

Agenda Item A8	Committee Date 2 February 2015	Application Number 14/00629/OUT
Application Site Land At Carnforth Brow Carnforth Lancashire	Proposal Outline application for the development of up to 6 residential dwellings	
Name of Applicant Mrs Sandra Barron	Name of Agent Mr Richard Riall	
Decision Target Date 15 October 2014	Reason For Delay Referral back to committee following a change in national planning policy	
Case Officer	Mr Andrew Holden	
Departure	No	
Summary of Recommendation	Approval subject to conditions	

(i) **Procedural Matters**

On 28 November 2014 Government made changes to Paragraph 12 of the National Planning Practice Guidance (NPPG) where contributions for affordable housing and tariff style planning obligations should not be sought from small-scale and self-build development. These changes relate to developments of 10 residential units or less, and which have a maximum combined gross floorspace of no more than 1000 sq.m. The only exception is for developments of between 6 and 10 units in Areas of Outstanding Natural Beauty or National Parks (where affordable housing and tariff style contributions should be sought in the form of payments which are commuted until after completion of the units within the development). These changes took immediate effect.

The change in legislation affects this application, which Planning Committee resolved to approve on 10 November 2014 subject to a Section 106 Agreement to deliver upto 40% affordable housing (details to be agreed at the Reserved Matters stage). However, as the required legal agreement has yet be signed and completed, and the change in legislation is now effective, the application remains 'pending'. It therefore needs to be reconsidered under the aforementioned changes to national guidance and the offer made by the applicant (see Section 7.6 of this report). The report is predominantly unchanged from the one previously reported to Planning Committee with the expectation of the recommendation that now modifies the requirements of the planning obligation to reflect the offer form the applicant to provide a financial contribution.

This form/scale of development would normally be dealt with under the Scheme of Delegation. The application was originally referred to Planning Committee by Councillor Gardner. The reason for the request is because it is considered the application warrants examination as to the effect of the development on the local area and its access.

1.0 The Site and its Surroundings

1.1 The application site comprises a triangular field approximately 0.4 ha in area located on the north-eastern edge of Carnforth fronting North road (Carnforth Brow). The field lies to the north of North Road within land designated as Countryside Are in the Lancaster District Local Plan. A local rail-line

runs along the northern boundary of the site and a small open field to the west. Residential housing is located directly opposite part of the site frontage and to the west of the site. Open agricultural land lies to the north beyond the rail line.

- 1.2 The site is located on the eastern side of rising land and falls both to the east and to the north. The rail-line reflects this change in ground levels along the northern boundary with the rail line crossing from shallow cutting to embankment as it travel west to east. A public footpath accesses the western boundary of the site from North Road follows the western edge of the field (site0 and connects to a rail crossing point. The footpath continues having crossed the rail cutting into fields finally emerging onto Scotland Road north of the bridged rail crossing.
- 1.3 The current field boundaries comprise of mature mixed thorn hedges to the North road frontage and the western boundary. The northern boundary is a little less dense with hedgerow and small trees along following the rail cutting turning to sparse vegetation along the rail embankment section of the boundary. A narrow field gate is present on the North Road frontage of the site opposite Browfoot Close a cul-de-sac of residential properties.

2.0 The Proposal

- 2.1 The application is an outline application for up to six dwellings with all matters reserved. The proposal is simply seeking to explore the principle of developing the land for residential purposes. Subject to approval, all details relating to the development of the site would be the subject of a further 'Reserved Matters' application. The proposal does not indicate the scale of the dwellings but has recognised the need to provide an element of affordable dwellings. The offer is up to two dwellings or provision of a financial contribution. The precise details of the affordable housing or contribution would be developed as part of the detailed planning application.
- 2.2 The presence of public right of way No. 13 FP 26 crossing north-south on the western edge of the site has been acknowledged with a suggestion that the line of the footpath would be maintained, enclosed by fencing.

