

DELEGATED REPORT

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| Application Reference: | 19/0920 |
| Description of Development | Outline application for residential development with all matters reserved. |
| Case Officer | Nick Atkinson |
| Appraisal | |
| Site | Land at Old Town, High Hesket |
| Proposal | <p>The proposal seeks outline planning consent for residential development on an area of existing hard surfaced employment land, covering a total area of 0.97 hectares. The site is located approximately 430 metres south of the village of High Hesket on the A6 public highway, directly opposite the main residential area of Old Town.</p> <p>Although a new outline application, the application essentially represents a re-submission of planning application 15/0841 which was approved by Eden District Council on the 23 August 2017.</p> <p>The current application only covers the northern half of the existing site. The land to the south would remain as employment land, although an application was submitted (and subsequently withdrawn) for housing on the southern area of the site. Whilst this second application may likely be re-submitted in the future, it is not under consideration in the determination of this current application.</p> <p>Access to the site is achieved from the southbound carriageway of the A6, via an existing access point which currently services the site.</p> <p>Although this is an outline submission with all matters reserved, an indicative plan shows how a housing layout could be achieved for up to 27 houses. Whilst the final layout would be submitted and considered at a Reserved Matters, a lower number of houses would be required than shown on the indicative plans as this layout would not be acceptable or supportable in terms of appropriate design and achieving required levels of public amenity space.</p> <p>The applicant notes that the site is within walking distance of the village of High Hesket, however this is currently only along the grassed verge of the adjacent public highway network. As such, the proposal would be subject to a Section 106 Agreement requiring the creation of a footpath link from the site to the existing footpath network within High Hesket in addition to a contribution to Primary Education provision.</p> |

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| | <p>The application is supported by the following documents and plans:</p> <ul style="list-style-type: none"> - Site Location Plan; - Site Layout Plan; - Design and Access Statement; - Phase 1 Desk Top Survey; - Flood Risk Assessment; - Arboricultural Assessment; - Transport Information; - Noise Assessment. <p>The application site is not located within a Conservation Area, a landscape or any special designation or within an area at higher or increased flood risk. There are no further constraints relevant to the determination of this planning application.</p> |
| <p>Relevant Site History:</p> | <p>20/0009 – Outline application for residential development with all matters reserved. Withdrawn.</p> <p>15/0841 – Outline application for residential development with all matters reserved. Approved 23 August 2017.</p> <p>15/0840 – Outline application for demolition of 2no existing commercial buildings and erection of 5no commercial units (B1 and B2 use) with all matters reserved. Approved.</p> <p>11/0853 – Proposed erection of replacement sales office building. Approved.</p> |
| <p>Policy:</p> | <p>Eden Local Plan (2014-32)</p> <ul style="list-style-type: none"> • LS1 - Locational Strategy; • LS2 - Housing Targets and Distribution; • DEV1 - General Approach to New Development; • DEV2 - Water Management and Flood Risk; • DEV3 - Transport, Accessibility and Rights of Way; • DEV4 - Infrastructure and Implementation; • DEV5 - Design of New Development; • HS1 - Affordable Housing; • HS2 - Housing in Smaller Villages and Hamlets; • HS3 - Essential Dwellings for Workers in the Countryside; • HS4 - Housing Type and Mix; • HS5 - Accessible and Adaptable Homes; • ENV1 - Protection and Enhancement of the Natural Environment, Biodiversity and Geodiversity; • ENV2 - Protection and Enhancements of Landscapes and Trees; • ENV5 - Environmentally Sustainable Design; • COM3 - Provision of new Open Space. |

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| | <p>Supplementary Planning Documents</p> <ul style="list-style-type: none"> • Housing (2010) <p>National Planning Policy Framework (NPPF) 2019:</p> <ul style="list-style-type: none"> • Achieving Sustainable Development • Decision making • Delivering a sufficient supply of homes • Achieving well-designed places • Meeting the challenge of climate change, flooding and coastal change • Conserving and enhancing the natural environment |
| STATUTORY CONSULTATION RESPONSES | |
| Highway Authority | <p>Initially responded on the 20 February 2020 raising an objection to the proposal on highway grounds.</p> <p>However, following consideration of the fall-back position in the previous approval which established the acceptability of accessing the site for an outline residential permission, a second response was received on the 22 April 2020 withdrawing the objection to the proposal, on the basis that conditions are attached to any decision notice as may be issued relating to highway and access improvements.</p> <p>It was also noted that a contribution of £46,000 is required for local footway improvements to link the residential development to existing footways in High Hesket. This contribution would be secured by means of a Section 106 Legal Agreement.</p> |
| Lead Local Flood Authority | <p>Responded on the 22 April noting that the flood risk assessment provided is out of date. However, as this is an outline application with all matters reserved surfa, no objections were raised subject to conditions being attached to any decision notice as may be issued relating to:</p> <ul style="list-style-type: none"> - A surface water drainage and management scheme prior to the commencement of the development. |
| Education Authority | <p>Responded on the 22 April 2020 noting that using a population led model 27 houses will produce a theoretical pupil yield of 9 children (5 primary and 4 secondary). The development is situated in the catchment areas of High Hesket C of E School (0.4 miles) and Caldew School (10.3 miles). High Hesket C of E School is both the catchment and the closest primary school. Caldew School is not the closest</p> |

