

Agenda Item	A6
Application Number	19/00438/FUL
Proposal	Erection of 36 dwellings, creation of vehicular access with associated landscaping, regrading of land levels and provision of surface water drainage scheme and public open space
Application site	Land off Marsh Lane and Main Street Cockerham
Applicant	Southworth Construction
Agent	Mr McGonigal
Case Officer	Mr Mark Potts
Departure	No
Summary of Recommendation	Approval

(i) Procedural Matters

This planning application was presented to Planning Regulatory Committee on 9 November 2020. Councillors resolved to approve the development, in line with the Officers' recommendation. Without the benefit of formal planning consent, the applicant made a start on site in terms of the formation of the access off the A588 and the regrading of the land. Given there has been a material change in circumstances, and the approved conditions are no longer capable of being addressed in line with the Committee's resolution, the scheme is be referred back to Planning Regulatory Committee for further consideration.

1.0 Application Site and Setting

- 1.1 The application site relates to a 1.35 hectare parcel of open agricultural land located to the south side of Marsh Lane (A588), positioned behind Main Street and The Old Smithy (a cul-de-sac of three detached dwellings) and north of the village football/recreation grounds. Land to the southwest is open countryside predominately used for grazing. Cockerham is a small rural settlement predominately built up along either side of Main Street creating a very linear settlement pattern. It is located approximately 8.8km south of Lancaster City Centre, 3.3km south west of Galgate and circa 6.8km north of Garstang.
- 1.2 The proposal site is largely unconstrained and is allocated for housing within the Strategic Policies and Land Allocations DPD under Policy H2.10 for 36 houses. It is also located within an aerodrome safeguarding area. It is not positioned within a flood risk area; it is not protected by any landscape or nature conservation designation; it is not within an area recognised as a designated heritage asset (such as conservation area or schedule ancient monument site); there are no protected trees within the site and the land is not constrained by any underground infrastructure (such as gas pipelines), albeit there is a United Utilities public sewer to the east of the site.
- 1.3 The site represents an open undulating greenfield site used for grazing. It is notably elevated above properties to the northeast (The Old Smithy) and Marsh Lane to the northwest of the site. The highest point of the site is approximately 20m AOD (in the northern corner of the site) and the lowest part at approximately 15m AOD along the south western boundary. The site is practically at-grade

with land to the south-east. Here there is an access track which is hard surfaced and provides the main vehicular access to the Grade II* listed church some 220m south west of the application site. This access track is also a dedicated public right of way (Footpath 15). From the church, footpath 15 connects to a network of other footpaths (FP25 and FP24) that provide access into the open countryside towards Cocker Wood and the River Cocker.

2.0 Proposal

2.1 The application is made in full for the erection of 36 residential dwellings, and the creation of a new vehicular access off Marsh Lane. The scheme provides for the following mix of residential properties. All properties would be constructed with reconstituted stone together with render, and all, are under a natural slate roof.

- 3 x two bedroom homes (8%);
- 4 x two bedroom bungalows (11%);
- 12 x three bedroom semi-detached properties (33%);
- 7 x three bedroom detached (20%);
- 8 x four bedroom detached (22%); and
- 2 x five bedroom detached (6%).

2.2 Whilst the applicant initially submitted the scheme with zero affordable housing provision, 30% has been negotiated to consist of 3 x two bedroom homes and 2 x three bedroom homes (affordable rent) and 6 x three bedroom semi-detached properties (shared ownership).

2.3 The scheme also provides for a new pedestrian access from the Marsh Lane and generous quantities of on-site open space across the site.

3.0 Site History

3.1 A number of relevant applications relating to this site have previously been received by the Local Planning Authority. These include:

Application Number	Proposal	Decision
18/00953/FUL	Erection of 36 dwellings, creation of vehicular access with associated landscaping, regrading of land levels and provision of surface water drainage scheme and public open space	Withdrawn
18/00483/REM	Reserved matters application for the erection of 11 dwellings (C3)	Withdrawn
18/00482/REM	Reserved matters application for the erection of 25 dwellings (C3)	Withdrawn
16/00494/OUT	Outline application for the erection of up to 11 dwellings and associated access	Approved
15/00587/OUT	Outline application for the erection of up to 25 residential dwellings	Approved
14/00856/OUT	Outline application for the development of up to 35 residential dwellings	Withdrawn

4.0 Consultation Responses

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

Consultee	Response
Cockerham Parish Council	Objection to the development given Cockerham has a lack of amenities, difficulties with road access and insufficient infrastructure relating to foul water and surface water drainage which would not be able to cope.