3.0 Site History

- 3.1 The site has been and is still being used for agriculture. It also has a limited planning history, specifically, a planning application in 1990 under 01/90/1165, an outline application for residential development (12 maximum). The application was refused on the following grounds:
- Contrary to Carnforth Town Plan
 - Contrary to Lancashire Structure Plan – Area of Special Landscape
 - Visual amenity, hilltop location viable o the north of Carnforth
 - Highway safety
- 3.2 The decision was subsequently considered and dismissed at appeal by the Planning Inspectorate. The planning inspector in considering the appeal agreed that the development would be contrary to the restrictive policy of the Carnforth local plan and the Lancashire Structure Plan. The site lay outside the defined urban area within an Area of Special Landscape where development would normally be resisted. The development was considered to be detrimental to the area with a significant and harmful alteration in the predominantly rural character of the area. There appeared to be no special circumstances which would allow the overriding of the policy restriction.
- 3.3 In considering the highway safety concerns of the development the Inspector noted the road width and standard of North Road. It was acknowledged that the road has limited width, the effected by on-street parking and suffers from congestion and section with no footways. The Inspector also recognised the scale of development already served by North Road including the modern estates to the south-east. The Inspector concluded that whilst there would be some increase in traffic, the scheme was for a small number of dwelling (up to 12 houses) which when taken with the much larger housing areas would not generate sufficient additional traffic to justify dismissing the appeal on highway grounds.
- 3.4 The appeal was subsequently dismissed on the grounds that housing development would undermine established polices designed to protect the Area of Special Landscape from inappropriate development.

4.0 Consultation Responses

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

Consultee	Response
County Highways	No objections. County Highways acknowledged the earlier appeal for 12 houses at the site. Whilst the appeal was dismissed the Inspector concluded that the development would not be detrimental to highway safety. Since the appeal (1990) there will have been an increase in traffic and car ownership, but as the scheme proposes a lesser number of dwellings, then a highway refusal cannot be warranted. County note that cars do appear to travel above the 20mph speed limit present at the site. It is recommended that a speed survey should be undertaken to determine the precise speed of traffic which will then inform the size of the visibility splays necessary to ensure safe access/egress. The maximum is considered to be 2.4m x 43m (based on a 30mph travel speed rather than 2.4m x 25m based on the 20mph limit). Suggested conditions: (i) highway design, including access design and construction details to be agreed; visibility splays (including conditioning the speed survey); a condition controlling the completion of the access arrangements and a condition requiring a Construction Method Statement.
Environmental Health	No objections regarding noise – an acoustic report has been submitted and subject to the adoption of mitigation measures (Including glazing systems in the dwellings to protect from rail noise). In addition, the layout and orientation of the dwellings will need to be considered at the design stage. Objection regarding contaminated land as no desk study (contaminated land) has been provided for a sensitive end use.
Network Rail	Initially raised comments over the designed scheme and subsequently sought to withdraw the comments following a later understanding and acknowledgement of a level crossing adjacent to the site. Further assessment of the development and its potential impact upon usage of the crossing is being undertaken and formal comments are still awaited and will reported directly to Committee.
Public Rights of Way officer	Objections to the approach indicated in enclosing the line of the public right of way which currently crosses an open field. The enclosure of the path will create an unattractive and narrow footpath in comparison to the arrangement currently enjoyed. In addition the right of way should not be obstructed during development and should be legally diverted should this be required.
Strategic Housing	Support for the provision of a contribution towards affordable housing in the District.
Fire Safety Officer	No direct comments in respect of the planning application but informs the applicant of the need to fully meet the requirements of the Building Regulations.
Carnforth Town Council	Concerns over the development (the letter does not indicate what the concerns are) and they would like the application to be determined before the Planning Committee.
United Utilities	No comments received within the consultation period
County Planning	No comments received within the consultation period
Ramblers	No comments received within the consultation period

5.0 Neighbour Representations

5.1 To date 12 letters have been received from neighbouring local residents. The letters all raise concerns over the development. The main grounds include: -

- Impact upon the landscape and development of a greenfield site;
- Over-intensive form of development;
- Impact upon highway network and traffic, including poor site access, alignment, width and travel speeds – North Road has capacity issues (additional dwellings, car ownership, caravan sites, etc.) and there may also be an impact on emergency vehicles.
- Noise caused by railway traffic;
- Loss of view;
- Limited footpaths in the area and impact upon the existing footpath;
- Historical refusal for development on the site under 01/90/1165 - all the refusal reasons are

considered to be still relevant;

- Limited drainage capacity and increased pressure on all services in the area;
- Areas is used by bat population;
- The field is actively used for agriculture (silage and grazing stock) not for a pony as set out in the planning statement.

