
Planning application no. SL/2019/1032

Holme House Farm, Skelsmergh,
KENDAL, LA8 9AQ

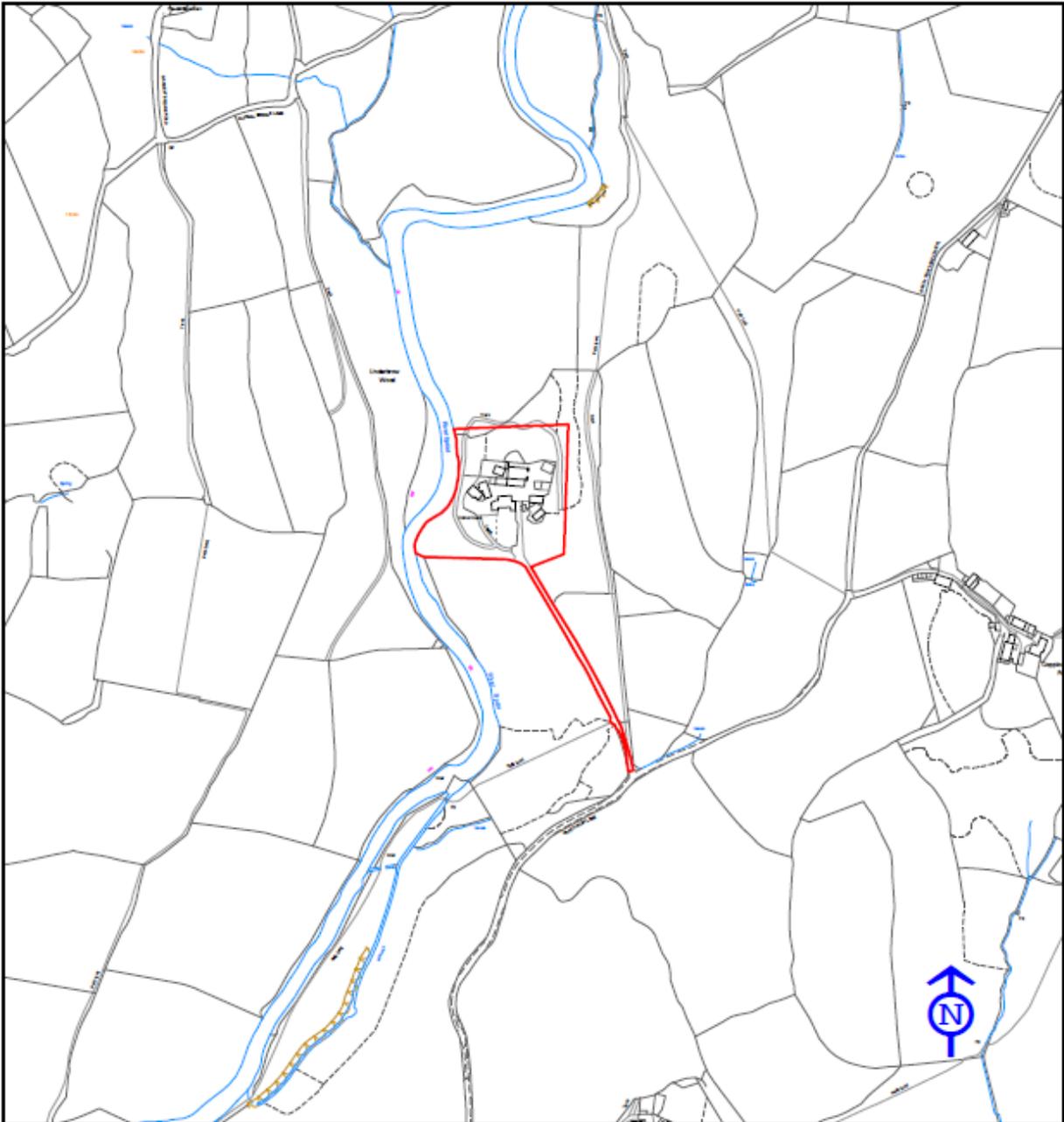
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Contents

Planning application no. SL/2019/1032.....	1
Holme House Farm, Skelsmergh, KENDAL, LA8 9AQ.....	1
Summary	4
Recommendation.....	5
1.0 Description and proposal	5
Site description	5
Proposal.....	6
2.0 Planning history	6
3.0 Consultations	6
Skelsmergh & Scalthwaiterigg Parish Council	7
Cumbria County Council	7
Environment Agency.....	8
Natural England	9
United Utilities	10
South Lakeland District Council	10
Neighbours / third parties.....	10
4.0 Relevant planning policies	10
South Lakeland Core Strategy	10
South Lakeland Land Allocations Development Plan Document	11
South Lakeland Development Management Policies Development Plan Document (DMDPD)	11
Other material considerations	12
5.0 Assessment	12
The presumption in favour of sustainable development.....	12
The development strategy	13
Previously-developed land.....	15
Self-build.....	16
Co-housing	17
Replacement dwellings	17
Shared-use buildings	26
Affordable housing	26
Flood risk	27

Surface water drainage.....	30
Foul drainage.....	31
Landscape impact.....	31
Access and parking.....	33
Public rights of way.....	34
Biodiversity.....	34
6.0 Conclusion.....	36
7.0 Recommendation.....	37



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SL/2019/1032
Holme House Farm
Skelsmergh
KENDAL
LA8 9AQ
Scale: 1:5000



Summary

SL/2019/1032

PARISH: Skelsmergh

Holme House Farm, Skelsmergh, KENDAL, LA8 9AQ

PROPOSAL: Demolition of existing buildings and erection of five dwellings and shared-use buildings

APPLICANT: Holme House Farm Ltd

GRID REF: E: 352075 N: 497070

COMMITTEE DATE: 25 February 2021

CASE OFFICER: Andrew Martin

This application has been brought to Committee because an approval would not be in accordance with the provisions of the development plan.

