

Agenda Item	A5
Application Number	22/00423/VCN
Proposal	Outline application for the erection of up to 95 residential dwellings with associated access (pursuant to the variation of conditions 2, 6 and 10 on planning permission 19/00332/OUT for changes to the approved site access arrangements, the proposed great crested newt mitigation strategy and the provision to allow the flexibility for an updated AIA to be prepared and submitted at the time of a reserved matters application).
Application site	Land To The South Of Lawsons Bridge Site Scotforth Road Lancaster Lancashire
Applicant	Northstone Development Ltd.
Agent	NJL Consulting
Case Officer	Mrs Jennifer Rehman
Departure	No
Summary of Recommendation	Delegate back to Head of Planning and Place to approve (subject to the deed of amendment to extant Section 106 and to await the expiry of the publicity period having regard to any representations received).

Procedural Matters

The application was prepared and published as part of the May Planning Regulatory Committee Agenda. It was withdrawn from the May committee, as the applicant sought to amend their proposals to include changes to condition 10 following the Council's refusal of their non-material amendment application.

1.0 Application Site and Setting

1.1 The application site relates to a parcel of land extending just over 5 hectares of undulating pastureland benefiting planning permission for residential development. The site is located on the edge of the existing built-up area of South Lancaster within the Scotforth West Ward. It lies within the defined urban boundary of the district, equidistant between the city centre (circa 2.8km north of the site) and Galgate village (circa 3km south of the site) with local facilities and services available in Scotforth. Lancaster University campus is located around 1.5km to the south east of the site. Frequent bus services run along Scotforth Road (between the city and the university) with bus stops situated close to Rays Drive/Whinfell Drive to the north and the Filter House to the south.

1.2 The site is well related to existing (or extant) development and significant transport corridors. The site's eastern boundary extends approximately 425m along the A6 (Scotforth Road) with the western boundary flanking the West Coast Mainline (WCML). Beyond the WCML is open pastoral countryside that rises to the crest of a drumlin. This land is locally known as the 'Whinney Carr site'. The residential area of Collingham Park, recently constructed dwellings at 'Aikengill' and the

redevelopment of Burrow Beck Nursing Home border the eastern side of the A6 opposite the site. Land immediately north of the site (known as 'Lawson's Bridge') comprises agricultural land and areas of woodland. This land benefits from an extant planning permission for a supermarket with a pending planning application in for a new Aldi store. To the south, a small undeveloped field separates the site from Burrow Beck, which runs in an east-west direction. Beyond Burrow Beck, the former Filter House site is currently being developed for student accommodation. This comprises two four-storey buildings. A line of overhead electricity lines supported by 34m high pylons run between the proposed site and the Filter House in an east-west direction. It is noted that the site boundaries to the north and the south form artificial boundaries through existing fields.

- 1.3 The site is an attractive, undulating greenfield site bound by mature hedgerows and protected trees to the east and western boundaries with a distinctive woodland copse in the southern section of the site. Site levels range from circa 42m Above Ordnance Datum (AOD) in the north- eastern corner of the site, falling to circa 34m AOD in the south-western corner. The site is almost at grade with the A6 at the far north-eastern and south-eastern points. The intervening land sees the site markedly below the level of the A6 separated by a vegetated embankment. The WCML is elevated above the site for most of the western boundary, save for the northern section where the site rises steeply from the railway line.
- 1.4 The site straddles flood zones 1, 2 and 3 with the southern tip located within flood zone 3b. Flood zone 2 covers all of the southern half of the site and the along the western edge of the site with the north-eastern half of the site situated within flood zone 1. There are small pockets within the site (mainly along the eastern edge of the site) at risk from surface water flooding (1 in 30 year and 1 in 100 year events). The extant consent involves significant earthworks to address the flood risk constraints of the site.
- 1.5 The site falls within the Lancaster South Broad Location for Growth (BLG) designation within the Local Plan, but is not allocated for any specific land use at this stage.

2.0 Proposal

- 2.1 Northstone Development Ltd ('the applicant') have submitted an application under Section 73 of the Town and Country Planning Act to vary conditions 2, 6 and 10 of the extant outline planning permission (ref: 19/00332/OUT) for the erection of up to 95 dwellings and associated access.
- 2.2 Specifically, the applicant seeks to vary condition 2 to substitute the approved access drawing with an alternative access drawing, proposing a reduced and rationalised junction arrangement to serve the scale of the approved development. Condition 6 shall be varied to remove reference to the approved Great Crested Newt Strategy (dated 8th July 2019) and proposals for the translocation of GCNs on site, with details of a new GCN Mitigation Strategy to be included as part of the overall Biodiversity and Landscape Mitigation and Management Plan. The new GCN Mitigation Strategy will be based on the District Level Licence. The applicant also proposes to insert into condition 6 a 'scheme of measures to protect protected species from accidental damage or harm during the construction process'. The variations to condition 10 include additional provisions to enable an updated Arboricultural Implications Assessment (AIA) to be provided with the first reserved matters application if required. The requirement of the tree works schedule (TWS), arboricultural method statement (AMS) and tree protection scheme (TPS) are unaffected by the proposed amendments. However, for clarify the applicant seeks to split condition 10 into two separate conditions. The first requiring the development to be carried out in accordance with the originally approved AIA or an updated AIA as part of the first reserved matters. The second condition will require the TWS, AMS and TPP to be submitted and agreed before the commencement of any site works.
- 2.3 The applicant's proposed variations to the affected conditions read as follows (*strikethrough marks removal of existing wording and bold text marks new insertions*):

Condition 2

The development hereby permitted shall be carried out in accordance with the submitted approved plans:

- Location Plan Dwg No: 100 Rev A dated 23.03.2019
- Development Parameters Dwg No: ID40627-001 dated 15.02.2019

- Proposed Access Plan ~~Dwg NO: 18-262-TR-007 Rev A dated 05.03.2019~~ **21/469/SKH/004 Rev F**

In particular, the built development shall be limited to the area marked as 'Development Area' on the approved Parameters Plan. Except for the above referenced plans, all the details indicated on the other drawings submitted shall be regarded as illustrative only and are not approved as part of the application.

