

<b>Agenda Item</b>	A7
<b>Application Number</b>	20/01073/FUL
<b>Proposal</b>	Erection of 7 dwellings and associated access road
<b>Application site</b>	Land South East Of Church Bank, Church Bank, Over Kellet, Lancashire
<b>Applicant</b>	Fellside Land Developments
<b>Agent</b>	HPA Chartered Architects
<b>Case Officer</b>	Mr Adam Ford
<b>Departure</b>	No
<b>Summary of Recommendation</b>	Refusal

## 1.0 Application Site and Setting

- 1.1 The proposed development is located to the south of the village of Over-Kellet, with the site accessed from Greenways. The application site comprises undeveloped pastureland and amounts to a site area of approximately 0.2 hectares. There are no buildings within the site, but the site is bound by hedgerows to the northwest whilst further north lie the properties on Greenways. A mature pond lies adjacent to the site and to the east the land rises steeply and contains a combination of Craggs and Woodland. Further south lies agricultural land and undeveloped fields.
- 1.2 To the immediate north of the site, planning application 20/01072/REM proposes 15 dwellings whilst the existing residential properties on Church Bank, with their rear gardens lie beyond this. To the northeast is Greenways which is a residential road with a mix of semi- detached and detached properties. The steeply rising land to the east is populated with trees along its ridge and incorporates a limestone pavement and craggs being evident also.
- 1.3 Although the application site is not within a protected landscape, it does lie adjacent to the Over Kellet Pond which is a Biological Heritage Site (BHS) and the Kirk House Craggs (to the east of the site) benefit from being a Regionally Important Geological Site (RIGS) and are also a Biological Heritage Site. The Kirk House Craggs also benefit from a Limestone Pavement Order (LPO). The nearest SSSI is Morecambe Bay which is approximately 5km to the west (which is also RAMSAR, SPA and SAC protected). Footpath 12 passes the north-western fringe of the application site and Footpath 13 is located 50 metres to the south of the proposal. St Cuthbert's Church which is Grade II\* listed is located 180 metres to the southwest of the site, with Kirkhouse (also Grade II Listed) being located 140 metres to the south of the site.
- 1.4 The majority of the site is included within a Mineral Safeguard Zone (Limestone). In terms of nearby Tree Preservation Orders, TPO 391/2006 lies to the northwest of the site and relates to the land to the rear of 14 Church Bank. In addition, the two TPO belts lie adjacent to the site with TPO 134/1998 relating to trees within the Craggs and TPO 581/2016 relating to trees located to the south of the site. In addition, the access track which leads from Church Bank to the adjacent farmland is also subject to a recent TPO pursuant to 682/2020.

## 2.0 Proposal

2.1 This application seeks planning permission for 7 dwellings and an associated access road to serve the development.

2.2 It should also be noted that although this application is for 7 dwellings, the same developer is also proposing a further 15 units under application 20/01072/REM; collectively the two sites will operate as one holistic development. This means that in total, 22 units are proposed but this current application is only able to consider the merits of the 7 dwellings proposed by this specific submission.

2.3 The 7 units as proposed comprise the following mix:

- 1 x 4 bed property (type A)
- 6 x 3 bed property (type C)

Of these 7 dwellings, due to viability claims made by the applicant none (0) are proposed as affordable units. Typically, a scheme for 7 units would not attract the need to deliver any affordable units in this location but due to the two schemes, which amount to 22 units, being considered as an aggregated proposal, 40% of the 7 units proposed should be 'affordable' under the terms of the development plan.

2.4 Each open property is provided with dedicated off road parking in accordance with the maximum standards as set out within appendix E of the DM DPD document.

2.5 The 7 properties all benefit from private amenity space which generally comprises grassed rear gardens with a small amount of patio also provided. Externally, the properties will be finished with a mix of the following materials:

- Ivory K render
- Grey gutters and fascia boards
- Cast stone window cills and heads
- Reconstituted stone plinths
- Natural slate roofs

2.6 As demonstrated on the submitted layout plan, the current proposal for 7 units does not deliver any on site open space. However, the associated application for 15 units makes up for this shortfall and this is explained in the report that relates to 20/01072/REM.

2.7 As noted above, a reserved matters application has been made for the development of 15 dwellings immediately adjacent to this site and the proposals are therefore contiguous. This site is in the same ownership and the dwellings are proposed as part of a wider, holistic, approach to developing the application site. Naturally, the inter-relationship between the reserved matters and full applications have been considered by statutory consultees and have also been taken into account in considering issues of development viability and deliverability. Accordingly, the reserved matters application is similarly reported to this Committee so as to provide the opportunity to consider the wider scheme holistically, noting the important implications with respect to viability.

