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Planning Application no. SL/2019/0602  
Land north of Laurel Gardens Kendal

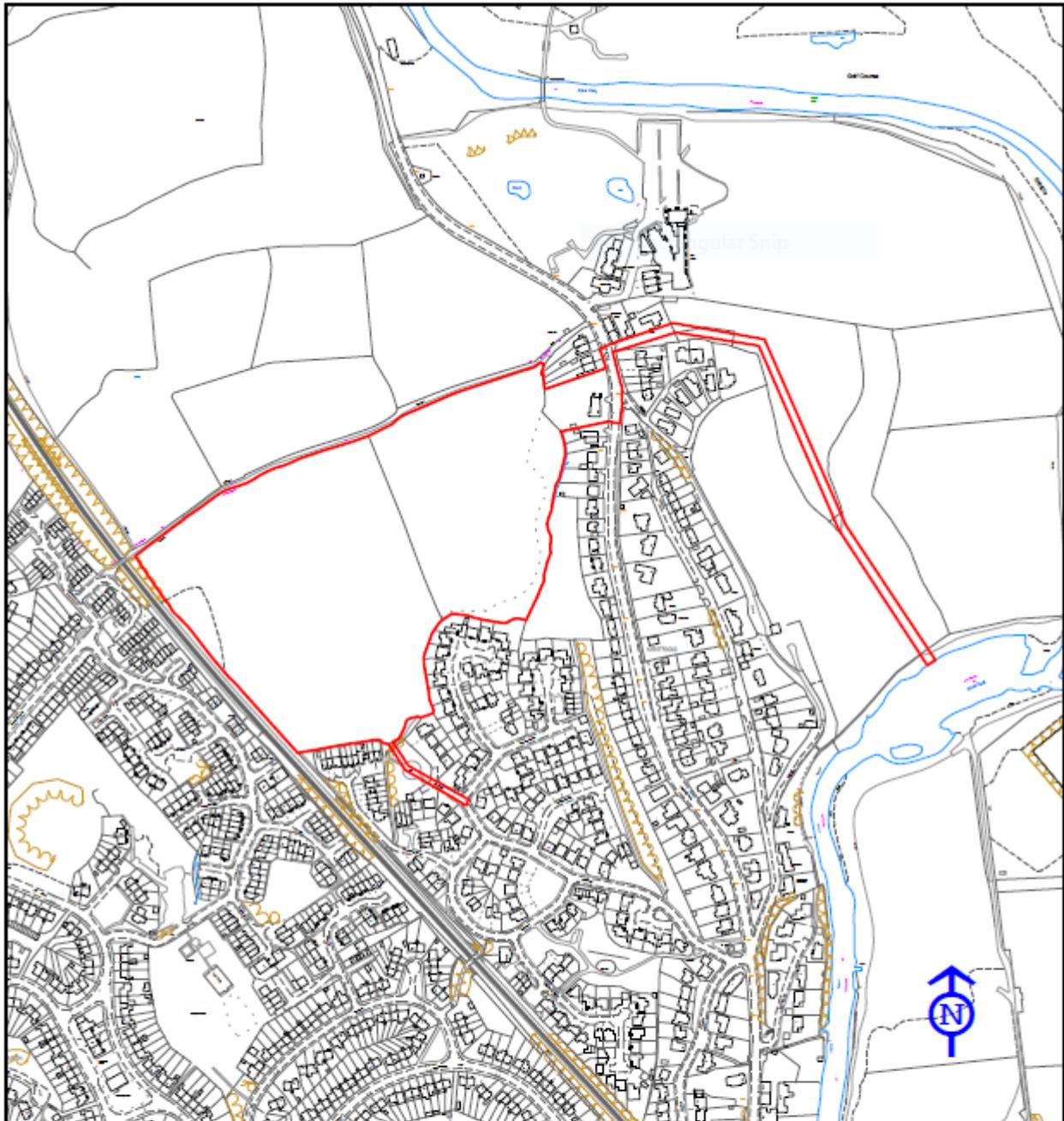
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**SL/2019/0602**

**Land north of  
Laurel Gardens  
Kendal**

Scale: 1:5000

## Summary

SL/2019/0602

PARISH: KENDAL

Land north of Laurel Gardens

PROPOSAL: Residential development with associated landscaping and infrastructure

APPLICANT: Russell Armer Ltd

Grid Ref: E: 351155 N: 494521

Committee date: Thursday, 28th January 2021

Case Officer: Nick Howard

1. This is a full application for 157 houses on the allocated site for development in the South Lakeland Local Plan Land Allocations Development Plan Document adopted December 2013. Policies LA1.3 (allocated sites north of Kendal town centre: North of Laurel Gardens) (197 dwellings) and LA2.2 of the Supplementary Planning Document Development Brief Adopted November 2016 are particularly relevant to this proposal.
2. Development of the site is subject to existing constraints including the variation in sloping levels, rocky outcrop and surface water drainage.
3. The scheme achieves the technical requirements recommended by the various statutory consultees, including those relating to access and surface water disposal. Viability negotiations have resulted in the level of affordable housing provision being below the policy requirement of 35% of the proposed development. The proposed affordable provision will be 20.38% of the total; 32 of the 157 dwellings. 135 of the 157 dwellings will achieve the Building Regulations M4(2) standard, 8 of the units will achieve the Building Regulations M4(3), and 14 will achieve the Building Regulations M4(1). This has been independently reviewed and judged reasonable by external consultants and meets the requirements / exceptions of Policies CS6.3 and DM11.
4. The layout and detailed design have been judged against relevant development plan policies, taking into account comments made in the representations. Careful consideration has been given to the impact on the living conditions of neighbouring residents.
5. Concerns in respect of access to the site have been fully considered by the Cumbria County Council Highways Authority, who raise no objection to the development subject to conditions.
6. Concerns in respect of surface water and sewage disposal within the site have been fully considered by the Cumbria Lead Local Flood Authority, United Utilities and the

Environment Agency. There are no outstanding objections that would not allow the planning application to be approved subject to conditions.

7. No protected trees or other flora and fauna species or animals were identified on site. Enhancements in ecology and biodiversity are proposed within the development site and these are subject to condition.

## Recommendation

The application is presented to committee given the significant size of the development. The recommendation is to approve subject to a Section 106 agreement to deal with affordable housing, off site recreational space, off site drainage and conditions set out at the foot of the report.

## 1.0 Description and proposal

### Site Description

- 1.1. The application site relates to an area of agricultural/grazing land located between Burneside Road to the east, separated by an existing linear residential development, and the Oxenholme to Windermere railway line to the west, beyond which is the Hallgarth residential development. There is a public right of way to the north, beyond which is agricultural/grazing land and the existing residential development at Briarigg / Laurel Gardens to the south. The site extends to an area of 7.85 hectares and slopes steeply upwards from a level of around 50.00m AOD within the lowest area of ground by Burneside Road to 62.00m AOD by the local railway line bridge to Moore Field Close and the Hallgarth residential development. The highest point is at the rocky outcrop of around 65.00 AOD, almost central on the northern boundary, from where the land undulates falling to a lower level of around 55.00m AOD by Briarigg and Laurel Gardens, falling lower in the southeast corner.
- 1.2. The site is within the Kendal Development Boundary, on its northern edge and allocated under Policy LA2.2 of the Land Allocation (LA DPD) and supported by Supplementary Planning Document "Development Brief Land North of Laurel Gardens". The LA DPD identifies the site for 197 dwellings.
- 1.3. The site is bounded to the south by the residential areas of Laurel Gardens, Briarigg and Blackthorn Close and by the Oxenholme to Windermere railway line to the west beyond which lies further residential development on the other side of the railway line. Beyond the northern boundary is open countryside. There are dwellings abutting and overlooking the site that front onto Burneside Road.
- 1.4. There are three public rights of way potentially affected by the development. One runs along the western boundary between the proposed

dwelling and the local Oxenholme to Windermere railway line, one runs diagonally south to north from Briarigg to Burneside Road, and one lies outside but abuts the site along the northern boundary separated by a mature hedgerow.

## Proposal

- 1.5. This is a full application for 157 dwellings.
- 1.6. Vehicular access to the site will be via Burneside Road between numbers 216 and 220. The access incorporates an emergency vehicle access and construction of a roundabout on Burneside Road. Formation of the access will involve removal of the bungalow known as 218 Burneside Road. From the entrance, there is a spur to the left creating a cul-de-sac. The road continues west with no dwellings either side until a spur to the left works its way around the southern edge of the development with soft landscaping and on site drainage positioned on the south side of the road and dwellings on the north side of the road. The western access road continues with dwellings either side, incorporates a loop and connection to another spur, which connects to the southern route. This southern route joins a road running south to north across the site, which has 3 spurs off it creating cul-de-sacs.
- 1.7. The open market and affordable house types are distributed throughout the site in a way that no single type or tenure dominates and are thereby “tenure blind”.
- 1.8. The majority of dwellings front onto the roads.
- 1.9. The public footpath across the site will be diverted and incorporated to follow the southern road close to the site boundary retaining the connection at Briarigg through to Burneside Road. The public footpath parallel with the railway line will be incorporated into the development retaining the connection between the Briarigg/Laurel Gardens residential development and the public right of way along the northern boundary, which connects the Hallgarth residential development to Burneside Road.
- 1.10. The scheme includes 13 named house types, 7 of which have between 2 and 5 variants. There are no bungalows, however, all dwellings meet M4(2) standards and there are ground floor dwellings within the proposed apartments. There is a mix of two and three storey dwellings. As mentioned, the types are located in various locations throughout the site.
- 1.11. Of the total number of dwellings 32 are proposed to be affordable of which 16 are to be affordable rent units, 8 shared ownership and 8 discounted sale houses.
- 1.12. External elevation materials are detailed on drawing BRK.103 (A) and in the House Types document dated December 2019:
  - Russell Roof Tiles "Galloway" thin edge flat interlocking roof tile (slate grey)
  - Windows will be uPVC (anthracite grey)

- Garage doors will be polyester powder coated sectional steel doors
- Facias and verges will be anthracite grey uPVC
- Gutter and downpipes will be black uPVC

## 2.0 Planning History

SE/2019/0002 – screening opinion under EIA Regulations Schedule 2 Development – EIA not required – 13/06/2019

## 3.0 Consultations

### Kendal Town Council

- 3.1. Kendal Town Council object on the grounds that the developer is not providing 35% affordable housing, their response in full states;
- 3.2. Despite being a large plot, there is no opportunity for self-build. The Development Plan encourages developers to include 2 or 3 self-build plots.
- 3.3. The developer claims they cannot afford 35% affordable housing. The Development Plan states that in such a case a developer has to offer clear evidence that affordable housing is unsustainable.
- 3.4. Travel plan. The Kendal Town Council Planning Committee would like to see the path from Burneside Road over the bridge to Hallgarth resurfaced as a cycle path by the developer.
- 3.5. There are many south facing roofs on the proposed development - The Kendal Town Council Planning Committee would like these houses to be made solar panel ready and include electric car chargers.
- 3.6. Reservation with the roundabout at the bottom of Kentrigg.
- 3.7. Concern re surface water catchment area, which is similar to Strawberry Fields. It was stated this was less of an issue on this development, however they would like to request more permeable surfaces. The SLDC Planning Officer dealing with this application had been in contact to inform of changes agreed post viability assessment and to ask whether Kendal Town Council wished to make any further comments. Their revised comments are as follows:
- 3.8. The Chair continued to highlight comments previously made by the KTC Committee in respect of solar panels, self-build and the fact there are no electric car chargers.
- 3.9. KTC Committee felt the issues previously raised have not been answered to Committee's satisfaction given the Committee's knowledge. They acknowledge the independent assessment and feel SLDC should look at

tightening up its criteria to ensure a greater likelihood of achieving its strategic aim re affordable housing. This is especially by means of the Local Plan, which is currently looking to receive representations. Given the S106 figure of under £12k per unit the KTC Committee strongly suggests the future Local Plan should increasingly factor in strategic/services planning costs of any development of this size. The KTC Committee does not feel that this return is adequate.

