.4.11 The proposed site is in excess of 2km from wider services and amenities therefore is unlikely walking will be a preferred mode of travel, particularly as walking to Middleton Road only provides access to a bus service. However, cycling would remain a possible alternative to the car for both leisure and work. Access to the bus stop provided services to the urban areas is around 1.4km from the site via Carr Lane. To rely on multi-modal trips, the distance to a bus stop (with regular services) should be considerably less than 1.4km. The condition of Carr Lane (unlit and no footways with some sharp bends) does not serve to encourage and maximise opportunities for cycling and walking and is unlikely to be a preferred option to most future residents.
- 5.4.12 Whilst the provision of a retail shop within 200 metres of the site will be a positive addition to the local area and will help reduce some traffic movements, this shop does not currently exist. It is understood planning permission has been lawfully implemented and therefore extant. However, as it is outside the scope of this development there is no control to secure its completion and provision ahead of or as part of this development. Whilst a material consideration, it is afforded limited weight. The school bus service offers some opportunities, but this is limited to children attending Overton Primary school only.
- 5.4.13 Unfortunately, the narrow width and alignment of Carr Lane limits potential opportunities to enhance pedestrian connectivity between the site and Middleton Road. The applicant has engaged with the local highway authority to explore opportunities for public bus services diverting to Middleton Towers. The highway authority has confirmed there are no opportunities to divert public bus services to the site and to make any meaningful effort to improve the pedestrian environment, substantial works would be required and from the highway authority's perspective, such improvements could only be secured through the acquisition of third-party land. This is a matter the applicant has already explored and deemed unfeasible – not just on costs but the number of landowners and length of the route necessary.
- 5.4.14 Considering these circumstances, the local highway authority has objected on the grounds the site is inaccessible and unsustainable to support residential development and would be contrary to the Framework in relation to transport and access. The highway authority considers the proposal to have unacceptable safety implications which is considered severe in policy terms as the development does not meet the needs of pedestrians and cyclists.
- 5.4.15 Based on the recorded traffic flows and speeds, the applicant argues Carr Lane is considered to be similar in character to a Quiet Lane, which are appropriate for shared use by walkers, cyclists, horses and motorised users. The applicant continues to engage with the local highway authority on this matter. The Highway Authority dismisses this option in their comments noting the development will increase traffic on Carr Lane and they would not wish to encourage shared use of Carr Lane with the increased traffic without appropriate infrastructure in place.
- 5.4.16 Officers are supportive of works to Carr Lane which would potentially make improvements to Carr Lane to enable safe shared use of the road for all modes. However, such lanes, including Carr Lane, are still not inviting places to walk or potentially cycle in dark, winter months or early/late in the day especially when there is little natural surveillance. Considering this, even with some potential improvements to support active travel, it is realistic and reasonable to conclude on the whole the development would be heavily car dependant.
- 5.4.17 The applicant also proposes to improve accessibility in part through electric vehicle (EV) charging at each property, and through the implementation of a Green Travel Plan. The provision of EV charging points is now a requirement of Building Regulations and is not considered a tangible measure to secure genuine accessibility improvements between the site and local amenities and services. This provision is given limited weight. In terms of Travel Plan objectives, the applicant has committed to the following measures:
- The appointment of a Travel Plan Co-ordinator to provide guidance and promotional material on the use of sustainable modes of travel.
 - Residential Travel Information Pack including a travel voucher of £150 upon occupation of each property.
 - The establishment of a Bicycle User Group

- Active Travel equipment including contributions to the purchase of bicycles, or even cycle training.
- A Car Share Scheme
- Sustainable Travel Steering Group

In broad terms the intended scope of the Travel Plan is acceptable and reasonable and would ordinarily provide suitable measure to enhance sustainable travel. However, these would generally be for development in sustainable locations, which this is not.

5.4.18 The applicant has proposed a new bus turning circle at the site entrance and initially indicated a commitment to investigating a new shuttle bus service between the site and Middleton Road. The applicant's Supplementary Transport Note (July 2023), however, does not include any reference to a shuttle bus service as part of the measures to increase the sites accessibility and/or travel plan measures. It is also noted that the developer's viability assessment makes no reference to a financial commitment to fund such a service. Accordingly, the commitment to investigate (or provide) a shuttle bus is far from convincing at this stage and is afforded limited weight. There is ongoing discussion regarding the possibility of a shuttle bus being explored as part of the travel planning exercise and through the steering group. Whilst this may be encouraged it can not be considered part of the package of initiatives at the decision-making stage. The bus turning facility remains part of the proposal and would be the subject of a condition. This facility will safeguard options in the future and in the meantime will provide improved turning facilities for larger vehicles, such as delivery vehicles and the school bus should it be necessary.

5.4.19 It is considered that the proposed Travel Plan initiatives in isolation from infrastructure improvements and changes to Carr lane will not overcome the remoteness of the site and lack of accessibility for pedestrians in particular. Furthermore, measures to encourage walking between the site and Middleton Road (to access the wider area by bus), on a stretch of highway that is unlit with no footways presents a tangible safety risk to vulnerable users, such as school children, parents with prams, people with disabilities etc. Such that people won't walk and will travel by car instead. Having regarding the site's location and the lack of accessibility for alternative sustainable travel modes, it is reasonable to conclude that the development would conflict with paragraphs 110-112 of the NPPF, policy DOS5 of the SPLA DPD and DM60 and DM61 of the DM DPD. This is a position strongly shared by the local highway authority who have objected on these grounds. It is also a view shared by the Parish Council (in the context of transportation matters), Dynamo campaign group and some existing residents.

5.4.20 Traffic Impacts

The submitted Transport Statement (TS) (as amended) has used the TRICS database to calculate the trip rates for the proposed development. The resultant trip generation for the proposed development is 25 two-way vehicle movements during the morning peak (08:00-09:00) and 27 two-way movements during the evening peak hour (17:00-18:00). The applicant then compares this to the trip rates associated with the retirement village development. The local highway authority notes concerns that the actual trip generation and peak hours could be higher/adjusted given the geographical constraints and characteristics of the site. In particular, during the AM and PM school periods, it is likely trip generation for both vehicles and pedestrians is likely to occur in tandem over a relatively short period of time. It appears that the highway authority's concern is not necessarily about the capacity of the highway to accommodate the development traffic, rather that this would either increase the scope for conflict between vehicles and vulnerable road users (pedestrians/cycles) or increase car dependency.

5.4.21 During the determination of the application additional traffic surveys have been undertaken. The traffic surveys highlight that peak hourly traffic flows are in the middle of the day, with approximately 100-120 vehicles per hour, equivalent to 1-2 vehicle movements per minute. The surveys also collated traffic speed data which indicated 85th percentile speeds were recorded at two locations between 27mph and 29mph (at site 1) and 31mph and 32mph (at site 2).

5.4.22 There needs to be a judgement as to whether the level of traffic generated by the proposed development, combined with the relatively low speed traffic speeds along Carr Lane, would be unsafe especially given the absence of dedicated footways. There is clearly disagreement between the applicant and the highway authority on this matter.

