

Agenda Item A10	Committee Date 29 June 2015	Application Number 14/01350/FUL
Application Site Land Off Mill Lane Halton Lancashire	Proposal Erection of 20 residential dwellings with associated access road	
Name of Applicant Mr Jim Entwisle Halton Mills Limited	Name of Agent Mr David Hall	
Decision Target Date 5 May 2015 An extension of time letter has been agreed between the LPA and applicant until the 30 th June 2015. This date will be extended with agreement from the applicant to allow for the S106 to be signed.	Reason For Delay Officer workload, requests for further information and negotiating amendments	
Case Officer	Mrs Jennifer Rehman	
Departure	Yes	
Summary of Recommendation	Approve subject to the submission of sufficient evidence in respect of loss of employment land to justify departure from development plan.	

1.0 The Site and its Surroundings

- 1.1 The application site forms part of the Halton Mills development site on the banks of the River Lune within the settlement of Halton. The site is positioned to the east of existing residential development within the central core of the site and west of a belt of trees running north-south through the site. Beyond the belt of trees lies a further vacant parcel of land and then existing employment development. The land within the central core of the Halton Mills site, enclosed by the internal road network, is all within the applicant's control.
- 1.2 Halton is identified in the Development Plan as a sustainable rural village. Its rural position means the majority of the village is protected by a formal 'Countryside' designation. The village (and application site) is not located within Green Belt or an AONB. There are no landscape designations/allocations affecting the site. The boundary of the village Conservation Area is located approximately 160m west of the application site.
- 1.3 The River Lune is identified as a Biological Heritage Site and is located approximately 50m south of the application site albeit separated by Mill Lane and other permitted (and implemented development) residential development (Barratt Homes). The site is predominately located within flood zone 1, but borders land falling within flood zones 2 and 3 to the west and south of the site. A definitive public right of way runs along Mill Lane to the south outside the boundaries of the application site. The retained trees on site are now subject to a new Tree Preservation Order (TPO No 550 (2015), protected as a woodland designation. Part of the site is located within land protected for mineral safeguarding.

2.0 The Proposal

- 2.1 The application seeks full planning permission for the erection of 20 dwellings with access off Mill Lane. The development comprises 14 three-bedroom dwellings and 6 two-bedroom dwellings. The development is effectively an extension to the existing development on site with the design practically identical to the permitted and implemented scheme. The 3-storey (3-bed) townhouses propose integral garages with driveway parking and the 2-storey (2-bed) dwellings have driveway parking only. The parking provision proposed equates to 200% parking for the 3-bed townhouses (including the garages) and 150% for the two-bed units.
- 2.2 The proposal indicates that six units will be affordable dwellings in compliance with Council policy (30%). These are located in one single terrace block backing onto Forge Lane and comprise the smaller two-storey, 2-bed units.
- 2.3 Vehicular access to the site is proposed off Mill Lane, via Forge Lane and Low Road. Mill Lane and Forge Lane are in private ownership at present and remain unadopted.

3.0 Site History

- 3.1 The site has an extensive and complex planning history with many planning applications submitted since the original proposals were assessed and determined in 2000. The most relevant are listed in the table below.

Application Number	Proposal	Decision
00/00920/OUT	Outline application for proposed redevelopment including demolition of existing Mill, erection of houses, industrial units, construction of new access and provision of associated open space and landscaping.	Approved
04/01301/REM	Reserved Matters application for the erection of 47 houses and 27 apartments, associated access road and play area	Approved (Implemented)
05/00562/REM	Erection of two new B1/B2 commercial units	Approved
05/01305/FUL	Amendments to elevations to housing scheme approved as 04/01301/REM	Approved (Implemented)
05/01432/OUT	Renewal of application 00/00920/OUT for proposed redevelopment including demolition of existing mill, erect houses, industrial units, construct new access and provision of associated open space and landscaping	Approved
07/00037/REM	Resubmission of application number 06/01196/REM for Reserved Matters for the erection of an apartment block comprising of 31 two and 2 one bedroom units (33 total) with associated parking and servicing	Allowed on Appeal (Appeal ref: APP/A2335/A/07/2037680)
07/00202/REM	Resubmission of 06/01197/REM for Reserved Matters Application for the erection of an apartment block comprising of 36 two bedroom units with associated car parking and servicing	Allowed on Appeal (Appeal ref: APP/A2335/A/07/2042851) <i>(relates to Site B)</i>
14/00200/FUL	Erection of 14 dwellings with associated landscaping and parking	Approved (Implemented)
14/01108/FUL	Erection of 3 dwellings (amendment to 14/00200/FUL)	Approved (Implemented)
14/00713/VLA	Variation of legal agreement on 00/00920/OUT and subsequent renewal consent 05/01432/OUT to vary the terms of the Fourth Schedule concerning affordable housing in relation to the applicants land only, remove the requirements to obtain covenants from future land owners to restrict vehicular use over Mill Lane between points A and B (as set out in the Third Schedule) and to discharge the obligations relating to public open space and the provision of the	Committee Resolution to approve the proposed changes to the Legal Agreement subject to the legal mechanisms being secured to deliver the changes (subject to s106 and delegated back to Officers on the 5 th June