Reason: In the interests of good design, securing development that is well-related with the existing settlement and in the interests of the visual amenity of the area.

NB: During the determination period, the access drawing has been updated to reflect discussions held with the local highway authority. Drawing number 21/469/SKH/004 Rev F has superseded 21/469/SKH/004 Rev D (which was originally proposed).

2.4 **Condition 6**

No development shall commence, except for any Advance Infrastructure and Enabling Works approved pursuant to Condition 3, until a Biodiversity and Landscape Mitigation and Management Plan (BLMMP) has been submitted to and approved in writing by the local planning authority, including a timetable for the implementation of the approved mitigation and enhancement measures. The BLMMP shall be based on the mitigation and enhancement measures set out in the submitted Ecological Appraisal (February 2019), ~~the Great Crested Newt Mitigation Strategy (8th July 2019)~~ and the adopted Habitat Regulation Assessment and Appropriate Assessment and must include the following:

- No works to trees or shrubs shall occur or earth works commence between the 1st March and 31st August in any year unless it is confirmed by a suitably qualified ecologist and such is agreed in writing by the Local Planning Authority, that the area of works does not support nesting birds;
- Further bat surveys if any trees identified to be retained as part of the outline approval are later proposed for removal;
- **Details of the GCN Mitigation Strategy (comprising details of, and a copy of, the District Level Licence);**
- **Details of the proposed measures to protect protected species from accidental damage or harm through the construction process;**
- ~~Details of the translocation of Great Crested Newts and the ecological enhancement measures (formation of new aquatic habitat) to mitigate for the loss of Great Crested Newt habitat;~~
- ~~A copy of the EPS Mitigation Licence;~~
- A copy of the Homeowner Pack, which shall include details of the measures to mitigate against recreational disturbance on Morecambe Bay (SPA), and a scheme for the display and distribution of the approved Homeowner Pack to future occupiers of the development;
- Habitat creation and enhancement of the boundary buffers and open space to the south (marked green on the approved Parameters Plan pursuant to Condition 2) to compensate for the loss of hedgerow and grassland;
- Measures to secure habitat connectivity;
- Details and locations of bird and bat nesting habitat enhancement measures;
- Details of any external lighting;
- Details of monitoring and management of enhancement measures/areas;

The role and responsibilities of an ecological clerk of works (EcoW) including times during construction when present on site to oversee works.

The development shall be constructed, managed and maintained in accordance with the agreed Plan including the timetable for implementation and future management monitoring where specified in the approved Plan.

Reasons: To adequately protect, maintain and enhance the biodiversity value of the site and to safeguard the conservation objectives of Morecambe Bay SPA, SAC and Ramsar site post construction.

2.5 **Condition 10**

The original condition is worded as follows:

No development, site preparation/clearance or demolition shall commence until the following details (based on the recommendations set out in the approved Arboricultural Report and Arboricultural Implications Assessment by JCA (ref:14486C/PH dated 14 February 2019) in particular the trees and groups of trees marked for retention set out in the Arboricultural Implications Plan), have been submitted to, and agreed in writing by, the Local Planning Authority:

- o Tree Works Schedule (for works proposed to any on or off-site trees and hedges);
- o Arboriculture Method Statement; and
- o Tree Protection Scheme.

The approved scheme shall be incorporated into the layout, landscaping and appearance details submitted as part of any reserved matters application. The development shall then be carried out in accordance with such agreed detail, with the approved protection measures being fully implemented prior to any equipment, machinery or materials being brought onto site, retained in situ for the duration of the works, and only removed once the development is complete and all machinery and works material removed from the site.

Reason: To prevent damage to trees/hedges during site works and in the interest of amenity of the area.

The amended wording and sub-division of the condition is proposed as follows:

10 a)

The proposed development shall be carried out in accordance with the recommendations set out in the approved Arboricultural Report and Arboricultural Implications Assessment (AIA) by JCA (ref:14486C/PH dated 14 February 2019) or an updated AIA submitted as part of the first reserved matters application, which shall be submitted to, and agreed in writing by, the local planning authority. The approved AIA shall be incorporated into the layout, landscaping and appearance details submitted as part of any reserved matters application.

Reason: To ensure existing landscape features (trees and hedgerows) are designed into the development proposals and suitably protected, mitigated (where necessary) and enhanced in the interests of the visual amenity and character of the area.

10 b)

Prior to the commencement of development, site preparation/clearance the following details (based on the approved AIA pursuant to condition 10(a) shall be submitted to and approved in writing by the local planning authority:

- **Tree Works Schedule;**
- **Arboriculture Method Statement; and**
- **Tree Protection Scheme.**

The development shall then be carried out in accordance with the agreed details, with the approved protection measures being fully implemented prior to any equipment, machinery or materials being brought onto site, retained in situ for the duration of the works in that phase of development as agreed under condition 4 of this consent, and only removed once the development in that phase is complete and all machinery and works material removed from that parcel.

Reason: To prevent damage to trees/hedges during site works and in the interest of amenity of the area.