The application has been made in outline with all matters reserved. It proposes the demolition of all of the existing structures on the site and their replacement with five detached dwellings, together with one or more “shared-use buildings.”

Holme House Farm is in the open countryside for the purposes of applying current development plan policy. It is therefore in a location where new residential development is generally regarded as unsustainable. The Council’s development plan has no specific policy relating to replacement dwellings in the open countryside. Nevertheless, established residential use can be a material consideration when assessing whether or not the principle of new housing is acceptable in locations where, as at Holme House Farm, it would otherwise be in conflict with the District’s development strategy. In this case, for that reason, the principle of five replacement dwellings is judged acceptable.

Recommendation

Approve subject to: (a) adoption of the applicant’s Shadow Habitats Regulations Assessment; and (b) conditions.

1.0 Description and proposal

Site description

- 1.1. Holme House Farm is an isolated collection of dwellings and former agricultural and industrial buildings situated approximately 4km north of Kendal,

and 2km east of Burneside. It sits immediately to the east of the River Sprint where the Environment Agency Flood Map for Planning shows the majority of the site to be within Flood Zone 3a, fringed by areas of Flood Zone 2. The site is accessed via a 250m long private track extending from Garth Row Lane to the south, a narrow rural lane that connects with the A6 in Skelsmergh, approximately 1km to the north-east. The southern boundary of the Lake District National Park is located approximately 1km to the north.

- 1.2. Two public rights of way cross the access to the site. Footpath 570030 runs northwards from Garth Row Lane, passing the application site on rising ground to the east. Footpath 570018 spurs westwards from footpath 570030 and then follows the River Sprint south-westwards.
- 1.3. The dwellings on the site comprise four mobile homes, all accepted as having lawful residential use, and a farmhouse, accepted as having a lawful use for two dwellings.

Proposal

- 1.4. The application has been made in outline with all matters reserved. It proposes the demolition of all of the existing structures on the site and their replacement with five detached dwellings, together with one or more “shared-use buildings.” The “shared-use buildings” were added to the description of development in January of this year to support the applicant’s intention to create a “co-housing” community on the site.

2.0 Planning history

- 2.1. The following history is relevant:
 - SL/2016/1150 (OPP), Demolition of existing buildings and erection of five dwellings, Approved 23 February 2017
 - SL/2009/0681, Enforcement appeal re. enforcement notice issued in respect of change of use of land to a mixed use; commercial business, tipping of waste, conversion of farmhouse to two dwellings, siting of residential caravans / chalet-cabins, erection of agricultural buildings and erection and siting of storage units, Appeal dismissed and enforcement notice upheld with variations, 29 September 2010 (“the 2010 appeal”)
 - 5972855, Certificate of lawfulness: existing use in breach of planning condition (siting of 4 caravans), Approved 21 May 1998

3.0 Consultations

- 3.1. The application was originally publicised in January 2020. It was re-publicised in

January 2021 following amendment of the description of development to include shared-use buildings.

Skelsmergh & Scalthwaiterigg Parish Council

3.2. Comments as follows:

19 February 2020

“The [Parish Council] supports the renewal of the outline consent.”

Cumbria County Council

Local highway authority

3.3. Comments as follows:

27 February 2020

“Number of parking spaces and proposed improvements to the existing access are acceptable from highways point of view. It however required for the first 10 [metres] of the access drive from U5273 to be improved by hard bound surface.

“In addition, a PROW [public right of way] (public footpath) number 570030 and 570018 runs through the site (access lane), the applicant must ensure that no obstruction to the footpath occurs during, or after the completion of the site works. The temporary closure order under Section 14 of the Road Traffic Regulations Act 1984 may be required for any works undertaken on or near the PROW so [the] applicant [will] need to contact [the] County Access Team [...] for further advice.”

[Conditions recommended]

Lead local flood authority

3.4. Comments as follows:

27 February 2020

“Submitted details show the outline proposal of the drainage and it is acceptable in principle, however detailed plans need to be submitted for approval with the reserved matter stage of the application. “

[Conditions recommended]

Countryside Access Officer

3.5. Comments as follows:

27 January 2021

“There should be no interference with public footpath No.570030 throughout the duration of the construction phase and thereafter. Should it be known that any work on the ground, such as connections to underground services would affect the footpath then it would be necessary for the applicant to apply to Cumbria County Council to temporarily close it by means of a temporary traffic regulation order for which a minimum notice period of 14 weeks is required for processing. An application for this can be made via this email address: Countryside.Access@cumbria.gov.uk.

“Both the temporary access to the site for construction and the permanent access would be made along a route leading from the U5273 (Garth Row Lane). If this route is to be resurfaced as part of the overall scheme then it would be necessary for public footpath No.570030 to be temporarily closed as described as it leads from the same point. In addition to this, a public footpath, which is numbered 570018, crosses this route and would also need to be temporarily closed if this planned.”

Environment Agency

3.6. Comments as follows:

02 February 2021

“We have no objection in principle to the description amendment to include additional “shared use buildings”. Our letter [...] dated 14 January 2020, and the Flood Risk Assessment submitted under SL/2019/1032 are still valid for any additional “shared use buildings”.

14 January 2020

“We have no objection in principle to the outline planning proposal, but wish to make the following comments:

“We have reviewed the Flood Risk Assessment (FRA) prepared by Flood Risk Consultancy Limited (referenced 2019-021 Revision B, dated 05/12/2019), submitted with the application and we are satisfied that it demonstrates that the proposed development will not be at an unacceptable risk of flooding or exacerbate flood risk elsewhere.

“The proposed development must proceed in strict accordance with this FRA and the mitigation measures identified as it will form part of any subsequent planning approval. Any proposed changes to the approved FRA and / or the mitigation measures identified will require the submission of a revised FRA as part of an amended planning application.