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| | <p>secondary school; the closest secondary school is Ullswater Community College in Penrith (9.3 miles).</p> <p>The information provided shows that there are not sufficient places in High Hesket CofE School to accommodate the theoretical pupil yield from the development. The next nearest school, Armathwaite School, does have sufficient places but is situated a distance of 2.8 miles from the development. Therefore, a primary school education contribution of £81,290 (5 x £16,258) is be sought.</p> <p>A multiplier of £16,258 has been used which is the £12,051 multiplier identified in the County Council Planning Obligations Policy (2013) index linked using the BCIS All in Tender Price Indexation</p> |
| Environment Agency | <p>Responded on the 16 January 2020 raising no objection to the proposal.</p> <p>It was requested that a condition be attached to any decision notice as may be issued relating to land affected by past contaminative uses. This was requested on the basis that there is no evidence to confirm the remediation of underground tanks and associated infrastructure which may mean that the site is potentially contaminated from fuel dispensing and storage operations and existing residual contamination of soils.</p> |
| DISCRETIONARY CONSULTATION RESPONSES | |
| Parish Council | <p>Initially responded on the 10 February objecting to the proposal on the basis of:</p> <ul style="list-style-type: none"> - Highways Issues; - Physical Infrastructure; - Social Facilities; - Financial Considerations; - Planning Policy. <p>This was a joint consultation response taking into account the current application, in addition to planning application 20/0009, which has subsequently been withdrawn.</p> <p>On the 30 April 2020, following the withdrawal of application 20/0009, and in consideration of the fall-back position that exists for the site, the Parish Council provided a second response withdrawing the objection but still noting the previous concerns that were raised with the proposal.</p> |
| Environmental Health | <p>Responded on the 08 January 2020. The EHO requested that an updated noise survey be submitted to support the proposal in addition to further ground contamination</p> |

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| | <p>assessment, both prior to the determination of this application.</p> <p>Whilst the views of the EHO are duly noted, the Council has accepted the development of the site for housing subject to ground contamination conditions previously. Due to this fall back that exists, it would be unreasonable to now require further assessment at this time prior to determination. As such, standard conditions relating to ground contamination will be attached to the decision notice.</p> <p>In relation to noise, similarly the Council has accepted the principle of the development of this site which remains a strong fall-back position. Whilst the concerns of the EHO are duly noted in this regard, there have been no changes to ground circumstances at the site, to any adjacent land or to the A6 since the time of this grant of consent which would justify an updated noise survey at this time. Neither is there any reason to suggest, that following the previous approval granted, that the site could not be developed without achieving appropriate levels of amenity for future residents.</p> <p>However, it is considered appropriate to bring forward and include the noise conditions imposed on the previous decision notice 15/0841.</p> |
| United Utilities | <p>Responded on the 29 January 2020 raising no objection to the proposal on the basis that conditions are attached to any decision notice as may be approved relating to:</p> <ul style="list-style-type: none"> - a ground contamination risk assessment is secured; - surface water drainage and management details; and - foul water. |
| Housing Officer | <p>Responded on the 11 February 2020 raising no objection to the proposal. The Housing Officer confirmed that the level of affordable housing proposed by the applicant, complied with the Council's Affordable Housing Policy and also Policy HS1 of the Eden Local Plan.</p> <p>It was confirmed that it can be demonstrated that there is an affordable housing need within the wider parish of Hesket and neighbouring parishes, which given the location of the site, can be supported in this instance providing the footpath link from the site to High Hesket was established.</p> |
| Historic Environment Officer – Cumbria County Council | <p>Responded on the 15 January 2020 registering no comments or recommendations to the proposal.</p> |