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
22/00491/NMA	Non material amendment to planning permission 19/00332/OUT to alter the wording of condition 24 to change a 3.5m pedestrian/cycle link into a minimum 3m pedestrian/cycle link.	Approved
22/00470/NMA	Non material amendment to planning permission 19/00332/OUT to amend condition 10 to remove the requirement for the development to be carried out in accordance with the submitted and	Refused

	approved Arboricultural Implications Assessment (AIA) and for a new AIA to be provided with any subsequent full planning application or application for reserved matters approval.	
22/00094/PRE3	Pre-application advice relating to the reserved matters approval for the erection of up to 95 residential dwellings with associated access	Closed
22/00059/NMA	Non material amendment to planning permission 19/00332/OUT to alter the wording of conditions 5, 6, 8, 9,11 and 18 to change the trigger for conditions 5, 8, 11 and 18, change the method for providing details for condition 6 and to allow the discharge of conditions 5 and 9 to be phased.	Split Decision
19/00332/OUT	Erection of up to 95 dwellings with associated access	Approved <i>This relates to application site.</i>
19/00333/EIR	Screening opinion for residential development for up to 95 dwellings	Not EIA Development
10/00366/OUT	Outline application for the erection of new food store (A1), hotel/pub/restaurant (C1, A4 and A3) and petrol filling station, new roundabout access from Scotforth Road, internal roads, car parks, landscaping and other associated works.	Refused and Dismissed at Appeal (APP/A2335/A/11/2155529) <i>This relates to application site.</i>
10/00251/FUL (and subsequent Section 73 approval 14/00633/VCN)	Erection of a new supermarket, construction of new access, servicing and parking areas, footways, cycle facilities and landscaping. The Section 73 approval allowed for the variation and removal of conditions to allow phased implementation of the development and removal of unnecessary duplication.	Approved <i>This relates to the land immediately north of the application site.</i>
21/00987/FUL	Erection of a 1920 sqm food store (Class E) with land regrading, access, cycle route, landscaping and swales and the provision of associated infrastructure, including car and cycle parking facilities, vehicle charging spaces, pedestrian access routes and servicing.	Pending consideration. <i>This relates to the land immediately north of the application site.</i>

4.0 Consultation Responses

- 4.1 The following responses have been received from statutory and internal consultees in response to the application before the recent amendments to the proposal (the inclusion of condition 10). The application has been readvertised to include the changes to condition 10. The consultation period expires on the 24 June 2022.

Consultee	Response
Scotforth Parish Council	<p>In respect of condition 2, a summary of the comments received are as follows:</p> <ul style="list-style-type: none"> The access is considered an improvement when compared to the original, is understandable and justifiable. Whilst accepting the matter can not be addressed by this application, the Parish Council remain concerned over the number of accesses onto the A6 in the vicinity arising from other approved and submitted applications. <p>In respect of condition 6, the Parish Council objects to the proposed variation. A summary of their concerns are as follows:</p> <ul style="list-style-type: none"> Whilst the Parish Council understand there is a mechanism to provide compensatory provision elsewhere by a DLL (and the associated payment),

	<p>the Parish Council strongly disagree with the principle of “land clearances” and wish to see biodiversity retained.</p> <ul style="list-style-type: none"> At the time of granting the outline consent, it was accepted the ecological mitigation could be provided alongside other infrastructure such as the open space and SuDS, the justification to no longer provide the on-site ecology mitigation is not therefore justified and should be rejected. <p>Further consultation has been carried to to reflect the inclusion of changes to condition 10. At the time of drafting this report, the Parish Council have not made comments on the changes. A verbal update will be provided.</p>
Lancashire County Council (Highway Authority)	No objection to the s73 application for the change in junction type to support 95 dwellings only, subject to all previous commitments being secured and retained. The proposed junction arrangement will satisfy demand with limited driver delay on/off the side road with no lost time for drivers on the main line when compared to a signalised junction. The junction layout also provides simple sustainable provision over the junction mouth with other sustainable provision crossings the A6 is provided beyond the junction which is acceptable.
National Highways	No comments to the application.
Natural England	No objection.
Greater Manchester Ecology Unit (GMEU)	No objection. GMEU confirm the proposed changes to the condition are acceptable.
Lead Local Flood Authority (LLFA)	No comments to the application.
Environment Agency	No comments to the proposed changes.
Arboricultural Officer	No objection to the amended wording of the condition. However, the Arboricultural Officer commented that <i>“it is vital that the AIA influences the layout of the development, recognising the constraints imposed by existing trees and hedgerows, and positively incorporating them into the development. The trees and hedgerows which form the site boundaries, especially those forming the boundary with Scotforth Road are of high landscape/amenity value and must be retained and enhanced, as shown in the approved Parameters plan (ID40627-01)”</i> .
Lancashire Constabulary	<p>Comments as follows:</p> <ul style="list-style-type: none"> Advocates all new housing is designed and constructed to the Secure by Design ‘Homes 2019’ Design Guide. Boundary treatments to be 1.8m high to provide security to property. Defensible space between edge of pavement and dwellings Appropriate maintenance for landscaping to maintain safe environments Natural surveillance of open space essential to deter crime. Recommended security standards for window/door and lighting.
Morecambe Bay Clinical Commission Group (NHS)	A contribution requires of £52,518 towards infrastructure at Lancaster Medical Practice has been requested.
Lancashire Fire and Rescue Service	Standing Advice received in relation to compliance with Part B5 of Building Regulations relating to access for fire appliances and water supplies.
Strategic Housing Officer	At the time of compiling this report, no comments received.
United Utilities	At the time of compiling this report, no comments received.
South Lancaster Flood Action Group	At the time of compiling this report, no comments received.
Policy Team	At the time of compiling this report, no comments received.
Environmental Health Service	At the time of compiling this report, no comments received.
Public Realm Team	At the time of compiling this report, no comments received.
Waste and Recycling Team	At the time of compiling this report, no comments received.

Network Rail	No comments to the proposed changes
Cadent Gas	At the time of compiling this report, no comments received.
Dynamo	At the time of compiling this report, no comments received.