## 3.0 Site History

Application Number	Proposal	Decision
16/00934/OUT	Outline application for the erection of 15 dwellings and creation of a new access.	Withdrawn.
16/01572/OUT	Outline application for the erection of up to 15 dwellings and creation of a new access	Approved
20/01072/REM	Reserved matters applications for the erection of 15 dwellings	Pending consideration

20/01220/VCN	Outline application for the erection of up to 15 dwellings and creation of a new access (pursuant to the variation of condition 2 on approved application 16/01572/OUT to amend the red edge of the approved location plan).	Pending Consideration
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#### 4.0 Consultation Responses

4.1 With respect to this application, the following responses have been received from statutory and internal consultees:

Consultee	Response
<b>Lead Local Flood Authority</b>	<b>No objection</b> to proposal subject to conditions. These comments are dated 7 <sup>th</sup> July 2021 but further, more detailed drainage information has been submitted to address the concerns that been raised by the LLFA in their comments relating to the proposed drainage scheme.
<b>Natural England</b>	<b>No objection</b> to proposal subject to homeowner packs being secured
<b>Public Realm</b>	<b>No objection</b> to proposal subject to financial contributions being secured for off-site open space: <ul style="list-style-type: none"> <li>• £11,088 towards natural and semi natural space</li> <li>• £1,364 towards amenity space</li> <li>• £3,488 towards refurbishment of village play area</li> </ul>
<b>LCC Education Team</b>	<b>No objection</b> and no contributions required
<b>Environmental Health</b>	<b>No objection</b> subject to conditions relating to provision of EV charge points
<b>Environment Agency</b>	<b>No objection</b> subject to condition pertaining to surface water drainage (please note that further detailed information relating to surface water drainage has been submitted under the 21/00063/DIS which addresses the whole site. This information has been updated at the request of the Environment Agency but they are yet to comment further)
<b>Greater Manchester Ecology Unit</b>	<b>No objection</b> to proposal with respect to drainage information and submitted construction environmental management plan.
<b>County Highways</b>	<b>No objection</b> to proposal subject to conditions (some conditions are not relevant however due the issues being adequately addressed via the site's existing outline permission)
<b>Conservation Officer</b>	<b>No objections</b>
<b>Waste and Recycling</b>	No comments provided but it should be noted that a swept path analysis drawing has been submitted which demonstrates how a refuse vehicle can enter, turn and leave the site
<b>Fire safety Officer</b>	No comments submitted
<b>Ramblers Association</b>	No comments submitted
<b>PROW</b>	No comments submitted
<b>Lancashire Wildlife Trust</b>	<b>Objection</b> to application due to lack of information and perceived risk to adjacent pond. Objection refers to pollution risk, lighting and vehicle movements, public disturbance, poor ecological management, impact on Great Crested Newts & impact on Limestone outcrop.
<b>Geo Lancashire</b>	No comments submitted
<b>Lancashire constabulary</b>	Standard advice issued, no objection
<b>Parish Council</b>	<b>Detailed objection</b> to the proposal which refers to lack of information, drainage concerns, ecological harm, unsafe vehicular access, lack of affordable housing and inaccurate plans

LCC Landscape Officer	No comments provided
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4.2 In total, 41 objections from members of the public have been submitted in response to this application and a summary of the issues raised is set out below.

- Scheme will generate too much traffic and results in unsafe access
- There is no need for more housing in the area
- Existing drainage infrastructure would be overwhelmed
- Loss of open space
- Lack of privacy for new and existing units
- Development is harmful to local ecology
- The scheme will cause increased flood risk
- Application is not consistent with the outline approval
- Scheme is harmful to local character
- Car collisions are likely to occur
- Without 40% affordable housing, scheme is not acceptable
- Over Kellet is not appropriate for more housing
- The site should be preserved for agriculture only
- The village does not have adequate amenities to support more housing
- Children will be at risk of pollution
- The site is too cramped and the dwellings are not well spaced out
- The scheme destroys local views enjoyed by residents
- Noise and disruption would be unacceptable
- If approved, a valuable area of recreation will be lost
- Lack of public transport provision would increase car reliance

## 5.0 Analysis

5.1 The key considerations in the assessment of this application are:

- The principle of development
- Layout, design and landscape impacts
- Impacts on amenity
- Highways and parking
- Ecology and biodiversity
- Heritage considerations
- Surface water drainage
- Viability considerations

5.2 **Principle of Development** SPLA DPD Policies SP1: Presumption in Favour of Sustainable Development, SP2: Lancaster District Settlement Hierarchy, Development Management DPD Policies DM1: New residential development and meeting housing needs, DM2: Housing standards, DM3: Delivery of Affordable Housing and National Planning Policy Framework Sections 2, 5, 11, 12

5.2.1 Planning law (Section 38(6) of the Planning and Compulsory Purchase Act 2004) requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The Development Plan (hereafter 'Local Plan') for Lancaster District includes the Strategic Policies and Land Allocations Development Management Documents (SPLA DPD), a reviewed Development Management (DM) DPD, the Morecambe Area Action Plan DPD and the Arnside and Silverdale AONB DPD.

5.2.2 The National Planning Policy Framework (as updated in 2021) is a material consideration in the determination of planning applications. In this instance, the NPPF reiterates that there is a need to 'significantly boost' the supply of homes and chapter 5 sets out the priorities that LPAs should pursue in delivering an appropriate number of dwellings to meet their objectively assessed need. From a local perspective, the most recent five year housing land supply position document (November 2020) confirms that the LPA are presently only able to demonstrate a 3 year supply. As a consequence,

there is a clear expectation that unless material considerations imply otherwise sites that offer the opportunity to deliver additional housing should be considered favourably and in the majority of cases, unless dictated otherwise by relevant policy requirements, proposal for residential development will need to be considered within the context of the NPPF's tilted balance. The general need for housing throughout the district is established and table 4.1 of the DM DPD sets out the mix of properties that the LPA expects proposals to deliver.