6.0 Principal National and Development Plan Policies

6.1 National Planning Policy Framework (NPPF)

- Paragraphs **7, 14 and 17** – Sustainable Development and Core Principles
- Paragraph **32** – Access and Transport
- Paragraphs **49 and 50** – Delivering Housing
- Paragraphs **56, 58 and 60** – Requiring Good Design

Saved policies of the Lancaster District Local Plan

- **H8** – Housing in the Countryside)
- **H12** – Layout, Design and Use of Materials)
- **E4** – Countryside Area
- **H19** – Development on small sites in Carnforth

Lancaster District Core Strategy (adopted July 2008)

- **SC1** – Sustainable Development
- **SC2** – Urban Concentration
- **SC4** – Meeting the District's Housing Requirements
- **SC5** – Good Design
- **E1** – Environmental Capital
- **E2** – Transport Measures

6.2 Development Management DPD

- **DM28** – Development and Landscape Impact
- **DM29** – Protection of Trees, Hedgerows and Woodland
- **DM35** – Key Design Principles
- **DM41** – New Residential dwellings

6.3 Other relevant material considerations:

As outlined in the procedural matters at the head of this report, on 28 November 2014 Government made changes to paragraph 12 of the National Planning Policy Guidance (NPPG) where contributions for affordable housing and tariff style planning obligations should not be sought from small scale and self-build development. These changes specially relate to developments of 10 residential units or less, and which have a maximum combined gross floorspace of no more than 1000 sq.m. The only exception is for developments of between 6 and 10 units in Areas of Outstanding Natural Beauty and National Parks where affordable housing and tariff style contributions should be sought in the form of cash payments which are commuted until after completion of the units within the development. These changes took immediate effect.

Draft Local Plan for Lancaster District 2011-2026 - 2014 Housing Land Supply Statement (July 2014) - This document sets out the current published position in relation to housing land supply in the District related to the NPPF requirement for five years supply of specific deliverable sites.

Joint Lancashire Minerals and Waste Local Plan – Site Allocations and Development Control Policies - Policy M2 – Safeguarding Minerals

7.0 **Comment and Analysis**

7.1 The key material considerations arising from this application are:

- Principle/Housing supply
- Previous application/appeal decision
- Highway safety
- Landscape impact
- Residential Amenity
- Affordable Housing
- Mineral Safeguarding

7.2. Principle/Housing supply

7.2.1 The site lies on the edge of Carnforth directly opposite existing residential development fronting North Road. Carnforth is identified as one of the main urban areas in the District with a wide range of services available in the town.

7.2.2 In terms of general housing need, the 2014 Housing Land Supply Statement (July 2014) sets out that only 3.2 years of housing supply can be demonstrated, with a persistent undersupply of housing over the last ten years. As such, a 5 year supply of housing land cannot currently be demonstrated. Paragraph 49 of the NPPF sets out that housing applications should be considered in the context of the presumption in favour of sustainable development and relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5-year supply of deliverable housing sites. Development on the edge of Carnforth alongside existing residential development is considered to be sustainable and would provide an important contribution towards housing supply within the District in a location which can be supported in principle.

7.3 Highway Safety

7.3.1 County Highways has recognised the appeal history that has been raised by some neighbouring residents. However the Planning Inspector in 1990 determined that highway/traffic impact was not an issue that could warrant refusal at the time, and County Highways share this view now. They accept that there will have inevitably been an increase in traffic levels and car ownership since 1990, but the proposal is for a reduced number of dwellings and a highway refusal reason cannot be sustained.

7.3.2 Traffic speeds appear to be generally higher than the prescriptive 20mph limit in force. As the proposal is not seeking means of access to be considered formally, actual traffic speeds (and as a consequence sightlines and the precise access position) would need to be determined as part of any Reserved Matters application should this outline application be granted. It is clear that the site has sufficient roadside frontage to provide for a safe access but will necessitate the removal of a significant length of mature hedgerow to accommodate the sightlines. The extent of the sightlines would need to be determined by a speed survey. All these elements and a detailed construction method statement can be imposed as appropriate planning conditions.

7.4 Landscape Impact

7.4.1 In reaching his decision to dismiss the appeal in 1990, the Planning Inspector concluded that the development lay outside the urban area defined within the policy of the day and development would lead to a significant and harmful alteration in the predominant rural character of the area and no special circumstances were present at the time to override the policy position. Whilst the policies that the Inspector referred to in 1990 have fallen away, consideration must still be given to the landscape impact of any development, particularly one which is within the Countryside Area and can be viewed from open land to the north and north west of the site and (at a distance) from within the Arnsdale and Silverdale Area of Outstanding natural Beauty (AONB).

7.4.2 The development follows the ridgeline which follows North Road but also pushes further north over the crest of the hill and out to the rail line. This area of land will intrude into undeveloped land when viewed from the north of the site but with a background of housing - namely the older properties along the crest of North Road and more modern estate at the north end of North Road.