- 3.10. Whilst discussing the S106 Agreement Members raised concern regarding the impact, the development would potentially have on the number of children attending Burneside school. It was agreed this required consideration and KTC Committee's comments should be forwarded to Councillor Brook.
- 3.11. The KTC Committee also discussed the problem under current rules, and highlighted here, of any high land purchase price leading to a reduced developers' margin and so an inability of councils to strongly require the strategic affordable housing percentage. This could equally reduce any developer's incentive to negotiate down a land purchase price in the future.
- 3.12. KTC Committee trust the SLDC Planning Committee will look at drainage issues in depth in light of previous comments made by the KTC Committee and residents.

Revised comments following reconsultation in February 2020.

- 3.13. The SLDC Planning Officer dealing with this application had been in contact to inform of changes agreed post viability assessment and to ask whether Committee wished to make any further comments. The Chair continued to highlight comments previously made by the Committee in respect of solar panels, self-build and the fact there are no electric car chargers.
- 3.14. Committee felt the issues previously raised have not been answered to Committee's satisfaction given the Committee's knowledge. They acknowledge the independent assessment and feel SLDC should look at tightening up its criteria to ensure a greater likelihood of achieving its strategic aim re affordable housing. This is especially by means of the Local Plan, which is currently looking to receive representations. Given the S106 figure of under £12k per unit the Committee strongly suggests the future Local Plan should increasingly factor in strategic/services planning costs of any development of this size. The Committee does not feel that this return is adequate.
- 3.15. Whilst discussing the S106 Agreement Members raised concern regarding the impact the development would potentially have on the number of children attending Burneside school. It was agreed this required consideration and Committee's comments should be forwarded to Councillor Brook. The Committee also discussed the problem under current rules, and highlighted here, of any high land purchase price leading to a reduced developers' margin and so an inability of councils to strongly require the strategic affordable housing percentage. This could equally reduce any developer's incentive to negotiate down a land purchase price in the future.

- 3.16. Committee trust the SLDC Planning Committee will look at drainage issues in depth in light of previous comments made by this Committee and residents.

## Cumbria County Council Highways and LLFA

- 3.17. On 11th February 2020, Cumbria County Council recommended that the proposal could be approved with conditions. The following comments were made:
- 3.18. Further information, clarification, and minor revisions have been provided by the developer and we can drop our concern about the number of properties served by a looped shared surface road because the proposal is now in accordance with our guidance in this regard. We can also drop our request for an upgrade to the footway towards Burneside because other schools with places are available for the children that will live in this development.
- 3.19. The speed survey data shows that the road speed on Burneside Road at the approaches to the proposed mini-roundabout is 33 mph from the north and 37mph from the south. This means that the proposed roundabout does not achieve adequate visibility for the current road speed and further traffic calming measures are needed to reduce approach speeds. Proposed measures have now been detailed and these measures will need to be reviewed in a Stage 2 Road Safety Audit (and revised if the RSA2 finds that revisions are necessary), be funded by the developer and be delivered prior to commencement of the development. These steps should be secured by condition.
- 3.20. We note the following remaining concerns, which should be addressed by condition to allow for review of these matters prior to commencement.
- 3.21. There is a lack of provision for cycle parking, every house should have bespoke cycle storage, which should be at least as convenient as access to car parking.
- 3.22. All hard surfaced footpaths should run alongside the carriageway and may not be suitable for adoption by the highway authority in cases where they are not immediately adjacent to the carriageway.
- 3.23. A minimum of 6m kerb radius should be provided on any junctions or turning heads that are likely to be used by a large vehicle. The kerb radii on the junction serving plots 122-130 is below that standard.
- 3.24. Without a proposed culvert improvement, ongoing flooding at the Carus Green end of the site will continue within the development site so the development should only go ahead if the flood alleviation scheme is delivered prior to commencement and this should be secured by a s.106 agreement and a condition.

## Countryside Access Officer

- 3.25. Comments received on 30 July 2019 as follows:

Two public footpaths, one numbered 536008 and the other 536009, would be affected by the proposed development. Whilst it is acknowledged in the design and access statement that footpaths exist within the site and new routes are shown for them on appended plans to indicate how they will be retained and be available, there is no mention of the legal process by which this would be done. The applicant must apply to SLDC to divert the footpaths under Section 257 of the Town and Country Planning Act 1990 in order to enable development to take place. In addition, the applicant must apply to Cumbria County Council to temporarily close each footpath by temporary traffic regulation order for which a 14 week minimum period of notice is required for processing. The temporary closures must be in effect prior to the commencement of any development work that affects them.

## Cumbria County Fire Service

3.26. On 07 August 2019 commented:

The Fire Service assessment found that:

Guidance for the layout of residential roads and footpaths can be found in the Department for Transport, and Communities and Local Government document “Manual for Streets”. The requirements for emergency vehicles are generally dictated by the fire service requirements. Providing access for large fire appliances (including the need to be able to work around them where appropriate) will cater for police vehicles and ambulances. In the past Fire Authorities have often argued that the larger the site, the more likely it is that a single access could be blocked for whatever reason. Now there is no defined limit on the length of a cul-de-sac and the number of dwellings it serves. Instead, the applicant must adopt a risk assessed approach, part of which is consultation with the Fire Service. In this case it is the opinion of CFRS that the provision of an alternative emergency access route would be beneficial. Alternatively, residential sprinkler systems may be considered to compensate for the possibility of longer response times.

## Historic Environment Officer

3.27. Comments received on 05 August 2019. The Historic Environment Officer commented that:

The applicant has helpfully commissioned an archaeological geophysical survey of the site and the results indicate that there is a low potential for significant archaeological assets to be disturbed by the construction of the proposed development. I therefore have no objections to the application and I do not wish to make any recommendations

## Cumbria Police

- 3.28. Comments received on 02 August 2019. The Crime Prevention Officer for Eden and South Lakeland NPT's commented on the proposals' compliance with SLDC Policy DM2 to design safe secure environments. Observations are that, although the majority of dwellings overlook the public realm, the layout relies heavily on soft landscape features. It is important that plant elements do not obscure views or create hiding places as they mature. Potentially the garden boundaries of units 66-79 will be obscured by new trees. The Design and Access Statement does not indicate a programme of landscape maintenance and it is imperative that plants are not allowed to become overgrown. Open boarded fencing 1.8m height might be more appropriate to enhance surveillance for these dwellings.
- 3.29. Plots 5-15, 62-63 and 108-114 show a proposed stone wall of 900mm with fencing above. Open boarded fencing is recommended to enhance surveillance for these dwellings.
- 3.30. It is noted that PROW (536008 and (563009) are directly overlooked by numerous and various dwellings across the site and thus demonstrates compliance with DM2(4).
- 3.31. Policy DM2 (4) requires clear and obvious demarcation between private and public spaces. Accordingly, the formation of front garden curtilages for each dwelling contributes to the establishment of private space and promotes the concept of ownership. A continuous line of planting is appropriate for this purpose forming a physical – rather than symbolic – treatment for this purpose.
- 3.32. It is noted that resident's car parking provision is predominantly on-plot positioned to the front where it can be easily seen. However, there are several units where the provision is not so obvious – units 42, 146, 147, 157. Provision for the 'Winsters' housetype in the form of parking courts is well overlooked in each case.
- 3.33. It would be helpful if the application advised on how dwellings shall be protected against forced entry – demonstrating compliance with Building Regulations Approved Document Q. Similarly the protection of garages where they form an integral part of the dwelling.

## Environment Agency

- 3.34. On 31 July 2019 they responded recommending the developer refer to the Environment Agency's Flood Risk Standing Advice.

## Housing Strategy Officer

- 3.35. Following the viability assessment received on 30 January 2020 the Principal Housing Officer removed their objection finding that the breakdown of the proposed affordable dwellings was broadly in line with the evidence of the

SHMA (2017 Strategic Housing Market Assessment) and the Authority's current Guidance for Developers with a 50/50 split between discounted sale and shared ownership and the Housing Strategy and therefore acceptable in terms of tenure and size.

## Strategy Local Plans

- 3.36. The consultation from Local Plans has raised a number of issues, mainly compliance with Policy CS6.3 (affordable housing) and viability, compliance with Policy DM11 (accessible houses), compliance with Policy DM4 and bio-diversity net-gain.
- 3.37. Overall, it is considered the proposal presents a scheme that shows clear attempts in seeking to address the policy requirements and guidance contained in the SPD in respect of design, accessibility, green infrastructure and drainage. However further information is needed in order to determine the extent to which the proposal accords with the Policy CS6.3.

## Public Protection Officer

- 3.38. On 20 August 2019 the Environmental Health Officer provided the following comments and recommended conditions:

## Contaminated Land

- 3.39. The development is to be undertaken in compliance with the Geo Environmental Site Assessment Phase 1 and Phase 2 Reports dated November 2016 and January 2017 respectively.
- 3.40. A Validation Report and Remediation Statement from a competent person, detailing any contamination found during development (including any remediation undertaken), will be required to be submitted to and approved in writing by the Local Planning Authority upon completion of the development. This will require reference to the Phase Two Report.