4.2 The following responses have been received from members of the public:

4 letters of objection. A summary of the main reasons for opposition are as follows:

- Lack of evidence to demonstrate the housing is required, particularly given planned development between Bailrigg and Hala and the Bailrigs Garden Village.
- Concerns that the development and decision to grant the original planning permission is based on out of date evidence (supporting the local plan) and that much has changed since the original approval, such as COVID and the increased demand for home-working and the cost of living crisis, which will affect future housing demand.
- Increased traffic congestion along the A6, exacerbating existing problems.
- Speed limits should be reduced to 20mph.
- Impacts on education and health services which are already overstretched and underfunded.
- Loss of greenfield land and greenbelt buffer zone intended as part of the Garden Village.
- Increased risk of flooding due to its location in a flood zone and difficulties with draining the site. The proposal goes against current guidance on flood risk.
- Inadequate infrastructure in place to cope with expansion.
- Bus stops on the A6 should be reconsidered and merged with the stop at Ray's Drive, queries raised over the need for additional bus stops and the potential inconvenient to bus users if there are changes.
- Design concepts presented by Northstone (on their website) don't reflect the submitted layout plans which show a dense and crowded development, to the detriment of existing neighbouring amenity/outlook.
- Increased noise (in particular the effects of noise reflection from the acoustic fencing) arising from the development to the detriment of neighbouring residential amenity. Comments raised in relation to existing background noise levels already exceeding WHO guidelines with assumptions the development will exacerbate existing noise to an unacceptable level.
- Inadequate details provided and provision of making the dwellings adaptable for Net Zero living (e.g. no details of EV charging provision, layout of dwellings does not maximum solar gain for PV use)

A further 3 letters have been received. A summary of their main comments/observations are as follows:

- Housing need challenged given strategic growth of Bailrigg Garden Village (BGV), over development of the site, housing too densely arranged on the site, little open space and inadequate garden sizes and too many townhouses (too tall), thus effecting the peaceful enjoyment of existing properties on Oakwood Gardens and the visual amenity of the area.
- Loss of green buffer between Lancaster and the BGV
- Noise impacts because of reflection from the new acoustic treatments towards Oakwood Gardens along the A6. Roadside hedgerows must be retained.
- Proposed and existing bus stops to be consolidated to reduce footfall on A6.
- The site is in a floodplain and therefore houses liable to flooding.
- All new houses should include solar panels, ground source heat systems, EV charging and triple glazing.
- Public open space would provide recreational facilities and the retention of the existing small lake for wildlife (dog walking should be prohibited so these spaces are safe for children and adults).
- The 30pmh zone should be extended south of the junction of Collingham Park and Scotforth Road.
- Requests to be informed when the full application is submitted and to be invited to attend the relevant planning committee meetings.

5.0 Analysis

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

1. Procedural matters and the principle of development
2. Highway infrastructure
3. Ecology mitigation
4. Arboricultural matters
5. Other considerations

5.2 **Procedural matters - Principle of development - Consideration 1** (NPPF paragraphs 7 – 12: Achieving Sustainable Development, paragraph 16, 20-23: Strategic Policies, paragraph 47: Determining applications, paragraphs 55-57: Planning conditions and obligations; Strategic Policies and Land Allocations (SPLA) DPD policies SP1: Presumption in Favour of Sustainable Development, SP2: Lancaster District Settlement Hierarchy, SP3: Development Strategy for Lancaster District, SP6: The Delivery of New Homes, SG1: Lancaster South Broad Area of Growth, SG3: Infrastructure Delivery for Growth in South Lancaster, and H1: Residential development in Urban Areas and Development Management (DM) DPD policies, DM1: New Residential Development and Meeting Housing Needs, DM2: Housing standards and DM3: Delivery of Affordable Housing; Meeting Housing Needs SPD; Affordable Housing Practice Note Planning Advisory Note; Housing Standards Planning Advisory Note.

5.2.1 A section 73 application seeks permission to carry out development without complying with planning conditions imposed on a previous planning permission. Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original planning permission, which remains intact and unamended. It is, ultimately, open to the applicant to decide whether to implement the new permission or the one originally granted. Section 73 provides a mechanism to consider and assess minor material amendments (i.e. the changes sought via the Section 73 application) to an earlier planning permission. It is not an opportunity to re-examine the principal considerations associated with the approved development, such as traffic impacts, flood risk and housing need. However, all decision making must remain consistent with the requirements of planning legislation to determine applications in accordance with the provisions of the adopted local plan, unless materials considerations indicate otherwise.

5.2.2 The provision of up to 95 dwellings and the associated access and infrastructure has been established by the granting of a conditional outline planning permission. Most importantly, and for example, the planning conditions (and obligations) relating to the delivery of market and affordable housing, the provision of an appropriate housing mix and housing standards, provision of the safeguarded land and flood risk mitigation (to make the development safe) remain intact and unaltered by this proposal. The material considerations of this application will focus only on the changes to the scheme proposed as part of this Section 73 application, namely the access arrangements and Great Crested Newt (GCN) mitigation.

5.3 **Highway Infrastructure - Consideration 2** NPPF Chapter 9 paragraphs 104-106, 110-113: Promoting Sustainable Transport and Chapter 12 paragraphs 126, 130 and 135: Achieving well-design places; Development Management (DM) DPD policies DM29: Key Design Principles, DM60: Enhancing Accessibility and Transport Linkages, DM61: Walking and Cycling; DM64: Lancaster District Highways and Transport Masterplan; Strategic Policies and Land Allocations (SPLA) DPD SG1: Lancaster South Broad Area of Growth, SG3: Infrastructure Delivery for Growth in South Lancaster, T2: Cycling and Walking Network and T4: Public Transport Corridors and the Cycling and Walking Planning Advisory Note (PAN) (Dec 2019).

5.3.1 At the time of granting the outline planning permission there were 4 main transport related considerations considered and assessed as part of the officer recommendation, namely the access strategy, infrastructure delivery, highway safety and capacity and sustainable transport and accessibility. These remain relevant issues for the consideration of the proposed changes sought via this Section 73 application.

5.3.2 Access Strategy - The approved access arrangement comprised a new three—armed signalised junction off Scotforth Road (the A6) immediately south of a proposed signalised access to serve the extant supermarket site (to the north) and approximately 100m south of the priority controlled junction into the residential development at 'Akingill'. Footway provision was incorporated into the approved junction design including pedestrian crossing facilities across the mouth of the junction and across

Scotforth Road itself. The approved access strategy also included advanced cycle stop lines and new bus stops to the south of the junction. The access junction design was approved pursuant to condition 2 (approved plans list) and remains subject to condition 14 (precise construction details of the access) and condition 15 (scheme for off-site highway works). The applicant seeks to amend condition 2 only.

