

<b>Agenda Item</b> A6	<b>Committee Date</b> 8 February 2016	<b>Application Number</b> 15/01156/FUL
<b>Application Site</b> Land Opposite 26 To 48 Lancaster Road Overton Lancashire	<b>Proposal</b> Erection of 32 dwelling houses and associated access	
<b>Name of Applicant</b> Messrs Hancock & Grantham	<b>Name of Agent</b> Building Plan Services	
<b>Decision Target Date</b> 1 March 2016	<b>Reason For Delay</b> Not applicable	
<b>Case Officer</b>	Mr Philip Megson	
<b>Departure</b>	No	
<b>Summary of Recommendation</b>	Refusal	

## **1.0 The Site and its Surroundings**

- 1.1 The site comprises two fields of semi-improved grassland with a hedgerow running between the fields. The site to the north, west and south is bounded by hedgerows, and to the east by hedgerows punctuated by elder and willow trees. There is a mature oak tree in the hedge on the southern boundary. There is a gate to each field giving egress from and access to Lancaster Road.
- 1.2 Existing residential development is adjacent to the site to the north and to the west of Lancaster Road. There is a mix of styles (bungalows, dormer bungalows and two storey dwellings) predominantly constructed of brick, stone and render with slate or grey tile roofs. The Overton St Helen's Church of England Primary School and playing fields are located to the south. To the east is agricultural land. The north east edge of the site falls within Flood Zones 2 and 3, but benefits from flood defences. The site is susceptible to ground water flooding (25-50%).
- 1.3 There are no records of protected or notable species within the site. The application site is approximately 660m from the Morecambe Bay Special Protection Area (SPA) and Special Area of Conservation (SAC) which is a European Site. The site is also listed as Morecambe Bay Ramsar Site and also notified at the national level as the Lune Estuary Site of Special Scientific Interest. The nearest non-statutory designation is the Middleton Marsh BHS which is 1000m to the north west.

## **2.0 The Proposal**

- 2.1 The proposal comprises 32 new dwellings with gardens and parking, arranged around a cul-de-sac. Access would be taken opposite 30–34 Lancaster Road. The existing accesses to the site will not be retained. The development comprises two 2-bed detached bungalows, twenty-two 2-bed semi-detached bungalows and eight 3-bed semi-detached houses. Proposed materials are stone, stone quoins and render with slate-grey tiles. The finished floor levels of the houses would be 5.575m above datum to mitigate against flood risk. Detached garages set back into each plot are proposed.
- 2.2 Twelve dwellings (plots 19–30 inclusive) are proposed as affordable dwellings. These comprise two 2-bed detached bungalows, two 2-bed semi-detached bungalows and eight 3-bed semi-detached houses.

2.3 A grassed and landscaped area would be provided to the rear of Plots 7 and 8. This area would include an attenuation pond to store surface water. Smaller areas of landscaping and planting are also proposed within the scheme around the cul-de-sac head and at the point of access to the site. It is proposed to provide stone walls to all properties fronting Lancaster Road and to all properties to demarcate co-located driveways.

2.4 The proposal would result in the removal of the hedgerow between the fields. It is unclear from the submitted application whether a section of the hedgerow, or the whole hedgerow to the Lancaster Road frontage would be removed to facilitate the access: the applicant has been requested to provide clarification but, at the time of writing, has not done so.

### **3.0 Site History**

3.1 An outline application for 30 dwellings (Ref: 14/00634/OUT) was withdrawn during the application validation stage. A separate Screening Opinion (14/00718/EIR) and formal pre-application advice (15/00312/PRETWO) have been historically provided.