## Noise

- 3.41. The RS Acoustic Engineering report dated January 2017 identifies the noise climate and the relevant design and performance criteria for the dwellings' façade (particularly windows). Upon completion of the development, written confirmation is to be submitted to the Local Planning Authority confirming compliance with design criteria detailed in the Acoustic Report in regards to BS 8233:2014.
- 3.42. Alternative ventilation to be installed in dwellings as detailed by the RS Acoustic Engineering report dated January 2017.
- 3.43. A two metre acoustic barrier is to be erected on the western boundary line (railway line), positioned as indicated in the RS Acoustic Engineering

report dated January 2017; providing partial noise mitigation and moderating amenity background noise.

- 3.44. No work for this development should take place on the site, except between the hours 08.00 - 18.00 Monday to Friday and 09.00 – 13.00 on Saturdays. In particular, no work should be carried out on Sundays or officially recognised public holidays without the prior agreement in writing of the Local Planning Authority.

## Air Quality

- 3.45. The RS Acoustic Engineering report dated January 2017 identifies the noise climate and the relevant design and performance criteria for the dwellings' façade (particularly windows). Upon completion of the development, written confirmation is to be submitted to the Local Planning Authority confirming compliance with design criteria detailed in the Acoustic Report in regards to BS 8233:2014.
- 3.46. Alternative ventilation to be installed in dwellings as detailed by the RS Acoustic Engineering report dated January 2017.
- 3.47. A two metre acoustic barrier is to be erected on the western boundary line (railway line), positioned as indicated in the RS Acoustic Engineering report dated January 2017; providing partial noise mitigation and moderating amenity background noise.
- 3.48. No work for this development should take place on the site, except between the hours 08.00 - 18.00 Monday to Friday and 09.00 – 13.00 on Saturdays. In particular, no work should be carried out on Sundays or officially recognised public holidays without the prior agreement in writing of the Local Planning Authority.

## Construction

- 3.49. No development shall take place until a Construction Environment Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:-
- 3.50. The parking of vehicles of site operatives and visitors;
- 3.51. Loading and unloading of plant and materials;
- 3.52. Storage of plant and materials used in constructing the development;
- 3.53. Measures to control the emission of dust and dirt during construction (incorporating air quality report requirements);
- 3.54. Measures to avoid excess dirt on adjacent roads;
- 3.55. A scheme for recycling / disposing of waste resulting from excavations; and
- 3.56. Measures to control noise and vibration from plant, equipment and procedures – this to include any rock pecking and excavations.

- 3.57. The approved Construction Method Statement shall be adhered to throughout the construction period

## Conservation Officer

- 3.58. No comments received.

## Arboricultural Officer

- 3.59. The Arboricultural Report provides an accurate appraisal of the trees on and adjacent to the site, and the impact of the development on existing trees. The protection measures given for the retention of existing trees on the site are acceptable. The development does require some minor tree removal; however, the indicative landscaping plan shows extensive replacement and new tree planting as part of the scheme, totalling 363 trees in the current BRK.160 revision (A) plan. Whilst specific species locations are yet to be determined, this is clearly a significant increase in arboricultural diversity throughout the development site.
- 3.60. If this development is granted permission, it is recommended that conditions be attached requiring the development to be carried out in full accordance with the Treescapes Consultancy Pre-development Arboricultural Report dated 24th June 2019, and for the specific details of landscape tree planting to be confirmed in writing prior to commencement of the development through a detailed landscaping specification. This issue can be dealt with by the imposition of a condition.

## Streetscene

- 3.61. The SLDC Street Scene initial comments required additional information and sought amendments to reduce the number of cul-de-sacs on the residential development. SLDC uses a 26 tonne refuse vehicle and often areas intended for turning are blocked by parked residential vehicles. Street Scene vehicles should not be required to reverse more than 12 metres. If Street Scene cannot gain safe access, residents may be required to present domestic waste and recycling at the road end.
- 3.62. The swept path analysis for a 26 tonne refuse vehicle is adequate at all turning heads as long as they are kept clear. A further reduction in the number of cul-de-sacs was hoped for; however, the development cost and topography of the site is acknowledged

## Natural England

- 3.63. No objections. Natural England considers that the proposed development will not have significant adverse impacts on designated sites such as River Kent and Tributaries Site of Special Scientific Interest and River Kent Special Area of Protection.

## Network Rail

- 3.64. No objections.

## Electricity North West

- 3.65. No objections.

## United Utilities

- 3.66. On 12 September 2019, UU confirmed the Asset Management team are satisfied with the drainage information provided at this stage, subject to the suggested conditions in UU's consultation response letter. UU are aware that the Council's Core Strategy Policy CS2 specifically references an identified requirement for work for the capacity of Kendal sewage treatment. UU can advise that to account for population increases in the town and improve wastewater treatment quality in accordance with environmental standards, major infrastructure works have been taking place in 2018/19 at Kendal Works to install a new Nerada sewage treatment plant.
- 3.67. UU advise that for all areas served by United Utilities water and/or wastewater infrastructure, UU will continually monitor both development happening now and into the future, in order to plan where any infrastructure upgrades are required and when. This will continue to take place for the Kendal area.

## Neighbours/Others

- 3.68. The summary of comments below takes account of all comments received by the authority between the time of application submission and the compiling of this report (07 September 2020). To date, 20 objections and 7 observations (repeated submissions from the same address/person are not counted but taken into account) have been received. Site notices were placed around the site following receipt of the application and in late January 2020 due to the amended provision of affordable housing with a deadline of 14 February 2020 for further comments to be submitted. Any further comments received will be reported as late information. The following comments have been made:

## Environment

- 3.69. SLDC has declared a Climate Emergency therefore building on this site and other greenfield sites in Kendal should cease now. To do otherwise is hypocritical and reckless. What is the carbon footprint of the proposed development?
- 3.70. Kendal is not meeting its air quality standards set out in 2010.

## Flooding

- 3.71. Scheme should be considered alongside the Kendal Flood Scheme.
- 3.72. Regularly affects the land around the electricity sub-station.
- 3.73. Regularly affects the gardens of house numbers 220, 222, 224, 226, 218.
- 3.74. Post construction of Carus Green the water that used to flow to the river gathers in the road and affects the house.
- 3.75. Concerned that the proposed drainage scheme will only deal with the drainage from the new houses, exacerbate the existing problems, or not solve them.
- 3.76. Environmental impact on Kent Estuary.
- 3.77. Proposed drainage is inadequate and will result in blockages.
- 3.78. Managed by several people which is undesirable and will likely result in prospective householders having additional bills to pay – who will ensure maintenance is carried out, without which there is a possibility that flooding would occur to existing houses.
- 3.79. Strawberry Fields flooding example of what happens when not maintained.

## Sewage

- 3.80. There are ongoing sewage problems on Burneside Road, leakage occurs – this should be addressed.
- 3.81. The drains and pump can barely cope with existing homes on Briarigg.

## Entrance / road

- 3.82. The new access does not take account of the poor visibility of existing dwellings particularly those by the new junction and increased traffic.
- 3.83. The location is problematic due to the bend and the steep incline from Carus Green towards Kendal. A mini-roundabout in this location will result in large vehicles struggling up the hill from a stationary position and potentially unable to stop travelling downhill.
- 3.84. Difficult for cyclists going uphill having to stop at the roundabout first.
- 3.85. Increased fumes for local residents as a result from vehicles stop and start at the roundabout.
- 3.86. Loss of on street parking for existing residents as a result of the new junction.
- 3.87. During Storm Desmond, Burneside Road was blocked from the railway bridge near Sparrowmire Lane. These new dwellings will increase the number of people

marooned should this event recur – what is being done to remedy this area flooding?

- 3.88. Already high levels of traffic coming and going from Carus Green Golf Club.
- 3.89. Already high levels of HGV vehicles from Croppers Paper Mill.
- 3.90. The new roundabout will be opposite the triangular roundabout at Kent Lea, this is unsafe.
- 3.91. The bus stop will have to be moved.
- 3.92. The road through Briarigg is not designed for through traffic therefore if this route is used it would be unsafe for pedestrians and vehicles.
- 3.93. Street lighting / night sky.
- 3.94. The newly lit streets will reduce the ability to view the night sky. Artificial light should point to the ground away from the sky and the existing houses on Burneside Road, which will be below the new houses.
- 3.95. Kendal's night sky is diminishing as a result of the Sainsbury's development, the industrial estates and other development.

## Transport

- 3.96. The bus is only hourly and changes are required to get to the hospital. The service should be improved. Consideration should be given to a train stop at Hallgarth.

## General facilities of Kendal

- 3.97. All house building in Kendal should be halted until there are more doctors dentists and schools in place, all of which are local services to which tax payers are entitled.
- 3.98. Insufficient jobs for number of houses irrespective of affordable number.

## Loss of green space

- 3.99. Kendal is losing its green fields. Allocating this site is flawed, as it will lead to increased traffic because of the distance to facilities such as shopping, recreation and work places.
- 3.100. The field is popular with walkers and children.
- 3.101. The remaining green space between Kendal and Burneside should be protected.

## Noise / disruption

- 3.102. Increase in activity / pedestrian and vehicle will harm houses next to the new entrance and wider community.

- 3.103. Increased number of vehicles travelling through Burneside village along Hollins Lane to the A591 to avoid the congestion of Kendal.
- 3.104. Already a congestion issue at the Burneside Road junction with Windermere Road, a potential increase of 2 cars per dwelling on 157 dwellings will exacerbate the situation.
- 3.105. Parking spaces near the traffic lights were introduced because of a shop, which has now gone, these cause congestion already – could these be provided on Busher Walk – the situation will be made worse by the developments on Dockary Hall estate and the court house development.

## Residential amenity

- 3.106. New trees should not overshadow existing houses on Laurel Gardens.
- 3.107. Loss of privacy due to the access.
- 3.108. Increased noise nuisance due to the new access and roundabout, traffic stop start.
- 3.109. The semi-detached houses opposite Carus Green will become an island between traffic and pedestrian access.
- 3.110. Connection to Briarigg should be pedestrian only because Briarigg already has problems of density due to vehicles being parked on pavements rather than in garages / on driveways, which is hazardous for pedestrians and emergency vehicles.
- 3.111. The play area is important and should not be lost.
- 3.112. Height of new footpath as it passes Laurel Gardens causes overlooking.
- 3.113. Kendal's infrastructure cannot cope with the existing users, this development will add to the problem.