- 5.4.23 The TS goes on to assess the impact of the development against the trip generation of the consented self-contained village for retired residents. Of course, this shows the proposed development would generate significantly less traffic than the consented scheme and therefore the impacts on the local network would not significantly change as a result of the proposed development. The local highway authority does not concur with the assumptions presented in the TS. In response, the applicant has adjusted the TRICS data set to enable a more representative forecast from the sites isolated location. When doing so, the alternative development trip forecast is 33-36 vehicle movements in the peaks hours, compared to 29-31. Officers would concur with the applicant that the difference of trips is not significant. The applicant also reiterates that the level of trips proposed would be significantly less than what could have been as part of the extant consent. Given the low traffic speeds and the characteristics of Carr Lane the applicant equally contends the risk to safety is equally low, and certainly not severe as alluded to by the highway authority.
- 5.4.24 While it is considered the original planning permission is no longer extant – a position we are aware the applicant does not share – the planning history is a material consideration. Furthermore, there must be an acknowledgement that the site is allocated and identified to support the delivery of more than 500 homes. The Lancaster Local Plan Transport Assessment (2018) which informed the allocation of the site and the policy will have taken account of the traffic movements associated with 576 dwellings. This strategic TA accepted the closest junctions to the site including the junction of Carr Lane to Middleton Road and proposed no mitigation, evidencing the highway network can accommodate that level of vehicular traffic (this is in relation to highway capacity and not safety for all users). The proposed development is substantially lower than what could have been delivered as part of the original planning permission. Accordingly, it is considered the development’s vehicular traffic would not lead to a severe impact on the operation of the highway network.
- 5.4.25 It is considered that the highway authority’s position that the proposal is severe, is a policy conflict and not severe in the context of paragraph 111 of the Framework which states:
- Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*
- Whilst officers don’t disagree with the highway authority in that the site fails to meet the accessibility and sustainability objectives (in transport terms) of the Framework and local planning policy, there is a judgement to be made regarding the level of impact and harm that would arise from the proposal especially in the context of its planning history and site allocation.
- 5.4.26 The development will lead to increased traffic above what currently exists and that due to the lack of segregated pedestrian and cycle infrastructure between the site and Middleton Road (the bus stop to access the urban areas), the number of daily trips could be inflated above that indicated by the applicant as it will be highly car dependant. There is no legitimate fallback position, but there has been planning permission for over 500 dwellings, and there is a site allocation with an expectation to deliver housing to meet the district housing needs. Policy DOS5 requires improvements to enhance accessibility. There is a clear commitment through the Travel Plan to support shared travel and cycling. This is a reasonable approach to take given the location of the site. Encouraging walking especially at peak times poses a potential highway safety risk and given the characteristics of Carr Lane is unlikely to be a preferred option. The applicant is keen to explore options with the highway authority to make changes to Carr Lane which would support ‘Quiet Lane’ status or similar. This could involve traffic calming measures and signage where appropriate. This option would only provide mitigation to support this development and would clearly not be an approach suitable for the wider allocation. With such improvements, officers are satisfied that on balance the proposal would not be unacceptable given the scale of the development and associated traffic and the existing low speeds evidence along Carr Lane. There would remain a conflict with policy regarding accessibility though the safety implications associated with the poor connectivity would be less. The concerns relating to accessibility for active travel and sustainable transport must be weighed in the overall planning balance.
- 5.4.27 The highway authority has indicated contributions would be required for the wider highway infrastructure strategy. However, no details have been provided as to what this would entail. No details are provided due to the highway authority’s position that there are clear and obvious deficiencies with the application that need addressing first. It is not reasonable to delay the

determination of the application any further, as it has taken a considerable period of time to receive statutory comments from the highway authority in the first instance. The wider highway infrastructure strategy, which lists 13 projects mainly in and around Lancaster, are highly unlikely to be directly related to the development proposal. The issues here are localised and any contributions or works requirement should be focussed to Carr Lane itself.

- 5.5 **Flood Risk and Drainage** NPPF Chapter 14 (Mitigating the challenge of climate change, flooding and coastal change) paragraphs: 152, 154, 159-167 and 169 (Flood Risk and Drainage); Strategic Policies and Land Allocations (SPLA) DPD policies SP8 (Protecting the Natural Environment) and DOS5 (Land at Middleton Towers); Development Management (DM) DPD policies DM33 (Development and Flood Risk), DM34 (Surface Water Run-off and Sustainable Drainage) and DM35 (Water Supply and Waste Water).
- 5.5.1 Strategic policy seeks to ensure new growth within the district does not create new or exacerbate existing flooding issues and seeks to reduce flood risk overall. The NPPF and the above referenced DM DPD policies require development to be in areas at least risk of flooding (following the sequentially and exception test) and for major proposals to ensure surface water is managed in a sustainable way accounting for climate change. The emerging policy places an even greater emphasis on managing flood risk, sustainable drainage proposals and the maximisation of above ground SUDS features.
- 5.5.2 The application site is predominately located within floodzone 1 with the northeastern edge (affecting Parcel C) located within floodzone 2 and 3. The proposal has been amended to remove all dwellings from the floodzones at higher risk. The access and egress is through floodzone 3. Accordingly, the application has been supported by a Flood Risk Assessment (FRA). The submitted FRA concludes that the development would not lead to an increased risk of flooding elsewhere and will ensure residents are safe from any potential flood risks on site over the lifetime of the development. The Environment Agency are satisfied with the mitigation (relevant to the amended scheme - this includes flood resilience construction and flood warning plans) and have raised no objections to the proposal on flood risk grounds. The EA, do however, highlight the need for the local planning authority to consider the requirements for a sequential and exception test.
- 5.5.3 The applicant maintains the position that a sequential test is not required on the basis that the site has been allocated and subject to strategic sequential testing at the Local Plan stage. Paragraph 166 of NPPF (September 2023) states that 'where development comes forward on allocated sites that have been subject to a strategic flood risk assessment and sequential testing a plan-making stage, they need not be subject to a site-specific sequential test at application stage. However, an Exception Test may need to be reapplied if the nature of the proposal differs from the allocation, or 'if more recent information about existing or potential flood risk' emerges'.
- 5.5.4 Paragraph 162 of the NPPF sets out that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source [our emphasis], and development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
- 5.5.5 The NPPG (Paragraph: 027 Reference ID: 7-027-20220825) concurs with the Framework on this point in principle, stating a sequential test would not be required if the 'site has been allocated and subject to the test at the plan making stage (provided the proposed development is consistent with the use for which the site was allocated and provided there have been no significant changes to the known level of flood risk to the site [our emphasis], now or in the future which would have affected the outcome of the test)'
- 5.5.6 Contrary to the applicant's position on this matter, the local planning authority are of the opinion that the site has been subject to significant changes in relation to flood risk since the plan was prepared and adopted. This would relate to changes in the floodzones, with part of the site now within floodzone 3b and the risk of flooding from groundwater. The requirement for the Sequential Test is not governed by the guidance from the NPPG referenced above, rather the requirement in paragraph 162 of the NPPF, which is a significant material consideration, that all sources of flood risk should be considered as part of the sequential test. At the plan making stage, groundwater flooding had certainly not formed the basis of the plan wide sequential test. Therefore, not to undertake the sequential test at the planning application stage would be contrary to the Framework

and the requirement to consider flood risk from all sources. Accordingly, the application is supported by a sequential test and exception test.

- 5.5.7 The NPPG goes on to state that for individual planning applications subject to the Sequential Test, the area to apply the test will be defined by local circumstances relating to the catchment area for the type of development proposed. The NPPG makes it clear that it is for the decision-maker to consider whether the sequential test is passed and for the local planning authority that must determine and agree an appropriate area of search, based on the development type and relevant spatial policies. In this case, whilst the proposal will meet a district wide housing need, the site is located within one of the districts largest brownfield sites identified as a development opportunity site to promote its regeneration. It is therefore agreed on the basis of the relevant spatial policy that the area of search for the required sequential test be narrowed to the site allocation.
- 5.5.8 Having agreed the catchment area for the test, it is necessary to consider reasonably available sites suitable to accommodate the development proposed. The Planning Practice Guidance (PPG) defines reasonably available sites as those in a suitable location for the type of development with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development. It goes on to say that these could include a series of smaller sites and/or part of a larger site if these would be capable of accommodating the proposed development and such lower-risk sites do not need to be owned by the applicant to be considered reasonably available.
- 5.5.9 In this case, a suitable degree of flexibility +/- 10% buffer based on the development proposed and size of the site has been factored into the search meaning suitable sites could be in the region of 2.1ha to 2.6ha in size within the existing allocation. The whole allocation extends to 23 hectares. In this case, the remaining parcel of undeveloped land (the norther parcel) within the allocation is in single ownership by a third party.
- 5.5.10 The applicant maintains a position that the remaining land benefits from the extant planning permission – a matter already addressed above – for a different type of development to that applied for. However, the submitted sequential test recognises that over the past 21 years the remaining land (the northern parcel) has not been development and there is little prospect of it being developed out in its approved form (not that it can be). As such, part of this undeveloped land could potentially accommodate the scale of development proposed. Nevertheless, the applicant contends this land is neither available or suitable for the development. It is also noted that alternative land to the north is also at risk of groundwater flooding but at a lower level (but further north).
- 5.5.11 The arguments regarding its unsuitability include the following main points:
- There is no direct access from the public highway therefore requires agreement to gain access to their site.
 - The proposed site provides a logical rounding off to the undeveloped parts of the original phase 1 development. Development on the northern parcel for the scale of development would appear isolated and would not regenerate the existing parcels of brownfield ,and on the southern portion of the allocation.
 - To develop on an alternative site in the northern parcel of the allocation would not provide for a comprehensive and holistic approach to the regeneration of the allocation and would be contrary to policy DOS5.