	industrial buildings.	2015).
15/00510/OUT	Outline application for the erection of a nursing home and associated access	Pending Consideration

4.0 Consultation Responses

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

Consultee	Response
County Highways	No objection to the scale of development or car/cycle provision. Comments have been received in relation to the dimensions of the proposed internal road network and garage dimensions, that Mill Lane and Forge Lane are unadopted and the need for the internal roads to be laid to base course before construction of dwellings
Local Planning Policy	Comments - The proposal represents a departure from adopted planning policy due to the site's employment land allocation. Insufficient evidence has been submitted to satisfy the marketing test set out in policy DM15. The planning policy team go on to advise that the lack of a five year housing land supply is a material consideration and the loss of employment land should be carefully weighed against the benefits of the proposal.
Strategic Housing Officer	Insufficient detail submitted to reassure the Local Planning Authority that on-site affordable housing will be delivered in accordance with local planning policy. In respect of the amendments, the Strategic Housing Officer supports the reduction to 2-bedroom units, though would have liked to have seen 1-bedroom units, but still questions whether the developer has engaged with Registered Providers before redesigning the scheme to ensure and provide comfort that the affordable housing scheme is implementable.
Environmental Health Service	No objection subject to the inclusion of mitigation towards air quality impacts from the cumulative impact of traffic associated with the development and conditions in relation to construction (hours of work and scheme for dust control). A site investigation for contaminated land to be conditioned.
Lancashire Education Authority	Contribution sought of £36,089 towards primary school places based on the amended scheme
Environment Agency	Comments - requires a Site Investigation (contamination) report to be provided by condition otherwise objects to the development. Drainage condition also required which should adopt the principle of SUDS.
United Utilities	No objection subject to a drainage condition which should adopt SUDS and surface water to drain separately to foul waters.
Lead Local Flood Authority	No objection subject to the following conditions: <ul style="list-style-type: none"> • Precise surface water drainage design to be agreed • Finished floor levels • Control of surface water and pollution during construction.
City Council Drainage Officer	No objection to the application in principle. However, further information should be provided to satisfy the Local Planning Authority that flood risk has been considered and can be effectively managed from this development. Further details should include details of how the runoff is restricted, what it is restricted to and what attenuation is being provided.
Tree Protection Officer	No objection subject to the following conditions: <ul style="list-style-type: none"> • Tree Protection Plan • Replacement planting scheme • Tree Works schedule and AMS
Parish Council	No objection in principle - the Parish Council reluctantly accept the additional residential development on the site given the employment land designation. The Parish Council request improvements to the surrounding green spaces to break up the development in the area. The developer should temporarily tidy up the vacant site to the east and allow this to be open space until a suitable employment use can be found as its current condition is unacceptable.
Lancashire Strategic Planning	At the time of compiling this report no comments received.

Policy	
PROW Officer	At the time of compiling this report no comments received.
Ramblers Association	At the time of compiling this report no comments received.

