



**Committee:** PLANNING AND HIGHWAYS REGULATORY COMMITTEE

**Date:** MONDAY 4 MARCH 2013

**Venue:** LANCASTER TOWN HALL

**Time:** 10.30 A.M.

## A G E N D A

1. **Apologies for Absence**

2. **Minutes**

Minutes of meeting held on 4 February 2013 (previously circulated).

3. **Items of Urgent Business authorised by the Chairman**

4. **Declarations of Interest**

To receive declarations by Members of interests in respect of items on this Agenda.

Members are reminded that, in accordance with the Localism Act 2011, they are required to declare any disclosable pecuniary interests which have not already been declared in the Council's Register of Interests. (It is a criminal offence not to declare a disclosable pecuniary interest either in the Register or at the meeting).

Whilst not a legal requirement, in accordance with Council Procedure Rule 10 and in the interests of clarity and transparency, Members should declare any disclosable pecuniary interests which they have already declared in the Register, at this point in the meeting.

In accordance with Part B Section 2 of the Code Of Conduct, Members are required to declare the existence and nature of any other interests as defined in paragraphs 8(1) or 9(2) of the Code of Conduct.

### **Planning Applications for Decision**

#### Community Safety Implications

In preparing the reports for this agenda, regard has been paid to the implications of the proposed developments on Community Safety issues. Where it is considered the proposed development has particular implications for Community Safety, this issue is fully considered within the main body of the report on that specific application.

#### **Category A Applications**

Applications to be dealt with by the District Council without formal consultation with the County Council.

5	<b>A5 12/00872/FUL</b>	<b>Bell Aire Park Homes, Middleton Road, Heysham</b>	Overton Ward	(Pages 1 - 7)
		Demolition of existing bungalow, out buildings and erection of 3 no 2 bedroom dwellings with parking for Mr Shadrach Nelson		
6	<b>A6 12/01100/CU</b>	<b>Glenfield, Bottomdale Road, Slyne</b>	Slyne-with-Hest Ward	(Pages 8 - 17)
		Change of use of dwelling house (C3) to children's care home (C2) and re-location of the site access for Mr Martin Horner		
7	<b>A7 12/01126/FUL</b>	<b>Land To The South East Of Addington Lodge, Addington Road, Nether Kellet</b>	Kellet Ward	(Pages 18 - 30)
		Erection of one 50kW wind turbine (24.7 metres hub height with a blade tip height of 34.4 metres) (resubmission of 11/01120/FUL) for WA Agriculture Ltd		
8	<b>A8 12/00834/OUT</b>	<b>Laund Fields, Stoney Lane, Galgate</b>	Ellel Ward	(Pages 31 - 47)
		Outline application for residential development of up to 50 Dwellings for Mr Simon Slack		
9	<b>A9 10/01319/FUL</b>	<b>G &amp; L Car Services, Wheatfield Street, Lancaster</b>	Castle Ward	(Pages 48 - 63)
		Erection of 62 residential units comprising 51 affordable units and 11 open market units with associated access, roads and landscaping for The Regenda Group		

**Other Items:-**

10. **List of Delegated Planning Decisions (Pages 64 - 70)**
11. **Petition regarding Camping & Caravanning activities at Gibraltar Farm, Silverdale (Pages 71 - 109)**

Report of Head of Regeneration and Planning

## **ADMINISTRATIVE ARRANGEMENTS**

### **(i) Membership**

Councillors Keith Budden (Chairman), Roger Sherlock (Vice-Chairman), Eileen Blamire, Dave Brookes, Roger Dennison, Sheila Denwood, Helen Helme, Tony Johnson, Andrew Kay, Margaret Pattison, Robert Redfern, Sylvia Rogerson, Richard Rollins, Ron Sands and Paul Woodruff

### **(ii) Substitute Membership**

Councillors June Ashworth, Chris Coates, Mike Greenall, Tim Hamilton-Cox, Janice Hanson, David Smith, Keith Sowden, Susan Sykes and Malcolm Thomas

### **(iii) Queries regarding this Agenda**

Please contact Tom Silvani, Democratic Services: telephone (01524) 582132) or email [tsilvani@lancaster.gov.uk](mailto:tsilvani@lancaster.gov.uk).

### **(iv) Changes to Membership, substitutions or apologies**

Please contact Members' Secretary, telephone (01524) 582170, or alternatively email [memberservices@lancaster.gov.uk](mailto:memberservices@lancaster.gov.uk).

MARK CULLINAN,  
CHIEF EXECUTIVE,  
TOWN HALL,  
DALTON SQUARE,  
LANCASTER, LA1 1PJ

Published on 20 February 2013.

Agenda Item	Committee Date	Application Number
A5	4 March 2013	12/00872/FUL
<b>Application Site</b>		<b>Proposal</b>
Bell Aire Park Homes Middleton Road Heysham Lancashire		Demolition of existing bungalow, out buildings and erection of 3 no 2 bedroom dwellings with parking
<b>Name of Applicant</b>		<b>Name of Agent</b>
Mr Shadrach Nelson		Mr Philip Armistead
<b>Decision Target Date</b>		<b>Reason For Delay</b>
7 November 2012		Request to be determined by Planning Committee deferral for a site visit and Completion of a Legal Agreement
<b>Case Officer</b>		Mr Andrew Holden
<b>Departure</b>		N/A
<b>Summary of Recommendation</b>		Approval

(i) **Procedural Matters**

This application is one which would normally be dealt with under delegated powers but has been placed before the Planning Committee at the request of Councillor Sowden following concerns regarding car parking arrangements.

The application was presented to the planning committee on 4 February 2013. A proposal for deferment for a site visit was supported and the application was deferred without formal discussion or debate of the proposal. The site visit took place on 25 February 2013.

**1.0 The Site and its Surroundings**

- 1.1 The application site is located off Middleton Road in Heysham and serviced by a private road leading from Middleton Road to the site entrance and beyond to agricultural fields. The site currently comprises a large chalet bungalow and dilapidated outbuildings to the rear. The bungalow was originally occupied by the site operator but separated from the adjoining caravan site by a boundary wall. The site forms part of a wider planning unit which comprises a Park Home site through which one has to drive to reach the bungalow and its curtilage.
- 1.2 The plot to the bungalow was originally extensive stretching west to the site entrance with a long front garden. The site has changed significantly in recent years with the dividing wall removed, the front garden being used for the siting of five caravans as an extension of the caravan site. Access to the bungalow was also revised at that time to be directly from the caravan site, coming from an informal turning head at the end of a two-way section of road.
- 1.3 Two storey residential houses lie to the north and east. The properties to the north stand approximately 2m above the ground level of the application site with a 1.8m fence running long the higher level boundary. The properties to the east are further away but sit at a slightly lower level; again a timber fence forms the boundary to the neighbouring houses.

1.4 Residential caravans lie to the west and south of the site. The closest caravan is sited 6m to the south and approximately 17m to the west. The caravan site is long established with a narrow circulatory road serving the whole of the site. The total number of caravans is 65 all used as permanent residences. It is understood that by agreement with the owner of the site occupation is restricted to elderly residents.

1.5 The site is undesignated in the Local Plan.

## **2.0 The Proposal**

2.1 The application is seeking planning permission to demolish the existing detached chalet bungalow and outbuildings and erect a terrace of three 2-storey houses. The dwellings provide two double bedrooms and a bathroom to the upper floor with a living room and separate kitchen/diner to the ground floor. A 12m rear garden is provided to each property, along with a shorter front garden leading to an access road and dedicated parking spaces. Five additional parking spaces are also provided for the use of residents/visitors of the caravan site. Landscaping, hedging and specimen trees are also provided around the car parking area.

## **3.0 Site History**

3.1 The application site itself has no planning history but the wider original garden area to the bungalow recently gained consent (09/00197/CU) for the expansion of the adjoining caravan site and the siting of five mobile homes. The development has been implemented with two of the units now occupied.

## **4.0 Consultation Responses**

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

Consultee	Response
<b>County Highways</b>	No highway objections to the proposal. Comments over the additional vehicle movements associated with the development and the general inadequacies of the current highway layout (narrow roads and no footpaths). <i>Incorrect assumption over planning restrictions (age) on the caravan site. In practice, the site is age restricted but by owners/occupiers agreement.</i> Given that vehicle speeds within the site are relatively low and that car parking levels are at an acceptable level County does not consider there to be sufficient justification to raise a highways objection.
<b>Environmental Health</b>	No desk study submitted and therefore recommend refusal. If approved, an hours of working condition should be applied.
<b>Strategic Housing</b>	Acknowledges the need for an affordable housing contribution and adopts the appropriate methodology. The commuted sum shall be paid prior to commencement of the development.
<b>United Utilities</b>	No objections to the development subject to a condition requiring a separate drainage system.
<b>H S Executive</b>	Does not advise, on safety grounds, against the granting of planning permission in this case.
<b>Office of Nuclear Regulation</b>	No comments on this application, since it does not fit the consultation criteria.

## **5.0 Neighbour Representations**

5.1 To date 44 letters have been received in response to the consultation, all raising objection to the development:

Bell Aire Park is a fully residential Park Home site for the retired and semi retired. The homes are privately owned and are Park Homes not caravans as describe in the plans. The site has a clear policy of tenure including over 45 age limit and strictly no children. The bungalow was not part of this site until Mr Nelson bought it and developed the land to encompass five new park homes. This proposed new development comes as a total surprise to the park residents who have had no notification from the park owner regarding his plans. This new development would require access through the site increasing traffic and noise. If this development goes ahead it will cause a great deal

of disruption to the residents of the park. The proposed properties should not be allowed to be sold unless they meet the current park rules. In short this development for social housing is totally unsuitable and should be rejected. If this development goes ahead it will place a greater strain on the current sewage and water system, which can just about cope at present.

The park residents have raised objections to the loss of car parking as a result of the development and the general lack of adequate car parking throughout the caravan site as a whole. The residents committee have responded to the consultation with a survey of the parking available on the site for the 65 homes as follows:

The parking falls into 4 categories.

a) Homes with parking within their allotted pitch area	41
b) Homes with parking allocated elsewhere on site as agreed on purchase	16
c) Homes with neither of the above who have to use "visitor parking" spaces	4
d) Homes with category b) status who will lose their allotted parking bays should the new development go ahead	4

Further reasons for objections include:

- breach of site rules, retired or semi-retired persons only
- park home are not a cheap form of accommodation , occupancy is protected under the Mobile Homes Act 1963.
- Detrimental to character of the area
- Inappropriate land use or development
- Inappropriate site or location
- Increase in noise
- Increase in traffic
- limitation of the current road layout and general standard
- Means of access
- Overlooking/privacy of property
- reduction in safety of current residents if children are allowed to use the road network
- limitation of the current foul drainage system

The local member of Parliament, Mr David Morris, has written concerned over the provision of low level bollards in front of a visitors parking area and the possible unsafe condition of the vacant bungalow (loose guttering).

## **6.0**

### **Principal Development Plan Policies**

#### **6.1**

##### **National Planning Policy Framework (NPPF)**

National Planning Policy Framework indicates that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 7 states that there are three dimensions to sustainable development: economic, social and environmental; and that these roles are mutually dependent and should be sought simultaneously through the planning system.

At the heart of the NPPF is a **presumption in favour of sustainable development** (paragraph 14). The following paragraphs of the NPPF are relevant to the determination of this proposal:

**Paragraph 17** sets out 12 core land-use planning principles which should underpin both plan-making and decision taking. The principles which are relevant to this application state that planning should: be genuinely plan-led; be a creative exercise in finding ways to enhance and improve places; be supportive of sustainable economic development; seek high quality design and good standards of amenity; take account of different roles and character of different areas; encourage the use of previously developed land and promote mixed use developments and encourage benefits from land use in urban and rural areas.

**Paragraph 53** urges planning authorities to resist inappropriate development within residential gardens for example where development would cause harm to the area.

**Paragraph 196** planning law requires that applications for planning permission must be determined

6.2

## Lancaster District Core Strategy

Policy **SC1** (Sustainable Development) seeks to ensure that new development proposals are as sustainable as possible, minimise greenhouse gas emissions and are adaptable to the likely effects of climate change and sets out a range of criteria against which proposals should be assessed. Development should be located in areas where it is convenient to walk, cycle or travel by public transport between homes, workplaces, shops and other facilities, uses energy efficient design and construction practices, incorporates renewable energy technologies and is compatible with the character of the surrounding landscape.

Policy **SC2** (Urban Concentration) promotes the creation of sustainable communities by focussing development within existing urban areas and minimising the need to travel. This states that 90% of new dwellings will be provided in these locations.

Policy **SC4** (Meeting the District's Housing Requirements) seeks to manage and control the release of housing sites within the district in order to deliver and meet local housing needs. The Council will aim to maximise the opportunities offered by the development of new dwellings to redress imbalances in the local housing market, achieve housing that genuinely addresses identified local housing need and secures units of affordable housing in perpetuity.

Policy **SC5** (Achieving Quality in Design) requires new development to be of a quality which reflects and enhances the positive characters of its surroundings, including the quality of the landscape, results in an improved appearance where conditions are unsatisfactory and complements and enhances public realm. The Council recognises the importance of environmental quality, both townscapes and natural landscapes, and seeks to work with developers to maintain and improve the quality of new development.

6.3

## Lancaster District Local Plan (saved policies)

Policy **H12** (Layout, Design and the Use of Materials) sets out standards for new housing stating that proposals will only be permitted which exhibit a high standard of design, layout and landscaping and which use materials and features that are appropriate to and retain local distinctiveness.

Policy **H19** (Housing Development of Small Sites) covers development within the existing housing areas of Lancaster, Morecambe and Carnforth. Para.2.7 states that ".....residential development within existing housing areas will be permitted which; would not have a significant adverse effect on the amenities of nearby residents; provides a high standard of amenity.....makes satisfactory arrangements for access....and car parking."

7.0

## Comment and Analysis

7.1 The key issues for Members to consider in determining this application are:

- The location of the development
- The design of the development
- The impact of the development on residential amenity

7.2

## Principle of Development

The application is a full application seeking consent for the erection of three dwellings on the site of a previous single dwelling. The site is located within the defined main urban area of Morecambe/Heysham and is surrounded by residential uses. The uses take the form of houses to the north and east and park homes to the south and west. The site is close to a primary school, local shops, medical services and public transport routes. The location of the site is considered, in principle, to be supported by planning policy SC1 and SC2 of the Lancaster District Core Strategy.

7.3

## Affordable Housing

The applicant has indicated that the properties will initially be used as rented accommodation with a projected rental value of £435 per month. He has also acknowledged the need for the provision of a contribution towards affordable housing. Following discussion, a revised Design and Access

Statement has been received which provided an interpretation of open market value of the properties. A contribution figure has been calculated on the basis on an open market figure of £105,000 for each dwelling. It is noted that an error was made as part of the negotiations with the Local Planning Authority and no account has been taken of the loss of a dwelling. The net gain is in practice only two dwelling rather than the three previously discussed at pre-application stage. The contribution figure corresponding reduces from £6,702 to £4,468. The contribution will need to be the subject of a Unilateral Undertaking. The agent/applicant is aware of the need for an agreement and drafting is on-going.

### 7.4 Design (including sustainable construction)

The overall scale of the development, design and parking provision has been the subject of pre-application discussion with the agent. The number of dwellings has been reduced, parking rationalised and a hipped roof arrangement introduced to reduce impact on neighbouring residents in both the caravans and the houses. The houses take the form of a small terrace and with buff wet dash render walls, art stone detailing to heads and cills under plain grey roof tiles. The applicant rather than introducing renewable technologies into the scheme wishes to improve the thermal and air tightness of the building. This approach is argued to be more effective as it is for the lifetime of the property rather than the lifetime of the technology. The approach is considered acceptable and addresses carbon dioxide emissions via a different method. Conditions would be required to agree materials and the details of the energy efficient designs (mainly windows and walls).

7.5 Parking for the site incorporates parking for the dwellings and following the submission of a revised layout plan, five spaces for communal use by the residents and visitors to the caravan site. There are four informal spaces indicated at the entrance to the bungalow but these are in practice within the turning area at end of the two way section of road. The spaces were not part of the scheme recently developed under 09/00197/CU for the neighbouring five park homes, but are used by the neighbouring site residents.

7.6 The houses are provided with a good sized rear garden and a small front garden in addition to a private parking area.

### 7.7 Residential amenity

The site is currently occupied by a substantial chalet bungalow, the outline of which is defined on the submission plans. A series of poor quality outbuildings are also located at the east end of the plot tight to the eastern site boundary. The new building footprint is located further east into the plot than the original bungalow. The dwellings will provide a 23m face to face distance to the properties to the rear. The northern properties sit at a much higher level and in effect the new dwellings are seen as single storey. In addition, the houses are orientated away from the gable of the new dwellings. The proposed hipped roof again helps to reduce the impact. The park home No. 70 to the south has limited windows to the side, which are mainly obscure glazed, and is protected from overlooking by the introduction of a 1.8m boundary with only a bathroom window to the gable elevation. Similarly, the outlook from park home No 29 is protected from overlooking by the boundary and outlook is actively improved by the removal of the poor quality outbuildings.

### 7.8. Contamination

The application has not been supported by a desk study and is recommended for refusal by the Contaminated Land Officer. The site is current residential and will remain so under this application. No specific justification has been provided for the need for a study. Consequently, it is considered that as the use of the overall plot remains the same an unforeseen contamination condition should be attached.

### 7.9 Caravan site issues

The application is effectively part of the wider planning unit which includes the neighbouring residential park home site but it is accessed through the park home site off the turning area at the end of a two way section of road. It is accepted that the 'public' realm within the park is very tight and constrained.

7.10 The residents of the residential park homes have expressed strong concerns over the introduction of

houses at the site particularly ones which have the potential to be occupied by families. The site owner and park home occupiers operate a restriction on the age of the occupiers at the caravan site with no children being allowed to reside at the site. The precise lower age limit is unclear - consultation comments indicate the minimum age as 45 (some stating upwards of 55 depending on neighbour response) but it is clear the site is occupied by aged residents, an approach supported by all residents. It is also clear that residents had not been party to any prior discussion before the application was presented to the local planning authority and are deeply concerned about how the houses will be occupied and assimilated with the park homes.

7.11 However, the age limit arrangement is not a planning restriction (i.e. it is not a planning condition attached to a previously planning permission). It is a restriction applied by the site owner. The site is within the urban area which is clearly residential. Whilst the concerns are understood it is considered that the development has to be assessed on its planning merits on the basis of an unrestricted residential use as there appears to be no statutory control to prevent the caravans being sold to younger owners.

7.12 The park residents have also raised an objection to the loss of car parking as a result of the development and the general lack of adequate car parking throughout the caravan site as a whole.

7.13 As part of an earlier approval on the site under 09/00197/CU the caravan site was expanded into the front garden of the current bungalow to enable five additional park homes to be sited. This development has been completed with allocated parking for each unit provided within each site pitch. The expansion of the park homes site also lost a dividing boundary wall and introduced a two way-section of road across the top of the site and a turning head to serve the widened road and prevent circumnavigation of the site by all car-borne visitors and residents. The number of visitor parking spaces provided for the remainder of the site was 10.

7.14 In practice, the site as a whole has very limited parking space and the consent in 2009 has eroded some of the spaces available to residents/visitors but has also sought to rationalise the design and location of the spaces. The site owner independently of the planning consent has maintained parking allocations which have been removed as part of the 2009 consent. In particular, parking for four cars (all undersized and restricted spaces) have remained demarcated within the area designated as a turning area for the two way section of road, but this area will be removed if consent is granted.

7.15 The loss of these spaces has raised great concern with the residents of the site. The implications of the loss of the spaces, whilst not formalised in the 2009 consent, has been recognised as part of the discussions and negotiations over the current proposal. The scheme provides self sufficient parking for the houses and now following amendments to the scheme provides for five rather than three additional parking spaces. Following further discussion these spaces are proposed to be allocated to four residents of the park homes site to replace the ones demarcated within the turning area plus an additional visitor space for use by the park homes. Consequently, the proposed development will result in a net gain of one visitor parking space for the wider caravan site.

## **8.0 Planning Obligations**

8.1 An Unilateral Undertaking will be required for the financial contribution required towards the provision of affordable housing in the District. The applicant has indicated a willingness to provide a contribution and has provided a projection for the value of the dwellings on the open market. The development will result in a net gain of two dwellings. A financial contribution based upon the methodology contained within the Affordable Housing Policy Update January 2011 has been calculated and will result in a contribution of £4,468.

## **9.0 Conclusions**

9.1 The application is seeking to develop three residential properties on the site of an existing single dwelling. The application is located within the main urban area of Heysham surrounded by residential units of permanent construction and park homes. None of the residential units have any planning restrictions over the nature of their occupation. The proposed development is considered to have an acceptable relationship to all neighbouring properties, will be self sufficient in car parking terms and increase the car parking provision associated with the adjoining caravan site. This is a difficult proposal to consider. If the houses had a separate independent access the grant of planning

permission would be much easier. Adding three new open market, non age restricted homes to what is effectively a small, dense retirement 'village' with 60 properties sharing a narrow shared surface roadway does raise concerns about compatibility. However, given the lack of highway objection, the NPPF's hard stance of enabling housing supply and the problem of there being no statutory provision to prevent other families moving onto the park, it is reluctantly felt that a refusal would be difficult to substantiate.

### **Recommendation**

That, subject to the signing and completion of an Unilateral Undertaking to secure the provision of a financial contribution towards affordable housing, Planning Permission **BE GRANTED** subject to the following conditions:

1. Standard 3 year time limit
2. Development to be undertaken in accordance with the approved plans
3. Amended parking/layout plan dated 9 January 2013
4. Amended details for the upgrading of 'U' values and air tightness of the building dated 10 October 2012
5. Precise technical details of the improvement of the buildings' 'U' Values and air tightness to be agreed
6. Car parking to be provided, designated and retained
7. Samples of render, artificial stone detailing and roof tile to be agreed
8. Details of boundary fencing construction and finish
9. Hours of construction (Mon to Fri 0800-1800 and Sat 0800-1400 only)
10. Landscaping details to be agreed
11. Site demolition, construction and management plan to be agreed.
12. Unforeseen contamination
13. Separated (foul and surface water) drainage system to be developed
14. Details of permeable hardstanding and surface water drainage to the access road to be agreed

### **Human Rights Act**

This recommendation has been reached after consideration of the provisions of The Human Rights Act. Unless otherwise stated in this report, the issues arising do not appear to be of such magnitude to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

### **Background Papers**

None.

Agenda Item	Committee Date	Application Number
A6	4 March 2013	12/01100/CU
<b>Application Site</b>		<b>Proposal</b>
Glenfield Bottomdale Road Slyne Lancaster		Change of use of dwelling house (C3) to children's care home (C2) and relocation of the site access.
<b>Name of Applicant</b>		<b>Name of Agent</b>
Mr Martin Horner		Mr Richard Barton
<b>Decision Target Date</b>		<b>Reason For Delay</b>
8 February 2013		None
<b>Case Officer</b>	Catherine Spreckley	
<b>Departure</b>	No	
<b>Summary of Recommendation</b>	Refusal	

**(i) Procedure**

This application is one which would normally be dealt with under the Scheme of Delegation but has been placed on the Committee at the request of Councillor Thomas due to local interest in the application, particularly in relation to road safety. The application was deferred by Members at the Planning Committee Meeting on 4 February 2013 for a site visit.

**1.0 The Site and its Surroundings**

- 1.1 This application relates to a detached dwelling located on the south side of Bottomdale Road, just outside the village of Slyne. The dwelling is one and half storeys in height with the first floor provided in the roof space and served by dormer windows to the east elevation. The property has single storey extensions to the front and rear. The application site is long and narrow with the dwelling located towards the centre of the plot's depth. To the south east corner of the site is large detached garage/outbuilding. A driveway leads down the eastern boundary of the site to the garage. The site is enclosed by varying boundary treatments.
- 1.2 To the west and south / rear, the site adjoins Slyne Caravan Park, a static holiday caravan site. To the east is what would appear to be a piece of unused land and then a couple of dwellings. On the opposite side of the road is football field with a small clubhouse.
- 1.3 The site is designated as Green Belt and Countryside Area within the Lancaster District Local Plan.

**2.0 The Proposal**

- 2.1 The application seeks planning permission for the change of use of the existing dwelling (Use Class C3) to a children's care home (Use Class C2). The home would accommodate 4 children aged 10 to 17 years (inclusive) who experience emotional and / or behavioural difficulties. The children would be cared for by 16 members of staff who would work shifts to provide 24 hour care. Staff will work 9 to 25 hour shifts. During the day, three carers would be present and reducing to two at night.
- 2.2 The only proposed external alterations to the property relate to relocating the vehicular access to the

property so that it is more centrally placed on the front boundary. This will involve the removal of most of the front boundary planting and a slight adjustment to the route of the driveway

2.3 No signage identifying the property as a children's home would be installed.

2.4 The applicant, Bay View Childcare, currently run a children's home in Heysham. The covering letter to the application explains they aim to create a therapeutic and nurturing environment that will enable young people in their care to experience happier times and work towards a more prosperous future.

### **3.0 Site History**

<b>Application Number</b>	<b>Proposal</b>	<b>Decision</b>
<b>74/0782</b>	Extensions to bungalow to provide lounge, two bedrooms, dressing room and conservatory	Approved
<b>75/0079</b>	Extensions to bungalow to provide two first floor bedrooms, kitchen and dining room	Approved
<b>85/0503</b>	Extensions and alterations for bedroom and sun lounge	Approved

### **4.0 Consultation Responses**

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

<b>Consultee</b>	<b>Response</b>
<b>County Highways</b>	Recommend that the application is refused. The proposal will increase pedestrian and vehicle movements at the site due to the provision of 24 hour care provided by staff. Additional vehicle movements will not impact upon highway capacity. However, the sightlines at the application site access point are significantly below the standard that would be expected for the speed most vehicles travel along Bottomdale Road. Due to an intensification of vehicle movements, the proposal is unacceptable and will impact on highway safety without sightlines provided to the recognised standard. Without the required parking provision (5 spaces) and a turning area, inappropriate parking may occur on Bottomdale Road and vehicles will reverse to or from the highway. This would be to the detriment of highway safety. Re-consulted following receipt of amended plans: Sufficient evidence has not been provided for the initial objection to be withdrawn. Anything other than a minor relaxation in visibility splays is not acceptable. The splays to the proposed access fall significantly short of a minor relaxation and highway safety concerns remain. There is scope within the development site for adequate parking and manoeuvring to be provided and dealt with by condition. Further comments included below.
<b>Environmental Health</b>	No comment. Re-consulted following receipt of amended plans: No comment.
<b>Contaminated Land Officer</b>	Radon Affected Area informative recommended.
<b>Strategic Housing</b>	It is queried who will have responsibility for any children referred to the home from other local authority areas once they leave the home. Local authorities have re-housing duties once the social service's duty ends. Lancaster District already has a large demand for supported housing beds and move on accommodation for young people generated by those with a local connection.  The Commissioning Manager for Lancashire County Council Children and Young People's Service is not aware of the proposal. They use Bay View Childcare for outreach support and supported tenancies but it was not known if they were on the County Council's preferred provider list. It is not unreasonable for the applicant to demonstrate there is a need for the service or that it is supported by the responsible local authority.
<b>Lancashire Constabulary</b>	No comments submitted within the statutory consultation period.

<b>Lancashire Childcare Service</b>	No comments submitted within the statutory consultation period.
<b>Parish Council</b>	Motorists often exceed the speed limit along Bottomdale Road. The lane is often used as cut-through towards the motorway and is busy at peak times - 1000 plus cars per hour have been recorded. There have been a number of minor accidents. It would be hazardous for children to walk along the road and they would need supervision or be transported by car to reach buses and local facilities. Staff and delivery and service vehicles will increase traffic along the road. The access to the property is narrow with poor sight lines and there is no turning circle. The proposal will add to the hazards of the road. Account needs to be taken of flooding problems and water/sewerage disposal issues in the area. It is questioned whether the property and surrounding garden is adequate to accommodate four children and staff. No provision is made for children and staff with disabilities.

## **5.0 Neighbour Representations**

5.1 Following receipt of amended plans to relocate the existing access, neighbours have been re-notified and a new site notice posted. The expiry date for representations is 25 February 2013.

5.2 33 objections received raising the following issues:

- Unsuitable location.
- Size of house and grounds is unsuitable with no room for expansion. The outside space to the site is at the front of the property leading onto the road. Parked cars will reduce the available space for the children.
- Insecure site.
- No easily accessible amenities.
- Is the septic tank at the site capable of accommodating additional people?
- Bottomdale Road is narrow, dangerous, busy, has no pavements or lighting and is used as a shortcut from the M6. Vehicles exceed the speed limit. There have been a number of accidents on the road. Pedestrians, cyclists and horse riders are at significant risk along Bottomdale Road. The road will be a danger to children at the home. Football matches (Saturdays and 2 to 3 times during the week) attract a large number of spectators. On match days, traffic is restricted to one-way.
- Cars would have to back onto the road from the site.
- Increased traffic.
- Parking issues.
- Teenagers with emotional and behavioural problems are difficult to control. It is unlikely that it will be possible to supervise residents of the home at all times.
- Anti-social behaviour and strain placed on police.
- Caravans at the adjoining site are left unattended during the year and are therefore vulnerable to vandalism, burglary and intrusion by care home residents. Gas bottles at the caravan site create a potential danger if tampered with.
- Absconders could cause inconvenience to caravan owners.
- Children may be unable to play unattended at the caravan site.
- It is suggested consent be granted on a short-term basis to assess the implications of the use.
- Litter problems.
- Too close to residential properties and caravan site.
- The caravan park is a quiet and peaceful environment, many owners are retired and people stay for prolonged periods. The proposal will disturb the caravan site through increased noise, comings and goings, shouting and police visits. Consideration should be given to the elderly people who use the caravan park.
- Loss of privacy.
- Caravan owners may move their caravans off the caravan park and there may be problems attracting new caravan owners to the park as a result of the proposal. Caravan owners support the local economy and the proposal may therefore affect local businesses and the caravan park business.
- Caravans/pitches at the caravan site and the caravan site itself could be devalued.
- Approximately 1 metre of land along the southeast boundary, shown to be within the

## **6.0**

### **Principal Development Plan Policies**

#### **6.1**

##### **National Planning Policy Framework (NPPF) – adopted March 2012**

Paragraph **14** states that there is a presumption in favour of sustainable development. Development proposals which accord with the development plan should be approved without delay.

Paragraph **17** details the 12 core land-use principles which should underpin decision-taking. The principles include seeking a good standard of amenity for all existing and future occupants of land and buildings, protecting the Green Belt and supporting transition to a low carbon future. Account must be taken of and support given to local strategies to improve health, social and cultural well being for all and deliver sufficient community and cultural facilities and services to meet local needs.

Section **1** (Building a Strong, Competitive economy) sets out the Government's commitment to securing economic growth. Paragraph 19 places significant weight on the planning system's role in supporting sustainable economic growth. Planning should operate to encourage not as an impediment to sustainable growth.

Section **3** (Supporting a Prosperous Rural Economy) requires the planning system to support economic growth in rural areas in order to create jobs and prosperity.

Section **4** (Promoting Sustainable Transport) – Paragraph **30** states that local planning authorities should support a pattern of development which, where reasonable to do so, facilitates the use of sustainable modes of transport. Paragraph **39** explains that local parking standards should take account of the accessibility, type of development and availability of public transport.

Section **6** (Delivering a Wide Choice of High Quality Homes) – Paragraph **50** requires local authorities to plan for a mix of housing based on a number of factors including the needs of different groups of the community.

Section **8** (Promoting Healthy Communities) – Paragraph **69** recognises the need to promote safe environments where crime and disorder, and the fear of crime, do not undermine quality of life. Developments should be safe and accessible.

Section **9** (Protecting Green Belt Land) – Paragraph **79** explains that fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The 5 purposes of the Green Belt are preventing the unrestricted sprawl of large built-up areas and merger of neighbouring towns, safeguarding the countryside from encroachment, preserving the setting and character of historic towns and assisting in urban regeneration (paragraph **80**). Paragraph **90** sets out the forms of development which are not considered inappropriate in the Green Belt where the development does not conflict the purposes of the Green Belt. These forms of development include the reuse of buildings of a permanent and substantial construction.

Section **11** (Conserving and Enhancing the Natural Environment) – Paragraph **123** states that noise that gives rise to adverse impacts on health and quality of life resulting from a new development should be avoided.

#### **6.2**

##### **Lancaster Core Strategy – adopted July 2008**

Policy **SC1** (Sustainable Development) requires development proposals to be as sustainable as possible and minimise greenhouse gas emission. To achieve this, development should be located where it is accessible by foot, cycle or public transport. The re-use of existing buildings is encouraged.

Policy **SC3** (Rural Communities) aims to build healthy sustainable communities in the District's rural areas. The policy recognises Slyne-with-Hest as a settlement with the five basic services. Development outside such settlements will require exceptional justification. In rural areas the Council will seek to identify local employment needs and opportunities for meeting them.

Policy **SC6** (Crime and Community Safety) aims to reduce crime and the fear of crime through a

Policy **E2** (Transportation Measures) encourages a reduction in car travel by siting development in locations accessible via a choice of modes of transport.

6.3

### Lancaster District Local Plan (saved policies) – adopted April 2004

Policy **T16** (Development Proposals Outside the Lancaster Central Parking Area) requires development proposals to include sufficient parking provision to meet Lancashire County Council's Parking Standards.

Policy **E1** (The North Lancashire Green Belt) confirms the establishment of the Green Belt in Lancaster District.

Policy **E4** (Countryside Area) – requires development in the Countryside Area to provide satisfactory access and cycle and car parking.

Policy **R21** (Access for People with Disabilities) seeks to ensure that development proposals include access provision for people with disabilities.

7.0

## Comment and Analysis

7.1

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

- Principle of the proposed use;
- Green Belt;
- Crime and fear of crime;
- Impact upon the amenity of local occupants; and
- Highway safety and parking provision.

7.2.1

### Principle of the proposed use

The manner in which the children's home will operate is not considered to be dissimilar to the use of the property as a private dwelling. The last planning application to the site (85/0503) shows the property as having 4 bedrooms with a fifth room having potential for use as a bedroom. As such, the property could easily accommodate a four child household. County Highways has advised that a domestic property would be expected to have, on average, 6 vehicle movements a day. In comparison, it is expected that the children's home will generate 12 to 15 vehicle movements a day. Vehicle movements associated with the proposed use will consist of a maximum 5 two-way staff movements, occasional specialist staff, school runs and trips to activities, supermarket, doctors etc.. It is understood that staff will do the food shopping and no service deliveries will be made to the site. Waste collection would remain as per a private house.

7.2.2

The site is approximately a 10-minute walk from the nearest bus stops from which regular services are available between Carnforth and Lancaster. Whilst safety concerns for pedestrians along Bottomdale Road could limit the extent to which buses are used in connection with the proposed use, particularly with children, they do remain a possible commuting option for staff and visitors. The site is also within walking distance of a local convenience shop but this is only accessible along Bottomdale Road. The level of supervision the children will require and the location of the site is such that movements to and from the site are likely to be fairly dependent on private car. It is acknowledged that the proposed use has the potential to more than double existing vehicular movements to and from the site. However, it is not considered that the increase in movements will have a noticeable impact on the character of the locality, given the presence of the neighbouring caravan park. Neither is it considered that the increase in traffic raises sustainability issues. The principle of the proposed use in this location is therefore acceptable.