## Landscape impact

- 3.114. The Landscape assessment doesn't appraise the magnitude of the change from certain properties.
- 3.115. The visual impact would be less if the access had been from the excluded section of land.
- 3.116. The proposal will dramatically change the character of this area of Kendal.

## Affordable housing

- 3.117. Kendal needs affordable housing and there are none.

## Travel plan

3.118. Includes two different site maps, which may lead to incorrect conclusions.

## Other

3.119. There are already a great number of houses being built in Kendal, the logical solution is to build near the M6 corridor.

3.120. The relief road now called 'development route' will make matters worse with houses and businesses either side.

## Other comments received

### Swift Group – Kendal

3.121. Confirmation of Swift activity local to the site and existing swift nesting. Details of how bricks are inserted and willingness to work with the developer to install up to 4 bricks in each dwelling.

3.122. Confirmation of location should be agreed prior to construction.

### RSPB

3.123. In support of the Swift Group and Cumbria Wildlife Trust: Swifts are in decline and it is good practice to include swift bricks in construction of new buildings.

### Cumbria Wildlife Trust

3.124. In support of the Kendal Swift Group.

### Kendal Civic Society

3.125. In support of the Kendal Swift Group.

### Friends of the Lake District

3.126. In support of the Kendal Swift Group.

## 4.0 Relevant planning policies

### National Planning Policy Framework

2. Achieving sustainable development

5. Delivering a sufficient supply of homes

8. Promoting healthy and safe communities

- 9. Promoting sustainable transport
- 11. Making effective use of land
- 12. Achieving well-designed places
- 14. Meeting the challenge of climate change, flooding and coastal change
- 15. Conserving and enhancing the natural environment
- 16. Conserving and enhancing the historic environment

## Local Development Policies

### South Lakeland Core Strategy Policies (CS)

- CS1.1 Sustainable development principles
- CS1.2 The development strategy
- CS2 Kendal Strategy
- CS6.2 Dwelling mix and type
- CS6.3 Provision of affordable housing
- CS8.1 Green infrastructure
- CS8.2 Protection and enhancement of landscape and settlement character
- CS8.3a Accessing open space, sport and recreation
- CS8.3b Quantity of open space, sport and recreation
- CS8.4 Biodiversity and geodiversity
- CS8.7 Sustainable construction, energy efficiency and renewable energy
- CS8.8 Development and flood risk
- CS8.9 Minerals and waste.
- CS8.10 Design
- CS9.1 Social and community infrastructure
- CS9.2 Developer contributions
- CS10.1 Accessing services
- CS10.2: Transport impact of new development

## Local Plan Land Allocations Development Plan Document (LA DPD)

LA1.0 Presumption in Favour of Sustainable Development

LA1.1 Development Boundaries

LA1.3 Housing Allocations

LA2.2 North of Laurel Gardens

## South Lakeland Development Management Development Plan Document Policies (DM)

DM 1 General Requirements for all development

DM2 Achieving sustainable high quality design

DM3 Historic Environment

DM4 Green and Blue Infrastructure, Open Space, Trees and landscaping

DM5 Rights of Way and other routes providing pedestrian, cycle and equestrian access

DM6 Flood Risk Management and Sustainable Drainage Systems

DM7 Addressing Pollution, Contamination Impact, and Water Quality

DM8 High Speed Broadband for New Developments

DM9 Parking Provision, new and loss of car parks

DM11 Accessible and Adaptable Homes

DM21 Renewable and Low Carbon Energy Development

Supplementary Planning Document North of Laurel Gardens, Kendal Development Brief Adopted November 2016 – the Development Brief references the Saved Local Plan Policies relevant at that time. These have now been superseded and the relevant replacement Development Management DPD Policies are set out above.

## Draft North West Inshore and Offshore Marine Plan

Under section 58(1) of the Marine and Coastal Access Act a public authority must take any authorisation or enforcement decision in accordance with the appropriate marine policy documents, unless relevant considerations indicate otherwise.

Formal consultation on the Draft North West Inshore and Offshore Marine Plan has taken place between 14 January and 6 April 2020. The draft plan became a material planning consideration once the consultation commenced, although only limited weight can be applied to it at present.

The application site is not located within the area denoted by the marine activity data mapping tool provided in association with the ongoing consultation and given the location and scale of the proposal, the draft marine policies are not considered to be relevant to the determination of this planning application.

## 5.0 Assessment

### Principle of Development and Local Plan Policy

- 5.1. The application site relates to the housing allocation area within SLDC Local Plan Development Brief LA2.2 and as such, the proposal for residential development in principle is acceptable.
- 5.2. The development proposal should be guided by but not be limited to the guidance given in the Supplementary Planning Document (SPD) Development Brief Land North of Laurel Gardens adopted November 2016.
- 5.3. Since the production of the supplementary guidance, the DM DPD has been adopted and the Framework has been amended. The policies have been assessed by an Inspector, which includes compatibility with the Core Strategy. It is considered that the site remains allocated in an up-to-date development plan and so the principle of development remains acceptable.

### Affordable Housing Provision

- 5.4. Policy CS6.3 states that all schemes of nine or more dwellings in the Principal Service Centres should provide no less than 35% as affordable tenure from the total number of dwellings proposed. However, the policy acknowledges that there are some circumstances where this might not be possible. A lower requirement for affordable housing will be acceptable where there is clear evidence that it would make the development unviable.
- 5.5. In this case, the applicants have submitted a financial viability report as evidence that the abnormal costs in developing this site makes the delivery of any affordable housing unviable. The full report together with an accompanying executive summary are available to view on the Council's website.
- 5.6. As is usual in these circumstances the applicant's viability arguments have been independently reviewed by Lambert Smith Hampton (LSH). LSH's Financial Viability Assessment Review 2 is also available to view in full on the Council's website.
- 5.7. In its conclusion LSH takes the view that much of the Applicant's viability submission (FVA) is acceptable, including the presence of abnormal costs on this site equating to almost £200,000 per net acre (an average of £18,500 per unit). However, in running its own appraisal LSH has made nine specific adjustments. These are summarised below:

- 5.8. Value of the completed development – FVA average value for proposed market units for proposed scheme decreased by circa 1.3% to £251.6/ft<sup>2</sup> (£2,708/m<sup>2</sup>). This slight reduction in value is primarily a result of the FVA, in our view, overestimating the market value of flatted and three storey units.
- 5.9. Value of the Affordable Housing – FVA assumed transfer value of rental units for affordable rent (at 40% of market value) amended to 45% of market value. Some intermediate units may also be designated for shared ownership transfer (at 65% of market value).
- 5.10. Base build costs – Reduced by 13.1% from FVA blended rate across all unit types of £104.84/ft<sup>2</sup> (£1,128.5m<sup>2</sup>) to £91.11/ft<sup>2</sup> (£980.7m<sup>2</sup>). The LSH assumed rate reflects economy of scale savings from a scheme of this scale and the fact that a scheme of this scale would be potentially of interest to a regional or national housebuilder, whilst also taking into account required and proposed external finish treatments within the scheme.
- 5.11. Construction contingency – FVA proposed allowance of 5% of construction costs reduced to 3% in context of greenfield site of this nature. A contingency of 5% has been adopted in respect of abnormal costs only.
- 5.12. Garages - FVA did not explicitly include any costs for the construction of garages. We assume these costs may have been embedded into the overall suggested base build cost. It is our preference to show assumed costs of garage construction separately. Following a review of the submitted documents within the subject Planning Application, we note that the proposed scheme features 102 garages.
- 5.13. External and infrastructure costs – Allowance increased from 15% to 20% of base build costs to reflect our reduction in assumed base build costs and our expectations for a scheme of this nature and scale. In real terms, we have increased the assumed average allowance per unit from £18,714 put forward within the FVA to £21,800.
- 5.14. Professional Fees – FVA allowance of 7% of construction costs reduced to 6.5% to reflect economy of scale savings on a site of this scale.
- 5.15. Sales and marketing costs (including legal fees) – Increased to 1.5% from 0.3% of GDV for affordable units.
- 5.16. Developer profit – The Applicant’s FVA puts forward a target developer return of 20% of GDV for market housing and 10.5% for affordable units. The LSH view is that an appropriate developer return for this scheme would be a blended rate of 20% for market housing and 6% on affordable units, subject to a minimum ‘collar’ of 18% of GDV across all units. This view reflects the position agreed recently by LSH with numerous applicants and LPAs on sites across the north-west of England.
- 5.17. The result of LSH’s revised appraisal is a developer profit of 18.97% of GDV. This leads to a proposed position that the scheme is capable of viably providing an

affordable contribution of 32 units from an overall total of 157 units (i.e. an affordable contribution of 20.38% of total units). All units will accord with policy DM11. Following further direct discussions with LSH, the applicants have accepted LSH's proposed position. The Council's Affordable Housing Officer is content with this proposal in the circumstances.

5.18. The dwellings proposed as affordable housing are as follows:

#### Affordable Rent Units

- 2 x one-bedroomed 'Winster' type apartments (units 122 and 148)
- 10 x two-bedroomed 'Winster' type apartments (units 123 to 127 and 149 to 153)
- 3 x two-bedroomed 'Crooklands' type houses (units 48, 63 and 64)
- 1 x three-bedroomed 'Milnthorpe' type house (units 33)

#### Shared Ownership Units

- 2 x two-bedroomed 'Crooklands' type houses (units 62 and 65)
- 6 x three-bedroomed 'Milnthorpe' type houses (units 32, 34, 47, 49, 74 and 75)

#### Discounted Sale Units

- 8 x three-bedroomed 'Milnthorpe' type houses (units 21, 22, 88, 89, 128, 154 to 156)

5.19. The scheme will also provide the following agreed s106 contributions :

- Off-site drainage works - Contribution to Cumbria County Council costs – precise figure yet to be agreed and will be reported at the committee meeting
- Off-site play equipment contribution – £50,000
- SLDC legal fees (s106 agreement) – Figure to be confirmed by Council's Legal, Governance and Democracy Specialist (Monitoring Officer)

5.20. It is disappointing that this allocated site is unable to deliver the 35% affordable housing that would normally be expected as a minimum. However, the applicants have submitted clear evidence that demonstrates this level of provision would make the scheme unviable in the context of the significant level of abnormal costs present on this site. An independent review by LSH accepts this argument, but concludes that with some flexibility the scheme can achieve provision of 32 affordable units (an affordable contribution of 20.38% of total units) – a notable improvement on the complete lack of provision originally proposed. On that basis, the application is considered to be compliant with Core Strategy Policy CS6.3.