Finally, the applicant advises they have approached the landowner to ascertain whether the land is available and, in the applicant's, view their expectation of land value is unrealistic rendering the site unavailable.

- 5.5.12 Taking into account the limited sites available within the allocation and having regard to the matters discussed above, it is agreed that there are no reasonable available sites suitable to accommodate the development and that the sequential test is passed.
- 5.5.13 Paragraph 164 of the Framework states:
'The application of the exception test should be informed by a strategic or site specific flood risk assessment, depending on whether it is being applied during plan production or at the application stage. To pass the exception test it should be demonstrated that:
- a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and

b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
165.

Both elements of the exception test should be satisfied for development to be allocated or permitted'.

- 5.5.14 It is important to remember all the proposed dwellings are now located outside of areas at risk of surface water flooding and fluvial/tidal flooding illustrated through the Environment Agency flood maps, although plots 1 to 7 have their access and driveways through and affected by floodzone 3. Arguably, the exception test relates primarily to groundwater flood risk, for which the whole site is affected by medium risk opposed to high risk.
- 5.5.15 Turning to the test itself, the proposed development involves the regeneration of a mostly previously development land that has lay vacant for a considerable period of time. The proposed development will significantly improve the quality and appearance of the partially developed part of the allocation and improve the setting to the group of listed buildings. Combined with this, it will make a considerable contribution to the district wide housing supply and that anticipated to come forward on this allocation. Whilst there remain concerns in relation to the lack of accessibility to the site (a matter to be weighed in the planning balance), there are significant benefits arising from the regeneration of the proposed site through the proposed development. In this regard and subject to the wider planning balance, it is considered there would be wider sustainability benefits that would outweigh the flood risk identified.
- 5.5.16 The second arm to the test to ensuring the development is safe for its lifetime without increase the flood risk elsewhere. The submitted FRA and amended drainage strategy have demonstrated that the development would be safe from flood risk and not cause a flood risk elsewhere. This has been to the satisfaction of both the Environment Agency and the Lead Local Flood Authority. Accordingly, the second arm of the exception test is passed in accordance with planning policy.
- 5.5.17 In terms of the proposed drainage strategy, due to the groundwater levels and close proximity to areas at risk of tidal/fluvial flooding infiltration has been discounted as a suitable drainage strategy. The proposed strategy is to discharge all surface water from the development to the North Sea via the existing drainage system within Natterjack Lane, designed to accommodate the original planning permission. The strategy is design to accommodate all storm events up to the 1 in 100 year plus a 50% climate change allowance. The outfall to the North Sea is unrestricted although each parcel of site will have attenuation provided and with the flows from each parcel stored then discharged at a controlled rate (no greater than 5l/s). The proposal also includes the use of extensive permeable driveways as part of the strategy. The principle of the strategy is acceptable and has been considered and accepted by the LLFA. However, the final design needs to be controlled by condition due to some identified deficiencies within the submitted drawings and calculations. It is considered, such issues can be overcome by condition and would not prejudice the overall strategy.
- 5.5.18 The only criticism regarding the drainage scheme relates to the lack of above ground sustainable drainage components, questioning whether indeed the drainage scheme comprises a sustainable drainage system. Planning policy requires all major developments to incorporate sustainable drainage systems (SuDS), which combines a mixture of built and nature-based techniques to mimic natural drainage as closely as possible providing benefits for water quantity, water quality, biodiversity and amenity as well as managing flood risk. This has been explored with the applicant and has been discounted. Whilst disappointing, paragraph 169 of the NPPF and policy DM34 state major development should [our emphasis] incorporate sustainable drainage systems and does not explicitly require multi-functional SuDS. The emerging Local Plan will place a stronger requirement on developers going forward.
- 5.5.19 To ensure the proposed development would not be at risk of flooding or increase the risk of flooding elsewhere over the lifetime of the development, conditions controlling the identified flood risk mitigation, the approval and implementation of a final drainage scheme and ongoing maintenance will be required. Overall, the applicant has demonstrated the development would conform to the requirements of national and local planning policy regarding flood risk and of particular relevance, has demonstrated compliance with the requirements set out in DOS5 (criteria 6) which requires consideration to be given to the SFRA and associated flood risks connected with the site and that appropriate mitigation measures are provided to the satisfaction of the Environment Agency and Lead Local Flood Authority. United Utilities are also satisfied with the proposals.

5.6 **Cultural Heritage** NPPF Chapter 16 (Conserving and enhancing the historic environment) paragraphs 189, 194 - 197, 199 – 206; Strategic Policies and Land Allocations (SPLA) DPD policies SP7 (Maintaining Lancaster District’s Unique Heritage) and DOS5 (Land at Middleton Towers Development Opportunity Site); Development Management (DM) DPD policies DM39 (The Setting of Designated Heritage Assets).

5.6.1 Strategic policy SP7 (SPLA) states that ‘*Lancaster District has an extraordinarily rich and varied historic environment*’ and that its heritage assets shape the district’s distinctive identity. Policy SP7 requires the Council, as well as fulfilling its statutory duty, and amongst other requirements, to protect and enhance local heritage assets and to maximise opportunities to reinforce the district’s unique identity and the wider enjoyment of the historic environment. One of the criteria set out in policy DOS5 also requires development proposals within the Middleton Towers allocation to have regard to recommendations for mitigating harm and/or maximising enhancements as set out in the Council’s Heritage Impacts Assessment for the site.

5.6.2 When assessing development that affects designated heritage assets the Council must demonstrate it fulfils its statutory duty. This is provided below:

The local planning authority in exercising its planning function should have regard to s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which states “*In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have **special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses***”.

5.6.3 This legal framework to *preserve* and *enhance* is reflected in national and local planning policy. Paragraph 197 of the NPPF provides the starting point for determination planning application that affect heritage assets. It requires the local planning authority to take account of:

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

5.6.4 It does state when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation; the more important the asset the greater the weight that should be attached with any harm of loss requiring clear justification. Furthermore, the NPPF defines the setting of a heritage asset as the surrounding in which it is experienced. The extent is not fixed and could change as the asset and its surroundings evolve over time. Significance derives not only from its physical presence, but also the setting.

5.6.5 There are three grade II listed buildings collectively known as Middleton Towers located to the west of the application site, occupying a prominent position on the coastline. The significance of these designated heritage assets derives largely from their historic fabric, illustrative of vernacular construction techniques and historic association with historic farming practices. These buildings do not form part of the proposals and have been the subject of recent planning permissions and listed building consents to re-purpose these important buildings. Our assessment is focused on the impacts of the development on the setting of these designated heritage assets.

5.6.6 Policy DO5 requires proposals to take account of the recommendations for mitigation harm and/or maximising enhancements as set out in the Council’s Heritage Impact Assessment (HIA) for the site. This includes creating sightlines to frame the listed buildings, particularly looking west, and providing a buffer of open space to the south and east, the introduction of landscaping to soften the impact of housing and restricting development to two-storeys within sightlines of the designated assets. The HIA requires development proposals to take careful consideration of placement, height and arrangement of buildings in order to ensure that development would not completely subsume the assets and remove the ability to understand and appreciate their heritage values.