5.2.3 The 0.17 hectare application site lies outside any of the district's main urban areas and under policy EN3, the site is therefore judged to be located within the open countryside. However, although the provisions of policy EN3 are noted, policy DM1 provides generic support for new residential development and policy SP2 of the SPLA DPD sets out the settlement hierarchy for the Lancaster district. In this regard, Over Kellet is defined as being a sustainable rural settlement outside of the locality's AONBs. Such settlements are identified as being able to provide the focus of growth outside of the main urban areas subject to their wider impacts and planning implications. Furthermore, policy DM4 reiterates that the Council will support proposals for residential development outside of the main urban areas of the district where they reflect sustainable patterns of development and accord with the Council's settlement hierarchy, as described in Policy SP2 of the Strategic Policies & Land Allocations DPD.

5.2.4 Although the above paragraph generally confirms that the broad principle of development here is acceptable, it is equally important to note that policy DM4 provides that proposals for housing in rural locations must:

- I. Be well related to the existing built form of the settlement;
- II. Be proportionate to the existing scale and character of the settlement unless exceptional circumstances can be demonstrated;
- III. Be located where the environment and infrastructure can accommodate the impacts of expansion;
- IV. Demonstrate good siting and design in order to conserve and where possible enhance the character and quality of the landscape

Although a significant number of public objections have suggested that the site is simply not appropriate for residential development, the proposed development is located on the southern fringes of Over Kellet and whilst it is greenfield, it very much feels part of the settlement given the presence of properties on Church Bank to the west and Greenways to the north; it is therefore considered that the scheme is well-related to the built form. In addition, weight must be given to the fact that site in question already has an extant outline planning permission for 15 units. As discussed at the relevant junctures in this report, the requirements of DM4 are judged to be adequately met with respect to the proposed submission for 7 units.

5.2.5 As noted, the scheme only proposes 7 units and accordingly, given the wording of DM1, such a scheme would not necessarily be expected to closely align to the preferred mix as set out within table 4.1 of the DM DPD. In isolation, the scheme only delivers 6x3 bed properties and 1x4 bed property. This is a relatively poor reflection with respect to the requirements of DM1 and table 4.1. However, as set out in the accompanying report for the reserved matters application, when the 7 units proposed here are aggregated with the 15 units proposed on the same site, the wider scheme is significantly more compliant with the requirements of the mix prescribed by table 4.1.

5.2.6 With respect to housing standards, policy DM2 requires all new dwellings (market and affordable) to meet the nationally described space standards and for at least 20% of all housing to meet the building regulations requirement M4(2) category. In this instance, of the 7 units proposed on site they are all capable of meeting or exceeding the internal gross internal floor space prescribed by the NDSS. In terms of meeting M4(2), the submitted plans demonstrate that at least 20% of the units have adequate internal space for potential adaptations and amendments should they be required at a later stage. The proposed elevations do however show that the front doors to the properties are served by very minor, shallow ramps and they are not therefore strictly 'level' with the driveway. However, given the minor nature of the gradient access into the units via a wheelchair is still likely to be possible. A condition could, however, be imposed that requires details of the gradients to be submitted to and approved in writing prior to being installed.

5.2.7 Insofar as affordable housing is concerned, given the advice contained within the NPPF and policy DM3 a proposal for 7 units in this location would not typically attract an obligation to deliver on site affordable units. However, as explained previously, this application for 7 units has been submitted at the same as an application which seeks reserved matters approval for 15 units. Accordingly, as an aggregate, 40% affordable provision should be delivered by both schemes. The implication here being that of the 7 units proposed, 3 units should be affordable. However, as set out towards the end of this report, owing to viability concerns, the applicant is currently offering no affordable units as part of this proposal.

5.2.8 Overall, notwithstanding the issues pertaining to affordable housing, given the site's existing planning permission, it's identification as a sustainable settlement, the provisions of DM1 and DM4 and the LPA's lack of a 5 year housing supply, the principle of residential development is something that can be supported; albeit subject to the following material planning considerations as discussed below.

**5.3 Design and Landscape Impacts (NPPF: Chapter 12, Chapter 15 paragraph 170 and 172 -177 (Conserving and Enhancing the Natural Environment); Strategic Policies and Land Allocations (SPLA) DPD policy EC3 (Open Countryside) Development Management (DM) DPD policies DM4: Housing outside urban areas, DM29: Key Design Principles,) and DM46 (Development and Landscape Impact).**

5.3.1 In conjunction with the NPPF, policy DM29 seeks to secure developments that contribute positively towards the identity and character of the areas in which they are proposed. Good design should respond to local distinctiveness and in locations such as Over Kellet, a focus on an appropriate palate of materials will be important. The revised NPPF also places an increased focus on good design through advocating 'beautiful' buildings and places to reside.

