

Agenda Item	A8
Application Number	21/01323/FUL
Proposal	Erection of 7 dwellings and associated access road
Application site	Land Southeast Of Church Bank, Church Bank, Over Kellet, Lancashire
Applicant	Fellside Land Developments
Agent	HPA Chartered Architects
Case Officer	Mr Adam Ford
Departure	No
Summary of Recommendation	Approval (subject to S.106 Agreement)

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, reserved matters consent for 15 dwellings (20/01072/REM) has been granted whilst the existing residential properties on Church Bank, with their rear gardens lie beyond this. To the north east 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, which is a re-submission of refused application 20/01073/FUL 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 scheme of 15 units approved under 20/01072/REM (by planning committee) is being developed by Fellside Land Developments. Collectively the two sites will operate as one holistic development. This means that in total, 22 units will be delivered (15 + 7) 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:

- 4 x 4 bed property (type A)
- 3 x 3 bed property (type G)

When the previous application was refused, it was done so on the basis that the scheme failed to deliver the required number of affordable units. This proposal however offers the **full quantum** of affordable housing as required by policy DM3 with 42% of the units (plots 15, 16 and 17) being offered as shared ownership properties.

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 approved and linked application for 15 units makes up for this shortfall and this is explained in the report for 20/01072/REM as presented to the planning committee in September 2021.

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	Approved
20/01073/FUL	Erection of 7 dwellings and associated access road	Refused
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

4.0 Consultation Responses

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

Consultee	Response
Lead Local Flood Authority	No specific comments offered in relation to this application (the LLFA are only consulted on major planning applications) but no objection raised to the site wide drainage measures proposed and approved under 21/00148/DIS and thus there is no reason to expect an objection at this point.
Natural England Public Realm	No objection to proposal subject to homeowner packs being secured Position remains the same with no objection raised in response to proposal subject to financial contributions being secured for off-site open space: <ul style="list-style-type: none"> • £11,088 towards natural and semi natural space • £1,364 towards amenity space • £3,488 towards refurbishment of village play area
LCC Education Team	No objection and no contributions required
Environmental Health	No comments to offer and no objection raised
Environment Agency	No objection to proposal provided the drainage details approved under 21/00148/DIS are delivered
Greater Manchester Ecology Unit	No specific comments offered in relation to this application but no objection raised to the site wide drainage measures proposed and approved under 21/00148/DIS and thus there is no reason to expect an objection at this point.
County Highways	No objection to proposal subject to conditions (some conditions are not relevant however due the issues being adequately addressed via the site's existing permissions)
Conservation Officer	No objections
Waste and Recycling	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.
Fire safety Officer	No objection and standard advice issued
Ramblers Association	At the time of writing this report, no comments submitted.
PROW	At the time of writing this report, no comments submitted.
Lancashire Wildlife Trust	At the time of writing this report, no comments submitted.
Geo Lancashire	At the time of writing this report, no comments submitted.
Lancashire constabulary	At the time of writing this report, no comments submitted.
Parish Council	Detailed objection 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 to offer on the basis previous submissions (namely 21/00148/DIS) have addressed tree related matters
Planning Policy	No objections raised but relevant policies highlighted

4.2 In total, 5 objections from members of the public have been submitted in response to this application and the issues raised are as follows:

- **Unsustainable** – village does not need more housing and the scheme will place extra demand on existing services. School is full as are local GP's
- **Loss of open space** – scheme removes open land from public access
- **Poor roads** – roads are already in poor condition and more houses will make it worse and risk of vehicle collision increases with a 'rat run' likely.
- **Poor planning** – original scheme should have proposed affordable units as opposed to it being done after already being refused

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 2021) confirms that the LPA are presently not able to demonstrate a 5 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 4x4 bed properties and 3x3 bed properties. This is a relatively poor reflection with respect to the requirements of DM1 and table 4.1. However, as set out in the previous report for the (now approved) reserved matters application, when the 7 units proposed here are aggregated with the 15 units approved 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 is contiguous with the adjacent approved development for 15 dwellings. Accordingly, as an aggregate, 40% affordable provision should be delivered by both schemes. The implication here being that of the 7 units proposed by this specific scheme, 3 units should be affordable.