5.0 Neighbour Representations

5.1 At the time of compiling this report, 8 letters of objection have been received. The reasons for opposition are as follows:

- Detrimental to AONB/Green Belt and character of the area
- Inappropriate land use – no need for more housing in the village
- Inappropriate piecemeal development - the planning authority should consider housing on a strategic level
- The Council should be developing brownfield sites in the city
- Loss of greenfield sites in Halton and more housing being authorised
- Increase in noise/traffic/parking – reducing safety
- Parking is a problem on Mill Lane in particular, which is also poorly maintained and a un-adopted road
- Inappropriate design – over dominant and overbearing development
- Housing does not meet local affordable housing needs
- Loss of trees
- Mill Lane should be brought to adoptable standard

6.0 Principal National and 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. 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 12 – Development Plan as starting point for decision making

Paragraph 17 – 12 core land-use planning principles

Paragraphs 19 and 22 – Building a strong, competitive economy

Paragraph 32 – Traffic and highway considerations

Paragraphs 49, 50 and 55 – Delivering housing and creating sustainable communities

Paragraph 73-74 – Open Space and well-being of communities

Paragraph 103 – Flood Risk

Paragraph 118 - Biodiversity

Paragraph 123 – Noise

Paragraph 144 – Mineral Safeguarding

6.2 Lancaster District Core Strategy

SC1 – Sustainable Development

SC4 – Meeting the District's Housing Need

6.3 Development Management (DM) DPD

DM15 Employment Lane and Premises

DM20 – Enhancing Accessibility and Transport Linkages

DM21 – Walking and Cycling

DM22 – Car parking provision

DM27 – Protection and Enhancement of Biodiversity

DM29 – Protection of Trees, Hedgerows and Woodland

DM35 – Key Design Principles

DM38 – Development and Flood Risk

DM39 – Surface Water Drainage

DM41 – New Residential Development

DM42 – Managing Rural Housing Growth

6.4 Saved Lancaster District Local Plan

E4 – Countryside Area

EC4 – Rural Employment Site - Halton Mills

EC7 – Halton Mills Employment Opportunity Site
EC16 – Non-employment development on allocated sites (check status)

6.5 Emerging Land Allocations DPD
Policy OPP4 – Halton Mills

6.6 Other relevant planning documents
Meeting Housing Needs SPD
National Planning Practice Guidance
Employment Study January 2015
Joint Lancashire Waste and Minerals Local Plan (Policy M2)
Guidance Note on Policy M2 – Safeguarding Minerals December 2014

7.0 Comment and Analysis

7.1 The main issues in the consideration of this application are as follows:

- Development Plan Allocations
- Principle of Residential Development
- Housing Need/Affordable Housing
- Design and amenity considerations
- Contamination

7.2 **Development Plan Allocations/Designations – Employment Land and Mineral Safeguarding**
Loss of Employment Land

The NPPF makes it clear that the framework does not change the statutory status of the development plan as the starting point of decision making (paragraph 12, NPPF). The saved Lancaster District Local Plan, which forms part of the Development Plan, allocates Halton Mills as a rural employment site (EC7). The policy states that proposals for comprehensive employment based mixed use development including housing and informal recreational uses will be permitted provided that a number of criteria are met, but in particular that the proposal results in a mixed use of the site which employment is the dominant use. The planning history reflects the current and permitted uses for the site and is a material consideration in the determination of this application. This history demonstrates that despite the policy intentions a comprehensive mixed use proposal for the site has not succeeded as originally envisaged and that there has been a significant number of residential proposals accepted on the site – a number of them on appeal contrary to the employment land allocation. The Inspector when granting consents for residential development (on the sites now occupied by Barratt Homes) acknowledged the lack of employment development in relation to the sites in question but accepted that there were remaining parcels of land that could deliver employment development and that it was for the Council to ensure adequate land is remaining to provide the required level of employment land (para 29 of APP/A23335/A/07/2042851). The proposed application site would have been land that the Inspector at that time considered reasonable remaining land (along with other land).

7.3 The redevelopment of the land in question for non-employment purposes would therefore constitute a departure from the Development Plan. Assessing whether a departure would be acceptable and appropriate would be through consideration of whether the proposal meets the requirements of adopted Policy DM15 of the Development Management DPD which sets out the requirements for proposals which involve the loss of non-allocated employment land, along with partially saved policy EC16.