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| Natural England | Responded on the 10 January 2020 raising no objection to the proposal as there would be no adverse impact upon any nature conservation sites or landscapes. |
| NOTIFICATION RESPONSES | |
| Application advertised by way of immediate neighbour notification letter and site notice posted. | <p>Neighbour notifications were sent out on the 13 January 2020, a site notice erected on the 08 January 2020 and a press notice published on the 25 January 2020.</p> <p>In total 1 letter of objection has been received to the advertisement of this which raises the following points:</p> <ul style="list-style-type: none"> • The plans do not address the issues of highway safety as this new application proposes more traffic to the site; • There are no improvements to the south bound carriageway of the A6 to account for the increase in the amount of traffic; • The plans do not deliver on useable public open space. The proposed public space would be alongside the dual carriageway and could not be used for any purpose other than planting trees to screen the development. |
| OBSERVATIONS | |
| Main Issues: | Appraisal: |
| Principle | <p>In terms of the principle of housing development, consideration is given to the Development Plan. This consists of the adopted Eden Local Plan (2014-2032) and the policies which it contains.</p> <p>The development plan is underpinned by Policy LS1, entitled 'Locational Strategy'. Policy LS1 sets out the hierarchy of settlements where development should be focused in the most sustainable locations, the most sustainable being Penrith, the Market Towns and Key Hubs. In relation to Old Town, the Policy states that the site is designated as a 'smaller village and hamlet'.</p> <p>The settlement hierarchy is intended to ensure that development is located in the most sustainable locations identified by the Council within the development plan. Hence, Penrith is considered the 'main town' and as such is expected to be the focus of the majority of development within the district.</p> <p>The criteria related to smaller villages and hamlets states that development 'will be restricted to infill sites, which fill a</p> |

modest gap between existing buildings within the settlement; or rounding off, which provides a modest extension beyond the limit of the settlement to a logical, defensible boundary; existing development and the reuse of traditional rural buildings and structures’.

Policy HS2 entitled ‘Housing in the Smaller Villages and Hamlets’ reiterates the need for housing in such locations to be restricted in accordance with the Locational Strategy set out in Plan Policy LS1. These restrictions relate to the size of dwellings to be no more than 150 sq. metres in size as well as be subject to local occupancy restrictions.

Policy LS2 of the Eden Local Plan, entitled ‘Housing Targets and Distribution’ confirms that the *‘overall figure for the District has been set at 242 homes per year’*. These include an aim to achieve -20 homes per year in the places designated as villages and hamlets as per Policy LS1. This figure is at a negative value because of the number of planning permissions granted in smaller villages and hamlets over the last few years when they were either designated as ‘Local Service Centres’ as per the previous relevant Core Strategy and/or due to the lack of a five year housing land supply.

In this case, the application site would therefore, not comply with the development plan as it is of a scale and location that is not intended for locations designated as ‘smaller villages and hamlets’ within the plan. In addition, it is noted that the site is relatively poorly related to the settlement of High Hesket.

However, of more significance to determination of this planning application, is that the site has a recognised ‘fall-back’ position due to an extant outline planning permission (ref: 15/0841) previously granted by the authority for the same residential development of the site. This planning history represents a material consideration in the determination of this planning application.

This planning permission granted approval for the same development subject of this current submission, being outline approval for residential development with all matters reserved. Whilst it is noted that the expiration date of this consent is August 2020, this still represents a strong fall back and material consideration for the development. Although the deadline for this submission is now close, at the time of submission of this application, this permission still ran for a further 8 months. It is through no fault of the applicant that the determination of this application has not been dealt with within the statutory 13 week period, and as

such it would be unreasonable for this reduced timescale to be used against the applicant.

The grant of planning permission 15/0841 established the principle of the residential development of the site as being acceptable, which weighs heavily in the planning balance and considerations for the current proposal. This proposal remains extant, and could be lawfully implemented through the submission of the appropriate Reserved Matters application, were this to be submitted by the applicant prior to the expiration of the previously approved outline consent.

In considering the planning balance on this application, whilst the proposal is not in accordance with the current Development Plan, it remains questionable as to whether the site was in accordance with the Development relevant at the time of the determination, and approval, of planning permission 15/0841. In this regard, considerable weight is given to the previous planning history of the site and the previous approval granted by the authority, which establishes the acceptability of the use of this site for the residential development sought. As the current proposal essentially represents a re-submission of the previous application and approval, the details of the current application does not alter the principle as previously established.