5.3.2 In this instance, the scheme does not propose any single storey units, and all 7 units in question are to be two storeys in their scale. In terms of the dwelling designs, the units comprise 1 x type A dwelling and 6 x type C dwellings. House type A is a detached property which is externally finished with ivory K render and cast stone detailing whilst benefitting from a natural slate roof. The type C units on the other hand are semi detached with a cast stone porch, ivory K render and natural slate roof detail. The unit types benefit from their own style but relate well to each other and the additional development proposed under the reserved matters application. In addition, whilst there are some small deviations in terms of roof height, this allows for a varied form of development, and it prevents the scheme from appearing as monotonous and uninspiring.

5.3.3 Given the site's prominence and the long views which are possible from Nether Kellet Road, Officers consider that the use of high-quality materials throughout this development are important. Initially, as members will note, the original plans proposed concrete roof tiles and reconstituted stone on the front of certain plots. It is also proposed to use render throughout the development. Although the viability claims made by the applicant are noted, it is felt that the roofscape here, given its relationship with the open countryside is visually important. As such, amended plans have been submitted which show roofs as being constructed of natural slate. The use of render in conjunction with natural slate and stone is deemed acceptable given the prevalence of rendered properties on both Church Bank and Greenways. This allows for the development to retain its own character and identity whilst respecting the local characteristics and prevailing landscape.

5.3.4 Each dwelling proposed has a 900mm high stone wall to its frontage and this further serves to create a sense of local character and also introduces pleasant visual features that help to frame the development. Although the submitted street scene drawing has now been superseded, it serves to demonstrate that the proposed use of materials and external finishes are able to compliment each other and that they have been utilised in such a way so as to deliver a degree of consistency throughout the development.

5.3.5 With regards to site levels and the wider landscape impact, there is a gradual decline in height moving from the west to the east of the site. Based on the submitted existing topographical survey and the site level plans, a small degree of land levelling is proposed but this is minimal. The finished floor level of plots 15 and 16 will be 83m AOD whereas the finished flood levels for plot 21 will be

81.7m AOD. This decline in levels is broadly consistent with the site's existing topography. As a result, the proposed dwellings will sit approximately 2m higher than the existing properties on Church Bank. However, due to the significant separation distance of approximately 55m, this is considered to be acceptable. Naturally, this means that the properties will be in something of an elevated position compared to Nether Kellet Road but given the natural undulation of the land, whilst some glimpsed views through and over treetops may be possible, a significant adverse impact on the landscape is not judged to arise.

**5.4 Amenity Impacts and Open Space** (NPPF: Chapter 8 paragraph 91 (Promoting Healthy and Safe Communities), Chapter 12 paragraphs 124, 127 and 130 (Achieving Well-Designed Places), and paragraphs 178 – 183 (Ground Conditions and Pollution); Development Management (DM) DPD policies DM2 (Housing standards), DM29 (Key Design Principles), DM30 (Sustainable Design), DM31 (Air Quality Management and Pollution), DM32 (Contaminated Land) and DM57 (Health and Well-Being)).

5.4.1 In conjunction with the National Planning Policy Framework, the development plan requires proposals to be of a high quality so that they contribute positively to the locality's sense of place and the community's wider health. In this regard, the Council expects proposals for new residential development to deliver a good standard of amenity whilst also being attractive and accessible to all. The delivery of on-site open space significantly enhances a scheme's design credentials whilst also providing an important community asset to those who live, work and play in the area.

5.4.2 Policy DM29 of the DM DPD (and the design and well-being chapters of the NPPF), requires new residential development to have no significant detrimental impacts to the amenity of existing and future residents by way of overlooking, visual amenity, privacy, outlook and pollution. In this instance, existing residential development is adjacent to the site on Greenways and Church Bank. However, given the separation distances and spacing demonstrated on the submitted layout plan, the scheme is judged to be sufficiently compliant with the development plan in terms of amenity impacts. The proposed properties do not overlook existing dwellings and they have been positioned so that there is at least 21m separation between the front elevations of the 7 units proposed here and the additional 15 units proposed under the reserved application. Undue and harmful overlooking is not therefore judged to arise. There is a minor degree of overlooking possible from the upper floor windows of plot 15 into the garden of plot 14 but due to the orientation of the dwellings and the set back relationship, this is to be expected to a degree. However, it is not considered to be significant, and an adequate degree of private amenity space is delivered.

5.4.3 With regards to private amenity space, the recent Covid-19 pandemic has highlighted how crucial access to private, outside space can be; and could continue to be in should the pandemic continue or worsen. Policy DM29 of the DM DPD provides that new houses should be provided with at least 50sqm of usable garden space that is not overlooked with a minimum depth of at least 10m. Small north facing gardens should also be avoided. The submitted layout plan indicates that the proposed gardens are suitably compliant with this requirement. It is noted that plot 18 relies on a side garden to deliver the required amount of space but given the curvature of the spine road as required by the LPA, this is deemed acceptable. Furthermore, given the outlook these southern facing gardens have across the open crags and undeveloped land offers a pleasant benefit for potential occupants.

