

<b>Agenda Item</b> A8	<b>Committee Date</b> 27 July 2015	<b>Application Number</b> 15/00238/OUT
<b>Application Site</b> Woodburn Farm 52 Low Road Middleton Morecambe		<b>Proposal</b> Outline application for the demolition of existing farm buildings and erection of 9 dwellings
<b>Name of Applicant</b> Mr And Mrs W, Mr And Mrs P, Mr And Mrs F And Mr J Mashiter		<b>Name of Agent</b> Greg Gilding
<b>Decision Target Date</b> Extension of time agreed until 3 July 2015		<b>Reason For Delay</b> Awaiting further information and officer workload
<b>Case Officer</b>		Mrs Eleanor Fawcett
<b>Departure</b>		No
<b>Summary of Recommendation</b>		Refusal

**(i) Procedural Matters**

This form of development would normally be dealt with under the Scheme of Delegation. However, a request has been made by former Councillor Keith Sowden (in May 2015) for the application to be determined by the Planning Committee. Whilst Mr Sowden no longer serves on the Council, the request for Committee determination was made whilst he was a serving Councillor, and the Committee referral therefore stands. The reason for the request relates to the need for housing in this location due to increased employment and the lack of an identified housing need specific to this area of the District which needs to be taken into account.

**1.0 The Site and its Surroundings**

- 1.1 This application relates to land adjacent to Low Road in the village of Middleton, and contains a group of modern agricultural buildings. There are no farm operations taking place from the site and many of the buildings are in a poor state of repair. The land slopes downwards away from the highway and is significantly lower at the rear of the site, to the east. Most of it is located within flood zone 3.
- 1.2 To the north, south and west of the site are residential properties which are a mix of bungalows and two storey buildings and to the east are agricultural fields. The site extends further to the east than the rear boundaries of the adjacent residential properties and behind the rear of Woodburn Farm, the dwelling to the north. The properties on the opposite site of Low Road, to the west, are at a higher level.
- 1.3 The site is located within the Countryside Area, as identified on the Local Plan Proposals Map. The Lune Estuary is approximately 800 metres to the south east and is designated as a Site of Special Scientific Interest. It is also covered by the Morecambe Bay Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site.

## **2.0 The Proposal**

2.1 Outline planning permission is sought for the demolition of the farm buildings on the site and the erection of nine dwellings. All matters are reserved.

## **3.0 Site History**

3.1 There is no recent planning history on the application site.

## **4.0 Consultation Responses**

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

<b>Consultee</b>	<b>Response</b>
<b>Parish Council</b>	No comments received
<b>County Highways</b>	No objection subject to: temporary wheel wash facilities during construction; creation of an appropriate view line envelope (2.4 x 40 metres); creation of appropriate turning facilities within curtilage; setting back of boundary dry stone walling along the sites frontage to allow for the construction of a 2.0m wide length of pedestrian footway.
<b>Environmental Health</b>	No objection subject to: a preliminary risk assessment; scheme for the investigation and remediation of contamination; details of any imported soil, materials & hardcore; prevention of new contamination; the bunding of tanks; and hours of construction.
<b>Tree Officer</b>	No objection subject to conditions requiring: the development to be carried out in accordance with the Arboricultural Implications Assessment; and the submission of a landscaping scheme.
<b>Drainage Engineer</b>	The drainage and flood risk management proposals are well designed and ensure that there is no risk of flooding to properties on or off site from surface water.
<b>Environment Agency</b>	No objection in principle; it is for the local planning authority to determine whether or not the proposals satisfy the Sequential Test and, where necessary, the requirements of the Exception Test. In considering whether or not the proposals satisfy the requirements of the second part of the Exception Test, the EA advise that they are satisfied that the development would be safe for its lifetime without increasing flood risk elsewhere. Finished floor levels should be set 600mm above existing ground levels in Areas Benefiting from Defences, in this instance it would not be necessary to raise ground levels on the entire site.
<b>Natural England</b>	No objection
<b>United Utilities</b>	No objection subject to condition requiring a scheme for the disposal of foul and surface waters. The site should be drained on a separate system with foul water draining to the public sewer and surface water draining in the most sustainable way.
<b>North Lancashire Bat Group</b>	As the application relates the demolition of agricultural buildings, a bat survey report should be submitted.
<b>Fire Safety Officer</b>	It should be ensured that the scheme fully meets all the requirements of part B5 of the Building Regulations.
<b>Office for Nuclear Regulation</b>	No comment to make - does not lie within a consultation zone around a nuclear site.