Furthermore, it is noted that the site attracts weight and support through the Eden Local Plan and the National Planning Policy Framework by virtue of being previously developed land.

At the time of the previous grant of planning permission, the applicant entered into a Section 106 Agreement requiring a financial contribution to the Highway Authority to create a footpath link from the site to the existing pavement network within the village of High Hesket. This link was sought to provide a greater level of connectivity between the two, and to services and primary school provision within the village. This footpath link was considered to reduce the disconnectivity of the site. In the case of the current application, the applicant is again to provide a financial sum to create the footpath link to the benefit of the scheme.

Therefore, on balance, the weight afforded to the planning history of the site, and the extant planning permission that exists, tips the planning balance in favour of approval despite the application being considered contrary to Policy LS2 of the Eden Local Plan.

Scale & Design

Due to the current submission being an outline application with all matters reserved, it is not possible to assess the scale and design of the proposal at this stage. Such considerations would be deferred and made at the time of the submission of the Reserved Matters application.

Notwithstanding the outline nature of this application, an appropriate and high quality design would be required at a Reserved Matters Stage. This would be required in order to ensure the proposal remained 'in-keeping' with and reflective of the character of the local built environment. The requirements for a high quality design which reflects the local distinctiveness of the area is required both through Policy DEV5 of the Eden Local Plan and reinforced through Chapter 12 of the National Planning Policy Framework.

An objector to the application has raised concerns with the scale of the development, in that it is greater than previously approved. However, whilst this may be the case if consideration is given to application 20/0009 on land immediate adjacent to the site, this application has subsequently been withdrawn by the applicant.

It is noted that the indicative plans submitted with this proposal have demonstrated how up to 27 houses could be achieved on the site. Notwithstanding, the layout shown would not be acceptable or supportable if submitted as such under a Reserved Matters application. The size of the application site has not altered from the previous approval (ref: 15/0841) and as all matters are reserved, no housing numbers have previously been approved for the site. Therefore, the scale of the development remains in line with the previous approval. As such, this will require further consideration by the applicant at the Reserved Matters submission to achieve an appropriate layout, and suitable provision of useable public open/amenity space throughout the site.

However, as the site is not located within a Conservation Area, in the setting of any listed buildings and due to the available space of the site which would enable sufficient separation distances to be achieved to the nearest residential dwellings, there is no reason to suggest that an appropriate final layout, design and appearance of the future dwellings, using a palette of materials that would be considered acceptable and of suitably high quality, could not be achieved in accordance with the requirements of Policies DEV5, HS4, HS5, ENV5 and COM3 of the Eden Local Plan.

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| | <p>For the reasons detailed above, it is considered that matters of scale and design do not warrant the refusal of this current outline planning application.</p> |
| <p>Loss of Employment Land</p> | <p>The current application site represents an area of employment land which would be lost as a result of the implementation of this planning permission and the development of the site for residential purposes.</p> <p>In most circumstances, in accordance with the requirements of the Policy EC2 (Protection of Employment Sites) of the Eden Local Plan, non-allocated sites currently used for employment land purposes will only be supported where the applicant has established one of the following criteria:</p> <ul style="list-style-type: none"> • The loss of the site would have an unacceptable impact upon the quality and quantity of employment land and premises in the area. • The development would result in the removal of a non-confirming use from a residential area. • The benefits arising from the new use for the locality outweigh the disadvantages caused by the loss of an employment site. • It can be shown that the continued use of the site for employment use is no longer viable. <p>In consideration of the above, it is noted that the applicant has not provided any justification which demonstrates that any of the above criteria applies in the case of the current proposal. Whilst some consideration of the provision of affordable housing within the site can be made against the loss of the site for employment purposes, this has not been demonstrated to any significant extent, nor would it be a justifiable jump to make such conclusions. As such, the development cannot be said to comply with Policy EC2 of the Eden Local Plan.</p> <p>Notwithstanding the above, it is considered that the principle of the loss of this parcel of existing employment land has</p> |