“We have conducted a basic model review and are satisfied that the model is appropriate for the FRA. The FRA concludes the site to be in Flood Zone 1, however for planning purposes the Environment Agency Flood Map for Planning is valid and we therefore consider the site to be in Flood Zone 3.

The FRA does consider the proposal to be in Flood Zone 3 when applying the relevant climate change allowances, and as such provides a suitable finished floor level of 79.1mAOD which is 0.6m higher than the modelled 1 in 100 year flood event plus 70% climate change allowance.

“Please note that while we accept the findings of the FRA, in this instance, this should not be taken to mean that we accept the modelling undertaken or that changes to Flood Map for Planning will be made on this basis. Changes to Flood Map for Planning can and will only be made subject to formal challenge and after a successful evidence review, which would assess and approve the suitability of the model to make any changes to Flood Map for Planning. This is a separate process to planning consultations, and a process that can be technical and time consuming and for which it would be unrealistic to assume could be undertaken in timescales associated with the determination of Town and Country Planning Act applications.”

Natural England

3.7. Comments as follows:

26 November 2020

“Natural England agree with the conclusions and the mitigation proposed within the bat survey.

“With regards to the HRA and subsequent CEMP we advise our previous comments are incorporated to ensure no impacts on the adjacent River Kent SAC:

“If any excavations need to be left open overnight a means of escape for otter should be provided with a plank situated at no more than forty five degrees within the excavation.

“Any lighting during the construction and operational phases of the development must be directed away from the River Sprint and the associated woodland, and construction works should be limited to daylight hours to prevent disturbance to foraging otter and bats.

“Surface water discharge at the built stage of the development is proposed to go via a SuDS system. Details of this and its location need to be provided to ensure it will adequately remove contaminants before discharge to the river.

“Foul water via a package treatment plant will require an Environmental Permit from the Environment Agency to ensure no deterioration in water quality of the SAC.

“The proposed gravel track is in close proximity to the river bank. This should have a geotextile underlay and be a neutral stone.

“Please contact the ecologist for advice on the likelihood of the buildings to be demolished being suitable for barn owl.

“Please also seek at least a 10% biodiversity net gain for this proposal.”

United Utilities

3.8. Comments as follows:

10 January 2020

Recommends conditions in respect of: (1) surface water disposal; (2) maintenance of surface water disposal infrastructure; and (3) separate systems required for the disposal of foul and surface water.

South Lakeland District Council

Specialist – Arboriculture

3.9. Comments as follows:

17 January 2020

“I have been to the site on a number of occasions and assessed the trees. In the event of outline permission being granted I recommend that the applicants are required at reserved matters stage to provide an Arboricultural Impact Assessment and Arboricultural Method Statement for the scheme. This will consider the impact of the finalised layout on existing trees and address any additional mitigation which may be necessary.”

Public protection

27 January 2020

Recommends conditions in respect of: (1) private water supply; (2) foul drainage; (3) contaminated land; and (4) noise. [The recommended conditions in respect of private water supply and foul drainage raise issues beyond the remit of the local planning authority, but have been included as informatives in the recommendation].

Neighbours / third parties

3.10. We have received no letters from neighbours or third parties.

4.0 Relevant planning policies

South Lakeland Core Strategy

4.1. The following Core Strategy policies are considered relevant to the proposal:

CS1.1: Sustainable Development Principles

- CS1.2: The Development Strategy
- CS5: The East (including Milnthorpe and Kirkby Lonsdale)
- CS6.6: Making Effective and Efficient Use of Land and Buildings
- CS8.1: Green Infrastructure
- CS8.2: Protection and Enhancement of Landscape and Settlement Character
- CS8.4: Biodiversity and Geodiversity
- CS8.7: Sustainable Construction, Energy Efficiency and Renewable Energy
- CS8.8: Development and Flood Risk
- CS8.10: Design
- CS10.2: Transport impact of new development

South Lakeland Land Allocations Development Plan Document

4.2. The following Land Allocations DPD policies are considered relevant to the proposal:

- LA1.0: Presumption in favour of sustainable development
- LA1.1: Development boundaries

South Lakeland Development Management Policies Development Plan Document (DMDPD)

4.3. The following DMDPD policies are considered relevant to the proposal:

- DM1: General Requirements for all development
- DM2: Achieving Sustainable High Quality Design
- 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
- DM11 – Accessible and Adaptable Homes
- DM12 – Self-Build and Custom Build Housing

Other material considerations

National Planning Policy Framework

- 4.4. The following sections are considered relevant to this application.
2. Achieving sustainable development
 4. Decision-making
 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

Cumbria Development Design Guide

5.0 Assessment

The presumption in favour of sustainable development

- 5.1. Paragraph 8 of the National Planning Policy Framework (NPPF) introduces the overarching economic, social and environmental objectives central to achieving sustainable development. Paragraph 9 is clear that these objectives should be delivered through the preparation and implementation of development plans and the application of the policies in the NPPF; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.
- 5.2. To these ends paragraph 11 of the NPPF states that plans and decisions should apply a presumption in favour of sustainable development. Paragraphs 11(c) and 11(d) tell us that for decision-taking this means:
- c) approving development proposals that accord with an up-to-date development plan without delay; or
 - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed¹; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

5.3. Paragraph 12 of the NPPF tells us that:

“Where a planning application conflicts with an up-to-date development plan [...] permission should not usually be granted.”