7.3

### Green Belt

7.3.1

As set out above, the NPPF establishes that the reuse of existing buildings is an appropriate form of development in the Green Belt. The existing building at Glenfield is of a permanent and substantial construction. The parking of staff and visitor cars and relocation of the existing access will have a negligible impact on the Green Belt. The proposal does not conflict with the aims and purposes of

Green Belt policy. It is therefore considered that the proposal will have no greater impact on the openness and amenities of the Green Belt than the existing use.

## 7.4 Crime and fear of crime

7.4.1 The NPPF recognises that crime and the fear of crime associated with proposed development needs to be addressed through the planning process. Considerable concern has been raised that the proposed use of the site will increase in crime and anti-social behaviour in the area. In particular, concern is raised about the safety and security of the adjoining caravan park.

7.4.2 In response to these concerns the agent has advised that:

*The children have been brandished as 'violent' and 'unruly' for no apparent reason and to claim that they are capable of committing acts of vandalism and even burglaries is mistaken and should be disregarded.*

*Each young person joining the home is carefully selected to ensure that they comply with Bay View Childcare's ethos and that they will not have a negative impact on the local community. It should not be expected that all young people in the care system are challenging. They may only require boundaries and support. The children will have 24 hour a day staff supervision and will only leave the site with staff.*

*Bay View Childcare has a proven track record of managing successful homes of this kind. Their existing home is Heysham is registered as 'outstanding' with Ofsted. The home in Heysham has had no young people missing for over 18 months and none of the residents are involved in criminal behaviour nor associated with the youth offending team. They are all in full time education.*

7.4.3 A letter has also been provided from an independent consultant in children's social care who has been working with Bay View Childcare since May 2011. The letter states that anti-social behaviour, excessive noise, criminal activity and the like does not arise from the young people cared for by Bay View Childcare as staff provide extensive support and supervision. The consultant then states "*it is my opinion that Bay View Childcare has the best children's home I have known in Heysham that is run without any negative impact on the local community.*"

7.4.4 Based on the above information, Officers are satisfied that the children's home can be run without giving rise to anti-social behaviour and crime in the area. It is acknowledged that this is, in part, dependent on the manner in which the home is managed and that this is not something which can be controlled through the planning system. However, if the proposed home is managed in the same way the existing Heysham home is apparently managed, then it would appear that the proposed use is unlikely to increase crime and anti-social behaviour in the locality. Lancashire Constabulary has been consulted on this application but no comments have been received.

7.4.5 It is appreciated that the absence of crime does not remove the fear of crime that local residents and caravan owners may have about the proposed use. It is considered that, if the home is run in the manner which has been stated, residents and caravan owners will see that the proposed use is not a threat to local safety and security. In time, this is likely to reduce the fear of crime.

## 7.5 Impact upon the amenity of local occupants

7.5.1 Concern has been raised that the proposed use will harm the amenities of the area through increased noise, including shouting, and vehicle movements. In particular, concern has been raised about the impact on the adjoining caravan park. Whilst the caravan park is used as holiday accommodation, it is appreciated that owners/guests may stay for long periods of time. One caravan has consent for occupation by the site warden. There are a number of caravans positioned close to the rear and west boundaries of the application site. To the west, the caravan site is located at a higher level which means that, despite the boundary screening, caravans are visible from the site and vice versa. As noted above, County Highways has advised that the proposed use could more than double the vehicle movements at the application site. It is appreciated that this increase in vehicle movements does have the potential to impact on the amenities of nearby occupants. However, it is not considered that the impact would be to an extent to cause an unacceptable level of disturbance. With regard to the amenities currently enjoyed at the neighbouring caravan park

movements must be considered in relation to the number of movements associated with the comings and goings of up to 85 caravan owners/visitors, deliveries and staff.

7.5.2 It is acknowledged that the emotional and behavioural difficulties that bring children to the home could result in noise and disturbance to adjoining occupiers. However, this must be balanced against the fact that any child, or indeed any household, has the potential to create a similar level of disturbance. In contrast with most households, the children at the home will be receiving 24 hour supervision from trained carers. As such, it is not expected that the proposal would create a significant or unacceptable level of disturbance to adjoining occupiers.

7.5.3 Concern is also raised about loss of privacy. There are two first floor rooflights to the application site facing the caravan park. Again, the impact of the proposal on the privacy of adjoining occupiers will be not greater than the existing use.

7.5.4 The residential properties to the east are located some 40m away and are screened from the site by a large fir hedge. For the reasons discussed in the above two paragraphs, it is not considered the proposal will harm the residential amenities to these properties.

7.5.5 Whilst the impact of the proposed use on the value of nearby properties is not a material consideration to this application, the impact on the caravan park business is. It is appreciated that, given the number of objections received from caravan owners, the approval of this application may, in the short-term, result in caravan owners leaving the park. This would be due to their view of the proposal's impact and is not a reason for refusal. In the long-term, however, once the home has become established, it would seem unlikely that there would be a significant, if any, impact on the caravan park business.

## 7.6 Highway safety and parking provision

7.6.1 Bottomdale Road is a country lane which leads south away from Slyne. It contains a number of bends and steep slopes and has no pavements, street lighting or centreline demarcation. Whilst it has a 30 mile per hour speed restriction in the vicinity of the application site, County Highways has noted that most vehicles travel at higher speeds. Traffic levels along Bottomdale Road are approximately 6,000 vehicles per day with around 600 movements in the peak hour. The road is wide enough to allow two-way traffic although, it is understood that parking associated with the football pitch can reduce it to one-way.

7.6.2 Manual for Streets suggests minimum sightlines for an access to a 30mph road of 2.4m x 43m. However, due to the higher speeds which vehicles travel along Bottomdale Road, County Highways advised in their initial comments that sightlines in the region of 2.4m x 60m would be expected. The existing access has sightlines significantly below what would be expected if traffic speeds were significantly below 30mph. Due to the intensification of vehicle movements that will be associated with the proposed use, the Highways Engineer considers that it will be necessary to improve the existing access to the recognised standard in order for the proposal to be acceptable. However, it is not considered that this will be possible within the site boundaries.

7.6.3 In response to County Highway's comments the applicant submitted plans showing the existing access relocated to enable better visibility splays to be provided. To the north, visibility splays would increase from 2m x 14.7m to 2m x 27.3m and to the south, from 2m x 14.9m to 2 x 26.3m. The revised access arrangements are supported by a letter provided by a transport consultant which is summarised as follows:

- Due to the rural feel of Bottomdale Road, vehicles tend to travel more centrally along the road, at a distance from the carriageway edge. This provides increased visibility.
- The number of vehicle accesses in the local area means that traffic travelling along Bottomdale Road will be aware of the potential for traffic to turn onto or off the route.
- The County Council's MARIO system shows that between January 2007 and September 2012 there were 2 slight collisions along the section of Bottomdale Road in the vicinity of the application site. These accidents were not related to people using accesses. (In relation to this matter, Officers note that objectors have referred to other accidents.) This illustrates that, despite a number of access along Bottomdale Road having sightlines below the Manual for Streets standards, there is no history of highway safety issues in the area.
- Based on research (carried out for Manual for Streets), unless there is local evidence to the

contrary, a reduction in visibility below recommended levels will not necessarily lead to a significant problem. As such, in a site, such as the application site, where there is an existing access with no accident history, reduced visibility splays will not necessarily impact on highway safety.

- Based on an increase of 6 to 9 movements a day and the level of activity at the existing access with no highway safety history, and due to the research referred to above, it is suggested that, even if the existing access arrangement was retained, the proposed levels of traffic increase would not give rise to a highway safety issue.
- For the relocated access, the applicant is willing to reposition the boundary treatment along the rear of the sightlines and mark this boundary with a low level wall or fence to ensure that it cannot encroach on the sightlines.
- Whilst the proposed access would not benefit from the recommended sightlines set in Manual for Streets, it is a significant improvement.

7.6.4 County Highways has acknowledged that Manual for Streets 2 states that a reduction in visibility splays will not necessarily lead to a significant problem. However, the Highways Engineer notes that it is not clear how much of a reduction should be considered acceptable. Due to the levels of traffic and vehicle speeds along Bottomdale Road, only a minor reduction in visibility is considered to be acceptable. With regard to the set back of the visibility splay, a distance of 2.0m is considered acceptable (rather than the standard 2.4m). County Highways agree that vehicles approaching the site will not be at the edge of the highway and it is therefore considered acceptable for the sightline point to be measured 1.0m from the edge of the highway. However, the site lines to the proposed access fall significantly short of a minor relaxation in the expected standard of 2.4m x 60m. As such, County Highways remain of the view that the proposal will be detrimental to highway safety. In relation to the nearby accesses having similar levels of visibility to the application site, County Highways has advised that these accesses are historic and that improvements would be required should proposals come forward leading to an intensification of their use.

7.6.5 Following the February Committee Meeting, the traffic consultant has provided further details about staff shifts and other movements to and from the site. Two members of staff will work an 08:00 to 22:00 hours shift, whilst one will work an 08:00 to 21:00 hours shift. Two members of staff will arrive at 21:00 hours and are asleep on duty. There will be a handover from the two staff working 08:00 to 22:00 hours. In some cases the members of staff working through the night will work straight into the next day shift. Visitors need to be pre-planned enabling the applicant to ensure only one visitor will be present at any time. Social workers will visit each young person once every 6 weeks but, may see more than one child per visit. As such, it is suggested that maximum vehicle movements will be 6 departures and 6 arrivals per day. As a 4 bedroom house, the consultant considers that it would not be unreasonable to assume that the existing use could generate 2 departures during weekday morning and 2 arrivals during the weekday evening peak hour. It is therefore suggested that the proposal would generate the same level of morning peak hour traffic as the existing use, although this more likely to be a reduction, and a reduction in evening peak hour movements. It is then noted that, for the vast majority of the year, 3 of the vehicles exiting the site will do so between 21:00 and 22:15 hours when approaching vehicles will be able to see the headlights of vehicles leaving the site.

7.6.6 County Highways has been asked to comment on the above details supplied by the transport consultant and their views will be reported to Members at the Meeting. However, it is noted that the vehicle movements referred to above relate solely to staff arriving and leaving for their shifts and social worker visits. No account is taken of school runs, trips to shops, doctors, activities etc. and other visitors, such as parents. In addition, it would be difficult for the local planning authority to have control over the way the home is run, including staff shifts and, as such, the vehicle movements described above cannot be guaranteed.

7.6.7 The proposed use of the site will generate a need for 5 parking spaces for staff (allowing for staggered shift changes) plus space for visitors. A parking plan has been submitted showing the provision of the provision of 5 spaces and a turning area. County Highways have noted that the turning area is tight but sufficient. Following the submission of the parking plan, a neighbour has raised concern that part of his land has been included within the site boundaries of Glenfield. It is understood that the applicant is currently investigating this matter and that an amended plan will be submitted. Members will be updated on this matter at Committee.

7.6.8 The Parish Council and many objectors have raised concern about the suitability of Bottomdale Road for the location a children's home due to road safety implications for the children. It is

understood that children at the home would only leave the site with a carer and that journeys would be made by car. County Highways has not raised concern about this matter and, subject to appropriate site management, it is not considered that the road causes the site to be inappropriate for the proposed use.

## 7.7 Landscaping

7.7.1 The proposed relocation of the access and the creation of visibility splays will involve the removal of most of the existing planting to the front boundary. This includes a medium size fir tree and a few smaller trees adjacent to the existing access. Whilst the existing planting contributes to the rural character of Bottomdale Road, it has little intrinsic value in its own right. If planning permission is granted, a replacement front boundary treatment, including planting, can be required by way of a condition.

## 7.8 Other matters

7.8.1 Strategic Housing has raised concern that the proposal may place increased demand on the District's supported housing beds and move on accommodation for young people due to the home accepting children from outside the District. In response to this, the agent has stated most children rejoin their original families/guardians. It is also not considered that the concern raised is relevant to determination of this application as it should be addressed by other relevant regimes. With regard to evidence of need for the new home, the agent has advised that the applicant has had enquiries asking them to take on new children but that their existing home is full.

7.8.2 Concern has been raised by the Parish Council and in letters of objection as to whether the application site is suitable for the proposed use. The house will provide 4 good sized bedrooms for the children, a staff bedroom, two bathrooms, two living rooms and a suitably sized kitchen and dining room. Whilst the proposed access will reduce the amount of lawn at the front of the property, ample amenity space, including a private patio behind the house, will be retained. As such, there is adequate internal and external space for the proposed use. It is not considered necessary for there to be room for future expansion of the home.

7.8.3 It is acknowledged that the proposal does not include provision for access for children, staff and visitors with disabilities. With two children's bedrooms on the ground floor, it is likely that children with mobility problems could be accommodated. The ground floor could be made accessible to wheelchair users with minimal alterations to the property.

7.8.4 The Parish Council has raised concern about flooding and water/sewerage disposal issues in the area of the application site but has not provided details. The application site is not located in Flood Zones 2 or 3 and the proposed use is no more vulnerable to flood risk than the existing use. The site is served by a septic tank which the agent has confirmed has the capacity to cope with the proposed use.

## 8.0 Planning Obligations

8.1 Given the nature of the proposal there are no requirements for a legal obligation.

## 9.0 Conclusions

9.1 Based on the above assessment, it is considered that the proposed use of the application site as a children's home is acceptable in terms of the character of the area, the Green Belt, amenity and security of nearby occupiers and implications for local businesses. However, neither the existing or proposed access arrangements at the application site provide sufficient visibility given the increase in vehicle movements that will be associated with the proposed use. As such, the scheme is considered to be harmful to highway safety. There is ongoing dialogue between County Highways and the applicant's transport consultant. The results of this dialogue will be reported to Members at the Meeting.

## Recommendation

That Planning Permission **BE REFUSED** for the following reason:

1. The proposed change of use would intensify the use of an access with sightlines below the required standards. The increase in use of the access would therefore be detrimental to highway safety and the proposal is subsequently found contrary to Saved Policy E4 of the Lancaster District Local Plan.

## **Human Rights Act**

This recommendation has been reached after consideration of the provisions of The Human Rights Act. Unless otherwise stated in this report, the issues arising do not appear to be of such magnitude to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

## **Background Papers**

None.

Agenda Item	Committee Date	Application Number
A7	4 March 2013	12/01126/FUL
<b>Application Site</b>		<b>Proposal</b>
Land To The South East Of Addington Lodge Addington Road Nether Kellet Carnforth		Erection of one 50kW wind turbine (24.7 metres hub height with a blade tip height of 34.4 metres) (resubmission of 11/01120/FUL)
<b>Name of Applicant</b>		<b>Name of Agent</b>
WA Agriculture Ltd		Mr Paul Lester
<b>Decision Target Date</b>		<b>Reason For Delay</b>
26 January 2013		Officer workload
<b>Case Officer</b>		Ms Eleanor Huddleston
<b>Departure</b>		No
<b>Summary of Recommendation</b>		Approval

### 1.0 The Site and its Surroundings

1.1 The application relates to an agricultural field which is situated approximately 2 kilometres to the south east of Over Kellet and 3 kilometres to the east of Nether Kellet. The site is located approximately 420 metres to the south of Timpenny Road, 210 metres to the north of Kirkby Lonsdale Road and 490 metres to the north east of Addington Road. There is an access track off Timpenny Road which serves a large free range poultry building to the north of the site.

1.2 The field rises up from the agricultural building to the south east and down towards Kirkby Lonsdale Road. It is mainly bounded by open boarded timber fencing or post and wire fencing with a row of small trees and shrubs along most of the north eastern edge of the field and part of the south west boundary. The area is characterised by gently undulating fields with the land rising to the north west and south east of the field where the proposal is to be sited. There are various groups of trees nearby, in particular to the south east of the site adjacent to Kirkby Lonsdale Road, and next to the junction with Addington Road.

1.3 There are several public rights of way in the area. The nearest of these is approx. 400 metres to the north east of the site which links Timpenny Road to Kirkby Lonsdale Road. There is also a footpath approx. 470 metres to the north which links Timpenny Road to Over Kellet and one 590 metres to the south west of the site which connects Kirkby Lonsdale Road to Aughton Road. The site is approx. 220 metres from the boundary with the Forest of Bowland Area of Outstanding Natural Beauty (AONB) which follows the line of Kirkby Lonsdale Road. The Arnside and Silverdale AONB is situated approx. 4.4 kilometres to the north west.

1.4 There are several residential properties located on Addington Road, approximately 530 metres to the south east of the site, with the applicant's property, Addington Lodge, located approx. 630 metres to the north west of the site. There is a group of dwellings at Swarthdale, approx 520 metres to the north, and a dwelling and livery business at Oakenhead Farm, approx. 470 metres to the south. Within the field immediately to the south of the site is a small collection of buildings, located adjacent to the Kirkby Lonsdale Road, which is used for horses.

1.5 The site is within the District's Countryside Area as defined on the Local Plan Proposals Map.

**2.0**

**The Proposal**

2.1 Planning permission is sought for the erection of a 50KW wind turbine. It would be a three bladed structure with a height of 24.76 metres to the hub and 34.4 metres to the blade tip. Each blade would have a length of 9.6 metres. It is proposed to be located 220 metres to the north west of Kirkby Lonsdale Road, 180 metres to the south east of the poultry building and 52 metres from the nearest hedgerow.

2.2 The turbine would be sited on a concrete base and a temporary hardcore access track, approx. 80 metres in length, would be constructed from the existing access track to the north which serves the poultry building. The proposal seeks to offset the demand for electricity for the free range poultry, and contribute to the long term viability of the farm business, by connecting the turbine to the National Grid.

2.3 This is a resubmission of a previous application (11/01120/FUL), which was refused planning permission at the Planning Committee in September 2012. During the course of the original application, the position of the turbine was amended to address concerns regarding visual impact and proximity to nearby properties. Following this, concerns were raised regarding the proximity of the turbine to a gas mains pipeline and the proximity to a hedgerow and the potential impact on bats. As such the position was amended slightly again to address these issues. The current application relates to the same position on which the previous application was determined. An updated Landscape and Visual Impact has been submitted in order to address the second reason for refusal.

**3.0**

**Site History**

3.1 The previous application for the erection of a single turbine (11/01120/FUL) was originally considered by Members at Planning Committee on 20 August 2012. The Officers' recommendation was to approve the application subject to conditions. Members voted to refuse the application, however this motion was overturned. No motion was made for the approval of the proposal and therefore the application remained undetermined. It was reported back to the Planning Committee on 17 September 2012 where Members resolved to refuse the application for the following reasons:

1. The turbine, by reason of its scale and close proximity to existing equine development, would have potential to adversely affect the existing stables and adjoining land at Wood End Stables, and the equestrian land associated with Oakenhead Livery Stables. In particular, the presence of horses on land abutting the site, particularly where there is a constant turnover of horses (thus failing to become acclimatised to the impacts of the turbine), is a material consideration. Additionally, the recreational and economic impacts are such that the development would be contrary to Paragraph 28 of the National Planning Policy Framework and the Companion Guide to the (former) Planning Policy Statement 22.
2. The turbine, by reason of its siting close to the boundary of the Forest of Bowland Area of Outstanding Natural Beauty, and within a Landscape Character Area of moderate-high sensitivity to turbine development (as defined by the Landscape Sensitivity to Wind Energy Development Study (2005)), would have an injurious effect upon the quality of the landscape in which it is located, and also upon the setting of parts of the Area of Outstanding Natural Beauty. As a consequence, the proposal would be contrary to Paragraphs 109 and 115 of the National Planning Policy Framework (NPPF) and would fail to adhere to all of the Core Planning Principles contained in paragraph 17 of the National Planning Policy Framework (NPPF) and would fail to adhere to all of the Core Planning Principles contained in paragraph 17 of the NPPF, and it would be contrary to Policy E1 of the Lancaster District Core Strategy.

3.2 The application site has an extensive planning history. In addition to the above, the most relevant applications relate to the erection of a free range poultry building (09/00554/FUL) granted in 2009 and the erection of an agricultural workers dwelling (12/00505/FUL), granted in January 2013.

Application Number	Proposal	Decision
12/00947/FUL	Erection of an agricultural workers dwelling in connection	Permitted

	to the adjacent Poultry Farm	
<b>12/00505/FUL</b>	Erection of a block of five stables and farm office block	Permitted
<b>11/01120/FUL</b>	Erection of a wind turbine (24.7 metre hub height with a maximum blade tip height of 34.3 metres) and ancillary works	Refused
<b>09/00554/FUL</b>	Construction of an Agricultural building for Free-Range Hens	Permitted
<b>07/00528/FUL</b>	Demolition of stable block and erection of 2 storey extension to west elevation	Permitted
<b>07/00199/FUL</b>	Extension to existing stable to create agricultural workers dwelling	Refused
<b>02/00769/FUL</b>	Erection of block of 5 stables and storage building for feedstuff/bedding.	Permitted

#### **4.0 Consultation Responses**

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

Consultee	Response
<b>Nether Kell Parish Council</b>	<p>Whilst the Parish Council in general welcomes initiatives to reduce carbon emissions, concerns were raised at the meeting about this particular development. It is of a size which is much higher than similar proposals of an individual nature in the area, and its position on a site very close to an Area of Outstanding Natural Beauty detracts from the visual attraction of the area. It will be very prominent in many views across the upper part of the Lune Valley. The need for a turbine of this scale is questioned as the applicant already has solar panels.</p> <p>Have concerns about the effect that the turbine would have on equestrian activities in the immediate area. These include grazing of horses in close proximity to the turbine and also the riding of horses on highways in the vicinity. Amongst the concerns raised were the effect of turbine noise on the behaviour of the horses themselves, both in the fields and on the roads, and the effect on employment at the nearby equestrian centres if concerned owners removed their horses.</p>
<b>Halton with Aughton Parish Council</b>	<p><b>Object.</b> The site is within the setting of an AONB. It will have considerable environmental impact. Noise levels have not been determined but any increase will raise the ambient levels within the area. Local residents have raised safety issues arising from interference with the many horses kept within yards of the site as well as horse riders on adjacent roads. Several residents and business people have expressed their concerns for the future of equine businesses within the shadow of the turbine. Halton with Aughton residents, who live nearby, have expressed their concerns in relation to their quality of life through loss of visual amenity and turbine noise. It is the view of Halton with Aughton Parish Council that the benefits promoted by this development do not outweigh the negative impacts.</p>
<b>Environmental Health</b>	<b>No objection</b> , following consideration of the submitted noise report.
<b>County Highways</b>	No response received within the statutory consultation period.
<b>County Ecologist</b>	No response received within the statutory consultation period.
<b>Lancashire County Landscape Officer</b>	No response received within the statutory consultation period.
<b>Natural England</b>	It does not appear that the application falls within the scope of the consultations that Natural England would routinely comment on. The application is not likely to result in significant impacts on statutory designated sites, landscapes or species. Expect the Local Planning Authority to assess and consider the possible impacts resulting from this proposal on protected species, Local wildlife sites, biodiversity enhancements and local landscape.
<b>RSPB</b>	No response received within the statutory consultation period.
<b>North Lancashire</b>	No response received within the statutory consultation period.

Bat Group	
<b>The Wildlife Trust For Lancashire</b>	No response received within the statutory consultation period.
<b>Arnside Silverdale AONB Unit</b>	No response received within the statutory consultation period.
<b>MOD</b>	<b>No objection.</b>
<b>Civil Aviation Authority</b>	There is currently a high demand for CAA comment on wind turbine applications which exceeds the capacity of the available resource to respond to requests within the timescales required by Local Planning Authorities. The CAA has no responsibilities for safeguarding sites other than its own property, and a consultation by a Council is taken as a request for clarification of procedural matters. Cumulative effects of turbines may lead to unacceptable impacts in certain geographic areas. The Ministry of Defence will advise on all matters affecting military aviation.
<b>NATS (National Air Traffic Services)</b>	<b>No objection.</b>
<b>BAE Warton</b>	<b>No objection.</b>
<b>Air Ambulance</b>	No response received within the statutory consultation period.
<b>Blackpool Airport</b>	No response received within the statutory consultation period.
<b>National Grid</b>	No response received within the statutory consultation period.
<b>The British Horse Society</b>	<b>Object.</b> It should not matter how many horses are exercised on Kirkby Lonsdale Road and Addington Road, the safety of riders should count more than the financial gain of one landowner. Horses will not be frightened every time they go past. A horse that has been through a wind farm hundreds of times can still be challenged by them. An accident will not happen every time a horse goes past, but it will happen at some point, and probably involve an innocent motorist. The fact that these problems are not addressed in national planning policy guidance does not mean they do not exist. It is accepted that horses can be frightened by many things, and it is an undisputed fact that they get acclimatised to things. However there will be horses that have not seen a turbine before. The cases cited in the submission in relation to applications that have been passed are all based on Inspectors' conclusions. These Inspectors are unlikely to be horse riders who have taken a nervous horse near a wind farm. There is also concern about the cost to the Rural Economy. Oakenhead Farm Livery has 29 horses on the yard. That is £232,000 pa expenditure that will potentially be lost to the rural economy.
<b>Friends of Eden, Lakeland &amp; Lunesdale Scenery (FELLS)</b>	<b>Object.</b> Fully agree with the decision to refuse the previous application. The objections raised to the previous application are encompassed in the second reason for refusal. There is nothing in the new application which changes FELLS position and consider the Council must refuse this application also. The site is within the "setting" of the Forest of Bowland Area of Outstanding Natural Beauty (AONB) with the location approximately 200m from the AONB boundary. AONB is a national designation, and has not only equivalent status to a National Park, but is primarily and uniquely intended to recognise and protect landscape which includes the "setting" of the designated area. Similar planning applications for the same size and model of turbine in Wray and Tatham parishes have been refused.  The objectives of the AONB designation will be compromised by this development and the developer has not adequately considered the impact on the AONB. The NPPF requires Local Planning Authorities to protect designated areas including AONBs from this type of development. This proposal presents no special or exceptional circumstances, there is no overriding need for it, or contribution to the local economy and it will clearly have a detrimental effect on the environment, landscape and recreational opportunities. The montage taken from Kirkby Lonsdale Road clearly demonstrates the significance of the impact of this turbine from within the Forest of Bowland AONB. The Planning Statement acknowledges the importance of the Drumlin Field Landscape Character Type and the area of the turbine location as having a moderate to high sensitivity to wind energy development. Drumlins are regarded as a very sensitive landscape type and thus easily damaged by wind turbine proposals. The landscape cannot absorb a tall man made structure at this location without significant landscape and visual impacts. The impact on the public right of

	<p>way to the south west of Oakenhead Farm will be significant and there will be a similar impact from the Aughton Road along which National Cycle Way Route 69 passes.</p> <p>FELLS do not believe that the small amount of “renewable” electricity generated by this scheme can outweigh the significant landscape and visual impacts, including impacts on the Forest of Bowland AONB, and potential impacts on tourism through proliferation of single wind turbines in the Lune Valley area.</p>
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## 5.0 Neighbour Representations

5.1 15 letters of objection have been received which raise the following concerns:

- **Landscape and visual impact** – located on one of the highest areas in the locality it will create an eyesore that will be visible from the road and for miles around. The location of the turbine is directly next to an Area Of Outstanding Natural Beauty, is directly visible from 2 more and will have an adverse impact on the AONB and the view of Morecambe Bay and the Lakeland Fells. The views into and out of an AONB can be as important a reason for its national designation as the views within it. Any wind turbine of this size anywhere in this area would have a large and negative impact on the surrounding area. It would dominate the area and be totally inappropriate. The special character of the Lune Valley is well recognised and has been highly praised by Natural England as one of the least spoiled river valleys in the North West. It will be a marked intrusion into this sensitive drumlin-type landscape and will be out of keeping with the area to such an extent. The scale of the turbine is beyond the kind of ‘domestic’ scale installation which has been successfully accommodated within or near to the AONB. The presence of nearby small scale landscape features such as trees would likely emphasize the disproportionate scale of the wind turbine. Due to the turbine’s location in an exposed open field, no functional relationship could be established with the property that it would provide electricity to. According to the Forest of Bowland AONB Landscape Charater Assement (September 2009) the site lies within landscape character type K: Drumlin Field and landscape character are K1: Gressingham. The study highlights negative changes that could affect the landscape character including “potential new telecommunications or renewable energy developments, on the tops of drumlins”. It recommends a restriction of built development on the skyline of drumlins”. Concerns about inaccuracies in the photmontages.
- **Colour/ finish** - The colour will be ‘Traffic White’ semi gloss finish” which will be highly conspicuous. Even small ones in this colour stand out, out of all proportion, especially in low angled sun. Black, dark grey and green matt finishes are far less conspicuous.
- **Cumulative impact** – Concerned about the amount of applications for turbines in the Lune Valley which could erode the landscape character.
- **Residential amenity** – Would result in an unacceptable intrusion to the quality of life of the residents of Oakenhead Farm due to the noise and visual impact. Concern about details in the noise assessment which show inaccurate distances between the turbine and the property.
- **Highway safety** – Risk to road safety on the road adjacent to the development; significant risk that horses riding past the turbine will be startled by the turning blades and the flicker effect and could bolt onto the opposite side of the road and could cause a collision with oncoming vehicles; the road is busy, many horses ride on it and it is popular with bikers so the development could create a potentially lethal black spot
- **Impact on birds** - An increase in ground nesting birds has been seen in the area and this small pocket of increased population size for birds like the Curlew, would be severely affected by placing a wind turbine at this site.
- **Impact on horses** – The noise generated by the turbine will create an unacceptable hazard for horses as they are easily spooked. The noise and size of the wind turbine will cause undue fright and fear to horses, 22 in total, at the livery yard. The reflection of the sun flashing on the turbine has the potential to frighten a horse. If the turbine falls or breaks, the horses in the field to the south will be at risk.
- **Impact on safety** - In the summer horses are in the paddock opposite the development and an owner could find themselves in serious danger if a horse is suddenly panicked by the movement of the blades; concerns over the safety of individuals given the proposed relocation of this installation as this is now within approx. 100m of the footpath at Side Garth.

Concerned about safety of turbine as the same model collapsed in North Devon in January.

- **Impact on tourism and recreation** - It would impact negatively on the visitor and tourist trade, which is an important contributor to the rural economy. The development would be close to the Morecambe to Bridlington national cycle route. Is an area used by ramblers, driven through by less active visitors and close to riding stables and bridleways
- **Impact on Local Equestrian businesses** - Owners of horses in the area (including those at Oakenhead Farm), faced with this increased risk of accident, would relocate their horses away from the area, seriously damaging this and other yard's business, as well as farriers, vets, feed suppliers, tack suppliers etc. This will reduce the income of the owners of Oakenhead Farm and also reduce the value of the business and their asset. The recreational and economic impact of the turbine would be contrary to paragraph 28 of the NPPF. The proposal would be devastating Oakenhead Farm which is worth £292,000 pa to the economy. In a letter from the owners, they state that the property has been valued by Richard Turner, a specialist in County Property, Equestrian Properties, Farms and Land. They do not want the valuation of the property to be published but have stated that Mr Turner confirms that they 'will suffer devaluation on their ownership assets and goodwill to the tune of 33% or more, not to mention, removal costs, sale costs, purchase costs of a new property including stamp duty and all related legal fees and will be facing financial suicide if forced down this route'. Impact on land to the south which is only 128 metres from the proposed turbine and where horses are kept and rehabilitated.
- **Need for the turbine** – the poultry farm already has solar panels providing electricity and a smaller turbine could provide for the needs of the business; the proposal is purely a commercial venture. The claimed generation is greatly overstated.
- **Impact on property values in the area.**
- **Community benefits** - this application offers no significant community benefits and has been opposed by the local Parishes involved. It is not, therefore supported by the local community and is contrary to the Localism Act and the NPPF which was recently issued.

5.2

A letter of objection has been also received by Walsingham Planning Consultants on behalf of the owners of Oakenhead Farm Livery. It states that the objections remain the same as raised for the previous application. These are set out below:

- The proposal is contrary to the policies set out in the NPPF, in particular:
  - paragraph 9 which confirms that pursuing sustainable development involves seeking positive improvement in the quality of the built, natural and historic environment as well as in people's quality of life;
  - there will be significant and adverse impacts to the business and residential amenity at Oakenhead farm which would be contrary to paragraph 14;
  - planning policies should support economic growth in rural areas in order to create jobs and prosperity to take a positive approach to sustainable new development;
  - paragraph 115 emphasises that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty. It is within 180 metres of the boundary of the Forest of Bowland AONB and therefore will be seen from within it and will have a significant effect on the area and that part of the AONB.
- The proposal will be contrary to the Core Strategy. In particular, the Council's Vision Statement is for a sustainable self-contained and varied group of communities and puts an emphasis on the conservation and enhancement of the Natural and Built Environment. It would also be contrary to Policies E1 and SC3.
- The landscape and visual appraisal recognises that there is the potential for significant landscape and visual effects, albeit that they would be highly localised and would only occur within the five kilometres radius study area. Of particular importance is the recognition that the significant effects would be expected at some properties located within approximately 1 kilometre of the turbine and the properties with the clearest views include Oakenhead Farm which is 410 metres to the south. The proposed turbine would have a significant overbearing effect on the livery stables and residential amenity at Oakenhead Farm.
- The impact of the wind turbine on the economics of the adjacent rural economy, including Oakenhead Farm, must be considered.

5.3

15 sworn affidavits have been received from owners of horses at Oakenhead Farm. They all state that in the event of the wind turbine being erected and their horses being frightened, they would have no alternative but to remove their horses from Oakenhead Farm and find new livery stables.

5.4

A letter of objection has been received from David Morris MP for Morecambe and Lunesdale, and raises the following:

- Concerned about the precedent set if permission is granted and the impact that this could have on the Lune Valley.
- The size of this turbine is excessive and would dominate the local area as it is higher than any other structure.
- This is a popular equestrian area with a number of livery yards operating in the area catering for locals and tourists as well as a nationally important equine rehabilitation centre. Horses use the roads and fields around where the turbine would be sited and it could create considerable safety implications for horses, riders and other road users. Research shows that many riders are reluctant to take their horses near turbines and this would mean livery yards were forced to close as people move elsewhere, this would be detrimental to local employment at a time when unemployment is high.
- The construction of the turbine would mean an increased number of heavy vehicles on narrow country roads which could result in an increase in accidents due to the state of the road surface.

## **6.0 Principal Development Plan Policies**

6.1

### **National Planning Policy Framework (NPPF)**

The National Planning Policy Framework (NPPF) indicates that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 7 states that there are three dimensions to sustainable development: economic, social and environmental; and that these roles are mutually dependent and should be sought simultaneously through the planning system.

At the heart of the NPPF is a ***presumption in favour of sustainable development***. The following paragraphs of the NPPF are relevant to the determination of this proposal:

**Paragraph 17 (Core Principles)** sets out 12 core land-use planning principles which should underpin both plan-making and decision taking. The principles which are relevant to this application state that planning should: be genuinely plan-led; be supportive of sustainable economic development; seek high quality design and good standards of amenity for existing and future occupants of land and buildings; take account of different roles and character of different areas, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it; support the transition to a low carbon future in a changing climate and encourage the use of renewable resources; and contribute to conserving and enhancing the natural environment.

**Paragraph 28** states that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. Local and neighbourhood plans should support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside.

