

Agenda Item	A5
Application Number	22/00618/FUL
Proposal	Demolition of existing agricultural buildings and erection of 22 dwellings (C3) with associated garages, internal roads and open space
Application site	Development Land North Of Rectory Gardens Lancaster Road Cockerham Lancashire
Applicant	Mr M Whelan
Agent	Mr Jake Salisbury
Case Officer	Mr Andrew Clement
Departure	No
Summary of Recommendation	Approval, subject to conditions and a Section 106 legal agreement

1.0 Application Site and Setting

- 1.1 The site is located to the north of the village of Cockerham, approximately 500 metres to the north of the village primary school (Cockerham Parochial School), and it occupies an existing agricultural building and part of a rectangular parcel of land covering approximately 1.3 hectares. The site previously benefitted from outline consent for 18 dwellinghouses and a new access, however this consent recently expired. The site is bounded by a mature hedgerow along the eastern boundary of the site along A588 Lancaster Road, together with protected trees that are located primarily along the boundaries to the site. To the north are continuing fields and to the south lies a private cul-de-sac road and residential dwellings on Rectory Gardens. The site rises from east up to the west, with the field approximately 20 metres Above Ordnance Datum (AOD) at its lowest part adjacent to Lancaster Road rising to 26 metres AOD on the western extent of the site.
- 1.2 The site is largely unconstrained beyond the existing agricultural building, however there is a public right of way that runs to the west of the site (footpath no. 10). The Old Rectory is a Grade II listed building is located approximately 150 metres to the south of the site. There are a number of trees to the south, east and west of the site that are the subject of Tree Preservation Order No.620 (2017). The site is located within an Aerodrome Safeguarding Area and is within the designated Open Countryside area.

2.0 Proposal

- 2.1 This application seeks planning permission for the demolition of the existing agricultural building on site, construction of 22 dwellinghouses, with a site vehicular and walking accesses linking to internal roads. The proposal includes 2 one-bed apartments, 3 detached two-bedroom bungalows, 5 semi-detached two-bedroom houses, 6 detached three-bedroom houses, 4 detached four-bedroom houses with garages, and 2 large detached five-bedroom houses with two storey detached garage outbuildings. The proposal seeks to provide 7 affordable dwellings on site, with the overall housing mix for dwellings on site detailed below:-

- 2 x one-bedroom apartments (both affordable)
- 3 x two-bedroom bungalows (one of which is affordable)
- 5 x two-bedroom semi-detached dwellings (three of which is affordable)
- 6 x three-bedroom detached dwellings (one of which is affordable)
- 4 x four-bedroom detached dwellings
- 2 x five-bedroom detached dwellings

2.2 The proposed properties are to be finished in a mix of natural stone and rendered walls, under a grey slate roof with anthracite grey framed windows and doors. Some of the properties feature timber porches, with a mix of integral garages, detached garages, and off-street parking on driveways and within a communal parking areas to shared surface accessed properties. The proposed site access matches that previously granted through an outline planning permission with access, albeit this permission has since expired due to lack of agreeable reserved matters and no commencement of development within the timeframe stipulated on the consent.

3.0 Site History

3.1 The proposal was presented to, and resolved to be approved in May 2023 by, the Planning Regulatory Committee (the full report is appended). Under the scheme of public participation, it was proposed by Councillor Keith Budden and seconded by Councillor Robert Redfern:

“That the application be approved subject to the conditions in the Committee Report.”

Upon being put to the vote, 13 Councillors voted in favour of the proposal with none against and 2 abstentions, whereupon the Chair declared the proposal to have been carried.