**5.5 Highway Matters and Access:** NPPF Chapter 9 paragraphs 108-111 (Promoting Sustainable Transport) and Chapter 12 paragraph 127 (Achieving well-designed places); Strategic Policies and Land Allocations (SPLA) DPD policies T2: Cycling and Walking Network; Development Management (DM) DPD policies DM29: Key Design Principles, DM60: Enhancing Accessibility and Transport Linkages, DM61: Walking and Cycling, DM62: Vehicle Parking Provision

5.5.1 From a National Planning Policy perspective, paragraph 110 of the 2021 NPPF advises that where appropriate, schemes should secure safe and suitable access to the public highway for all applicable users. The NPPF further advises that sustainable transport modes should, where possible and relevant, be taken up and encouraged although this will of course depend on the type of development and its location. This requirement is reflected in policy DM29 (Key Design Principles) which requires proposals to deliver suitable and safe access to the existing highway network whilst also promoting sustainable, non-car dominated travel. As illustrated in the comments against this application and those submitted with respect to the previous outline application, the local community have highlighted concerns pertaining to road safety and the ability of the highway network to

accommodate further development. The site has one point of access onto Kirkby Lonsdale Road and this is via Greenways; a through route to Nether Kellet Road is not possible and this prevents the access being utilised as a convenient cut through.

- 5.5.2 Although the concerns with respect to highway safety are noted, it must be remembered that the outline permission granted consent for the access onto Greenways and at the time of determining this application, the LPA sought to secure a number of footpath connections. The outline permission requires details of the footpath linkages and improvements to be submitted to the LPA for approval. These details have been provided though the DIS application, but Officers are not yet satisfied with the quality of the submission. Nonetheless, due to this application sharing the same access as the reserved matters, the submitted layout plan indicates that the access road will be 5.5m wide with a pedestrian crossing installed at the northeast corner. In addition, a 2.0m wide footpath is provided adjacent to the main spine road and this enables pedestrian access through the site, to the public open space and it also connects footpaths 10, 12 and 13 (subject to the details submitted under the discharge of condition application being agreed). Given the safe access which is achievable through the site and the narrowing of the entrance as a speed management measure, the LPA are satisfied that the scheme complies with policies DM29, DM60 and the advice contained within the NPPF.
- 5.5.3 The proposed dwellings all benefit from allocated off road parking with plots 15,16,18, 19, 20 and 21 all having two spaces whilst plot 17 benefits from 3 spaces. This allocation is compliant with policy DM29 and it should also be noted that each unit is to be equipped with a 7kw electrical charge point and secure cycle storage. Precise details of the EV units and cycle stores would need to be secured via condition in the event that the proposal is recommend for approval, however.
- 5.5.4 Member's attention is also drawn to the comments offered by the Highway Authority. In their formal response dated 11<sup>th</sup> January 2021, the Highway Authority have raised no objection to the proposal. Within these comments a number of suggestions with respect to EV points, cycle storage and wall heights were offered, and the applicant opted to voluntary update the proposed plans to reflect these suggestions. However, in addition, the Highway Authority have requested that a number of the conditions imposed on the outline permission are re-imposed on this application for 7 units. Whilst the rationale for this request is, to a degree, understood, the LPA must consider the advice within the NPPF (para 56) when imposing conditions. In this case, given the off-site highway works and improvements already secured pursuant to the outline permission, and given that an application to discharge these requirements has been made, Officers do not feel that the same conditions need to be imposed on this scheme for 7 units.
- 5.5.5 Had the scheme been recommended for approval, a variation to the existing S106 agreement would have secured to ensure that this scheme and the development for 15 units were undertaken together. Therefore, the risk that the 7 units could be built and occupied before the relevant off-site highway improvement works had taken place would be minimal in any event.
- 5.5.6 With respect to air quality, the site is not located within any of the District's Air Quality Management Areas and owing to the modest nature of the scheme, a significant amount of traffic is not likely to be generated by the development. It is noted that the Council's Air Quality Officer has not raised an objection. However, policy DM31 of the Development Management DPD requires all development to demonstrate how they will seek to minimise and reduce air polluting emissions. Given the site's location, albeit within a sustainable settlement, there will be a degree of reliance upon private vehicles. Accordingly, the proposed electric charge points and cycle storage facilities are welcomed by Officers.
- 5.6** **Biodiversity (NPPF: Chapter 15 (Habitats and biodiversity references); Strategic Policies and Land Allocations (SPLA) DPD policies: SP8 (Protecting the Environment); Development Management (DM) DPD policies DM44 (Protection and Enhancement of Biodiversity), DM45 (Protection of Trees, Hedgerows and Woodland)**
- 5.6.1 As required by the National Planning Policy Framework at paragraphs 8c, 170 and 175 the Local Planning Authority has a duty to consider the conservation of biodiversity and to ensure that valued landscapes or sites of biodiversity interest are protected when determining planning applications. The NPPF indicates that when determining planning applications, Local Planning Authorities must aim to conserve and enhance biodiversity and that opportunities to incorporate biodiversity in and around developments should be encouraged (Paragraph 175). This is underpinned by Paragraph 8



of the Framework, which details the three overarching objectives that the planning system should try to achieve, and it is here that the Framework indicates that planning should contribute to conserving and enhancing the natural environment. At a local level, this requirement is reflected through policies SP8 and DM44.