County Highways	No objection , subject to conditions such as wheel washing facilities to be agreed, a construction method statement, details of the access to be agreed, off site highway works to consist of the provision of 2 traffic islands and a review of street lighting along Marsh Lane, protection of the required visibility splays, internal roads to be of an adoptable standard.
Lead Local Flood Authority	Initially objected until amended ground investigation works were undertaken to demonstrate that the site can be drained by infiltration methods. Ground investigations were undertaken during the summer of 2020 and these results have been reviewed. No Objection subject to conditions has been received.
Environment Agency	Initially objected on the basis of the submitted Flood Risk Assessment which was inadequate and concerns raised that there could be a risk to groundwater. An amended FRA was submitted in 2019 which allowed the Environment Agency to withdraw their objection to the development, and now offer no objection .
United Utilities	No objection though draws the Council's attention to the issue that the area is served by a foul only drainage network and as such would not allow any domestic surface water or highway drainage to enter the public sewerage system. Recommend that the method of drainage is fixed before the proposed layout is accepted.
County Education	Request that 4 secondary school places are provided for at a cost of £92,247.00 given the pending number of other applications this could rise to include primary school provision at a cost of £117,249.72
Natural England	No objection subject to the provision of homeowner packs to minimise recreational disturbance on Morecambe Bay. The applicant submitted an Appropriate Assessment which the LPA intends to adopt as it is considered acceptable.
Open Space Officer	No observations received within the statutory timescales
Environmental Health Officer	The contaminated land officer has suggested the use of a condition to deal with contaminated land.
Conservation Officer	No objection . The proposal would lead to a level of harm to the setting and significance of the surrounding listed buildings and non-designated heritage assets. The level of harm is considered to be less than substantial (paragraphs 196 and 197 of the NPPF),
Dynamo	Objection , given the site is not connected to the local cycle network
Black Knights Parachute Centre	No objection , but wishes for it to be known there is a nearby airfield with parachuting that has been active for over 60 years.
Fire Safety Officer	No objection , but standard standing advice shared.
Lancashire Police	No objection , but advocate that secured by design standards are achieved across the site.
City Council Refuse Officer	No objection

4.2 To date there has been seventeen (17) letters of representation have been received, all raising objection to the development for the following reasons:

- Flooding – There are pre-existing problems in the village where surface water flooding, and foul water has proved to be a problematic, and therefore this application can only increase this pressure. Concern has been raised with how foul water will be handled on the site given existing facilities are known to be at capacity.
- Highways – Marsh Lane is a busy highway, especially for motorbikes and concern has been raised with respect to vehicles accessing and egressing the site and therefore this raises concern; within representations there has been support expressed for the footpath to the east of the development which allows pedestrian access into the village, however concerns how this will be executed with respect to retaining walls and landscaping. Concerns have been shared as to how sustainable the site is for housing.
- Lack of services – There are no services such as a local shop within the village and therefore all occupants of the new housing will need to drive to local shops, especially as the bus services are very infrequent and cycling as a means of transport is seen as dangerous.

- Landscape – The site is within a prominent position on the edge of the village and therefore will cause visual impact when viewed from different parts of the village. The visual impact to residents and the amenity of the area is considered to be significant.
- Lack of housing demand – There are a number of properties for sale within the village.

5.0 Analysis

The background paper details the full consideration of the application. This report solely concentrates on the issues that have arisen since the scheme was reported to the Planning Regulatory Committee in November 2020. Therefore, the only consideration is:

- How the unauthorised engineering works affect the resolved to be approved consent from November 2020.

5.1 **Consideration 1: How the unauthorised engineering works affect the resolved to be approved consent from November 2020** – National Planning Policy Framework Paragraphs 55 and 58, Development Management DPD Policy DM65 – The Enforcement of Planning Controls

5.1.1 Within a matter of hours of the Committee's resolution to approve the development proposal in November 2020, the applicant made a start on site in the form of engineering operations to create the access from the A588, and significant earth remodelling across the site. Officers served a Temporary Stop Notice (TSN) on the developer on 16 November 2020. This required all operations to cease on the site with immediate effect. The developer continued to work on the site despite the TSN being served, although at the time of drafting this Committee report (9 December 2020) works have ceased on the site. The Temporary Stop Notice is effective for 28 days from when the notice was served and therefore expires on 14 December.

5.1.2 Whilst the works undertaken are in broad correlation with what would have been expected when development on site commences, no formal planning permission has been granted. The consent is subject to a Section 106 agreement, and whilst there has been progress in this regard, given signatories include the County Council as the Education Authority, it is expected that the legal agreement will not be drafted, agreed and signed by all parties until early 2021. Only then can the planning consent be issued, which will then require the applicant to agree a series of pre-commencement conditions by way of a formal discharge of condition application.