## Policy DM11-Accessible and Adaptable Dwellings

- 5.21. The Policy requires all new homes to meet the Building Regulations Requirement M4(2): Category 2 – Accessible and Adaptable Dwellings, and on sites of over 40 units for 5% of dwellings to meet the M4(3) requirement for wheelchair adaptable homes. Both of these requirements apply to this proposal.
- 5.22. The applicant has stated that following the adoption of SLDC’s Development Management DPD all of the housetypes were redesigned in conjunction with SLDC Building Control to ensure compliance with Policy DM11- Accessible and Adaptable Homes. Accordingly all houses have been designed to be M4(2)- Accessible and Adaptable Dwellings compliant and all eight of the ground floor apartments have been designed to be M4(3)- Wheelchair Adaptable Dwellings compliant which accords with the policy requirement of 5% of dwellings on sites over 40 units. All first and second floor apartments are designed to the M4(1)- Visitable Dwellings standard as they are exempted from the policy due to being on the first floor or above of a non-lift serviced multi-storey development which is specifically exempted by policy DM11.
- 5.23. Policy DM11 recognises that there will be circumstances in which these standards cannot be met, including where “it is not practically achievable given the physical characteristics of the site”. Full compliance with the expectations of Policy DM11 has not been achieved on 14 dwellings which will be M4(1) compliant and are exempted as they are on the first floor or above. There will be 8 M4(3) compliant dwellings and the remaining 135 dwellings will be M4(2) compliant.
- 5.24. Four of the affordable dwellings will be M4(3) compliant and these are a mix of 1 and 2 bed apartments.
- 5.25. The remaining 28 affordable dwellings will be M4(2) compliant. The dwellings are a mix of 2 and 3 bed comprising apartments and houses.

## Landscape character

- 5.26. The Core Strategy Policy CS8.2 requires development to be informed by, and be sympathetic to, the distinctive character of the landscape. Through scale, design and materials, proposals should protect, conserve and, where possible, enhance the landscape, including green gaps that contribute to maintaining a settlement’s identity.
- 5.27. Policy LA2.2 identifies that any development on the allocated site must make provision for a clear landscape and green infrastructure framework, including the retention of hedgerows, and safeguarding of rough marshy grounds at the south east end of the site. The brief states that the vision is for the development to create a residential community of high quality design that complements the local

vernacular architecture and respects the site's edge of Kendal location next to open countryside.

- 5.28. The applicant has submitted a landscape assessment to accompany the planning application. The Cumbria Landscape Character Guidance characterises the landscape in which the site sits as 'Type 7b – Drumlin Field'. The site exhibits some of the characteristics associated with this landscape type due to the undulating topography, strong hedgerow and stone wall boundaries and wet hollows in dips between drumlins. The highest point of the site is at the rocky outcrop on the northern boundary and lowest point is on the northeast boundary at Burneside Road.
- 5.29. The report states that the loss of approximately 6.29 ha of improved pasture is considered to create a low magnitude of change at a local level. In combination with a low sensitivity for the site the likely effects are considered to be minor.
- 5.30. The report has identified 15 visual receptor groups, which may experience potentially significant visual effects due to the development. The assessment considered that from six receptor groups the proposal would have a moderate impact on the landscape. These were in close proximity to the site and such effects would be expected due to the location of the site on the edge of an existing settlement overlooked by properties where complete screening would be undesirable. The remaining nine receptor groups would experience minor or no effects.
- 5.31. When considering wider views of the site, such as from Cunswick Scar or the lower section of Kendal Golf Course, this development will be seen to complete the line of development on the edge of Kendal. The fields to the north provide the visual separation between Kendal and Burneside.
- 5.32. With regard to local views, from residences fronting onto Burneside with views of the agricultural field and the rear of residences on Burneside Road, Laurel Gardens, Briarigg, Blackthorn Close, Acre Moss Lane, and Moorefield the impact of the development on the landscape will be felt most keenly. However, the layout seeks to soften the impact by setting the proposed dwellings as far from the boundaries as possible. Furthermore, the proposal is for a lesser number of dwellings than anticipated in the development brief and therefore the impact is likely to be reduced in this respect.
- 5.33. It is considered that the layout together with the open spaces, varied design throughout the site and proposed expanse of planting will ensure that as much as possible the development will enable the new residential development to have moderate impact on the landscape of Kendal in wider views.
- 5.34. Overall the landscape and visual assessment has been considered and it is agreed that the magnitude of change in the local landscape due to the development is considered to range from low to medium which is within the range of local landscape effects which would be expected for any new

residential development on a greenfield site extension to an existing settlement. The application site is physically and visually contained in the wider landscape by residential developments of Briarigg, Hallgarth and on Burneside Road. The retained hedgerow along the PROW between the local railway line bridge at Hallgarth and Burneside Road ensures the development is visually contained and does not encroach into the Green Gap between Kendal and Burneside. The proposal therefore accords with Policies CS8.2 and LA2.2.

## Residential amenity

- 5.35. DMDPD policy DM1 (General Requirements for all development) establishes that, subject to other policies within the development plan, development will be acceptable provided that, amongst other things, it:

Ensures the delivery of acceptable levels of amenity, privacy and overshadowing for existing, neighbouring and future users and occupants through:

- Provision of adequate spatial separation distances between existing and proposed properties and buildings; and
- Retention and/or provision of adequate public, private and shared spaces and landscaping

- 5.36. The DMDPD does not define appropriate spatial separation distances; these remain to be determined on a case-by-case basis, having regard to established local character and site-specific circumstances, including topography. However, there are various “rules-of-thumb” that can be used as a starting point. For example, it is not uncommon to see 20m or 21m cited as the minimum desirable separation distance between elevations containing windows to habitable rooms. By extension, this reduces to 10 or 10.5m where windows to habitable rooms are facing blank elevations. However, it is important to stress that none of these figures represents a binding standard particularly where, as here, the ground is sloping steeply.
- 5.37. A number of the representations received have come from residents adjoining the western boundary of the application site, concerned about a potential loss of amenity, particularly from overlooking and a loss of daylight/sunlight. The Development Brief marks this boundary as an edge where development needs to be sensitive to existing housing.
- 5.38. There is no doubt that the residential amenity of numbers 216 and 220 Burneside Road will be affected by the construction traffic and later occupation of the residential development by the introduction of additional noise and pollution from traffic and human activity which does not occur at present.
- 5.39. As a result of the new access, noise levels and pollution levels will increase for dwellings near to the new access. However, the acoustic report found these to be acceptable. The public protection officer has not raised an objection but has

requested some conditions to control impacts. Levels can be monitored during and post construction and dealt with under the relevant legislation.

- 5.40. The submitted Construction Management Plan includes a layout of storage and parking areas. Fencing 1.8m in height is to be installed around the boundary of the site during the construction phase and the comprehensive plan includes for continual monitoring to ensure disruption to residents and other users of the road and PROW is kept to a minimum.
- 5.41. The development brief proposed 197 dwellings and the proposal is for 40 fewer dwellings at 157 dwellings, thereby allowing for better spacing internally and externally and increased open space, landscaping and benefits for residential amenity.
- 5.42. There are no identified harmful impacts to residential amenity concerning the proposed dwellings in respect of overlooking window to window relationships or loss of light.
- 5.43. In respect of the relationship with existing dwellings, the distances between existing and proposed dwellings are as follows:
- Laurel Gardens, no.s 21-25 range from 24-33 metres from the nearest plots, which are 35-40 and 77-80. These are well in excess of the 21 metres desirable separation distance.
  - Briarigg no 58 has a separation distance of 34 metres to plot 158, which is well in excess of 21 metres.
  - Burneside Road, no.216 has a separation distance of 15 metres from plot 4. This is taken from corner to corner and given the east/west orientation of the proposed dwelling to the No 216, it would not cause any overlooking to the neighbouring residents. With regard to No 220 it has a separation distance of 20 metres, however this is a gable to gable distance.
  - Blackthorn Close has a row of 10 dwellings located at the end of the road, adjacent to the site. Plot 158 has a proposed gable situated 12 metres from No 21 Blackthorn Close, which is in excess of the 10 metres desirable separation distance. Similarly, the gable of plot 156 is to be located 15 metres from No 9.
- 5.44. With regard to the dwellings on the Hallgarth estate, the nearest elevation to elevation distance is 34 metres, which is between No 36 Acre Moss Lane to plot 139. Two other examples have 36 metres separation distance, which again is well in excess of 21 metres.
- 5.45. Therefore, it is considered that the separation distances, topography and positioning will result in no adverse impact upon residential amenity in respect of light and overlooking.

- 5.46. Parking provided for the dwellings will meet the adopted standards and therefore it is considered that there will be no harm in this respect.
- 5.47. The proposed development will ensure the delivery of acceptable levels of amenity, privacy and overshadowing for existing, neighbouring and future users and occupants through the provision of adequate spatial separation distances between existing and proposed properties and buildings. The proposal therefore accords with Policy DM1.

## Flood risk and drainage

- 5.48. Paragraph 156 of the Framework states that:

‘Strategic policies should be informed by a strategic flood risk assessment, and should manage flood risk from all sources. They should consider cumulative impacts in, or affecting, local areas susceptible to flooding, and take account of advice from the Environment Agency and other relevant flood risk management authorities, such as lead local flood authorities and internal drainage boards.’

- 5.49. Paragraph 163 of the Framework states that:

‘When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
- b) the development is appropriately flood resistant and resilient;
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- d) any residual risk can be safely managed; and
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.’

- 5.50. Paragraph 165 of the Framework states that:

‘Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.’