Resolved:

That the application be approved subject to the following Planning Obligations:

- Provision of affordable housing (7 units on site, 4x affordable/social rent, 3x shared ownership tenure);
- Open space provision (on-site amenity green space provision and financial contribution of £10,000 for young persons provision and £22,328.70 for outdoor sports in Cockerham);
- Biodiversity net gain to demonstrate 10% net gain and a Landscape and Ecological Creation and Management Plan showing 30 year management;
- Provision for long term drainage, open space and landscaping/BNG, maintenance and management company; and,
- **Contribution to Education (for two secondary school places) of £49,506 towards the permanent expansion of Ripley St Thomas C of E High School;**

and subject to the following conditions:

1. Timescale for commencement (2 years);
2. Development in accordance with approved plans;
3. Scheme of archaeological work ;
4. Final surface water sustainable drainage strategy (SuDS);
5. Foul water scheme;
6. Finished site and floor levels (including gardens and open space) and M4(2) compliance;
7. Full landscaping and ecological management plan;
8. Ecology mitigation measures;
9. Full energy efficiency measures;
10. Submission of an Employment and Skills Plan;
11. Submission of construction management plan;
12. Submission of construction environmental management plan, including avoiding noise disturbance activities during wintering bird season;
13. Submission of construction surface water management plan;
14. Full details of site access/footway/lighting;
15. Elevations and external treatment material details and samples;
16. Contaminated land – further surveys following recommendations of the report;

17. Boundary and surface treatments, method statement for such works within tree protection fencing area, remove permitted development;
18. Site lighting scheme;
19. Scheme for the full engineering, drainage and construction details of the internal estate roads;
20. Off-site highway works, including pavements and bus shelter;
21. Visibility splays;
22. Sustainable drainage system operation and maintenance manual;
23. Verification report of constructed sustainable drainage system;
24. Obscure glazed openings 18 and 20;
25. Cycle storage details;
26. Waste bin provision details;
27. Homeowner packs ecology;
28. EV charging;
29. Implementation of approved tree protection measures;
30. Provide and control parking provision.

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

Application Number	Proposal	Decision
22/00056/FUL	Demolition of agricultural buildings and erection of 4 dwellings (C3) with associated infrastructure, internal road and landscaping	Refused
22/00029/REM	Reserved matters application for the erection of 18 dwellings with associated landscaping and open space	Refused
17/00723/OUT	Outline application for the erection of 18 dwellings and creation of a new access	Approved

4.0 Consultation Responses

4.1 The following responses have been received from statutory and internal consultees. The following responses have been received from statutory and internal consultees: All responses, other than **County Education**, were received prior to 26th May 2023 and are the same as reported to the preceding committee:

Consultee	Response
County Education	Objection , unless financial contributions for two school places through permanent expansion at Garstang Community Academy and/or Lancaster Central High, to the cumulative value of £49,506. Without such a contribution, the development could be considered to be unsustainable.
Parish Council	Objection , insufficient infrastructure in Cockerham to accommodate addition dwellinghouses, and potential road safety issues from proposed access
Lead Local Flood Authority	No objection , operational standards achievable, subject to planning conditions for a Final Surface Water Sustainable Drainage Strategy, Construction Surface Water Management Plan, Sustainable Drainage System Operation and Maintenance Manual and Verification Report of Constructed Sustainable Drainage System, plus informative regarding Ordinary Watercourse (Land Drainage) Consent.
County Highways	Concern regarding lack of swept path information for turning head and parking provision. Requested highway improvements of pavements, lighting, gateway measures to the village, and bus shelter, plus financial contribution to projects across the district.
Greater Manchester Ecology Unit	Require condition for homeowner packs, avoiding tree/hedge removal during nesting bird season and a Landscape and Ecological Management Plan through planning condition
County Archaeology	No objection , subject to a written scheme of investigation and programme of works of geophysical surveys and trial trenching for archaeological remains

Environmental Health	No observation received
Fire Safety	No objection , informative regarding emergency vehicle access and water provision
Engineering Team	No observation received
Waste and Recycling	Concern regarding the distance plots accessed by shared surface accesses will be expected to manoeuvre waste containers in exceedance the suggested 25 metre maximum. Collection points required at the end of each shared surface access point to the internal road network to prevent blocking vehicular and pedestrian access.
Police	No observation received
Natural England	Further information requested for an updated Habitats Regulation Assessment which includes further assessment of the potential disturbance impacts during the construction and operation phases upon functionally linked land. No updated response received on re-consultation on updated Habitats Regulation Assessment
Parachute Centre	No objection , concern regarding road closure during construction
Arboricultural Officer	Objection , due to proximity of dwellinghouses within falling distance of trees, likely to present future conflict with tree retention. Require further details of planting the site edges, within the site and to plot boundaries. Lack of protection of hedging within the site is disappointing.
United Utilities	No objection , subject to details of sustainable surface water drainage and foul drainage schemes
Planning policy and strategic housing	Affordable housing provision and mix are compliant, require tenure split and details for affordable units