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| | <p>previously been established as acceptable through the prior grant of planning permission 15/0841, which as previously noted remains extant and represents a fall-back position for the site.</p> <p>The current proposal mirrors the previous approval, and does not introduce any new features or consideration which would bring into question, the previously established acceptability of the loss of this employment land site.</p> <p>Therefore, whilst the loss of an area of existing employment land is regrettable, and has not be justified in accordance with the requirements of the Eden Local Plan, when the existing site history is taken into account in the planning balance and the weight this is afforded in this specific instance, the proposals lack of compliance with Policy EC2 does not represent a reason or justification for the refusal of this planning application.</p> |
| <p>Impact on the landscape/amenity of the area</p> | <p>The application site currently forms part of a larger existing employment land site, slightly set back from the A6 public highway.</p> <p>The application site is not located within an area of any local or national landscape designation. In its current appearance and use, the site offers no value to the wider appearance and character of the surrounding landscape, and in this regard its re-use for a residential development would result in a negligible impact upon the character of the wider area, although some marginal benefits could be argued through the removal of this brownfield employment land site and the associated buildings and infrastructure.</p> <p>The site benefits from some existing boundary treatment around much, but not all, of its perimeter. Whilst this boundary treatment would not screen any future residential development, it would contribute towards softening its visual impact. With further landscape plantings secured through the reserved matters application, and with the provision of appropriate levels of open space in the final layout, the proposed development of the site could be achieved to a sufficiently high quality which result in no adverse impacts upon the character, appearance of setting of the surrounding and wider rural landscape, in accordance with landscape character elements of Policy DEV5 of the Eden Local Plan.</p> |
| <p>Impact on the living conditions/amenity of neighbouring residents</p> | <p>Due to the outline nature of the proposal and the limited details that are under consideration, it is not possible to fully assess the impact of the proposed development upon residential amenity. The full impacts would be assessed at a Reserved Matter stage once final details were submitted. Notwithstanding, the impact of the proposed development</p> |

upon local amenity is still considered to represent a material consideration in the determination of this planning application when considering the principle of residential development.

Policy DEV5 of the Local Plan requires that development protects the amenity of existing residents and provides an acceptable amenity for future occupiers of any potential development.

In relation to the consideration of amenity impacts upon future residents, the site is located near to the A6 public highway. Whilst the Environmental Health Officer has requested an updated noise assessment for the proposal, there have been no changes in local circumstances which renders the noise assessment considered acceptable for the prior grant of planning permission 15/0841 outdated.

As the acceptability of the principle of developing this site so close to the A6 has previously been established, there remains no reason to suggest that a development could not be constructed upon this site which ensure appropriate amenity levels are achieved for any future occupants.

In relation to the impact of the development upon existing residential properties, this is the more important consideration, specifically Wayside Cottage to the north. Whilst the plans provided with this application are indicative only, they are able to demonstrate that appropriate separation distances can be achieved in the layout of the site, to ensure that the development would not lead to any adverse impacts upon local amenity caused through a loss of light, privacy, nor appear over-bearing or result in overlooking.

In relation to existing residents of the area, it is acknowledged that during any building out of a development amenity can be affected. Such construction works can result in noise and emissions which can impact upon local residents, however this is to be expected for a temporary period. The inclusion of appropriate controls and mitigation secured through the imposition of conditions, deal with such matters satisfactorily.

Therefore, for the reasons detailed above, it is considered that this proposal would not have significant and demonstrably harmful impacts in terms amenity of any

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| | <p>potential and existing residents contrary to policy DEV5 of the Local Plan and the NPPF.</p> |
| <p>Impact on the character and appearance of the built environment (LBs/CA)</p> | <p>An important consideration in the determination of this application is the extent of the impact of the proposed development upon the character of the area and the surrounding landscape</p> <p>Policy DEV5 of the Local Plan requires development to demonstrate a clear understanding of the form and character of the district's built and natural environment. It states that the Council will support proposals that <i>'protects and where possible enhances the district's distinctive rural landscape'</i>.</p> <p>The NPPF also incorporates Section 12 entitled, <i>'Achieving well-designed places'</i>. Paragraph 124 confirms the importance of the design of the built environment, it states, <i>'the creation of high quality buildings and places is fundamental to what the planning development process should achieve'</i>.</p> <p>Paragraph 127 of the NPPF confirms that, <i>'Planning Policies and decisions should ensure that developments:</i></p> <ul style="list-style-type: none"> <i>a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;</i> <i>b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;</i> <i>c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);</i> <i>d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;</i> <i>e) optimise the potential site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and</i> <i>f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high</i> |

standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience’.

The application site is an existing brownfield parcel of existing employment land, which has no local or national landscape designation or protection. The site is set back from the roadside, and whilst it will be visible from the adjacent A6, and surrounding views from the west, much of the site will is not overtly prominent.