## **5.0 Neighbour Representations**

5.1 Three pieces of correspondence have been received which raise objections to the proposal for the following reasons:

- Loss of trees
- Impact on wildlife
- Increased traffic
- Limited public transport
- Capacity of local schools
- The safety and appearance of the buildings is the responsibility of the owner

Two further pieces of correspondence have been received which do not raise an objection but do set out the following concerns:

- Surface water drainage
- Impact on visual amenity and loss of privacy due to elevation and position

## **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  
 Paragraphs 100 – 103 – Flood Risk  
 Paragraph 118 – Conserving and Enhancing Biodiversity

### **6.2 Lancaster District Core Strategy (adopted July 2008)**

SC1 – Sustainable Development

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

E4 – Countryside Area

### **6.4 Development Management Development Plan Document (adopted December 2014)**

DM20 – Enhancing Accessibility and Transport Linkages  
 DM22 – Vehicle Parking Provision  
 DM27 – Protection and Enhancement of Biodiversity  
 DM28 – Development and Landscape Impact  
 DM29 – Protection of Trees, Hedgerows and Woodland  
 DM35 – Key Design Principles  
 DM38 – Development and Flood Risk  
 DM39 – Surface Water Run-off and Sustainable Drainage  
 DM41 – New Residential dwellings  
 DM42 – Managing Rural Housing Growth

## **7.0 Comment and Analysis**

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

- Principle of residential development in Middleton
- Flooding and Drainage
- Impact on residential amenity
- Design and Impact on the character of the area
- Access and highway impacts
- Impact on trees and hedgerows
- Ecological Impacts
- Contaminated land

### **7.2 Principle of residential development in Middleton**

7.2.1 Policy SC1 of the Core Strategy 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, shops, schools, health centres, recreation, leisure and community facilities. Policy DM20 of the Development Management DPD 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 sets out settlements where new housing will be supported and that proposals for new homes in isolated locations will not be supported unless clear benefits of development outweigh the dis-benefits. Middleton is listed as one of the settlements where new housing will be supported. As such, the principle of residential development is considered to be acceptable in the village, on sites which are well related to the existing built up area.