- 5.3.3 The applicant seeks to rationalise the junction design, so it is more proportionate to the scale of development approved (95 dwellings) whilst ensuring the safeguarded land (condition 12) is protected in the event a future link over the WCML is required as part of the Area Action Plan for the Broad Area of Growth in South Lancaster (SG1 and SG3). The applicant makes the case that the proposed access would avoid potential unnecessary and wasteful resource to create a junction which is ultimately may not be required.
- 5.3.4 The proposed, alternative junction design comprises a priority-controlled T-junction with right turn ghost island facility. The proposed access includes left and right exit lanes onto the A6 with a right turn storage lane on the A6. The junction design also includes the provision of a shared 3 metre cycle/footway either side of the access with appropriate dropped kerbs on the mouth of the junction with visibility splays of 2.4m by 120m in both directions. This is a significantly reduced junction design compared to the approved signalised scheme and considerably reduces the scale and access geometry along the site frontage. The principle of amending the junction design, whilst still safeguarding land reserved for potential strategic infrastructure (condition 12), ensures the proposal does not conflict with policy SG1 (in relation to prejudicing the delivery of the wider Bailrigg Garden Village and its infrastructure) and would visually appear more appropriate in this location.
- 5.3.5 Highway Safety and Capacity - The applicant has provided a Highways Technical Note (TN) (dated 28 March 2022) to assess the operation of the proposed junction with the A6 (having regard to all other access arrangements in the vicinity of the site) and the ability for the proposed junction to accommodate increased vehicle movements from future growth, if a link road is provided through the site over the WCML. In accordance with pre-application discussions with the local highway authority (LHA), traffic modelling has been undertaken to account for the revised junction design.
- 5.3.6 Some of the representations received to this application continue to raise concerns over the level of traffic arising from the development and the impact this would have on the already congested A6 corridor. As set out at the head of this report, the principle of development has already been accepted by the grant of outline planning permission, with traffic generation and the effects on the network already considered and accepted. As such, this application is not an opportunity to revisit the impacts of traffic from the development. Instead, it is a matter of ensuring the revised access design can support the development traffic, without adverse effects on the safety and efficient operation of the network and sustainable modes of transport.
- 5.3.7 In terms of traffic generation and distribution, the TN adopts the vehicle trip generation of the approved scheme and accompanying Transport Assessment, which predicts 51 two-way movements in the am peak and 50 two-way movements in the pm peak. Applying the same trip distribution to the approved scheme (66% of traffic heading north and 34% south) and accounting for future growth (using 2027 as the future assessment year and TEMPRO growth rates) and committed development, the TN evidences the proposed access safely operates within its theoretical capacity in the 2027 predicted scenario. The LHA has taken a holistic approach in considering the revised junction arrangements, having regard to required off-site highway works (pursuant to condition 15), and is satisfied with the proposed amendments to condition 2, namely the revised access design is acceptable to serve the approved development only.
- 5.3.8 Infrastructure Delivery and Highway Capacity
Policy SG1 includes an early release mechanism to allow development in advance of the AAP provided there would be not prejudice to the delivery of the wider Bailrigg Garden Village (BGV) (and its infrastructure). In granting the outline planning permission, the local planning authority (LPA) have accepted this point, subject to a number of planning conditions securing an appropriate access to potentially serve wider development and the provision of the 'safeguarded land' to enable the delivery of a link road through the site and across the WCML, should the APP deem this necessary. Any changes to the access strategy must revisit this point. At this juncture, it is important to note that whilst there has been extensive master planning work undertaken in relation to the BGV, the APP for the Broad Area of Growth has not progressed to a point to give certainty over whether a link road over

the proposed site and WCML is required or not. As such, the applicant has advanced the proposed changes on the basis the link road could still be required.

5.3.9 The applicant's originally submitted TN included a sensitivity assessment of the proposed priority-controlled junction to establish the level of additional residential development the proposed site access could accommodate if a link road was delivered through the site. This assessment concluded the proposed site access could support 500 additional residential units (on top of the approved 95 dwellings) before the access would start to experience capacity concerns (approaching the Ratio of Flow to Capacity (RFC) threshold of 0.85. This is equivalent of 318 two-way vehicle movements in the morning peak and 314 two-way movements in the evening peak. This would have equated to least 50% of potential anticipated housing growth at Whinney Carr.

5.3.10 During the determination of the application, the LHA raised concerns over the sensitivity assessment and did not agree with the applicant's conclusions. Officers are informed (by the LHA) that the principal concern related to inadequate storage for vehicle stacking within the junction design for development greater than that approved, resulting in potential adverse impacts on the operation of the network. The revised access design provides stacking space for 3 vehicles, which is deemed appropriate for the scale of development approved and would result in limited driver delay on/off the spine road with no lost time for drivers using the A6 when compared to the signalised junction. Consequently, this aspect of the TN has been omitted in the latest version of the TN (April 2022). Reverting to the policy requirement to ensure development does not prejudice the delivery of the BGV and its infrastructure - whilst the development pursuing this scheme will no longer be physically building out the previously approved and larger junction, the planning condition pertaining to the safeguarded land (to enable future infrastructure to be provided) is unaffected by the proposals. Furthermore, from a landscape and design perspective, the reduced junction design also results in an improvement to the development overall.

5.3.11 Sustainable Travel

The proposed alternative junction design maintains an access that supports safe movement for all users, including cyclists and pedestrians. The amended scheme includes 3 metre wide shared cycle/footways either side of the junction which will connect to the existing network and will expand into the estate layout (the details of which would be pursuant to the reserved matters application). The applicant does not seek to amend the off-site highway works condition (condition 15), albeit discussions have been held with the LHA about potential changes to the off-site works relative the amended access strategy. Fundamentally, the requirements of condition 15 are unchanged. This application would repeat this condition securing the following requirements, which will support sustainable modes of travel:

- the formation of new bus laybys and bus stops along Scotforth Road.
- gateway treatment and traffic calming scheme along Scotforth Road.
- pedestrian/cycling crossing facilities on Scotforth Road.
- pedestrian/cycle access point and crossing facility at the southern end of the site for access onto Collingham Park.