### **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>County Highways</b>	No comments within statutory timescale.
<b>County Strategic Planning</b>	<b>Obligation Request</b> - A request for financial contribution to fund 3 primary school places
<b>Local Lead Flood Authority</b>	<b>Object</b> - The submitted Flood Risk Assessment (FRA) does not comply with the requirements set out in Paragraph 30 of the Planning Practice Guidance, and therefore paragraph 103 of the NPPF cannot be satisfied. The submitted FRA does not, therefore, provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. Recommend refusal.
<b>Environment Agency</b>	<b>No objection</b> in principle.
<b>United Utilities Water</b>	<b>No objection</b> - subject to conditions relating to: foul and surface water being drained on separate systems; and prior to the commencement of development, submission and approval of a surface water drainage scheme based on the hierarchy of drainage options in NPPG with evidence of an assessment of site conditions (including details of post-completion management of the scheme).
<b>Environmental Health Officer</b>	Standard land contamination <b>conditions requested</b> - Unrecorded uses of the site and agricultural uses may have resulted in soil contamination. The likelihood of potentially significant contamination is low; however, the sensitivity of the proposed land use to any contamination is very high and consequently an environmental site investigation will be required.
<b>Strategic Housing Policy Officer</b>	No comments within statutory timescale.
<b>Planning Policy</b>	<b>Comments</b> - The site is located in a settlement where the council would look to promote residential development. Whilst supporting in principle development you will need to be satisfied that the proposals meet the wider requirements of Policy DM42 of the Development Management DPD.
<b>Natural England</b>	<b>Inadequate information submitted</b> to determine whether the likelihood of significant effects on the nearby Morecambe Bay SPA and SAC European designated site and the Lune Estuary SSSI. Morecambe Bay is also a RAMSAR site.
<b>Parish Council</b>	<b>No objections</b> in principle. Comments that houses on Lancaster Road frontage will be at a higher level than the houses opposite – need to avoid overlooking; the pond could be a hazard and should be omitted; and proposed houses with a common boundary with existing properties in Kevin Grove should be single storey to match the Kevin Grove dwellings. A second letter discusses drainage implications and requests that arrangements for dealing with surface water in the proposed development should ensure that there is no additional load on the current system. They also request a

	developer contribution towards the expansion of the play park.
<b>Tree Protection Officer</b>	No comments within statutory timescale.
<b>Public Realm Manager</b>	No comments within statutory timescale.
<b>Lancashire Constabulary</b>	Recommend that this development should be built in accordance with Secured by Design Standards.

## **5.0 Neighbour Representations**

5.1 At the time of writing, 16 neighbour representations have been received: 1 representation in “broad support” and 15 representations objecting to the proposed development.

5.2 Representation in support:

- Request that the fence between the shared boundary between the School and the proposed development is treated sensitively; and
- Request a new class room.

5.3 Objections are on the following grounds:

- Proposed mix of house types is unclear; alleged contradictions in the submission;
- Precedent: refusal of 14/00634/OUT for 30 houses [*NB: This is incorrect - the application was withdrawn*].
- Loss of greenfield site, brownfield sites should be used first;
- Highways and traffic: increased traffic on Lancaster Road; safety issues (construction traffic, narrow roadways, school children at drop-off and pick-up, 20mph speed limit not adhered to); development contains no sustainable transport measures; detrimental impact on cyclists, walkers and horse riders; limited bus services;
- Impact on drainage of surface water; proposed attenuation pond inadequate; increased potential for flooding; Impact on capacity of sewers;
- Impact on the character and appearance of the surrounding area;
- Noise impacts;
- Impacts on existing properties: overshadowing; overlooking; loss of privacy; light pollution; reduction in light to existing properties to the North by building on plots 13, 14, 15, 16, 17 and 18, and proposed planting in the North East corner of the site; house values in village (*the latter is not a valid planning consideration*);
- Development not needed: 31 houses for sale in locality and a number of extant permissions for housing and submitted planning applications for housing;
- Lack of amenities in the village (one pub, primary school, church and village hall);
- Precedent for similar developments;
- Maintenance of established hedging; and,
- No beneficial impact on local employment in the long term

## **6.0 Principal National and Development Plan Policies**

### **6.1 Development Management DPD**

Policies DM20-22 (Transport, Accessibility and Parking)

DM25 (Green Infrastructure)

DM27 (Biodiversity)

DM28 (Development & Landscape Impact)

DM29 (Protection of Trees, Hedgerows and Other Woodland)

DM35 (Design and Amenity Standards)

DM36 (Sustainable Design)

DM38 (Flood Risk)

DM39 (Drainage)

DM41 (New Residential Development)

DM 42 (Managing Rural Housing Growth)

### **Lancaster District Core Strategy**

Policy SC1 (Sustainable Development)

Policy SC4 (Housing Requirements/Supply)

## **7.0 Comment and Analysis**

### **7.1 Principle of Development**

Policy DM42 identifies Overton as a sustainable settlement where new housing could be supported in principle provided it meets a local housing need. Whilst the site is greenfield, and preference is for developing brownfield sites, the fields identified would constitute a natural rounding-off of the village and would not represent extension of the village boundaries. As the Council does not have a five-year supply of deliverable housing sites, there is a presumption in favour of development unless there are other material considerations that are of sufficient importance to outweigh the presumption. Based upon this presumption and development Plan policy, the principle of locating housing within Overton is considered acceptable, subject to all other material considerations being appropriate at this particular site. The report shall now consider each in turn.