7.4 Policy EC16 sets out that non-employment development will only be permitted on employment sites in the rural area where it can be shown that there is no demand for employment; or the site's location or surroundings are clearly unsuited to employment use; and the proposal would bring about clear environmental benefits; or the proposal is part of a mixed-use scheme in which employment use is dominant. A similar approach is taken in policy DM15 which refers to the loss of employment land for alternative non-employment uses. This sets out that schemes will only be permitted where: it has been demonstrated through a robust marketing exercise that the ongoing employment use of the premises is no longer appropriate or viable; or the location has such exceptionally severe site restrictions; or the re-use of the land meets the wider regeneration objectives set out in the Local Plan or where the benefits of the proposal outweigh the loss of the site for employment purposes.

- 7.5 At this juncture it should be noted that in the emerging Land Allocations DPD Halton Mills is considered an opportunity site for mixed use development incorporating residential and employment uses. Amongst a number of criteria this draft policy suggests that additional residential development in excess of what has already been approved will not be supported. This emerging DPD is in draft form and therefore carries limited weight in the determination of the application.
- 7.6 In order to satisfy the requirements of policy DM15, the applicant has submitted a commercial appraisal of the development site together with a letter and copy of an advert from when the site was advertised back in 2009 by the previous land owners/administrators. The commercial appraisal has been carried out by Fisher Wrathall (local commercial agents) and claims that there is little demand for employment on the existing site and that any new employment development could potentially threaten the success of employment uses on Halton Mills. It also claims that there is little likelihood of successfully attracting further large scale commercial investment to the site and that the opening of the M6 link will not alter this situation. This appraisal sets out the level of vacant office accommodation and industrial floorspace in the District (totals to 428,000 sq ft).
- 7.7 The Council's own employment evidence base indicates that the District has sufficient land to meet demand for industrial development over the plan period, but not for office needs. A number of recommendations are made to safeguard existing employment sites for employment needs and in particular office needs, including recommendations on the future delivery new allocations for office premises, though the advice suggests such allocations are likely to be strongest on sites close to the M6. At a more local level, and specific to the application site, the employment land study suggests there is a need to retain and expand Halton Mills, as it is generally responsive to local employment need and demand. The remaining parcels of land identified on Halton Mills in the employment study are considered to have market appeal to start-up businesses and local small/medium enterprises (SMEs) of B1 and B2 uses. In light of our own evidence base Officers need to ensure robust evidence is provided to adequately justify a departure from the employment land allocation. Officers therefore sought further additional information from the applicant to satisfy the first test of policy DM15. This additional evidence has now been provided and does not convince Officers that this first test of Policy DM15 has been adequately satisfied. This evidence demonstrates that the site has been marketed for employment/mixed uses but not recently. In fact there is no evidence to demonstrate the site has been actively marketed for employment purposes in the past 5 years. All the marketing undertaken was before the current land owner purchased the site in 2011. This would conflict with the requirements of this element of the policy.
- 7.8 As matters currently stand the applicant's marketing evidence is not at all robust but there is some evidence presented that suggests the site is not particularly attractive to commercial operations, such as accessibility to the major road networks, which Officers do accept to a certain extent. It is also evident to most who know the area that up until recently the site has laid vacant for a considerable number of years and the only development that has taken place on site has been predominantly residential. In addition, it should be noted that there remains a relatively good proportion of employment development on Halton Mills including the two large employment units to the east of the application site, a long established business known as "Out of the Woods and Halton Mill" which was developed by the Co-Housing community alongside their residential development. There are also two remaining parcels of land that could also potentially meet some employment needs. This includes the land that is subject to the nursing home application and the former lawnmower site.
- 7.9 The second test of policy DM15 does not apply as the location is an acceptable location for employment development and is served by an appropriate access off Low Road. The third test relates to meeting wider regeneration benefits. Saved policy EC7 seeks employment based mixed use development that provides for an expansion of business activity; removes problems of dereliction and contamination, and results in development in which employment is the dominant use. The proposed development would remove a parcel of land that has laid derelict for some time (until recently when it has been used as a site compound). The redevelopment of the site will also address known contamination issues on site. In this sense there are some regeneration benefits. The conflict arises as it is not employment development. In terms of site specific circumstances, there are some benefits in the use of the site being developed for residential purposes over employment purposes, particularly in relation to the compatibility of neighbouring land uses. This proposal, unlike historic proposals, retains the belt of trees running along the eastern boundary.