Finally, the financial contribution secured as part of the outline planning permission (at that time) remains unaffected by this application and will contribute towards upgrades to the Pointer Roundabout (as part of a wider project) to predominately deliver benefits for pedestrians/cyclists making the junction safer and reducing conflict between sustainable and motorised users.

5.3.12 Overall, the proposed amendments to condition 2, to substitute the approved access drawing with the amended and rationalised junction design is considered acceptable and compliant with national and local planning policy. In particular, the access strategy is deemed to be safe; would not impede the efficient operation of the network (when compared against the original approval), and; suitably caters for sustainable transport uses to the satisfaction of the LHA. On this basis, the proposed changes can be supported subject to all the existing conditions pertaining to the safeguarding of land for wider infrastructure, precise details of the access and off-site highway works and the financial contribution towards the wider network being retained (secured by condition and s106) as part of this section 73 application.

5.4 **Ecology Mitigation - Consideration 3 (NPPF: Chapter 15 paragraph 174 and 179 -182 (Habitats and biodiversity); Strategic Policies and Land Allocations (SPLA) DPD policies SP8 (Protecting the Natural Environment and EN7 (Environmentally Important Areas); Development Management (DM)**

- 5.4.1 The principle of the development and the impacts arising from the loss of existing habitat for housing has already been accepted by the grant of outline planning permission. The main considerations relate largely to the protection of protected trees and woodland on site, the effects on protected species in particular Great Crested Newts and potential likely effects arising from the development on the nearby designated site (Morecambe Bay SPA), triggering the requirement for a Habitat Regulations Assessment.
- 5.4.2 In relation to the protection of protected trees and roadside hedgerows, the proposed changes to the access arguably improve the ability to retain more roadside hedgerow than the approved access due to its reduced geometry along the A6 frontage. As the proposed changes will not lead to any further loss of existing landscape features (compared to the approved scheme), it is contented the alternative proposals would equally comply with policies DM44 and DM45. The precise details of the tree and hedgerow retention and new landscaping shall be established as part of the application for reserved matters approval.
- 5.4.3 In terms of the effects of the proposal on the designated nature conservation sites, the proposed changes to the scheme would not affect the outcomes of the previously approved Habitat Regulation Assessment (HRA). An updated HRA has been undertaken for completeness. This updated HRA concurs with the original conclusions of the HRA, determining the development (with mitigation) will have no adverse effects on the integrity of the designated sites, their designation features or their conservation objectives, through either direct or indirect impacts either alone or in-combination with other plans and projects. The mitigation remains the same as the previous scheme and shall be secured and controlled by planning condition. Natural England have confirmed they have no objections to the application and note the development would not lead to likely significant effects on the designated sites. In this regard the proposal is compliant with the policies of the Development Plan.
- 5.4.4 The matter pertaining to Great Crested Newts (GCN) is relevant to this Section 73 application. The applicant seeks to amend the condition to remove reference to the previously approved GCN mitigation strategy which required the translocation of GNCs on site and additional ponds to be provided to secure necessary mitigation. This mitigation would have required a Natural England Licence via their traditional route. The applicant has reviewed the approved mitigation proposals and due to potential conflicts between ecology mitigation, open space requirements and flood risk, the applicant has explored a District Level Licence (DLL) instead. DLL is a relatively recent scheme that is being rolled out across the country and is regulated by Natural England. This is an alternative to the more traditional localised mitigation strategies used on development sites affected by GCNs. The aim of DLL is to create more habitat than lost, which is bigger, better and more joined up, with new habitat managed and maintained (for 25 years) by conservation bodies, such as the Wildlife Trust. The DLL regime secures direct funds (conservation payments) from developers to contribute to habitat creation, restoration and management in locations offering the greatest potential to effectively connect and expand GCN populations. Natural England indicate this new approach will lead to increase GCN populations at a county level, as well as offering greater flexibility for developers who want to build on land affected by the presence of GCNs.
- 5.4.5 Whilst the applicant still intends to provide new ponds as part of the ecology mitigation, their GCN mitigation strategy will be based on acquiring a DLL with Natural England. As part of the application submission details, a signed copy of the 'Impact Assessment Conservation Payment Certificate' has been provided. Whilst this means there will be localised impacts to GCNs from the development the DLL will secure meaningful mitigation and enhancement elsewhere in the County to support the conservation status of GCN populations. This approach is being widely adopted across the County and in Lancashire and is an accepted form of mitigation against the impacts of development on protected GCNs. The variation to the wording of the condition to delete references the previous GCN strategy (involving the translocation and creation of new habitat on site) and to substitute this with an alternative GCN mitigation strategy, which will be based on DLL, is acceptable and would still secure appropriate mitigation against the impacts of the development on protected species.