4.2 All responses below were received prior to 26th May 2023 and are the same as reported to the preceding committee:

Objections from 30 members of the public have been received, plus the residents of Rectory Gardens, raising the following concerns and reasons for objection:-

- Access from a dangerous road, highway safety from access and additional traffic in Cockerham and impacts upon Cockerham Road, including a listed building Canal Bridge
- Poor footpaths/pavements and walking provision
- Poor public transport locally
- Pollution from car-borne travel
- Lack of infrastructure within the village to accommodate additional dwellings, including school at capacity, no shops, doctors, dentist, inadequate foul drainage and telecoms
- Flooding and surface water runoff
- Ecological impacts, including great crested newts
- Adverse landscape impacts, loss of green space, uprooted hedges and trees
- Harm to appearance/character of the village, cumulative impacts of other housing developments, disproportionate to small village
- Impacts upon neighbour's mental health
- Devalue existing neighbouring properties

5.0 Analysis

5.1 The key material planning considerations have been addressed within the Committee report of May 2023 (appended). However, upon drafting the legal agreement following the previous planning committee resolved to approve subject to a s106, County Education raised concern with the contribution secured, and subsequent consultation responses have been received relating to this contribution for consideration. As such, the main issues are:

- The change in direction of education contributions, and Community Infrastructure Levy (CIL) compliance of such contribution

5.2 **The change in direction of education contributions, and Community Infrastructure Levy (CIL) compliance of such contribution** Development Management (DM) DPD policies DM57 (Health

- 5.2.1 County Education had requested 2 secondary school places to mitigate the impact of the proposal in May 2023. This was subsequently reported to planning committee in May 2023, resolved for approval subject to such an obligation being controlled through legal agreement, amongst other legal and conditional requirements. The original consultation response from County Education provided assessment and pupil projections for Ripley St. Thomas CofE High School as the nearest school to the development, but requested a contribution at another, more distant school, or for a completely new school, with no information provided to justify deviating from the nearest school. As the only relevant school and pupil projections within this response was Ripley St. Thomas CofE High School, the contribution was reported, resolved and agreed with the developer to be paid to expansion projects at Ripley St. Thomas CofE High School. Such a contribution would directly mitigate the impact of the development at a school where the number of projected pupils greater than capacity, therefore requiring expansion to accommodate calculated pupil numbers from the proposed development of 2 places. No claim was or is now made for primary school contributions, as the projected number of pupils for the two nearest primary schools is less than the capacity of these schools. As such, a contribution is not necessary to mitigate the impact of the development, calculated to be 9 primary school pupils, as these could be accommodated within existing facilities in schools actively looking to increase student roll numbers during this period.
- 5.2.2 Upon Planning Regulatory Committee approving the application, the agreed position progressed through to arranging the legal agreement to secure such contributions. During this time, County Education and County Legal raised concern that the contribution was not sought nor directed to another more distant school, or a new school. This correspondence also shed new information that the reason for this deviation from the nearest school was that there is no possibility of expanding the nearest school, Ripley St. Thomas CofE High School, which cannot feasibly be expanded due to constraints of this school site. This latter information was only shared following the initial resolution by planning committee, and some months into the arrangement of the legal agreement.
- 5.2.3 Given that the nearest school apparently cannot be expanded to accommodate the secondary school pupils from the development, and given the next nearest schools are only slightly further from the development, the County Education conclusion is agreed in respect of the next nearest schools could be explored and assessed for such a contribution under such scenario. However, despite months of discussions on providing a Community Infrastructure Levy (CIL) compliant contribution, there has been disagreement on the information required to request such monies. For clarity, planning obligations may only constitute a reason for granting planning permission if they meet the following tests of being:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
- 5.2.4 The latest response received on 10th January 2024, removes the new school project, as there appears to be a mutual understanding that such a contribution cannot be made for a school without a specific site location, project, planning permission nor reasonable chance of delivery in the short-term (next several years). However, this latest response from County unfortunately continues with highlighted deficiencies present within original consultation response, despite ongoing discussions on how to address this. Namely, there is no information as to why the contribution cannot be paid to Ripley St. Thomas CofE High School as the nearest school within the formal consultation response. The next nearest secondary schools (such as Lancaster Boys and Girls Grammar Schools) are not assessed within the formal consultation response. The response seeks financial contribution to expand Garstang Community Academy and/or Lancaster Central High, however there are no pupil projections or known capacity issues at either school, despite numerous requests for such information.
- 5.2.5 Unfortunately, given the lack of information within the consultation response, whilst there is a known capacity issue at the nearest school, the contribution sought is to be directed to other, more distant schools, with no formal or sufficient justification as to why this cannot contribute to projects at the nearest school, as progressed and agreed with the developer under the original resolution in May 2023. Furthermore, there is no formal or sufficient justification as to why the next nearest schools