### **7.3 Flooding and Drainage**

- 7.3.1 The majority of the site is located within Flood Zone 3 which is defined as having a high probability of flooding in the National Planning Practice Guidance. Given the location of the proposed residential development, within Flood Zone 3, a Sequential Test is required to assess whether more appropriate locations exist which are in areas which are at lower risk from flooding. The need and importance of the Sequential Test is set out in paragraph 101 of the National Planning Policy Framework (NPPF) which states that *'The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development with a lower probability of flooding.'* The NPPG is clear in paragraph 33 that for individual planning applications where there has been no previous sequential testing via the local development plan that a Sequential Test will be required. If it is not possible for the development to be located in zones with a lower probability of flooding, the Exception Test should be applied. For this to be passed, it must be demonstrated that: the development provides wider sustainability benefits to the community that outweigh flood risk; and that it will be safe for its lifetime taking account of the vulnerability of its users, without increasing use elsewhere, and, where possible, will reduce flood risk overall.
- 7.3.2 The Environment Agency (EA) have raised no objection in principle to the proposed development but make it clear that it is for the local planning authority (not the EA) to determine whether or not the proposals satisfy the Sequential Test. They have only considered whether or not the proposals satisfy the requirements of the second part of the Exception Test. They have advised that finished floor levels should be 600mm above existing ground levels in Areas Benefiting from Defences and in this instance it would not be necessary to raise ground levels on the entire site. The Council's drainage engineer has set out that the drainage & flood risk management proposals are acceptable and will ensure that there is no risk of flooding to properties on or off site from surface water.
- 7.3.3 The applicant has submitted a Sequential Test. In order to assess this, the local planning authority needs to consider the scope of the test. Paragraph 33 of the NPPG states that *'the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed.'* The type of development proposed is residential which, if permitted, would assist in meeting market housing needs within the district. The most relevant and recent evidence on market housing needs comes from the Council's Strategic Market Housing Assessment (SHMA) which was published in 2014. The SHMA addresses housing needs / requirements on a district-wide basis and does not focus on housing needs for specific settlements, wards or parishes. As a result, the housing need for Middleton village is not known and no evidence has been provided by the applicant to evidence the level of specific local need. Given that the evidence for housing need is district-wide, the only consistent approach to take when determining a catchment area for the Sequential Test is to consider the availability of housing sites on a district-wide basis and not to purely concentrate on the availability of sites within the immediate vicinity of Middleton.
- 7.3.4 The submitted Sequential Test concentrates only on the availability and suitability of sites in the Middleton area to take the proposed development. Based on the above, a Sequential Test has not been submitted which accurately reflects the catchment area for the type of development proposed and the guidance set out in paragraph 33 of the NPPG. Several appeal decisions support the Council's view regarding the catchment area for the sequential test. The applicant's agent has been made aware of these views but no further assessment of sequentially preferable sites has been submitted. Given that there are many locations within the District which are on land outside Flood Zones 2 and 3, it is considered unlikely that there would not be reasonably available sites elsewhere at a lower risk of flooding which could accommodate the proposed development. It is therefore unlikely that the proposal could pass the Sequential Test even if a more appropriate assessment was submitted. Residential development is therefore considered to be unacceptable on this site.
- 7.4 Impact on residential amenity
- 7.4.1 The application seeks outline consent for the erection nine dwellings. There are residential properties on either side of the site, and the opposite side of the Low Road. The precise layout and design will be determined at the reserved matters stage, however, an indicative layout has been submitted with the application. This shows a separation distance of at least 22 metres between the front walls of the existing dwellings fronting onto Low Road, and those proposed at the front of the site. These neighbouring properties are also at a higher level than the application site. The plan also demonstrates that an adequate separation distance can be achieved between the side walls of the dwellings to the north and south and the rear wall of Woodburn Farm. As such, it is considered that

the proposal could be adequately accommodated on the site without having a detrimental impact on the amenities of the neighbouring residential properties.

## 7.5 Design and Impact on the character of the area

7.5.1 The design and layout would be determined at the reserved matters stage. However, the indicative layout shows four dwellings fronting Low Road with five to the rear, accessed via a new road. The indicative layout shows that the dwellings can be adequately accommodated with sufficient garden space and separation distances between the proposed dwellings. The buildings have been shown with two storeys. There is a mix of bungalows and two storey properties in the vicinity of the site. Given that the dwellings on the opposite side of the highway are at a higher level, and the adjacent dwelling to the north is two storey, the scale is likely to be acceptable, subject to the final design and proximity of the dwelling closest to the bungalow to the south. The development will also result in the removal of several derelict buildings and should improve the overall appearance of the site. The development would extend further to the east than the adjacent residential properties, but this is not considered to have an adverse impact on the character or appearance of the area.

## 7.6 Access and highway impacts

7.6.1 An access point has been shown on the indicative layout plan, but would be determined at the reserved matters stage. The Highways Officer has set out that visibility splays of 2.4m by 40m are required at the entrance of the site onto Low Road. This can be achieved but would include some of the land belonging to the property to the north, Woodburn Farm, which is in the applicant's ownership. Two or three parking spaces will be required per dwelling, depending on the size of the dwellings (i.e. number of bedrooms), but there is enough space within the site to achieve this. Sufficient turning facilities could also be achieved.

7.6.2 The pavement along Low Road is particularly narrow to the front of the site and the farmhouse. The development of the site gives the opportunity to set back the boundary wall to create a 2 metre wide length of footway to the front of the site which will help driver visibility and pedestrian access along the footpath. The Highways Officer has also highlighted that there should be temporary wheel wash facilities during construction activities, and this could be adequately controlled by condition.