- 5.4.6 During the determination of the application and in consultation with GMEU, an additional provision to secure details of proposed measures to protect protected species from accidental damage or harm through the construction process is now proposed. Despite concerns to the contrary (those raised by the Parish Council in particular), the proposed changes to condition 6 are considered acceptable with our own ecologists (GMEU) raising no objections to the application. Given the DLL approach is one developed and supported by Natural England as an accepted alternative to more traditional mitigation, it would be very difficult to substantiate a refusal against this approach as part of this application. Fundamentally, the condition retains a requirement for a GCN Mitigation Strategy to be submitted and agreed with the Council to ensure appropriate mitigation and compensation is provided to maintain the conservation status of GCNs. On this basis, the proposed changes are considered acceptable and compliance with the policies contained in the Development Plan.
- 5.5 **Arboricultural Matters – Consideration 4** (NPPF: Chapter 15 paragraph 174 (Conserving and enhancing the natural environment); Strategic Policies and Land Allocations (SPLA) DPD policies SG1 (Lancaster South Broad Area of Growth); Development Management (DM) DPD policies DM43 (Green Infrastructure) and DM45 (Protection of Trees, Hedgerows and Woodland).
- 5.5.1 Strategic policy SG1 sets out several key growth principles. Of relevance here, is the inherent need to deliver high quality design. How development fits with the existing landscape character is one of many aspects fundamental to good design and achieving sustainable development. Policy DM45 is more specific to the proposal and states that *‘the council will support the protection of trees and hedgerows that positively contribute to the visual amenity, landscape character and overall environmental value of the location’*. This policy requires new development to positively incorporate existing trees and hedgerows and where this cannot be achieved the onus is on the applicant to justify any losses as part of an Arboricultural Implications Assessments (AIA), with replacement planting based on the Council’s policy of 3 new trees to every tree lost. The outline planning application was supported by an AIA, as some tree and hedgerow losses were anticipated by the development at the outline stage (largely deriving from the access and the formation of development platforms and level changes). However, the outline planning permission was equally clear (pursuant to the approved Parameters Plan) that existing landscape features to the site boundaries and the woodland copse in the southern section of the site would largely be protected and enhanced. The applicant does not seek to vary the approved Parameters Plan pursuant to this section 73 application. Therefore, the broad principles of landscape retention and enhancement to the site boundaries remains a key requirement of any future reserved matters application.
- 5.5.2 The applicant seeks to amend condition 10 to allow for a revised AIA to be submitted to and agreed in writing by, the local planning authority, at the reserved matters stage. This is not an uncommon scenario given more detailed and technical understanding of developing the site would be known at the detailed design phase. The applicant contends the proposed wording also enables the proposals to be advanced based on an up-to-date AIA (suggesting the approved AIA is out of date) and that the changes also align with the advice of the Tree Protection Officer offered at the outline planning application stage.
- 5.5.3 The proposed condition wording would retain the requirement to develop the site in accordance with the approved AIA, but with the additional provision to allow flexibility to provide an updated AIA at the reserved matters stage, which is the applicant’s intention. Whilst this may be the case, the proposed wording is not intended to open the debate and assessment over the principle of tree loss/retention at this stage. This would be a matter for determination at the point the updated AIA is provided (along with the reserved matters details). The requirements to submit a tree works schedule (TWS), arboricultural method statement (AMS) and tree protection scheme (TPS) remain unamended by the application with the exception that the removal of the tree protection scheme will relate to respective phases of development rather than the whole site (which seems reasonable and will reflect the details approved pursuant to the phasing plan condition) and that the condition is shall be split into two conditions for clarity and precision. The first condition will require the development to be carried out in accordance with the approved AIA or an updated AIA at the reserved matters stage. The second condition will maintain the requirements to secure details of the TWS, AMS and TPS.
- 5.5.3 The proposed amendments to condition 10 remain compliant with the requirements of policy DM45. The onus remains with the applicant to ensure the reserved matters details conform to the outline planning permission (in relation to the Parameters Plan) and that the detailed layout, appearance and landscaping suitably incorporates existing landscape features together with any necessary mitigation.

The Council's Arboricultural Officer has been consulted on the amended condition wording and has raised no objection. The Arboricultural Officer has, however, reinforced the importance of retaining and enhancing the trees and hedgerows along the site boundaries given their high landscape and amenity value. This is a matter that would need to be assessed at the reserved matters / condition stage.

5.6 Other Considerations

- 5.6.1 As set out earlier in the report, the effect of a Section 73 application is a new planning permission. As such, in the event this application is supported, all previous conditions (save for those amended as part of this application) will be reimposed. There have been some changes to conditions pursuant to Section 96A of the Town and Country Planning Act (non-material amendments (NMA)). These conditions will be re-worded to reflect the decisions pursuant to these NMA applications.
- 5.6.2 The Morecambe Bay Clinical Commissioning Group have commented on the application and made a request for a contribution towards the infrastructure at Lancaster Medical Practice. This contribution is based on an average occupation of 2.4 people per unit (equating to 228 people). The contribution request (c£52k) is proposed to mitigate the impacts on the delivery of general practice services at the identified surgery. Whilst there are concerns the does not meet the CIL tests, this request does not relate to the amendments sought via this section 73 application. As set out earlier it is not a re-examination of principle matters, which this would be. Subsequently, the contribution request will not be secured.
- 5.6.3 The main terms of the original legal agreement remain unaltered by the proposed application. A Deed of Variation has been drafted to ensure this application is bound by the terms of this planning obligation.
- 5.6.4 As a Deed of Variation is required in relation to this section 73 application, the applicant has also requested some changes to the standard Mortgagee Exclusion clause. The amendments sought raise no significant issues and are accepted by the Council's Strategic Housing Officer. The changes to this clause bring the obligation in line with the current 'sector-approved' requirements, which aims to ensure no issues for Register Providers securing future funding.

6.0 Conclusion and Planning Balance

- 6.1 The proposed changes to the wording of condition 2, 6 and 10 continue to ensure the proposed development would comply with the requirements of the Development Plan and specifically, ensure that the development would not prejudice wider growth of the Broad Area for Growth in South Lancaster, would ensure the access is safe and would not lead to a severe impact on the efficient operation of the local network and that necessary mitigation can be secured to ensure the conservation status of GCN is not adversely affected by the development. The amendments to the AIA condition continues to ensure appropriate regard to paid to existing trees with the necessary assessments and tree-related works/details submitted as part of the reserved matters and ahead of the development commencing. On this basis, the Planning Committee are recommended to support the application.

