

<b>Agenda Item</b> A9	<b>Committee Date</b> 4 February 2019	<b>Application Number</b> 18/01413/VCN
<b>Application Site</b>  Land South Of Hala Carr Farm Bowerham Road Lancaster Lancashire		<b>Proposal</b>  Erection of 25 dwellings and creation of a new access and access roads (pursuant to the modification to condition 6 (ii) on planning permission 16/01551/FUL to remove the requirement for street lighting at the junction of Bowerham Lane and Kempton Road, and 6 (iii) to remove the requirement for a pedestrian refuge, together with the submission of details to satisfy conditions 3, 4, 5 and 6 (highways requirements), 7 (foul water drainage), 8 (finished floor levels), 9 (surface water drainage arrangements), 10 (noise mitigation), 11 (earth bund details), 12, 13 and 14 (materials)
<b>Name of Applicant</b>  Mr Chris Middlebrook		<b>Name of Agent</b>  Miss Bryanni Cartledge
<b>Decision Target Date</b>  4 February 2019		<b>Reason For Delay</b>  Not applicable
<b>Case Officer</b>		Mr Mark Potts
<b>Departure</b>		Yes
<b>Summary of Recommendation</b>		Approval (Subject to a deed of variation for the Section 106 Agreement).

i) **Procedural Note**

The original application was deemed to be a departure from the Local Plan given the site lies within Key Urban Landscape (a locally designated protected landscape) and given this application seeks to modify conditions associated with the extant consent, it has also been advertised as a departure from the Local Plan, and therefore has to be determined by Planning Committee.

**1.0 The Site and its Surroundings**

- 1.1 The site is a greenfield wedge bounded by Hala Carr Farm to the north, the M6 motorway to the east and Bowerham Lane to the west. The site area is 1.76 hectares. The site slopes from the east (the M6 boundary is at 84 metres Above Ordnance Datum (AOD) to the west (Bowerham Lane is at 71 metres AOD) and is more pronounced towards the north. The northern boundary comprises a section of stone wall and hawthorn on the boundary with Hala Carr Farm and the eastern boundary comprises a post and wire fence on the open boundary of the M6. The southern boundary is bounded by a small but mature mixed woodland copse and the western boundary with Bowerham Road comprises an overgrown predominately hawthorn hedgerow. The site consists of coarse grassland which has been colonised around the edges by blackthorn, gorse, bramble and bracken. There is an existing belt of trees punctuated by an access gate on the boundary to Bowerham Lane. These trees screen the site from existing 2 storey residential properties fronting the western side of Bowerham Lane. There are also existing hedgerows on the boundary to Hala Carr Farm and part of the boundary with the M6 motorway.

- 1.2 The site does not benefit from any statutory nature conservation or landscape designation, with the Forest of Bowland Area of Outstanding Natural Beauty (AONB) being located 1.5km to the west and Morecambe Bay Ramsar Site, Special Protection Area (SPA), Site of Special Scientific Interest (SSSI) and Special Protection Area (SPA) being located 2.5km to the west of the application site. An existing water trunk main enters the site from under the M6 (at a point opposite the junction of Bowerham Lane and Sandown Road) and exits the site to the south of Hala Carr Farm. The site is allocated as Key Urban Landscape and as a Woodland Opportunity Site in the adopted Local Plan; within the emerging plan the land is allocated as Urban Setting Landscape.

## **2.0 The Proposal**

- 2.1 The applicant is wishing to vary the planning conditions associated with the existing planning permission. The main change proposed by this planning application is to remove the requirement for street lighting in the vicinity of the Bowerham Lane / Kempton Road junction and the provision of a pedestrian refuge on Bowerham Lane. This was imposed to allow pedestrians to cross safely. For ease the condition that is sought to be modified states:

*6) Apart from the creation of the site's access as referred to in condition 3, development shall not commence until a scheme for the construction of off-site highway improvement works has been submitted to and approved in writing by the local planning authority. These shall include:*

- i) Setting back of the boundary treatment along the sites frontage with Bowerham Lane, and associated hard and soft surfacing to enable the required visibility splay to be achieved;*
- ii) Provision of street lighting along the sites frontage and in the vicinity of Bowerham Lane / Kempton Road junction;*
- iii) Construction of a pedestrian refuge facility on Bowerham Lane; and*
- iv) Improved carriageway thermoplastic lining at the sites junction with Bowerham Lane.*

*The scheme shall be completed in accordance with the approved details prior to first occupation of any dwelling of the development hereby approved.*

- 2.3 The application also seeks to discharge a number of planning conditions in relation to highways, foul and surface water drainage, noise mitigation, landscaping, earth bund details and materials. These matters would generally be agreed under the discharge of condition process but the applicant has included the relevant details within this application for consideration, which is also an acceptable approach.