The development strategy

Policy position

- 5.4. In terms of applying the NPPF’s presumption in favour of sustainable development, those policies within the Council’s development plan that establish the District’s overall development strategy are among the most important.
- 5.5. Core Strategy policy CS1.2 (The Development Strategy) identifies a four-tier, sustainable settlement hierarchy for the District comprising: (1) the Principal Service Centres of Kendal and Ulverston at the top, where the majority of new housing and employment development will be concentrated; (2) three, Key Service Centres; (3) 17 smaller Local Service Centres; and (4) finally, a disperse pattern of “Rural Settlements” comprising smaller villages and hamlets, some (but not all) of which are identified on Figure 6 (page 20) in the Core Strategy.
- 5.6. The Land Allocations DPD identifies development boundaries for the three tiers of service centres, but not for “Rural Settlements”. The definition of these smaller individual villages and hamlets, and decisions about whether or not they are sustainable locations for growth, has always been a matter of judgment. Areas beyond the limits of any settlement are regarded as being within open countryside, wherein there is a general presumption against new development.
- 5.7. The updated version of the National Planning Policy Framework (NPPF), published in February 2019, reinforces the potential role of villages, stating (at paragraph 78) that:

¹ The policies referred to are those in the NPPF (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 176 of the NPPF) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 63 of the NPPF); and areas at risk of flooding or coastal change.

“To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services.”

5.8. DMPDP policy DM13 was introduced to provide a clearer definition of smaller villages and hamlets and to establish a series of criteria for assessing the suitability of any new development proposed in settlements of this scale. Policy DM13 replaces that part of Core Strategy policy CS1.2, and supporting paragraph 2.25, relating to small scale ‘infilling and rounding off’ housing development on the edge of the district’s small villages and hamlets with no development boundaries.

5.9. Core Strategy policy CS1.2 maintains a general presumption against development outside of recognised settlements, although recognising that:

“Exceptionally, new development will be permitted in the open countryside where it has an essential requirement for a rural location, is needed to sustain existing businesses, provides for exceptional needs for affordable housing, is an appropriate extension of an existing building or involves the appropriate change of use of an existing building.”

5.10. This is consistent with paragraph 79 of the NPPF which states that:

“Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;
- d) the development would involve the subdivision of an existing residential dwelling; or
- e) the design is of exceptional quality, in that it:
 - f) is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
 - g) would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.”

5.11. Although the Core Strategy is now 10 years old, its approach towards focusing development within, or on the edge of, identified settlements (as

amended by DMDPD policy DM13) remains up-to-date for purposes of applying the NPPF.

The position at Holme House Farm

- 5.12. Holme House Farm is located approximately 4km north of Kendal and 2km east of Burneside. It lies beyond the development boundaries of any of the Principal, Key and Local Service Centres identified in the Land Allocations DPD and it is remote from any other smaller village or hamlet. It does not represent a “recognised settlement of normally 10 or more dwellings”, which would give it some status in the context of DMPDP policy DM13. The proposal does not qualify under any of the exceptions listed in Core Strategy policy CS1.2, nor in paragraph 79 of the NPPF. Consequently, for the purpose of applying the District’s up-to-date development strategy Holme House Farm is in the open countryside and the current proposal is contrary to the objectives of Core Strategy policy CS1.2 and DMDPD policy DM13.
- 5.13. It therefore follows that the proposal does not enjoy the presumption in favour of sustainable development as it is defined in paragraph 11 of the NPPF.

Previously-developed land

- 5.14. The applicants have stressed that this proposal involves previously-developed or ‘brownfield’ land. That is a moot point. The NPPF’s definition of previously-developed land precludes land which is not occupied by a permanent structure and land “last occupied by agricultural or forestry buildings”. That definition would seem to exclude the land occupied by the existing caravans / mobile homes, and may also exclude some of the non-residential buildings. The 2010 appeal decision states (at paragraph 52) that:
- “... the baseline development on the site comprises agricultural use, 6 residential units (the 4 LDC caravans and the sub-divided farm house), and the independent business/storage use of at least some of the farm buildings.”
- 5.15. And the officer’s report into the 2017 permission describes the site as follows:
- “The existing complex of buildings consist of the original farmhouse split into two dwellings and four permanent caravans plus a number of modern farm buildings of varying styles and construction which have been used for agricultural and business purposes.”
- 5.16. Having said all of that, the Schedule of Extant and Implemented Permissions at 31 March 2020² in the South Lakeland Housing Land Annual Position Statement 31 March 2020 does record the site as brownfield.

² The Schedule incorrectly refers to the 2017 permission as an extant consent. It was an outline planning permission and reserved matters were not submitted before 23 February 2020 as required.

- 5.17. Whether the site is brownfield is largely academic. Previously-developed land is prioritised for development, but not in a manner that compromises an overall sustainable development strategy.
- 5.18. Paragraph 117 of the NPPF is clear that:
- “Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or ‘brownfield’ land.”
- 5.19. The Council’s strategic policies do just that. Core Strategy policy CS1.2 is explicit that:
- “Priority will be given to the reuse of existing buildings and previously developed land for all new housing development, with a target of ensuring that at least 28% of new housing development takes place on such sites.”
- 5.20. This target is repeated in Core Strategy policy CS6.6 (Making effective and efficient use of land and buildings), along with the comment that the Council will seek to make effective and efficient use of land and buildings by “Supporting a strategy to bring previously developed land and buildings and empty housing into housing use.”
- 5.21. Core Strategy policy CS1.1 (Sustainable Development Principles) prioritises the reuse of previously-developed land in its sequential approach to development, but with the clear caveat that this should be on “previously developed land within settlements”.

Self-build

- 5.22. The proposal is explicitly for five self-build units. Policy DM12 of the DMDPD states that the “Council will actively support proposals for the sustainable development of self-build and custom build homes”. However, consistent with the development strategy in the Core Strategy, the DMDPD’s interpretation of sustainable in this context limits appropriate locations for this type of development to:
- within Principal , Key or Local Service Centres;
 - within or on the edge of small villages and hamlets in accordance with policy DM13 (Housing Development in Small Villages and Hamlets);
 - on rural exception sites in accordance with policy DM14 (Rural Exception Sites).
- 5.23. The circumstances described in policies DM13 and DM14 do not apply in this case, nor are they being argued to be applicable. Therefore, the proposal does not enjoy

the support of policy DM12.