7.4.3 Landscape impact could, in part, be mitigated by the limitation of the building height (e.g. no more than two storey in height to reflect adjoining dwellings), and controlling the proposed materials/finishes and ensuring that there is new hedgerow and shrub planting at the site including additional planting along the rail line boundary. These would be conditioned on any grant of outline consent and submitted in detail as part of any future Reserved Matters submission.

7.4.4 The development will lead to some landscape impact; however the development is generally considered to follow the existing pattern of development along the ridge line following North Road. However, planners believe that the overall height of the development should be defined now at outline stage to provide direction for any future detailed application. To reflect the character of existing housing in the area and limit the visual impact of the development it is considered that the properties shall be no more than two storeys in height.

7.4.5 Whilst acknowledging that the development will lead to some impacts on the landscape, which in part can be mitigated against, this impact is not considered sufficient to outweigh the need to address the shortfall in housing supply in the District. Development of the site for housing will provide an opportunity to provide both for new open market and affordable housing.

7.5 Residential Amenity

7.5.1 Neighbour consultation has raised comment over the close relationship of the development site to the railway line serving Morecambe to Leeds (and intervening stops), including the limited use of the line by night time freight traffic.

7.5.2 The presence of the rail line has been considered as part of the application submission, with the applicant providing a Noise and Vibration Statement in the suite of submission documents. The Statement provides details of the methodology to assessing noise levels developed by passing trains along with an approach to mitigation. The use of the rail line is acknowledged as low level with a limited number of trains (approximately 2 per hour) passing the site on a daily basis. Passenger trains stop running at night but limited freight movement occur. This has been recognised along with background noise from the neighbouring road system including the A601(M) and M6. Following assessment of noise level readings taken at the site, the assessment has concluded that due to the type of noise generation (i.e. short intense period) that protection of the internal areas from noise is the most appropriate action as outside interruption will be short lived. The approach to be taken is the use of tailored double glazing units utilising thick glazing and a narrower air gap. This will be alongside the use of trickle ventilation in the window frames.

7.5.3 The rail line changes from a low embankment to a shallow cutting as it follows the site east to west. The acoustic assessment concludes that the measures will not be required for properties facing the cutting and will only apply to windows which directly face the rail line on the embankment. Environmental Health consider that the approach outlined in the mitigation is sound and subject to adherence with the mitigation measures they advise that the amenities of future occupiers can be protected.

7.6 Affordable Housing

7.6.1 As outlined in the Procedural Matters at the head of this report, the recent modification to the guidance set out in the National Planning Policy Framework has resulted in the removal of the demand for the provision of, or contribution towards, the construction of affordable housing for development of this scale and location. However, in this case, notwithstanding the stated planning policy position, the applicant has independently offered a financial contribution of £12,500 payable upon occupancy of the first property on the development. This would be secured by way of a Unilateral Undertaking provided by the applicant.

7.7 Mineral Safeguarding

7.7.1 The site is located within (on the southern edge) a Mineral Safeguarding Area for sand and gravel. In general development will not be supported that is incompatible with mineral safeguarding as set out in Policy M2 of the Joint Lancashire Minerals and Waste Local Plan.

7.7.2 Policy M2 of the Minerals and Waste Local Plan sets out that planning permission will not be

supported for any form of development that is incompatible by reason of scale, proximity and permanence with working the minerals, unless the applicant can demonstrate to the satisfaction of the local planning authority that:

- The mineral concerned is no longer of any value or has been fully extracted.
- The full extent of the mineral can be extracted satisfactorily prior to the incompatible development taking place.
- The incompatible development is of a temporary nature and can be completed and the site returned to its original condition prior to the minerals being worked.
- There is an overarching need for the incompatible development that outweighs the need to avoid the sterilisation of the mineral resource
- That prior extraction of minerals is not feasible due to the depth of the deposit.
- Extraction would lead to land stability problems.

7.7.3 In addition, The NPPF sets out that local authorities should not normally permit other development proposals in mineral safeguarding areas where they might constrain potential future use for these purposes.

7.7.4 There is a considerable area north of the application site (beyond the constraints of the site) which is identified for mineral safeguarding. The application site is on the edge of this allocated safeguarding area within a small triangular area of land divorced from the remaining mineral allocation by the rail line. In addition the site lies adjacent to existing residential development. As such it is unlikely that the development would impact on the likelihood of minerals being extracted in this location.

7.7.5 Having had full regard to the requirements of this policy, it is considered that given the lack of housing land supply, as discussed above, there is an overriding need for the development which outweighs the need to avoid sterilisation of the land for mineral resource. In any case it is not considered that pursuing extraction of the minerals as part of the development would be appropriate in this location given the identified constraints.