**Paragraph 98** states that when determining planning applications local planning authorities should not require applicants to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and approve the application if its impacts are (or can be made) acceptable.

**Paragraph 109** states that the planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, geological conservation interests and soils;
- recognizing the wider benefits of ecosystem services; minimizing impacts on biodiversity and providing net gains where possible;
- preventing both new and existing development from contributing to or being put at unacceptable risk from unacceptable levels of soil, air water or noise pollution or land instability; and
- remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land.

**Paragraph 115** sets out that great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas.

6.2

## Regional Spatial Strategy

Policy **DP7** (Promote Environmental Quality) - Environmental quality should be protected and enhanced, especially by understanding and respecting the character and distinctiveness of places and landscapes, the protection and enhancement of the historic environment, promoting good quality design in new development and ensuring that development respects its setting, reclaiming derelict land, using land resources efficiently, maintaining and enhancing the tranquility of open countryside and rural areas, and maintaining and enhancing the quantity and quality of biodiversity and habitat.

Policy **DP9** (Reduce Emissions and Adapt to Climate Change) – As an urgent regional priority, plans, strategies, proposals, scheme and investment decisions should contribute to reduction in the Regions carbon dioxide emissions from all sources in line with national targets to reduce emissions to 60% below 1990 levels by 2050. Increasing renewable energy capacity and promoting microgeneration are key measures identified to help reduce carbon emissions.

Policy **EM1** (Integrated Enhancement and Protection of the Region's Environmental Assets) - The Region's environmental assets should be identified, protected, enhanced and managed. Schemes should deliver an integrated approach to conserving and enhancing the landscape, natural environment, historic environment and woodlands. Priority should be given to conserving and enhancing areas, sites, features and species of international, national, regional and local landscape, natural environment and historic environment importance. Schemes should identify, protect, maintain and enhance natural, historic and other distinctive features that contribute to the character of landscapes and places, including the special qualities of the Forest of Bowland AONB.

Policy **EM17** (Renewable Energy) – supports the development of renewable energy schemes. It states that in line with the North West Sustainable Energy Strategy, by 2010 at least 10% (rising to at least 15% by 2015 and at least 20% by 2020) of the electricity supplied in the North West should be provided from renewable energy sources. The following criteria should be taken into account but should not be used to rule out or place constraints on the development of all, or specific types of, renewable energy technologies. The criteria includes:

- anticipated effects on local amenity resulting from development, construction and operation of schemes (e.g. air quality, atmospheric emissions, noise, odour, water pollution and disposal of waste)
- acceptability of the location/scale of the proposal and its visual impact in relation to the character and sensitivity of the surrounding landscape, including cumulative impact
- effect on the region's World Heritage Sites and other national and internationally designated sites or areas, and their settings
- effect of development on nature conservation features, biodiversity and geodiversity, including sites, habitats and species, and which avoid significant adverse effects on sites of international nature conservation importance by assessment under the Habitats Regulations

6.3

## Lancaster District Core Strategy

Policy **SC1** (Sustainable Development) – seeks to ensure that new development proposals are as sustainable as possible, minimise greenhouse gas emissions and are adaptable to the likely effects of Climate Change. It sets out a range of criteria against which proposals should be assessed. Development must not result in unacceptable flood risk or drainage problems; must not result in loss or harm to features of significant biodiversity, landscape, archaeology or built heritage importance; and be appropriate to the character of the landscape.

Policy **SC3** (Rural Communities) – In rural areas and in smaller, more remote villages in particular, the Council will work with the Local Strategic Partnership, Parish Councils and other local stakeholders to protect, conserve and enhance rural landscapes and the distinctive characteristics of rural settlements.

**Policy ER7 (Renewable Energy)** – The Council will promote renewable energy in the District by encouraging the development of renewable energy resources across the District including, but not limited to, the promotion of South Heysham as a focus for renewable energy and biomass technology whilst ensuring the protection of Natura 2000 sites including Morecambe Bay, Bowland Fells and Leighton Moss Special Protection Areas from adverse effects.

**Policy E1 (Environmental Capital)** – The Council will safeguard and enhance the District's Environmental Capital by: protecting and enhancing nature conservation sites, landscapes of national importance, listed buildings, conservation areas and archaeological sites; resisting development which would have a detrimental effect on environmental quality and public amenity; identifying how habitats in urban and rural areas will be protected and, where possible, enhanced; and conserving and enhancing landscapes.

6.4

## Lancaster District Local Plan - adopted April 2004 (saved policies)

**Policy E4 (Countryside Area)** – Within the countryside, development will only be permitted where it is in scale and keeping with the character and natural beauty of the landscape; is appropriate to its surroundings in terms of siting, scale, design, materials, external appearance and landscaping; would not result in a significant adverse effect on nature conservation or geological interests; and makes satisfactory arrangements for access, servicing, cycle and car parking.

**Policy E12 (Nature Conservation)** – In determining proposals, impacts upon wildlife, wildlife habitats, protected species and important geological features should be taken into full account. Where development is permitted, developers will be required to minimise any adverse impact and/or create and provide for the appropriate management of compensatory wildlife habitats.

**Policy E22 (Wind Turbines)** – Partly superseded by the Core Strategy, states that proposals for the development of wind turbines will be assessed against their impact on the character of the landscape (including cumulative impact), nature conservation, historical conservation and nearby dwellings. Within Areas of Outstanding Natural Beauty, wind turbines will only be permitted where the applicant can demonstrate that no alternative suitable site exists elsewhere, that the economic benefits of the proposal clearly outweigh any adverse impact on the areas and that any such impact is minimised.

**Policy T27 (Rights of Way)** – Development proposals that would adversely affect the route or characteristics of an existing or proposed right of way will only be permitted where a satisfactory diversion can be provided and secured in advance of development.

6.5

## Other Guidance

### **Landscape Sensitivity to Wind Energy Development in Lancashire – February 2005**

This document gives an indication of the scale of wind energy development that may be appropriate in each Landscape Character Area. The site is located within Landscape Character Area 13c drumlin Field. The study sets out that this area has a moderate to high sensitivity with the potential to accommodate small and possibly medium scale wind energy development.

### **Companion Guide to PPS22: Planning for Renewable Energy**

The NPPF replaced all the previous PPG and PPS documents. However, the Companion Guide to PPS22: Planning for Renewable Energy is not contained within the list of replaced documents and therefore still a material planning consideration.

It states that there is no statutory separation between a wind turbine and a public right of way. However, fall over distance is often considered an acceptable separation, and the minimum distance is often taken to be that the turbine blades should not be permitted to oversail a public right of way. Fall over distance is the height of the turbine to the blade tip and 10% is often added to this as a safe separation distance from occupied buildings. It also sets out that The British Horse Society, following internal consultations, has suggested a 200 metre exclusion zones around bridle paths to avoid wind turbines frightening horses and, whilst this could be deemed desirable, it is not a statutory requirement.

In relation to shadow flicker, the guide makes the following statements:

- shadow flicker only occurs inside buildings where the flicker appears through a narrow window opening;
- only properties within 130 degrees either side of north of the turbines can be affected at UK latitudes;
- shadow flicker has been proven to occur only within ten rotor diameters of a turbine position;
- less than 5% of photo-sensitive epileptics are sensitive to the lowest frequencies of 2.5-3 Hz; the remainder being sensitive to higher frequencies; and
- a fast-moving three-bladed wind turbine will give rise to the highest levels of flicker frequency of well below 2 Hz. The new generation of wind turbines is known to operate at levels below 1 Hz

## **7.0 Comment and Analysis**

7.1 The main issues to consider in relation to this application are:

- Landscape and visual impact
- Impact on the amenity of nearby residential properties
- Impact on equestrian activity and the local economy
- Ecological Impacts
- The contribution to renewable energy generation

### **7.2 Landscape and visual impact**

7.2.1 The application site lies within the District's Countryside Area and is approximately 220 metres, at its closest point, from the Forest of Bowland Area of Outstanding Natural Beauty (AONB) and 4.5 kilometres from the Arnside and Silverdale AONB. It is located within a landscape character area defined as Drumlin Field. This character type is characterised by rolling drumlins with a consistent orientation which gives the landscape a uniform grain. The regular green hillocks are between about 100m and 200m high with steep sides and broad rounded tops. There are three specific areas defined as drumlin field in Lancashire, this one is covered by sub-type Docker-Kellet-Lancaster. This drumlin field has a distinctive north-east, south-west grain and runs from the edge of Lancaster northwards into Cumbria. The area is underlain by limestone and is distinguished by large scale undulating hills of pasture, some formed from glacial till and others which are outcrops of limestone, or reef knolls. These are particularly evident around Over and Nether Kellet where the limestone is exposed. The 'Landscape Sensitivity to Wind Energy Development Study in Lancashire' (2005) describes this character area as having moderate to high sensitivity to wind energy development.

7.2.2 The area is characterised by an undulating landscape interspersed with areas of trees and woodland and patterns of small fields mainly defined by hedgerows and stone walls. Small scale pylons follow the line of Kirkby Lonsdale Road, and there are large pylons visible to the north. The turbine would be sited slightly to the north east of the highest part of the field. Given the undulating nature of the land, the turbine would be sited at a similar elevation to the section of Kirkby Lansdale Road close to the site. The land also rises to the north east, providing screening to part of Timpenny Road. The large areas of trees in the area close to the site, including those adjacent to Kirkby Lonsdale Road and Addington Road, will also provide some screening from local view points.

7.2.3 A Landscape and Visual Appraisal has been submitted with the application. The Zone of Theoretical Visibility (ZTV) maps show that visibility of the turbine from the Forest of Bowland AONB would be limited to its north western edge, mainly within 1 kilometre of the site and more distant viewpoints where the land rises to Claughton and Caton Moors. In response to the original application, The County Landscape Officer concluded that the likely impacts of the proposed wind turbine on the setting, landscape and scenic beauty of both the Arnside and Silverdale AONB and the Forest of Bowland AONB would be acceptable.

7.2.4 It is likely that the most significant effects of the scheme would be within a 1.5 kilometres of the site. The Landscape and Visual Appraisal has indicated that at a localised level, the level of effect on landscape character would be Major to Moderate (and significant) but that the turbine would not notably affect the key characteristics of the surrounding landscape. Given the relatively small scale of the turbine, it is not considered to dominate the moderate to large scale landscape in this area. Landscape and visual impacts would also be mitigated in many areas by the combination of topography, vegetation and vertical man-made structures at further distances. As such, the proposal

is not considered to have a significant adverse impact on the local landscape character or visual amenity of the area.

7.2.5 Cumulative effects may arise where two or more of the same type of renewable energy developments are visible from the same point, or are visible shortly after each other along the same journey. The existing Caton Moor Wind Farm (8 commercial scale turbines) is located 5 kilometres to the south east of the proposed turbine. There would be no perceived extension to this wind farm caused by the proposal given the separation distance and the difference in scale of turbine. In addition, there would be relatively few locations where there would be clear views of the proposed turbine with other wind energy development.

7.3 Impact on Residential Amenity

7.3.1 The nearest residential property is approximately 470 metres from the site of the proposed turbine. Environmental Health has no objection to the proposal following consideration of the submitted noise information. One of the nearby residents has raised concerns regarding the accuracy of the report as the distance quoted from the nearest dwelling was incorrect. A further letter has been received from the applicant's noise consultant confirming that the variation in distance makes no material difference to the conclusions in the report as the calculated noise level is significantly below the ETSU criterion.

7.3.2 Shadow flicker has been proven to occur only within ten rotor diameters of a turbine position. The turbine would have a maximum rotor diameter of 19.2 metres and as the nearest property is approximately 470 metres from the turbine there should not be any adverse impacts as a result of flicker.

7.3.3 Many of the nearby residential properties are afforded screening by trees or do not face directly towards the site of the turbine. It is likely to be most visible from Oakenhead Farm which is the closest property to the site. However, given the distance from the turbine, which is more than twelve times its height, it is unlikely that it would dominate views or exert an overbearing impact on the occupiers of this property to the extent that living conditions would be significantly adversely affected.

7.4 Impact on equestrian activity and the local economy

7.4.1 Concerns have been raised regarding the potential impact of the proposal on equestrian activity and nearby stables and livery businesses, in particular Oakenhead Farm. The British Horse Society produced guidance in April 2010 which gives advice in relation to safety implications for horses arising from wind turbines. It states that "as a starting point when assessing a site and its potential layout, a separation distance of four times the overall height should be the target for National Trails and Ride UK routes, as these are likely to be used by equestrians unfamiliar with turbines, and a distance of three times overall height from all other routes, including roads, with the 200m recommended in the Technical Guidance to PPS 22 being seen as a minimum". In this case, the turbine is more than 3 times its height from the nearest highway and more than 200 metres. As such it complies with the guidance so cannot be judged to have a significant impact on horses using the nearby road network.

7.4.2 Oakenhead Farm is located approximately 490 metres from the site of the proposed turbine and the existing ménage is located on the southern side of the farmhouse. The effect on property values is not a material planning consideration, however, the impact on the rural economy can be considered. Concerns have been raised regarding the effect that this proposal could have on this business, and owners of horses at the stables have stated that in the event of the wind turbine being erected and their horses being frightened, they would have no alternative but to remove them from Oakenhead Farm. As the distance of the turbine from the stables is more than twice the recommended distance from routes used by horses, there is no substantive evidence to suggest that horses at the stables would be frightened or affected in any way by the presence of the turbine. Although the British Horse Society objects to the proposal, in their response it also states that it is an undisputed fact that horses become acclimatised to things. As such it is likely that the horses at the stable would become used to the presence of the turbine.

7.4.3 There are also stable buildings and a small area of hard standing located to the south of the site of the turbine, known as Wood End. The turbine would be approx. 200 metres from the yard area and

220 metres from the buildings. As this complies with the guidance set out above, there is no evidence to suggest that horses kept here would be significantly affected by the presence of the turbine. In a letter sent by the owner of these buildings, it sets out that the proposal is only 128 metres from the field where the horses are schooled and this area is needed as it is the most level ground and the boundary fence is used to teach them to move in a straight line. It also states that he buys horses to break or rehabilitate them. The land which is associated with these buildings slopes relatively steeply downwards from the road and there is no formal area set out for horses to be schooled. The applicant's land adjoining the lower part of the field is very boggy so it is likely that this land would suffer from drainage issues to some extent which would make it difficult for any formal schooling of horses. In addition, there is no planning permission on this land in relation to any equestrian business use and as such the field would be considered to have an agricultural use, on which horses can graze without the need for consent. The turbine would still be over three times its height from the land and for the reasons above, it is not considered that the proposal would have a significant impact on a rural business.

## 7.5 Ecological Impacts

7.5.1 The application has been accompanied by a baseline ecological survey report which was submitted with the original proposal. This concluded that no conclusive signs of protected or otherwise important species were recorded on the development site or are reasonably expected to be significantly affected by the proposed development. Bats are likely to use the surrounding landscape for foraging with the focus of this activity likely to be correlated with the trees and defunct hedgerows. No indications of current use of the site by badgers could be found, however the species is known to occur in the local area. The report concluded that the site may have some potential for use by nesting and foraging birds and mitigation through a check for nesting birds prior to site clearance will adequately mitigate for bird species.

7.5.2 The site does not lie within or in close proximity to any ecologically designated sites and Natural England have confirmed that the proposal is unlikely to result in significant impacts on statutory designated sites, landscapes or species. With regard to the potential impact of the development upon the local bat population, the application states that the turbine will be 52 metres from the nearest hedgerow. This is beyond the 50 metre buffer distance set out in the technical guidance note by Natural England to protect bats. Although the North Lancashire Bat Group, the Wildlife Trust For Lancashire and the County Ecologist have not provided any comments in relation to this application, they did not raise any objections to the previous application. As such, the proposal is not considered to have a significant impact on protected species or designated areas.

## 7.6 Contribution to renewable energy generation

7.6.1 As set out within the National Planning Policy Framework, the government seeks to support the transition to a low carbon future by, amongst other things, encouraging the use of renewable resources through the development of renewable energy. It indicates that to help increase the use and supply of renewable and low carbon energy, local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. It also states that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions.

7.6.2 In determining this application regard should be made local policies contained in both the Lancaster District Local Plan (E22) and the Lancaster District Core Strategy (policy ER7). These policies look favourably on renewable energy schemes and seek to promote and encourage proposals provided that potential impacts are satisfactorily addressed.

## 8.0 Planning Obligations

8.1 There are no planning obligations to consider as part of this application.

## 9.0 Conclusions

9.1 The proposal will generate renewable energy, which is in accordance with national and local planning objectives. The NPPF states that applications for renewable energy schemes should be approved if its impacts are or can be made acceptable. As set out above, the proposal is not considered to have a significant impact on the character or appearance of the landscape, residential

amenity, equestrian activities or ecology. As such, the proposed turbine is considered acceptable in this location.

## **Recommendation**

That Planning Permission **BE GRANTED** subject to the following conditions:

1. Standard 3 year timescale
2. Development to accord with approved plans.
3. The new access track shall be removed and the land reinstated within 3 months of the wind turbine being first operational in accordance with a scheme to be submitted to and agreed in writing with the local planning authority prior to development commencing
4. The wind turbine and associated ground infrastructure associated with this permission shall be removed from site and the land reinstated in accordance with a scheme to be submitted to and agreed in writing with the local planning authority before the expiry of 25 years from the turbine being first operational, or within 12 months of the wind turbine becoming unoperational whichever the earlier.
5. All cabling on the site shall be installed underground.
6. Precise details of the external finish, colour and materials of the turbine. The turbines shall not be illuminated, or display any name, sign, symbol or logo.
7. At the request of the local planning authority, following any reasonable noise related complaint made to it, the applicant and/or any other successor in title shall, at their expense, employ a consultant approved by the local planning authority, to assess the turbine noise levels at the complainant's property, and where noise levels exceed the levels specified in ETSU-R-97 carry out necessary mitigation (again at their own expense) in order to bring noise levels into compliance.
8. Any tree/shrub planting or habitat improvement within the area should not occur within 50 metres of the proposed turbine.

## **Human Rights Act**

This recommendation has been reached after consideration of the provisions of The Human Rights Act. Unless otherwise stated in this report, the issues arising do not appear to be of such magnitude to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

## **Background Papers**

None.

Agenda Item	Committee Date	Application Number
A8	4 March 2013	12/00834/OUT
<b>Application Site</b>		<b>Proposal</b>
Laund Fields Stoney Lane Galgate Lancaster		Outline application for residential development of up to 50 Dwellings
<b>Name of Applicant</b>		<b>Name of Agent</b>
Mr Simon Slack		Harrison Pitt Architects
<b>Decision Target Date</b>		<b>Reason For Delay</b>
14 December 2012		Awaiting consultation responses from Statutory Consultees and amendments from the applicant
<b>Case Officer</b>	Mrs Jennifer Rehman	
<b>Departure</b>	No	
<b>Summary of Recommendation</b>	Approve	

### 1.0 The Site and its Surroundings

1.1 The site that is subject to this application relates to a 1.75ha parcel of land located on the edge of Galgate village within designated Countryside Area. The land in question sits tightly behind existing buildings fronting Main Street and Stoney Lane but extends beyond the existing urban fabric of the village towards Skew Bridge and eastward covering the land currently used as a touring caravan site. Agricultural land adjoins the site to the east with the West Coast Mainline embankment and rail route forming the south western boundary. The West Coast Mainline railway runs in a north-south direction parallel with the A6 and the M6 Motorway with the settlement of Galgate effectively dissected into two parts; the main core of the village is located to the east of the mainline where local services such as shops and the school are located; with the other part of the settlement, predominately residential development situated to the west of the mainline and east of Lancaster canal. These transport corridors heavily influence the built form and character of the settlement.

1.2 The built form along Main Road immediately adjacent to the application site consists mainly of two-storey stone under slate terraced properties with significant back gardens. Closer to the crossroad junction there are a number of commercial uses, including a local convenience shop, hairdressers, salon and public house which essentially form the local centre. The built form on the south side of Stoney Lane consists of slightly larger two-storey stone under slate buildings including the former Ellel Institute, a pair of stone built semi-detached cottages and a detached stone built property. These properties are level with the carriageway and occupy a slightly lower ground level than the application site. There is also a large garage and MOT centre close to the local centre on this side of Stoney Lane. The north side of Stoney Lane consists of a row of semi-detached properties which are generally rendered under slate roofs. These properties occupy an elevated position above the carriageway.

1.3 The application site is a mix of greenfield and previously developed land consisting of agricultural land and associated buildings, a former motor repair garage, and a licensed caravan site with amenity block in connection with residential property at Laund Field. Whitley Beck to the north, native hedgerows to the east and a high leylandii hedge to the west. A mixed native hedgerow separates the caravan site from the agricultural land to the south. The caravan site occupies the

flattest part of the site at circa 25m AOD. The rectangular parcel of land within the application site consists of open grassland with some orchard planting circa 23m – 24m AOD. This land separates the existing dwellings on Main Road and Stoney Lane from the caravan site at Laund Field. The southernmost section of the site consists of a combination of agricultural land and two buildings previously used as a motor repair garage, together with one derelict building. Land levels rises significantly from 25m AOD (at the buildings) to 30m AOD at the south eastern boundary of the application site. Land levels continue to rise to the far south eastern corner of the field to approximately 35m AOD. This area of land is outside the application site but within the applicant's ownership.

1.4 The site is currently served by two vehicular access points to the local highway network. One access point is via the driveway onto Stoney Lane which serves the existing dwellinghouse and caravan site. The second access point is a hard surfaced single track field access off the A6 approximately 50m north of Skew Bridge, adjacent to the existing row of terraced cottages on Main Road. This was the formal access to the former motor repair garage. The closest bus stops are located on the A6, with northbound stops at The Plough and north of the cross-road junction and southbound stops at the crossroads (outside Spar) and at The Plough. The strategic cycle network (National Cycle Route 6) passes through the village on Stoney Lane and provides good cycle links to the University and Lancaster City beyond.

1.5 Other than the site being protected by its Countryside designation, the site is not subject to any other allocation/designation in the saved Local Plan. Notwithstanding this, it should be noted that the site lies close to the Galgate Air Quality Management Area (AQMA) and sits adjacent to Floodzones 2 and 3 of Whitley Beck.

## **2.0 The Proposal**

2.1 The applicant seeks outline planning consent for residential development (up to 50 houses) with access and scale to be determined as part of this proposal. Layout, design and landscaping are all reserved matters to be determined at a later stage. The application has been submitted with a number of supporting documents including a Transport Statement, Flood Risk Assessment, Preliminary Risk Assessment, Ecology and Tree Assessment. An indicative site plan was been submitted to demonstrate the site is capable of accommodating up to 50 dwellings.

2.2 Full details of the access are to be considered as part of this application for outline consent. This includes a new vehicular access point onto the A6 (Main Road) and a cycle/pedestrian link onto Stoney Lane. The proposed access arrangement will involve the closing off of the existing field access on the A6, which sits immediately adjacent to 103 Main Road (the end terrace), and the formation of a new access circa 12m south from the end of the existing end terraced property. This access point will accommodate a 5.5m wide carriageway with 2m wide footways to either side into the application site. The cycle/pedestrian link onto Stoney Lane will comprise a 2.5m wide track which will be shared with the vehicular access for the existing dwelling associated with this site. In addition to the access arrangements, this outline application seeks consent for the scale of development. The proposal indicates the dwellings would be predominately two storey.

## **3.0 Site History**

3.1 The land in question has a long established lawful use as a touring caravan site, a motor repair garage (in one of the buildings) and agricultural and storage uses. The relevant planning history is noted in the table below:

Application Number	Proposal	Decision
02/00777/FUL	Erection of an agricultural building to be used for the storage of agricultural machinery only in connection with the adjoining land and caravan site	Permitted
97/01279/CU	Continuation of use of former agricultural contractors premises to motor repair garage	Permitted
94/00552/ELDC	Lawful development certificate for use of site for 20 non-residential touring caravans	Permitted

93/00932/CU	Change of use from siting of 10 caravans to siting of 20 caravans.	Permitted
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#### 4.0 Consultation Responses

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

Consultee	Response
County Highways	<p><b>No objections</b> subject to the following requirements:</p> <ul style="list-style-type: none"> <li>▪ Pedestrian/cycle access to be provided onto Stoney Lane</li> <li>▪ Provision of a car park for residents of Main Street</li> <li>▪ Access at the end of gardens of Main Street to provide potential rear parking – details needed at reserved matters stage</li> <li>▪ Northbound and southbound bus stops to be upgraded to Quality Bus Stop standards (s278 works)</li> <li>▪ Developer pursues the introduction of a TRO on Main Road to remove on-street parking.</li> </ul> <p>The following <b>conditions</b> are required:</p> <ul style="list-style-type: none"> <li>▪ Access construction details</li> <li>▪ Wheel cleaning</li> </ul>
Highway Agency	<p><b>No objection</b> subject to the following conditions:</p> <ul style="list-style-type: none"> <li>▪ A car park to accommodate displaced vehicles from the Main Road (A6) shall be provided – precise details to be agreed with the local planning authority.</li> <li>▪ A cycle link to be provided onto Stoney Lane</li> </ul>
Environmental Health Service	<p><b>No objections</b> subject to the following conditions:</p> <ul style="list-style-type: none"> <li>▪ Development to be carried out in accordance with the Noise report – sound attenuation measures to be implemented</li> <li>▪ Hours of construction</li> <li>▪ Scheme for dust control</li> <li>▪ Construction noise (no pile driving)</li> </ul>
Air Quality Officer	Whilst the Officer has stated that he has concerns over the submitted assessment, he concludes that an objection on air quality grounds would be difficult to sustain given the development is set well back from the road. However, traffic from the development will impact on air quality and as such a scheme of mitigation is required.
Contaminated Land Officer	<b>No objections</b> subject to standard contaminated land conditions.
Planning and Housing Policy Team	<p><i>Housing Strategy Officer</i></p> <p><b>No objections</b> on the grounds of housing needs. The development should provide 30% affordable housing with a tenure split of 50% Social rented and 50% Intermediate housing. Early engagement with Registered Providers is encouraged.</p> <p><i>Policy Team</i></p> <p>The policy team have been made aware of the application site through the Local Plan process, site reference ES_24. Due to concerns over adequate and safe access the site was not pursued and subsequently not included in the emerging draft Land Allocations document. There were also concerns raised at the time, that the increase in traffic would add to existing congestion in the village and impact on the adjacent AQMA (Air Quality Management Area).</p> <p>The Policy Team have highlighted the relevant policies in the Development Plan to be assessed. With regard to policy SC3 of the Core Strategy, the policy team highlight that whilst the site would deliver in excess of 10% of the annual housing requirement of the district this would be balanced by the delivery of housing within one of the key villages of the district. They also indicate that the extent to which the scheme meets a local need for housing will also need to be considered and balanced against the loss of greenfield land.</p>

<b>Public Realm Officer</b>	According to the PPG17 study there are sufficient facilities within the area and as such there is no requirement for specific (play equipment) POS within the site. However, given the scale of the development, an area of informal open space should be incorporated into the design as it will contribute to the wellbeing of the estate; together with a request for £21,250 to improve the quality of existing facilities in the village.
<b>Environment Agency</b>	<b>No objections</b> subject to the following conditions: <ul style="list-style-type: none"> <li>▪ Implementation of the mitigation measures outlined in the submitted Flood Risk Assessment</li> <li>▪ Details of surface water drainage</li> </ul>
<b>Network Rail</b>	<b>No objections</b> in principle subject to the following comments: <ul style="list-style-type: none"> <li>▪ Slight discrepancy regarding ownership</li> <li>▪ The local planning authority are advised that, despite the conclusions of the noise assessment, the current level of railway usage may be subject to change without any prior notification; there may be emergency works to be undertaken on the railway during the evening; maintenance to the line and trains can occur at anytime, which would cause noise and vibration – residents should be aware of this.</li> <li>▪ A 2m gap is required between the boundary of the railway and any buildings or structures.</li> <li>▪ Operational advice in respect of construction, fencing, external lighting and landscaping.</li> </ul>
<b>United Utilities</b>	<b>No objection</b> subject to the following conditions: <ul style="list-style-type: none"> <li>▪ Site to be drained on a separate system – surface water to discharge to the soakaway or directly into the nearby watercourse (separate consent may be required).</li> <li>▪ Drainage strategy to be submitted and agreed prior to commencement. This should include a scheme for the provision and implementation of a surface water regulation system restricting surface water to discharge 5 l/s or Greenfield runoff which ever is greater.</li> </ul>
<b>Ellel Parish Council</b>	<b>Objection</b> on the following grounds: <u>Impact on traffic</u> – increased congestion along the A6 (Main Road in Galgate) and increase in traffic pollution. Poor sightlines to the south (when leaving the proposed site) due to proximity of Skew Bridge and road alignment. Increase in danger – conflict between vehicles and pedestrians, especially increased use of recreation field and new village hall. Increase in on-street parking along Stoney Lane and Salford Road – parking provision within the site is not sufficient. <u>Drainage</u> – increase in non-porous surfaces will lead to increase surface water – where will this go? The River Conder or Whitley Beck? These are already at critical levels. There have been severe floods in the past (2002 and 1998). This could be a potential problem to other residents of the village.
<b>Tree Protection Officer</b>	<b>No objections</b> subject to detailed arboricultural information being provided at reserved matters stage to ensure boundary trees and important hedgerows can adequately be retained and protected.
<b>County Archaeology</b>	Important hedgerows have been identified within the site and should not be removed.
<b>County Planning Obligations Team</b>	The County Council have requested a contribution of £69,814 to provide education places (6 primary school places) within a reasonable distance of the development based on their 'Planning Obligations in Lancashire' Policy Paper.
<b>Lancashire Fire and Rescue</b>	<b>No objections</b> provided the development is compliant with buildings regulations.

## **5.0 Neighbour Representations**

5.1 The application has been appropriately publicised in the local press, two site notices posted close to the site and individual letters sent to nearby residential properties. We have also recently re-

consulted neighbours for a further 14 days (from 5 February 2013) on amended plans (specifically amendments to the red edge, slight changes to the indicative layout and an increase to the size of the proposed car park). The consultation period is on going but will have expired before the Committee meeting. Any additional representations made in respect of the amended plans will be reported verbally.

At the time of compiling this report, 21 letters of objection have been received. The majority of these representations are from residents in the immediate vicinity of the application site. The reasons for opposition are summarised as follows:

### Highway/traffic issues

- Increase in traffic and congestion
- Increase in traffic noise and air pollution
- Unsuitable access with poor sightlines
- Increase in potential road safety accidents – pedestrian/vehicle and cycle conflict
- There are 19 houses between the traffic lights in the centre of Galgate and Skew Bridge, residents of these homes, visitors and students are always searching for kerb side space to park. Removing the ability to park on the roadside is not adequately compensated for within the proposed development (car park for 14 spaces)
- Loss of road side parking will affect local businesses
- Maintenance and ownership of the “public” car park (which in some documents suggests spaces will be allocated to residents). Would residents then need to pay for permits?
- The Transport Assessment has reported figures for turning into the access based on 52 houses but has not included movements associated with the car park
- Traffic monitoring has been undertaken in June – however if the monitoring was undertaken between the 1 – 10<sup>th</sup> June local schools were closed and as such traffic figures at this time would not be a true reflection for the majority of the year
- Disruption during construction periods (traffic/noise/dust/contamination)
- If residents park in the allocated car park – where would visitors park? This could lead to on-street parking elsewhere in the village.
- Need to relocate traffic lights further up Stoney Lane to stop people skipping lights and getting on to Chapel Street

### Amenity issues

- The extent of development is out-of-proportion with the character of the area
- Loss of greenfield/greenbelt land to development
- Loss of safety and privacy for local residents
- Green strip behind the estate likely to be misused, increase risk in crime and nuisance
- Light and noise pollution from housing estate, including traffic
- Loss of a quiet, peaceful, rural outlook/views
- Insufficient local amenities to support a further 50 dwellings plus a strain on public transport
- Overlooking into neighbouring properties - the proposal is too close to properties on Stoney Lane. These properties have no rear garden to provide a buffer.

### Other issues

- Impact on property values and desirability to live adjacent to the proposed site
- Drainage capacity concerns and increase in flood risk
- Council tax could go up for local residents
- One resident on Main Road has asked various questions about creating parking on their own land either to the front or rear (not the subject of the application).
- No community benefit
- Residents understood that the site was Greenbelt land and therefore no development would occur here
- Potential damage to archaeological interest on the site

## **6.0**

### **Principal Development Plan Policies**

#### **6.1**

The National Planning Policy Framework indicates that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 7 states that there are three dimensions to sustainable development: economic, social and environmental; and that these roles are mutually dependent and should be sought simultaneously through the planning system.

At the heart of the NPPF is a **presumption in favour of sustainable development**. The following paragraphs of the NPPF are relevant to the determination of this proposal:

**Paragraph 17 (Core Principles)** sets out 12 core land-use planning principles which should underpin both plan-making and decision taking. The principles which are relevant to this application state that planning should: be genuinely plan-led; be a creative exercise in finding ways to enhance and improve places; be supportive of sustainable economic development, identify and meet local needs (in particular housing needs and affordability); seek high quality design and good standards of amenity; take account of different roles and character of different areas; encourage the use of previously developed land and make the fullest possible use of public transport, walking and cycling.

**Paragraph 32 (Sustainable Transport)** relates to development and highway implications. Amongst a number of objectives it requires development and subsequent decision-taking to take into account whether there is safe and suitable access for all people; and that improvements to the transport network can be undertaken that cost effectively limit the significant impacts of the development. It specifically goes on to state that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe.

**Paragraph 35 (Sustainable Transport)** states that development should be located and designed where practical to (amongst a number of measures) give priority to pedestrian and cycle movements, and have high access to public transport facilities; and create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians.

**Paragraphs 47 – 55 (Housing)** relates to the delivery of a wide choice of high quality homes, indicating that the presumption in favour of sustainable development specifically applies to housing development applications. It sets out how local authorities should boost, manage and deliver housing which meets identified local needs, including affordable housing over the plan period.

**Paragraph 56 (Design)** states that the Government attaches great importance to the design of the built environment and stresses that good design is a key aspect of sustainable development and is indivisible from good planning. To emphasise the importance of this statement **paragraph 64** (under the design section) clearly states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

**Paragraph 61 (Design)** goes on to state that although visual appearance and the architecture of individual building are very important factors, securing high quality design and inclusive design goes beyond aesthetic considerations. Planning should address the connections between people and places and the integration of new development into the natural, built and historic environment.

**Paragraph 69 (Communities)** indicates that the planning system plays a vital role in facilitating social interaction and creating healthy, inclusive communities. In relation to housing development, planning policies and decisions should aim to achieve places which promote safe and accessible environments where crime and disorder and the fear of crime do not undermine quality of life or community cohesion. Development proposals should contain clear and legible pedestrian routes and high quality public space in order to encourage active and continual use of public areas. In order to promote healthy communities the Framework also states that Local Planning Authorities should take a proactive, positive and collaborative approach to meet education requirements (school places) to meet the needs of existing and new communities (para 71). **Paragraph 73 and 74** relates to the value and provision of open space and recreational facilities. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.

**Paragraph 100 - 104 (Flooding)** directs development away from areas at highest risk of flooding and requires local authorities, both in plan-making and determining planning application, to steer new development to areas with the lowest probability of flooding by applying the Sequential Test. For development proposed in areas at risk of flooding, a site specific flood risk assessment would be required to demonstrate that the most vulnerable development is located in areas of lowest flood risk and development is appropriately flood resilient and resistant.