Co-housing

- 5.24. The applicant's co-housing proposals for the site are set out in their "Vision and Values Statement", which is available to view online. Their aspirations are laudable, but co-housing is not a model for living that currently receives any special recognition in the development plan. And whilst not doubting the applicant's intentions, their personal circumstances carry no weight in the planning process. Any permission would enure for the land, and successors in title would not be bound to the same lifestyle. Therefore, it is important that Members determine this application in accordance the relevant policies.

Replacement dwellings

- 5.25. The Council's development plan has no specific policy relating to replacement dwellings in the open countryside. Nevertheless, established residential use can be a material consideration when assessing whether or not the principle of new housing is acceptable in locations where, as at Holme House Farm, it would otherwise be in conflict with the District's development strategy.
- 5.26. On 21 May 1998 the Council issued a Certificate of Lawful Use or Development (CLU) for "The stationing of four static caravans [...] for the use as permanent residence." The positions of these caravans were clearly marked 1 – 4 on a plan attached to the certificate. The certificate also states:
- "This certificate applies only to the extent of the use described in the First Schedule [see above] and to the land specified in the Second Schedule and the attached plan. Any use which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action."
- 5.27. A number of unauthorised uses occurred after 1998, culminating in the Council serving an enforcement notice in May 2009. This alleged:
- "The material change of use of the land from an agricultural use, associated farmstead and site for four residential caravans [subject of the earlier CLU] to a mixed use incorporating: (1) the stationing and residential use of 13 additional caravans with associated external domestic storage in the form of both open domestic storage and the placing of storage sheds and touring caravans for the purpose of domestic storage [...]; (2) the stationing of two further residential caravans with associated extensions and structural additions [...]; (3) the storage of builders' materials including stone, masonry, timber and salvaged materials [and] without planning permission operational development comprising: (1) the erection of a building [and]; (2) the installation of a foul drainage system [...]."
- 5.28. A subsequent appeal was dismissed and the enforcement notice was upheld with

variations. Thereafter, the unauthorised development was removed.

- 5.29. The appeal decision takes as read that the lawful use of the site at the time (2010) was a combination of permanent residences together with a range of businesses in the former farm buildings. Six residences were accepted as lawful: the four static caravans subject to the earlier CLU; and two dwellings in the original farmhouse. The following comment from the inspector's decision letter is noteworthy:
- "The Council indicated that although planning permission had not been granted, the sub-division of the farm house into two dwellings and the use of the farm buildings for independent business purposes would accord with their development plan policies."
- 5.30. The four static caravans were marked on a plan annexed to the enforcement notice (Plan J). This plans shows them in slightly different positions to those shown in the CLU, but neither the Council nor the inspector queried that at the time. All parties seem to have accepted that the adjustments to the positions of these units were inconsequential.
- 5.31. In 2017 we granted outline planning permission for five dwellings under reference SL/2016/1150. The officer's report at the time acknowledged the policy presumption against "development in isolated rural areas", but supported the principle of development on the basis that:
- "... the proposal seeks to re-develop a brownfield site, reduce the overall quantum of development and the number of dwellings. Whilst not readily accessible other than by car, this situation already exists."
- 5.32. The Planning Committee accepted this argument, recognising the presence of the existing dwellings on the site and weighing them (and other matters) in the overall planning balance. The outline permission placed no limits on the size of the new dwellings; this was left as a matter to be resolved through the determination of reserved matters.
- 5.33. Were the 2017 outline planning permission still valid then it would represent a lawful "fallback" for the broad principle of what is now being proposed. It is generally accepted that an extant planning permission can be a material consideration in determining subsequent planning applications on the same site, albeit that the weight will vary considerably depending on circumstances. However, in this case, the 2017 permission has now lapsed; reserved matters were not submitted before 23 February 2020 as required. Consequently, the 2017 permission itself carries no weight, although, arguably, the fact that a permission has been granted within the last four years might have some relevance.
- 5.34. Setting the last point aside, we still have to consider the weight to be applied to what we might term the "original fallback": the six residences acknowledged as lawful in 2010, and also, it seems, in 2017 when they were accepted as one of a number of overriding material considerations in the grant of

outline planning permission. There are two aspects to the fallback in this context: (1) whether or not the planning status of the existing properties means the principle of some sort of replacement is acceptable in this case; and (2) if the principle is acceptable, whether the scale of the existing structures means that we should be limiting the size of any replacements.

Fallback in consideration of the principle

5.35. In different circumstances we might have challenged the lawfulness of the four caravans on the basis that they are in different positions to those shown in the CLU. After all, the First Schedule of the CLU refers to a plan in which their positions are clearly marked and the Second Schedule is explicit that “This certificate applies only to the extent of the use described in the First Schedule [...]”, inviting us to at least query any subsequent change. However, there have been two clear opportunities for us to mount such a challenge: first, during the 2010 appeal; and, second, when we assessed the materiality of the lawfulness of these units in reaching the decision to grant outline planning permission in 2017. And on neither occasion did we raise any concerns. That doesn’t preclude pursuing the matter now, but the reasonableness of that is questionable given the circumstances described above. Also, there is the very real likelihood that, the question of abandonment aside (which is discussed further below), these four units may well be able to secure a CLU for their new locations. It is well over ten years since we issued the enforcement notice which first shows these caravans in their current positions.

Abandonment

5.36. Consideration needs to be given to whether the permanent residential use for the caravans, and the farmhouse, seemingly acknowledged as lawful in 2010 and then again in 2017, has been abandoned, thereby eliminating the “fallback” which weighed so heavily in the 2017 decision to grant outline planning permission. A superficial examination of the condition of the buildings would suggest that any former residential use has indeed been abandoned, but the issue is more complex than that.