## **3.0 Site History**

- 3.1 Planning permission was approved on appeal (APP/A2335/W/18/3195605) in June 2018 for 25 dwelling houses, creation of a new vehicular access and associated roads within the site (16/01551/FUL) after the application was recommended approval by Officers, but refused by Members of the Planning Committee. Development has not commenced on site.

## **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 removal of the need to provide street lighting at the junction of Kempton Road/ Bowerham Lane, but initially raised an objection to the removal of the pedestrian refuge. Following significant negotiations, the Highway Authority is amenable with a vehicle activated sign on the south bound approach to encourage lower vehicle speeds in lieu of the pedestrian refuge together with a simple dropped crossing arrangement. The applicant is amenable to such a request and <b>no objection</b> has been received in relation to the proposed modifications.
Highways England	Recommend that planning consent is not granted until such time additional information has been submitted regarding the structural integrity of the development – notably the landscaped embankment. Highways England has issued a holding

	notice that recommends that planning permission is not granted until at least 28 January 2019. Additional information has been submitted by the applicant to address the concerns raised and comments are awaited from Highways England.
<b>Environmental Health (Noise)</b>	<b>No objection</b>
<b>Natural England</b>	<b>No objection</b>
<b>Lead Local Flood Authority</b>	No observations received within the statutory timescales
<b>United Utilities</b>	<b>No objection</b> to the surface water and foul water drainage arrangements
<b>Strategic Housing Officer</b>	No observations received within the statutory timescales
<b>Tree Protection Officer</b>	No observations received within the statutory timescales
<b>Lancaster Civic Society</b>	No observations received within the statutory timescales
<b>Fire Safety Officer</b>	<b>No objection</b>

## **5.0 Neighbour Representations**

5.1 To date the scheme has attracted 4 letters of objection, based on the reasons below:

Drainage matters – concerns associated with the drainage rates, and that the surface water and the rate which was agreed with United Utilities was in advance of the flooding on Bowerham Lane in November 2017 and should be reconsidered.

Highway matters – concerns regarding traffic generation along Bowerham Lane and that highway safety should be paramount over some cost savings associated with the pedestrian refuge.

Amenity – the proposed dwellings are located too close to the M6 in the event any cars run off the M6 and into the site and dwellings. Also concerns from a noise and air quality perspective.

5.2 One letter in support of the application to remove the requirement for a pedestrian refuge as this could impact on the ability to access 262 and 264 Bowerham Lane (who have home based businesses)

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

### **6.1 National Planning Policy Framework (NPPF)**

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 11). The following sections of the NPPF are relevant to the determination of this proposal.

Section 4 – Decision making;  
 Section 5 – Delivering a sufficient supply of homes;  
 Section 8 – Promoting healthy and safe communities;  
 Section 9 – Promoting sustainable transport;  
 Section 12 – Achieving well designed places;  
 Section 15 – Conserving and enhancing the natural environment;

### **6.2 Local Planning Policy Overview – Current Position**

At the 20 December 2017 meeting of its Full Council, the local authority resolved to publish the following 2 Development Plan Documents (DPD) for submission to the Planning Inspectorate:

- (i) The Strategic Policies and Land Allocations DPD; and,
- (ii) A Review of the Development Management DPD.

This enabled progress to be made on the preparation of a Local Plan for the Lancaster District. The DPDs were submitted to the Planning Inspectorate on 15 May 2018 for independent Examination,

which is scheduled to commence in spring 2019. If the Inspector finds that the submitted DPDs have been soundly prepared they may be adopted by the Council later in 2019.

The **Strategic Policies and Land Allocations DPD** will replace the remaining policies of the Lancaster District Core Strategy (2008) and the residual 'saved' land allocation policies from the 2004 District Local Plan. Following the Council resolution in December 2017, it is considered that the Strategic Policies and Land Allocations DPD is a material consideration in decision-making, although with limited weight. The weight attributed to this DPD will increase as the plan's preparation progresses through the stages described above.

The **Review of the Development Management DPD** updates the policies that are contained within the current document, which was adopted in December 2014. As it is part of the development plan the current document is already material in terms of decision-making. Where any policies in the draft 'Review' document are different from those adopted in 2014, and those policies materially affect the consideration of the planning application, then these will be taken into account during decision-making, although again with limited weight. The weight attributed to the revised policies in the 'Review' will increase as the plan's preparation progresses through the stages described above.