- 5.51. The Local Policy Core Strategy Policy CS8.8 requires all new development to be located in flood risk zone 1, and that new development will only be permitted if it can be demonstrated that (amongst other things): it would not have a significant impact on the capacity of an area to store floodwater; measures required to manage any flood risk can be implemented; surface water is

- managed in a sustainable way; and provision is made for the long term maintenance and management of any flood protection and/or mitigation measures
- 5.52. This has been reinforced in DMDPD Policy DM6 (Flood Risk Management and Sustainable Drainage Systems), the purpose of which is to ensure existing and new development is not exposed to flood risk and to prioritise the promotion of Sustainable Drainage Systems.
  - 5.53. The application site lies with Flood Zone 1 and Flood Zone 2.
  - 5.54. The location of the entrance is shown on the EA maps to be in Flood Zone 2. This is as due to historic flooding associated with the culvert rather than fluvial flooding. The flooding has been identified by the applicant and the LLFA to be as a result of an under-capacity culvert.
  - 5.55. The remainder of the site lies within Flood Zone 1, which is at the lowest risk of flooding by rivers or the sea. The site was allocated for development through the sequential test taking into account evidence in the Council's Strategic Flood Risk Assessment (SFRA), consistent with Core Strategy Policy CS8.8 (Development and flood risk) and government advice expressed through the National Planning Policy Framework (NPPF). This allocated site was adopted as part of the Local Plan Land Allocations in 2013. This was followed with a Development Brief, 'Land North of Laurel Gardens' adopted in November 2016 and which includes the requirement for the submission and approval of a flood risk assessment and provision for on-site flood attenuation measures.
  - 5.56. The application is accompanied by a "Flood Risk Assessment & Drainage Design Report", prepared by R. G. Parkins & Partners Ltd, July 2019. This considers all existing historic issues in respect of surface water, ground water, watercourses, culvert, impact on the River Kent catchment flood alleviation scheme and sewage.
  - 5.57. The existing watercourse passes through private property and close to existing dwellings. To upgrade this culvert on its existing alignment would be problematic and is not considered a practical solution by the LLFA. After significant investigation work, the preferred option of a replacement culvert is proposed. The work will be undertaken by Cumbria County Council and part funded by the developer to be secured through a S106 agreement.
  - 5.58. It is considered that the improvements to the culvert resulting from the proposed development will remove the area affected from the flood zone 2 designation.
  - 5.59. United Utilities (UU) have agreed in principle that 76 plots will discharge to the combined sewer in Burneside Road, with 85 plots discharging to the foul sewer in Briarrigg. The foul water drainage system shall be constructed to adoptable standards to allow adoption by United Utilities under Section 104 of the Water Industry Act 1991.

- 5.60. United Utilities have confirmed their satisfaction with the drainage information provided at this stage, subject to conditions. UU confirmed their continued work with the applicant and ongoing major infrastructure works taking place at the Kendal Works to install a new Nerada sewage treatment plant to add capacity to meet the increased housing within the town.
- 5.61. Upon completion of works, the applicant intends that the onsite surface water drainage is adopted by UU along with the hydrobrakes and piped sewers leading to the watercourse. Cumbria County Council will be adopting the offsite culverted watercourse and the section on site.
- 5.62. Policy LA2.2 requires the submission and approval of a flood risk assessment and provision for on-site flood attenuation measures. The submitted details therefore accord with this policy.

## Design and layout

- 5.63. The layout of the residential development has been guided by the topography and the landscape character, rocky outcrop, wet areas, existing rights of way, existing and proposed vehicle access, drainage, and in accommodating Policy DM11 requiring M4(2) and M4(3) Building Regulation compliant dwellings.
- 5.64. Policy DM2 provides a set of design principles intended to influence new development so that it ensures the District's characteristics and qualities are maintained and enhanced.
- 5.65. The site is divided by a limestone wall and this is replicated in the design by incorporating limestone boundary walls along the new road in the same/similar location and on other key sections of the layout including the entrance from Burneside Road and the PROW from Briarigg.
- 5.66. The northern site boundary is a limestone wall with mature hedgerow which defines the historical 'green lane' that is the PROW abutting the application site.
- 5.67. The layout incorporates 7 character areas, briefly described below. Full details are contained within the Design and Access Statement:
1. Burneside Road Frontage – Medium density. This area covers the entrance and frontage to the residential development from Burneside Road.
  2. Riparian Ribbon Park – Low density. This area encompasses the curved road in which the diverted PROW from Burneside Road to Briarigg will follow. Open space dominates this character area with dwellings on the north and a blue-green corridor to the south. This gently sloping area will be defined by the blue-green corridor as the land incorporates the drainage and planting schemes.
  3. Western Edge – Medium to high density. This area encompasses the road north to south alongside the local railway line and existing PROW. The linear open space containing the existing PROW creates a buffer to the

railway line. The land here is relatively level with the land rising to the north as it nears the railway bridge crossing.

4. Green – Medium density. This character area is bound by areas 3 and 5 and is near the highest point of the site. A green landscaped open space area is central to this character area.

5. Upper Housing – Medium/ low density. Located at the highest point of the site incorporating the rocky outcrop open space. This is the least dense character area on account of the topography.

6. Lower Housing – Medium density. This area encompasses a relatively flat/ gently sloping area below the existing central field stone wall.

7. Mews – Medium to high density. This area is bound by character areas 6 and 2.

- 5.68. The materials for the external surfaces are taken from a palette shown on drawing BRK.130. The palette, which comprises natural stone, roughcast render and weatherboarding with grey tiles, is in keeping with colours and textures used throughout Kendal and the District.
- 5.69. There are 13 house design types and within these, there are between 2 and 5 variations. The base design of the dwellings takes account of the local vernacular with modern alternatives to the frontages of some of the dwellings.
- 5.70. The proposed scheme is aimed predominantly at family homes in the mid three and four bed size range (4 Bed comprising 37% of the wider development mix, 3 Bed accounting for 40%). Remaining dwellings include smaller one and two bed flats and two bed houses (23%). These smaller dwelling types aim to cater for other lifestyles, e.g. single, young couples and elderly people who wish to downsize from larger homes.
- 5.71. The house design types are distributed throughout the site meaning there is a mix of design and scale so that no one area is characterised by a uniform house type. The affordable dwellings have been distributed throughout the site.
- 5.72. The applicant has confirmed that the development will include sufficient broadband connectivity as required by DM DPD Policy DM8.
- 5.73. Policy DM9 (Parking Provision) states all developments should have acceptable levels of car, motorcycle and bicycle parking. The Highway Authority has said there is a lack of provision for cycle parking and that every house should have bespoke cycle storage. However, the applicant is proposing approximately 70% of the units would have dedicated cycle provision. Full provision has been ruled out on the grounds of viability.
- 5.74. The 'Winster' blocks on plots 035 – 040, 122-127 and 148-153 all have dedicated cycle storage buildings. The 'Lupton' blocks have gardens, which are shared

between the two units in each block, so sheds providing lock-up bicycle storage could be accommodated if required by future occupiers.

- 5.75. Many of the house types have either garages, which could be used to store bicycles. All of these plots have adequate garden space to allow sheds to be sited.
- 5.76. Overall, it is considered that the proposed layout provides appropriate cycle storage facilities for future occupiers and therefore the proposal complies with Policy DM9.
- 5.77. Paragraph 105 of the Framework recommends that planning policies that set local parking standards should take into account the need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles. The applicant is proposing 10% of the proposed dwellings will include electric car charging facilities. The applicant has indicated they will accept a condition requiring these facilities. In the absence of a specific local planning policy, the proposal is considered to provide adequate vehicle charging provision and complies with the provisions of the Framework.
- 5.78. The allocation LA2.2 includes a section of land northeast of the application site, adjacent to Burneside Road, separated by an existing public right of way. This land is in separate ownership. The proposal excludes this small north east section of the allocation because the landowner has not progressed the allocation. However, as part of the proposed scheme an area of land has been left undeveloped to enable access onto this portion of the allocation if required in the future.
- 5.79. Overall, the proposed layout delivers an inclusive design and layout that meets existing needs. It is sustainable, satisfactory in terms of means of access for all and will promote a mixed and well integrated community. The proposal therefore accords with Policy DM2.

## Public Right of Way (PROW)

- 5.80. Policy DM5 seeks to safeguard existing PROW. New development affecting rights of way will be permitted where it maintains and protects their character and function including their public visual amenities, and prevents their loss or provides for satisfactory diversion and ensures they remain safe, attractive and accessible to potential users.
- 5.81. The proposed development will impact upon two PROW's. PROW 574027 runs along the northern boundary of the site from the A6 (to the east) across the railway bridge located adjacent to the north-western corner of the site and to the residential estate beyond (Moore Field Close). This PROW does not appear to be affected.
- 5.82. PROW 53008 runs from Burneside Road at the north east boundary of the site in a south westerly direction through the site area to the play park at Briarigg and meets Blackthorn Close. This will be subject to a diversion from the current position across the field to follow the new footway between the existing access point by the Briarigg

play area to the existing access point where it joins PROW no.574027 linking to Burneside Road.

- 5.83. The second PROW 536009 runs along the railway line from Blackthorn Close to the bridge over the railway line at Moorefield Close. This footpath will be subject to a diversion of a small straight section from its current position parallel to the local railway line to follow the new footway to join with the existing access point meeting PROW no.574027 to cross the local railway line to the Hallgarth residential development or join PROW no.574007 across the agricultural field to the north.
- 5.84. The visual amenity presently experienced on PROW no.'s 536008 and 536009 will be adversely affected by the replacement of green field with hard surface. This is accepted as part of the land allocation process. The design layout has ensured that as much green infrastructure as possible is present along the PROW. The existing stone boundary walls are retained and where practicable / possible stone boundaries are proposed to front gardens facing the PROW. Dwellings are at a distance from the PROW where possible to retain the characteristic of a sense of openness.
- 5.85. The function of connecting the Briarigg residential development with other PROW outside the site is retained in a manner that remains safe and attractive in context. Additionally the improved accessibility of the PROW opens the connectivity to other potential users. In particular, the new PROW from Briarigg to Burneside Road will link to the public footway to Burneside therefore extending off road accessibility.
- 5.86. Overall, the proposal is considered acceptable; however, this is subject to a separate application to the Cumbria County Council Countryside Access Team. Such an application would be subject to consultation. The proposal complies with Policy DM5.
- 5.87. Furthermore, policy LA2.2 requires the provision of pedestrian and cycle links through the site to adjoining residential areas and Burneside Road, which this scheme provides, and therefore accords with this aspect of Policy DM5.

## Biodiversity

- 5.88. The Core Strategy Policy CS8.4 requires all development proposals to protect, enhance and restore the biodiversity and geodiversity value of land and buildings. It also aims to minimise fragmentation of green corridors and maximise opportunities for restoration, enhancement and connection of natural habitats. In addition, it seeks to incorporate beneficial biodiversity and geodiversity conservation features, including features that will help wildlife to adapt to climate change where appropriate.
- 5.89. DMDPD policy DM4 (Green and Blue Infrastructure, Open Space, Trees and Landscaping) expects all development proposals to result in environmental net

gains for biodiversity, unless it can be demonstrated that this is not possible.