**Paragraph 109** requires the planning system to contribute to and enhance the natural and local

environment. In particular, valued landscapes should be protected and enhanced and the impacts on biodiversity minimised. **Paragraph 118** sets out a number of principles which should aim to preserve and enhance biodiversity. The guidance set out in paragraph 118 indicates that where development causes significant harm, with no adequate mitigation or compensation proposed and accepted as commensurate to the harm, that the development should be refused.

6.2

## Lancaster District Core Strategy

Policy **SC1** (Sustainable Development) seeks to ensure that new development proposals are as sustainable as possible, minimise greenhouse gas emissions and are adaptable to the likely effects of Climate Change and sets out a range of criteria against which proposals should be assessed. Development should be located in areas where it is convenient to walk, cycle or travel by public transport between homes, workplaces, shops and other facilities, uses energy efficient design and construction practices, incorporates renewable energy technologies and is compatible with the character of the surrounding landscape.

Policy **SC3** (Rural Communities) seeks to build healthy sustainable communities by empowering rural communities to develop local vision and identity, identify and need local needs and manage change in the rural economy and landscape. In particular, this policy provides an allowance of 10% of new homes to be focussed in 8 of the identified rural settlements, Galgate being one of them.

Policy **SC4** (Meeting the District's Housing Requirements) seeks to manage and control the release of housing sites within the District in order to deliver and meet local housing needs. The Council will aim to maximise the opportunities offered by the development of new dwellings to redress imbalances in the local housing market, achieve housing that genuinely addresses identified local housing need and secures units of affordable housing in perpetuity.

Policy **SC5** (Achieving Quality in Design) requires new development to be of a quality which reflects and enhances the positive characters of its surroundings, including the quality of the landscape, results in an improved appearance where conditions are unsatisfactory and complements and enhances public realm. The Council recognises the importance of environmental quality, both townscapes and natural landscapes, and seeks to work with developers to maintain and improve the quality of new development.

Policy **SC6** (Crime and Community Safety) seeks to use spatial planning to enhance community safety principally through good design (incorporating Secure by Design principles), greater use of pedestrian and cycle networks and open spaces.

Policy **SC7** (Development and the Risk of Flooding) seeks to build sustainable communities by ensuring that new development does not expose homes, workplaces and public areas to unacceptable levels of flood risk.

Policy **SC8** (Recreation and Open Space) seeks to retain and improve existing recreation facilities and open space to enable all existing and future residents have suitable access to sports facilities, green spaces and greenspace networks. This policy requires new residential development to make appropriate provision for formal and informal sports provision in line with the needs identified in the Open Space and Recreation Study.

Policy **E1** (Environmental Capital) seeks to safeguard and enhance the District's Environmental Capital. In particular, this policy seeks to protect, conserve and enhance landscapes, direct development to locations where previously developed land can be recycled and resisting development which would have a detrimental impact on environmental quality and public amenity. In particular the policy seeks to resist development in places where environmental risks including those risks from flooding cannot be properly managed.

Policy **ER7** (Renewable Energy) seeks to maximise the proportion of energy generated in the District from renewable sources where compatible with other sustainability objectives.

Policy **E2** (Transportation Measures) seeks to minimise the need to travel by car principally by focusing development in town centres and other locations which offer a choice of modes of transport; improving walking and cycling networks; and ensuring new development integrates with existing cycle links and/or provides opportunities to remove barriers and create new links.

## 6.3

### Saved Policies of the Lancaster District Local Plan

Partially saved Policy **H7** (Housing in villages) identifies Galgate as an existing rural settlement within which small-scale housing development will be permitted provided it is appropriate in terms of design and density and does not adversely affect the character of the area or residential amenity. This policy is partly superseded by the policy SC3 contained in the Core Strategy.

Policy **H12** (Layout, Design and Use of Materials) sets out standards for new housing stating that proposals will only be permitted which exhibit a high standard of design, layout and landscaping and which use materials and features that are appropriate to and retain local distinctiveness.

Policy **H19** (Development on Small Sites) states that new residential development will be permitted which does not result in a loss of greenspace; would not have an adverse effect on the amenities of nearby residents; provides a high standard of amenity; makes adequate provision for the disposal of sewage and waste water and makes satisfactory arrangements for access, servings, cycle and car parking.

Policy **T26** and **T27** (Footpaths and Cycleways) - Requirements to include cycle and pedestrian links for new housing and commercial schemes particularly where proposed development sites are close to the strategic cycle network.

Policy **E4** (The Countryside Area) relates to new development within the countryside area stating that development will only be permitted where it is in scale and in keeping with the character of the landscape and is appropriate in terms of scale, siting, design and materials. It also seeks to ensure that development proposals will not have an adverse impact on nature conservation and to make satisfactory arrangements for parking and access.

Policy **E13** (Trees and Woodland) states that development which would result in a significant adverse effect on, or involve the loss of significant trees or significant areas of woodland will not be permitted.

Policy **R11** (Open space in new housing schemes) requires new housing schemes to provide open space and play areas in accordance with the standards set out in Appendix 1 of the Saved Local Plan.

Policy **R21** (Access for People with Disabilities) - requires disabled access provision.

Supplementary Planning Guidance Note 12 'Residential Design Code'. This document sets out general guidance on design, layout and amenity issues.

Meeting Housing Needs Supplementary Planning Document (SPD) (Adopted 7<sup>th</sup> February 2013) sets out the Council's approach to delivering sustainable communities by appropriately addressing housing need and delivery, in particular the delivery of affordable housing in the district. This SPD supersedes SPG 10 and the Affordable Housing Practice Update.

## 6.4

### Emerging Local Plan Policy

Paragraph 216 of the NPPF states that from the day of publication decision-takers may also give weight to relevant policies in emerging plans according to the stage of preparation; the extent to which there are unresolved objections to relevant policies, and; the degree of consistency with the NPPF. The emerging Local Plan is in the early stages of preparation and as such the extent of weight given to emerging policies in the determination of the application is limited. The draft Local Plan is however a material consideration. Many of the policies contained in this emerging policy document are similar to those policies contained in the Saved Local Plan and the Core Strategy. Subsequently, only the key emerging policies have been noted in the report:

#### *Draft Local Plan Part A Development Management DPD:*

Policy CSC4.2 – Affordable Housing Requirements. The general criterion to new housing development in emerging policy takes a similar approach to the saved policies of the Development Plan and the guidance provided in the recently adopted Supplementary Planning Document.

Policy CSC4.6 – Addressing Rural Housing Needs. This indicates that the Council will permit new residential development within Galgate and other key settlements in the district. This element of the

The emerging land allocations document will also address a partial review of the Core Strategy, in particular policy SC2 in relation to Urban Concentration. Whilst this strategy could of course deliver a very significant degree of urban concentration it does not necessarily reflect what the Council understand about the actual demand, and particular the need for housing in rural areas.

## **7.0 Comment and Analysis**

7.1 The main planning issues to be assessed in the determination of this outline application are as follows:

- Whether the principle of residential development on the site constitutes sustainable development and contributes to meeting local housing needs;
- Whether the development is acceptable in terms of highway safety and convenience;
- Whether the application demonstrates that the site is capable of accommodating up to 50 dwellings without creating an unacceptable impact on neighbouring residential amenity and visual amenity.

### **7.2 Principle of Development**

At the heart of the NPPF is a presumption in favour of sustainable development. This is echoed in the Council's Core Strategy and the emerging Local Plan. The Core Strategy sets out the spatial vision for the District. One of the key objectives is for the Council to build and maintain sustainable communities, primarily through a strategy of Urban Concentration (policy SC2) and supporting key Rural Communities (policy SC3).

7.3 Policy SC3 of the Core Strategy seeks to support rural communities by allowing 10% of new homes to be accommodated in the 8 key villages of the District which have been identified as having 5 key services. Galgate is one of the identified villages where new housing and employment development can be supported in principle. However, the site is of course partly greenfield, and Core Strategy Policy SC1 sets out a series of sustainability and locational indicators to assess whether proposals are as sustainable as possible. One of the key indicators set out in this policy relates to sites being *previously developed*. Developing on previously developed land is and remains a key priority for the Council. This is reflected in the emerging Land Allocations DPD where all of the Districts key brownfield sites have been allocated for future development (residential or otherwise). That said the Land Allocations SPD has also included some significant areas of greenfield land for future development. Whilst we are not debating the Land Allocations document in context of this particular application, these allocations have been selected based on a sound evidence base informing the Council that in order to meet the District's housing needs, additional land will need to be allocated above and beyond allocating the District's key brownfield sites. Whilst the NPPF seeks to encourage the re-use of previously developed land and buildings (Paragraph 17) it does not preclude greenfield development.

7.4 In context of policy SC1 of the Core Strategy, the application site could not wholly be described as 'previously developed' as it is a combination of 'greenfield' and 'brownfield' land. Despite objections to the contrary, policy SC1 and the NPPF does not specifically preclude greenfield development, but sets out a series of indicators to ensure development is sustainable as possible. In particular, planning authorities should be satisfied when assessing development proposals that new development addresses the economic, social and environmental roles which make up sustainable development (Paragraph 7, NPPF). These other indicators include matters such as flood risk, landscape impact and other environmental considerations which will be discussed later in the report.

7.5 In terms of geographical location, the application site is well integrated within the existing settlement and will essentially form an extension to the main built up part of the village. Developing up to the railway embankment to the south seems a natural termination to the village and would not result in an uncomfortable pattern of development which would prejudice the rural character of the settlement or the countryside designation.

7.6 As a consequence of the sites appropriate edge of settlement location, access to public transport and local service and facilities is considered acceptable. The table below highlights how accessible

the site is to local services:

Service/Facilities	Description	Distance from application site
Primary School	Ellel St John C of E Primary School, Chapel Street	Circa 210m
GP Surgery	Galgate Health Centre, Highland Brow	Circa 370m
Post Office	PO, Main Road	Circa 120m
Convenience Shop	Spar convenience store, Main Road	Circa 120m
Public Houses	The Plough, Main Road and The New Inn, Main Road	Less than 200m
Bus Stops	Main Road, Galgate - 4 stops – The Plough (both directions), outside Spar (southbound), Main Road by Seat garage (northbound)	Less than 200m to all nearby stops
Cycle Link	Route 6 Strategic Cycle Network – Stoney Lane	Immediately adjacent to site

Whilst it is recognised that the proposal constitutes part greenfield development and that there have been objections on this basis, the site is sustainably located on the edge of the established settlement of Galgate.

7.7 The loss of greenfield land on the edge of the settlement must be balanced against the economic, social and environmental considerations of the development. Essential to this is the assessment of housing need. The delivery of housing is an important element of the National Planning Policy Framework. Securing up to 50 dwellings with 30% affordable residential units would clearly contribute to meeting the Council's housing needs, which under current local policy SC4 of the Core Strategy is set at 400 dwelling completions per annum. This is based upon a requirement for 7,200 new dwellings over the period 2003/04 to 2020/21. Between 2003/4 and 2011/21 only 2,318 residential units have been completed clearly indicating that housing needs are not being met in the District. In accordance with paragraph 159 of the NPPF, local planning authorities should have a clear understanding of housing needs in their area. The Housing Needs Survey (HNS) (February 2011) undertaken by David Couttie Associates (on behalf of the Council) provides an evidence base to support policy SC4 and the requirement for delivering 400 housing completions per annum. In fact, the survey highlights a much greater need of 900 dwellings annually over the next three years. However, given current market conditions, the Council has adopted a viability informed approach to continue with the targets set out in Core Strategy SC4. This is set out in the recently adopted Supplementary Planning Document (SPD) on Meeting Housing Needs.

7.8 Planning policy seeks to support housing development in rural areas where it meets a local housing need. The 2011 Housing Needs Survey provides important evidence on the market housing requirements that exist in the sub areas of the District. For Galgate, the survey indicates a need for semi-detached 2-bedroom properties with some need for 3 and 4 bedroom properties. The application indicates that the scheme would deliver predominately two-storey 2, 3 and 4 bedroom properties, although the precise details of the layout and design of the development and house types are reserved matters. With regards to affordable housing provision, the proposal offers 30% affordable housing in accordance with the recently adopted SPD on Meeting Housing Needs. There is a requirement for 40% affordable housing on greenfield sites, however given this site is a combination of both brownfield land and greenfield, Officers have accepted a minimum of 30% affordable housing to be provided on site. The exact location of affordable housing, type and tenure is unknown at this stage due to layout and design being reserved matters. It is envisaged that at the reserved matters stage, the exact type, location and tenure would have to be compliant with current policy and guidance. For example the tenure should be 50% social rented and 50% intermediate and the location of affordable units should be appropriately integrated into the design of the whole development in order to support a mixed community. Details of the affordable housing requirement will be appropriately controlled within the s106 agreement which the applicant has agreed to enter into following Members' resolution of the development proposal.

7.9 Subsequently, despite concerns being aired by local residents regarding the loss of greenfield land, the proposed development would make a positive contribution towards housing provision and would constitute sustainable development, in compliance with local and national planning policy. Delivering new housing in sustainable locations must carry significant weight in the determination of this application and on this basis the principle of residential development on this site, in land use planning terms, is strongly supported.

7.10 Having concluded that the principle of residential development in the proposed location is acceptable, it is essential to ensure that the development can be delivered without causing undue harm to the local environment. Other considerations key to the delivery of residential development on this site includes highway implications, impacts on the landscape and local amenity and flood risk. These also form part of the wider assessment of sustainable development (other indicators in SC1 of the Core Strategy).

7.11 **Highway Considerations**  
The application site is proposed to be accessed of Main Road (the A6) with a pedestrian and cycle link onto Stoney Lane. Access arrangements are being applied for in detail as part of this application. To support the application a detailed Transport Statement (TS) has been submitted with the application. This addresses access to public transport, anticipated traffic levels, operational capacity of the local highway network, access and visibility and parking demands. Objections have been received regarding the validity of the TS, in particular whether the traffic monitoring data was undertaken at a time that would truly reflect normal traffic conditions. County Highways have acknowledged this and have compared the applicant's figures with their own traffic count information, concluding that the figures used in the TS are acceptable for use as baseline traffic data. Access to this site was a key concern to the Council when preparing the evidence base for the emerging Land Allocations document and as such was not included within the Strategic Housing Land Availability Assessment (SHLAA). The applicant was aware of this and has subsequently had lengthy pre-application discussions with the County Highway Engineers to help inform their assessment and ultimately decide on the location and arrangement of the access. The A6 Main Road route through Galgate in the immediate vicinity of the application site is of a single carriageway (in both directions) layout between 6.6m and 7.1m wide with a 2.5m wide footway to the development side. This route enjoys street lighting and operates under a 30mph speed limit. Visibility, together with safe access and egress from the site has always been a concern, mainly due to the nature of the road to the south of the site, in particular the s-bend layout underneath Skew Bridge. South of the application site, before Skew bridge, there is a footway on the development side only and not on the opposite side. A traffic signalised crossing has been provided opposite The Plough which is circa 110m to the south of the proposed vehicular access. The road alignment south of the bridge is relatively straight and provides the main route to junction 33 of the M6 motorway and Garstang. North of the proposed site frontage, the A6 passes through the main built up part of the village. The road alignment here is relatively straight with footways present on both sides of the highway up to the point the A6 meets the traffic signalised crossroads (circa 140m from the site entrance) with Salford Road and Stoney Lane. Just off this junction on Stoney Lane there is also one-way vehicular access onto Chapel Lane and two-way traffic for cyclists. On-footway parking is evident on both sides of the A6 south of the cross-road junction and on the east side of the A6 north of the cross-road junction. At the time of the Officer's site visit 8 vehicles were parked on the footway on the development side of the carriageway.

7.12 During pre-application discussion there were concerns about the access arrangement and the adequacy of sightlines and forward visibility. These concerns are echoed by the Parish Council and local residents. As part of the Transport Assessment, the developer has carried out an assessment to justify the suitability for the proposed access. This demonstrates that 2.4m x 70m lateral visibility sightlines can be achieved to the right (leading direction) and 2.4m by 59m to the left (non-leading direction), although 2.4m by 70m can be achieved to the centre of the carriageway which is considered appropriate due to double white lines on the carriageway preventing overtaking. It should also be noted that 70m forward visibility for vehicles approaching a northbound stationary vehicle turning right into the site can be achieved. County Highways are satisfied with the proposed sightlines and consider them consistent both the guidance contained within the Manual for Streets and the Design Manual for Roads and Bridges. Whilst the visibility slays can be achieved, there remain concerns about the protection of visibility splays and the implications of parked vehicles on the footways. On this basis, in order for the access to be acceptable in highway terms and therefore the site capable of development, there is a requirement to prevent the parking of vehicles

on the footway and carriageway through a Traffic Regulation Order (TRO). There have been concerns aired regarding the loss of roadside parking and the affect this would have on local businesses. At present, there are already double yellow lines on the carriageway preventing parking in front of the shops on the west side of the road and some restrictions on the east side. These businesses appear to be operating relatively successfully without having the benefit of roadside or off-road parking. This is partly down to the nature of the businesses – they are small businesses serving the local community and as such it is assumed that many visitors will be able to walk to these shops/services. In addition, the TRO required as part of this proposal is not envisaged to extend in front of the Spar shop where parking is available for people visiting the local shops. On balance, it is contended that the development would not significantly adversely affect local businesses. In fact, there is a strong argument that the development of up to 50 households in the village would help support these businesses in the long term.

7.13 The benefits of the TRO would also help alleviate any slowing down of traffic and congestion in the centre of the village caused by parked vehicles on the footway and carriageways on either side of the A6 in the vicinity of the application site, subsequently helping improve the Air Quality Management Area. Officers however can not categorically say that the TRO would be successful, as it is subject to separate highway legislation and a consultation process. Restricting vehicles parking on the footway/carriageway on the A6 within the vicinity of the site frontage will result in the displacement of parked vehicles elsewhere in the village, which is undesirable and will ultimately cause further congestion and disruption to the highway network. It will also be a significant inconvenience for the residents of Main Road whom would no longer be able to park in front of their properties on Main Road, although it should be noted, that technically, parked vehicles on the footway or carriageway that cause an obstruction can be pursued by the Police. Subsequently, in order to prevent displacement of parked vehicles within the village, which already suffers from congestion and excessive on-street parking in areas not really suitable for such parking, for example Stoney Lane, the proposed development includes an on-site community car park adjacent to the access.

7.14 This car park would be for the occupants of properties on Main Road. The inclusion of the car park as part of the development should, hopefully, minimise the risk of objections to the TRO. The use of street furniture within the footway, such as bollards, should also be implemented. This would only prevent parking of vehicles on the footway – hence the need for the TRO. It is contended that the delivery of the access is reliant on the provision of the car park in order to ensure visibility sightlines can be protected in the long term. Whilst the layout of the development, which includes the car park as shown in the indicative drawing, is not subject to this application it is envisaged that any forthcoming reserved matters application would propose a car park for a minimum of 19 spaces and would be located close to the proposed junction to provide the most convenient position for existing local residents using the car park. Appropriately worded conditions are recommended to ensure that the car park is made available at the time the access is put in place and first used (i.e. by construction traffic accessing the site for the purposes of site preparation and building works) and that it is available for its intended purpose for the lifetime of the development. The applicant has agreed to the setting up of a Management Company to manage and maintain the car park with nil cost to the residents of Main Road affected. A commuted sum offered by the applicant for the ongoing maintenance and management of the car park for a period of time (yet to be agreed with the developer) will be included in the s106 legal agreement. The figure agreed for this commuted sum shall be verbally presented, as Officers are still in negotiations on this matter. The provision of the community car park and the TRO to protect visibility splays are fundamental components to the delivery of the access. Officers are satisfied that appropriately worded conditions and provisions within the legal agreement would ensure the access arrangements are acceptable and would allow the principle of residential development on the site to be supported.

7.15 The proposed development which proposes up to 50 dwellings, comprising a mix of 2, 3 and 4 bedroom properties, will inevitably result in an increase in traffic. Predicted traffic generation has been calculated with maximum 2-way traffic not anticipated to exceed 35 vehicles per hour. It is contended that this is unlikely to materially affect local network operating conditions. Traffic flow surveys have been carried out to ascertain whether or not the A6 has any spare capacity for this additional traffic. In analysing junction and link capacity the developer has followed industry standards and has concluded that there is some spare traffic capacity along the A6 and at the signalised junction. County Highways and the Highway Agency have not disputed these conclusions or raised any objections to the development on traffic capacity grounds. County Highways have commented that traffic flow through Galgate is hampered by roadside parking,

positioning of bus stops and pedestrian traffic. Clearly the introduction of the TRO would allow the traffic to flow more efficiently. To further improve traffic flow MOVA could be introduced at the signalised junction. However a contribution towards this has not been sought as Officers understand that the County have funds in place for MOVA and that this has been identified in their Commissioning Plan to occur in the near future. This will occur with or without the development and all being well in the next two years.

7.16 In addition to highway capacity and access arrangements, it is necessary to assess whether the site can adequately accommodate up to 50 dwellings and the associated parking. The developer proposes a minimum of 170% parking which would be predominately off-street/in-curtilage parking (including garages). This is a matter to be controlled through any subsequent reserved matters application, however from the indicative layout submitted it is envisaged that there will be sufficient parking on site. Cycle storage provision for each unit would also have to be submitted with reserved matters. In addition to the proposed cycle link, the applicant seeks to encourage the use of public transport by paying for the upgrade of two of the near bus stops to Quality Bus Stops which are DDA compliant. Overall, the developer has adequately demonstrated that the application site can be developed for residential purposes (up to 50 dwellings) without causing any adverse impact on the local highway network. The site is sustainably located with the provision of a direct link onto the strategic cycle network and with an appropriately designed vehicular access to ensure safe access and egress to and from the site. This is only suitable, however, with the provision of the on-site community car park and necessary off-site works to ensure visibility splays can be protected. Despite valid concerns from local residents, the development is considered acceptable from a highway safety perspective with County Highways and the Highway Agency raising no objections to the development.

## 7.17 **Visual and Residential Amenity Considerations**

Layout, design and landscaping are all reserved matters and not subject to the assessment of this outline consent. However, in order for the developer to demonstrate to a scheme for up-to 50 dwellings can be adequately accommodated on site, an indicative layout plan has been submitted with the application. This has been revised to demonstrate a large car park can be accommodated for Main Road residents and that a more direct cycle route can be provided.

7.18 Whilst indicative, the layout of the site will be heavily influenced by the site's topography. The flattest part of the site is the rectangular parcel of land immediately behind existing properties on Main Road and Stoney Lane. The land levels rise towards the south eastern corner of the site – hence why the application site does not include all of the applicant's landholding. The eastern boundary occupies some significant trees and hedgerows which are visually important and contribute to the rural and open character of the countryside designation. These boundary trees and hedgerows are unlikely to be affected by development, although any subsequent reserved matters application would have to adequately address tree protection, tree and hedge retention and landscaping. As a consequence of the site levels, the application has been submitted with section details to demonstrate properties shown on the eastern part of the site can be developed without having inaccessible and unusable garden space as a consequence of rising land levels. With the exception of some plots, the indicative plan also suggests all the dwellings on the site would have acceptable sized gardens with sufficient off-street parking. The distances between dwellings on the indicative plan also appear to suggest the Council's separation distances could be adhered to. On this basis, there is no reason to believe at this stage that up to 50 dwellings could not be accommodated on the site. However, the exact number can only be ascertained at the reserved matters stage when layout, design and landscaping are thoroughly assessed.

7.19 In terms of impact on neighbouring residential amenity, the outline application seeks consent for scale. The submitted design and access statement indicate any future residential development on the site would be two-storey in height. This is consistent with neighbouring buildings and is regarded acceptable in planning terms. The submitted indicative layout plan also shows the distances between the existing dwellings and the proposed dwellings being in excess of the Council's minimum separation distances. The properties facing Stoney Lane, backing onto the application site are positioned at a lower level with very little rear amenity space. It would be necessary in any subsequent application to ensure that the separation distances here exceed 21m (as shown) and that there is a buffer between the rear garden boundary treatments of the proposed dwellings and the rear of these existing properties, otherwise the boundary treatment could appear overbearing. The indicative plan suggests a landscaping strip which may be an appropriate solution.

7.20 In terms of visual impact, the site at present is relatively well hidden behind existing buildings, landscaping and the railway embankment. However, it is clearly visible from the railway line and the rear of a number of properties backing onto the site. The Countryside designation seeps across the whole of Galgate and as such any green space within the settlement is considered to positively contribute to its rural feel and character. There are some significant trees and hedgerows situated on the field boundaries which are important in visual amenity terms but are not protected. There is also a single mature sycamore established close to the proposed access point from Stoney Lane that is subject to TPO no.276. The applicant has identified two mature trees in relation to the proposed development. A single mature oak tree established along a hedgerow to the southern boundary of the site and a single mature ash tree established to the west. There are a large number of established hedgerows, predominantly hawthorn, that are established along the boundaries to the east, south and west. A number of these hedgerows have been identified as Important Hedgerows by County Archaeology. The amended indicative plan shows the retention and possible relocation of some of these Important Hedgerows. Given the layout of the scheme is indicative, it is not necessary at this stage to insist on plans showing hedgerow retention, tree protection and landscaping. These are all matters to be dealt with at reserved matters stage. High quality design with appropriate landscaping and open space will ensure that the development can respect and respond to the character of the landscape and local distinctiveness. This is stipulated in the Core Strategy policy SC1. The indicative plan is relatively successful in achieving this, although there remain some urban design concerns regarding the suggested layout, such as the orientation of properties on the approach into the site, the positioning of parking areas and boundary treatments. In terms of scale, the development is acceptable and would positively reflect the character and appearance of surrounding development. The scheme takes a very similar approach to the Crofters Fold development. Materials would be reconstituted or natural stone under slate. These materials reflect the local palette of materials and do not raise any concerns.

7.21 It is contended therefore that despite the loss of some greenfield land, the development of the site would not be significantly detrimental to the local landscape character or the visual amenity of the area and that through careful design the development of the site could be a positive contribution to the settlement. As eluded to in the report, there are some concerns about the indicative layout which would need revising should a reserved matters application be forthcoming.

7.22 **Other Considerations**  
Open Space  
Given the scale of the development and the number of dwellings proposed there is a requirement for public open space on site, including the provision of play equipment. Whilst this is desirable, the PPG17 study indicates that there is sufficient play provision within the settlement and that it is not necessary to provide play equipment on site. Officers have been in negotiations with the developer on this matter. It has been agreed that as part of this application, a commuted sum to the sum of £21,250 shall be paid to the Council to upgrade the play equipment on Beech Avenue. It is recognised that this play area is not the closest to the application site. However the play areas on Crofters Fold have not been identified for upgrade. Given the Beech Avenue play area remains within reasonable walking distance in the village the applicant has agreed to this request. In addition to the off-site contribution, it is also accepted that there is a requirement for on-site informal public open space. This will not only contribute to high quality design as advocated by the NPPF and policy SC5 of the Core Strategy, but will also add to the wellbeing and character of the development. The indicative layout plan shows an area of public open space on site which clearly shows that such provision can be achieved without significantly compromising the number of units proposed in principle. In addition to the open space, due to the requirements to provide a community car park and potentially a landscape buffer between the development and properties on Stoney Lane, there is a significant amount of landscaping shown on the indicative plan. The developer has indicated that a management company would be set up to manage and maintain the areas of land not taken up by individual dwellings. This is a matter to be included in the legal agreement.

7.23 Flood Risk  
Given the size of the site the developer has carried out a Flood Risk Assessment. The site is located in Floodzone 1 where residential development is considered acceptable. The Environment Agency has raised no objections provided the development is carried out in accordance with the FRA and that a condition is imposed relating to a drainage strategy to ensure that surface water run off generated up to and including the 1 in 100 year critical storm will not exceed the run-off from the

undeveloped site for the same event. A drainage strategy has been submitted with the FRA. Whilst there is no precise drainage solution in place at this stage, as the layout of the development remains a reserved matter this document clearly indicates that there will be a technical solution to ensure surface water is adequately drained in site. It is envisaged this would involve a SUD system. Officers are satisfied that the site can be developed as proposed and adequately drained without posing a potential flooding risk on site or elsewhere. A planning condition is recommended to ensure this matter is adequately addressed. United Utilities and the Environment Agency have not objected to the development. Despite objections and concerns to the contrary, there are no reasons at this stage to resist the development on flood risk grounds.

7.24

### Contaminated Land/Air Quality/Noise

The application has been accompanied with a preliminary risk assessment in relation to contaminated land. This report has been considered and judged acceptable. The Council's Contaminated Land Officer recommends standard contaminated land conditions.

With regards to Air Quality, the Council's Air Quality Officer has not raised a formal objection to the proposal but has aired concerns about the increase in traffic and the impact on air quality in the locality and on the existing Air Quality Management Area (AQMA). He has indicated that the impact will not be large but will cumulatively add to the burden in this location. The Air Quality Officer has suggested the impact could be mitigated. Suggested mitigation includes insisting on a higher Code for Sustainable Homes rating (such as code 4) and the provision of electrical charging points to facilitate the use of electric cars. Whilst these may be valid mitigation measures, conditioning such requirements may be viewed unreasonable and unnecessary and would ultimately fail the tests required for planning conditions. There are, however, clear direct benefits related to the proposal which may make a positive contribution towards alleviating air pollution. This relates to the requirement of a TRO which would hopefully remove parked vehicles on the carriageway and footway, resulting in potential obstructions (the parking vehicles) being removed thereby improving the flow of traffic within the AQMA. Equally, the introduction of MOVA at the signalised junction will also improve the flow of traffic through Galgate, again reducing excessive congestion and delay which adds to the air pollution within Galgate. For these reasons, Officers do not feel it is appropriate to request future mitigation on air quality grounds.

The proposed development will sit adjacent to the West Coast Mainline. As a consequence, a noise assessment has been submitted to demonstrate how the proposed properties and occupants could be protected from the noise generated by the railway. The Council's Environmental Health Officer has raised no objections provided the development is carried out in accordance with the mitigation measures proposed, which relates to the internal layout of properties (a reserved matter) and the provision of high specification glazing to any properties against the railway embankment. This matter will be reviewed again at the reserved matters stage when the layout is considered. However, as there are clear mitigation measures to deal with noise emanating from the railway, there is no reason to resist the principle of residential development on this site on the grounds of noise impact.

8.0

### Planning Obligations

8.1

Given the nature of the proposal and the complexity of the access arrangements, there is a requirement for the applicant to enter into a legal agreement with the Council. The legal agreement would need to cover affordable housing, public open space and the management and maintenance of the community car park.

#### *Affordable Housing*

The applicant is prepared to provide 30% affordable housing. The submitted Heads of Terms suggest that the applicant wishes to agree the mix, type and tenure of affordable housing at the reserved matters stage. Officers would like to ensure the legal agreement specifies the tenure at the outline stage to include 50% social rented and 50% intermediate. A verbal update on this matter will be provided.

#### *Public Open Space*

The applicant has agreed to a commuted sum, to the sum of £21,250, for upgrading and improvements to the existing play area on Beech Avenue, Galgate. This shall be paid to the Council prior to the commencement of development.

The applicant has agreed to provide an area of informal public open space on site which shall be provided, managed and maintained, together with any communal landscaping in perpetuity. The precise location to be agreed at the reserved matters stage.

### *Management of the Community Car Park*

The applicant is aware that in order to deliver a safe access into the site, there is a requirement for a community car park to be used by residents of Main Road who would no longer be able to park in front of their properties on the footway or carriageway, as a consequence of the TRO and street furniture. It is envisaged that the car park would be free of charge to the residents of Main Road. The most appropriate way for this element of the scheme to be delivered would be through the setting up of a management company. The developer is prepared to offer a commuted sum for the provision of the car park and its maintenance and management for the first ten years. The figure offered is £15,000. Officers remain in negotiations on this point, as ten years does not seem a sufficient or reasonable length of time following commencement of the development. Members will be verbally updated on this matter once Officers have agreed an appropriate figure and period of time for maintenance/management.

### *Education*

The County Council have requested a contribution of £69,814 (equivalent to 6 primary school places) on the basis that the development will yield 18 primary school places and that the local schools will only have spaces for 12 (projected places in 5 years), resulting in a shortfall of 6. Whilst this is a valid consideration, Officers are mindful that the delivery of market and affordable housing is a priority and carries significant weight in the determination of the application. In addition, Officers are also mindful of the obligations needed to ensure this development is deliverable, namely the access arrangements, off-site highway works and the commuted sum in respect of the community car park. Without the car park the access arrangements are questionable due to the risk of displacing vehicles. Officers are also mindful of the requirements in the NPPF not to over-burden developers which would threaten development viability. Subsequently, bearing in mind the Council have not signed up to the County's Planning obligations paper, the priorities in this case are to deliver much need market and affordable housing in a sustainable location with a safe access which does not comprise the highway network. On the balance of priorities arising from this application, Officers have not pursued this request.

## **9.0**

### **Conclusions**

#### **9.1**

Subject to the reaching a reasonable comprise in relation to the wording of the s106 in respect of affordable housing and the commuted sum amount and period of time that the community car park should be managed and maintained, Members are recommended that planning permission should be granted. The reasons for this is summarised as follows:-

Whilst it is recognised that the proposal represents part greenfield development, this is outweighed by the need to address local housing needs and deliver open market and affordable housing in sustainable locations. It is clear, that despite the partial greenfield nature of the site, it is well integrated with Galgate village and has very good access to local services and public transport. It is clear, that matters such as flood risk, landscape impact and residential impacts can be appropriately dealt with through careful design, layout, landscaping, together with technical solutions to ensure the development of the site will not pose a flood risk to the village. These are all matters to be dealt with at the reserved matters stage. Despite concerns on highway grounds, the proposed application has demonstrated that a safe access can be provided, although to achieve this the developer must fund a TRO and street furniture to restrict parking on Main Road (including the footway) and provide a community car park to ensure that displaced cars parked on the highway are accommodated on site. To support the sustainable nature of the proposal, the developer will provide a cycle/pedestrian link onto Stoney Lane and will also contribute to upgrading the nearby bus stops to Quality Bus Stops thereby encouraging the use of public transport. On this basis, the development fully accords with the principles of sustainable development and is considered compliant with the Development Plan and the NPPF.