#### 6.3 Lancaster District Local Plan (saved policies)

E27 – Woodland Opportunity Areas  
E31 – Key Urban Landscape

#### 6.4 Lancaster District Core Strategy

SC1 – Sustainable Development  
SC2 – Urban Concentration  
SC4 – Meeting the District's Housing Requirements

#### 6.5 Development Management DPD

DM20 – Enhancing Accessibility and Transport Linkages  
DM21 – Walking and Cycling  
DM22 – Vehicle Parking Provision  
DM23 – Transport Efficiency and Travel Plans  
DM26 – Open Space, Sports and Recreational Facilities  
DM27 – Protection and Enhancement of Biodiversity  
DM28 – Development and Landscape Impact  
DM29 – Protection of Trees, Hedgerows and Woodland  
DM35 – Key Design Principles  
DM36 – Sustainable Design  
DM37 – Air Quality Management and Pollution  
DM38 – Development and Flood Risk  
DM39 – Surface Water Run-off and Sustainable Drainage  
DM41 – New Residential Dwellings

### **7.0 Comment and Analysis**

#### 7.0.1 The main considerations arising from this planning application are:

- Principle of development;
- Highway matters;
- Drainage matters;
- Building materials;
- Noise matters; and
- Landscaping matters.

#### 7.1. Principal of Development

##### 7.1.1 The application is made under Section 73 of the Town and Country Planning Act as full planning permission exists for the erection of 25 dwelling houses and associated new access from Bowerham

Lane (16/01551/FUL). The house types, and siting remain as approved, as does the associated access from Bowerham Lane. However, the applicant is seeking to remove the requirement for the implementation of a pedestrian refuge, and also street lighting at the junction of Bowerham Lane / Kempton Road. In addition to the above, as part of this application the applicant has included details that were reserved by means of planning condition. Members are therefore not considering the merits of whether the principle of development is acceptable (as that has been established by the grant of consent), but whether there is a requirement for a pedestrian refuge and street lighting at the junction of Bowerham Lane and Kempton Road.

## 7.2 Highway Matters

7.2.1 Bowerham Lane is a single carriageway road with a width of 7.5 metres at the site frontage and therefore it is not a wide road for pedestrians to cross. There is a 2.5m wide footway on the west side of the road adjacent to properties on Bowerham Lane. The road has a 30mph speed limit and is serviced by street lighting. In general it has good visibility in both directions of travel for drivers at the site frontage (north and south bound). All the properties on the west side of Bowerham Lane are served by private driveways and there is some on-street parking in front of some properties on this side of the road. The extant consent provides for a pedestrian access point from the site entrance, and a further one opposite the apartment block at the southern end of the site.

7.2.2 With respect to street lighting, the extant consent required works associated with the junction of Bowerham Lane / Kempton Road. These works were proposed 165 metres to the north of the site. The Highway Authority has stated that these works are no longer required but there may be a requirement to upgrade lighting on Sandown Road and Bowerham Lane. Planning conditions can only be imposed if they are reasonable and would otherwise make unacceptable development acceptable. There is nothing to suggest there is a real need to upgrade the street lighting along Sandown Road and Bowerham Lane, and notably it was not raised as part of the approved consent. Street lighting will be required in connection with the site access and pedestrian access points, and the applicant has shared plans that are required in relation to the Section 278 process. Therefore it is acceptable to remove the requirement of street lighting to the north of the site.

7.2.3 The pedestrian refuge was initially required under the original outline planning permission (15/00714/OUT) and there was agreement for the pedestrian refuge as part of the approved consent (this formed part of the site's abnormal costs associated with the viability assessment). As part of the justification for its removal, the applicant's appointed highway consultant has undertaken traffic counts along Bowerham Lane, which shows the distribution of traffic over a weekday period, but has put forward the following justification for its loss:

1. High cost to relocate an Open Reach telecoms (fibre optic) chamber that is located adjacent to the kerb on the east side of Bowerham Lane;
2. The removal of a longer section of hedge on the east side of Bowerham Lane to provide the required visibility splays because the Give Way line for the access road would be moved further back (eastwards);
3. Widening of the carriageway along Bowerham Lane for over 60 metres to provide the necessary vehicle approach and exit widths for the refuge; and
4. Significant additional earthworks within the proposed development site resulting from the widening of Bowerham Lane (the site rises steeply from the boundary with Bowerham Lane).

7.2.4 As a result of the traffic counts, the transport consultant considers Bowerham Lane carries a relatively low volume of traffic even during the weekday peak periods and the road has a good road safety record with no recorded injury accidents during the most recent 5 year data period.