5.2.8 Overall, 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 the following:

- 4 x type A dwelling (4 bedrooms, detached)
- 3 x type G dwellings (3 bedrooms, terrace cottages)

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 G units on the other hand comprise a row of three terraced styled cottages with a cast stone feature 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 approved under the site's reserved matters application. In addition, whilst there are some small variations in terms of roof height across the site, 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 (submitted under the refused 20/01073/FUL application) proposed concrete roof tiles and reconstituted stone on the front of certain plots. However, it is felt that the roofscape here, given its relationship with the open countryside is visually important. As such, based on the discussions previously held, the 7 units proposed here comprise natural slate roofs. The use of render in conjunction with natural slate and re-constituted 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 The dwellings on plots 18-22 have a 900mm high stone wall to their frontage and this further serves to create a sense of local character and also introduces pleasant visual features that help to frame the development. The proposed street scene further demonstrates that the palette of materials and external finishes are able to complement 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 - 17 will be 83m AOD whereas the finished flood levels for plot 21 will be 81.6m 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 is only 60sqm 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.
- 5.4.4 In terms of public open space, a scheme for 7 units would not usually trigger the need for on-site delivery. However, because these 7 units are ultimately being delivered in conjunction with the 15 units already approved, the open space offering across the entirety of the site has been designed such that it meets on the on-site requirement for 22 dwellings. The current application itself proposes no open space but the amount that would be required by the 7 units is delivered (and secured) through the approved reserved matters application. As such, whilst this proposal does not deliver any open space directly, adequate provision is made when the entire site is considered. For reference, the submitted plans illustrate that in total the two schemes will deliver 748sqm of amenity space.
- 5.4.5 The original outline planning permission for the site was subject to a S106 agreement which also stipulated that a financial contribution towards off-site public open space would be calculated at the reserved matters stage. This, as Members will note, has been done and the committee report for 20/01072/REM sets out that the public realm team have identified three areas where funds could be directed:
- Pond improvements - £20,291.04
 - Amenity space on Church Bank - £2,496.12
 - Upgrade to local play equipment - £7,220.16

The suggestion to secure money towards the adjacent pond and the existing space at Church Bank are noted but when considered against the relevant tests of regulation 122 of the CIL Regulations, they are not judged to be necessary to make the development acceptable in planning terms and neither are they fairly relatable in scale and kind to the development. Accordingly, only the £7,220.12 worth of upgrades to the community play area is to be pursued through the reserved matters.

- 5.4.6 A similar position arises with respect to this current application. Requests for monies towards the adjacent pond and the existing space at Church Bank have been made but for the same reasoning as above, they are not to be pursued. The Public realm team, however, requested that this scheme for 7 units contributes £3,488 towards the upgrade of the village play area. Accordingly, the site's

existing S106 agreement will be updated so that the total of £7,220.16 + £3,488 (**£10,708.16**) is secured towards the upgrade of the village's existing play area.

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 through a discharge of condition application and they have been approved. 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 referred to above). 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 15-17 having two spaces each and plots 18-22 benefitting from 3 spaces each. 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. The cycle store details for the associated 15 units have been approved and the current proposal would rely on the same solution and this allows a simple compliance condition to be imposed.

5.5.4 Member's attention is also drawn to the comments offered by the Highway Authority. In their formal response dated 3rd December 2021, the Highway Authority have raised no objection to the proposal but they have suggested that revised plans showing what is proposed should be submitted rather than previously approved plans. It appears that the Highway Authority have potentially misunderstood the link between the two applications because the access road details and specification has been agreed under 21/00148/DIS. Whilst this relates to the outline permission, due to the access road being shared, no additional details are required. The current proposal will be subject to conditions that require it to be carried out in accordance with the detail previously agreed pursuant to 21/00148/DIS. 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 approved, Officers do not feel that the same conditions need to be imposed or re-assessed on this scheme for 7 units. Instead, the development in question will be subject to compliance conditions which may restrict occupation until the agreed works have been agreed.