Recommendation

To delegate the decision back to the Head of Planning and Place until the consultation period has expired (having regard to any representations received) and subject to the signing and completion of a Deed of Variation to the s106 planning obligation, conditions 2, 6 and 10 be VARIED as follows with all remaining conditions re-imposed:

Condition 2

The development hereby permitted shall be carried out in accordance with the submitted approved plans:

- Location Plan Dwg No: 100 Rev A dated 23.03.2019
- Development Parameters Dwg No: ID40627-001 dated 15.02.2019
- Proposed Access Plan Dwg No: 21/469/SKH/004 Rev F

In particular, the built development shall be limited to the area marked as 'Development Area' on the approved Parameters Plan. Except for the above referenced plans, all the details indicated on the other drawings submitted shall be regarded as illustrative only and are not approved as part of the application.

Reason: In the interests of good design, securing development that is well-related with the existing settlement and in the interests of the visual amenity of the area.

Condition 6

No development shall commence, except for any Advance Infrastructure and Enabling Works approved pursuant to Condition 3, until a Biodiversity and Landscape Mitigation and Management Plan (BLMMP) has been submitted to and approved in writing by the local planning authority, including a timetable for the implementation of the approved mitigation and enhancement measures. The BLMMP shall be based on the mitigation and enhancement measures set out in the submitted Ecological Appraisal (February 2019), and the adopted Habitat Regulation Assessment and Appropriate Assessment and must include the following:

- No works to trees or shrubs shall occur or earth works commence between the 1st March and 31st August in any year unless it is confirmed by a suitably qualified ecologist and such is agreed in writing by the Local Planning Authority, that the area of works does not support nesting birds;
- Further bat surveys if any trees identified to be retained as part of the outline approval are later proposed for removal;
- Details of the GCN Mitigation Strategy (comprising details of, and a copy of, the District Level Licence);
- Details of the proposed measures to protect protected species from accidental damage or harm through the construction process;
- A copy of the Homeowner Pack, which shall include details of the measures to mitigate against recreational disturbance on Morecambe Bay (SPA), and a scheme for the display and distribution of the approved Homeowner Pack to future occupiers of the development;
- Habitat creation and enhancement of the boundary buffers and open space to the south (marked green on the approved Parameters Plan pursuant to Condition 2) to compensate for the loss of hedgerow and grassland;
- Measures to secure habitat connectivity;
- Details and locations of bird and bat nesting habitat enhancement measures;
- Details of any external lighting;
- Details of monitoring and management of enhancement measures/areas;

The role and responsibilities of an ecological clerk of works (ECoW) including times during construction when present on site to oversee works.

The development shall be constructed, managed and maintained in accordance with the agreed Plan including the timetable for implementation and future management monitoring where specified in the approved Plan.

Reasons: To adequately protect, maintain and enhance the biodiversity value of the site and to safeguard the conservation objectives of Morecambe Bay SPA, SAC and Ramsar site post construction.

Condition 10a

The proposed development shall be carried out in accordance with the recommendations set out in the approved Arboricultural Report and Arboricultural Implications Assessment (AIA) by JCA (ref:14486C/PH dated 14 February 2019)) or an updated AIA submitted as part of the first reserved matters application, which shall be submitted to, and agreed in writing by, the local planning authority. The approved AIA shall be incorporated into the layout, landscaping and appearance details submitted as part of any reserved matters application.

Reason: To ensure existing landscape features (trees and hedgerows) are designed into the development proposals and suitably protected, mitigated (where necessary) and enhanced in the interests of the visual amenity and character of the area.

Condition 10b

Prior to the commencement of development, site preparation/clearance the following details (based on the approved AIA pursuant to condition 10(a)) shall be submitted to and approved in writing by the local planning authority:

- Tree Works Schedule;
- Arboriculture Method Statement; and
- Tree Protection Scheme.

The development shall then be carried out in accordance with the agreed details, with the approved protection measures being fully implemented prior to any equipment, machinery or materials being brought onto site, retained in situ for the duration of the works in that phase of development as agreed under condition 4 of this consent, and only removed once the development in that phase is complete and all machinery and works material removed from that parcel.

Reason: To prevent damage to trees/hedges during site works and in the interest of amenity of the area.

Condition no.	Description	Type
1	Time limit (from 30 April 2021)	Control
2	Approved plans (<i>as amended and drafted above</i>)	Control
3	Scheme for Infrastructure and Enabling Works	Pre-commencement
4	Phasing Plan	Pre-commencement
5	Employment Skills Plan	Pre-commencement
6	Biodiversity and Landscape Mitigation and Management Plan (<i>as amended and drafted above</i>)	Save for Advance Infrastructure and Enabling Works pre-commencement
7	Invasive Species Survey and mitigation (if required)	Pre-commencement
8	Construction Environment Management Plan (CEMP)	Pre-commencement
9	Contaminated Land	Pre-commencement
10	AIA and Tree Works Schedule, Arboricultural Method Statement and tree Protection Scheme (<i>as amended and drafted above</i>)	Pre-commencement
11	Housing Mix and 20% M4(2) provision	Before submission of reserved matters application
12	Scheme for Safeguarding Land	Save for Advance Infrastructure and Enabling Works pre-commencement
13	Finished Flood Levels and Site Levels	Save for Advance Infrastructure and Enabling Works pre-commencement
14	Full access construction details	Save for Advance Infrastructure and Enabling Works pre-commencement
15	Scheme for off-site highway works	Save for Advance Infrastructure and Enabling Works pre-commencement
16	Scheme for Surface Water Drainage	Save for Advance Infrastructure and Enabling Works pre-commencement
17	Foul Drainage Scheme	Save for Advance Infrastructure and Enabling Works pre-commencement
18	Noise Mitigation Scheme	Save for Advance Infrastructure and Enabling Works pre-commencement and before submission of reserved matters application
19	Scheme for EV Charging and Cycle Storage provision	Above slab level of dwellings
20	Scheme for achieving 10% betterment above Building Regulations	Above slab level of dwellings
21	Travel Plan	Pre-occupation
22	Management and Maintenance scheme for Drainage	Pre-occupation
23	In accordance with FRA	Control
24	A sharded cycle/ped link between access and crossing point to south (Collingham Park) to be incorporated into the layout of the development.	Control
25	All dwellings to meet NDSS	Control

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

In accordance with the above legislation, Officers have 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