7.2.5 The extant consent provided for a pedestrian refuge on Bowerham Lane. During the detailed design of the scheme it has transpired that there would be significant cost in terms of the creation of a pedestrian refuge. Taking aside the cost implications associated with the creation of a pedestrian refuge, the first question that needs to be asked is whether the pedestrian refuge is needed in the interests of highway safety and whether failure to provide this would warrant a refusal of the scheme on the basis of highway safety. The cost of providing the refuge should not be at the detriment of highway safety, and the case officer is aware that vehicles do travel at speeds of greater than 30mph having visited at various times on different days, so understands the concerns of the local residents in this regard.

- 7.2.6 Significant dialogue has occurred between all parties, and a solution has now been reached where in lieu of the pedestrian refuge the applicant will propose a dropped crossing arrangement with a vehicle activated sign on the approach to it. This will assist with lowering vehicle speeds on the south bound approach. The Highway Authority states the pedestrian refuge would have benefits for pedestrian safety, and would act as a speed reducing feature, especially given that speed count data for 2013 showed higher than desirable 85%tile speeds of 38mph for south bound traffic heading essentially away from Lancaster. The Highway Authority accepts that locating a central pedestrian refuge on a residential road is difficult due to driveways and on-street parking and there is acceptance there is no obvious location which is not going to cause some degree of difficulty for existing residents and that an alternative option should be considered. The alternative dropped crossing arrangement together with a vehicle activated sign on the approach to encourage lower vehicle speed in the south bound direction is acceptable.
- 7.2.7 The original submission contained both a north and south pedestrian connection point. It is noted that the southern pedestrian access would require steps to afford access. It is considered that this point of access should be re-sited 5 metres to the north and replanting occur. Further discussions with the Highway Authority are ongoing in this regard, but overall there is no objection to the applicant's proposals.
- 7.2.8 The applicant has submitted details associated with the access arrangements, the exact detail of which will be determined via the Section 278/38 processes, but the Highway Authority requires some further information in this regard. It will be necessary in the interests of planning to re-impose this condition unless the detail can be agreed in advance of Planning Committee. Members will be updated in this regard.
- 7.2.9 Highways England has requested that the application is not determined until 28 January 2019, given the creation of the earth bund and drainage associated with the site. This is from the perspective of seeking to ensure that the safety and integrity of the motorway asset is not jeopardised. The applicant has been engaging with Highways England throughout the process and the geotechnical and drainage issues associated with development will be managed via the HD22/08 process administered by Highways England. Whilst Highways England have objected, this is on matters that are being addressed by the planning conditions and therefore in the event there is no resolution with regard to the agreed details, conditions shall be re-imposed.
- 7.3 Drainage Details
- 7.3.1 As part of this Section 73 application the applicant has provided the detailed surface water and foul water drainage arrangements. The scheme is to be drained via the use of a sustainable drainage scheme (essentially underground surface water attenuation) which is then connected into the existing drainage network albeit at a controlled rate. A series of attenuation tanks have been proposed across the site, which connect into pipework then lead to a new hydro-brake which then connects into the existing surface water sewer with foul water being drained into the foul water sewer at an unrestricted rate. The extant planning condition provided for a discharge rate of 6.1 litres per second, but the Officer's report, and consultee comments from the LLFA and United Utilities did suggest 9 litres per second, and it is this figure that has been agreed with United Utilities as part of the Section 104 Agreement.
- 7.3.2 The case officer is sympathetic to those residents that experienced surface water flooding in November 2018, and during the summer of 2018, but the proposed scheme has been found acceptable to United Utilities. Notwithstanding this, the views of the Lead Local Flood Authority are still required. However, United Utilities does not object to the development, and recommend that the submitted information is approved. In the absence of the LLFA's comments, the condition should be re-imposed, though it is hoped that this will be resolved in advance of Planning Committee.
- 7.4 Building Materials
- 7.4.1 The scheme proposes to utilise brickwork as the facing material on the dwellings and a buttermilk smooth render finish. All windows are proposed to be grey Upvc. The roofing material will generally consist of concrete tiles with a thin leading edge, though some natural slate will be used on plot 1. There is still some discussion regarding building materials as the applicant has shared some further samples, but in general the applicant has proposed a palette of materials that tie in with the local

built environment. The boundary treatments are proposed to be a combination of brick boundary walls, and typical close boarded timber fences. Officers are amenable to the choice of boundary treatments although would need to see samples.