- 5.6.7 The setting of this group of listed buildings has been dramatically eroded by previous development. When viewed from the west, the large buildings of the retirement village provide a very incongruous backdrop to the group of listed buildings and have eroded the ability to appreciate their agricultural origins. Views looking north are of Heysham Power Station, the scale and massing of which dwarf the listed buildings. The buildings are now best appreciated when viewed from the east, where the coastal landscape of Middleton Sands accentuates their vernacular appearance.
- 5.6.8 The proposed development occupies land immediately to the east of the listed buildings. Development of the site would result in harm to the significance of the buildings as a result of the loss of this surviving open space (albeit in poor condition), which would place them in an overwhelmingly suburban context when viewed from the west. Therefore, it is considered that the proposal has the potential to cause harm to the significance of the designated assets via their setting.
- 5.6.9 The proposed development has been designed with regard to the national design code and consideration to the site and surroundings including the listed buildings. The proposed dwellings are no taller than two-storey and are proposed to be finished in high-quality materials (slate roof coverings, stone and roughcast render) drawing on the character and appearance of existing dwellings on the site. The appearance of the proposed dwellings reflects on traditional local vernacular – relatively simple – with some contemporary elements to add variety and interest. These design measures provide embedded design mitigation which is important when considering the proposal and its relationship to the listed buildings and their setting. As such, the main issue associated with the development is its layout and landscaping.
- 5.6.10 In consultation with the Council's Conservation Officer, amendments to the layout of the development have been secured which improve the sightlines through the development towards the listed buildings. This has been achieved by marginally pushing and reorienting the plots opposite the group further away and creating an enhanced area for landscaping. This now provides a more spacious and attractive layout where the listed buildings can be appreciated better and not overly consumed by existing and proposed sub-urban housing. The landscaping serves to provide a degree of screening of the new sub-urban development but also helps frame views towards the heritage assets. The amendments are supported by the Council's Conservation Officer who no longer raises an objection to the development.
- 5.6.11 Currently, part of the setting to this group of listed buildings comprises a vacant, undeveloped parcel of brownfield land alongside an area of amenity greenspace. Beyond the amenity greenspace, the site is used as a site compound and has been bound by security. Whilst the proposals will bring development much closer to the group of buildings causing a low level of less than substantial harm, the embedded design mitigation now captured in the amended proposals is considered to mitigate such harm. The redevelopment of the site will also arguably provide enhancements to the setting of the group through the removal of unsightly undeveloped brownfield land. Based on the amended proposals, it is considered that the proposal would not lead to harm to the significance of the heritage asset via their setting and that the proposal complies with policy DM39 of the DM DPD and paragraph 197 of the NPPF. Of particular relevance, the applicant has demonstrated compliance with the requirements set out in DOS5 of the SPLA DPD (criteria 4 and 7) which requires development to have regard to the Council' Heritage Impact Assessment for the site and seeks to protect the setting of the group of listed buildings.
- 5.7 **Biodiversity (NPPF Chapter 15 (Conserving and enhancing the natural environment) paragraphs 174 and 179-182; Strategic Policies and Land Allocations (SPLA) DPD policies: SP8 (Protecting the Natural Environment and EN7 (Environmentally Important Areas); Development Management (DM) DPD policies DM43 (Green Infrastructure), DM44 (Protection and Enhancement of Biodiversity) and DM45 (Protection of Trees, Hedgerows and Woodland).**
- 5.7.1 Strategic policies SP8 and EN7 both recognise the importance and value of biodiversity within the district, and expects development proposals to protect, maintain and enhance biodiversity and the districts green infrastructure. This strategic policy position is reflected in the Development Management DPD policies. Policy DM43 seeks to maintain, protect, and enhance the integrity and connectivity of the districts Green Infrastructure network through the protection of open spaces and the provision and enhancement of amenity greenspace as part of development proposals. Policy

DM44 goes on to state development proposals should protect and enhance biodiversity and, as a principle, there should be net gain of biodiversity assets wherever possible. This policy states that where harm cannot be avoided, it should be mitigated and as a last resort compensated for, and where a proposal leads to significant harm, planning permission should be refused. Policy DM45 identifies the importance of retaining trees, woodland and hedgerows where they positively contribute to visual amenity, landscape character and/or the environmental value of an area. This policy expects new development to positively incorporate existing trees and hedgerows and where this cannot be achieved, the losses must be justified and mitigation. Policy DM45 seeks to maximum and encourage new tree and hedgerow planting of indigenous species to mitigate against the wider impacts of climate change and to enhance the character and appearance of the district.

5.7.2 The site itself is not protected for its nature conservation. However, the site sits immediately adjacent to Morecambe Bay and Dudden Sands Special Protection Area (SPA), Morecambe Bay Special Area of Conservation and RAMSAR and the Lune Estuary Site of Special Scientific Interest (known as the National Sites Network) with Carr Lane Meadows Biological Heritage Site (BHS) to the north east and further north the Middleton Former Refinery BHS. There are no protected trees or important hedgerows located within the site. The application site has been submitted by a preliminary ecological appraisal (PEA) of the site together with an amended Shadow Habitat Regulations Assessment.

5.7.3 In relation to the biodiversity value of the site itself, the submitted appraisal concludes that the site is of low ecological value and no notable or protected species were recorded on the site. GMEU largely concur with the assessment undertaken and note that the habitats on the application site are relatively recent in origin, developing since the former holiday camp was demolished. In particular GMEU note that the vegetation present is not typical of the important sand dune systems and foreshore habitats included within the designated sites due to its previously developed character and that the botanical diversity is not exceptional. It is considered and accepted by GMEU that the development is unlikely to affect any specially protected species. The submitted PEA prescribes a number of mitigation recommendations which are largely precautionary measures. Such would be conditioned and would need to capture the recommendation of GMEU regarding a method statement for reasonable avoidance measures during construction for amphibians.

5.7.4 Turning to the effect of the proposal on the integrity of the National Sites Network. During the determination of the application, the applicant has had to address several deficiencies in their submission to enable the local planning authority to ascertain whether the proposal would result in likely significant effects or not. The latest version of the sHRA (v5) has now addressed all previous concerns. The complexities surrounding this are a consequence of the close relationship the development site shares with the designated sites. Following appropriate field and desk top surveys the local planning authority, in consultation with Natural England, are satisfied the site is not considered functionally linked land therefore the proposal will not result in any direct impacts to the designated sites. However, it is not possible to rule out possible indirect effects through pollution pathways, disturbance during construction and the potential for increased recreational disturbance once the development is operational. The following mitigation is required:

- Provision of homeowner packs.
- Provision of on-site signposts and information boards highlighted the sensitivities of the designated sites and routing to official paths along the coastline.
- Provision of on-site open space set back from the shoreline.
- As part of the off-site landscaping and biodiversity net gain proposals, the retention of blackthorn and bramble that occurs along the upper shoreline, which help screen the development from the designated sites.
- The stopping of any construction works during between November to February, if a wider voluntary restraint or statutory suspension of waterfowl shooting comes into force within the Morecambe Bay Area. This is to limit any impacts on qualifying bird species utilising the surrounding site (a scheme to be agreed).
- A suitable surface water drainage scheme and a construction method statement to manage surface water during construction.

5.7.5 With the implementation of the mitigation outlined above, it is considered that the proposed development will have no adverse effects on the integrity of the designated sites, their designation features or their conservation objectives, through either direct or indirect impacts either alone or in combination with other plans and projects. The mitigation measures can be adequately covered by

planning condition and planning obligations as set out in the recommendation below. It is therefore considered that the proposal will not adversely affect the integrity of the National Sites Network and therefore accords with the Habitat Regulations alongside the aforementioned natural conservation planning policies.

5.7.6 The final matter relates to delivery, where possible, net gains in biodiversity in accordance with policy DM44. The proposed development has been supported by a BNG assessment and matrix which demonstrates net gains in biodiversity can be achieved as part of the proposals. Based on the earlier iterations of the proposed landscaping this equates to around 39% net increase in biodiversity units. The proposed landscaping has been amended to provide more native and suitable planting for the sites exposed coastal location. The scheme retains extensive tree planting but in more appropriate locations and significant increased in native hedgerows (linear habitat). GMEU have commented on the initial BNG proposals indicating some concern over the type of landscaping and urban trees proposed, together with comments over the assumptions regarding the strategic significance of the site from an ecological perspective noting the proximity to the designated sites. Similar comments were received by the Council's own Arboricultural Officer. The landscaping scheme has been amended and is considered more suitable – but perhaps not ideal – to the coastal location. This still incorporates a substantial amount of tree planting, which score heavily in the matrix. An updated BNG Matrix has not been carried out at this stage, however, officers are satisfied that overall, the proposals will provide net gains on the site given its existing condition.

5.7.7 Taking account of the potential effects on the National Sites Network, protected species and the opportunities for provided net gains in biodiversity, it is considered that the applicant has demonstrated the development would conform to national and local planning policies which seek to protect and enhance existing ecological assets and encourage enhancements to biodiversity. Of particular relevance, the applicant has demonstrated compliance with the requirements set out in DOS5 to ensure the development would not adversely affect, either alone or in combination, the integrity of the National Site Network, as per the requirements of policy EN7 of the SPLA DPD and the Habitat Regulations.

