

## **COUNCIL**

# **Receipt of a petition concerning land at Denny Beck (Quernmore Parish), identified as potential development site "UE2" in the October 2015 local plan consultation**

**13<sup>th</sup> July 2016**

## **Report of Chief Officer (Regeneration and Planning)**

### **PURPOSE OF REPORT**

To advise members of the receipt of a petition, with 213 signatures, urging the council not to allocate land at Denny Beck, Quernmore Parish, for development purposes in the forthcoming Local Plan.

**This report is public**

### **RECOMMENDATIONS**

- (1) **That, although the petition contains sufficient signatures to trigger a Council debate in accordance with the Petition Scheme, Council should, in order to avoid prejudicing the preparation of a Local Plan for Lancaster District, defer full consideration of the issue until a draft Local Plan is debated in due course.**

#### **1.0 Introduction**

- 1.1 The Council has received a petition regarding the identification of an area of land as a potential development site as part of a recent local plan consultation. This area of agricultural land is within Quernmore Parish and Lower Lune Valley Ward.

#### **2.0 Proposal Details**

- 2.1 Between the 19<sup>th</sup> October and the 30<sup>th</sup> November 2015 the Council held a Local Plan consultation called "*People, Homes and Jobs: How should we plan for our district's future?*" The consultation identified a number of potential new strategic development sites, including urban extensions in Lancaster and sites in the Green Belt between Lancaster and Carnforth. The Council consulted on these potential sites to help it determine if these areas are suitable, available and achievable for development. The council will use the information from the consultation to help it prepare a local plan that allocates enough land to meet identified development needs.

- 2.2 As part of the response to this consultation the council received a petition with 213 signatures which states:

“We the undersigned petition the council to recognise that building on the UE2/Denny Beck area will increase the danger to life and property through flooding as outlined in the NPPF: ‘Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.’

“Justification: Advice on Sustainable Drainage Systems from specialists has uncovered that the use of UE2 may exacerbate the danger at Denny Beck by increasing flooding and not taking into account the UK Climate Change Commission who advise planners that extreme rainfall may be 30% worse in future”.

- 2.3 In accordance with the Council’s constitution a petition of 200 signatures relating to a local matter which affects no more than two wards is sufficient to trigger a debate at full Council.

- 2.4 However, Members are advised the Council will have to consider and debate the content of a draft local plan once it has been prepared, potentially later this year. That debate will have to consider the allocation of many development sites. A petition with similar intentions has previously been reported to Council on 3<sup>rd</sup> February 2016, with regard to land at Manor Lane, Slyne-with-Hest/Bolton-le-Sands that has also been identified for consideration in the same October 2015 local plan consultation. Council resolved that full consideration of the issue be deferred until a draft Local Plan is debated in due course. The council’s officers are well aware of the need to consider many constraints on the development of land before advising council if it is suitable for development. This work is currently ongoing. Further petitions may well be submitted as the local plan’s preparation continues. It is advised that any detailed consideration of individual sites should only be as part of that wider debate. The council will then need to consult on the draft Local Plan.

### 3.0 Details of Consultation

- 3.1 This petition has been received in response to the Local Plan “*People, Homes, and Jobs*” consultation of October/November 2015. A further Local Plan consultation will be arranged once a draft local plan has been approved for consultation by council. The publication of a draft local plan is anticipated early next year.