- 5.90. The application site at present is mainly used as pasture and does not represent high biodiversity value. The proposed layout has been informed by the rocky outcrop, existing stone walls and hedges and marshy ground within the site. Open green spaces are provided alongside the local railway line with the retention of the PROW, an open area between dwellings nearby, and at the south entrance for the PROW onto Briarigg and along the south east boundary towards Burneside Road as shown on the Strategic Site Plan.
- 5.91. The applicant has submitted an Arboricultural Report and an indicative landscaping plan. The Council's Tree Officer considers the report provides an accurate appraisal of the trees on and adjacent to the site, and the impact of the development on existing trees. The protection measures given for the retention of existing trees on the site are acceptable. The development requires some minor tree removal; however, the indicative landscaping plan shows extensive replacement and new tree planting as part of the scheme, totalling 363 trees in the current BRK.160 revision (A) plan. Whilst specific species locations are yet to be determined, this is clearly a significant increase in Arboricultural diversity throughout the development site. A commitment to planting has been made in the form of a planting schedule of which the specific detail will be required by condition.
- 5.92. An Ecology Appraisal prepared by 'Envirotec' and submitted with the application concluded that the site provided little in respect of habitat or species of note. The periphery of the hedgerow provides some foraging and stop over points for bats but not nesting provision. It also provides foraging and nesting for birds. No specific species of plant or animal was found present at the site although some were found within 2km of the site. The report concludes that the development within the site would not impact on these animals. Mitigation measures including covering up excavation pits but including escape routes and not operating after dusk are recommended in the Ecology Appraisal Mitigation Strategy, which will be conditioned. In the biodiversity calculations statement submitted by 'Envirotech' dated October 2019 the report found that on an area basis the site will be 41.70% better ecologically post development than pre-development. The calculations were made in accordance with the methodology reported in "Biodiversity offsetting Pilots Guidance for Developers (DEFRA, 2012)".
- 5.93. The post construction ecological value, allowing for establishment of newly created habitat is enhanced by an additional 250% for hedgerows/ tree lines and 476% for connectivity. Biodiversity gain is achieved for the site and its immediate setting in line with Policy DM4.
- 5.94. The agent has stated that the built elements of the residential development will incorporate bat boxes, swift bricks and hedgehog highways at appropriate locations.

- 5.95. Overall, the proposal will represent an enhancement of biodiversity and therefore accords with Policies CS8.4 and DM4.

## Play contribution

- 5.96. For Kendal and Ulverston Core Strategy Policy CS8.3a and CS8.3b seeks for residents to be within easy access to a green open space and sport and recreation areas. The target distances are set out in these policies. The development incorporates green open spaces and 2 PROW which lead into other green space and PROW networks. There are 3 play areas within walking distance and the nearest play areas are:
- South on Briarigg (under 5s) and between Briarigg and Hawthorn Gardens (older);
  - West on the Hallgarth residential development between Acre Moss Lane and Low Garth, accessed via the PROW over both bridges over the local railway line (older); and
  - The play area between Briarigg and Hawthorn Gardens.
- 5.97. The third play area listed above was scheduled for an upgrade during the pre-application stage of this development proposal and following discussions with the relevant officers of the council a contribution sum towards improvements of this play area was requested. The play area has recently been vandalised therefore the contribution will be used to repair/replace the play area.
- 5.98. The applicant was requested to provide £50,000 and this is to be included in the S106 agreement as set out in the recommendation below. Overall, the proposal subject to the S106 contribution accords with Policies CS8.3a and CS8.3b.

## Pollution

- 5.99. The application was submitted with an Air Quality Assessment by Redmore Environmental June 2019. The assessment took into consideration EU Directive 2008/50/EC, and UK legislation. The UK Air Quality Standards Regulations (2010) came into force on 11th June 2010 and transpose EU Directive 2008/50/EC into UK law. Also, the Framework Chapter 15, and Local Plan Policies CS1.1, CS9.1 and CS10.2 are of relevance.
- 5.100. In addition factored into the assessment was the 'Review and Assessment of air quality within their area of jurisdiction' undertaken by the council as required by the Environment Act (1995). As a result one AQMA (Air Quality Management Area) has been declared, described as:

"An area comprising Lowther Street and fronting properties in Kendal town centre, plus addition of land to the existing AQMA, comprising Kirkland, Highgate, New Road, Blachall Road, Stramongate, Kent Street, Sandes Avenue, Beezon Road, Wildman Street and Longpool, or parts thereof."

- 5.101. The allocated site for development is located approximately 1.3km north-west of the AQMA. As such, there is the potential for vehicles travelling to and from the site to increase pollution levels in this sensitive area.
- 5.102. Using a baseline of existing circumstances, the construction phase has the potential to generate the most pollutants from dust particles and construction traffic. However assuming good practice for dust is implemented the predicted impact is not significant.
- 5.103. Based on the assessment results, air quality factors are not considered a constraint to granting planning consent for the development.
- 5.104. A detailed construction management plan has been submitted and incorporates measures to manage dust and earth transfer out of the site and this will be conditioned along with the recommended conditions from the SLDC Public Protection Team.

## Other Matters

- 5.105. Most of the issues raised by third party representations have been dealt with in the main body of the report. However, the increased pressure on the local school and services as a result of the future residents residing within the proposal will be dealt with by a significant CIL contribution.

## 6.0 CONCLUSION

- 6.1. This is a full application for 157 houses on a site allocated for development by policies LA1.3 and LA2.2 of the Land Allocations DPD. Therefore, the principle of development accords with an up-to-date development plan.
- 6.2. The applicants have submitted a viability assessment seeking a level of affordable housing provision below the 35% ordinarily expected as a minimum by Core Strategy Policy CS6.3. Following an independent review of the case by Lambert Smith Hampton (LSH), on behalf of the Council, the applicants have offered 32 affordable units, equivalent to 20.38% of the total.
- 6.3. The applicants have submitted clear evidence that the 35% policy requirement would make the scheme unviable. An independent review by LSH accepts this argument, but concludes that with some flexibility the scheme can achieve provision

of 32 affordable units. On that basis, the application is considered to be compliant with Core Strategy Policy CS6.3.

- 6.4. 135 of the 157 units will achieve the optional Building Regulations M4(2) standard. 8 of the 157 units will achieve the optional Building Regulations M4(3) standard. 14 of the 157 units will achieve the optional Building Regulations M4(1) standard which includes provision of level access and a ground floor toilet.
- 6.5. The majority of the application site lies within Flood Zone 1, which is at the lowest risk of flooding by rivers or the sea. The location of the access is identified as Flood Zone 2. The proposal is supported by a Flood Risk Assessment (FRA), which examines other risks of flooding, and this has been used to develop a surface water drainage scheme that includes provision to upgrade the existing underperforming culvert. Nearby residents remain concerned about flood risk and sewage, but the proposals have been independently reviewed by the LLFA, EA and UU all of which raise no objection to the scheme and intend to work with the developer during the construction of the residential development. Cumbria County Council have sought a financial contribution from the developer towards improving surface water drainage from the site. The existing culvert close to the site entrance has been identified for replacement. Negotiations are ongoing to ascertain the precise figure and this will be included within the S106 obligations.
- 6.6. The layout and detailed design have been judged against relevant development plan policies, taking into account comments made in the representations. Careful consideration has been given to the impact on the living conditions of neighbouring properties. Issues surrounding air quality and noise (including noise and disturbance during the construction process) are proposed to be addressed by conditions.
- 6.7. Concerns in respect of the new access to the site and roundabout have been fully considered by the Cumbria Highway Authority, which raises no objection to the development subject to conditions.
- 6.8. The site meets the accessibility standards for open space, sport and recreation established by Core Strategy Policy CS8.3a. Additional open space will be provided within the development, the existing PROW connectivity is retained and enhanced by enabling use by cyclists, prams and anyone with walking disabilities providing improved connectivity between the Burneside and the residential developments of Briarigg and Hallgarth. £50,000 is being sought to enhance the nearby playground at Briarigg. In addition, the CIL contribution estimated at £992,345.31 will be available to fund other projects identified in the Council's Regulation 123 list.

## 7.0 RECOMMENDATION

The application is recommended for approval subject to:

- (1) A section 106 agreement to secure thirty two units of affordable housing;
- (2) £50,000 contribution towards enhancement of off-site recreational open space;
- (3) Contribution towards enhancement of off-site drainage - this will be reported at committee
- (4) Payment of SLDC legal fees
- (5) £6,600 contribution to pay for the Travel Plan administration.
- (6) The conditions set out at the end of this report.

Condition (1) The development hereby permitted shall begin not later than three years from the date of this decision.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Condition (2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Location plan BRK.001

Strategic Site Plan Proposed, dwg no BRK.100 (K)

Detailed Site Layout (Sheet 1 of 2) Dwg no BRK.101 (E)

Detailed Site Layout (sheet 2 of 2). Dwg no BRK.102 (E)

Proposed site sections (sheet 1 of 2) BRK.110

Proposed site sections (sheet 2 of 2) BRK.111

Proposed indicative landscaping plan BRK.160 Rev A

House Types (proposed elevations & floor plans) December 2019; all plans contained in the document.

Elevational finishes plan BRK.103 (A)

External finishes BRK.130

Boundary treatment plan BRK.104 (A)

Proposed Plan of Cycle Stores received 4/12/2019.

Road markings and Signage Proposed Mini Roundabout. Dwg no 2016/1609/003

Lower detention basin construction details K32588/A1/52

Middle detention basin construction details K32588/A1/51

Upper detention basin construction details K32588/A1/50

Surface water drainage outfall pipe long section K32588/A1/47 Rev A

Surface water drainage outfall pipe plan K32588/A1/46 Rev A

Foul & surface water drainage plan 4 of 4 K32588/A1/45

Foul & surface water drainage plan 3 of 4 K32588/A1/44

Foul & surface water drainage plan 2 of 4 K32588/A1/43

Foul & surface water drainage plan 1 of 4 K32588/A1/42

Surface water drainage catchment plan sheet 1 of 2 K32588/A1/40

Surface water drainage catchment plan sheet 2 of 2 K32588/A1/41

Reason: For the avoidance of doubt and in the interests of proper planning.

Highway conditions

Condition (3): Development shall be carried out in accordance with the Construction Management Plan (CMP) incorporating the Health and Safety and Traffic Management Plan submitted on 07/02/2020 and Construction Management Plan for Sustainable Drainage Systems by RG Parkins submitted on 17/12/2019.

Reason: In the interests of ensuring highway safety and to safeguard the amenity of existing dwellings in accordance with policy DM7 (Addressing Pollution, Contamination Impact, and Water Quality) of the South Lakeland Development Management Policies Development Plan Document.

Condition (4): The carriageway, footways, footpaths, cycleways, 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 in relation to the approved highways 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.