The application site makes a limited contribution to the character of the area, due to the limited inter-visibility between it and the surrounding countryside. The site is partially screened from views by existing boundary treatment. The boundary treatment will not screen the proposed development, but will soften its visual impact. In a similar manner, the site does not form any significant public realm of viewpoint for the settlement, nor would the development restrict any views from Old Town to the surrounding landscape.

The principle of the development of this site for residential development, and the visual impact that this would result in to the character of the area, has previously been established through the prior grant of planning permission 15/0841. The current proposal introduces no new considerations which brings the acceptability of the visual impact into question.

With the submission of a high quality design, layout and use of construction materials, and taking into account the current use and appearance of the site, the proposed development would not result in any adverse impacts upon the character of the area above and beyond those previously considered to be acceptable.

The applications site is constrained by and restricted to the existing boundary of the current employment land site, and does not extend into any surrounding previously undeveloped land.

In light of this, it is considered that the proposed development would not have a significantly adverse impact upon the character of the local landscape due to the nature of the proposed development and due to the relatively

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| | <p>limited significance or importance that the site makes to the wider landscape or its setting.</p> <p>Notwithstanding the above, in order to provide further mitigation to soften the visual impact of the proposed development, it is considered prudent and reasonable to secure a scheme of landscape planting through the imposition of a planning condition should permission be granted.</p> |
| <p>Impact on the natural environment (species/habitats)</p> | <p>The application site forms an area of existing employment land, considered to meet the definition of brownfield land. The site is covered by an area of hardstanding across the entire site, used in association with the existing employment land use. In this regard, the site is not considered to be of any significant ecological or biodiversity quality or significance.</p> <p>The boundary treatment along the northern and eastern boundaries of the site consist of a evergreen trees, planted to provide some natural screening to the site. The outline proposal would not require the felling of any of these trees, however this matter would be a consideration of the Reserved Matters application. In consultation with the Council's Arboricultural Officer no concerns or objections have been raised to the proposal.</p> <p>With the inclusion of additional landscaping as part of the Reserved Matters submission, including the provision of public amenity space, the proposal has the opportunity to result in a positive biodiversity and ecological net gain once developed over the existing hardstanding employment site as presently exists.</p> <p>In this regard the proposal is considered to be in-compliance with Policy ENV1 of the Eden Local Plan.</p> |
| <p>Infrastructure (Highways/Drainage)</p> | <p>In terms of access to the site, consideration is predominantly given to the sites compliance with Policies DEV3 and DEV4 of the Eden Local Plan, both of which require that safe levels of access can be achieved to a site without resulting in severe or adverse impacts upon highway safety or the capacity of the network to absorb the likely levels of vehicular movements that would result.</p> <p>In the case of the application site, consideration is also given to the existing lawful use of the site as an area of employment land which already attracts a number of potential vehicles movements each day as part of the daily operation of the business currently located on the site.</p> |

In an initial assessment of the application, concerns were raised by Cumbria County Council regarding the proposed access, including its suitability for a residential development. This view was also initially shared by the Parish Council who at the time objected to the proposal.

However, whilst it is acknowledged that the access road into the site may not be to the satisfaction of the Highway Authority currently, the principle of the use of this access road has already been accepted as being acceptable through the strong fall-back position that exists for the site. In this regard, with this permission still extant for the site, it was not considered reasonable grounds for an objection based upon highway grounds as there have been no material changes to the access arrangements, or to ground conditions at the site, or on neighbouring land, which brings into question the previously accepted position.

In light of this matter, objections from the Highway Authority and the Parish Council were withdrawn, on the basis that further conditions would continue to be secured on any decision notice as may be issued relating to the access and improvements that would be needed.

In addition, a financial contribution was sought at the time of the previous grant of planning permission, and would be secured again, requiring a financial contribution to footpath improvements through a Section 106 Legal Agreement. This money would be used to essentially create a footpath link from the site to the village of High Hesket, linking the site to the settlement by means of a safe and sustainable route.

In relation to drainage, the application site is located within a Flood Zone 1, and there are no known historical records of flood events. There have been no objections raised by any statutory consultees to the proposal in terms of drainage, subject to further details of foul and surface water being secured through the imposition of conditions.

Finally, in relation to education contributions, Cumbria County Council has confirmed that a financial contribution to primary education provision would be required. This was the position at the time of the grant of the previous planning permission, and remains a requirement of this current application. This contribution would also be secured through a Section 106 Legal Agreement.