5.6.2 Typically, where greenfield sites are to be developed, given the above, the LPA would expect applications to be supported by suitably detailed ecological appraisals. Indeed, the outline permission that precedes this proposal concluded that the site had a degree of nature conservation value. However, this value flora value predominately related to the southwestern outcrop of Limestone and this is why the outline permission includes a condition that requires its retention or protection; this is addressed via the reserved matters application. The 0.17Ha site in question here has limited ecological value although its proximity to the crags is noted. A number of residents have raised concern about the potential harm to the existing flora but the 7 dwellings as proposed do not result in the loss of valued species or other features that the LPA would wish to see retained.

5.6.3 The principal concern with respect to ecology on this site is the impact upon amphibians; a point raised by many residents and the Lancashire Wildlife Trust. However, on this point Members are reminded that the reserved matters application intentionally includes an ecological buffer zone (with other conditional requirements) so that the marginal habitat around the Over Kellet Pond retains ecological value in its ability to support the pond. The application for 7 units proposed by this application does not undermine this provision or requirement. Furthermore, the proposed fencing to the rear of the properties and the amphibian friendly gullies are measures that offer a positive environment for amphibians. In addition, the application is supported by a Construction Environmental Management Plan and this sets out a number of additional measures that would serve to mitigate the potential harmful impacts upon the locality's amphibian population:

- Temporary Amphibian Fencing installed during construction phase;
- Heras fencing installed adjacent to the ecological buffer zone

These measures (and the remainder of the CEMP document) have been reviewed by the Greater Manchester Ecology Unit and they have confirmed that the measures are acceptable with respect to the protection offered.

It should also be noted that a capture and exclusion exercise was undertaken on the site between 30<sup>th</sup> July 2021 and 8<sup>th</sup> August 2021. Written confirmation from the applicant's Ecologist clarifies that during this period 1 male Toad was caught and released back outside of the site boundary.

5.6.4 However, although the capture and exclusion exercise revealed no evidence of newts, due to the risk that great crested newts *may* still be harmed, under the terms of the Habitats Directive and the Conservation of Habitats and Species Regulations 2010 (as amended), a Licence will be required from Natural England. In this instance, rather than seek the traditional mitigation Licence, the applicant has opted to enter into the new District Level Licence incentive offered by Natural England.

5.6.5 Under the traditional approach to licensing disturbance of great crested newts, developers who want to build on land where they are found must trap and relocate the species before starting work, simply keeping them out rather than helping to conserve their wider populations. Research by Natural England has found that the amount of money spent on survey, trapping and exclusion with plastic fencing can outstrip that spent on habitat creation and management by a ratio of almost seven to one. Crucially, a lot of resource is used without there really being significant benefits for the newts.

5.6.6 With respect to this application, Natural England have confirmed in writing that a District Level Licence was issued in relation to the application site on 19<sup>th</sup> July 2021 with reference 2021-00113-EPS-DLL. A copy of the signed DLL has also been provided to the LPA. The volume and veracity of the objections submitted with respect to the potential impact upon the GCN population are of course duly noted but significant weight must be attached to the fact that Natural England have granted a Licence in this instance.

5.6.7 Ultimately, although Natural England have granted the DLL, the local planning authority must still have regard to Regulation 9(1) and 9(5) of the Conservation of Habitats and Species Regulations 2010 and must consider whether or not:

- i) That the development is 'in the interest of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequence of primary importance for the environment;
- ii) That there is 'no satisfactory alternative'; and,
- iii) That derogation is 'not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range'

Having engaged with Natural England, it is accepted that their granting of the Licence demonstrates compliance with test iii above. However, tests 'i' and 'ii' must still be considered by the Local Planning Authority.

5.6.8 With respect to the first test, although supporting information has not been provided by the applicant, the 2018 Strategic Market Housing Assessment clarifies that the district as a whole has a significant need for housing and at present, the LPA cannot demonstrate a 5 year supply of housing. Coupled with the Government's requirement to 'boost' the supply of housing, given that the site already benefits from outline planning permission with a very low risk posed to Newts, this test is considered to be passed.

5.6.9 In terms of test two and the lack of a satisfactory alternative, it must be noted that the site already has permission for 15 units and this includes a purpose designed ecological buffer zone with a range of amphibian friendly features built into the development's obligations. It is therefore unreasonable to expect an alternative site to be sourced when the proposed layout and arrangement proposed here is judged to be suitably compliant with the development plan. Furthermore, there is therefore nothing before Officers to suggest that any alternative sites in the village would necessarily have a less effect on protected species (whether that be bats or great crested newts) and, the Licence has been granted by Natural England in any event; thereby rendering a search for an alternative site somewhat superfluous.

5.6.10 Finally, in terms of biodiversity matters, policy DM45 seeks to protect trees and vegetation that offers a positive contribution to the district's settlements, open spaces and built form. The application site is bordered by trees to the north east and the south west as demonstrated in the submitted tree protection plan. Although some basic tree maintenance is required (having been discussed with LPA's Tree Officer), no trees are to be removed or lost as a result of the development and this, quite naturally, is welcomed by Officers. Furthermore, a revised tree protection scheme has been submitted and this demonstrates that protective fencing in accordance with BS5837-2012 will be installed to protect the existing specimens that frame the site. This fencing would be installed prior to development commencing and it is deemed acceptable with respect to the requirements of policy DM45.