5.37. Under the heading of Planning obligations (and specifically in considering vacant building credit) paragraph 028 of the Government’s Planning Practice Guidance summarises the concept of abandonment as follows:

“The courts have held that, in deciding whether a use has been abandoned, account should be taken of all relevant circumstances, such as:

- the condition of the property
- the period of non-use
- whether there is an intervening use; and

- any evidence regarding the owner's intention"
- 5.38. These criteria stem from a court case dating from 1985 - The Trustees of Castell-y-Mynach Estate v Taff-Ely BC.
- 5.39. In response to the suggestion that the residential use of the site might have been abandoned the new owners have submitted a considerable amount of evidence under the headings listed above. Two documents are key: (1) one received 28 July 2020 ("the applicant's evidence on abandonment"); and (2) "Further Information on Sustainability and Data to Inform a Baseline" ("the applicant's Sustainability Assessment"). Both of these documents are available to view online.

The condition of the properties

The farmhouse

- 5.40. The farmhouse is, for the most part, a substantial, masonry structure. It is predominantly 2-storeys, but with single storey lean-tos to the north and east. That to north also being of masonry construction. Overall it's a dilapidated-looking building, but not derelict. Heras fencing has been placed to prevent access to the southern side of the building, although it can still be accessed from the north.
- 5.41. The building has been occupied as two separate properties, known as Oak Lodge and Holly Lodge. Council tax records confirm that Oak Lodge has been classed as continuously empty and unoccupied since 28 August 2017 and that Holly Lodge has been classed the same since 31 December 2015.

The caravans

- 5.42. The less substantial construction of the caravans (or, more properly, mobile homes) and the fact that they have been on site in excess of ten years means that they all have a very tired appearance. A more detailed description of each follows, using the names assigned to them in the plan attached to the 2009 enforcement notice.

Sycamore Lodge

- 5.43. Sycamore Lodge is situated immediately to the right (east) upon entering the site. The applicant's Sustainability Assessment records the structure as having a single bedroom and a footprint of 62.71 sq. m. The external elevations are in poor condition, although there is evidence of recent work to apply new cladding and the structure appears to be watertight. Internally, Sycamore Lodge is in the best condition of all four caravans; there is evidence of recent improvements to the walls and floors (there appears to be a new laminate flooring in the room to the west) and work appears to be underway to install some form of solid fuel burner; a flue and a hearth are in the process of being installed. There is a substantial wraparound wooden deck to the west and south of the building.

- 5.44. Council tax records confirm that Sycamore Lodge has been classed as continuously empty and unoccupied since 14 December 2016.

Pine Lodge

- 5.45. Pine Lodge is positioned in the north-east corner of the main building cluster, on slightly elevated ground. The applicant's Sustainability Assessment records the structure as having two bedrooms and a footprint of 56.52 sq. m. Externally there are signs of deterioration, although it appears watertight. There is little evidence of recent occupation from what can be seen of the inside of the structure. And the amount of vegetation encroaching over the main pedestrian access to the west reinforces the view that it is some while since this unit was last used.
- 5.46. Council tax records confirm that Sycamore Lodge has been classed as continuously empty and unoccupied since 14 December 2016.

Fern Lodge

- 5.47. Fern Lodge is positioned in the north-east corner of the main building cluster, enclosed to the east and west by former farm buildings (more recently used for general employment purposes). The applicant's Sustainability Assessment records the structure as having two bedrooms and a footprint of 53.31 sq. m. The structure appears very tired from the outside, and there was a broken window on the west elevation when the site was visited in July 2020 – although the agent for the scheme asserts that this is a consequence of ongoing problems with vandalism rather than a sign of neglect. Internally, this unit appears to be well-equipped; there is a fully-fitted kitchen in the south-west corner.
- 5.48. Council tax records confirm that Fern Lodge has been classed as continuously empty and unoccupied since 06 November 2017.

Willow Lodge

- 5.49. Willow Lodge sits towards the western boundary of the site, close to the River Sprint. The applicant's Sustainability Assessment records the structure as having three bedrooms and a footprint of 87.12 sq. m. It is in better condition externally than some of the other units. There is little evidence of it having been recently occupied, although it appears to be watertight.
- 5.50. Council tax records confirm that Willow Lodge has been classed as continuously empty and unoccupied since 28 July 2016.

Conclusions on condition

- 5.51. Nobody with reasonable expectations of a permanent home would regard the units on this site as desirable residences in their current condition. Other than the location, which many would undoubtedly regard as appealing, the standard of accommodation is presently very poor. Furthermore, we know

from the applicant's evidence on abandonment that the site currently has no mains electricity and questionable water and sewage connections.

The period of non-use

5.52. Although there is little evidence of recent occupation, the 2010 appeal decision implies that all six units regarded as lawful at that time were occupied. In commenting on the appeal on ground (a), and specifically the issue of whether the development is in a sustainable location for residential and commercial development – the inspector accepts (at paragraph 60) that "... 6 households are likely to remain at Holme House Farm if the requirements of the enforcement notice are complied with ...". Furthermore, the evidence submitted in the applicant's evidence on abandonment indicates that the selling agents for the previous owners (Carter Jonas) needed to take direct action between October 2016 and December 2017 to terminate the contracts of tenants in occupation at that time. A Planning and Sustainability Statement prepared by Carter Jones (December 2016) in support of the 2016 outline planning application states:

"The residential accommodation is currently occupied by five tenants, with the accommodation in something of a dilapidated condition and in need of refurbishment."

5.53. However, this does suggest that one of the six residential units may have been vacant at that time.

5.54. The applicant's evidence on abandonment also tells us that the site was vacant for a period of 21 months between December 2017 and September 2019 when new owners acquired it. Since then, we are told, the site has been fully risk-assessed for health and safety purposes and there has been a rolling program of repairs and site management.