## **7.5 Noise**

- 7.5.1 The application includes mitigation measures associated with protecting residential amenity with noise emanating from the M6. Acoustic fencing will be provided along the boundaries of those dwellings that bound the landscaped bund. The acoustic fence will be 2 metres in height and is acceptable in principle, although details of the appearance will still need to be agreed. In terms of protecting internal amenity within the dwelling houses, glazing is proposed that would meet 30dB for first floor windows to all properties and trickle vents will be used to ensure that 35dB internal levels can be achieved. No objection has been received from Environmental Health Officers and assuming matters associated with the appearance of the fencing can be agreed the scheme is acceptable from a noise perspective.

## **7.6 Landscaping Matters**

- 7.6.1 The proposed development involves some quite significant landscaping along the eastern boundary in connection with the landscaped bund. The applicant initially sought to retain more spoil on site than what was approved under the extant consent, but this has now been amended to provide a landform that is better suited to its location adjacent to the M6 and the levels on site have been amended which Officers can support. A detailed and comprehensive landscaping scheme has been submitted, and the Tree Officer's observations awaited in this regard.

## **7.7 Other Matters**

- 7.7.1 Concern has been raised regarding elevated pollutant levels on the site from the M6 motorway. This was a concern raised as part of the original grant of consent but no objections from an air quality perspective were raised on the last application. The Council originally imposed a requirement for electric charging points. However, the Planning Inspector considered the inclusion of these would be desirable but not essential to make the development acceptable from a planning perspective. The Planning Inspector considered that only permitted development rights on plot 1 should be removed given the presence of the main water pipe that crosses the site. The case officer considers that to ensure the drainage systems work effectively and efficiently, permitted development rights need to be removed on all properties, apart from the apartments which are plots 22-25 (as these do not benefit from permitted development). The reason for this is that development in the form of extensions may have an adverse impact on the operation of the drainage network and this should be embodied into the management and maintenance scheme associated with the SuDS.
- 7.7.2 There is a United Utilities water trunk main that crosses the western boundary of the site (essentially the alignment of the spine road). The applicant has provided for a 10 metre easement but the road is sited within the easement. The applicant has submitted a Risk Assessment for the protection of the water pipe and it is clear from the submitted scheme that measures have been taken to ensure its protection.

## **8.0 Planning Obligations**

- 8.1 There is an extant Section 106 agreement, which provides for the provision of 4 affordable dwellings and also the ongoing management and maintenance of the non-adopted drainage, highways, landscaping and open space across the site. In permitting this scheme, a simple deed will be required tying the permission to the obligations outlined within the Section 106 to ensure the obligations are binding with the implementation of this planning consent.

## **9.0 Conclusions**

- 9.1 The application seeks to modify the requirement for a pedestrian refuge to be installed on Bowerham Lane. The critical question with respect to the application is whether the development is likely to create a highway safety concern without a pedestrian refuge. There has been significant discussion between the applicants, the County and City councils, and whilst all parties initially had a slight difference of opinion, all were aligned in providing a scheme that did not compromise highway safety. It is considered that the solution of a simple uncontrolled crossing with an associated vehicle

activated sign is acceptable, as is the removal of the requirement for street lighting at the Bowerham Road / Kempton Road junction.

- 9.2 Whilst there are issues associated with the concerns of Highways England to address, these matters are associated with the discharge of conditions, which, if these matters are not resolved can be re-imposed. The same is true with materials, landscaping and highway details.

### **Recommendation**

Subject to a Deed of Variation being signed and completed tying the permission to the obligations outlined within the existing Section 106, that Planning Permission **BE GRANTED** subject to the following conditions:

1. Timescales development commence by 14 June 2021
2. Approved plans
3. Access detail
4. Construction Risk Method Statement in connection with water main
5. Construction Method Statement
6. Off-site highway improvement
7. Foul drainage
8. Finished floor levels
9. Surface water drainage measures
10. Noise mitigation
11. Earth bund details
12. Hard and soft landscaping
13. Material samples
14. Boundary treatments
15. Development in accordance with the approved AIA
16. Bird breeding season protection
17. Protection of visibility splays
18. Car parking spaces provided
19. Removal of Permitted Development rights

### **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 has made the recommendation in a positive and proactive way to foster the delivery of sustainable development, working proactively with the applicant to secure development that improves the economic, social and environmental conditions of the area. The recommendation has been taken having had regard to the impact of development, and in particular to the relevant policies contained in the Development Plan, as presented in full in the officer report, and to all relevant material planning considerations, including the National Planning Policy Framework, National Planning Practice Guidance and relevant Supplementary Planning Documents/Guidance.

### **Background Papers**

None