**5.7 Heritage Impacts: NPPF Chapter 16 (Conserving and enhancing the historic environment); Strategic Policies and Land Allocations (SPLA) DPD policy SP7 Maintaining Lancaster's Unique Heritage; Development Management (DM) DPD policies DM29 (Key Design Principles), DM37 (Development affecting listed buildings) and DM39 (The Setting of Designated Heritage Assets).**

5.7.1 The site is not within a Conservation Area (this is located approximately 280m to the west), however there is St Cuthbert's Parish Church (Grade II\* listed building) located 180m to the south west of the application site and Kirk House (Grade II) is located 140m to the south of the application site. The principal setting of the Listed buildings is not compromised and so there are no justifiable objection. The setting of the site does however endorse the need for high quality design, appropriate landscaping and suitable boundary treatment. Given this it is considered that the scheme complies with the relevant development plan policies insofar as heritage impacts are concerned, adequate regard has been paid to Section 66 of the Planning (Listed Building and Conservation Area) Act 1990.

**5.8 Flood Risk and Drainage Matters (NPPF: Chapter 14 (Planning for Climate Change), Development Management (DM) DPD policies DM33 (Development and Flood Risk), DM34 (Surface Water Run-off and Sustainable Drainage), DM35 (Water Supply and Waste Water); Strategic Policies and Land Allocations (SPLA) DPD policies SP8 (Protecting the Natural**

Environment); Surface Water Drainage, Flood Risk Management and Watercourses Planning  
Advisory Note (PAN) (2015)

- 5.8.1 The NPPF advises that Local Planning Authorities should avoid permitting development in areas at the greatest risk of flooding and instead, it should be directed towards the areas with a lower flood risk. This national requirement is reflected in policy DM33. The application site in question is wholly within flood zone 1 and is not therefore subject to the sequential or exception test as set out within the NPPF and there is no evidence within the submitted application which would suggest that the scheme is likely to exacerbate flooding in other locations
- 5.8.2 With respect to surface water runoff, policy DM34 advises that all new development should manage surface water run off in a sustainable way and that the design of all proposed surface water drainage systems should have regard to the surface water drainage hierarchy as set out below with 1 being the preference and 4 being the least preferred method:
1. Into the ground (infiltration at source);
  2. Attenuated discharge to a surface water body, watercourse or the sea;
  3. Attenuated discharge to surface water sewer, highway drain or another drainage system;
  4. Attenuated discharge to a combined sewer (as a last resort only in exceptional circumstances where it can be demonstrated that no other options higher up the hierarchy are feasible).
- 5.8.3 Accordingly, following initial commentary from the Environment Agency and the Lead Local Flood Authority, the application is supported by the following documentation with respect to surface water drainage:
- Infiltration testing results (5 x trial pits)
  - Ground water monitoring information (April and March 2021)
  - Composition of borehole 1
  - Drainage layout scheme
  - Drainage cross sections
  - Infiltration basin details
  - Flood risk assessment and drainage report
  - Drainage maintenance and operation scheme
- 5.8.4 The submitted drainage report confirms that following ground condition testing, soakaway drainage represents a viable option for the development site. As demonstrated through the testing results, infiltration results were in the region of  $1 \times 10^{-4}$  m/s to  $2.5 \times 10^{-3}$  m/s across the completed trial pits with sand and gravel common at soakaway depths.
- 5.8.5 Accordingly, based on the soakaway testing, it is proposed that all roof areas will drain into private geo-cellular crate systems, located within private rear gardens. Advanced silt traps will be located upstream of each soakaway, which will provide surface water treatment and access for maintenance. Silt traps isolate silt and other particles by encouraging settlement into removal silt buckets, preventing ingress into the tank. With regards to the driveways, they will be served by Type A (full infiltration) permeable block paving. This would comprise a free draining coarse graded aggregate sub-base of min. 350mm thickness to provide sufficient volumetric storage for the Q100+40% CC storm event. A 'Type A' system will also provide enhanced treatment (i.e., removal of silt and pollutants), prior to discharge into the ground.
- 5.8.6 The access road will be served by an infiltration basin located within the north-east of the site. The basin is sized to contain the runoff from the access road for a 1 in 100-year + 40% climate change event. Highway runoff will be collected and conveyed in the highways drain within the carriageway, discharging into the basin via a silt trap. The basin will be finished with a minimum 100 mm sand, overlaying a minimum 300 mm topsoil and seed following construction. This will provide additional treatment of runoff, before discharge into groundwater.
- 5.8.7 In designing the soakaway / basin volume and sizes, storage calculations have been undertaken for the Q30 and Q100+40% CC storm event; the full results of these calculations are provided in

Appendix C of the submitted drainage strategy. Provided the designed drainage system is installed in accordance with these details, the post development run off rate of QBAR 3.4l/s will equate to the existing greenfield (i.e. pre development) run off rate.