Therefore, for the reasons detailed above, the site can generally continue to be serviced by appropriate levels of infrastructure and would not result in any adverse or harmful impact in this regards in accordance with Policies DEV3 and

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| | DEV4 of the Eden Local Plan. Such matters will be further mitigated through the imposition of conditions and through the Section 106 Legal Agreement. |
| Conclusion | <p>The proposed development is not considered to be in accordance with the Development Plan, predominantly by virtue of its failure to comply with Policy LS1 (Locational Strategy) of the Eden Local Plan. However, in this regard significant weight is afforded to the sites fall-back position, being an extant planning permission for residential development, which this current application essentially represents a re-submission of. In light of the weight afforded to this fall-back, which represents a strong material consideration, the proposals lack of compliance with Policy LS1 does not represent grounds for the refusal of this current application in this specific instance.</p> <p>The proposal would involve the development of an area of previously developed land currently used for employment provision. Whilst the applicant has provided no strong justification for the loss of this provision, again the strong fall-back that exists for the site establishes the acceptability of the loss of this land.</p> <p>Whilst the proposal attracts some concerns from Cumbria County Council as the Highway Authority relating to access, again the fall-back position that exists establishes the principle of the access to the site, with further mitigation and details being subject to a Reserved Matters submission and the discharge of appropriate conditions.</p> <p>The proposal attracts no adverse amenity, infrastructure/drainage, landscaping or natural environment impacts.</p> <p>Therefore, whilst the proposed development is not considered to be in accordance with the development plan, in consideration of the context of the planning history of the site, this is considered to outweighed by material considerations. Therefore, the application is recommended for approval.</p> |
| RECOMMENDATION | That the application is granted subject to the prior completion of a Section 106 Legal Agreement relating to the provision of 30% affordable housing, a financial contribution of £81,290 towards primary education provision and a financial contribution of £46,000 towards highway network improvements, and subject to following conditions: |

Time limit for commencement

1. The development permitted shall be begun either before the expiration of three years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason - In order to comply with the provisions of the Town and Country Planning Act 1990.

2. The approval of the details of the scale, layout, external appearance of the buildings, the landscaping and access (called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason - The application is in outline form only and is not accompanied by full detailed plans.

3. An application for approval of all reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason - In order to comply with the provisions of the Town and Country Planning Act 1990.

Approved Plans

4. The development hereby granted shall be carried out in accordance with the drawings hereby approved:
 - i. Location Plan (ref: 12-47-PL110 – Rev.a) received 23 December 2019;
 - ii. Arboricultural Informaton (ref: OP-High Hesket – TRE86v1), dated September 2015, received 23 December 2019;
 - iii. Flood Risk Assessment (ref: 15019/FRA/1 – version 2), dated August 2015, received 23 December 2019;
 - iv. Phase 1 Desk Top Study (ref: 2015-1493), dated 22 July 2015, received 23 December 2019.

Reason: To ensure a satisfactory development and to avoid any ambiguity as to what constitutes the permission.

Prior to Commencement

5. Prior to the commencement of any development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance with evidence of an assessment of the site conditions (inclusive of how the scheme shall be managed after completion) shall be submitted to and approved in writing by the Local Planning Authority.

The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. No surface water shall discharge to the public sewerage system either directly or indirectly.

The development shall be completed, maintained and managed in accordance with the approved details.

Reason: To promote sustainable development, secure proper drainage and to manage the risk of flooding and pollution. This condition is imposed in light of policies within the NPPF and NPPG.

6. Prior to the commencement of the development hereby approved, details of predicted noise levels shall be submitted to and approved in writing by the Local Planning Authority in the form of a noise contour plan, that indicates that the outdoor amenity standard for gardens and amenity space achieve 50dB LAeq (16 hr daytime) throughout the site. The development shall then be carried out in accordance with the details of the plan.

Reason: In order to achieve acceptable noise levels for future occupants.

7. Prior to the commencement of the development hereby approved, details of the specific glazing specification to confirm that bedrooms achieve acceptable noise levels during the night time of below 45dB Lmax, shall be submitted to and agreed in writing by the Local Planning Authority. The development shall then be carried out in accordance with these details.

Reason: In order to achieve acceptable noise levels for future residents.

8. Prior to the commencement of the development suitable improvements to the right-hand turn from the north bound carriageway of the A6 into the site shall be carried out by the developer, Details of the improvements shall be submitted to the Local Planning Authority for approval before work commences on site. No work shall be commenced until a full specification has been approved.