have been discounted and omitted from the County Education assessment. Finally, whilst it is appreciated that young persons from the development will need to be educated locally, there is no information provided to evidence that these cannot be accommodated within the existing facilities at the two schools (Garstang and Central) named for financial contributions, as no information regarding capacity nor pupil projections for either of these named schools has been provided.

5.2.6 Whilst the development will increase the number of young persons within the school catchment area, increasing demand on education facilities, there is no information to suggest that these cannot be accommodated within the existing facilities available at the schools identified to receive monies from the development, due to lack of information within the consultation response from County Education. Without such information, it cannot be concluded that the contribution is necessary to make the development acceptable in planning terms, and therefore cannot be sought through this application process. If, from pupil projections, there will be capacity at Garstang Community Academy and/or Lancaster Central High, then similar to the reasons why primary school contributions are not being sought, neither can it be sought for secondary education. No information has been provided to suggest projected capacity issues at either school, despite multiple requests for such information over the previous several months.

5.2.7 The above is an unfortunate position to reach, particularly given the length of time this has taken to receive the response on 10th January 2023. County Education and County Legal would not engage in the contribution secured for projects at Ripley St. Thomas CofE High School, and agreed to be paid by the application, and County Education have failed to provide sufficient information to justify such expenditure further afield. Continuing with this contribution as part of the decision or as suggested within the very recent County Education consultation response would be contrary to guidance regarding planning obligations and the statutory tests of The Community Infrastructure Levy (CIL) Regulations 2010. As such, the proposal is brought back to members of the Planning Regulatory Committee to determine the application with this contribution omitted from the planning obligations progressed as part of the recommendation for approval.

5.2.8 It should be noted that County Education object to the planning application, however it is not considered that the proposal can lawfully seek the contribution recently suggested due to the omissions within the consultation response provided, and a failure to meet CIL compliance requirements. Based on the information available within the formal consultation response, it cannot be concluded that the proposed development would have any adverse impact on local education provision. Given the small shortage of places and the lawfulness of a request relating to other schemes, the proposed development is considered to have a minimal impact upon Education provision and in this regard, despite no financial contribution being sought and the objection from County Education the proposal is still considered favourably.

6.0 Planning Obligations

6.1 A Section 106 Legal Agreement is sought to secure the following:

- Provision of a minimum of 30% affordable housing (7 units on site, 4x affordable/social rent, 3x intermediate tenure);
- Open space provision (on-site amenity green space provision and financial contribution of £10,000 for young persons provision and £22,328.70 for outdoor sports in Cockerham);
- Biodiversity net gain to demonstrate 10% net gain and a Landscape and Ecological Creation and Management Plan showing 30 year management; and
- Provision for long term drainage, open space and landscaping/BNG, maintenance and management company.