### **Recommendation**

That Planning Permission **BE GRANTED** subject to a legal agreement covering affordable housing, public

open space and the setting up of a management company of third party and a commuted sum for the management and maintenance of the community car park and the following conditions:

1. Time Limit – Standard limit for outline applications
2. Indicative Drawing only
3. Scale parameter condition – 2 storey
4. Constructional details of the access (both the vehicular access point and cycle link)
5. Provision of the access agreed under condition 4 prior to commencement and only once the TRO has been successful and provision of the cycle link before occupation.
6. Scheme for off-site highway works, involving the TRO, installation of street furniture and upgrades to Quality Bus Stops, to be agreed and implemented in full – phasing to be including in this condition.
7. Protection of visibility splays
8. Construction management plan (traffic management, dust control, storage of waste, wheel washing etc)
9. Full details of the car park to be provided specifically a minimum of 19 spaces to be provided (as indicated on the illustrative plan submitted)
10. Community car park to be provided in full upon the approved access being brought into use including construction traffic
11. Car park to be retained for the lifetime of the development
12. Code Level 3
13. 10% renewable energy
14. Standard Contaminated Land Investigation
15. Importation of soil, materials and hardcore
16. Prevention of new contamination
17. Hours of Construction
18. Development to be carried out in accordance with the noise assessment and mitigation measures
19. Development to be carried out in accordance with the submitted flood risk assessment
20. Development to be carried out in accordance with the Ecological Survey and mitigation measures proposed
21. Scheme for drainage and surface water management
22. Scheme for provision and maintenance of on-site open space

## **Human Rights Act**

This recommendation has been reached after consideration of the provisions of The Human Rights Act. Unless otherwise stated in this report, the issues arising do not appear to be of such magnitude to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

## **Background Papers**

1. None

Agenda Item	Committee Date	Application Number
A9	4 March 2013	10/01319/FUL
<b>Application Site</b>		<b>Proposal</b>
G & L Car Services Wheatfield Street Lancaster Lancashire		Erection of 62 residential units comprising 51 affordable units and 11 open market units with associated access, roads and landscaping.
<b>Name of Applicant</b>		<b>Name of Agent</b>
The Regenda Group		Mr Philip Dover
<b>Decision Target Date</b>		<b>Reason For Delay</b>
31 March 2011		Awaiting a legal agreement
<b>Case Officer</b>	Mrs Jennifer Rehman	
<b>Departure</b>	No	
<b>Summary of Recommendation</b>	Refusal	

#### (i) Procedural Note

This application was reported to Planning Committee on 7 March 2011 and was positively determined by Members at that meeting subject to planning obligations and planning conditions. However, the applicant has not entered into the required legal agreement in the subsequent 2 years despite assistance from Planning, Housing and Legal Officers. The application is therefore still pending and is not being reported back to Planning Committee for determination. The report has been updated for Members' consideration, incorporating the facts surrounding the application and the changes to planning policy and guidance that has occurred in the last 2 years.

#### 1.0

#### The Site and its Surroundings

1.1 The application site relates to a 1.46 hectare linear strip of brownfield land, approximately 0.5km in length and less than 45m at its widest point, comprising former railway sidings and commercial garages located approximately 0.3km west of the city centre. The site is virtually orientated north/south with the western boundary abutting the West Coast railway line. To the north, the site sits alongside the curtilage of the Old Station House Bed and Breakfast; a large two storey stone built property bound by high stone walls. With regards to the eastern boundary, a small section of the site fronts Wheatfield Street before the highway turns through 90° to the east; thereafter the eastern boundary of the site abuts the rear alleyway to properties on Blades Street. The southern end of the site tapers towards Carr House bridge and at present is an area of overgrown shrub land which is elevated above properties to the east on Villas Court and those fronting Dallas Road.

1.2 The site was last used for car sales ceasing its operations around 2006. Since then the site has been left vacant. The northern end of the site previously accommodated a large brick built/metal clad car showroom which was accessed off Wheatfield Street with a relatively sizable forecourt to the front. To the south of this building the land was used as a large compound for storing vehicles and largely consists of hardstanding. This compound extends approximately half way down the site. Beyond this point land is scrubland. The buildings on site have now been demolished with a low brick wall built across the existing access into the former forecourt area.

1.3 Access into the site is off Wheatfield Street, literally on the 90° turn in the road, either via Meeting House Lane, which provides the principal route to residential areas east of the city, or via Dallas Road. Other than the railway station and nearby schools, surrounding land uses are predominantly residential, comprising a mix of apartments and dwellings. Buildings to the east of the site beyond the existing site access, consist of traditional rows of Victorian stone/slate build terraced houses. This is the general form of development in the immediate area characterised by stone terraces with strong building lines, subsequently resulting in quite a dense urban environment. At the southern end of Blade Street there is a one way road accessing Dallas Road; here there is an existing children's play area backing onto the Lancaster Boys Club. Further south running alongside the eastern boundary of the site there is an area of unallocated open space which backs onto Villas Court; a modern complex of residential dwellings.

1.4 The topography of the site is such that most of the site is at an elevation between 23m and 19.7m AOD, falling northwards towards Meeting House Lane, with a steep embankment along the eastern boundary. This part of the site is not developed and occupies by a number of trees. There is an important belt of trees which are subject to a Tree Preservation Order running along the eastern boundary of the site along the rear of Blades Street. The western boundary of the site has little tree or vegetation cover and as such is completely unscreened and open to views across the railway line from Westbourne Road and the residential area to the west.

1.5 The site is unallocated in the Lancaster District Local Plan proposals map, but is in close proximity to the City Conservation Area, the Castle Conservation Area and the recently adopted Cannon Hill Conservation Area. The Council have appointed consultants to review the Conservation Area boundaries. As part of this appraisal, the consultants have identified Blade Street as a group of positive buildings and therefore recommend that this street be included in the Conservation Area. Public consultation on this appraisal was undertaken in July/August last year.

## **2.0 The Proposal**

2.1 The application seeks full planning permission for the erection of 62 residential units, 51 of which will be affordable units and 11 units for outright sale, together with associated landscaping, access and internal roads. The scheme is essentially divided into three parts. The northern most section of the site contains three blocks of three-storey apartments with associated surfacing parking and landscaping. The middle section of the site comprises 25 two-storey dwellings provided in six linear terraced blocks with associated off-street parking and private garden areas. The southernmost section of the site comprises a further 14 two-storey dwellings provided in three terraced blocks together with a pair of semi-detached dwellings at the southern most part of the site. The last two properties have reduced roof heights but still provide two floors of accommodation. All of these properties have the benefit of private gardens. The remaining area of land at the southern tip of the site shall be landscaped to provide informal open space for local residents.

2.2 Access to the site shall be via the existing access off Wheatfield Street, with an emergency access proposed half way down the site directly onto Blade Street, adjacent to the Lancaster Boys Club. This secondary access is intended to provide an emergency access for vehicles only and will be principally used as a second means of access for pedestrians and cyclists. Due to the gradient of the embankment in this location, the cycle/pedestrian access down onto Blade Street shall be separate to the emergency route in order to reduce the gradient for cyclists to a more appropriate level. With regards to the internal highway layout, this has been designed around the principles laid out in 'Manual for Streets' and the County's own 'Creating Civilised Streets'. The road shall be built to adoptable standards up to the turning head and the secondary access. South of this junction and north of the main access the internal roads shall be classified as private roads. The width and surfacing treatment help distinguish between the two road types.

2.3 In terms of parking provision, 68 parking spaces are proposed within the site, equating to just over 1 space per dwelling. Secure covered cycle parking storage shall also be provided adjacent to each of the apartment blocks. For the houses, cycle parking will be available within the curtilage of each unit.

2.4 The proposal also involves some off-site highway improvements, including the provision of a secondary access and contra flow lane for cyclists in Blade Street. These will be discussed later in the report.

2.5 In order to facilitate the development a total of 19 individual trees and 12 groups of groups of trees are required to be removed. To mitigate for the loss of these trees, an extensive landscaping scheme has been proposed comprising 45 new standard trees, the creation of new hedging, shrub planting and bedding planting. Due to the topography of the site, log retaining structures are also proposed at the southern end of the site in order to lengthen some of the proposed gardens.

2.6 Given the location of the site adjacent to the railway line, the proposal also involves the provision of a 2.5m – 3m acoustic barrier along the western boundary of the site.

### **3.0 Site History**

3.1 The site has a long history of use for vehicle parking in association with the commercial garage buildings at the northern end of the site, but this is of no direct relevance to the consideration of this application.

3.2 There are two previous applications relevant to this site. The first of these (03/01491/FUL) was for the erection of 100 one and two bedroom apartments and six offices. This application was refused in May 2004 for the following reasons:

- Housing land oversupply contrary to policies in the Regional Spatial Strategy and Local Plan SPG 16 'The Phasing of New Residential Development'.
- Overbearing impact on neighbouring residential amenity (Blades Street)
- Design and appearance of the acoustic barrier (considered to represent a discordant and prominent feature in urban landscape terms)

3.3 The application was later subject to an appeal and was dismissed on the grounds of housing land oversupply only. The development was not regarded an exception to the policy of restraint in operation at the time. The second application was for 112 two bedroom apartments. This application was withdrawn during consideration of the first application. More recently, an outline application was submitted and approved (10/00100/OUT) for up to 59 houses and apartments. Committee resolved to approve this application subject to a s106 requiring affordable housing to be negotiated at the reserved matters stage. This outline application is still pending awaiting the outcome of the subject application (10/01319/FUL).

Application Number	Proposal	Decision
10/00100/OUT	Outline application for residential development to provide a maximum of 59 houses and apartments	Approved subject to s106 legal agreement
03/01491/FUL	Erection of 100 one and two bedroom apartments and 6 no offices.	Refused and dismissed at appeal
03/00842/FUL	Erection of 112 no. two bedroom apartments	Withdrawn
99/00602/CU	Change of use of land to display of used cars, car valeting area, incorporating access alterations, landscaping and new security lighting	Approved

### **4.0 Consultation Responses**

4.1 The following responses were received from statutory and internal consultees in 2010/2011:

Consultee	Response
<b>County Highways</b>	No objections subject to the following conditions: <ul style="list-style-type: none"> <li>▪ Constructional details of the access roads and connections</li> <li>▪ Scheme for off-site highway improvements to be provided and implemented prior to occupation</li> <li>▪ Parking restriction – amendment to Traffic Regulation Order</li> <li>▪ All car and cycle parking to be provided in full prior to occupation</li> </ul>
<b>Environmental Health</b>	No objections subject to the following conditions; <ul style="list-style-type: none"> <li>▪ Hours of construction</li> </ul>

	<ul style="list-style-type: none"> <li>▪ Scheme for noise mitigation to be submitted</li> <li>▪ Standard contaminated land conditions</li> </ul>
<b>United Utilities</b>	<p>No objections subject to the following conditions:</p> <ul style="list-style-type: none"> <li>▪ The site be drained on a separate system with only foul drainage connected into the foul sewer</li> <li>▪ Scheme for surface water drainage to be submitted and agreed in writing.</li> <li>▪ Development to be carried out in accordance with the Flood Risk Assessment</li> </ul>
<b>Environment Agency</b>	<p>No objections subject to the following conditions:</p> <ul style="list-style-type: none"> <li>▪ Contaminated land conditions</li> <li>▪ Surface water should be restricted to existing rates in order to prevent an increased risk of flooding – the use of SUDS is recommended.</li> </ul>
<b>Network Rail</b>	<p>No objections to the principle of the development.</p> <p>Network Rail have highlighted that they have a right of access through the site – this is a matter they are negotiating with the applicants. A number of asset protection measures need to be considered by the applicant in order to protect operational railway infrastructure. The most significant for planning purposes relates to the provision of a suitable trespass proof fence erected along the boundary of the site. A copy of Network Rail's comments to be included as an advice note in the event planning permission is granted.</p>
<b>Lancashire Constabulary</b>	<p>No objections to the principle of the development.</p> <p>Lancashire Constabulary has raised one particular concern about the second means of access into the site, commenting that a single point of access would provide greater natural surveillance and self-policing. If the second access can not be removed from the scheme, dwellings close to this point of entry need to be secure and robust.</p>
<b>Strategic Housing</b>	<p>No objections.</p> <p>The Planning and Housing Policy Team fully support the proposed scheme as it offers a higher ratio of affordable housing than the current affordable housing policy would seek to achieve. The Housing Needs Survey identifies an undersupply of one, two, three and four bedroom units of affordable housing, and there is currently a significant demand on the Council's Housing Register for rented accommodation in this location.</p>
<b>County Planning</b>	<p>Request for a financial contribution, amounting to £29,760 towards waste management.</p> <p><i>NOTE: There was no such request from County planning at the time of determining the outline application. Planning policy has not changed since the grant of the last approval, and as such Officers do not feel this request can be supported in this instance.</i></p>
<b>North Lancashire Bat Group</b>	<p>No objections subject to the following condition:</p> <ul style="list-style-type: none"> <li>▪ The development is carried out in accordance with the submitted bat survey and recommendations.</li> </ul>
<b>Natural England</b>	No objections.
<b>City Contract Services</b>	No comments received within the consultation period.
<b>Lancaster Civic Society</b>	No objections to the affordable housing scheme commenting that the scheme has been sensitively designed given the awkward nature of the site, despite concerns for traffic congestion on nearby Meeting House Lane.
<b>Council's Access Officer</b>	Disappointed that accessibility was not considered in the submitted Design and Access Statement. Although the proposal appears to meet the minimums

	requirements of the Building Regulations, it would be a positive step to see lifetime homes criteria employed in this development.
<b>Council's Tree Protection Officer</b>	No objection subject to the following conditions: <ul style="list-style-type: none"> <li>▪ Arboricultural Method Statement to be submitted</li> <li>▪ Tree Protection condition</li> <li>▪ Landscaping to be implemented in accordance with submitted plans</li> <li>▪ Maintenance regime to be provided</li> </ul>
<b>Sustrans</b>	No objections. <p>SUSTRANS have commented that the development site is close to National Cycle Network routes through Lancaster. Given the sale of the development they wish to see improvements to walking and cycle links to the rest of the city.</p>

## **5.0 Neighbour Representations**

5.1 At the time of compiling this report, 3 letters of objection have been received. The main areas of concern are as follows:

### **Amenity Concerns**

- Three-storey buildings are excessive in scale. This will adversely affect views, outlook and privacy for neighbouring residents.
- Concerns regarding loss of light, particularly given the scale of buildings proposed and the site topography (especially towards the southern end of the site)
- Loss of open space. Concerns that the development of this site conflicts with the values of living in Lancaster for the city greenery and quality of life afforded by the smaller scale of civic life. The land has not been considered valuable because it is urban and 'waste'. The land in question, despite not being landscaped provides open space and is valuable to residents on Blade Street.

### **Highway Issues**

- Congestion and associated on-street parking problems

### **Housing Issues**

- Overdevelopment and overcrowding of the site
- There is no shortage of housing already available in Lancaster.

### **Biodiversity and Trees**

- Potential environmental impacts associated with the development, in particular the loss of trees and the negative effects for the local environment and habitats.

### **Miscellaneous**

- Dame to the value and quality of nearby properties
- "This is a long-term sacrifice for a small short-term gain".

## **6.0 Principal Development Plan Policies**

### **6.1 National Planning Policy Framework (NPPF)**

The National Planning Policy Framework indicates that the purpose of the planning system is to contribute to the achievement of sustainable development. At the heart of the NPPF is a presumption in favour of sustainable development (**paragraph 14**). The following paragraphs of the NPPF are relevant to the determination of this proposal:

**Paragraph 17** sets out 12 core land-use planning principles which should underpin both plan-making and decision taking. The principles which are relevant to this application state that planning should: be genuinely plan-led; be a creative exercise in finding ways to enhance and improve the places in which people live their lives; secure high quality design and a good standard of amenity for all;

effective use of land by reusing land that has been previously developed; conserve heritage assets in a manner appropriate to their significance; take account of the needs of the residential communities; and improve health and social wellbeing for all.

**Paragraphs 56 to 59, 61, 63, 64 and 66 (good design)** is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Proposal should plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes. Design codes should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally. Proposals should address the connections between people and places and the integration of new development into the natural, built and historic environment. In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

**Paragraphs 129 and 131 to 133** - Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. In determining planning applications, local planning authorities should take account of the desirability of new development making a positive contribution to local character and distinctiveness. 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 should be.

**Paragraph 173 (ensuring viability and deliverability)** - Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.

**Paragraph 205 (planning conditions and obligations)** - Where obligations are being sought or revised, local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled.

## 6.2

### Regional Spatial Strategy (adopted September 2008)

Policy **DP2** (Promote Sustainable Communities) - fostering sustainable relationships between homes, workplaces and other concentrations of regularly used services and facilities, improving the built and natural environment, conserving the region's heritage, promoting community safety and security including flood risk, reviving local economies, promoting physical exercise through opportunities for sport and formal / informal recreation, walking and cycling.

Policy **DP5** (Reduce the Need to Travel, Increase Accessibility) - development should be located so as to reduce the need to travel, especially by car, and to enable people as far as possible to meet their needs locally. All new development should be genuinely accessible by public transport, walking and cycling, and priority will be given to locations where such access is already available.

Policy **DP7** (Promote Environmental Quality) - understanding and respecting the character and distinctiveness of places and landscapes, the protection and enhancement of the historic environment, promoting good quality design in new development and ensuring that development respects its setting, reclaiming derelict land and remediating contaminated land and use land resources efficiently, maximising opportunities for the regeneration of derelict or dilapidated areas, promoting green infrastructure and the greening of towns and cities.

Policy **L4** (Housing Provision) - address the housing requirements by ensuring the construction of a mix of appropriate house types, sizes, tenures and prices, encourage new homes to be built to Code

for Sustainable Homes standards, promote the use of the Lifetime Homes standard, ensure that the transport networks (including public transport, pedestrian and cycle) can accommodate additional demand generated by new housing; and maximise the re-use of vacant and under-used brownfield land and buildings.

Policy **L5** (Affordable Housing) - developments should secure the provision of affordable housing, which should remain affordable and available in perpetuity.

Policy **RT2** (Managing Travel Demand) - measures to discourage car use (including the incorporation of maximum parking standards) should consider improvements to and promotion of public transport, walking and cycling. Major new developments should be located where there is good access to public transport backed by effective provision for pedestrians and cyclists to minimise the need to travel by private car.

Policy **RT9** (Walking and Cycling) - encourage the delivery of integrated networks of continuous, attractive and safe routes for walking and cycling to widen accessibility and capitalise on their potential environmental, social and health benefits.

Policy **EM1** (Integrated Land Management) - support conservation-led regeneration in areas rich in historic interest.

Policy **EM16** (Energy Conservation & Efficiency) - ensure that the developer's approach to energy is based on minimising consumption and demand, promoting maximum efficiency and minimum waste in all aspects of development and energy consumption.

Policy **EM18** (Decentralised Energy Supply) - new non residential developments above a threshold of 1,000m<sup>2</sup> and all residential developments comprising 10 or more units should secure at least 10% of their predicted energy requirements from decentralised and renewable or low-carbon sources.

#### 6.3

##### Lancaster District Local Plan - adopted April 2004 (saved policies)

Policy **H12** (Layout, Design and Use of Materials) - aims to achieve a high quality of design and local distinctiveness with new housing schemes.

Policy **H13** (Sustainable Living) seeks to promote the greatest densities of development in the more sustainable locations. (Density requirements have now been removed in PPS3)

Policy **T26** and **T27** (Footpaths and Cycleways) - Requirements to include cycle and pedestrian links for new housing and commercial schemes particularly where proposed development sites are close to the strategic cycle network.

Policy **E35** (Conservation Areas and their Surroundings) - development which would adversely affect views into and across a Conservation Area or lead to an unacceptable erosion of its historic form and layout will not be permitted.

Policy **E13** (Trees and Woodland) states that development which would result in a significant adverse effect on, or involve the loss of significant trees or significant areas of woodland will not be permitted.

Policy **R11** (Open Space in New Housing Developments) - housing developers will be required to provide open space within the housing scheme.

Policy **R21** (Access for People with Disabilities) - requires disabled access provision.

#### 6.4

##### Lancaster District Core Strategy - adopted July 2008

Policy **SC1** (Sustainable Development) - Development should be located in an area where it is convenient to walk, cycle or travel by public transport between homes, workplaces, shops and other facilities, must not result in unacceptable flood risk or drainage problems, does not have a significant adverse impact on a site of nature conservation or archaeological importance, uses energy efficient design and construction practices, incorporates renewable energy technologies, creates publicly accessible open space, and is compatible with the character of the surrounding landscape.

Policy **SC2** (Urban Concentration) - 90% of new dwellings to be provided in the urban areas of Lancaster, Morecambe, Heysham and Carnforth.

Policy **SC4** (Meeting the District's Housing Requirements) - housing development should secure units of "in perpetuity" affordable housing and support regeneration within Regeneration Priority Areas.

Policy **SC6** (Crime and Community Safety) - encourage high quality design, incorporating "secure by Design" principles, avoid car dominated environments, remove dereliction and eyesore sites, achieving greater use of pedestrian and cycle networks, parks and open spaces in particular the key greenspace systems.

Policy **SC8** (Recreation and Open Space) - new residential development to make appropriate provision for formal and informal sports provision in line with the Open Space and Recreation Study.

Policy **ER7** (Renewable Energy) - To maximise the proportion of energy generated in the District from renewable sources where compatible with other sustainability objectives, including the use of energy efficient design, materials and construction methods.

Policy **E1** (Environmental Capital) - Development should protect and enhance nature conservation sites and greenspaces, minimise the use of land and non-renewable energy, properly manage environmental risks such as flooding, make places safer, protect habitats and the diversity of wildlife species, and conserve and enhance landscapes.

Policy **E2** (Transportation Measures) - This policy seeks to reduce the need to travel by car whilst improving walking and cycling networks and providing better public transport services.

## 6.5 Relevant Supplementary Planning Guidance (SPG) / Documents (SPD)

- SPG 12 Residential Design Code
- SPD Meeting Housing Needs

## 7.0 Comment and Analysis

7.1 There is one principal issue for Members to consider in the determination of this application - the viability and deliverability of the proposed development.

### **Principle of Development**

7.2 The site has historically been considered and remains previously development land. It is also in one of the most accessible locations in the District with extremely good access to public transport and the nearby strategic cycle network. The regeneration of this site would therefore meet the sustainability objectives set out in both national and local planning policy.

7.3 The delivery of housing is an important element of the National Planning Policy Framework. Securing 51 affordable residential units and a further 11 open market dwellings would assist the Council in seeking to meet their 400 per annum housing completions target as set out in the adopted Core Strategy. The application is therefore very much supported in terms of its contribution towards housing provision, especially the delivery of affordable housing.

7.4 In support of the above policy position, Planning Committee approved an outline scheme for up to 59 units on this site late last year. Resolution to approve the scheme was subject to the signing of a Section 106 legal agreement in relation to the affordable housing elements (which is also still outstanding). As noted in the history section of this report, the earlier (2003) application for a mixed use scheme incorporating a significant proportion of residential development was refused. Whilst both the application and the appeal were turned down, both the Local Planning Authority and the Planning Inspectorate supported the principle of the site's residential redevelopment given its previously developed status combined with its highly sustainable location. The 2003 refusal was justified largely due to an oversupply of housing at the time. As such, it is accepted that the regeneration of this vacant site for residential development is appropriate in planning terms and would adequately comply with fundamental objectives of the Core Strategy and national planning policy.

7.5

## Affordable Housing

Addressing local housing needs through the delivery of affordable housing plays a fundamental role in achieving sustainable development. Policy SC4 and the SPD (Meeting Housing Needs) sets the Core Strategy target for on-site affordable housing of 30% for 15 or more units in urban locations. In this case, the proposal was submitted by the Regenda Group who were offering 80% affordable housing on the site. There is a significant shortfall in affordable units in the District and as such a scheme offering in excess of the Core Strategy requirement of 30% should be supported in principle.

7.6

In terms of the tenure mix of affordable housing, the Council generally seeks 65% social rented and 35% intermediate housing. Of the units that are being allocated as affordable units, the proposal will comprise wholly intermediate housing, of which 41 units (80.4%) are for intermediate rent and 10 units (19.6%) are for shared equity. Of the 41 rented units, 30 units are two bed and 11 three bed units. The remaining 10 intermediate units are a mix of three and two bed units. Whilst this does not meet the exact tenure criteria of our planning policy, it still offers a high level of affordable units on the site. The reason why intermediate rent is proposed rather than social rented units is because Regenda have had to respond to the new model of affordable rents on the basis that the Housing and Communities Agency are reducing the grant levels for new schemes, which will effectively bring an end to new-build social rented units if the Government's proposals go ahead.

7.7

The Housing Needs Survey identifies an under supply of one, two, three and four bedroom units of affordable housing. Evidence also currently suggests that there is a significant demand on the Council's Housing Register for rented accommodation in this location. The Council's Strategic Housing team fully supported the scheme and would have supported Regenda's bid to the Housing and Communities Agency for grant funding to part fund the scheme. Conditions of grant funding for such schemes involve the development meeting Code Level 3 of the Code for Sustainable Homes and 'Secure by Design' status. Conditions which are fully supported by the Council.

7.8

In view of the above, the tenure mix proposed as part of this scheme is considered acceptable from a planning point of view and will certainly help redress current imbalances in the housing market in this District. On this basis the proposal is considered compliant with NPPF, Core Strategy policy SC4 and SPD (Meeting Housing Needs).

7.9

## Design, Layout and Materials

The development of the site has been heavily dictated by the constrained linear shape of the site and the proximity of the site to the adjacent railway line. The noise and vibration assessments have also heavily dictated how and where the residential units are sited.

7.10

The mitigation measures identified in the acoustic assessment, which have been subsequently incorporated into the design of the scheme, include:

- a 10m buffer zone from the boundary with the railway line;
- the orientation of dwellings on the site to ensure that private gardens are protected from noise and vibration;
- provision of a continuous built form to reduce opportunities for noise to infiltrate into the site; and
- the provision of an acoustic fence/barrier

7.11

Other design constraints relate to the proximity of the development site to nearby residential properties, in particular Blades Street and properties on Villas Court, and the proximity of development to protected trees.

7.12

The submitted proposal has taken these constraints into account and like the indicative plans provided with the outline, as resulted in a linear form of development with a strong building line facing the railway line. The houses will front the internal road with off-street parking along the frontage, broken up with landscaping to reduce the impact of hardstanding and the clutter of vehicles forward of the building line.

There are three main elements to the scheme, each will be assessed individually as follows:

7.13

## Northern Section

The northernmost section of the site relates to all the development to the north of the main access. This comprises 21 apartments contained within 3 three-storey buildings. The northernmost building

(Block A) is a three storey building of very simple form with a traditional pitched roof with narrow gable projections to the front and rear. The overall ridge height measures approximately 10.7m with an eaves height of 7.7m with the frontage of the building facing into the site and the rear elevation facing Wheatfield Street. The design of the building lacks character and although the developers have attempted to keep the overall appearance simple, the detailing of the elevational treatment is architecturally weak given the strong context of its surroundings. This building is sited opposite an existing four storey building which forms part of St James Court. The separation distance between the two units is less than 15m. This is contrary to the Council's Residential Design Code, which seeks to ensure new development does not adversely affect the amenities of existing and future residents, although there are significant level differences between the two buildings. Amendments have been sought to address the concerns expressed about the interface distances, together with modest amendments to the fenestration on this building. It would be necessary to condition obscure glazing for the first floor kitchen window in order to minimise the risk of overlooking,

7.14 The larger of the two buildings north of the access, is a combination of Block A and Block C (as shown on the elevations). The height of this building is the same as Block A which adjoins the block to the north. The roof configurations then turns 90 degrees at the southern end of the building to form a large gable end to the front and rear where the ridge height increases to approximately 12m. Whilst the scale of the building may be acceptable, the overall form, design and fenestration of this building was originally considered unacceptable. The rear elevation in particular had an extremely poor treatment with an unbroken, solid and rather inactive elevation, punctured with an inconsistent variety of window sizes. Amendments have been sought to address the above concerns. The elevations have been improved through the introduction of gable features, bonnet hips, string course details and improved fenestration. The separation distance between this block and existing properties, which are only two-storey, is however acceptable and compliant with the Council's Design Guide being just over 21m.

7.15 The remaining apartment block is positioned to the south of the access to the rear of Nos. 14-22 Blade Street with a separation distance of 18-19.5m to the rear of 14-18 Blade Street and 21m to the rear of 20 and 22 Blade Street. The former interface distance is strictly speaking below the minimum standard however given the strong belt of protected trees between the site and neighbouring properties and a slight difference in land levels it is contended that the interface distance is just shy of the required standards, would not warrant a refusal of planning permission. The protected tree belt will help mitigate any overbearing impact or loss of privacy. The scale of this building is three-storey with a maximum height of approximately 11.3m (at the flat roof) and 10.8m at the ridge. The outline accepted three storey developments to the rear of the first section of Blade Street and as such the principle of three-story is not, in itself, a particular concern. The original design issues discussed above are echoed in relation to this apartment block, although the concerns were exacerbated by the awkward roof configuration. Again, the amended plans have resolved these concerns.

7.16 With regards to all three of the apartment blocks, the standard of accommodation proposed is acceptable and compliant with the Council's minimum roof sizes and amenity standards. The scheme proposes surface parking, bin storage and cycle storage within this section of the site. The submitted landscaping scheme proposes to soften the eastern boundary with tree planting with more domestic planting internally, which will help tone down the overall massing of the development in this location as well as providing some visual 'greening' to the area which currently does not exist.

7.17 **Middle Section**  
The middle section of the site comprises 25 two-storey dwellings, with ridge heights circa 8.3m, provided in six linear terraced blocks with associated off-street parking and private garden areas. Here the separation distances between the properties on Blade Street and the proposed dwellings are between 21.6m and 25m. The majority of the western boundary is also made up of some significant tree planting and landscaping and as such this element of the scheme is unlikely to adversely affect the residential amenities of properties on Blade Street. The designs of the dwellings are generally very simple, with no complex or unnecessary architectural features which are uncommon to Lancaster. The traditional vernacular is reflected in the design of these buildings. Amendments have been received addressing minor concerns about the fenestration to make the design simpler but with character, such as the exposure of the spar feet at eaves, removal of gables and simple window details. With regards to the housing types, the internal standard and layout of the accommodation adequately complies with policies H12, H19 and SPG 12. Externally however, some of the rear garden areas are below the recommended 10m in length. The garden lengths range from 7.5m to approximately 11.7m. Whilst some of the gardens may be below the minimum

requirements outlined in planning policy, regard should be paid to the dense built-up nature of the surrounding area where many of the properties, in fact the majority, have only a small yard as private amenity space. In this respect a refusal of planning permission on these grounds alone would not be substantiated.

7.18

## Southern Section

The southernmost section of the site comprises a further 14 two-storey dwellings provided in three terraced blocks of a similar design to the middle section. There is however a smaller pair of semi-detached properties at the southern most section of the site, with a ridge height of approximately 6.8m. Due to the topography of the site and the relationship this property has with properties on Villas Court, the developers were advised at the pre-application stage that a pair of bungalows would be more appropriate in this location. The outline application had also purposefully removed a block of properties from this location due to concerns relating to the visual impact when viewed from Dallas Road, and the impact of the development on nearby residential properties. However it is noted that that there is an adequate 21m separation between plots 61/62 and Villas Court. Notwithstanding this, Officers remain concerned about the overall impact of these last two units and have therefore requested amendments to address these concerns. The standard and layout of the accommodation located in the southern section of the site adequately meets the requirements of policy H12, H19 and SPG12, with all the gardens (except plot 47) being of a satisfactory size. The garden sizes have been increased from previous plans (pre-application) by introducing a log retaining structure along the eastern boundary with the timber fencing erected above. This will be partly screened by proposed landscaping. Car parking is proposed to the front of the terraces and a small parking/turning area at the southern tip of the site, similar to that shown on the indicative plan submitted with the outline application.

7.19

All of the buildings/dwellings are intended to be built in high quality reconstituted stone, imitation slate roofing material, some render and UPVC windows and rainwater goods. The materials in this location are critical and clearly the most desirable materials would be natural stone and slate. The developer is fully aware of Officers concerns relating to materials; however the use of natural stone and slate, together with remediation needed to address contaminated land issues would render the development unviable. There is a high demand for affordable housing in the city and as such, Members are advised that on balance the use of reconstituted stone and imitation slate would be acceptable, provided extremely good-quality products are used. This can be carefully controlled by condition. For information, Harrier Court on Fenton Street (the large apartment development) and Villas Court on Dallas Road are developments located within the Conservation Area. Both of these schemes have been built using reconstituted stone and are appropriate in terms of appearance for the Lancaster setting. The use of UPVC is more of a concern, however given the site is not located within the Conservation Area it would be difficult to oppose. However, Officers would be seeking to use a good quality UPVC, preferably with a thinner profile and an off-white or grey colour.

7.20

In addition to the proposed residential development, the scheme also involves the erection of a high acoustic barrier along the eastern boundary of the site. Aside from the functional requirements of this structure, it will also form an important visual feature of the development. This barrier needs to be aesthetically pleasing when viewed from within the development site, as it will provide an important outlook of future residents, and when viewed from outside the site, in particular the railway line and the bridge over on Meeting House Lane. The developers are aware of Members and Officers desire for this barrier to have a more solid appearance to reflect other stone boundary features in the vicinity of the site (the appearance and form of this barrier was assessed as an issue during consideration of the last planning application - 10/00100/OUT).

7.21

With regards to residential amenity, the proposed development has in most cases adhered to the standard interface distances required in the Council's Residential Design Code. The existing screening along the embankment together with additional planting will also help reduce the impact of the development on nearby residents on Blade Street, although it is understood that there will inevitably some impact in terms of reduction of outlook and loss of evening sunlight, however these impacts are not considered to be sufficiently significant to justify a refusal of the scheme,. With regards to design, the overall character and appearance of the development is fundamental to achieving high quality new housing in the City. The amended plans address earlier concerns about design.

7.22

## Access and Connectivity

The application site is highly accessible being located within easy walking distance of the city centre.

It is also only 250m north of the application site entrance to the West Coast mainline railway, 120m to bus stops on Meeting House Lane only 600m to the Lancaster Bus Station. In the immediate area there is a cycle route along Carr House Lane to the south and an off-site cycle lane along the other side of the railway line to the west providing access to the residential area of Fairfield.

7.23 Whilst Wheatfield Street is a relatively minor road it is heavily used providing a connection between Meeting House Lane to the north and Dallas Road to the east. The street is situated in a 20mph speed limit zone and is traffic calmed by means of a single speed hump halfway along the route. The proposed development will be served by the established access off Wheatfield Street at the point at which the road bends from north to east; at this junction visibility is good in both directions. In the vicinity of the site, the street is approximately 7.8m-8m wide with footways of around 1.8m width on each side. This access will form the main vehicle access for the development, but will also be open to pedestrians and cyclists. The submitted Transport Assessment has adequately assessed the appropriateness of the access and provided evidence to indicate the access and internal layout is suitable for large vehicles such as a refuge vehicle. A secondary access is proposed for emergency vehicles only. This is located halfway down the site onto Blade Street (similar to the previous approval last year). A further pedestrian and cyclist access will be provided in this location.

7.24 Internally, the site is designed around the principles laid out in 'Manual for Streets' and the County's own 'Creating Civilised Streets'. The internal road system has been designed to form frequent changes and deviations in the road surface treatment in order to help reduce vehicle speeds and encourage a sense of shared space between users. The road will be designed and built to adoptable standards up to the turning head at the secondary emergency access. In terms of parking provision, 68 parking spaces are proposed within the site, equating to just over 1 space per dwelling. In such a sustainable location this level of parking would be more than adequate and is highly unlikely to result in any increase in on-street parking on surrounding streets, which has been a concern raised by some residents. Secure covered cycle parking storage shall be provided adjacent to each of the apartment blocks and for the houses cycle parking will be available within the curtilage of each unit.