### 4.0 Options and Options Analysis (including risk assessment)

|            | <b>Option 1:</b> Hold a full debate now on the Denny Beck UE2 site now in advance of considering the content of a draft local plan. | <b>Option 2:</b> Defer a detailed consideration of this site until a draft local plan is prepared and brought to council for consideration. |
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| Advantages | None  | Presently the council does not know if the Denny Beck UE2 site is either needed or developable. Much work has still to be                   |

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|               |   | undertaken. A debate on the draft local plan document later this year will allow all potential development site options to be given parity of consideration and informed by the work that the council's officers will do over the next six months in determining the suitability, availability and achievability of potential site options. |
| Disadvantages | At this point in time the council does not know if this land is either needed for development or is actually developable. Thus should a full debate be held now then it could not meaningfully be concluded that the site should or should not be identified for development in the local plan.   | None  |
| Risks         | Should the outcome of a full debate be that the council decides that the land should not be identified in the forthcoming local plan then, by removing a potential development option that decision <i>may</i> mean that the council cannot evidence that sufficient allocations are available <b>in total</b> to meet the total identified needs for housing and employment land. Potentially this may have very serious implications for the ability of the council to prepare and submit a plan to Examination. Importantly, the exclusion of this site in advance of a wider local plan debate may mean that alternative sites need to be identified to meet the overall development land requirements. A debate now that results in the scoping out of one site in advance of a debate on other sites could be subject to a serious legal challenge from a disadvantaged land owner or from other parties who might take issue with one potential site being excluded from | None  |

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|  | consideration before a properly informed local plan debate takes place as such a decision may increase the need for other sites. |  |
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## 5.0 Conclusion

- 5.1 A petition has been received in respect of one of the potential sites identified in the Council's "People, Homes and Jobs" Local Plan consultation. Currently it is not known if the "UE2" Urban Extension site is either needed for development or is developable. Should the site be needed and be developable it may feature as one of many sites identified in a forthcoming draft local plan. That plan will be the subject of a debate at council and published for consultation. A full debate on one single site cannot be properly informed at this point in time. A decision to scope out one site in principle at this stage could well result in legal challenges from the owners of this site, or from other parties who later object to the need to identify other alternative development sites which have not had the benefit of such prior consideration.
- 5.2 Members are therefore recommended to defer detailed consideration of this site until a draft Local Plan is prepared and brought to council for consideration. Presently the position is that this site may or may not be identified for development in the draft local plan. A full debate at this meeting would be inappropriate, not properly informed, and introduce a significant risk to the prospects of a sound local plan being subsequently achieved.

### **CONCLUSION OF IMPACT ASSESSMENT**

**(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

The council has a duty to prepare a local plan to address the housing and other development needs of the community. Parity of consideration of all prospective development sites through a rational approach that allows for the comparison of alternative options is a significant concept in local planning.

The council needs to identify development sites that provide opportunities for meeting the district's overall housing and employment needs in both urban and rural areas.

### **LEGAL IMPLICATIONS**

A debate in principle that leads to a decision to scope out an individual development site in advance of considering a draft local plan could well result in cost and delay through consequent legal challenges on the basis that due process was not followed. Challenge could arise from land owners, who may be aggrieved that proper consideration was not given to the potential developability of their asset, or, alternatively from parties aggrieved that the outcome of a prior debate on one site means that alternative development sites, which have not had the benefit of such consideration, may need to be identified for development instead of this site.

### **FINANCIAL IMPLICATIONS**

Actions that lead to legal challenge and further delay in advancing a local plan could result in significant direct costs as the council defends its actions. Delay on advancing a plan could

mean that the council become liable for the cost of intervention by the department of Communities and Local Government for failing to prepare a new local plan in accordance with the national timetable set out by the government.

#### **OTHER RESOURCE IMPLICATIONS**

**Human Resources:**

There are no direct implications.

**Information Services:**

There are no implications.

**Property:**

There are no implications.

**Open Spaces:**

The site is in private ownership and is in use for agricultural purposes. There are no implications for the management of public open space or play facilities.

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

The Deputy s151 Officer has been consulted and has no further comments.

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

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

#### **BACKGROUND PAPERS**

*"People, Homes and Jobs: How should we plan for our district's future?"* Public consultation 19<sup>th</sup> October to 30 November 2015. Available in "closed consultations" at:

[www.lancaster.gov.uk/planningpolicy](http://www.lancaster.gov.uk/planningpolicy)

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