### **7.2 Design, Scale, Layout and Residential Amenity**

In terms of the layout, the applicant has broadly followed the pre-application advice provided in April 2015. The scheme is logical, providing a strong frontage to Lancaster Road, with sufficient garden areas and relationship between the new dwellings. This part of the village sits outside the Conservation Area and there are a mix of house types and materials within the locality. The proposed use of local stone, with quoins to match, and an appropriate render details are appropriate to the locality. The proposed use of slate grey roof tiles is acceptable although, in the interest of visual amenity, the tiles should have a shallow leading edge. In terms of boundary treatments, the applicant has again followed advice by providing a stone wall to the front of all roadside properties, which will

7.3 Representations have been received on the potential adverse impacts on the residential amenity of neighbouring properties, particularly on the rear of properties on Kevin Grove to the north of the application site. There is however a minimum separation distance of 25m between the rear of the proposed semi-detached bungalows on Plots 13–18 and the rear of properties on Kevin Grove, which is greater than the minimum 21m separation distance considered necessary for facing windows serving a habitable room. The rear walls of the proposed garages on Plots 13–18 would be in excess of minimum separation distance of 12m from the rear windows of the properties on Kevin Grove. The separation distance of the proposed properties fronting Lancaster Road also exceeds the minimum separation distance from the existing properties on the opposite side of Lancaster Road. It is considered that the proposal can be accommodated without detriment to existing or proposed residential amenity.

### **7.4 Highway Implications**

There are currently no comments to report from the County Council's Highways Authority. Any comments will be verbally reported. In the absence of observations, Members are advised that Lancaster Road is heavily-trafficked during the drop-off and pick-up peak times associated with the nearby primary school. Whilst there may be concern that additional properties would add to the congestion in and around the site during those peak times, the fact that the development will considerably reduce the opportunities for parking on one side of the road (due to the proposed location of new residential driveways) should mean that parental parking during school times is dispersed elsewhere in the village. Outside of these peak hours, Lancaster Road does not appear to suffer from traffic impacts. It is considered that the scheme is appropriate, assisted by the location of detached garages set back into each plot. This will enable occupant and visitor vehicles to park on their individual driveways, thereby discouraging parking along the cul-de-sac and on Lancaster Road.

### **7.5 Drainage and Flood Risk**

During pre-application discussions the developer was advised to obtain flood levels from the Environment Agency. They were also advised to indicate how they would deal with surface water. The scheme includes an attenuation pond, and there is limited detail contained in a very basic Flood Risk Assessment (FRA), less than a page in length, which has been submitted as part of the

planning application literature. This FRA refers to Planning Policy Statement 25, *Development and Flood Risk*, which was cancelled by the Government in 2012 when the National Planning Policy Framework was introduced, and is no longer in force. Therefore, there is little confidence that the submitted FRA is fit-for-purpose as it presently stands.

7.6 Whilst the Environment Agency have not objected to the proposal, the Local Lead Flood Authority (LLFA) have objected, saying that the FRA contains certain deficiencies and does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. The LLFA conclude that the FRA does not comply with the requirements set out in paragraph 30 of National Planning Practice Guidance and, consequently Paragraph 103 of the National Planning Policy Framework.

7.7 The advice of the LLFA regarding the deficiencies in the FRA (and how these can be overcome) has been forwarded to the applicant, but at the time of writing, the local planning authority has not received a response. Any response will be verbally reported.

#### 7.8 Affordable Housing

As the site is a greenfield site in a rural area there is a requirement for the provision of up to 40% affordable housing. It is proposed to provide twelve dwellings, which would satisfy this requirement. Subject to the requirements of Registered Providers, the affordable housing provision would be a mixture of 50% social rented and 50% intermediate housing. As a rural parish, cascade provision would normally apply, which gives priority to applicants who have a local connection to the immediate and then surrounding parishes.

#### 7.9 Ecology and Trees

The applicant has submitted an Ecological Appraisal and Tree Report to accompany the application. The Ecological Appraisal considers species and local habitats across the site and immediate surrounding area. There was no conclusive evidence of bat species, although they do occur in the general locality. The vegetation is of low ecological significance and any works to hedges would need to occur outside breeding season. The Appraisal also concluded that the distance to European designated sites - the Morecambe Bay Special Protection Area (SPA) and Special Area of Conservation (SAC), and the Lune Estuary Site of Special Scientific Interest (SSSI) should mean that there would be no direct or indirect impacts upon those sites. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations').

7.10 However Natural England take a different view. They advise that there is currently not enough information to determine whether the likelihood of significant effects of the proposed development can be ruled out. Natural England has provided advice on what information is required to undertake a Habitat Regulations Assessment. The applicant has been provided with this advice but, at the time of writing, no response has been received.