5.8 **Open Space, Design and Landscape** NPPF paragraphs: 92-93, 98-100 (Promoting Healthy and Safe Communities including Open Space and Recreation), 126-134 (Achieving Well-Designed Places), 174 (Valued Landscapes and the Countryside); Strategic Policies and Land Allocations (SPLA) DPD: SC3 (Open Space, Recreation and Leisure), SP8 (Protecting the Natural Environment), EN3 (Open Countryside); Development Management (DM) DPD policies: DM27 (Open Space, Sports and Recreational Facilities), DM29 (Key Design Principles), DM43 (Green Infrastructure), DM46 (Development and Landscape Impact) and DM57 (Health and Well-Being).

5.8.1 Open Space

Parcel B of the application site (land at Badgers Wood) is protected in the Local Plan as public open space having been identified within the KKP Study in 2018 as amenity greenspace, which informed its designation in the first place. Policy SP3 of the Strategic Policies and Land Allocations DPD provides the strategic framework for protecting sites within the district identified for their recreation, environmental and/or amenity value. Policy DM27 of the DM DPD supports this approach and provides a criteria in which proposals involving the loss of open space must be considered. Policy DM27 states: 'Development involving the loss of protected open space shall only be permitted where it can be demonstrated that:

- it is surplus to requirements;
- it no longer has an economic, environmental or community value, which shall include consultation with key stakeholders and the local community;
- its loss would be replaced by equivalent or better, high quality provision in a suitable location;
- or that the development is for an alternative open space purpose'.

This is consistent with the requirements of paragraph 99 of the Framework, assuming it is only one of the four criteria that is to be met.

5.8.2 The application has been supported by an Open Space Assessment to evidence how the proposal meets the above criteria. The assessment does however question the designation as open space given the extant planning permission (at the time of the preparation and adoption of the Local Plan) would have permitted dwellings and an apartment block on this area of land. It is accepted that policy DOS5, which deals with the whole of the site allocation as a Development Opportunity Site,

does not make any reference to the protection and/ or enhancement of this area of amenity greenspace. This presents a situation where there are conflicts between our adopted policies. It is clearly not possible to protect the amenity green space under the open space designation and equally expect under policy DOS5 for the extant the extant planning permission to be build out. Notwithstanding these competing policy tensions, the applicant has provided a comprehensive assessment having regard to the district open space needs, the use of the land by the public as open space and its quality based on the Councils' accepted methodology. The applicant has concluded that the land (as a whole) at Badgers Wood offers no recreation or sporting function and does not have any intrinsic economic, environmental or community value. On this basis, the applicant argues it would be surplus to requirement meeting the requirements of paragraph 99 of the Framework and policy DM27.

5.8.3 However, there is some acceptance that a small corner of the land is used by residents of the existing gated estate, where the grassed is manicured and there is a small bench. This would be lost by the development. The applicant, therefore, proposes to mitigate against this loss with the provision of new amenity greenspace for the existing and future residents of the estate on land to the west of the proposed children's play area. This is outside the application site but can be delivered by legal agreement and in conjunction with the owners of the adjacent land (both companies have some Directors in common). This off-site proposal will be an enhancement to the wider open space offer at the site and is deemed a beneficial aspect of the proposal, despite such not be available to the wider public. In this regard there is no conflict with the Framework or policy DM27 of the DM DPD.

5.8.4 Policy DM27 and DM57 of the DM DPD and both chapters 8 and 12 of the NPPF place a strong emphasis on the benefits of open space for the health and well-being of communities and delivering good design. In accordance with local planning policy, and in addition to the matters discussed above, the proposed development will make a contribution to on-site open space through the provision of two areas of amenity greenspace (east of Parcel C and west of Parcel A) together with a new children's play area, located to the north of the existing community pavilion building. The precise details of the play equipment are not provided at this stage but can be controlled by condition. The long term management and maintenance of this open space will be covered by the legal agreement. Given the scale of the development there are no further requirements for on-site open space. However, in accordance with Policy DM27, where there are identified deficiencies in open space, contributions can be sought towards the provision of open space facilities to meet the demands of population growth arising from the development. Following the Councils' accepted methodology, a contribution towards outdoor sports provision and young persons provision has been identified. The Public Realm team have calculated a contribution of 64,439.10 towards outdoor sports provision to improvements to Middleton playing fields and changing facilities, £30,360.00 towards young person's provision to improvements to Pump Track and School Lane Play Area and £18,216.00 towards parks and gardens provision at Heysham village green. These figures have been reduced following a reduction to the number of dwellings and precise costing associated with the pump track improvements. In agreement with the applicant, it is agreed that the proposal will make the following financial contributions to public open space off-site:

- £55, 609.50 towards Middleton Playing Fields and changing facilities
- £14780 (plus VAT) towards the Middleton Pump Track (located in the nature reserve to the north of the site).

The contribution towards the village green has not been supported at this time due to the lack of project details to ensure the request is lawful and meetings the regulation 122 CIL tests set out in paragraph 57 of the Framework.

5.8.5 Overall, the proposed development through a combination of on and off-site open space contributions will make a positive contribution to open space facilities for both residents of the gated community and the wider public. It is considered that the proposal accords with the requirements of the Local Plan and the Framework in relation to open space and the provision of such will be beneficial to the health and well-being of existing and future occupants of the estate and the wider community.

5.8.6 Design and landscape

The proposed allocation and surrounding land are not the subject of national or local landscape designations. The countryside area designation sweeps across the site covering the rural landscaping surrounding the site. Policy DM29 and DM46 are of most relevance in considering the suitability of the design of the development and its impacts on the existing landscape. Fundamentally, these policies require new development to be in scale and keeping with the landscape character and be appropriate to their surroundings in terms of siting, massing, design, materials, external appearance and landscaping. Policy DM46 indicates that proposals in coastal locations should be considered against their impact on the coastal landscape and seascape, especially around Morecambe Bay. This is echoed in policy DOS5 (criteria 3).

- 5.8.7 The proposed development is located in the southern part of the allocation on pockets of undeveloped land surrounding by existing development associated with the first phase of the original retirement village consent. Whilst the site is well looked after and visually pleasant, the site feels and looks incomplete. Surrounding development ranges from single storey to three storey apartment blocks and is a stark contrast to the lower lying developments along the coastline (caravan parks and agricultural development) and the open farmland surrounding the site mainly to the east and south. North of the site, the power station dominates the coastal landscape and seascape from the Bay. Accordingly, it is not an undisturbed natural landscape. The proposed development has paid particular regard to the site conditions and surrounding built form and has designed a scheme which complements the existing buildings and forms. Whilst the layout is tight in some sections, the density is relatively low with the built form broken up by areas of amenity greenspace and landscaping. The materiality of the development reflects and complements existing buildings and when viewed in longer distance views from both the coastline and from Carr Lane, it will be read as a coherent part of the existing development. Consequently, the development is considered not to have an adverse impact on the surrounding coastal and seascape associated with Morecambe Bay in accordance with policy DM46 and criteria 3 of DOS5 of the SPLA DPD.
- 5.8.8 The internal layout provides for active and animated frontages and on the whole provides a safe and attractive place for people to live. Plots occupying prominent positions within the street have been suitably articulated to provide visual interest. Where possible parking has been broken up with landscaping with a combination of front and side driveways in response to the staggered building lines, which also add interest to the street. Open space is provided within the build development to provide areas for 'door-stop' play and for residents to socialise offering good natural surveillance throughout the development. Accessibility and movement through the proposed development is consistent and legible with suitable linkages to existing parts of the estate, the access and towards the amenity open spaces situated closer to the coastline. In relation to the development on Parcel C, given its location and access this does create a sense of backland development. However, with the amendments to the scale and amount of development, this is considered an acceptable design response to facilitate the regeneration a substantial area of unsightly brownfield land existing residents currently overlook. Overall, it is considered that the design, scale, layout, landscaping and appearance of the development will make a positive contribution to the area and will also, through the mix in housing types and open space provision, create a more sustainable and vibrant community within this existing developed part of the allocation. The development is judged to accord with the relevant sections of the Framework (listed at the head of the section) and local plan policies DM29, DM46 of the DM DPD and DSO5 (criteria 3) of the SPLA DPD in relation to design and landscape considerations.
- 5.9 **Housing Matters - Affordable housing, housing standards and mix** NPPF: paragraphs 11, 60, 62 and 63 and 78 (Delivering a sufficient supply of homes); Strategic Policies and Land Allocations (SPLA) SP6: The Delivery of New Homes and H2 (Residential Development in the Rural Areas of the District); Development Management (DM) DPD policies: DM1 (Residential Development and Meeting Housing Needs), DM2 (Housing Standards) and DM3 (The Delivery of Affordable Housing); Meeting Housing Need Supplementary Planning Guidance (February, 2022) and the Council's Housing Land Supply Statement (April 2023).
- 5.9.1 One of the core objectives of the NPPF is to 'significantly boost' the supply of homes (paragraph 60), recognising the importance that a sufficient amount and variety of land can come forward where it is needed ensuring the housing needs for different groups in the community, including housing for older people, is addressed. Policy SP6 of the SPLA DPD sets out the Council's housing requirements over the plan period, which amounts to 10,440 new dwellings required over a 20-year period. The housing envisaged as part of the original planning permission on this allocated site has

been accounted for in the Local Plan (set out in policy SP6 and H2). Consequently, and in-effect - the delivery of housing on the proposed site supports the Council to meet its own identified housing strategy.