## 7.7 Impact on trees and hedgerows

7.7.1 A total of five trees have been identified and include a sycamore, cherry, willow, poplar and birch. With the exception of the sycamore, all of the trees are established in offsite locations, though still implicated by the proposed development and are at risk of damage. The sycamore is proposed for removal in order to accommodate the access arrangement, with all other trees to be retained and protected. It should be noted that levels are proposed to be increased from the existing levels. The Tree Officer has advised that there can be no changes in ground levels within identified root protection areas of offsite trees. Protective barrier fencing must be erected and inspected prior to any activities on site in relation to the development. New planting is proposed, and will include adequate mitigation measures with regard to the loss of the tree.

## 7.8 Ecological Implications

7.8.1 The Lune Estuary is located approximately 800m to the south east and is designated as a Site of Special Scientific Interest. It is also covered by the Morecambe Bay Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site. Natural England does not consider that the proposal poses any likely or significant risk to the nearby designated areas.

7.8.2 A bat, barn owl and nesting bird survey has been submitted with the application as the proposal involves the demolition of several buildings. This sets out that there was no past or current evidence of bats roosting found at the site during the survey and that the buildings are unlikely to be used by significant numbers of bats for roosting. As such, it is highly unlikely the buildings are essential for species survival. Precautionary mitigation has been advised. The report also sets out that there is a low potential for use of the site by barn owls. Whilst there are potential nest sites within the buildings, there is no indication of any type of past use. There is the potential for a disturbance to nesting birds during the construction phase, however, it is unlikely that the loss of potential nest sites would have significant long term impacts on local bird populations as the habitat around the site is open and exposed and offers low quality foraging opportunities. A check of the site for active nest sites has

been advised prior to work commencing if this is in the period of March to September.

7.8.3 On this basis, it is considered that the development will not have a significant impact on protected species, provided that appropriate precautionary mitigation is implemented during construction.

## 7.9 Contaminated land

7.9.1 The site has been previously used for agricultural activities. As such, there is the potential for contamination which could cause risks to future occupiers of the site. However, the nature and level is unlikely to be so significant to prevent the development being carried out. As such, it is considered appropriate to attach conditions to ensure that a preliminary risk assessment is undertaken, followed by further investigation works and remediation if necessary.

## **8.0 Planning Obligations**

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

## **9.0 Conclusions**

9.1 The site is considered to be in a sustainable location and is of a sufficient size to accommodate nine dwellings without having a significant adverse impact on the character and appearance of the area, highway safety, residential amenity and ecology. However, the majority of the site is located within flood zone 3, which is defined as having a high probability of flooding in the National Planning Practice Guidance. The Sequential Test submitted does not accord with national planning policy as it does not reflect the appropriate catchment area for the type of development proposed, as outlined in paragraph 33 of the NPPG. As such, it has not been demonstrated that there are no other sites available, within areas at a lower risk of flooding, that could accommodate this development. It is unlikely that there are no other suitable sites within the District that are outside flood zones 1 and 2. The lack of a five year housing land supply or the benefits of removing the derelict buildings from the site do not obviate the requirement for this development to pass the Sequential Test at this moment in time. The proposal, therefore, represents an unacceptable form of development having regard to its flood zone location and the provisions of the National Planning Policy Framework.

## **Recommendation**

That Outline Planning Permission **BE REFUSED** for the following reasons:

1. The site is located within flood zone 3 and the applicant has failed to satisfy the requirements of the sequential test, as required by paragraph 101 of the NPPF. As such, the proposal represents an unacceptable form of development, within an area defined as having a high probability of flooding, and is contrary to Section 10 of the NPPF and policy DM38 of the Lancaster District Development Management Development Plan Document.

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

In accordance with the above legislation, the City Council can confirm that it takes a positive and proactive approach to development proposals, in the interests of delivering sustainable development. As part of this approach the Council offers a pre-application service, aimed at positively influencing development proposals. Regrettably the applicant has failed to take advantage of this service and the resulting proposal is unacceptable for the reasons prescribed.

## **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