7.25 With regards to off-site highway improvements, the applicant of the previous outline planning application had committed to provide a cycle/pedestrian link onto the cycle network at Carr House Lane. This link was envisaged to be provided at the southern tip of the site. However, following further investigation by the current developers, as part of their preparations for submitting a detailed planning application, this direct link would not be possible due to landownership issues and the physical constraints of the site, in particular the difference in land levels. Subsequently, it was agreed with Officers and the Highway Authority that improvements would still be required to help improve connectively to the cycle network, particularly given the city's Cycle Demonstration Town status. This will be achieved through off-site highway works involving alterations to Blades Street to form a secondary access for pedestrians, cyclists and emergency vehicles including a contraflow cycle lane in the south section of Blades Street. This element shall be delivered via a Section 278 Agreement. As part of the scheme for off-site highway works, signage will be required along Dallas Road to direct cyclists to the designated cycle network at Carr House Lane.

7.26 In addition to the above s278 works, the Traffic Regulation Order for the existing 20mph zone in the area will need to be amended so that the proposed new highway can be incorporated into the zone. This shall be funded by the developer under Section 38 of the Highway Act. In addition, and more importantly, the Highways Authority has also highlighted the need for the proposed development to have parking restrictions introduced on the site in order to prevent commuter parking for the city and train station. The developer will be responsible for the Highway Authority's costs of investigating and implementing a scheme of waiting limitations.

7.27 In highway terms, the application is very similar to the previous application for outline consent and as such County Highways is satisfied that the proposed development will not have a significant adverse impact on the local highway network and is satisfied that the access to the site can be provided off Wheatfield Street. As a consequence, there are no highway objections to the proposal, provided to conditions are imposed concerning the access, internal layout, parking provision and a scheme for off-site highway works. County Highways has also more recently confirmed that they would be willing to adopt more of the internal road than previously considered possible, which reduces the Registered Providers' ongoing costs and therefore allows them to consider the scheme more positively.

7.28

**Landscaping and Biodiversity**

Whilst most of the site is now derelict, there are some protected trees (groups of trees) on the site. These trees are protected by Tree Preservation Order 301 (1999) and Tree Preservation Order 397 (2006) covering the group of trees along the eastern boundary to the rear of part of Blade Street and a small group of trees to the rear of the open space between the Lancaster Boys Club and Villas Court. The application has subsequently been supported by an Arboricultural Implications Assessment, which has identified 23 individual trees and 16 groups of trees within or in close proximity to the site. The majority of the trees surveyed are self-grown and have colonised on the fringes of the site and the steep embankment along the south-eastern boundary. Most of these trees have been categorised as Category C trees; trees of low value. Along the north-eastern boundary there is an area of mixed planting comprising Sycamore, English Oak, Ash, Willow and Alder. These trees have been categorised as Category B trees; trees of moderate value that collectively may form distinct landscape features.

7.29

In order to facilitate the development a total of 19 individual trees and 12 groups of groups of trees are required to be removed. The trees between the application site and the first terrace of Blade Street (Group 13 as shown on the tree protection plan) will be retained and protected throughout the development, as will a small group of trees on the eastern boundary (Group 1 as shown on the tree protection plan) which are predominately located outside the application site to the rear of Lancaster Boys Club. Whilst some of these trees are visible from the public realm and make a contribution to the amenity of the area, a number of them have limited remaining life potential and could reasonably be considered for removal, provided adequate mitigation and replacement planting is proposed. An extensive landscaping scheme has been submitted as part of the proposal. This includes replacement planting comprising 45 new standard trees, creation of new hedging, shrub planting and bedding planting, all of which will contribute significantly to the overall amenity of the area. The landscaping proposals identify the retention of the bulk of the protected trees along the eastern boundary. This together with extensive structure planting along this boundary and on the steep embankment will help soften the appearance of the development where the level differences are quite significant. The overall landscaping of the site will equally enhance biodiversity in the area. The extent of tree removal will be adequately mitigated by the proposed landscaping scheme and as such Officers are satisfied that the development adequately complies with saved policy E13 and PPS9. It should be noted that the extent of tree removal is very similar to that agreed when the outline application was determined. The Council's Tree Protection Officer has no objections to the proposed tree protection measures and landscaping, provided an arboricultural method statement is submitted and approved prior to determination. This statement is due to be submitted in advance of the committee meeting and as such Members will be verbally updated on this matter.

7.30

In addition to the submitted Arboricultural Implications Assessment, a series of ecological surveys have been carried out to demonstrate that the development of the site will not have an adverse impact on biodiversity. Natural England and the North Lancashire Bat group have raised no objection to the development and confirm that there will be no risk to protected species as a result of this proposal.

7.31

**Noise and Vibration Assessment**

Given the proximity of the site to the adjacent railway line, the application has been submitted with a thorough noise and vibration assessment. This assessment is required to inform the design and layout of the scheme to ensure noise and vibration levels are within acceptable limits for residential development in accordance with NPPF. The noise exposure category (NEC) of the site without any noise mitigation measures falls within Category B (55-66 dB<sub>L<sub>Aeq</sub></sub>) during the day and Category C (66-74 dB<sub>L<sub>Aeq</sub></sub>) at night. Good practice requires that in NEC C areas '*Planning permission should not normally be granted. Where development is permitted, steps should be taken to ensure a commensurate level of protection against noise.*

7.32

Noise mitigation has in the first instance informed the layout of the site, as noted in the design and layout section of the report. The position of the road, location of gardens and the linear nature of the development all contribute to noise mitigation. In addition a 2.5m-3m acoustic barrier should be installed along the western boundary between the application site and the railway line. This should be a wholly imperforate barrier. The assessments submitted indicate that a close boarded timber fence would typically be acoustically compliant, although this does not address the design and visual impacts of such a structure. To further help reduce noise levels inside dwellings, high specification double glazing and ventilation measures will be required. A scheme for noise mitigation and implementation will need to be formalised by an appropriately worded planning condition, as was the

case on the previous outline consent.

7.33 In terms of vibration, whilst there will be some vibration for passing trains the vibration levels from the passing trains assessed have been found to be below the threshold levels outlined in BS6472 'Guide to the evaluation of human exposure to vibration in buildings' and as such would not prohibit the regeneration of the site for residential purposes. Based on the assessments carried out and the fact that Committee approved the recent outline planning permission for residential development, there are no objections to the development on the grounds of vibration.

7.34 The Council's Environmental Health Service have raised concerns about the appropriateness of residential development in this location so close to the railway line, but have recommended a condition for noise mitigation. An updated acoustic assessment has been submitted to help demonstrate what mitigation can be made to demonstrate that the proposed residential development will be adequately protected. Members will be verbally updated of Environmental Health's position at the time of the committee meeting. Notwithstanding this, the appeal Inspector had not raised noise as a issue which would render the principle of residential development unacceptable. Equally so, the outline consent was approved with a condition for a scheme for noise mitigation. Circumstances have not changed and as such Members are advised that this would not be a reason to refuse the application.

7.35 **Contaminated Land, Drainage & Flooding**  
The application has been supported by the submission of a Geotechnical Survey and a Preliminary Risk Assessment concerning contaminated land. These reports have been inspected by the Councils Contaminated Land Officer who has recommended planning permission be granted subject to the Councils standard conditions.

7.36 In addition, a Flood Risk Assessment (FRA) and Drainage Strategy have been carried out which confirms the site is within flood zone 1 where residential development is accepted in accordance with NPPF. This Assessment indicates an increase in impermeable areas (including the roof, hardstanding and road areas) from 0.48 ha to 64ha and as such accepts the need for sustainable drainage measures to be incorporated into the scheme. Both United Utilities and the Environment Agency have raised no objections to the proposed development, subject conditions relating to discharge rates and surface water management.

7.37 **Open Space**  
The proposal involves the provision of informal open space at the southern end of the site which is unsuitable for development. This space is intended to be used as a 'natural play space' rather than the conventional play space expected with housing schemes. The reason for this is due to the proximity of nearby play areas (one at the end of Blade Street and the other over the railway line near the Fairfield Allotments) and the linear nature of the site and topography, which makes it unsuitable for kickabout space. Furthermore, the erection of standard play equipment at this elevated position could equally have a harmful impact on the character of the area. As such, leaving this section of land as informal open space with sensitive landscaping and natural play equipment would be more appropriate. It would equally offer a different type of play space to residents that could be enjoyed by all age groups. The details and provision of this play space can be appropriated controlled by condition. More recent discussions regarding this element of the development has investigated a less expensive option of having a community orchard with fruit trees rather than having an equipped play space.

## **8.0 Planning Obligations**

8.1 The application is for 51 affordable dwellings and 11 dwellings for outright sale. The mix of units includes 21 x 2 bedroom (3 person) flats; 27 x 3 bedroom (5 person) houses and 14 x 2 bedroom (4 person) houses. The tenure mix is as follows:

- 21 x 2 bedroom (3 person) flat for intermediate rent at £112.15 per week
- 9 x 2 bedroom (4 person) house for intermediate rent at £122.36 per week
- 3 x 2 bedroom (4 person) house for 35% equity share full Open Market Value (OMV) £130K

- 2 x 2 bedroom (4 person) house for 50% equity share full OMV £130K
- 11 x 3 bedroom (5 person) house for intermediate rent at £132.46 per week
- 3 x 3 bedroom (5 person) house for 35% equity share full OMV £142.5K
- 2 x 3 bedroom (5 person) house for 50% equity share full OMV £142.5K
- 11 x 3 bedroom (5 person) house for outright sale at £142.5K

The s106 shall cover affordable housing provision only. All off-site highway improvements shall be delivered via s278 of the Highway Act and a condition imposed relating to the provision and maintenance of the informal open space. This is in line with the recent outline consent.

## **9.0**

### **Conclusions**

#### **9.1**

The regeneration of this brownfield, centrally located site for residential development is considered acceptable from a planning point of view and has previously been accepted by the Planning Inspectorate (despite the refusal of permission) and Members when determining the two 2010 planning applications (10/00100/OUT and 10/01319/FUL).

However, despite the Local Planning Authority's best efforts to negotiate a deliverable scheme for this site, the applicant has been unable to secure adequate interest from developers and Registered Providers to achieve the land price sought by the landowners. At a meeting in August 2012, the applicant, Registered Providers, the Highway Authority, Planning and Housing Officers discussed the cost implications of various aspects of the scheme including road adoption, materials, acoustic barrier, affordable housing provision, open space and cycleway linkages. With the exception of the acoustic barrier (for heritage and design reasons), compromises were considered acceptable to the Highway and Local Planning Authorities (including a reduction in the percentage of affordable housing to be provided across the site, which would have significant cost saving implications). This is in line with Paragraph 205 of the National Planning Policy Framework. Notwithstanding this, the applicant has been unable in the subsequent 6 months to secure the interests of Registered Providers to deliver the scheme as submitted or even submit a revised scheme for the Local Planning Authority's consideration based on the compromises agreed with the City and County Councils.

In conclusion, regrettably Officers are reporting this application back to Committee with a recommendation for refusal given that the proposal is undeliverable and unviable and therefore does not meet the requirements of the National Planning Policy Framework.

### **Recommendation**

That Planning Permission **BE REFUSED** for the following reason:

1. The local planning authority first considered this application in March 2011 when it resolved to grant full planning permission subject to conditions and a legal agreement. During the intervening period since this resolution, Local Authority Officers (both Planning and Housing) have continued to negotiate with the applicant and seek compromises which would have resulted in a reduction of the total costs of delivering the site, in an effort to ensure scheme viability without undermining the core principles of developing this parcel of land. Such flexibility accords with Paragraph 205 of the National Planning Policy Framework. However, despite this the applicant has been unable to provide the Local Planning Authority with revised plans or secure the interests of Registered Social Housing Providers to deliver a scheme based upon the negotiated compromises at this site. Given the absence of any further meaningful progress, the Local Planning Authority has to conclude that the scheme cannot be viably delivered. As a consequence, the proposal is contrary to Paragraphs 50 and 173 of the National Planning Policy Framework.

**Human Rights Act**

This recommendation has been reached after consideration of the provisions of The Human Rights Act. Unless otherwise stated in this report, the issues arising do not appear to be of such magnitude to override the responsibility of the City Council to regulate land use for the benefit of the community as a whole, in accordance with national law.

**Background Papers**

None.

## LANCASTER CITY COUNCIL

APPLICATION NO	DETAILS	DECISION
12/00218/CU	Grasscroft, Borwick Avenue, Warton Change of use of land from commercial/agricultural to residential, and erection of two residential detached dwellings for Stuart McMinn (Warton Ward)	Application Permitted
12/00581/LB	Central Promenade Redevelopment Site, Marine Road Central, Morecambe Listed building application for selective demolitions and alterations to perimeter wall surrounding The Midland Hotel for Urban Splash Ltd (Poulton Ward)	Application Refused
12/00621/FUL	Land North Of Braides Lodge, Sandside, Cockerham Retention of a storage building for agricultural/forestry machinery and equipment and retention of reduced area of hardstanding. for Mr David Winchester (Ellel Ward)	Application Permitted
12/00729/FUL	Underwood, Coach Road, Warton Erection of a log cabin to replace existing mobile home for Mr J Hurn (Warton Ward)	Application Permitted
12/00785/CU	Ireby Green, Woodman Lane, Ireby Change of use from redundant agricultural building to organic farm shop and cafe and extension of single storey side extension for Mr John Welbank (Upper Lune Valley Ward)	Application Permitted
12/00814/CU	Chapel, Houghton Court, Halton Change of use Chapel into residential dwelling (use class C3) for RC Diocese Of Lancaster (Halton With Aughton Ward)	Application Withdrawn
12/00885/FUL	Jamea Al Kauthar Islamic College, Ashton Road, Lancaster Demolition of existing boiler house and erection of two storey semi-detached dwellings with detached garage and garden area to be used as ancillary accommodation for Mr Yusuf Seedat (Scotforth West Ward)	Application Permitted
12/00888/FUL	33 Derwent Road, Lancaster, Lancashire Retrospective application for the retention of extension to the rear and the side and replacement of roof in connection with loft conversion for Mr Andrew Simpson (Bulk Ward)	Application Permitted
12/00893/OUT	Land West Of 250, Oxcliffe Road, Heaton With Oxcliffe Outline application for the erection of a detached dwelling and formation of a new access for Mr B Howard (Westgate Ward)	Application Permitted
12/00934/CU	91A Penny Street, Lancaster, Lancashire Change of use from one 7 bedroomed flat to three flats with parking/bin store to the rear for Mrs Jian Guo (Dukes Ward)	Application Permitted
12/00972/FUL	19 Peacock Crescent, Hest Bank, Lancaster Erection of single storey extensions to both sides for Mr & Mrs Hammer (Slyne With Hest Ward)	Application Permitted

LIST OF DELEGATED PLANNING DECISIONS

12/00988/FUL	Wyreside Hall, Stoney Lane, Galgate Construction of new access gates and alterations to existing access for Wyreside Hall Ltd. ( Ellel Ward)	Application Permitted
12/00989/ADV	Wyreside Hall, Stoney Lane, Galgate Erection of a free standing temporary sign and permanent externally illuminated signage on wall entrance for Wyreside Hall Ltd ( Ellel Ward)	Split Decision
12/01012/RCN	Hyning Home Farm, Milnthorpe Road, Warton Redevelopment of units 1 & 3 to form warehouse with staff facilities (pursuant to the removal of condition 3 of planning application 03/00728/FUL) for Mr Adrian Moeckell (Warton Ward)	Application Permitted
12/01015/FUL	15 Ainsdale Close, Lancaster, Lancashire Erection of a single storey rear extension, conversion of garage and levelling of driveway to front to provide facilities for a disabled child for Mr & Mrs P & E Fawcett (Skerton West Ward)	Application Permitted
12/01031/FUL	268 Marine Road Central, Morecambe, Lancashire Erection of single storey rear extension to the existing ground floor amusement arcade, installation of external staircase and boundary fencing and boundary fencing for Mr J Slater (Poulton Ward)	Application Permitted
12/01036/LB	Crook O' Lune East Railway Bridge, Low Road, Halton Listed building application for various works for Ms Jo Turton (Halton With Aughton Ward)	Application Permitted
12/01038/OUT	Land South East Of, Hobsons Lane, Capernwray Outline application for the siting of up to seven static caravans/holiday lodges for Mr Mike Jackson (Kellet Ward)	Application Permitted
12/01041/FUL	Tarnwater, Milnthorpe Road, Yealand Conyers Erection of a new industrial unit for Mr Phil Rogerson (Silverdale Ward)	Application Permitted
12/01049/CU	R And S Country Stores, 8 Main Street, Overton Change of use of shop (use class A1) to form ancillary accommodation to existing dwelling (use class C3). for Mr Robert Edward Roberts (Overton Ward)	Application Permitted
12/01053/FUL	St Johns Hospice, Lancaster Road, Slyne Erection of first floor extension to offices and meeting rooms, revision of car parking to provide 5no. additional spaces, formation of disabled pathway and associated landscaping. for St John's Hospice (Slyne With Hest Ward)	Application Permitted
12/01060/FUL	1 Ashcroft Close, Caton, Lancaster Erection of conservatory to rear of property for Mrs Eunice Colquhoun (Lower Lune Valley Ward)	Application Permitted
12/01077/FUL	2 Webster Grove, Morecambe, Lancashire Conversion of existing garage to gym/hobby room/workshop with bathroom facilities for Mr Simon Devereux (Torrisholme Ward)	Application Permitted

LIST OF DELEGATED PLANNING DECISIONS

12/01057/ADV	Lloyds TSB Bank Plc, Ground Floor, 4 Lunedale House Replacement of existing internally illuminated fascia sign, replacement non illuminated projecting sign and ATM surround for Lloyds Banking Group (Poulton Ward)	Application Permitted
12/01081/FUL	Woodlands, Hornby Road, Claughton Erection of a single storey extension to create enlarged breakfast room for Mr G Magee (Lower Lune Valley Ward)	Application Permitted
12/01084/CU	4 Fenton Street, Lancaster, Lancashire Change of use from offices to student house in multiple occupation (use class C4) for Mrs Susan Dodwell (Dukes Ward)	Application Permitted
12/01085/LB	4 Fenton Street, Lancaster, Lancashire Internal alterations to facilitate the change of use from offices to student accommodation for Mrs Susan Dodwell (Dukes Ward)	Application Permitted
12/01087/FUL	Stables Near Railway, Out Moss Lane, Morecambe Erection of a general storage building for Mr J Harrison (Poulton Ward)	Application Refused
12/01097/NMA	Edenbreck Cottage, Sunnyside Lane, Lancaster Non material amendment to approved application 12/00154/FUL to alter windows at first floor level, raise the eaves height and cladding to the front elevation. for Mr And Mrs F Granell-Watson (Castle Ward)	Application Permitted
12/01120/FUL	Westfield House, West Road, Lancaster Replacement windows and doors to ground floor, resurfacing of carpark and new timber handrail to existing external balustrade for The Lancaster War Memorial Village (Castle Ward)	Application Permitted
12/01098/FUL	Redfields, Wyresdale Road, Quernmore Siting of a septic tank and associated soak away drainage field for Mr Anthony Gardner (Lower Lune Valley Ward)	Application Permitted
12/01099/PLDC	38 Burlington Avenue, Morecambe, Lancashire Proposed lawful development certificate for a hip to gable roof extension and rear dormer. for Mr S Lewis (Poulton Ward)	Application Permitted
12/01115/FUL	3 The Nook, Bolton Le Sands, Carnforth Erection of a replacement garage for Mr J Jackson (Bolton Le Sands Ward)	Application Permitted
12/01116/FUL	Dixon House, Shore Lane, Bolton Le Sands Proposed two storey extension to side of property for Mrs Julia Towers (Slyne With Hest Ward)	Application Permitted
12/01103/FUL	Rosy Bower, 6 Kirkby Lonsdale Road, Over Kellet Erection of a garage to the side for Mr & Mrs A and D Knowles (Kellet Ward)	Application Permitted
12/01107/FUL	Heber House, Low Lane, Leck Erection of replacement conservatory, new carport. conversion of garage into office, and creation of dormer to west elevation for Lord Shuttleworth (Upper Lune Valley Ward)	Application Permitted

LIST OF DELEGATED PLANNING DECISIONS

12/01108/LB	Heber House, Low Lane, Leck Listed Building Application for a replacement conservatory, new carport. demolition porch and conversion of door into window on east elevation, creation of dormer to west elevation with alterations to second floor layout and alterations to opening and fenestration on south elevation of garage for Lord Shuttleworth (Upper Lune Valley Ward)	Application Permitted
12/01112/FUL	Slyne Lodge, 92 Main Road, Slyne Erection of a porch to the south elevation for Mr Martin Crabtree (Slyne With Hest Ward)	Application Permitted
12/01113/LB	Slyne Lodge, 92 Main Road, Slyne Listed Building Application for the erection of a porch to the south elevation for Mr Martin Crabtree (Slyne With Hest Ward)	Application Permitted
12/01122/FUL	Red Bridge Farm, Red Bridge Lane, Silverdale Erection of a part single, part two storey extension to front elevation, erection of a single storey extension to the side and erection of a porch extension to New Red Bridge Farm. for Mr M Evans (Silverdale Ward)	Application Permitted
12/01117/ADV	63A North Road, Lancaster, Lancashire Erection of 2 externally illuminated fascia signs and 1 non-illuminated projecting sign for Dave Whelan Sports Ltd (Dukes Ward)	Application Permitted
12/01127/FUL	28 Ridge Street, Lancaster, Lancashire Erection of a single storey extension for Mr A Gordon (Bulk Ward)	Application Permitted
12/01125/FUL	School Villas, 2 Moss Lane, Thurnham Erection of a detached double garage. for Mr D Dickinson (Ellel Ward)	Application Permitted
12/01128/FUL	3 Hackinghurst Cottages, Wyresdale Road, Quernmore Erection of a single storey extension to the rear for Mr Keith Waterhouse (Lower Lune Valley Ward)	Application Permitted
12/01131/LB	1 - 3 Cable Street, Lancaster, Lancashire Listed building consent for the temporary installation of various monitors in connection with adjacent sewer upgrade works. for Mr Matthew Buckley (Bulk Ward)	Application Permitted
12/01132/LB	5 Cable Street, Lancaster, Lancashire Listed building consent for the temporary installation of various monitors in connection with adjacent sewer upgrade works. for Mr Matthew Buckley (Bulk Ward)	Application Permitted
12/01133/LB	YMCA, Fleet Square, Damside Street Listed building consent for the temporary installation of various monitors in connection with adjacent sewer upgrade works. for Mr Matthew Buckley (Duke Ward)	Application Permitted
12/00174/DIS	Lancaster Moor Hospital, Quernmore Road, Lancaster Application for discharge of conditions 4, 7, 11, 19, 25 and 28 on previously approved application 11/00379/RENU for The Homes And Communities Agency, P J Livesey And Story H... (John O'Gaunt Ward)	Initial Response Sent
12/01141/LB	Wyreside Hall, Stoney Lane, Galgate Listed Building Application for the construction of new access gates and alterations to existing walls to form an amended access. for Wyreside Hall Ltd (Ellel Ward)	Application Permitted

LIST OF DELEGATED PLANNING DECISIONS

12/01153/LB	Dixon House, Shore Lane, Bolton Le Sands Proposed two storey side extension for Mrs Julia Towers (Slyne With Hest Ward)	Application Permitted
12/01144/FUL	4 St Michaels Place, Bolton Le Sands, Carnforth Retrospective application for the retention of a detached garage for Mr P Trusler (Bolton Le Sands Ward)	Application Permitted
12/01147/FUL	Brookfield Barn, Whams Lane, Bay Horse Erection of stable block comprising of two stables and tack room for Mr John Harwood (Ellel Ward)	Application Permitted
12/01160/FUL	Matthias Court, Matthias Street, Morecambe Replacement of windows and doors for Mr Roger Chapman (Poulton Ward)	Application Permitted
12/01161/FUL	Green Lane Cottage, Green Lane, Halton Alterations to the roof to create first floor, two storey and single storey extension to the rear and erection of detached garage and workshop and change of use of existing field to form part of the domestic curtilage for Mr And Mrs Chris Batty (Halton With Aughton Ward)	Application Permitted
12/01165/CU	46-48 Penny Street, Lancaster, Lancashire Change of use from shops (use class A1) to financial and professional services (use class A2) for Done Brothers (Cash Betting) Ltd (Dukes Ward)	Application Permitted
12/01166/CU	Rimmington Hotel, 70 - 72 Thornton Road, Morecambe Change of use of existing 17 bedroom hotel (Use Class C1) into 7 self contained flats (Use Class C3) for Mr Steve Hemingway (Poulton Ward)	Application Permitted
12/01168/FUL	80 Windermere Road, Carnforth, Lancashire Retrospective application for the retention of a shed at the rear for Mr Matthew Carter (Carnforth Ward)	Application Permitted
12/01177/FUL	1 Penny Street, Lancaster, Lancashire Retrospective application for the installation of timber cladding to shop front for Miss Jen Hilton (Dukes Ward)	Application Permitted
12/00178/DIS	Heysham South Wind Farm Site, Lancaster Morecambe Bypass, Heaton With Oxcliffe Discharge of conditions 12, 20, 21 and 27 on approved application 11/00689/FUL for Banks Renewables (Heysham South Wind Farm) Ltd (Overton Ward)	Request Completed
12/01170/FUL	46 Clougha Avenue, Halton, Lancaster Erection of a two storey extension to the side for Mr & Mrs R. Stephenson (Halton With Aughton Ward)	Application Permitted
12/01171/FUL	2 Monkswell Avenue, Bolton Le Sands, Carnforth Erection of single storey extensions to the side and rear incorporating an access ramp and erection of detached garage to replace existing for Mr & Mrs D. Fletcher (Bolton Le Sands Ward)	Application Permitted
12/01175/FUL	36 Whernside Road, Lancaster, Lancashire Demolition of existing detached garage and erection of two storey extension to side and single storey extension to side and rear for Mr & Mrs J. Elles (Skerton West Ward)	Application Refused

LIST OF DELEGATED PLANNING DECISIONS

12/01176/FUL	Taylors Stables, Out Moss Lane, Morecambe Erection of storage building for live stock and hay for Mr R Taylor (Poulton Ward)	Application Refused
12/01184/CU	Friends Hall, Fenton Street, Lancaster Change of use to residential accommodation as 12 self contained units for student accommodation and one residential maisonette for Fenton Studios Ltd (Dukes Ward)	Application Permitted
13/00012/CON	Friends Hall, Fenton Street, Lancaster Conservation Area Consent for demolition of a lean to and outbuilding for Fenton Studios Ltd (Dukes Ward)	Application Permitted
12/01190/FUL	89 Main Road, Nether Kellet, Carnforth Erection of a two storey extension to the rear for Mr And Mrs Slater (Kellet Ward)	Application Permitted
12/01191/FUL	7 Pinewood Avenue, Brookhouse, Lancaster Erection of a rear dormer for Mrs Eleanor Skinn (Lower Lune Valley Ward)	Application Permitted
12/01194/CU	2B Station Road, Hest Bank, Lancaster Change of use from shop A1 to office A2 for Mr Graham Sharples (Slyne With Hest Ward)	Application Permitted
13/00001/RENU	4 Church Hill Avenue, Warton, Carnforth Renewal of planning permission on approved application 10/00609/FUL for the erection of a two storey side extension, single storey front porch extension and dormer to the rear for Mr Peter Ball (Warton Ward)	Application Permitted
13/00004/FUL	23 Spring Bank, Silverdale, Carnforth Conversion of garage and store to kitchen and storage area including the raising of the roof for Mr & Mrs R. Wise (Silverdale Ward)	Application Permitted
13/00001/DIS	Netherbeck Farm, Over Hall Road, Ireby Discharge of condition 16 on approved application 10/01280/FUL for Mr P Haslam (Upper Lune Valley Ward)	Request Completed
13/00015/FUL	9 Yealand Drive, Lancaster, Lancashire Erection of a single storey extension to the rear for Mr & Mrs M Graham (Scotforth East Ward)	Application Permitted
13/00004/DIS	13 Market Street, Carnforth, Lancashire Discharge of condition 3 on application no. 12/00812/FUL for the replacement of windows to the front elevation for Mr N Armstrong (Carnforth Ward)	Application Permitted
13/00022/PLDC	Brackenber, Brettargh Drive, Lancaster Proposed lawful development certificate for replacement windows, doors and conversion of garage into a workshop/sun room. for Mr Mike Flanagan (Scotforth West Ward)	Lawful Development Certificate Granted
13/00039/FUL	137 North Road, Carnforth, Lancashire Erection of a single storey side extension for Mr And Mrs J Hotersall (Carnforth Ward)	Application Permitted
13/00044/FUL	26 Essington Avenue, Morecambe, Lancashire Proposed garage for first floor flat for Ms K. Fay (Harbour Ward)	Application Permitted

LIST OF DELEGATED PLANNING DECISIONS

13/00009/DIS	70 Slyne Road, Bolton Le Sands, Carnforth Discharge of conditions 3, 4, 5, 7 and 10 on approved application 09/01125/FUL for Mr A Marwood (Slyne With Hest Ward)	Request Completed
13/00013/DIS	Land West Of 19 - 25, Strands Farm Court, Strands Farm Lane Discharge of conditions 3, 6, 7, 13, 14, 17, 18, 20 and 22 on approved application 12/00895/VCN for (Upper Lune Valley Ward)	Initial Response Sent
13/00086/CCC	Lancaster Road County Primary School, Lancaster Road, Morecambe Retrospective application for 59 solar panels for Alhazen Energy Limited (Poulton Ward)	No Objections
13/00018/DIS	21 Salford Road, Galgate, Lancaster Discharge of condition 4 on approved application 12/00566/FUL for Mr Lee Morhouse (Ellel Ward)	Application Permitted
13/00132/EIR	Moss Side Racing Stables, Crimble Lane, Cockerham Screening opinion for the erection of a wind turbine for VG Energy Ltd (Ellel Ward)	Request Completed
13/00117/NMA	Goss Lodge, Main Street, Arkholme Non material amendment to approved application 12/00661/FUL for Mr And Mrs Gardner (Kellet Ward)	Application Permitted
13/00139/EIR	United Utilities (UU) Morecambe WwTW, Compression Road, Middleton Screening opinion for the erection of a wind turbine (79m to tip) for Tnei Services Ltd (Overton Ward)	Request Completed
13/00155/EIR	White Lund Trading Estate, Mellishaw Lane, Heaton With Oxcliffe Screening opinion request for windturbine for Jim Harley (Overton Ward)	Request Completed

## PLANNING AND HIGHWAYS REGULATORY COMMITTEE

4<sup>TH</sup> MARCH 2013

### Petition regarding Camping and Caravanning activities Gibraltar Farm, Lindeth Road, Silverdale. Report of Head of Regeneration and Planning

#### PURPOSE OF REPORT

To report to the Committee the results of investigations into alleged unauthorised camping and caravanning activities at Gibraltar Farm, which were a direct instruction from Council on 14<sup>th</sup> September 2011, and to make recommendations on how to secure resolutions to the harmful effects of the "intensification" of activity on this site.

Key Decision		Non-Key Decision	<input checked="" type="checkbox"/>	Referral from Cabinet Member	
Date Included in Forward Plan					
This report is public					

#### RECOMMENDATIONS

- (1) That an enforcement notice be served against the construction of hard standings which result in the siting of caravans on a seasonal basis with a compliance requirement to remove the hard standings from the area to the north of the main access track.
- (2) That an enforcement notice be served against the use of the tent camping field as extended with a requirement to cease using the area extending into the fields beyond to the north of the access track.
- (3) That an order be sought under paragraph 13 of the first schedule of the Caravan Sites and Control of Development Act 1960 to remove camping and caravanning rights from exempted organisations in relation to all the land at Gibraltar Farm.
- (4) That the Head of Health and Housing be asked to use the representations made in this case about noise nuisance to consider as objections to any future applications for Temporary Events Licences at Gibraltar Farm.

#### 1. Background

- 1.1 At its meeting on 14<sup>th</sup> September 2011 Council considered a petition from local residents in Silverdale which complained about errors made by the Regeneration and

Planning Service in the issuing of a Certificate of Lawfulness for a touring caravan site at Gibraltar Farm. The petition also made allegations that other breaches of planning control were occurring relating to camping and caravanning activities on the site, and asked the Council to ensure that its officers continued to investigate those complaints even though the site owners had successfully rebutted the Council's efforts to correct the error relating to Lawful Use.

1.2 Council resolved that :-

- a) The Heads of Regeneration and Planning and Health and Housing be instructed to conduct a detailed investigation into the allegations of unlawful activity at Gibraltar Farm contained in the petition documentation, and, in consultation with the Head of Governance to consider the expediency case for enforcement or other regulatory action under the Planning Acts and other associated legislation, having regard to the impacts on the landscape and amenities of the Arnside/Silverdale AONB, the amenities of local residents, and any other material considerations.*
- b) That reports be prepared for Cabinet or the relevant regulatory committee as appropriate outlining the conclusions of those investigations to enable Members to consider recommendations on how to proceed.*
- c) That presentation of a report to Cabinet or the relevant regulatory committee be implemented before December 2011. (A report updating Members of the Planning and Highways Regulatory Committee was presented to the December meeting).*
- d) That Council officers preparing the report be required to consult with the organisers of the petition during their preparation of the report.*
- e) That a copy of the report be provided to the organisers of the petition in order for them to be able to supply written observations on the report when it is considered by Cabinet or the relevant regulatory committee.*

1.3 Following an update report in December 2011 the Head of Regeneration and Planning reviewed the evidence surrounding the case, together with new evidence submitted by objectors over the Winter of 2011/12. Since then he has also sought the advice of an independent Planning Consultant with particular expertise in planning enforcement law to review his findings. There are complaints from the Petition Group that the investigation has taken too long. Members are asked to note that following the reduction in the number of Senior Planning staff in this service it has been necessary for the Service Head to conduct this investigation himself because of its very specialist nature in terms of planning law and the pressure on other senior staff from major planning appeals and the preparation of the Local Plan during 2012.

1.4 The Petition Group's complaints are understandable, but during the same period the Service Head has also had to prepare evidence for the Heysham/M6 Link Examination and the National Grid Strategic Route Options consultations, along with his new role as a member of the council's Management Team. Criticism of timescales taken does not properly appreciate this position, which ultimately resulted in Cabinet agreeing to the creation of a new Senior Planning Officer post to support the Service Head in July 2012. This is a highly complex case in planning law and has the potential to be challenged at appeal. It is important to properly take time to assess the planning issues very carefully before acting.

## 2.0 Enforcement Investigations

2.1 When investigating alleged breaches of planning control it is necessary to consider firstly whether there is a breach of planning control. Whilst all development needs planning permission, some development can be carried out under Permitted Development Rights (there is a deemed permission and an application for planning permission does not need to be made to the Council). If there is a breach the council must establish whether with the passage of time it has become lawful (ie immune from enforcement action by the local planning authority). Only when the authority is clear on these facts and there is a breach against which action can be taken can it consider secondly whether it is expedient to take enforcement action. Clear evidence of harm which must be defendable at appeal has to be identified. It is not sufficient to take enforcement action simply because a development should have had planning permission.

2.2 It is important that the council always maintains its impartiality when investigating enforcement matters. Planning enforcement by its very nature often brings the private interest of one party into conflict with the interests of another. The council's duty is to act in the public interest and not simply to support the interests of either party in dispute. It should be noted that in this instance both the Petition Group and the landowners have accused the council in writing of acting in a biased manner. Both accusations are completely unjust and without basis. Because of the allegations however it has been important to stress for the record that the council's assessments in this matter will consider only the public interest.