This has environmental benefits but also provides an opportunity to create a buffer between residential development and potential future employment development. Notwithstanding the above employment policy concerns, supporting employment development on the application site would have its own complications; namely securing appropriate employment uses (so B1 uses over B2/B8 uses) so close to existing residential development. In this regard, the third test of DM15 could be satisfied. The final test states that proposals which involve the use of employment land for alternative uses such as residential will only be permitted where the benefits of the proposal outweigh the loss of the site for employment purposes.

7.10 Whilst the NPPF places considerable weight on the need to support sustainable economic growth, it equally emphasises that planning policies should avoid long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purposes. The Council's draft Land Allocation policy OPP4 does give an indication of the Council's direction of travel and that a slightly more flexible approach to mixed uses is likely to be forthcoming on the wider Halton Mills site. Overall the lack of full compliance with policy DM15 (market exercise) would need to be weighed against the benefits of the proposal (discussed below).

7.11 Mineral Safeguarding

The application site along with surrounding land is allocated for Mineral Safeguarding under Lancashire's Waste and Minerals Local Plan. This constraint sweeps across the majority of the rural area surrounding the village including the River Lune. It does not, however, extend across the entire application site. Policy M2 of the Waste and Minerals Plan states 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. The policy sets out circumstances where the Local Planning Authority may accept incompatible development, for example where there is an overriding need for the incompatible development that outweighs the need to avoid mineral sterilisation. The NPPF states that local planning authorities should not normally permit other development proposals in mineral safeguarding areas where they might constrain potential future use for these purposes.

7.12 The applicant has made no reference to this policy constraint in their submission. However, the fact that Halton Mills is an allocated employment site in the saved Local Plan and is previously developed land with a historical consent for its comprehensive redevelopment, it would be reasonable to suggest the mineral safeguarding area would not be a constraint to the future development of the site. Furthermore given its proximity to existing development (both residential and commercial) together with its close proximity to the River Lune Biological Heritage Site and the relatively small area of land affected, it is contended that the site is unlikely to attract any significant commercial interest in the land for mineral extraction. Similarly, it is considered that pursuing extraction of the minerals as part of the development would not be appropriate in this location given the potential adverse environmental impacts likely to arise in this location.

7.13 **Principle of Residential Development**

Core Strategy Policy SC1 requires new development to be as sustainable as possible, in particular it should be convenient to walk, cycle and travel by public transport between the site and homes, workplaces and a host of facilities and services. DM DPD Policy DM20 sets out that proposals should minimise the need to travel, particularly by private car, and maximise the opportunities for the use of walking, cycling and public transport. Policy DM42 identifies a number of settlements where the Council will look to encourage new residential development. Halton is listed as one of the settlements where new housing will be supported. This settlement has a range of services including a primary school, doctor's surgery, public house, shops, regular bus services, community centre, sports facilities and good cycle links to the wider area, including Lancaster, making it more locationally sustainable than most rural settlements within the District. Thus, despite public comments to the contrary, the principle of new residential development in Halton is acceptable and can be supported, provided it complies with the criteria set out in policy DM42 in relation to whether it is well related to the existing built form, proportionate to the existing scale of the settlement, located where infrastructure can cope with expansion and demonstrate good design.

7.14 Notwithstanding the employment land allocation, the reuse of previously developed land within the wider Halton Mills site which is positioned alongside other existing and consented residential development with good access to local services and facilities within the village, is regarded well-related to the existing built form. The proposal is considered small scale residential development and would not in any way represent disproportionate development given the size and scale of the

existing settlement.

7.15 **Housing Need**

The NPPF requires local authorities to significantly boost the supply of housing especially in situations of noted undersupply. The most recent housing land supply and delivery position for the District is described in the 2014 Housing Land Monitoring Report (HLMR) and accompanying Housing Land Supply Statement 2014. This has a base date of 1 April 2014. Allowing for existing commitment, past housing completions, the requirement for a 20% NPPF buffer and the Sedgefield methodology for calculating future supply the Housing Land Supply Statement identifies a five year supply position of 3.2 years against its adopted housing requirement of 400 dwellings per annum set out in Core Strategy policy SC4. In light of the current under supply, it should also be noted that as part of the Council's preparation of its Land Allocations DPD, the emerging evidence base in relation to addressing the District's objectively assessed housing needs (Strategic Housing Market Assessment, SHMAA and the Strategic Housing Land Availability Assessment, SHLAA) which identifies a gap of approximately 5,000 dwellings, includes Halton Mills as a suitable for residential development (ref: SHLAA_162).