7.0 Conclusion and Planning Balance

5.3.1 The scheme was presented to the Planning Regulatory Committee in May 2023. Whilst this resolved to secure a CIL complaint contribution to the nearest secondary school, in agreement with the applicant, it has since been revealed that this school cannot be expanded and accommodate the additional pupils through projects and extensions to the existing facilities. Whilst County Education have sought to redirect this same contribution to more distant secondary schools in the County, unfortunately the Local Planning Authority has insufficient information to conclude that such a necessary to make the development acceptable, as these are not the next nearest schools, nor does it have any information regarding pupil and capacity projections to demonstrate that such projects

and contributions are required to accommodate pupils from the proposed development. It should be noted that without a contribution, County Education object to this planning application. However, requesting such a contribution is no longer CIL compliant for such obligations and issuing a decision on such basis would be considered unlawful. Accordingly, this education contribution cannot be included due to conflict with associated guidance and regulations.

5.3.2 Conditions sought by Councillors previously can be imposed on the consent, and the planning obligations for provision of affordable housing, open space, biodiversity net gain, landscaping, drainage and maintenance of this controlled through legal agreement, with just the omission of education contribution from the previous determination by the Planning Regulatory Committee. With the above in mind, and the fact that education contributions cannot be sought unless they're necessary to make the development acceptable in planning terms, the development as a whole is considered sustainable without this contribution, and the recommendation to support the scheme subject to conditions and the provision of a legal agreement remains. The planning and tilted balance previously carried out stands and weight is given in favour of providing housing, albeit with the small loss of the education provision.

Recommendation

That Planning Permission BE GRANTED subject to the following conditions and Planning Obligations:

- Provision of a minimum of 30% affordable housing (7 units on site, 4x affordable/social rent, 3x intermediate tenure);
- Open space provision (on-site amenity green space provision and financial contribution of £10,000 for young persons provision and £22,328.70 for outdoor sports in Cockerham);
- Biodiversity net gain to demonstrate 10% net gain and a Landscape and Ecological Creation and Management Plan showing 30 year management; and
- Provision for long term drainage, open space and landscaping/BNG, maintenance and management company.

Condition no.	Description	Type
1	Timescale for commencement (2 years)	Standard
2	Development in accordance with approved plans	Standard
3	Scheme of archaeological work	Pre-commencement
4	Final surface water sustainable drainage strategy (SuDS)	Pre-commencement
5	Foul water scheme	Pre-commencement
6	Finished site and floor levels (including gardens and open space) and M4(2) compliance	Pre-commencement
7	Full landscaping and ecological management plan	Pre-occupation and first planting season
8	Ecology mitigation measures	Pre-commencement
9	Full energy efficiency measures	Pre-commencement
10	Submission of an Employment and Skills Plan	Pre-commencement
11	Submission of construction management plan	Pre-commencement
12	Submission of construction environmental management plan, including avoiding noise disturbance activities during wintering bird season	Pre-commencement
13	Submission of construction surface water management plan	Pre-commencement
14	Full details of site access/footway/lighting	Pre-commencement
15	Elevations and external treatment material details and samples	Pre-commencement
16	Contaminated land – further surveys following recommendations of the report	Pre-commencement (other than Cementous removal)
17	Boundary and surface treatments, method statement for such works within tree protection fencing area, remove permitted development	Pre-commencement of boundary/surface treatments

18	Site lighting scheme	Pre-commencement of lighting
19	Scheme for the full engineering, drainage and construction details of the internal estate roads	Prior to commencement of estate roads
20	Off-site highway works, including pavements and bus shelter	Pre-use of access and occupation
21	Visibility splays	Pre-use of access and occupation
22	Sustainable drainage system operation and maintenance manual.	Pre-occupation
23	Verification report of constructed sustainable drainage system	Pre-occupation
24	Obscure glazed openings 18 and 20	Pre-occupation
25	Cycle storage details	Pre-occupation
26	Waste bin provision details	Pre-occupation
27	Homeowner packs ecology	Pre-occupation
28	EV charging	Pre-occupation
29	Implementation of approved tree protection measures	Control, implement prior to commencement
30	Provide and control parking provision	Control, implement prior to occupation

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

Previous report to the Planning Regulatory Committee May 2023