2.3 After the council meeting on 14<sup>th</sup> September 2011 the Petition Group also asked council officers to consider whether there is merit in trying to reach a negotiated settlement with the landowners to try and achieve a resolution to the amenity impacts which they allege are harming the living conditions of local residents and the amenities of the Arnside/Silverdale AONB.

2.4 Following a detailed assessment of the various aspects of the mixed land uses on the site officers reached the conclusion that there have been breaches of planning control which it would be expedient to take action against. Equally it is important that steps are taken to encourage the landowners not to cause further breaches to occur in the future. There are two ways which the council could seek to enforce against existing breaches and secure restraint of future land uses in this instances. They could:

- a) Take enforcement action; or
- b) Negotiate with the owners to enter into an agreement under Section 106 of the Town and Country Planning Act 1990 to voluntarily correct breaches and restrict the level of activity on the site.

### **3.0 The existing uses at Gibraltar Farm**

3.1 The area under consideration comprises all of the land associated with Gibraltar Farm, between Lindeth Road to the east, the coastline to the west, Jack Scout to the south and the houses on Shore Road to the north.

3.2 It comprises of a mixture of uses:-

- The agricultural unit and main farm buildings,
- The farm dwelling,
- A touring caravan site (subject of the Lawful Use Certificate),
- A camping field adjacent to it
- There are also areas of woodland within the planning unit.

A plan of those uses and their current extent is attached to this report. Appendix 1

3.3 In addition to the touring caravan site and the camping field, areas of the agricultural unit (open fields) are used regularly under Permitted Development Rights for caravanning. There is also a yearly event in the form of a camping rally for motorcyclists held on the farm land. These activities are undertaken under separate Permitted Development Rights which allow the farm land to host temporary activities in this way.

#### **4.0 Alleged Breaches of Planning Control**

4.1 In evaluating this case officers have investigated concerns raised by local residents about what they see as "intensification" in activities since a change of ownership on the farm.

4.2 Intensification, in the sense of an increase in one or more activities in a mixed or composite use, may bring about a change of use. But this does not automatically mean that there has been a material change of use that amounts to development. There has to be a fundamental change in the character of the composite use (such as one part becoming more dominant than another), for a change of use to occur

4.3 It is clear from examining the written and photographic evidence (particularly aerial photographs) that the level of activity on the site related to camping and caravanning has increased in recent years. Some degree of that has been intensification of the existing mix of uses ie more tents using the camping field, or more touring caravans using the touring caravan site. However these changes do not lead to a need for planning permission unless the level of intensification changes the character of the planning unit as a whole, perhaps by extending onto other fields and altering the balance between exclusive agricultural use and mixed use with camping activities.

4.4 Intensification in activity can be a material planning consideration in terms of its impact on the case for expediency for enforcement action if other changes in the character of the site subsequently result in a need for planning permission. In this case it would be proper for Members to consider the overall impact of change on the site, whether caused by factors needing planning permission, or the exercise of rights which are currently argued to be in use.

4.5 The current mix of uses on the farm (a composite use) developed from a small rural diversification project but there were no calls for intervention by the local authority as it grew beyond an initial limited planning permission for a small number of touring caravan pitches, because the local community appears to have been tolerant and supportive of the activities undertaken up to a point in time. A change in ownership (even between generations in a family as in this case) often leads to changes in business activity and this can erode the relationship of trust between a business and the community in which it sits. This appears to be what has given rise to a change in the attitude of some members of the local community to the use in this case since around 2005.

4.6 To enable Members to properly assess the different elements of the composite use and the question of breaches of control, or increased use of permitted development rights each element of the use will be considered in detail.

4.7 The farm dwelling. There are no issues raised about the farm dwelling.

4.8 The agricultural unit. There are no specific complaints about the agricultural activities on the farm apart from those which arise from the use of agricultural permitted

development rights being suspected of having links with the tourism uses. The improvement of farm tracks including one between the fields on the coastline and the receded area of salt marsh, has caused concerns that the works are intended to facilitate tourism access to the coastal path. The landowner states that these are normal agricultural operations for the maintenance of farm tracks and there is no hard evidence to dispute this. The main area of complaint in relation to the areas of agricultural land is directed at the use of camping and caravanning Permitted Development Rights

4.9 Temporary camping and caravanning There are three sets of Permitted Development Rights which the owners rely on to facilitate temporary camping and caravanning on the agricultural land. These are found in Town and County Planning (General Permitted Development) Order 1995 as amended:

Part 4 Temporary Buildings and Uses - This permits use of land for any purpose for not more than 28 days in total in any calendar year (with exclusions). One of these exclusions is as a caravan site (as defined in the Order), but this still allows the open farm land to be used of temporary camping activities such as the Biker Rally.

Part 5 Caravan Sites – Use of land as a caravan site under a range of definitions which include recreational activities by names exempted organisations ie the Camping and Caravanning Club and meetings organised by exempted organisations. It should also be noted that there is a permitted development right to carry out any development required by the conditions of a site licence.

Part 27 Use by members of certain recreational organisations - This allows a list of organisations such as the Scouts and Girl Guides, and the Camping and Caravanning Club to use land temporarily for the purposes of recreation or instruction and to place tents on land for the purposes of the use.

The overall essence of the controls relates to the “temporary nature of these uses”. Agriculture has to remain the primary use of the land, so if a field were set aside solely for these activities a material change of use would occur.

4.10 The touring caravan site. There is no doubt that the council's failure to impose restrictions and define “lawfulness” precisely was the cause of a considerable loss of faith in the local authority by the Petition Group. However when considering the planning unit as a whole, with its various composite parts, an increase in numbers of touring caravans wholly within the confines of this site (as shown on the plan) would not necessarily have amounted to a change of use needing planning permission in any case. The key question is whether the changes affect the character of the planning unit as a whole. This view is also supported by the council's consultant.

4.11 Where it is considered development has occurred is with the construction of hard standings. This results in a change from touring caravans coming and going on the site, to the granting of seasonal leases enabling caravans to stay in situ throughout the spring and summer and into early Autumn. In other words a change in the character of land to a more “static” form of caravan site. This change of character is different from the lawful use which was granted for the touring site and is more harmful in terms of visual impact facilitated by the construction of hard standings ability to encourage seasonal pitches to keep caravans stationary on the site for most of the year.

4.12 The Tent Camping Area. This area has a significant amount of evidence relating to it both from aerial photographs and questionnaires submitted by the owners but completed

by persons who have camped on the site over the years. In addition to the standard questions about usage many respondents volunteer additional narrative which adds credibility to the evidence. Your officers view is that there is clear evidence that the camping field (to the south of the access track, as shown on the plan), has been used for camping for many years.

4.13 However there are questions over the use of an area which has more recently been subdivided from a field north of the main access track for tenting purposes. In addition to this creeping encroachment into other fields there is the difficult question of whether this is an exclusive use or an intermittent one with the land returning to agricultural use over the winter months. The owners position is that the camping use is exclusive and that no winter grazing or cropping takes place at all. The aerial photographic evidence shows one occasion of sheep grazing on the land in 2000, and the objectors have supplied evidence of monies being claimed for agricultural use from the Rural Payments Agency. Whether or not there is an intermittent use with agriculture, it is very clear that the camping field has not been used for caravanning.

4.14 In the context of the Petition Groups complaints there is concern that the level of intensification of caravan usage on the site could encroach onto the camping field. Discussions with the owners however have resulted in reassurances that there is no intention to begin the use of this field for caravanning whether static or touring.

4.15 The woodland areas. These areas (shown on the plan) which abut the touring caravan site and the camping field have conflicting pieces of evidence relating to them. The owners case suggests that these have been areas used for camping in the past and that those activities have more recently been abandoned. The Petition Group dispute that these areas have ever been used for camping although it seems to be generally accepted that the paths through them have been used to gain access from the caravan and camping activities to the shoreline. When considering what the likelihood of past land use has been one has to look at the physical conditions in the woodland areas. They are predominantly uneven and rocky with paths through them and the occasional glade area. Whilst it is likely that individual campers would have enjoyed secluded pitches in the small glades over the years, these areas are very small in number in relation to the woodland as a whole. Your officers conclude that any camping use in the woodland would have been an intermittent or *de minimis* use within the woodland, as would the recreational access through to the shore. The owners assurance that camping no longer takes place in the woodland does not change the planning position as the primary use of this component of the planning unit would still have been as woodland anyway and it would not be conceded that there was a lawful camping use in that area any way.

4.16 After considering the allegations and carrying out investigations officers have concluded that breaches of planning control have occurred in two areas.

- The extension of the tent camping use since 2009 into an area of agricultural land to the north of the access track.
- The siting on the touring caravan site of caravans for longer periods during the season made possible by the unauthorised construction of hard standings. This amounts to a change in the character of the touring caravan site use which was certified as lawful in the disputed Lawful Use Certificate case of 2010.

4.17 Other aspects of intensification, alleged to be breaches of control, have been found to be associated with the claimed use of Permitted Development Rights on the agricultural land. If the Council wanted to curtail these they will have to consider options relating to

removal of those rights, or intervening in some of the exemptions under other legislation which entitle the rights to be used. There is also an argument that suggests that the existence of unlawful activities (the breaches in paragraph 4.16) within the planning unit means that the use of Permitted Development Rights is precluded by Article 3 of the General Permitted Development Order 1995. This specifically precludes the use of deemed permissions where an existing use is unlawful.

## **5.0 The basis for assessing whether it is expedient to take enforcement action.**

5.1 The Act does not make it mandatory to take enforcement action when the local planning authority has found breaches of planning control. Rather it says it **may** issue an enforcement notice if it is expedient "having regard to the provisions of the development plan and to any other material considerations." (s172(1). Members must therefore consider these requirements very carefully, starting with the relevant provisions of the Development Plan.

5.2 The Lancaster District Local Development Framework Core Strategy in Policy E1 outlines that the Council will safeguard and enhance the districts environmental capital by applying national and regional planning policies and: protecting and enhancing nature conservation sites, urban green spaces, allotments, landscapes of national importance, listed buildings, conservation areas and archaeological sites.

5.3 In Policy ER6 the Core Strategy also states that the Council will promote and enhance tourism in the district by: In the Districts countryside, encouraging agricultural diversification to create quiet recreation and small scale sensitively designed visitor attractions and accommodation in the districts countryside, promoting new walking and cycling routes including long-distance routes and linkages to national networks.

5.4 Saved Policy E3 of the Lancaster District Local Plan states that development both within and adjacent to the Forest of Bowland or Arnside/Silverdale Areas of Outstanding Natural Beauty or the Yorkshire Dales National Park which would either directly or indirectly have a significant adverse effect upon their character or harm the landscape quality, nature conservation interests or features of geological importance will not be permitted.

5.5 Saved Policy E21 states that proposals for business and tourism uses which form part of an agricultural unit will be permitted where the proposed use makes a positive contribution to the viability of the farm holding and remains subsidiary to the main farming enterprise; and the development would not result in significant adverse impact on the character of the area or lead to an unacceptable increase in traffic. Wherever possible the proposed use should use existing buildings within the main agricultural unit.

5.6 Saved Policy TO5 states that within the Arnside/Silverdale and Forest of Bowland Areas of Outstanding Natural Beauty, proposals for new static or touring caravan sites or the extension of existing sites will not be permitted. The accompanying text however explains where modest exceptions might be made such as modest increases within existing site boundaries, or through minor extensions which do not result in harm.

5.7 The National Planning Policy Framework guides local planning authorities on how the government expects planning policy to be applied. It should be noted that this is a new framework, only introduced in March 2012, so there has been a change in national planning policies during the course of this investigation. Specifically, in relation to enforcement the NPPF says:

*“207 Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary and local planning authorities should act proportionately in responding to suspected breaches of planning control.”*

When judging the issue of expediency the council has to balance policies which aim to protect the landscape and character of AONB's with those encouraging enterprise and rural business uses relating to tourism. In short it can only be expedient to take enforcement action if the breach of control would not otherwise be entitled to receive planning permission because the activity causes material harm to one or more interests of acknowledged importance in planning terms.

5.8 Paragraph 115 states that great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads, and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. This is followed by paragraphs describing levels of harm to be avoided and mitigation measures.

5.9 Paragraph 14 describes the presumption in favour of development which complies with the development plan and does not have over riding adverse effects. Paragraph 28 supports economic growth in rural areas supporting sustainable development. Support is clear for sustainable rural tourism which respects the character of the countryside and supports the retention and development of local services and community facilities. It is balancing these potentially competing requirements that go to the heart of this case.

5.10 The emerging Development Management DPD is a material consideration which, since the Council decision on 12<sup>th</sup> September 2012 to approve the Draft Local Plan for the purposes of public consultation, should be given limited weight. Policy EC2.3 of the Draft Lancaster District Development Management DPD, states that the Council will support proposals in rural areas which seek to diversify the rural economy, particularly where it is demonstrated that significant economic benefit exists from diversification of the farm holding. Development in rural areas would not be supported if it is likely to adversely affect an internationally designated wildlife site either directly or indirectly through for example increasing risk of disturbance through visitor pressure. Policy EC3.3 specifically relates to caravan sites, chalets and log cabins. The policy makes it clear that within the Arnside/Silverdale and the Forest of Bowland Areas of Outstanding Natural Beauty proposals for new static or touring caravans sites or the extension of existing sites will not be permitted.

5.11 In summary the decision on “expediency” requires a careful balance between the need to protect the special landscape in the Arnside/Silverdale AONB from harm against the counter balancing argument in favour of supporting sustainable tourism and rural business growth. In addition material weight must be given to the impact of any breaches of control or permitted development usage which could be causing harm to site-specific considerations such as residential amenity and highway safety.

## **6.0 Enforcement and expediency considerations.**

### The touring Caravan Site.

6.1 Because of significant changes in level and the nature of the land form and woodland screening a significant part of the area of the touring site on which caravans now stay

without moving is well screened from wider views. Not unless one comes close to the site or walks across it are the caravans visible, and certainly the areas tucked into the woodland, have little effect on the nearest houses.

6.2 To the north of the access track on an open elevated area known as "the hill" (shown on the plan) the stationing of caravans is visible in the wider landscape, from the coastal path and from wider views in the area. Whilst an increasing number of touring caravans remain sited for longer periods on seasonal pitches, they are not static caravans, a term which relates to larger models.

6.3 The commentary to saved policy TO5 of the Lancaster District Local Plan acknowledges that static caravans being usually larger and permanent than touring caravans have a worse visual impact than touring caravans but also accepts that modest increases in the number of vans on a site will occasionally be acceptable where linked to better landscaping or improvements to on site facilities where such increases within existing boundaries or minor extensions will not harm the surrounding countryside or neighbouring properties.

6.4 Taking this policy as a guide, your officers take the view that the less visible part of the site could continue to be used for stationing caravans all year if seasonal pitches were removed from "the hill" area and were only used for touring pitches without any hard standings or electricity hook-ups during the holiday season only.

6.5 In this case the change in character of the site which could be acceptable, namely the change from touring caravans to seasonal pitches, could be mitigated if the reciprocal benefit were a reduction in the unauthorised seasonal pitches on the hill and other concessions in terms of control throughout the planning unit.

6.6 One point of dispute which could be difficult to resolve relates to the construction of stone hard standings. Modern caravanning desires better drained pitches for caravans to stand on, but their rectangular nature and regularity can appear as a discordant feature in a rural landscape. The hard standings are constructed using stone chippings somewhat like the many random areas of chipped stone which protrude through the grasslands of this limestone landscape and there has recently been difficulty in convincing a Planning Inspector of the seriously detrimental effect on visual amenity of stone hard standings elsewhere in the AONB, albeit in a village setting. Nevertheless it is strongly felt that hard standings in the visually exposed setting of the hill have a different impact than those screened between the woodland and the raised land. They give rise to longer periods of stay and it is felt that for this reason they should be removed.

6.7 Your officers conclude that there has been a breach of planning control against which it would be expedient to enforce against and this is the construction of hard standings which leads to more seasonal pitches on the site. If Members agree, then the rectifying of the breach could be achieved by either agreement with the owners through a Section 106 agreement, or by the service of an Enforcement Notice which "under enforces" to remove the unacceptable hard standings from the hill.

#### Tent Camping

6.8 In the context of the Petition Group's complaints there is concern that the level of intensification of caravan usage on the site could encroach onto the camping field. Discussions with the owners however have resulted in reassurances that there is no intention to begin the use of this field for caravanning whether seasonal or touring. The council could respond by serving an enforcement notice against the complete area used for

tent camping, which includes the area extended more recently into a field to the north of the access track. That notice could “under enforce” by requiring the owners to cease using the extended area and accepting that the remainder is acceptable in view of the level of historic use. This would recognise that this part of the site is used for camping only and leave open the possibility of enforcement action if caravanning began to take on that area in the future.

6.9 There are a range of concerns raised by local residents about the harmful effects of the current range of uses. Some relate to the impacts of intensification but the others relate to the act of carrying out of development without permission and the fear that the gradual creep of change if not countered will have an irreversible effect on both the amenities of local residents, and the special landscape quality of the AONB. The next section will deal with the latter.

6.10 If enforcement notices are served and complied with a degree of lawfulness would return to the planning unit meaning that Permitted development rights on the agricultural land could still be used. The council still has to consider therefore how to deal with that aspect of the use.

#### Petitioners concerns about further development

6.11 Notwithstanding the conclusions reached by officers it is open for Members to consider going further than simply enforcing against the breaches of control. They could consider acting to remove the levels of Permitted Development Rights which allow camping and caravanning to take place on the agricultural land. This would require a commitment to paying compensation however and very careful consideration would have to be given to the financial implications of such an act. There are also approaches which can be taken to challenge the rights of exempted organisations to benefit from permitted development rights and these are referred to later in the report. Both approaches would have to be fully justified.

6.12 If the Council wanted to secure an end to these use rights, and has sound grounds to do so there are two ways to approach the matter in planning terms.

6.13 In the case of the Permitted Development Rights the Council would have to make an Article 4 Direction to remove them and if a direction were confirmed the Council would be liable to pay compensation claims. This could amount to compensating the owners for loss of income from these activities on a yearly basis.

6.14 In the case of the Parts 5 and 27 of the General Permitted Development Order removing Permitted Development Rights and paying compensation remains an option but there is another potential approach. The entitlement to use both parts relies on being licensed by Natural England under other Acts of Parliament. The Council can make representations to Natural England to have a site excluded from the rights given by exception certificates under the Caravan Sites and Control of development Act 1960 if it has grounds to do so and this is an option for the City Council to consider if necessary.

6.15 Having considered the objections to the overall activities on the site it seems that it is not simply the regularity of the use of Permitted Development Rights for camping and caravanning which causes concern, but once again the fears of intensification. There is clear evidence that caravanning activities by exempted organisations on the L shaped field north of the touring caravan site have taken place for many years, however it is the arrival of additional activities such as the biker rally which have raised the profile of the permitted development uses and caused concern. It seems to your officers that the growth in activities

elsewhere within the mixed use have also given rise to understandable concerns that more agricultural land will begin to be used for such uses.

6.16 The councils response needs to take into account any decision it is prepared to make in relation to enforcing against the expanded usage of the caravan site. If the council is prepared to agree to allowing seasonal pitches to remain on part of the planning unit then it seems reasonable to counter balance this by reducing the impact of caravan usage on other parts of the site. To achieve this your officers consider that the time has come to make representations to seek the removal of exemption certificates for the agricultural land.

6.17 The owners tell the Council that the biker rally is facilitated by part use (lawfully) of the tent camping field and overflow activities occurring under Permitted Development Rights on open farm land closer to the coastal paths. In addition to the planning position the rally has required an Events Licence for the live music associated with it, although there is also an entitlement to use a Premises Licence which Gibraltar Farm holds. New provisions have emerged which entitle the Council through its Environmental Health function to object to Temporary Events Licences on noise and disturbance grounds, the site owners can still rely on the Premises Licence to hold events. . .

6.18 To secure an end to the biker rally on the open farm land the Council at this time would have to remove Permitted Development Rights and pay compensation. This would not prevent the area of the tent camping field being used for these purposes however.

## 7.0 Consultations.

7.1 After examining the evidence and seeking a second opinion from the Council's consultant the findings have been discussed with representatives of the Petition Group, and the landowners and their Planning Consultant. Your officers sought agreement if one could be reached to resolving the issues raised without the need to take formal enforcement action. It might for example be possible to reach a negotiated conclusion by the objectors acknowledging the owners rights to use Lawful Use and Permitted Development Rights for a current level of activity, in return for an agreement under Section 106 to regulate and not to further intensify use without formal agreement with the Council as Local Planning Authority.

7.2 The Land owner and his agent met with your officers on 19<sup>th</sup> June 2012 to discuss the potential for a Section 106 Agreement. They initially agreed to consider an agreement in principle and have been sent the heads of terms that officers would be prepared to recommend. After a delay a formal response was finally received on 27<sup>th</sup> August 2012. It became clear from that response that support for a comprehensive agreement to resolve the breaches of planning control and restrain future use had diminished. (See further responses from the land owners following sight of the first draft of this report).

7.3 Having presented their findings to each party your officers have received the following responses:-

### **The Petition Group**

- Accepts the Council's definition of the planning unit.
- The Council's overall approach is insufficiently firm and robust given the policy background which should apply.
- The proposed approach will store up trouble for the future.
- The impact of the use upsets the balance between tourism and the need to protect the AONB.

- There is a major conflict with the policy position in the NPPF (their interpretation).
- Disagree with officers view on compromise by under enforcing in relation to static caravan use. Only touring use should be permitted as per the Lawful Use Certificate.
- The overall number of caravans in the AONB has increased since 1981
- If static pitches are allowed they will be visible from paths and other areas of the AONB such as Jack Scout
- Council is wrong in interpretation of intensification on the touring site.
- All hard standings should be removed.
- Tent camping area has not been used as intensively as suggested.
- Agricultural payments have been received for camping area.
- There remains a risk of further expansion of activities on the site.
- Electrical hook ups are proposed.
- Major concerns remain about rallies and exempted uses and the Council should take action under powers available under exemption legislation.
- Biker rally has caused noise nuisance, especially from loud music.
- Council should commit to undertake regular monitoring and assessment.

#### 7.4 The Petition Group has six main expectations:-

1. That there be no further rallies at Gibraltar Farm
2. That the City Council obtain? Issue/grant? a Lawful Development Certificate in respect of tents, and that this restricts both the area to be used , and the number of pitches.
3. That the Council enforces fully in respect of the change of use to static pitches across the whole touring site.
4. That the Council enforces in respect of any hard standings that have been put in without planning permission.
5. That a condition be imposed banning access to the shore from the site by vehicles or water craft.
6. That a system of monitoring and recording be introduced utilising the ideas the group has given.

#### 7.5 The land owners

- Reassured by statements about the Councils impartiality as concerned about how much influence local objectors seem to have in the decision making process.
- Point out that the majority of uses have the benefit of Lawful Use Certificate or Permitted Development Rights.
- Agree to the principle of agreement to prevent caravanning on tent camping area.
- Permitted Development Rights on agricultural land are lawful rights for owners to use and would not agree to voluntary restriction on them.
- Disagree that Council has control over longer seasonal pitches.
- Would not agree to controls on hill area of touring site. Disabled visitors need access to touring pitches on level area so loss of hill for seasonal pitches adversely affects business.
- Submits recent appeal decision taking in the context of NPPF which supports holiday caravan usage in an AONB with flexible conditions relating to length of stay.
- Overall conclusion is that there is agreement in principle to a S.106 agreement regulating use of tent camping field, but no agreement to regulation of other areas with Lawful Use and Permitted Development Rights.

Members should also be aware that the Regeneration and Planning Service has also received representations from some local residents in support of the land owners position.

## 8.0 Conclusions

8.1 This is a very complex case which involves land use impacts in the Arnside/Silverdale AONB which do not simply arise from a breach of planning control. There are also impacts which arise from the lawful use of Permitted Development Rights. Members will see that your officers have sought to establish whether there is any common ground which could result in avoiding the need for enforcement action by the land owners entering into of a voluntary agreement under Section 106 of the Town and Country Planning Act to self regulate the existing (and future) uses of the land in a manner acceptable to the planning objectives for the area. It appears that such an agreement will only be possible if the Council agrees to accept seasonal pitches on the hill as well as on the rest of the touring site.

8.2 Despite the pressure being applied by the petition group, and the unwillingness of the landowners to acknowledge the steps the Council could take to restrain the uses the landowners are entitled to exercise, the Council needs to carefully consider the appropriate balances to be applied in this case between the need to protect the landscape and character of the Arnside/Silverdale AONB, and the need to support rural tourism. Although the petition group make strong representations on their interpretation of what the policy position is, there is a lack of objectivity in that interpretation. This is borne out by the recent appeal decision submitted by the landowners which demonstrates that Planning Inspectors using the new NPPF have interpreted tourism uses to be appropriate in an AONB.

8.3 What is clear in this case is that there has been a camping and caravanning facility on this site for many years, but that in recent times a new generation of owners are seeking to modernise it and generate a level of growth in the contribution it makes to the business at Gibraltar Farm to a degree which now places it in conflict with aspirations of many local people. What the Council has to decide is whether that level of growth comes into conflict with the counter balancing planning policies which provide a high level of protection for the AONB as a whole. The NPPF and the recent appeal decision submitted by the landowner helpfully steer the Council by demonstrating that an appropriate balance must be struck and that it is simply not a case of protection of the landscape overriding any growth whatsoever. The Council must also take into account that it's not just the scale of facilities which must be considered but also improvements in the quality as visitors needs become ever more fine-tuned to the quality of stay.

8.4 It is understandable that the Petition Group fears that a failure to control further expansion will lead to the landowners feeling encouraged not to have regard to the need to consult the local planning authority before change take takes place. Whilst this is not an enforcement matter it does need to be addressed to avoid further change in the future becoming unnecessarily adversarial.

8.5 Your officers are firmly of the view that there is scope to accept a degree of seasonal pitches on the site even though this does constitute a change in the character of the touring caravan site. They do not accept the landowners argument that seasonal pitches should be allowed on the hill area and recommend an enforcement notice be served against that activity.

8.6 Your officers understand the Petition Groups attitude to hard standings but in the light of a recent appeal decision at in the AONB, and the NPPF's position on supporting a healthy rural economy which includes improving existing tourist facilities it is felt that the provision of hard standings in appropriate materials on part of the site is acceptable and recommend that only those on the more exposed area of the site should be enforced against.

8.7 The tent camping area does need to be defined in some way to avoid misinterpretation of what rights might exist to improve or even extend it. For this reason the Council should take unilateral steps to define and regulate it through an enforcement notice.

8.8 Concerns about increasing rallies and use by exempted organisations could be adequately dealt with if the land owners agree to a Section 106 agreement which defines areas used, frequency, and agrees not to expand onto other areas. If they do not take the opportunity to do so the City Council can still approach Natural England to take steps to remove the exemption rights for camping and caravanning organisations to use the parts of Gibraltar Farm.

8.9 If the steps suggested in 8.8 are not successful Members may also wish to consider an Article 4 direction removing Permitted Development Rights from those areas. A further report would be required in that instance because of the major budget implications relating to compensation. A Cabinet decision to consider these financial implications would also be needed.

8.10 In relation to the use of Permitted Development Rights for camping which facilitate the biker rally it is considered at this stage best to use the emerging changes in legislation relating to events licensing to control this activity. Again if this is not successful the removal of Permitted Development Rights will have to be considered.

8.11 Following on from the above actions and as part of the process your officers will issue a definitive position statement based on this report on what it sees as the appropriate balance between uses on the site, whether lawful, unlawful or permitted development to use as a benchmark for future monitoring of the site to ensure that the landowners are under no illusion about the need to engage fully with the local planning authority before making any material changes to business activities on the site.

#### **RELATIONSHIP TO POLICY FRAMEWORK**

The enforcement of planning control is one of the main tools to secure implementation of the Local Development Framework and to safeguard the community from unlawful development which causes material harm.

#### **CONCLUSION OF IMPACT ASSESSMENT**

##### **(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

This issue raises concerns of adverse impacts on the landscape and character of the Arnside/Silverdale AONB, and the amenities of local residents.

#### **FINANCIAL IMPLICATIONS**

The actions recommended in the report are likely to lead to planning appeals which will have legal cost implications. If members were to go further and consider the removal of Permitted Development Rights there would be compensation implications to consider, and for this reason should members wish to go further than the report recommends in this regard a further report to Cabinet would be required.

#### **SECTION 151 OFFICER'S COMMENTS**

The Section 151 Officer has been consulted and has made no comments

#### **LEGAL IMPLICATIONS**

The taking of enforcement action in this case will involve a considerable level of support from the Council's legal officers and if appeals are lodged against enforcement notices, Counsel may need to be instructed.

#### **MONITORING OFFICER'S COMMENTS**

The Monitoring Officer has been consulted and has no further comments.

#### **BACKGROUND PAPERS**

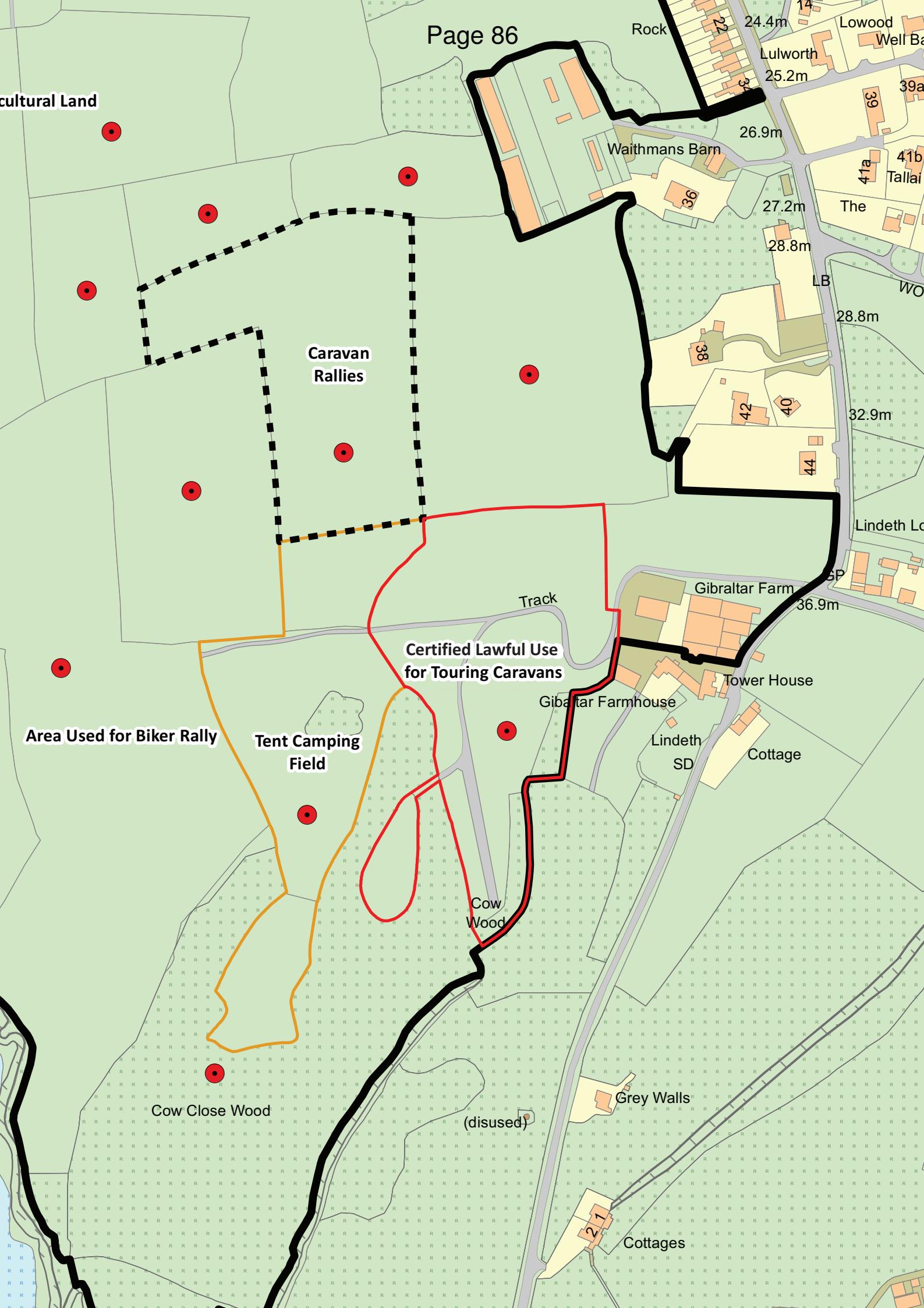
Petition from local residents reported to council on 14<sup>th</sup> September 2011. Planning and lawful use applications relating to Gibraltar Farm.

**Contact Officer:** Andrew Dobson

**Telephone:** 01524 582303

**E-mail:** [adobson@lancaster.gov.uk](mailto:adobson@lancaster.gov.uk)

**Ref:** ASD/MPC



## Remove Rights for Exempt Organisations

## Resist Events Licence

# Tent Camping No Action Expedient

## Enforce Static Pitches North of Track

## Use of Touring Caravan site for Static Pitches Below Track. No Action

# Cow Close Wood

R R R R R R R R P B  
R R R R R R R R (disused)

## Grey Walls

# Cottages

## **Response of Petition Planning Group to Report by Head of Regeneration and Planning concerning Activities at Gibraltar Farm, Silverdale**

We wish to place on record our appreciation of the thorough manner in which Mr Dobson has handled this matter since the Council Resolution of September 2011.

### **Conclusions**

- 1. We welcome the recommendations of the report as providing a framework for setting out future expectations at Gibraltar Farm.**
- 2. The site has expanded from 15 touring caravans to approximately 60. We accept that a major part of this increase results from an admitted error within the Planning Office, and accept the apologies of Mr Dobson and Councillor Hanson at the Council Meeting of 14 September 2011. We consider that this level of expansion should in itself be seen as an important factor in resisting further development.**
- 3. We have serious concerns regarding the potential acceptance of static caravans (paragraphs 6.4, 6.5, and 8.5 of the report). For many residents of Silverdale the prospect of a static caravan park to the South of the village, when there are already two large sites to the North, is anathema. Conceding static caravans would be seen as:**
  - a) the abandonment of both Saved Policy TO5 (paragraph 5.6 of report), and Policy EC3.3 (paragraph 5.10);**
  - b) a reward for aggressive unauthorised development, particularly as the report concludes that the change of use to a static caravan site constitutes a breach of planning control (paragraphs 4.11., and 4.16).**
- 4. A consequence of accepting statics would be the implied acceptance of wintering caravans on site. Permitting winter use of the site would constitute yet a further unacceptable extension of the site's former permissions, and usage.**
- 5. There remain three further issues we have raised in the discussions which have taken place with the Council's Officers since September 2011, and which lead us to make the following requests.**
  - a) that a limit be set for the number of tents on the tent field.**
  - b) that the position of motor caravans and campervans be clarified. We request that such vehicles, of whatever size, be restricted to the touring caravan area. Anything less will lead to ambiguity, with potential for future applications for development on the tent field.**
  - c) that a condition be imposed banning access to the shore from the site by vehicles and water-craft.**

## **Additional Information**

1. Paragraph 5.10 draws attention to the significance of developments which “**adversely affect an internationally designated wildlife site directly or indirectly**”. That part of the coast which lies to the west and south of Gibraltar Farm has multiple designations as a **Special Area of Conservation, a Ramsar Site, and a Special Protection Area**.
2. Paragraph 3.3 refers to “a yearly event in the form of a camping rally for motorcyclists”. Up to 2006 this event was held at Leeds Children's Holiday Home, to the north of the village. However, there were complaints to the site owners from the neighbouring Holgates Caravan Park, and in 2007 it was switched to Gibraltar Farm, where it was carefully controlled for the first year. Subsequently those controls have been relaxed so that in 2012 loud music was audible across the village until after 2.00 a.m. on the morning of Sunday 14<sup>th</sup> October.
3. **All exempt organisations are required to adopt a Code of Conduct in accordance with a Model Code issued by Natural England**, which is the body responsible for issuing exemption certificates. In summary this code
  - a) **discourages rallies next to permanent or commercial caravan sites;**
  - b) **requires organisations to**
    - i) **avoid any site to which the Local Authority has valid objections,**
    - ii) **avoid interference with local residents, their normal activities and enjoyment,**
    - iii) **ensure the caravans do not interfere with the enjoyment by others of landscape or wildlife, especially in areas designated for landscape or wildlife.**

## **Further Context in Relation to Silverdale, and Our Experiences in Pursuing the Petition**

We refer Members to the background set out in the papers included with the agenda of the Council Meeting of 14 September 2011, in particular the document “Have you visited Gibraltar Farm Caravan and Camp site Recently?”. This was distributed to households in the village prior to circulation of the petition, and is appended to this document.