7.16 The NPPF introduces a requirement for local planning authorities to meet their full, objectively assessed need for market and affordable housing in their area and to identify a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements. Within Lancaster it is apparent that even in consideration of all sources of housing supply, it may be the case that sufficient development may not come forward within the next 5 year period to fully satisfy delivery of its full 5 year housing requirement. In such circumstances the NPPF states that the District's policies relating to the supply of housing may be considered to be out-of-date (paragraph 49, NPPF). As such, the NPPF stipulates that planning in such circumstances must be undertaken in accordance with a presumption in favour of sustainable development (paragraph 14, NPPF). For decision making this means:

Where the development plan, in relation to its housing supply, is assessed as being out of date, granting planning permission unless:

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

7.17 As a consequence there is a clear expectation that unless material considerations imply otherwise sites that offer the opportunity for housing delivery should be considered favourably.

7.18 **Affordable Housing**

Policy DM41 of the DM DPD states that residential development will be supported where it represents sustainable development, which echoes Core Strategy policy SC1 and the NPPF. It requires new residential development to use land effectively, be appropriately located so that infrastructure can cope with expansion and provide an appropriate dwelling mix that meets local housing needs. The Council's Meeting Housing Needs SPD indicates that the market housing need in Halton is for predominately 2-bedroom (and some 4-bedroom) bungalows, detached and terraced properties and an affordable housing need of predominately 2-bedroom (and some 1-bedroom) terraced/semi-detached properties.

7.19 The scheme initially submitted proposed 20 three-bedroom dwellings, of which 6 would be for affordable housing. Whilst the market housing needs are not completely compliant with the evidence in the SPD, the provision of 3-bedroom family homes would still contribute to the District's housing need. This is a clear benefit which would outweigh any concerns over the type of housing proposed. With regards the affordable housing, the application initially failed to offer an affordable housing scheme that was compliant with policy or offered sufficient reassurances that the proposed development (layout/house type/housing mix) would attract a Registered Provider (RP). In this regard Officer concerns were compounded due to the planning history associated on the existing adjacent site where the developer has evidenced that they could not attract an RP to deliver on-site affordable homes and has subsequently recently secured amendments to the original s106 to vary the affordable housing provision to a contribution in lieu of on-site provision. Planning policy for schemes of this scale should be delivering on-site provision. Off-site contributions are not something the Council wishes to support or encourage unless in very exceptional circumstances. As a consequence amendments have been secured reducing 6 of the

dwellings to two-storey 2-bedroom units, thus potentially creating more opportunities to attract a Registered Provider and better meeting the local housing need. The applicant has also confirmed that the units will have a tenure split that complies with the Council's SPD (50:50 split between social rented and intermediate housing) and that the provision of this on-site affordable housing will be secured by legal agreement.

7.20 In conclusion, the proposal will make a small but valuable contribution to the District's housing need in addition to providing 30% affordable housing on site. In this regard the proposal should be considered in the context of the presumption in favour of sustainable development and great weight should be attached to this consideration.

7.21 **Design and Amenity**

The NPPF makes it clear that good design is a key aspect of sustainable development and this is echoed in policy DM35 of the DM DPD. One of the key thrusts in local and national planning policy is to ensure new development positively contributes to the character and identity of an area and provides a good standard of amenity for existing and future occupants.

7.22 Policy DM35 sets out a number of design principles that should be followed to ensure proposals adequately comply with policy and deliver sustainable development. This includes, for example, garden sizes and separation distances. The proposed development has been purposefully designed to appear as an extension to the existing residential development located in the central core of the Halton Mills site. In the circumstances, this approach is considered appropriate and will maintain design continuity with the wider site. The most significant difference from the implemented scheme and the proposed development is the incorporation of a greater number of two-storey units fronting Forge Lane. However, the fenestration to these units has been designed to reflect the adjacent townhouses and are considered acceptable from a visual amenity perspective. The drop in height is a positive addition to the development and would reflect other development on the site (Barratt Homes and Co-housing). Historically the Parish and the wider community have had concerns over the height of the development, so hopefully the incorporation of some two-storey dwellings is a welcomed amendment to the scheme.