7.8 Other Matters

7.8.1 Nature of the application – The application is seeking outline planning permission only with all matters reserved. Points raised by third parties regarding site design and other amenity concerns are not for consideration at this point as matters such as means of access, scale, layout, appearance and landscaping are not being applied for. The current application is only seeking to determine whether the principle of residential development is acceptable in this location. All other matters will be assessed at the Reserved Matters application should Members be minded to grant outline planning permission.

7.8.2 Public Footpath route – The field which forms the application site currently has a public footpath running through it following the line of the eastern boundary hedgerow between its link onto North Road and the rail crossing point on the north boundary. The application acknowledges retains the line of the footpath but suggests a route defined by a fence line along the residential boundary. This approach has raised concerns with the Public Rights of Way Officer as it will lead to a poor experience for users of the footpath. Whilst not a consideration which can be addressed as part of this outline application, it should be noted that the approach to defining the route of the footpath is considered inappropriate and will need to be addressed through the Reserved Matters application.

7.8.3 The Contaminated Land Officer has recommended rejection of the application as it has not been supported by a preliminary assessment for contamination. However, the site is open pasture and no history or evidence has been provided to indicate the potential contamination of the land through historic use. As such it is considered that the request is unreasonable and a simple unforeseen contamination condition should be attached to ensure that suitable investigation is undertaken should it be found necessary during construction.

7.8.4 Network Rail comments – Their initial consultation response raised comments over the relationship of the development to the rail line and the need to protect the line from the development both during construction and following occupation. However, these comments were formally withdrawn to enable further consideration to be undertaken over the presence of the rail pedestrian crossing via the public footpath to the north east corner of the application site and the implications of additional development. At the time of writing the report, no further comment has been made. However, it

must be recognised that the footpath already serves a large residential area to the south and is also part of a wider footpath network. As such the development of a further six dwelling is not considered to unduly affect the usage of the level crossing.

8.0 Planning Obligations

8.1 The applicant has offered to provide a contribution of £12500 towards the provision of affordable housing in the District, this would be secured by the provision of a Unilateral Undertaking.

9.0 Conclusions

9.1 The site is located in a sustainable location, adjacent to existing development within the town. The development will provide a small but important contribution towards housing supply within the District. It is considered that the development could be accommodated on the site without a significant impact on the highway network or the character and appearance of the area and can be served by an appropriate means of access. The principle of residential development on this site is therefore considered to be acceptable.

Recommendation

That subject to the following conditions and the provision of a Unilateral Undertaking from the applicant to cover the following, Outline Planning Permission **BE GRANTED** with the determination being delegated to the Chief Officer to enable the Unilateral Undertaking to be provided by the applicant offering: -

- The provision of a contribution of £12,500 towards the provision of affordable housing in the Lancaster District payable upon occupancy of the first property on the new development.
- 1. Standard outline condition with all matters reserved
- 2. Drawings illustrative only (in particular the delineation of the PROW)
- 3. Height of the dwelling limited to two storeys only
- 4. Design principles of the dwellings as set out in the Noise and Vibration Statement
- 5. Highway design to be agreed
- 6. Visibility splays (including speed survey) to be determined and provided
- 7. Access design and construction to be agreed
- 8. Completion of approved access arrangements
- 9. Provision of a Construction Method Statement and undertaking in accordance with agreed scheme
- 10. Hours of Construction
- 11. No vegetation clearance works, demolition work or other works that may affect nesting birds should take place between 1st March and 31st August inclusive, unless surveys by a competent ecologist show that nesting birds would not be affected.
- 12. Scheme for the disposal of foul and surface
- 13. No tree/hedges within the site or on any immediately adjacent property or land shall be cut-down, up-rooted, topped, lopped or destroyed, nor any hedge within the site cut-down or grubbed out, other than those identified within the approved application, without the prior written approval of the local planning authority and before any site activity is commenced in association with the development.
- 14. Submission of a tree protection plan
- 15. Site landscaping to be agreed
- 16. No impact pile driving, except in accordance with a scheme for noise control
- 17. Finished floor and site levels

Article 31, Town and Country Planning (Development Management Procedure) (England) Order 2010

In accordance with the above legislation, the City Council can confirm the following:

The proposal complies with the relevant policies and provisions of the Development Plan and on consideration of the merits of this particular case, as presented in full in this report, there are no material considerations which otherwise outweigh these findings

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.