At the start of the petition process we drew attention to the discrepancies in the statements made in the planning applications of 2004 and 2009, the weight of contemporary evidence against the retrospective claims then being made, and the lack of financial accounts to support those claims. We reach the end of the process with an issue of the claiming of grants from the Rural Payments Agency, and the use of the same fields for caravanning and camping.

We are conscious that since the petition was raised attempts have been made by those who disagree with us to minimise the level of opposition in the village, and to discredit hard evidence that we have presented, e.g. it has been reported that the photograph taken in April 2011, and used in the paper supporting the petition, was being described as an old photograph from years back.

The traditional campsite at Gibraltar Farm was seen as an integral part of the village, and

was well supported, with 2 of the petition organisers having given practical assistance to the former owner, and welcoming the new owner, and his family, with lunch and good wishes for the future.

The former and current owner are both members of the Burrow family, which is well established in the village and makes a significant contribution to village life. It was therefore not surprising that the most common reason we were given for not signing the petition was that of personal loyalty to, or friendship with, a member of the Burrow family. Never the less over 440 residents signed the petition, a significant majority of those contacted.

At a local political level some members of the Parish Council have supported development at Gibraltar Farm – one even telling one of the objectors that it was inevitable that in time the site would extend along the shore from the farm to Shore Road. In 2010 the then City Councillor told two of the petition organisers “I can see what James is doing, but I can't help you because I've known him since he was so high”. The attitudes of local representatives perhaps made the petition inevitable.

While the petition organisers have been determined to stick to the issues in this matter it has been a source of sadness that some supporters of the owner, and some users of the site, have at different times behaved in an aggressive and intimidatory manner to those who have challenged developments at the site. We believe that it is right that the Committee is aware of the sense of vulnerability felt by some of those involved in the petition.

We would emphasise that at all times we have wished to resolve the issues amicably. During the discussions since the Council resolution was passed Mr Dobson took 2 initiatives to bring the parties together – initially by way of a joint meeting of representatives, subsequently by way of a joint site meeting with a single representative from each side. On both of these occasions we expressed willingness to proceed in the manner suggested, but on both occasions the representatives of Gibraltar Farm declined to meet with us.

### **And Finally**

**In the event of an appeal, against any decisions the Committee may make on the basis of the recommendations in the report, we will be prepared to support the Council with the provision of such evidence as we have obtained, or act as witnesses in support of such evidence.**

Signed:

Marie Atkinson  
Barry Ayre and Monica Placzek  
Pauline Beckford  
Ann Bond  
Joan Brindley  
Major and Carol Brownhill

Roger and Nancy Cartwright  
Denise Dowbiggin  
John and Brenda Eden  
June Greenwell  
Bob and Val Hamnett  
John and Jean Holland

Margaret Haworth  
Stuart and Anne Imm  
David Player  
John Webb  
Joy Sharp  
Roger Spooner and  
Dorothy Bates

Date: 15<sup>th</sup> November 2012

## Appendix

### Have you visited Gibraltar Farm Caravan and Camp site recently?



We are concerned at the increase in area and intensity of use at the Gibraltar Farm camp site. We are even more concerned about how much bigger and busier it will get in future, if not controlled. This picture was taken at Easter - and it doesn't show all the tents and caravans that were there. There were some 170 caravans - about 60 on the approved site, over 100 at a 10-day club event (the club told Lancaster City Council there would be 30), plus caravans on other fields, plus tents. This could become the permanent state of things. Is that what you want?

Set out below are responses to comments we hear when this subject comes up in conversation.

***There's been a campsite there for years, without any real problem.*** There are problems now. Many changes have been made, some of them without necessary planning permission. The site has become significantly bigger and busier since 2007. Several hundred people have an impact on the village as well as the immediate neighbourhood, and that impact should be properly considered, not imposed on others by a single family.

***It supports a young family on a working farm.*** The Burrow family told the parish council last year that they wanted 'a traditional, simple caravan and camp site on their working farm'. Most residents would, we think, be happy for the farm to have that financial support. But there is a question of scale and balance. The picture looks more like a major commercial enterprise than a farmer's side line. The farm is now entitled to have 60 or so caravans on the approved part of the site for over 8 months a year (Lancaster City Council meant to approve 34, but made a mess of it). Those 60 caravans alone can produce a substantial income (individual touring caravans are charged £16/night minimum with hook-up).

***It's good for village shops and businesses.*** Yes, it's part of the village's life and economy - but again there's a question of balance and appropriate scale. Residents have legitimate interests as well, and we spend money locally all year round.

***Aren't you being alarmist?*** We don't think so. The site has a history of exceeding the limits set for it - it had planning permission for only 15 caravans. The family may say they want a 'simple site' but actions speak louder than words. When they sought

planning permission for a second farmhouse in 2004, supporting documents said that there was a 'full complement of 15 caravans'. In 2009, when a claim was made to be allowed 60 caravans on the basis of 10 years' use, the application said that there had consistently been 55-70 caravans at holidays and summer weekends for 20 years or so. The risk, of course, is that there will be further claims for even more caravans and tents, if the current level of activity continues without being challenged. So there could be 100 or 150 pitches in the foreseeable future. Even without such a claim, large areas in addition to the approved site are already being used for tents, more caravans, rallies, and private parties. Lancaster City Council has yet to make a decision on what action it will take on these.

***The economy is more important than landscape.*** The local economy *benefits* from landscape. The opening sentence of the Gibraltar Farm website reads: 'Welcome to **Gibraltar Farm**, a traditional family run working farm situated in the heart of the Arnside and Silverdale Area of Outstanding Natural Beauty, surrounded by breathtaking scenery and views of Morecambe Bay.' In other words, it uses scenery, views, and the AONB to market the business, just like most other local tourist enterprises. The business gains a clear commercial benefit from these, so should (like the rest of us) accept some restrictions in return.

***It's not really visible/it doesn't affect us.*** It is visible, and it could affect you. It's *very* conspicuous from viewpoints further round the Bay (e.g. Grange), and was visible from Lindeth Road at Easter. Everyone will know places which have become bywords for being surrounded and spoilt by extensive caravan development. Do you want Silverdale to become one of them?

***'They' won't let it happen.*** It is happening already! Moreover, the perception in some official or semi-official quarters is that there is strong support in the village for continued expansion at Gibraltar and no widespread concern or opposition. We do not think that is true - but the concern and opposition need to be voiced.

***Opposition is pointless, because of powerful local interests and ineffective councils.*** That is defeatist, and self-fulfilling! None of us wants to spend time arguing about caravan development, but we think it needs to be done. No one should feel intimidated.

***What can I do?*** You can sign the petition we will soon be circulating, urging Lancaster City Council to apply its own policies, meet its legal obligations with regard to the AONB and keep Gibraltar properly controlled in future. And you could give us your contact details in case further action is needed.

Set out below are the names of some of those of us who are concerned about this. We are all Silverdale residents, many of whom have lived in the village for a long time. Some of us are, or have been, caravan owners.

Thank you for reading this.

*Marie Atkinson*

*Barry Ayre and Monica Placzek*

*Pauline Beckford*

*Ann Bond*

*Joan Brindley*

*Major and Carol Brownhill*

*Roger and Nancy Cartwright*

*Denise Dowbiggin*

*John and Brenda Eden*

*June Greenwell*

*Bob and Val Hamnett*

*John and Jean Holland*

*Margaret Haworth*

*Stuart and Anne Imm*

*David Player*

*John Pritchard*

*Joy Sharp*

*Roger Spooner and Dorothy Bates*

### Introduction

This paper represents a response to the report of the Head of Regeneration and Planning in the matter of proposed enforcement and other actions at Gibraltar Farm, Silverdale.

Members are respectfully advised that nothing in this report is intended to be confrontational or provocative. However, I have advised my client that it is necessary to inform the Council of how he has been advised to react to either the service of enforcement notices or the removal of his permitted development rights. This being in order that Committee will then have all the facts and be in a position to arrive at a balanced and proportionate decision.

### The Site

Gibraltar Farm is sited off Lindeth Road in the settlement of Silverdale and comprises 80 acres of grassland, associated agricultural buildings, a caravan site and a tent camping field. The main vehicular access to the land is situated close to the junction of Hollins Lane and Lindeth Road.

### Background

My client Mr James Burrow is the third generation of the Burrow family to have occupied and worked on Gibraltar Farm. He began working on the holding at the age of 16 when he left school in 1990. At that time the tenant farmer was Mr Frank Burrow, James' uncle who was responsible for the establishment of both the caravan and tent camping sites on the farm in or around the 1960's. During Frank Burrow's tenure the farm was owned by members of the wider Burrow family to whom he paid rent. Frank retired in 2007 at which time the owners determined that the farm and accompanying land should be sold with my client being offered first refusal. With financial assistance from the bank he was able to purchase the agricultural land and operational farm buildings and has continued to maintain viability of the business, which includes a dairy herd together with sheep and beef production. The caravan site and tent camping facilities are referred to in the next section.

It should be noted that James Burrow and his family do not occupy Gibraltar Farm House itself. Due to its extremely high price at the time of the disposal of the land by the wider family, my client was not in a financial position to acquire the property which has now fallen into private ownership with no connection with the farm whatsoever.

### Relevant History

At the time my client purchased Gibraltar Farm in 2007, he was aware that both the caravan site (to the extent that it exists today) and tent camping field had been in existence for as long as he could remember and in fact in excess of 40 years. He therefore purchased both (at full market value) in good faith truly believing that there were no outstanding issues in terms of legislative requirements. With hindsight this could be perceived as somewhat naïve but as I am sure Members will be aware, errors of this nature are not uncommon in the planning world. It was simply a case of it being inconceivable to a lay person that an activity could have existed for so long if it were not legitimate.

In late 2007 the Council were asked to get involved by a number of local residents following changes to the way the caravan site was operated which was perceived by the objectors as being an intensification of the use and an expansion of the caravan site as a whole. This was primarily brought about by the introduction of seasonal pitches, the installation of hard standings and the provision of electrical hook up boxes. On investigation the Council discovered that the original planning permission for a caravan site granted in 1976 was limited to 15 caravans in an area to the south of the existing site as shown on the plan accompanying Mr Dobsons report. In the event an application for lawfulness (09/00704/ELDC) was submitted for use of the entire site as it exists today. A certificate was issued for an increase of vans and extension of season on the original site but the use of the remaining land was not accepted due to the Councils view that there was insufficient evidence to support the application. In 2010 a further application (10/00253/ELDC) was submitted with a more supportive and comprehensive evidence base. A certificate was issued allowing the use of the wider site but with an attempt to limit the numbers of caravans on the extended area to the north of the original site. It was during the

process of seeking Counsels advice in preparation for an appeal that a flaw was discovered in the Certificate of Lawfulness. I do not feel there is a need to go into the specific details of this particular element of the case as Members will no doubt be familiar with the facts in that respect. However, I would briefly offer my clients reasons (which he based on legal advice) as to the method adopted to achieve a fully lawful use of the caravan site. I do so in the hope that it dispels the allegations of devious or underhand practice to obtain a certificate of lawfulness which have been levelled at him in the past.

Counsels advice at the time was that the decision on the second application (10/00253/ELDC), even if it could have been imposed as drafted, required scrutiny given that there was no indication as to how the Council had arrived at the numbers given within it. It was also considered that the evidence submitted with the application was of a weight and standard to more than adequately demonstrate a case for lawfulness and that the evidence provided by objectors appeared to have been accepted without question despite containing, in Counsels opinion, obvious errors and speculative embellishments. The situation between my client and some of the objectors was becoming intolerable with defamatory clandestine mail shots being undertaken throughout the village and indeed an attempt to secretly tape record my client following a verbal attack deliberately designed to antagonise him. My clients advisors were mindful that for a determination by the Inspectorate the matter would have had to go before a Public Inquiry, which would have resulted in the calling of very large numbers of witnesses by both sides resulting in the case taking several days to complete producing an unpredictable level of conflicting evidence. It was therefore the opinion of Counsel and my clients Planning Solicitor that under all the circumstances it would be extremely difficult for Mr Burrow to receive a fair hearing notwithstanding our collective confidence that the reality of the situation was that the lawfulness case was in reality beyond doubt. It was therefore more in the interests of justice and fairness that the advice to proceed via a Judicial Review was given and accepted.

#### Current Situation

Following the resolution of the lawfulness issues relating to the caravan site, a site license was applied for. Notwithstanding the fact that the lawful use certificate was unrestricted with regard to the number of caravans permitted on the site, that the capacity of the field is around 80 vans and historically that up to 75 vans were regularly on site during summer weekends, bank and school holidays, my client chose to apply for 60 vans only. This was of course a commercially considered decision in that an uncramped site would be more attractive to discerning caravanners leading to a more affluent, regular and reliable customer base with the added bonus of there being little or no bad behaviour which had been a problem in the past.

The terms of the site license statutorily required a full upgrading of facilities on the site and this resulted in the building of a brand new toilet/shower block incorporating chemical toilet and grey waste disposal points, washing up and laundry facilities. As a consequence of providing the new building, a waste digester has also had to be installed, which was undertaken in consultation with the Environment Agency and a suitably qualified drainage engineer. The total costs of these works was in excess of £350,000.

A new license has also been obtained for the tent camping areas which again my client voluntarily restricted to 60 pitches in order to maintain an attractive ambience and a sense of space for campers.

Gibraltar Farms Contribution to the Local Economy and Maintenance of Important Features of the AONB

It is widely acknowledged by retail, service and leisure businesses in and around Silverdale that Gibraltar Farm is a major provider of income and as such strongly supports the local economy. It is common for small township businesses to be able to survive against the current financial downturn where there is a strong tourism input providing additional income to tide proprietors over for the winter when trade is mainly local. I noted with some sadness that the Royal Hotel in the centre of Silverdale has not in fact survived and its deteriorating condition is already seriously

impacting on the street scene. It does however stand as a potential warning for the future. Whilst economic factors are not in themselves the sole determining factor in decision making they carry significant weight and the government are well published in the context of the efforts required to restart the economy nationally.

The incomes from the tent camping and caravan sites at Gibraltar Farm are predominantly used for the repayment of the bank financing of both the mortgage on the farm and sites and the recent improvements to facilities. Collectively these sums amount to £1.2 million. Therefore the leisure elements of the business represent diversification of the farming enterprise and indeed have been vital in supporting the agricultural activities through some very difficult times. It is the continued farming of the land that ensures the maintenance of the visual attractions of the area including dry stone walls, forestry maintenance, hedgerow protection and an opportunity to observe and engage with livestock.

There has to be a balance between the effects of tourism and the benefits it provides. What is of the greatest importance in this case is that the planning system is not used in such a way as it prevents my client from servicing his debts (of which a third were incurred as a result of statutorily having to provide the new facilities on the site to comply with site licensing requirements).

I would therefore respectfully request that Members consider these points when coming to a decision.

### Issues

#### Seasonal Pitches

Returning to the issue of perceived intensification and expansion of the site I would refer to the introduction of seasonal pitches on the hill to the north of the track. Seasonal pitches are offered on most sites nationally and they guarantee a certain level of income in the event of a poor summer in terms of weather conditions. Indeed I recently noticed a banner sign on the main approach road to Carnforth (from the Morecambe side) advertising winter seasonal pitches, which is now also common as

sites obtain permissions to extend their seasons. They have been introduced gradually by my clients since 2007. It would not be economically viable to utilise all available pitches for this purpose as the income is far less than pitches being taken on a nightly basis. It is therefore necessary for each business to find their own balance to provide a limited but guaranteed income as referred to above as dictated by their individual financial commitments. In the case of Gibraltar Farm there are currently 30 seasonal pitches which represent the norm for a site of this size.

Inevitably, many of the customers signing up for a seasonal pitch wish to have a choice as to where they are to site their caravan. At Gibraltar Farm the hill to the north of the track was historically the most popular pitch choice due to the impressive views across the Bay. However, customer expectations have changed over the years and in particular with regard to the provision of electrical hook ups. The hill pitches, up until relatively recently did not have such a facility and therefore the take up of pitches in this area fell off to a certain degree as demand for better facilities increased. The commencement of their installation coincided with the complaints received by the Council in 2007/8 as those pitches fitted with electricity were taken up by season pitch holders. It became clear that the objectors had interpreted the introduction of seasonal pitches on the hill as being in some way material in planning terms which of course it was not as the entire site has a lawful use for the siting of touring caravans.

At a recent meeting with Mr Dobson, it was proposed that my client enter into an agreement with the Council to cease the use of the hill for the provision of seasonal pitches. Following consideration and consultation with patrons of the caravan site, issues relating to accessibility became apparent. The difficulty would be that the majority of pitches between the track adjacent to the hill and the new toilet block are used for nightly pitch lets and are preferred by regular customers who have disabilities or are simply not as mobile as they used to be. These pitches are close to the toilet block, fresh water taps and chemical/grey waste disposal points and on level ground. These pitches would of course be lost to provide for season pitch holders moved off the hill which would then have to accommodate visiting caravan owners. A number of those latter customers have indicated that they would be unable to physically pull/carry water and waste containers over the distance and up

the incline of the hill itself. On this basis my client was regrettably unable to agree to Mr Dobsons proposal and in particular as he had been advised that there is sufficient appeal documentation to strongly suggest that any attempt to prevent part of the site being used for seasonal pitches would fail.

In the past it was not unusual for a LPA to impose length of occupancy conditions when granting new permissions for caravan sites. This was primarily to prevent units being used for permanent residential occupation. However, attitudes to tourism have changed and longer seasons and improvements to leisure facilities generally have been and continue to be actively encouraged by successive governments. I would specifically refer to the publication "Planning for Tourism" which is effectively a policy directive and is given significant weight by Inspectors determining appeals. The document is clear that the public expectation is to have good quality holiday facilities available all year round and also recognises (in the context of caravans) that manufacturers have reacted by improving design and insulation to make them capable of winter use. The advice gives model conditions to overcome any concerns over unauthorised residential occupation which is in itself indicative of there being no planning objections to caravans being on site on a long stay basis providing they are used solely for holiday purposes. There are a number of appeal examples where older permissions have been subject to length of stay conditions and site owners have sought to have them removed and I have previously informed Mr Dobson of my findings and the cases referred to. The general theme is that such restrictions are considered to be unreasonable and unnecessary and a relevant point made by one Inspector is that where a permission or in this case a lawful use exists, then a pitch when vacated by one caravan can immediately be re-occupied by another *ad nauseam* throughout the season. There can therefore be no material difference between a constant turnover of caravans on a pitch and the use of it by a single holiday touring caravan on a seasonal pitch contract. I would also add for information that in a number of cases the appellant has been granted an award of costs on the grounds of unreasonable behaviour by the LPA involved.

Given that the current certificate of lawfulness does not in fact restrict the use to holiday occupation only (which again goes back to the drafting flaws), my client wishes to make it clear that there is no intention to permit residential use. Therefore,

as part of other considerations referred to in my conclusions and as a gesture of goodwill, I consider that for the future protection of the Councils position this could be remedied via formal agreement.

Mr Dobson has indicated that in his view the use of a pitch on a permanent basis is in fact materially different as it alters the character of a site. I respectfully disagree as this appears to be based on an assumption that a pitch would have periods when it was unoccupied and therefore be a less intensive use of the land. However, this is speculative as to the level of business on the site as a whole. The recent improvements to Gibraltar Farm have already seen an increase in bookings for next year (including for the winter period) and projections for the next 5 years suggest that this trend will continue. It is the aim of every caravan business to have every pitch occupied at all times and this is the legitimate goal at Gibraltar Farm. Therefore if nightly bookings increase as expected it is likely that the number of season pitches will be reduced in any case to cater for the demand.

I would take this opportunity to refer to the use of the term “static caravans” within Mr Dobsons report in the context of touring caravans becoming static caravans if sited on a seasonal pitch basis. This is misleading as there is a clear and accepted difference between the two based on their design and functionality. All caravans sited at Gibraltar Farm whether on a seasonal basis or not, remain touring caravans by description, which are capable of being legally towed on a public highway by a domestic vehicle. I would again draw Members attention to the Certificate of Lawfulness which describes the use as “use of land for a touring caravan site” which is precisely what the site is being used for, i.e. the siting of touring caravans. If the Council had felt that there was some way of preventing seasonal pitch use (which is not conceded) then, with respect, this should have been reflected in a properly drafted Certificate of Lawfulness.

#### Hard Standings

My client undertook the installation of hard pitch standings in the genuine belief that there were no planning implications. I have advised accordingly and he apologises unreservedly in this connection.

The caravan site historically has suffered badly from excessive rain as it is prone to serious flooding. Not only cars but also caravans frequently get bogged down in bad weather requiring towing to more solid ground, usually by tractor. The hill is particularly affected and concerns were raised some time ago by customers because of potential damage to their vehicles. Hard standings have been installed at the lower level with the original intention of carrying out similar work on all pitches on the hill. This has been put on hold in the light of the Councils current involvement and the acceptance that planning permission will be required before proceeding further.

My client was aware of the installation of hard standing of the same design at Hollins Farm and these were approved by South Lakeland Council. My client was therefore somewhat surprised when there appeared to be objections to those at Gibraltar Farm. I have advised that there can be differences in policies and the interpretation of general planning principals between neighbouring LPA's but it has to be said that both sites are within the same AONB and I think it is reasonable to expect some consistency in at least that context. The hard standings at both sites use naturally occurring materials, i.e. limestone and this weathers over a relatively short period of time and generally blends into the landscape. After time the pitches are not unattractive at close range and can barely be seen from distance and appear far more natural than irregular shaped patches of brown, dead and dying grass which occurs when pitches are heavily used in the summer. The latter are much more prominent when viewed from a distance than integrated, natural, weathered limestone. They are essential to ensure the safe siting of caravans and represent an improvement to existing facilities which is supported by the Planning for Tourism document referred to earlier. I would also add that Mr Dobson acknowledges that there have been difficulties in persuading the Inspectorate to reject hard standings and indeed the LPA itself has recently approved the removal of a large landscaped area at Leighton Moss to provide more car parking facilities which is surfaced with limestone.

Use of Land for Tent Camping to the North of the Access Track

This area forms part of a larger field which has relatively recently been fenced effectively forming a northern containment boundary. Historically, prior to my clients purchase of Gibraltar Farm the entire field was used for camping on an overspill basis and, on request, also for organised groups such as Scouts, Duke of Edinburgh Award candidates and charitable providers for the disabled. A considerable amount of third party evidence was submitted to the Council in an attempt to support the case for lawfulness. However, Mr Dobson has rightly pointed out that agricultural subsidies have regularly been claimed on this specific area (which is not the case on the main tenting field or the caravan site). Whilst this was an inherited matter for my client when he purchased the farm I have his agreement to concede that the field was probably more of a mixed use for both agriculture and tent camping with varying levels of both activities over the years. The reduced fenced area now in use for tent camping has therefore not existed for 10 years solely for that purpose. Whilst a case could be made for lawfulness as a mixed use it will now be a more complicated appeal (inevitably at a Public Inquiry) with far more uncertainty of the outcome for both sides. Therefore, whilst retaining the option to appeal on this ground my advice to Mr Burrow is to consider exploring other ways of retaining the newly defined area for tent camping to which I will refer later.

#### Removal of Permitted Development Rights for Exempt Caravan Organisations

I can only assume that this proposal is based on a visual amenity objection as there are no noise or disturbance issues arising from the occupation of the land by exempt organisations (EO's). EO's are examples of the "purist" caravanners who seek out sites where like minded people can enjoy secluded areas and shared interests together. Traditionally they require no electrical hook ups relying on batteries and more recently small solar panels for power. Portable toilets are usually provided for larger groups but generally they are self sufficient. Members generally comprise middle aged to elderly members and contrary to errors by some objectors never, under any circumstances, have any of these groups been involved in events requiring music or alcohol licenses whilst staying at Gibraltar Farm.

There were 4 visits by EO's in 2011 which is about average these days. Such groups are getting rarer (currently between 450 and 500 nationally according to Natural

England figures) due to the modern expectation of facilities such as electrical hook ups, toilets and showers. However, the income from these visits is not insignificant and makes a valuable contribution to finance repayments.

#### Objections to Licensing Committee for the Annual Bikers Rally

For Members information and to avoid doubt I would advise that beyond the provision of the site and the maintenance of hygiene facilities, my client has no involvement with the Bikers Rally. The group are self organising obtaining both music and alcohol licenses themselves. The rally has been an annual event for a number of years and the group have raised a considerable amount of money for national charities during that time. However, it is acknowledged that some local residents consider that the musical events over the 2 nights of their stay are excessively loud (though they are monitored and are kept within the limits of the legal requirements). On the other hand the events are popular with other Silverdale residents who are permitted to attend for a small contribution to costs. I would also add that outdoor concerts have annually been held at Leighton Hall (Classical Music Proms) and this year at Silverdale Cricket Club (Pop Bands). Both events are equally as loud as the music from the Bikers Rally and can be heard throughout most of Silverdale for their duration though I am not aware of any proposals to prevent these activities. In the circumstances I sincerely regret that I have to consider that there may be some prejudice against either the Bikers, Gibraltar Farm or indeed both! Nonetheless, if the event continues, my client is advised that he remain neutral on this issue and leave the matter in the hands of the organisers of the rally.

#### Removal of 28 Day Permitted Development (Temporary Use of Land) Rights

Whilst this is not currently a recommendation I note that Mr Dobson advises that in the event of objections to licensing failing (Bikers Rally) the removal of temporary use of land rights would have to be considered. I would ask Members to be aware that a landowner having an Article 4 Direction imposed upon him has a right to compensation. Whilst the intent would be to prevent the musical 2 days of the Bikers Rally each year, the removal would apply to the whole of the 28 days currently available to my client and compensation claims would be based on the potential

income for that whole period. Without prejudice and subject to a final figure being produced by a suitably qualified person I estimate that the sum would be in the region of £25,000 to £30,000 per annum payable in perpetuity for as long as the Direction remains in place. Clearly my client is advised that no objection or challenge be raised should members agree to this action in the future. The reality of course is that it is extremely unlikely that the Council could justify that level of outlay for such a small gain. I would suggest that there are other solutions to which I will refer in my conclusions.

### Conclusions

#### Enforcement – A Discretionary Power

Members will of course be aware that planning enforcement is a discretionary power and that a LPA is perfectly within its rights, acting in what it considers the public interest, to determine not to take formal action in respect of any perceived breach of planning control. In my view there are elements of this case where compromise and agreement is a perfectly feasible, legal and valid option. I have met with Mr Dobson in the past at which time we explored the possibilities of moving forward on this basis. Unfortunately we were unable to progress as we had hoped but having now read his report, which being in written form has allowed me additional time to consider the issues and obtain a more comprehensive understanding of what is, after all, a very complex situation, I have reviewed my initial advice to my client in that context.

#### Seasonal Pitches

My client has been advised that any enforcement action should be challenged on several grounds on the basis that seasonal pitch use is not materially different to the activities permitted by the certificate of Lawfulness, that such action would deprive him of essential income and that it would impact on accessibility for the disabled and infirm with the subsequent knock on effect of the social exclusion of those concerned. I have further advised my client that he should seek a full award of costs against the Council on the grounds of unreasonable behaviour.

I can readily understand that given the loose nature of the description of the lawful use in the issued Certificate there may be concerns that the site could be used for residential purposes in the future. Whilst my client has no such designs in this regard he has been advised, as part of other proposals of compromise referred to within this section, to enter into a formal agreement via a Section 106 Agreement to restrict the use for holiday purposes only.

#### Hard Standings

In the context of the need to improve the ground conditions and indeed the customer experience generally at Gibraltar Farm my client is advised that the Council could, if Members are minded to approve enforcement in this respect, readily be challenged on the basis of unreasonably withholding planning consent for what are clearly essential and necessary operations.

#### Use of Land for Tent Camping to the North of the Access Track

##### Bikers Rally

##### Exempt Caravan Organisations

As previously stated a claim for lawfulness on the tent camping area to the north of the track is likely to be an overly complex matter. Therefore my client is advised that, in the event of a compromise not being reached with the Council with regard to this and other contentious matters and an enforcement notice issued, a ground (a) (that planning permission should be granted) appeal should definitely be lodged against any enforcement notice and that a decision on whether to claim lawfulness made after further consideration at the time.

This use of this particular area has proved to be vitally important to my clients camping business. Not only does it cater for overspill during busy periods it also provides a quieter, segregated site for special interest, special needs and other groups many of who incorporate a degree of educational tutelage during the course of their stay. Having undertaken a cost/benefit exercise I conclude that both operationally and financially, this use has far more value than other more peripheral

activities. Therefore, my client is advised that there may be scope for entering into an agreement with the Council in an effort to retain this use (solely for tent use with no caravans or motor homes being permitted).

The proposal is that, via the Section 106 agreement referred to above, he voluntarily ceases all uses of his land for any events that require a public entertainment, i.e. music, license and, if considered necessary, limit the number of visits by exempt caravan organisations. The effects will be that Gibraltar Farm will no longer be a viable venue for the Bikers Rally and it will also provide the Council with the certainty (as opposed to the uncertainty of relying on objections to the licensing committee as proposed) that the remaining 25 days of my clients temporary use rights cannot be used for similar purposes. It will also totally extinguish any need to consider the removal of permitted development rights and the cost of doing so.

I have spoken to Natural England with regard to the process for removal of the right of exempt organisations to use specified areas and understand that the matter lies with the appropriate Secretary of State (DEFRA) once a publicity exercise has been undertaken. I would suggest that again there is uncertainty for both sides with regard to the outcome as clearly my client would also make representations on matters of significant financial loss causing hardship and denying access to the countryside. Therefore it is proposed to offer (again via the S106 agreement) a voluntary limit on uses of this nature whether this relate to the number of individual visits or the number of days usage in total per year.

#### Closing Statement

I am sure it is clear from this paper that it is imperative that my clients businesses succeed both on the agricultural and leisure sides of the fence in order to secure the future of Gibraltar Farm. My client is not the head of a faceless national company but a young man in his thirties with a wife and 2 young boys. He was born and brought up in Silverdale and has an infectious and incorrigible love and enthusiasm for his surroundings and his work. If he has fallen foul of the planning system he is certainly not the first to do so inadvertently and in good faith. He has sacrificed a great deal in order to finance the purchase of the farm and carry out improvements to facilities

and it will be many years before he and his wife will receive any significant financial benefit. The investment is more to ensure the viability of the families long term future and in particular to provide employment for his sons (and potentially others) in years to come. Although my clients accountant is currently happy with the balance between income and debt servicing, any loss of revenue could have catastrophic results. I would therefore ask Members to factor this in to their final decision and add that I would welcome being informed of any concerns or suggestions Committee may have in this or any other respect.

Glynn Burgin

Planning Consultant

Planning Law & Enforcement Specialist

16<sup>th</sup> November 2012

## OFFICER RESPONSE TO REPRESENTATIONS BY INTERESTED PARTIES.

1. In accordance with the resolution of Council both the objectors and the land owners have been given the opportunity to view the report which the Committee will consider at the meeting. The case to be considered is not a planning application as such so neither party has the right to speak at the committee meeting. The parties have, however been given the opportunity to make a written submission in response to the report for Members to consider. Rather than update the report in response to those representations professional advice on the representations are contained in this supplementary item.

### **The response of the Petition Group.**

2. The petition group seem to be under the impression that a local planning authority should not be prepared to regularise even an acceptable level of development if it has been undertaken without consent. This does not comply with national planning guidance about the use of proportionality in enforcement proceedings. Even if a development has been undertaken without consent, it should not be enforced against if it could be otherwise acceptable in planning terms. Not to follow this approach could expose a council to an award of costs for unreasonableness.
3. The petition group's hard line on their interpretation of the saved Local Plan policy and views about a level of seasonal pitches is not shared by officers who believe that there is a part of the site which can accommodate such pitches without serious harm to the landscape of the AONB. This has to be recognised in any response to the investigations through formal enforcement action.
4. An attempt to set numerical limits for the tent camping field would be unenforceable, although the petition groups concerns about the position relating to camper vans is understandable. If a Section 106 agreement had been a practical solution this could have been addressed as part of voluntary restrictions as could the issue of vehicular access to the shore.
5. It should be noted here that the owners consider that the tent camping field has always included use by small camper vans with tent style awnings.

### **The response of the landowners.**

6. The agent for the landowner acknowledges that half of the 60 pitches are seasonal pitches which create the intention to maintain caravans in place on the site all year thus confirming the permanent nature of the change in character. It is clear however that for the reasons given the removal of seasonal pitches from "the hill" which would be acceptable in your officers view, is a sticking point for the owners.
7. The offer to restrict caravans to holiday use rather than permanent residential use is of little additional value as a material change of use of the site requiring

planning permission would occur if caravans began to be used for permanent residential occupation.

8. Members should note that the process of removing Permitted Development Rights by Article 4 Direction does not by itself give rise to automatic compensation. If however planning permission made on application is refused or granted with restrictive conditions then a level of compensation may be payable which relates to loss arising from rights which could have been used without restriction.
9. The landowner is now offering to voluntarily restrict other activities on the site by way of a Section 106 Agreement. The areas agreed to be restricted would be :-
  - To cease using any of the land for events which require a public entertainment license i.e. the biker rally or similar events.
  - To restrict the number of days which the agricultural land is used under permitted development rights by exempted organisations. (There are currently 4 events a year and this restriction could prevent an increase in that number and restrain use to a particular field).
  - The agent has also confirmed that the owners would agree to defining geographical areas where permitted development rights might still be usable to prevent further encroachment onto agricultural land.
  - To regulate the use of the segregated area where tent camping has encroached north into the L shaped field.
10. The offer of a section 106 agreement to contain activities and remove the problems caused by public entertainment in this quiet location is generally welcomed but it comes with the insistence that the hill area continue to be used for seasonal pitches all year round. This is not acceptable from officers point of view and certainly not from the Petition Groups perspective. It is matter therefore for Members to decide whether on balance this offers a compromise that the Committee is prepared to consider.