7.23 The layout of the scheme follows the pattern and layout of the adjacent development so that in most cases building lines are maintained. As noted above this approach is supported, however, it does mean that there are some circumstances where the separation distances are below the recommended standards and garden sizes are smaller than what we would seek to achieve on new residential development. If Officers negotiated amendments to achieve the recommended design standards, the layout of the development would be at odds with the built form of the existing development and in design terms not something that would positively reflect the local character and identity of the area. In this regard, the principle of adopting the same design/layout approach to that already built in this location would outweigh any concerns over the impact on the amenity of future occupants of the new development. However, to further safeguard the amenity of future and existing occupants, and the design of the development as a whole, permitted development rights will be removed in relation to extensions, outbuildings and alterations to the roof.

7.24 The proposal incorporates an area of amenity space and landscaping to the east of the proposed new access road where the existing belt of trees will be retained and protected. This land will be retained and managed by the developer or a management company at all times thereafter. The applicant has agreed to secure the provision of a management company within their legal agreement. The retention of the trees (now protected woodland) is a clear benefit to the overall design of the site and will contribute to greening of the wider complex and have biodiversity benefits also. Previous schemes have seen these trees removed. This element of the scheme accords with policies DM29 and DM35.

7.25 The access, internal highway layout and parking provision is regarded acceptable from a planning point of view. The Highway Authority has raised no objection to the initial scheme submitted but highlighted the roads to the site are unadopted. The developer has confirmed that the roads within the development would not be adopted and would remain private. Details of cycle parking shall be conditioned in relation to the 2-bed units in particular as the 3-bed units have garages of sufficient size to accommodate cycle parking. The affordable units have 1 space per dwelling with 3 visitor spaces (150%). This is below the car parking standards set out in the DM DPD. However, the car parking standards are maximum standards and given that Halton is regarded in locational terms as relatively sustainable with good access to the cycle network (especially to Lancaster) and public

transport, that this slight under provision is considered acceptable. Two car parking spaces for each of the three-bedroom units is acceptable in principle, though one space is accommodated within the integral garages. It is generally quite difficult to insist people use their garages for parking a vehicle but a planning condition to ensure the garage is not used for living space can ensure the properties have adequate parking to comply with policy without causing significant additional on-street parking to the detriment of highway safety. The proposal is considered compliant with DM20-22 and paragraph 32 of the NPPF.

7.26 The site is accessed via a made road which at present remains unadopted. If it is in private hands it is the responsibility of the developer to secure access and legal rights over such land. From a planning perspective, the site can be accessed without highway safety concerns. The Council is trying to assist the various landowners on site to make the roads capable of being adopted. This was reported at the Committee meeting last month. It is hoped that between the existing landowners, ourselves and the County Council Forge Lane and Mill Lane can be adopted in due course.

7.27 **Contamination/Flood Risk/Biodiversity**

The site lies within land identified as flood zone 1 where residential development can be supported in principle. A Flood Risk Statement has been provided which confirms that the new properties fronting Mill Lane will have internal floor levels set between 12.9 – 13.01m AOD. The other dwellings will be higher than this as the land rises and as such the floor levels are set above the 1:100 year flood risk level. The applicant's Utilities Statement confirms that the surface water will drain to two outfalls to the River Lune consented by the Environment Agency as part of the whole Halton Mills development and so no problems with surface water are envisaged. The Environment Agency and Lead Local Flood Authority have raised no objections subject to conditions relating to finished floor levels and a scheme for site drainage. Our own drainage engineer had sought further information pre-determination in respect of the drainage scheme, though Officers contend in this case, given the historic consents on site and that there is space within the development site to appropriately accommodate any attenuation needed (mainly because the roads and amenity space remain in private hands), it would be reasonable to condition the details.

7.28 In terms of biodiversity, the site lies within close proximity to the River Lune which is designated as a Biological Heritage Site (BHS). However, the site is previously developed land and is currently used as a site compound for the adjacent development, offering limited biodiversity value. The site is also separated from the BHS by other sites currently in the process of being developed. The main source of biodiversity within the development site is the retained belt of trees running along the eastern boundary, which are now protected. These trees are proposed to be retained (unlike on previous schemes) so the impact on biodiversity is minimal. Conditions will be required to ensure the trees are adequately protected during the course of development.