5.55. Other documented cases suggest that any period of non-use needs to be considerable if it is to factor significantly in any assessment of abandonment. In this case, the evidence suggests that there may have been no active residential use for approximately three years, albeit that efforts to recommence that use have been ongoing since September 2019. In those circumstances it seems very unlikely that non-use would be a compelling argument in supporting a case of abandonment.

Whether there has been an intervening use

5.56. There is no evidence of any intervening uses.

The owners' intentions

5.57. In another significant legal case - Hughes v SSETR & South Holland DC [2000] - the Court of Appeal held that the test of the owner's intentions should be objective and not subjective. In this regard the test was the view to be taken by "a reasonable

man with knowledge of all the relevant circumstances”.

5.58. The applicant’s evidence on abandonment make clear their intention:

“The group bought the site intending to act on [the 2017 outline] planning permission, demolish the existing buildings and build new residential properties. Most of the group intend to live on site while this work is being carried out, either in existing lodges (where the footprint of the new properties permits them to remain standing during the construction process) or in temporary accommodation”.

5.59. We are also told that;

“The group applied for a community housing grant from SLDC shortly after purchase and were awarded £185,318 by SLDC in December 2019. The grant covers the costs of preparing the site ready for each member of the group to commence the build of their own home. As a community-led scheme which aims to develop ecologically sustainable housing at a relatively low cost, it aims to be a flagship scheme for the locality, demonstrating a positive new way of co-living. SLDC has clearly recognised the benefits of the development already.”

5.60. In summary on this issue, relatively little has happened on site since the new owners acquired it in September 2019, although this is undoubtedly due in part to the restrictions brought about by Covid-19. Nevertheless, one thing they could have done was submit the reserved matters necessary to keep the 2017 outline planning permission alive, and it seems extraordinary that they didn’t. But this seems to have been an oversight rather than evidence of lost intentions to redevelop the site for residential purposes. Overall, in the light of the evidence that has been provided there can be little doubt that the current owners’ intentions have always been to maintain what they believed to be the established residential use of the site, albeit through redevelopment rather than long-term occupation of the existing units,

Conclusions - fallback in consideration of the principle

5.61. Taking into account: (a) the criteria for judging the issue of abandonment in the government’s Planning Practice Guidance; (b) the applicant’s evidence on abandonment in respect of those criteria; and (c) the planning history relevant to the current positions of the four “static caravans” referred to in the 1998 CLU – it is reasonable to conclude that the six permanent residential units of accommodation on this site remain lawful, and are a material consideration to be weighed in the balance in determining this application, accepting that residential development of the nature proposed would otherwise be contrary to the development plan.

Fallback in consideration of the size of the dwellings

5.62. Accepting the presence of the existing dwellings on the site as a material consideration in judging whether the principle of the proposed replacements is acceptable is one thing, but their physical characteristics are also material in determining the overall scale of the proposed replacements. Not

scale in the sense of a reserved matter – defined as “the height, width and length of each building proposed within the development in relation to its surroundings”, but scale in terms of its implication for sustainability.

- 5.63. In reaching her conclusions on the ground (a) appeal in the 2010 enforcement case the inspector concluded (at paragraph 60) that:

“The appeal site is not in a sustainable location. It is neither on a public transport route nor close to one. While some residents cycle or walk to the nearest settlements, and a degree of car-sharing takes place, for the most part access to and from the site is reliant upon private transport, or hazardous walking along narrow and/or busy roads.”

- 5.64. All of this remains true. And whilst the six existing units on the site already suffer this inherent unsustainability, their harmful impact is (or would be if they were occupied) restricted by their relatively small size. The number of trips to obtain access to services – employment, schools, shops, health care etc. – whether by private transport, or by the hazardous walk referred to in the 2010 appeal decision, is limited by the physical capacity of the existing units to house people. And so, whilst their presence might represent a material consideration that outweighs the policy presumption against the principle of replacement dwellings that would otherwise apply in this location, they do not establish carte blanche for replacement dwellings of any size. To meet the overall objectives of the Core Strategy’s development strategy, and the associated policy in the NPPF, the new dwellings in this case must be of a scale that makes them no more unsustainable than the buildings they replace. And that is a matter to be determined as part of this outline application; it is not within the scope of scale as it is defined for the purposes of determining any subsequent reserved matters proposal.
- 5.65. Page 20 of the applicant’s Sustainability Assessment contains a detailed survey of the size of existing buildings on the site:

	Beds	Main Footprint (m2)	Outbuildings (m2)
Willow Lodge	3	87.12	53.92
Fern Lodge	2	53.31	18.68
Pine Lodge	2	56.52	51.35
Sycamore Lodge	1	62.71	19.84
Farmhouse	3	153.93	67.6
Totals		413.59	168.55

- 5.66. The existing mobile homes themselves are all very small: in fact three of them (Willow Lodge, Fern Lodge and Pine Lodge) have footprints that fall below the high end of the minimum gross internal floor areas for dwellings with the equivalent

number of bedrooms in the nationally described space standard³. However, each unit has a reasonably generous amount of additional space in a variety of outbuildings. The status of these outbuildings is moot; the 1998 CLU only refers to “four static caravans” and whilst there is reference to “associated external domestic storage” in the 2010 appeal decision, they were not catalogued at that time. Nevertheless, the various outbuildings and other structures surveyed in the applicant’s Sustainability Assessment all appear to be well-established and, for the purposes of the following discussion, have been assumed to be lawful.