5.8.8 The Environment Agency have advised that the proposed drainage strategy is acceptable (within the parameters of their remit) and although the additional information provided is in accordance with the most recent request of the LLFA, no further comments have been received at the time of writing this report. However, given the submitted detail and detailed design (which demonstrates that the system is capable of dealing with a Q100+40% event), an objection from the LLFA is not anticipated. In the event that clarification is offered before the Committee meeting, Officers will provide a verbal update.

5.8.9 In terms of foul water drainage, discharge from the development shall discharge to the existing 150 mm diameter combined sewer in the footpath linking the proposed development to Church Bank and as confirmed in their comments dated 10<sup>th</sup> June 2021, United Utilities have raised no objection to this approach.

## **5.9 Viability considerations: affordable housing provision**

5.9.1 Notwithstanding the above commentary, which, for the most part, is positive, the scheme is supported by a financial viability appraisal which concludes that across the current application for 7 units and the associated reserved matters application for 15 units, only 4 affordable units can be delivered. Across the entirety of the development this amounts to 18%. As a breakdown, each application (in the current submitted state) proposes the following:

- 20/01072/REM: 15 dwellings and 4 affordable units (26%)
- 20/01073/FUL: 7 dwellings and 0 affordable units (0%)
- **Total: 22 units with 4 affordable units equates to 18%**

5.9.2 The applicant's submitted viability appraisal has been reviewed by the LPA's Viability consultant and the conclusions of this work are uploaded to the application website. Based on the applicant's analysis, with 6 affordable units, the scheme produces a residual land value of approximately £274,000 which, when compared to the applicant's benchmark value of £640,500 this is then considered to represent an 'unviable' scheme. However, having reviewed the inputted sales values, the quoted costs and the applicant's unjustified benchmark value, the LPA's viability consultant has concluded that the scheme is capable of delivering the full policy compliant 40% affordable housing required pursuant to policy DM3 of the DM DPD. The LPA's analysis concludes with the full 40% provision, the residual land value, for the entire site, amounts to £459,691 against a benchmark value of £418,402; thereby delivering a viable scheme. This, however, is disputed by the applicant who maintains that no additional affordable units can be delivered.

5.9.3 Due to the aggregate nature of the two proposals, in undertaking the viability review, a specific appraisal for the 7 units in question has been completed. This again includes 40% affordable housing, with a public open space contribution of £3,488. The LPA's Viability consultant has adopted a pro-rata approach to costs, (for example the abnormals total £74,677) and the benchmark land value is £133,128. This generates a residual land value of £153,243, which is above the benchmark land value and therefore deemed to be viable.

5.9.4 Accordingly, the scheme for 7 units as proposed under this application fails to deliver the required number of affordable units in order to satisfy the provisions of policy DM3 of the DM DPD. It would appear to the LPA that with the full 40% (3 units) provision required, the scheme is financially viable; no exceptional or compelling reasoning to justify a departure from policy DM3 has been provided to the LPA. Given the district's chronic need for affordable housing (a shortfall of approximately 375 units per annum) with the viability appraisal confirming a viable scheme, the failure to deliver the required affordable quantum is a significant and substantial factor which weighs against the proposal.

## **5.10 Conclusion and planning balance**

5.10.1 This report has set out that the principle of residential development in this location is acceptable and can be supported. The proposed dwellings offer suitably sized units that the district would benefit

from. If built in conjunction with the associated reserved matters application that sits parallel to this scheme, the application would deliver a well-designed scheme that incorporates public open space and context appropriate dwellings. The units benefit from private amenity space with off road parking, and they are, more the most part, spaciouly set out to reflect the requirements of the development plan. Given the LPA's lack of a five-year housing supply the application represents an opportunity to boost the district's supply, albeit modestly. However, although the application must, as a result, be considered within the context of the NPPF's tilted balance, with a full 40% provision of affordable housing, the scheme has been demonstrated to be financially viable. Despite this, the applicant is not prepared to deliver a policy compliant scheme in terms of the quantum of affordable housing and of the 7 units proposed, none (0) are affordable whereas policy DM3 requires at least 3 affordable units from this proposal. Given that the LPA's under supply of affordable units amounts to approximately 375 units per annum, this is a significant weight against the scheme.

- 5.10.2 In applying the overall planning balance, although the benefit of the scheme are noted, the proposal ultimately fails to comply with paragraphs 58 and 63 of the NPPF which state that where a need for affordable housing is identified, it should be delivered on site and policy DM3 of the DM DPD which expressly states that in this location, unless compelling evidence can be provided, 40% affordable housing is required. In this instance, the lack of the required affordable housing significantly outweighs the potential benefits of granting planning permission and as such, the application is recommended for refusal.

## Recommendation

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

1. The proposed development is considered aggregate to the wider outline planning permission for 15 dwellings that prevails across the land and accordingly, the proposed development must contribute to affordable housing provision and other s106 contributions deemed necessary to mitigate the impacts of the development. In this case, Policy DM3 dictates that the scheme should deliver an affordable housing quantum of 40% but it presently proposes no affordable units at all. The proposal fails to sufficiently justify the lack of affordable housing (through the submitted viability argument) as part of the scheme and the proposed development is therefore considered contrary to policy DM3 of the Development Management Development Plan Document and paragraphs 58 and 63 of the 2021 National Planning Policy Framework.

## **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

None