- 5.9.2 There is a clear and evidenced housing need in the district. The most recent Housing Land Supply Statement identifies a housing land supply position of 2.4 years, which is a significant shortfall against the required 5- year supply set out in paragraph 74 of the NPPF. As a consequence, there is a clear expectation in the NPPF that residential proposals should be approved unless the application of policies in the NPPF that protect areas or assets of importance (such as designated landscapes, heritage assets and areas at risk of flooding) provide a clear reason for refusing permission or any adverse impacts would significantly and demonstrably outweigh the benefits of the proposal when assessed against the NPPF as a whole (Paragraph 11d of the NPPF). This means applying a tilted balance towards the delivery of residential development.
- 5.9.3 Based on an overview of the planning history of the site, policy H2 of the SPLA DPD envisaged 576 dwellings across the Middleton Towers allocation, noting that the Council will in principle support residential proposals on these sites subject to the satisfaction of all relevant national and local planning policy. Whilst housing in this location does not accord with the Local Plan's strategic development strategy, it must be recognised that the development will provide a considerable number of family homes at a time when there is an acute undersupply across the district. This is given significant weight in the determination of the application. It also provides an opportunity to regenerate and improve a significant part of one of the district largest brownfield sites, as required under policy DOS5. This too is afforded substantial weight.
- 5.9.4 Affordable Housing
The applicant's initial position was no affordable housing was required as part of this development in accordance with the terms of policy DM3. This clearly states no affordable housing contributions will be sought on brownfield sites within Heysham and Morecambe. The application site does fall within this catchment area and for most of the site there is an acceptance the site is largely previously developed. However, during the earlier stages of the assessment of the application, officers advised that one parcel of land (known as Badgers Wood and Parcel B for the purposes of this report) could not be treated as previously developed land. This land is a distinct parcel of greenspace and enjoys a public open space designation (as amenity greenspace) in the Local Plan. The amenity greenspace at Badgers Wood was identified as part of the KKP Study in 2018 which informed its designation in the first place. It would be inconsistent with the open space allocation to consider this land previously developed land. Accordingly, it is considered that this portion of the site would need to provide affordable housing. This would be 15% of the total number of dwellings proposed on this parcel of land in accordance with DM3 of the Development Management DPD. This equates to 4 dwellings.
- 5.9.5 In response, the applicant accepted the position but provided a development viability appraisal to evidence the development was not viable to support any affordable housing contribution on the site. This has been the subject to an independent viability review by the Council's appointed viability consultant and valuer. The outcome of the initial review concluded the development could support full policy compliant affordable housing, together with the public open space contributions (discussed below). The applicant disagreed with the conclusions of the viability review principally in relation to the gross development value (GDV), benchmark land value, build costs, professional fees, contingency, and finance costs. The applicant's rebuttal has been considered alongside a review of a further viability appraisal associated with the amended scheme (reducing the development overall to 49 dwellings). It remains the Council's position that the site is capable of viably delivering 4 affordable housing units within the parcel of the site whereby affordable housing is eligible. The applicant has not agreed with the Council's assumptions as part of the viability exercise (namely the GDV, benchmark land value, build costs and finance) but has agreed to provide an affordable housing contribution in accordance with policy DM3.
- 5.9.6 In consultation with colleagues in strategic housing and given our knowledge and experience regarding the likelihood of securing a registered provider to acquire only four units on this remote site, it is considered a financial contribution towards affordable housing is most appropriate. This has been agreed with the applicant. The affordable housing contribution has been calculated in accordance with the methodology set out in the Council's SPD this equates to £236,601.00. This shall be secured by legal agreement.

5.9.7 Housing Needs

Policy DM1 of the DM DPD requires housing proposals to meet the district's housing needs. This can be achieved by housing proposals having specific regard to the needs identified in the Strategic Housing Market Assessment, with regard to housing mix and tenures. This aim of this policy is to promote balanced communities ensuring proposals provide a suitable mix of housing to meet the communities needs. Table 4.1 (paragraph 4.12 of the DM DPD) in the preamble to policy DM1 provides an indicative approach to housing mix. This is copied below. The proposed development does not provide any one or two-bedroom units and is heavily weighted towards three-bedroom dwellings (43 x three-bedroom units and 6 x four-bed units). The proposal is clearly aimed at the family housing market. That said, out of the 49 units 30 are dormer bungalows which will clearly meet a much wider housing demographic.

Property Type	Market (%)	Affordable (%)
House (2 bedrooms)	20	30
House (3 bedrooms)	35	20
House 4+ bedrooms	25	5
Bungalow	10	10
Flat/apartment (may include 1 bedroom houses)	10	35
Total	100	100

Table 4.1: Table to show the indicative approach to housing mix across the District (Lancaster CC 2018)

Table 4.1 provides an indicative housing mix. Given the nature and type of dwellings already provided on site, which are predominately one and two bedroom bungalows and apartments, the proposals would arguably complement the existing housing mix and would promote a more diverse and balanced community at the site. It is considered that the proposed housing mix is acceptable and would not conflict with the objectives of policy DM1.

5.9.8 Housing Standards

Policy DM2 of the DM DPD sets out a requirement for all new housing to meet the Nationally Described Space Standards (NDSS) and that at least 20% of all new dwellings meet Building Regulations M4(2) standards (accessible and adaptable dwellings). All the proposed housetypes meet or exceed the NDSS and meet regulation M4(2). However, M4(2) also applies to each plots external curtilage and parking bays. In this case plots 1 to 7 and plots 47 to 49 (housetype C) can meet the M4(2) requirements in full and would accord with policy D2 in this regard. The provision of the identified M4(2) properties shall be controlled by planning condition.

5.10 Residential Amenity NPPF Chapter 8 (Promoting Healthy and Safe Communities) paragraph 92, Chapter 12 (Achieving Well-Designed Places) paragraph 130, Chapter 15 (Conserving and Enhancing the Natural Environment) paragraphs 183-188 (Noise and Pollution); Strategic Policies and Land Allocations (SPLA) Policy DOS5 (Land at Middleton Towers, Development Opportunity Site); Development Management (DM) DPD policies DM29 (Key Design Principles), and DM57 (Health and Well-Being).

5.10.1 Paragraph 130 of the Framework requires new development to create safe places, inclusive and accessible which promote health and well-being, with a high standard of amenity for existing and future users. This is echoed and supported by the Local Plan, principally by policy DM29. The effect of the proposed development will be different during construction and once operational. It will be inevitable that there will be a degree of disruption and disturbance to existing residents during the construction phases of development by virtue of noise, traffic and associated pollution. If planning permission is supported, it would be expected that a Construction Environment Method Statement be prepared and agreed by the local planning authority before development commences. The CEMP would be expected to include measures to mitigate against these impacts and that community consultation and engagement forms an important component to the CEMP. With the imposition of such a condition, the impact on neighbours during construction would not be a reason to withhold planning permission.

5.10.2 Turning to the operational stages, Policy DM29 sets out that development should ensure that there is no significant detrimental impact to amenity in relation to overshadowing, visual amenity, privacy,

overlooking, massing and pollution. The supporting text to this sets out that there should normally be at least 21 metres between dwellings where windows of habitable rooms face each other and for every half-metre change in levels between properties, a further 1 metre separation should be provided. It also sets out that rear gardens should look to achieve at least 10 metres in depth, unless there are overriding design reasons to justify a reduced depth, providing that neighbouring private amenity open space will not be overlooked.