5.1.3 The works that have occurred essentially involve the formation of the access off the A588 and significant regrading works across the site. The works sparked concern locally and a series of complaints were received by the Planning and Place Service. There were several planning conditions that required details to be submitted to, and approved in writing by, the Local Planning Authority in advance of any works commencing. Whilst the applicant stated all details had been submitted, the details of the surface water drainage was only submitted in December as one example. There has been a disregard of the planning process, not only to commence on site in advance of the formal issue of planning permission and agreement of the Section 106, but also to continue to work on site following the issuing of the Temporary Stop Notice. It is an offence to contravene a Temporary Stop Notice and the local planning authority is considering prosecution. For the benefit of Councillors, should a person be found guilty of an offence they can be subject to an unlimited fine. This is a separate process to the determination of the planning application. The question for Councillors is would they have arrived at a different planning decision given the works that have been carried out on site and the approved resolution is no longer capable of being implemented.

5.1.4 Whilst there has been a material start on site, Officers still recommend approval of the scheme given the works that have been carried out follow the general ethos of the resolved to be approved scheme. There were several pre-commencement planning conditions. It is proposed to re-word or remove these in line with paragraph 5.1.5. Critically no further work should occur until such time all the detail has been submitted to, and approved in writing by, the Local Planning Authority.

5.1.5	Condition no.	Description	Approved 10 November 2020	Proposed 5 January 2021
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1	3-year timescales	Control	Remove – no longer necessary
2	Approved plans	Control	Retain
3	Surface water drainage detail	Pre commencement	No further work to occur until details agreed
4	Foul water drainage detail	Pre commencement	No further works to occur until details agreed
5	Employment and Skills Plan	Pre commencement	No further works to occur until detail agreed
6	Water main easement details	Pre commencement	No further works to occur until detail agreed
7	Access detail	Pre commencement	Detail has been agreed for the formation of the access – detail of internal alignment of highways will still be required.
8	Site and finished floor levels	Pre commencement	No further works to occur until detail agreed.
9	Nationally Described Space Standards and M4(2) compliance	Pre commencement	No further works to occur until detail agreed.

6.0 Conclusion and Planning Balance

- 6.1 There has been a disregard of the planning system by the applicant, not only by commencing development a matter of hours following the resolution by Committee to support the scheme, but far more significantly, continuing to work on site following the issue of a Temporary Stop Notice. As noted in this report, the Local Planning Authority will be considering prosecution against those concerned in this regard. This should not be a factor in terms of Councillors making a decision on the application before them.
- 6.2 Notwithstanding the above, the proposal is unchanged since Committee supported the application in November 2020. There is a need for amendments to the timescale triggers associated with the planning conditions, and these are noted in paragraph 5.1.5. Whilst it is frustrating, the proposal is still acceptable in planning terms and is therefore recommended for approval.

Recommendation

That Planning Permission **BE GRANTED** subject to the signing of the Section 106 Agreement to secure:

- The provision of 11 houses to be secured across the site to be affordable comprising 3 x two bedroom and 2 x three bedroom as affordable rent, and 6 x three bedroom semi-detached as shared ownership.
- Education contribution of **£92,247.00** for four secondary school places
- Open space off-site contribution of **£60,000** to be utilised within the village of Cockerham for enhancements to play and sport facilities.
- Long term maintenance of landscaping, open space and non-adopted drainage and highways and associated street lighting.

and the following conditions:

Condition no.	Description	Type
1	Approved plans	Control
2	Surface water drainage detail	No further works to occur until detail agreed

3	Foul water drainage detail	No further works to occur until detail agreed
4	Employment and Skills Plan	No further works to occur until detail agreed
5	Water main easement details	No further works to occur until detail agreed
6	Access detail	No further works to occur until detail agreed
7	Site and finished floor levels	No further works to occur until detail agreed
8	Nationally Described Space Standards and M4(2) compliance	No further works to occur until detail agreed
9	Detail of footway connections from Marsh Lane to the Public Right of Way to the south of the site	Development above ground
10	Off site highway works and implementation	Development above ground
11	Materials to be agreed – natural slate roof, render, reconstituted stone.	Development above ground
12	Boundary treatments – stone walls, fencing, hedgerows	Development above ground
13	Hard and soft landscaping	Development above ground
14	Provision of cycle and electric vehicle charging	Development above ground
15	Open space provision and management	Development above ground
16	Provision for homeowner packs	Prior to occupation
17	Surface water long term management	Prior to occupation
18	Protection of visibility splays along Marsh Lane	Compliance
19	Garage use condition	Compliance
20	Car parking to be provided prior to occupation	Compliance
21	Development in accordance with the submitted AIA	Compliance
22	Removal of Permitted Development rights	Compliance

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

In accordance with the above legislation, 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 development that improves the economic, social and environmental conditions of the area. The recommendation has been made 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

Committee report for 9 November 2020 meeting of the Planning Regulatory Committee (19/00438/FUL)