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

Condition (5): No dwellings shall be occupied until the estate road including footways and cycleways 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 interests of highway safety.

Condition (6): The access and parking/turning requirements necessary during construction of the development shall be laid out before any building work commences on site so that constructional traffic can park and turn clear of the highway.

Reason: The carrying out of this development without the provision of these facilities during the construction work is likely to lead to inconvenience and danger to road users.

Condition (7) No individual dwelling shall be first occupied until it has been provided with the secure cycle parking provision as indicated on the Proposed Plan of Cycle Stores received 4/12/2019. Thereafter, such provision shall not be removed or altered in such a way that would compromise its use as secure cycle parking.

Reason: To ensure an acceptable standard of cycle parking in accordance with policy DM9 (Parking Provision, new and loss of car parks) of the South Lakeland Development Management Policies Development Plan Document.

Condition (8) No individual dwelling shall be first occupied until its parking provision, as indicated on the Drawings "Detailed Site Layout (Sheet 1 of 2) Drawing no.BRK.101 (E)" and "Detailed Site Layout (sheet 2 of 2). Drawing no.BRK.102 (E) and, where applicable, integral garages shown on the relevant house type designs, has been constructed and made available for use.

Reason: To ensure the timely provision, in the interests of highway safety, of car parking in accordance with policy DM9 (Parking Provision, new and loss of car parks) of the South Lakeland Development Management Policies Development Plan Document.

Condition (9) Within 6 months of the development (or any part thereof) being first occupied, the developer shall prepare and submit to the Local Planning Authority for their approval a Travel Plan which shall identify the measures that will be undertaken by the developer to encourage the achievement of a modal shift away from the use of private cars to visit the development to sustainable transport modes. The measures identified in the Travel Plan shall be implemented by the developer within 12 months of the development (or any part thereof) being first occupied.

Reason: To aid in the delivery of sustainable transport objectives in accordance with Policy CS10.2 of the South Lakeland Core Strategy 2010.

#### Drainage conditions

Condition (10) Foul and surface water drainage for each dwelling must be provided in accordance with the following approved plans:

Lower detention basin construction details K32588/A1/52

Middle detention basin construction details K32588/A1/51

Upper detention basin construction details K32588/A1/50

Surface water drainage outfall pipe long section K32588/A1/47 Rev A

Surface water drainage outfall pipe plan K32588/A1/46 Rev A

Foul & surface water drainage plan 4 of 4 K32588/A1/45

Foul & surface water drainage plan 3 of 4 K32588/A1/44

Foul & surface water drainage plan 2 of 4 K32588/A1/43

Foul & surface water drainage plan 1 of 4 K32588/A1/42

Surface water drainage catchment plan sheet 1 of 2 K32588/A1/40

Surface water drainage catchment plan sheet 2 of 2 K32588/A1/41

Construction of the surface water drainage system must also adhere to: (1) the design principles established in the “Flood Risk Assessment & Drainage Design Report”, produced by R G Parkins & Partners Ltd: report ref. K32588/03/FRA/Ryh REVISION A, dated July 2019.

No individual dwelling shall be first occupied until the relevant parts of the surface water drainage system serving it, together with associated exceedance routes, have been constructed and made operational in accordance with the approved plans.

Reason: To ensure adequate provision is made for the management of surface water in accordance with Policy DM6 of the South Lakeland Development Management Policies Development Plan Document.

Condition (11): Prior to first occupation of the dwellings hereby approved, the works to upsize and divert the existing culvert, as discussed in section 6.3 of the approved Flood Risk Assessment & Drainage Strategy, shall be completed and retained thereafter.

Reason: To safeguard the development from existing flood risk within the site and to ensure that the development does not increase flood risk elsewhere in accordance with Policy DM6 of the South Lakeland Development Management Policies Development Plan Document .

Condition (12): A Surface Water Validation Report that demonstrates that the drainage scheme and exceedance routes are being carried out in accordance with the approved documents shall be submitted for approval to the Local Planning Authority for each distinct phase of this development, but should include as a minimum a construction validation, pre occupation validation and post 50% occupation validation.

Reason: To ensure adequate provision is made for the management of surface water in accordance with Policy DM6 of the South Lakeland Development Management Policies Development Plan Document.

#### Landscape and Ecology Conditions

Condition (13) The development shall not proceed except in accordance with the mitigation strategy described in the Ecological Appraisal prepared by ‘Envirotech’ dated August 2018 and deposited with the Local Planning Authority on 7th May 2019.

Reason: For the avoidance of doubt and to prevent harm to protected species in accordance with Policy DM1 of the Development Management Policies Development Plan Document and Policy CS8.4 of the South Lakeland Core Strategy.

Condition (14) The development shall not proceed except in accordance with the strategy described in Treescapes Consultancy Pre-development Arboricultural Report dated 24th June 2019 and deposited with the Local Planning Authority on 17th July 2019.

Reason: For the avoidance of doubt and to prevent harm to protected trees in accordance with Policy DM4 of the Development Management Policies Development Plan Document and Policies CS8.1 and CS8.2 of the South Lakeland Core Strategy and the application of BS5837 (British Standard for Trees in relation to the design, demolition or construction phase of a development or any subsequent replacement British Standard)

Condition (15) Prior to commencement of development, a scheme for the landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), schedules of plants noting species, plant sizes, the proposed numbers and densities and a maintenance and implementation programme.

a) The approved landscaping scheme shall be fully implemented within the first planting season following completion of the development.

b) All trees, shrubs and hedge plants supplied shall comply with the requirements of British Standard 3936, Specification -for Nursery Stock. All pre-planting site preparation, planting and post-planting maintenance works shall be carried out in accordance with the requirements of British Standard 4428(1989) Code of Practice for General Landscape Operations (excluding hard surfaces).

c) All new tree plantings shall be positioned in accordance with the requirements of Table A.1 of BS5837:2012 Trees in Relation to Design, Demolition and Construction(Recommendations)

d) Any trees, shrubs or hedges planted in accordance with this condition which is removed, die, become severely damaged or become seriously diseased within five years of planting shall be replaced within the next planting season by trees, shrubs or hedging plants of similar size and species to those originally required to be planted.

Reason: To ensure appropriate landscaping of the site in accordance with Policies DM2 and DM6 of the South Lakeland Development Management Policies Development Plan Document and CS8.1 of the South Lakeland Core Strategy 2010.

Condition (16) Prior to first occupation of the development a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas shall be submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall be carried out as approved.

Reason: To safeguard and enhance the character of the area and secure high quality landscaping in accordance with Policies DM1, DM2 and DM4 of the Development Management Policies Development Plan Document

Design and Layout conditions

Condition (17) The dwellings hereby approved shall be constructed to meet the Building Regulations M4(1) M4(2) and M4(3) standards for accessible and adaptable homes as per the Accessibility Schedule prepared by Russell Armer Homes dated January 2020 and submitted to the Local Planning Authority on 5th February 2020.

Reason To secure an appropriate level of compliance with Policy DM11 of the South Lakeland Management Policies Development Plan Document.

Condition (18) The materials to be used in the construction of the external surfaces of the dwellings and garages hereby approved shall be as specified on Drawing BRK.130 – External Finishes and shall be retained as such thereafter unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure compliance with South Lakeland Core Strategy Policy CS8.10 (Design) and policies DM1 (General Requirements for all development) and DM2 (Achieving Sustainable High Quality Design) of the South Lakeland Development Management Policies Development Plan Document.

Condition (19) Prior to the erection of any superstructure plans shall be submitted to the Local Planning Authority for written approval to the proposed biodiversity net gains in respect of Swift bricks / bird boxes. The approved details shall be fully implemented and retained thereafter.

Reason: To ensure the development meets its objective to accord with the DM DPD Policy DM4, and in accordance with the National Planning Policy Framework paragraphs 174(b).

Condition (20) None of the dwellings hereby approved shall be first occupied until the necessary infrastructure is installed to enable access to high speed (superfast) broadband, unless it is demonstrated to be unfeasible in the terms set out in policy DM8 (High Speed Broadband for New Developments) of the South Lakeland Development Management Policies Development Plan Document.

Reason: To comply with policy DM8 (High Speed Broadband for New Developments) of the South Lakeland Development Management Policies Development Plan Document.

Condition (21) No individual dwelling shall be first occupied until its boundary has been enclosed in accordance with the details shown on approved drawing Boundary Treatment Plan BRK.104 (A).

Reason: To ensure compliance with South Lakeland Core Strategy Policy CS8.10 (Design) and policies DM1 (General Requirements for all development) and DM2

(Achieving Sustainable High Quality Design) of the South Lakeland Development Management Policies Development Plan Document.

Environmental conditions

Condition (22) The construction shall take place in accordance with the Construction Management Plan, dated 16/12/2019 and the approved construction method statement shall be adhered to throughout the construction period

Reason: To safeguard the amenity of adjacent residential properties in accordance with Policy DM1 of the South Lakeland Development Management Policies Development Plan Document.

Condition (23) Construction works, including site preparation, earthworks, start-up of machinery, deliveries and unloading of equipment and materials shall not take place outside the hours of 08.00 - 18.00 Mondays to Fridays and 08.00 - 13.00 on Saturdays and at no time on Sundays, Public or Bank Holidays.

Reason: To safeguard the amenity of neighbouring occupiers in accordance with National Planning Policy Framework - Chapter 2 - Achieving sustainable development, para 8 and Chapter 12- Achieving well-designed places, para 127.

Condition (24) The development shall be undertaken in compliance with the Geo Environmental Site assessment Phase 1 and Phase 2 reports dated November 2016 and January 2017 respectively.

Should any contamination be found during the construction, a validation report and remediation statement from a competent person, detailing any contamination found during development (including any remediation undertaken) will be required to be submitted and approved in writing by the Local Planning Authority upon completion of the development. This will require reference to the Phase Two report.

Reason: To remove any risk or concerns for future occupants or owners of the development, and to ensure that site workers are not exposed to the unacceptable risks from contamination during construction in accordance with Policy DM7 of the South Lakeland Development Management Policies Development Plan Document.

Condition (25) Before first occupation of the dwellings, a plan showing 10% of the units to be provided with a functioning electric vehicle charging point, shall be submitted to and approved by the Local Planning Authority. The approved plan shall be fully implemented prior to first occupation of the identified dwellings.

Reason To ensure that the development is at least air quality neutral in accordance with Policy DM7 (Addressing Pollution, Contamination Impact, and Water Quality) of the South Lakeland Development Management Policies Development Plan Document.