5.10.3 The proposed site is located on vacant, previously developed land and amenity greenspace within the incomplete phase of the original development. Existing development is residential in character with properties predominately low scale conventional bungalows, with the exception of Coniston House and Kendal House which are of much greater scale at three-storey. The latest additions to the wider site comprise a mix of two-storey and one and a half storey dwellings. Parcel A and C are large flat sites, though there is a fall from east to west on Parcel B.

5.10.4 To comply with policy DM29 the proposed development has been revised to improve the relationship between existing and proposed dwellings and within the development itself to safeguard the amenity of future residents. Parcel C (to the east of Lavender Way and the rear of Natterjack Lane) has undergone the most significant changes. This parcel of land previously proposed 14 two-storey dwellings. This has been reduced to 7 dormer bungalows to overcome residential amenity impacts (loss of privacy, loss of outlook and overbearingness) and flood risk. On the whole, the proposed layout now provides acceptable interface distances between the development and existing residential dwellings. The table below provides a summary of the separation distances between the development and existing development (at the closest points). The relationship to the partly implemented 8-dwellings scheme to the northwest is considered acceptable with more than 30 metres separation and around 30 metres separation between plot 15 and the listed farmhouse. Overall, the proposed development is considered compatible with the surrounding development and would not adversely affect the amenity of existing residents. In this regard, the proposal accords with criteria 1 of policy DOS5 as well as DM29 and paragraph 130 of the Framework.

Existing Dwellings	Proposed Plots	Interface (approx.)	Distance	Minimum required separation
Badgers Wood (Coniston and Kendal Houses)	44 - 49	26.5		21
Badgers Wood (Nos. 13-19)	38-43	Between 21 and 22		21
Badgers Wood (No. 33)	36/37	24.5		21
Natterjack Lane (No.2)	8	16		12
Lavender Way (No.1)	23-25	20		12
Lavender Way (No. 15)	2-4	15		12
Natterjack Lane (Nos 6-8)	1	11.5 - 12		12

5.10.5 It is considered that the existing residents most affected by the proposals at those backing the new development on Natterjack Lane (Parcel C). Whilst the scale and amount of development has been reduced, plot 1 is close to the rear of Nos 6 and 8 Natterjack Lane. These properties already have very small rear gardens which are enclosed garden fences. The gable end (now a dormer bungalow) will alter the outlook from these existing properties, but such would no longer be considered adversely overbearing given the scale and separation of the development to these properties and the position, which is shared across part of each garden. It will, however, be necessary to the gable windows, which are secondary windows or non-habitable windows, to be obscure glazed.

5.10.6 With regards to the proposed dwellings, the internal interfaces distances adequately meet the separation required by policy DM29. Within Parcel B, where there is a fall in land levels, the internal interface distances range between 24 metres and 35 metres. The only two plots where the separation falls marginally below 21 metres relates to plots 21/22 and 10/11. Here the separation is around 19 metres. There is little scope to increase the distances in this location due to the road layout and parking requirements. The knock-on effect of removing additional plots has the potential

to further affect viability, which would have consequences for the contributions towards affordable housing and open space. As such, given this only affects four plots and at 19 metres there still remains a reasonable sense of space between the dwellings, it is not considered to cause such conflict with policy to render the development unacceptable.

5.10.7 Each property benefits from a private rear garden provided no less than approximately 60 square metres of useable garden. Most plots have gardens that are 10 metres in depth or greater, with the exception of a handful of plots where the depth of garden falls short, but not significantly (between 8m-9m) but the overall area meets the required standards. These are mainly located on Parcel B (Badgers Wood). Some of these plots however, benefit from larger front gardens, albeit these would not be enclosed and private. Officers are of the opinion permitted development rights should be removed in relation to extensions, roof alterations and outbuildings to safeguard existing and future amenity standards and to maintain the high standards of design proposed. Overall, it is considered, the proposed design and layout of the development would provide acceptable standards of amenity for existing and future users of the site in compliance with paragraph 130 of the NPPF and DM29 of the DM DPD. Of particular relevance, the applicant has demonstrated compliance with the requirements set out in DOS5 (criteria 1) of the SPLA DPD to ensure the proposed development is compatible with the existing residential uses already constructed on the site.

5.11 **Sustainable Design and Renewable Energy** NPPF Chapter 12 (Achieving Well-Designed Places) paragraph 126 and Chapter 14 (Meeting the challenge of climate change, flooding and coastal change) paragraphs 154 -155 and 157 (Planning for Climate Change); Development Management (DM) DPD policies: DM29 (Key Design Principles), DM30 (Sustainable Design) and DM53 (Renewable and Low Carbon Energy Generation).

5.11.1 In the context of the climate change emergency that was declared by Lancaster City Council in January 2019, the effects of climate change arising from new/ additional development in the District and the possible associated mitigation measures will be a significant consideration in the assessment of the proposals. The Council is committed to reducing its own carbon emissions to net zero by 2030 while supporting the district in reaching net zero within the same time frame. Buildings delivered today must not only contribute to mitigating emissions, they should also be adaptable to the impacts of the climate crisis and support resilient communities.

5.11.2 The application has been supported by an Energy Statement which outlines a fabric first approach to reduce energy demand in the first instance, thermal specifications to exceed part L 2021 notional U-values, design to limit air permeability and thermal bridging and energy saving services through the dwellings. The Energy Statement also supports the use of air source heat pump technology for the houses together with PV solar cells mounted to the roof to generate electricity. These measures go beyond the requirements of adopted policy DM30 and must be considered positively in the planning balance. Should the development be approved, the precise details of the measures required to meet the aims of the energy strategy could be adequately controlled by planning condition.

5.12 **Infrastructure Contributions (Education and Health)** NPPF paragraphs: 93 and 95 (Services and School Places); Development Management (DM) DPD policies: DM57 (Health and Wellbeing) and DM58 (Infrastructure Delivery and Funding)

5.12.1 Planning policy requires the provision of school places to be given great weight to ensure the necessary infrastructure is in place to cope with the impacts of population expansion arising from new development. Lancashire County Council School Planning Team have assessed the proposal and confirmed no education contribution is required. However, they indicate a final position assessment should be provided as part of the decision-making process at planning committee. A verbal update will be provided if the current position changes.

5.12.2 The NHS Integrated Care Board (ICB) has made representations to the application and seeks a contribution towards local health care infrastructure. The response sets out that the proposal will generate approximately 142 new patient registrations based on the housing mix in the application and based on an average household size of 2.4 ONS 2017, which generates a contribution of £35,692. The ICB recognise that the growth generated from the proposed development would not trigger consideration of commissioning a new general practice; however, the ICB states the '*proposal would trigger a requirement to support the practice [Bay Medical Group] to understand*

how growth in the population would be accommodated and therefore their premises options'. Notwithstanding longstanding concerns over the extent of the actual funding gap as the basis for seeking these requests, the absence of information to demonstrate there is existing capacity issues and what the project would entail precisely, it is not clear how the contribution would be used. Regretfully, at this time, the NHS contribution request cannot be accepted as it would not be CIL compliant and therefore not only does the request fail the legal tests for securing an obligation, it also fails planning policy tests set out in DM58 and the Framework. The applicant shares this position.

5.13 **Other Matters**

5.13.1 Site Contamination

The application has been submitted by a Phase 1 Preliminary Environmental Risk Assessment. The site is assumed to comprise of some made ground given the previous land use as a holiday park and development site. Historical records indicate no industrial activities at the site or in the vicinity of the site. Despite the phase 1 assessment concluding there is a low risk of contamination, a phase 2 site investigation has been submitted. This concludes remediation to the made ground will be required to parts of the site. The precise details of the remediation strategy across the site are not provided at this stage but can adequately be addressed by planning condition. The Council's EHO have raised no objection on the grounds of ground contamination. A condition requiring the validation of the proposed remediation would be required in the event planning permission is granted.