7.11 The birds for which sites are designated may also rely on areas outside of the designated site boundary. Where essential ecological functions, such as foraging, occurs beyond a designated site boundary, then the area within this is termed functionally linked land, or known as functional habitat. As the presence of this land is essential in meeting a species' needs, damage or deterioration of this habitat could impact upon the designated population. Natural England advise that the potential for impacts beyond the designated site boundary needs to be considered in assessing what, if any, potential impacts the proposal may have on designated sites.

7.12 Similarly, in respect of the Lune Estuary Site of Special Scientific Interest (SSSI), Natural England advises that there is insufficient information to determine whether the likelihood of significant effects of the proposed development can be ruled out. The applicant's comments in response to this are awaited.

7.13 The Tree Report notes that there is only one tree on the site itself, a mature oak, and this is to be retained. Hawthorn hedges to the north and south and east boundaries are identified for retention. The hedge on the roadside (west) boundary will be removed to facilitate the development. Whilst this is regrettable, the introduction of new landscape features (to be maintained by a management company) will contribute to the biodiversity across the site, including the provision of the attenuation

pond. Care will need to be taken with the eventual design and management of the new planting, particularly at the end of the cul-de-sac and the land adjoining Plot 19.

#### 7.14 Education Provision

The Chair of the Buildings and Finance Committee at Overton St Helens C of E Primary School has submitted a representation that includes a request for funding (not quantified) to assist in the provision of an additional classroom at the School.

7.15 The County Council, as Education Authority, has requested a financial contribution of £36,628.20 to fund 3 primary school places to mitigate the direct impacts arising from the proposed development on education provision. No secondary school places contribution is requested. A request for a financial contribution would be based on the Education Authority's advice.

### **8.0 Planning Obligations**

8.1 A Section 106 Agreement is necessary to make the development acceptable in planning terms. The following details are required:

- Twelve affordable dwellings (plots 19 – 30 inclusive) as affordable dwellings. These comprise two 2-bed detached bungalows, two 2-bed semi-detached bungalows and eight 3-bed semi-detached houses. Subject to the requirements of Registered Providers, the affordable housing provision would be a mixture of 50% social rented and 50% intermediate housing. As a rural parish, cascade provision would normally apply, which gives priority to applicants who have a local connection to the immediate and then surrounding parishes.
- Financial contribution of £36,628.20 to fund 3 primary school places.

8.2 Any request for off-site highway works/contributions to be controlled via a Section 278 Agreement under the Highways Act will be reported verbally, should County Highways make representations to the planning application.

### **9.0 Conclusions**

9.1 The principle of locating housing in Overton, and on this particular site, is considered acceptable in locational terms. The proposal would also contribute to the shortfall in housing supply across the district, and the increase in housing provision in a village identified for growth in Policy DM42 may enhance the vitality of the local community and help sustain local services in the future.

9.2 Where the proposal currently fails is in respect of:

- The Flood Risk Assessment, which refers to an incorrect national policy document and is considered by the LLFA, to be inadequate and thus not comply with the requirements of Paragraph 103 of the NPPF; and,
- Inadequate information to determine whether the likelihood of significant effects on the European designated sites (Morecambe Bay Special Protection Area and the Special Area of Conservation) can be ruled out; and whether the likelihood of significant effects of the proposed development on the Lune Estuary Site of Special Scientific Interest can be ruled out.

9.3 The applicant has been advised of the shortfalls in the content of the current submission, but at the time of compiling this report, a response has not been forthcoming. Therefore, the local planning authority has no alternative but to recommend refusal for the reasons expressed below and overleaf.

### **Recommendation**

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

1. The Flood Risk Assessment (FRA) submitted with this application does not comply with the requirements set out in paragraph 30 of National Planning Practice Guidance, and therefore paragraph 103 of the National Planning Policy Framework cannot be satisfied. The submitted FRA does not, therefore, provide a suitable basis for assessment to be made of the flood risks arising from the proposed development. In particular, the submitted FRA fails to:

- a. Take the impacts of climate change into account;
  - b. Consider how people will be kept safe from flood hazards identified;
  - c. Consider the effect of a range of flooding events including extreme events on people and property; and,
  - d. Consider the requirement for flood emergency planning including flood warning and evacuation of people for a range of flooding events up to and including the extreme event.
2. The information submitted with this application is insufficient to demonstrate that the requirements of Regulations 61 and 62 of the Conservation of Habitats and Species Regulations 2010 (as amended) have been complied with. In the absence of such information, the proposal is considered to be contrary to Section 11 of the National Planning Policy Framework, particularly Paragraph 118, and Development Management DPD Policy DM27.

### **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 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. Whilst the applicant has taken advantage of this service prior to submission, the resulting proposal is unacceptable for the reasons prescribed in the Notice. The applicant is encouraged to liaise with the Case Officer in an attempt to resolve the reasons for refusal.

### **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