

<b>Agenda Item</b>	A5
<b>Application Number</b>	21/01134/VCN
<b>Proposal</b>	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 (pursuant to the variation of condition 8 on planning permission 19/00438/FUL to raise the finished floor levels of plots 3, 4, 5 and 6)
<b>Application site</b>	Land Off Marsh Lane And Main Street, Cockerham
<b>Applicant</b>	Mrs Kailey Purcell
<b>Agent</b>	
<b>Case Officer</b>	Mr David Forshaw
<b>Departure</b>	No
<b>Summary of Recommendation</b>	Approve (subject to Section 106 Legal Agreement)

i) **Procedural Matters**

This application was presented to Planning Committee on 6 December 2021 and due to a conflict in conditions associated with two separate planning permissions this application is being re-presented to Planning Committee.

**1.0 Application Site and Setting**

- 1.1 The application site relates to a 1.35 hectare housing development located south 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 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 southwest of Galgate and circa 6.8km north of Garstang
- 1.2 The site 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 within a flood risk area, protected by any landscape or nature conservation designation or 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).
- 1.3 Permission was granted in February this year for 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 (19/00438/FUL). This development has commenced and a number of units are completed.

## 2.0 Proposal

- 2.1 The application seeks approval to raise the finished floor levels of four plots in the northwest corner from the levels approved under 19/00438/FUL. The increase is between 500mm and 750mm (0.5 – 0.75 metre).
- 2.2 This application was considered by committee in December 2021 when the resolution was to approve subject to a variation to the original s106 agreement to reflect this and application 21/00277/VCN (which committee was also minded to grant). This application is being reported back to committee to amend a number of conditions. Nothing has changed since the December committee meeting, the s106 has not been completed and so the formal decision has not yet been issued, enabling this further consideration to take place.

## 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
21/00277/VCN	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 (pursuant to the variation of conditions 2 and 12 to amend approved floor plans and elevations and roofing material and add to the list of approved plans (condition 2) details required by conditions 6, 11, 12, 15 and 16 on planning permission 19/00438/FUL)	Minded to approve subject to s106 variation
21/00026/DIS	Discharge of conditions 2,3,4,5,7,8,9,10,13,14 and 19 on approved application 19/00438/FUL	Decided
19/00438/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	Approved
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

## 4.0 Consultation Responses

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

Consultee	Response
Parish Council	No comments to make
County Highways	<b>No objection</b>
LLFA	<b>No objection</b>
United Utilities	<b>No objection</b>
Fire Service	Standard Advice

- 4.2 No responses have been received from members of the public.

## 5.0 Analysis

- 5.1 The only consideration in the assessment of this application is the conditions to be imposed.
- 5.1.1 Section 73 applications have an internal suffix VCN and are also called variation of condition applications. The applicants had submitted two separate VCN applications: this application and 21/00277/VCN. When a s.73 application is granted it creates a new and separate planning

permission from the original and other s73 approvals. Therefore, when resolving to grant both these applications, two new permissions were created, either of which, as well as the original permission are capable of being implemented (but not together).

5.2.2 The proposed conditions for each reflected the discharge of many conditions attached to the original permission. However, each VCN application did not also include the details submitted under the other and therefore, each permission would not be able to have matching conditions, creating a confused position for both the developer and local planning authority. It would be very unclear which permission was subsequently implemented and may result in the developer having to submit details already submitted. Enforcement of conditions could also prove very difficult.

5.2.3 The simplest solution is to treat the applications as having been determined in chronological order. Therefore, application 21/00277/VCN remains as determined by committee in December with the conditions as set out in that report. However, this application 21/01134/VCN (coming after 21/00277/VCN) requires conditions to reflect the earlier permission and conditions given under 21/00277/VCN. These conditions are slightly different from those recommended in the December report because of the 21/00277/VCN decision. This enables the separate permissions to flow sequentially i.e. from the original which is then amended by 21/00277/VCN and amended again by this application, enabling conditions to be updated and a clear logic to which permission is implemented.

## **6.0 Conclusion**

6.1 The proposed amendment to floor levels is acceptable and there is no planning balance to apply in this case.

### **Recommendation**

That Planning Permission BE GRANTED subject to the following conditions and a variation to the s106 agreement to reflect this permission:

Condition no.	Description	Type
1	Time Limit	Standard
2	Approved Plans List	Standard
3	SW Drainage	Prior to occupation/completion
4	Foul Water	Prior to occupation
5	Employment and Skills Plan	Throughout construction
6	Pipework protection	In accordance with approved details
7	Highways and Access construction	In accordance with approved details
8	Finished Floor Levels	In accordance with approved details
9	NDSS/M42	Control
10	Footway Connection	Prior to occupation of the 25 <sup>th</sup> house
11	Off Site Highways	In accordance with approved details
12	Materials	In accordance with approved details
13	Boundary treatment	In accordance with approved details
14	Landscaping	1 <sup>st</sup> planting season/following occupation
15	EV Charging	In accordance with approved details

16	POS Management and Maintenance	In accordance with approved details
17	Homeowner packs	6 Months from occupation
18	SW Management/Maintenance	3 Months from Occupation
19	Visibility Splays	Prior to occupation
20	Garage Use	Control
21	Parking provision	Prior to occupation
22	Implementation of AIA	Control
23	Removal of PD Rights	Control

**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**