5.13.2 Coastal Erosion

Policy DOS5 (criteria 5) requires proposals to have regard to the need for coastal defences as part of development proposals. The applicant has not had regard for the need for coastal defences and are no coastal defence measures included as part of the application. The evidence at the time of the preparation of the Local Plan clearly determined the site was not at risk otherwise it presumably would not have been allocated. The North West England and North Wales Shoreline Management Plan indicates the section of 'No Active Intervention' means there is no planned investment in coastal defences or operations in the area. The parcels of land for redevelopment are a reasonable distance from the edge of the coastline and are predominately previously developed land. There is existing development closer to the coastline than the proposed development. Until recently, the site could have been developed out under the original planning permission. There are no formal access points down to the shoreline from the wider site, which could lead to increased erosion from the increased activity on the site, and currently the edge of the coastline is heavily vegetated which supports the integrity of the coastal edge. The proposals do not intend to alter this. As part of the Construction Environmental Management Plan, there will be an expectation the method for construction and foundations (such as the need for any piling) will demonstrate this will not impact the integrity of the ground around the site and the coastline. Paragraph 184 of the Framework is clear, that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer/landowner.

5.13.3 Kings Charles III England Coastal Path

The highway authority has highlighted that the application had failed to condition the line of the proposed Kings Charles III England Coastal Path. The Secretary of State for Environment, Food and Rural Affairs has approved the line of the King Charles III England Coast Path between Silverdale and Cleveleys, which shall run through the Middleton Towers site. The advice is for a two-metre side corridor to be retained so as not to prejudice this route. The applicant has since confirmed the development site lies outside the proposed route of this path and will not affect its implementation. This matter has been adequately addressed but it is clearly a consideration for any future development on this allocated site.

5.13.4 Community Consultation

It is acknowledged the applicant has undertaken some community consultation ahead of the planning submission involving a public consultation even in December 2022, held on site aimed at targeting the existing community of Middleton Towers. According to the submitted Statement of Community Involvement, the event was well attended with many people generally encouraged to see the site completed with some feedback picking up on the need for bus services, preference (by some) for retirement housing and careful thought and consultation needed in relation to drainage infrastructure and play provision. This positive engagement perhaps reflects the representations received as part of the planning applications publicity. The concerns raised by residents in relation

to residential amenity impacts have arguably been overcome through the amendments to the scheme. The positive feedback resonates with the desire for the development to be completed and to remove the years of uncertainty the existing community have had while the site has remained undeveloped. Of course, the main concerns relate to traffic and accessibility which are matters difficult to easily overcome. The strong community collaboration that already exists within the estate does provide some reassurances that future travel plan initiatives could be more successful than on other sites.

6.0 Conclusion and Planning Balance

- 6.1 The provision up to 49 dwellings including a policy compliant contribution towards affordable housing, at a time when the Council cannot demonstrate an adequate supply of housing, is a consideration that is given great weight. Aside from the significant social benefits arising from the provision of market and affordable housing, most importantly on this site the development will regenerate parcels of predominately brownfield land within an existing party-constructed housing estate. This development will serve to complete the southern parcel of the wider allocation. The design and layout of the housing development compliments with existing estate and will significantly enhance the character and appearance of the area and create a better sense of place for the existing community. This is a matter to be afforded significant weight. The applicant has demonstrated that the development would be acceptable in terms of residential amenity, flood risk, impacts on heritage assets and ecological impacts, in particular the effect on the National Sites Network. It is recognised the development will also make positive contributions towards open space provision on and off-site. These are matters which ensure the proposal meets policy requirements and are necessary to make the development acceptable. There are also social and economic benefits from the provision of employment and upskilling through the construction phases and the knock-on effect to the supply chain (securing short-term economic benefits), though these benefits are relatively small overall and therefore afforded limited weight.
- 6.2 The main issue weighing against the proposal relates to the poor accessibility between the site and the closest bus services to access wider amenities and services. However, this in isolation does not mean development cannot come forward, as the site is identified in the Local Plan as a development opportunity site where development is expected to be delivered. The strategic policy does, however, state development proposals must enhance the sites level of connectivity and accessibility to nearby urban areas, via improvements to public transport services and improvements to the highway, cycling and pedestrian network. There are no substantive proposals forming part of this development to provide new pedestrian or cycling infrastructure to meet expected design standards along the length of Carr Lane, nor are such possible within the adopted sections of the highway. There is also no opportunity for public transport services to access the site, despite the efforts to provide and incorporate bus turning facilities. This will inevitably result in car dependant development and would increase the risks of potential conflicts between vehicles and pedestrians and cyclist who may choose to make some journeys by alternative sustainable modes. The measures proposed by the applicant to enhance connectivity relate mainly to Travel Plan initiatives and, subject to ongoing discussions with the highway authority, a scheme to Carr Lane to potentially alter its characteristics to a formal 'Quiet Lane'. However, at this stage there is no certainty the highway authority would support this approach. It must also be recognised that such an approach would not overcome the accessibility challenges for the wider allocation. Therefore, there are conflicts with Framework and Local Plan in respect of the accessibility and unsustainability of the site in transport terms. These impacts must, however, be considered in the context of previous land uses, the former planning permissions which would have generated significantly greater traffic (for all modes) and the sites allocation. It is also significant to this case that the scale of development proposed is relatively small with traffic generation significantly less than what could have been provided on this site had the original consent been live. In this context, it is considered the identified conflicts with national and local planning in this regard should be given moderate weight.
- 6.3 Paragraph 60 of the NPPF sets out that to support the government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed. The Council's most recent Housing Land Supply Statement (November 2022) identifies a housing land supply of 2.4 years, which is a significant shortfall against the required 5 year supply set out in paragraph 74 of the NPPF. Paragraph 11 of the NPPF also requires that, where a local planning authority cannot demonstrate a 5 year supply of deliverable housing sites, permission should be granted unless the application of policies in the NPPF that protect areas

or assets of importance (such as heritage assets and areas at risk of flooding) provide a clear reason for refusing permission or any adverse impacts would significantly and demonstrably outweigh the benefits of the proposal. This means applying a tilted balance towards the delivery of residential development.

6.4 This is a finely balanced case, as the matters associated with accessibility and highway safety are significant considerations. However, in the context of the site's allocation, the planning history and historical land uses, it is considered that the benefits of the proposal set out above would outweigh the conflicts and adverse impacts arising from the sites remote location and poor accessibility. Accordingly, it is also therefore considered that the flood risk exception test can be met. For these reasons, it is recommended planning permission be granted.

Recommendation

That Planning Permission BE GRANTED subject to the signing of a s106 legal agreement securing the following obligations:

- Affordable Housing Contribution to the sum of £236,601.00
- Off-site public open space contributions to the sum of £55, 609.50 towards Middleton Playing Fields and changing facilities and £14780 (plus VAT) towards the Middleton Pump Track
- Provision of on-site play area and amenity greenspace.
- Provision of off-site open space in accordance with a detailed scheme to be agreed with the LPA
- Provision of off-site landscaping, habitat mitigation (including signage scheme) and BNG in accordance with a detailed scheme to be agreed with the LPA and ongoing management and maintenance.
- Setting up of management company to manage all on-site infrastructure, open space and landscaping.

and conditions:

Condition no.	Description	Type
1	Time Limit (2 years)	Control
2	Approved Plans	Control
3	Employment Skills Plan	Pre-commencement
4	Construction Environment Method Statement including HRA mitigation (during construction)	Pre-commencement
5	Development to be carried out in accordance with the mitigation set out in the PEA, with detailed Reasonable Avoidance Measures (RAMS) first agreed in writing by the LPA.	Pre-commencement
6	Surface Water Construction Method Statement	Pre-commencement
7	Drainage scheme	Pre-commencement
8	Final finished floor levels and garden/amenity space levels	Pre-commencement
9	Precise details of the sustainable design measures to be incorporated into the design of the dwellings as per the Energy Statement.	Pre-slab level
10	Materials and architectural detailing to the dwellings	Pre-slab level
11	Construction details of all access roads, footways and turning facilities and timetable for provision in full	Pre-construction of roads
12	Full details of the bus turning facilities and bus stop and timetable for provision	Pre-slab level of any dwellings
13	Travel Plan	Pre-occupation
14	Provision of Homeowner Packs	Pre-occupation
15	Precise details of all play equipment and street furniture	Pre-occupation
16	Landscaping Maintenance Scheme	Pre-occupation or before implementation of landscaping

17	Suds Maintenance Scheme	Pre-occupation
18	Site Remediation Strategy	Pre-occupation
19	Implementation of approved landscaping scheme	Control
20	Parking Provision	Control
21	M4(2) to the identified plots	Control
22	FRA mitigation	Control
23	Obscure glazed windows to plot 1	Control
24	Removal of PD rights (extensions, roof additions and outbuildings)	Control

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