Reason - To ensure a minimum standard of construction in the interest of highway safety

9. The carriageway, footways, footpaths, cycle ways etc. shall be designed, constructed, drained and lit to a standard suitable for adoption and in this respect further details, including longitudinal/cross sections, shall be submitted to the Local Planning Authority for approval before work commences on site. No work shall be commenced until a full specification has been approved. These details shall be in accordance with the standards laid down in the current Cumbria Design Guide. Any works so approved shall be constructed before the development is complete.

Reason - To ensure a minimum standard of construction in the interests of highway safety.

10. Ramps shall be provided on each side of every junction to enable wheelchairs, pushchairs etc. to be safely manoeuvred at kerb lines. Details of all such ramps shall be submitted to the Local Planning Authority for approval before development commences. Any details so approved shall be constructed as part of the development.

Reason – To ensure that pedestrians and people with impaired mobility can negotiate road junctions in relative safety.

11. The development hereby approved shall not commence until a contamination risk assessment, demonstrating that the risks posed to groundwater from the development can be satisfactorily managed, has been submitted to and approved in writing by the Local Planning Authority, Thereafter, the development shall be undertaken in accordance with the approved assessment at all times.

Reason: To prevent the pollution of groundwater and ensure there is no contamination to public water supplies.

12. Prior to the commencement of each phase of development hereby approved, no development shall commence until a remediation strategy to deal with the risks associated with ground contamination of the site, has been submitted to and approved in writing by the Local Planning Authority. The strategy will include the following components:

- A site investigation scheme, based on the desk study to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
- The results of the site investigation and the detailed risk assessment referred to above, and based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy above are complete and identifying any requirements for longer-term monitoring of pollution linkages, maintenance and arrangement for contingency action.

Thereafter, the development shall be undertaken in accordance with the approved remediation strategies at all times.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by; unacceptable levels of water pollution.

13. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include the following details:

- Measures to control noise and dust;
- Details and specification of any external lighting;
- Details of pre-construction road conditions established by a detailed survey for accommodation works within the highway boundary conducted with a Highway Authority representative; with all post repairs carried out to the satisfaction of the Local Highway Authority at the applicants expense;
- Details of proposed crossings of the highway verge;

- Retained areas for vehicle parking, maneuvering, loading and unloading for their specific purpose during the development;
- Cleaning of site entrances and the adjacent public highway;
- Details of proposed wheel washing facilities;
- The sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials on the highway;
- Construction vehicle routing;
- The management of junctions to and crossings of the public highway/footpath;
- Surface water management details during the construction phase.

Reason - In the interest of protecting local residential amenity and in the interest of highway safety.

Pre-occupancy or other stage conditions

14.No dwellings shall be occupied until the estate road including footways and cycle ways to serve such dwellings has been constructed in all respects to base course level and street lighting where it is to form part of the estate road has been provided and brought into full operational use.

Reason – In the interest of highway safety.

15.The approved landscaping scheme shall be carried out within 6 months of the date of the first occupation of any building or completion of the development, whichever is the sooner. Any trees or plants/grassed areas which within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size, species and quality.

Reason: To ensure the satisfactory appearance of the site in the interests of visual amenity.

Ongoing Conditions

16.Construction works shall be carried out only between 0800 – 1800 hours Mondays – Fridays; 0900 – 1300

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| | <p>hours on Saturdays and there shall be no activity on Sundays and Bank Holidays.</p> <p>Reason: To safeguard the amenity of residents living nearby.</p> <p>17. Foul and surface water shall be drained on separate systems.</p> <p>Reason: To secure proper drainage and to manage the risk of flooding and pollution.</p> |
| <p>Note to developer:</p> | <p>Informatives</p> <ol style="list-style-type: none"> 1. This decision notice grants planning permission only. It does not override any existing legal agreement, covenant or ownership arrangement. <p>It is the applicant's responsibility to ensure all necessary agreements are in place prior to the commencement of development.</p> <ol style="list-style-type: none"> 2. It is the developer's responsibility to ensure that no protected species are harmed as a result of the development. Should any protected species be encountered during the development then it is advised that the developer inform Natural England immediately and seek all necessary licences. 3. Separate approval for the works hereby granted permission/consent may be required by the Building Act 1984 and the Building Regulations 2000 (as amended), and the grant of planning permission does not imply that such approval will be given. The Council's Building Control Team should be consulted before works commence. You contact the team directly at building.control@eden.gov.uk 4. All works in the highway will require consent from Cumbria County Council under Section 278 of the Highways Act. The developer should require all necessary consent for such works directly from Cumbria County Council. |