5.5.5 Furthermore, a variation to the existing S106 agreement is required in any event to ensure that this scheme and the development for 15 units are undertaken and delivered together. Therefore, the risk that the 7 units could be built and occupied before the relevant off-site highway improvement works have taken place is minimal in any event. Nonetheless, it is a risk that the LPA must be insulated from which is why amending the existing S106 to require the complete scheme of 15+7 units to be delivered together is suggested.

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.

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 during the determination of the previous applications. However, on this point Members are reminded that the reserved matters application intentionally included 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 updated 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 30th July 2021 and 8th 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 19th 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 offer 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 wider 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 1×10^{-4} m/s to 2.5×10^{-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 and approved 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. Given the previously submitted detail and detailed design (which demonstrates that the system is capable of dealing with a Q100+40% event), the site's surface water drainage scheme has been approved under 21/00148/DIS already. However, the layout for the 7 plots in question has changed slightly and this means the drainage scheme approved 21/00148/DIS does not relate to the current proposal in the way that it technically should. Accordingly, a revised drainage scheme has been submitted which reflects the amended layout of the 7 dwellings under consideration and demonstrates how their surface water drainage will be managed.
- 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 10th June 2021 (no further comments submitted) United Utilities have raised no objection to this approach.

5.9 Affordable housing provision clarification

- 5.9.1 As Members of the planning committee will note, the previous scheme for 7 units here was refused due to the lack of affordable units across the site. For completeness, given the developer remain the same, the entire site (22 units) should deliver 9 affordable units. Following the previous refusal and negotiations between Officers and the applicant, the revised affordable housing offer is as follows:
- 20/01072/REM: 15 dwelling scheme delivering 6 affordable units (40%)
 - 21/01323/FUL: 7 dwellings and 3 affordable units (40%)
 - **Total: 22 units with 9 affordable units equates to 41%**
- 5.9.2 Accordingly, the sole and single reason for refusing the former application (20/01073/FUL) has been addressed on the basis that the current scheme is able to deliver the required quantum of affordable housing required by policy DM3. The LPA's Strategic Housing Officer has further confirmed that the style, design and size of the affordable units (plots 15-17) is appropriate for the locality and for a

Registered Provider. Whilst the delivery of the 3 affordable units here is a policy requirement, in combination with the 6 units provided through 20/01072/REM, this represents a material benefit of the scheme and is welcomed by Officers.

6.0 Conclusion and planning balance

6.1 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. In addition, the scheme has been amended since the initial submission so that it now meets the affordable housing requirements prescribed by policy DM3 and given the LPA's annual shortfall of approximately 370 affordable homes per year, this is a matter which weighs in favour of the development.

6.2 Overall, within the context of the NPPF's tilted balance, whilst the concerns raised by residents are noted, the scheme offers a range of benefits with limited harm identified. Officers are therefore of the view that in the overall balance, the benefits derived from the scheme are such that the application should be approved by Members of the Planning Committee.

Formal Recommendation

That Planning Permission **BE GRANTED** subject to

A variation to the existing legal agreement to secure the following:

- Linking of 21/01323/FUL to 16/01572/OUT
- Delivery of affordable housing in accordance with submitted scheme (total of 9 units, 4 x social rent and 5 x shared ownership)
- Payment of £10,708.16 towards upgrade of village play area
- Management of open space across all development land
- Requirement to deliver *both* planning permissions 21/01323/FUL and 16/01572/OUT (inc REM)

And the following planning conditions to regulate the development:

Condition no.	Description	Type
1	Time limit for development	Standard
2	Development to be in accordance with approved plans	Standard
3	Development to be carried out in accordance with the approved highway access arrangements	Pre-occupation
4	Installation of Newt Gully pots	Pre-occupation
5	Delivery of approved off site highway and ped links	Pre-occupation
6	Delivery of secure cycle storage sheds	Pre-occupation
7	Delivery of EV charge points	Pre-occupation
8	Installation of boundary treatments	Pre-occupation
9	Materials as per submitted details	Control
10	Compliance with surface water and foul drainage details	Control
11	Compliance with energy statement	Control
12	Compliance with CEMP document	Control
13	Compliance with tree protection details	Control
14	Unforeseen contamination	Control
15	Removal of Permitted Development (Parts 1 and 2)	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

None