8.0 Planning Obligations

8.1 In accordance with planning policy, the proposal includes the provision of 30% on-site affordable housing. This will be delivered by the developer in conjunction with a Registered Provider. At this stage, the developer has not sought to make any viability case that this cannot be achieved and as such the provision of affordable housing and its delivery shall be secured via a s106 legal agreement in accordance with paragraph 204 of the NPPF. The developer has muted some viability concerns, but despite being given the opportunity to evidence a viability case from the outset, has agreed to pursue the proposal as presented. The developer is aware that they can later apply to vary the legal agreement in relation to the affordable housing provision only at any time and with appropriate viability justification. This is relatively recent legislation that central Government have introduced.

8.2 County Education has responded to the application and have provided an assessment of the proposal and its impacts on school places in the catchment. A contribution of £36,089 has been requested by the Education Authority in accordance with their adopted methodology. The Council's policy (DM42) seeks to ensure proposals for new residential development are located where the environment and infrastructure can accommodate the impacts of expansion. This contribution will help ensure this is the case. The applicant has confirmed that they would pay this contribution and that it would be secured via a planning obligation.

- 8.3 The final matter relates to securing the long term management and maintenance of the private (non-domestic) space within the scheme, such as the roads, amenity space and landscaping. The developer has indicated this space would be managed via a management company, which is typical of most residential schemes nowadays. The establishment and setting up of a management company shall also be secured by legal agreement.

9.0 Conclusions

- 9.1 The critical concern with this application is the loss of employment land and the need to avoid sterilisation of identified mineral resources. Despite the submission of some valuable evidence the applicant has failed to satisfy all the tests set out in policy DM15 of the DM DPD in relation to the loss of employment land. However, one of the tests clearly states that non-employment development may be permitted on employment sites where the benefits of the proposal outweigh the loss of the site for employment purposes. This report considers the implications of the loss of employment land and acknowledges that in this case there are some benefits of the land being used for residential purposes given the proximity of the site to existing residential development, but also that the wider site has retained a good proportion of employment uses with remaining parcels of land capable of being used for such purposes. With this in mind and the fact that housing proposals should be considered in the context of the presumption in favour of sustainable development, on balance the delivery of market and affordable homes in a location recognised as a sustainable rural settlement would outweigh the conflicts with the site's land allocations. On this basis, Members are recommended to support the proposal subject to the developer signing their legal agreement without delay and the conditions listed below. If the developer fails to sign the legal agreement within the agreed period (to be determined by Officers), Officers seek delegation to refuse the application within the agreed period for determination.

Recommendation

That Planning Permission **BE GRANTED** subject to the and the signing and completing of a legal agreement to secure:

- 30% provision of on-site affordable housing;
- the education contribution; and
- the setting up of a management company to maintain/manage the amenity space and the roads that are to remain unadopted

and the following conditions:

1. Time limit
2. Approved plans list
3. Hours of construction
4. CMS (wheel washing/road sweep, dust/noise control/site compound location/parking and deliveries, water management (pre-commencement condition)
5. Drainage scheme (pre-commencement)
6. Site Investigation (pre-commencement)
7. Tree Protection Plan to be agreed (pre-any site activity)
8. Tree Works Schedule and AMS (pre-commencement)
9. No changes to ground levels in RPAs
10. Internal estate road to be constructed to base course level before the construction of the dwellings unless otherwise agreed with LPA (to allow for any phasing)
11. Access to be provided in full before first occupation
12. Parking provision to be provided in full
13. Garage use restriction
14. External materials, stonework detailing, window type/colour to match the adjacent development
15. Details of refuse storage
16. Code Level 3
17. Removal of PD rights (extensions, alterations to roof, outbuildings)

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

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

Lancaster City Council has made the recommendation in a positive and proactive way to foster the delivery of sustainable development, working proactively with the applicant to secure developments that improve the economic, social and environmental conditions of the area. For the reasons stated in the report, the proposal departs from the Development Plan. However, taking into account the other material considerations which are presented in full in the report, it is considered that these outweigh the provisions of the Development Plan, and in this instance the proposal can be considered favourably.

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