- 5.67. Negotiations with the applicants have established baseline floorspace figures for each existing residential unit as the product of: (a) either the footprint of the existing main residential unit or the high end of the minimum gross internal floor areas for a two-storey unit with an equivalent number of bedrooms as set out in the nationally described space standard, whichever is the greater; plus (b) the area of the existing outbuildings. It would be churlish to expect a replacement dwelling to fall below the national minimum standards for an equivalent sized unit and whilst the national standards for two-storey dwellings (the applicant’s preference) are larger, this simply reflects the need to accommodate additional circulation space (stairs etc.). This method of calculation produces the following totals:

	Beds	(a) Main Footprint (m2)	(b) Equivalent National standard (m2)	(c) Outbuildings footprint (m2)	Greater of (a) and (b) plus (c)
Willow Lodge	3	87.12	104.5	53.92	158.42
Fern Lodge	2	53.31	81	18.68	99.68
Pine Lodge	2	56.52	81	51.35	132.35
Sycamore Lodge	1	62.71	59.5	19.84	82.55
Farmhouse	3	153.93	104.5	67.6	221.53
Totals		413.59		168.55	694.53

- 5.68. Divided equally between the five proposed dwellings this would equate to 140 sq. m. each. There is a defensible logic to this method of calculation, and it works to the applicant’s advantage in a number of ways. It adds a modest amount to the overall total floorspace (to achieve the minimum nationally described space standards) and it introduces the flexibility to use existing incidental floorspace (some of which is of questionable provenance and condition) as primary accommodation if so desired. Furthermore, accepting that modern construction techniques will inevitably lead to more substantial external walls (the thickness of which would ordinarily count

³ Technical housing standards – nationally described space standard, March 2015, Department for Communities and Local Government

against floorspace measured in terms of footprint) it is being recommended in this case that the 140 sq. m. is defined as gross internal area. The configuration of this in each case would be determined by consideration of reserved matters in the usual manner, subject to the further discussion under the “landscape impact” heading below.

- 5.69. All-in-all this is a generous but reasonable reinterpretation of the existing floorspace on the site, which, if accepted, would substitute the existing, poor quality accommodation (mobile homes in some cases) with substantial replacements, each of which would be appreciably larger than the core residential unit being supplanted. It is being recommended that the 140 sq. m. should also include any incidental structures, as it does now. Further ancillary accommodation would be provided in the form of the “shared-use buildings” discussed further below.

Shared-use buildings

- 5.70. The applicant’s co-housing aspirations establish the need for a certain amount of shared floorspace for such things as storage of agricultural machinery and produce, workshops, glasshouse and at some time in the future, a meeting room. These requirements are typical of other co-housing projects around the country. It is unclear where buildings of this nature would sit relative to development plan policy; they would not fit neatly within any established category, although incidental residential buildings and agricultural buildings are generally acceptable in principle, even in the open countryside.
- 5.71. In this case the site already contains a significant number of buildings in addition to the residential (and incidental residential) buildings described above. These are a legacy of the site’s former agricultural and commercial uses. None have been officially recognised as lawful (through a lawful development certificate), although they were assumed to be so in the 2010 appeal decision. The survey on page 20 of the applicant’s Sustainability Assessment puts the cumulative footprint of these buildings at 638.48 sq. m. The shared-use buildings are proposed to replace these, up to maximum floor area of 480 sq. m. – approximately 75% of what exists. This is judged acceptable in principle. Unresolved details can be determined by consideration of reserved matters in the usual manner, subject to the further discussion under the “landscape impact” heading below.

Affordable housing

- 5.72. Core Strategy policy CS6.3 (Provision of affordable housing) sets out the Council’s expectations for affordable housing. However, the Council’s Affordable Housing Planning Policy Guidance Note November 2018 updates Policy CS6.3 to bring it in line with the NPPF. Consequently, within the District’s designated rural area, which

includes the current application site⁴, there is no expectation of affordable housing associated with schemes of five or less dwellings.

Flood risk

- 5.73. The application site abuts the River Sprint. The Environment Agency Flood Map for Planning shows the majority of the site to be within Flood Zone 3a, fringed by areas of Flood Zone 2. This means that the majority of the site has a 1 in 100 or greater annual probability of river flooding – placing it at high risk.
- 5.74. Core Strategy Policy CS8.8 expects most new development to be located in Flood Zone 1, where the risk of fluvial inundation is at its lowest. And it goes on to state that development within the Environment Agency’s Flood Zones 2, 3a and 3b will only be acceptable when it is compatible with national policy and when the Sequential Test and the Exception Test, where appropriate, have both been satisfied.
- 5.75. National policy in this context is referring to the National Planning Policy Framework (NPPF), wherein paragraph 155 establishes the broad principle that:
- “Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.”
- 5.76. Paragraph 158 of the NPPF explains that:
- “The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.”
- 5.77. If there are no reasonably available, sequentially-preferable sites (meaning that the Sequential Test is passed) then the development still has to meet the Exception Test. Paragraph 160 of the NPPF explains that for the Exception Test to be passed it should be demonstrated that:
- a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
 - b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
- 5.78. In this case the applicants flood risk assessment⁵ (FRA) begins on the premise that:

⁴ Everywhere in SLDC other than the parishes of Kendal, Grange-over-Sands and Ulverston is a “designated rural area”

“Following consultation with the Environment Agency it was determined that [...] there is no modelled flood data for the River Sprint in the vicinity of the development site.”

- 5.79. The FRA then moves on to develop a hydraulic model of the River Sprint in the vicinity of the application site using design flows obtained from a range of methods, including historic flood data from a river gauging station downstream from the application site. The FRA concludes that:

“Comparison of the modelled flood data and the topographical survey of the site indicates that the site is located wholly within Flood Zone 1.

“The highest water level in proximity to the development is 78.496m AOD [...] during the 1 in 100-year + 70% climate change flood event.

“The river bank level is elevated at 79.281m AOD; and is 0.785m above the water level.”

The Sequential Test

- 5.80. Paragraph 034 of the government’s Planning Practice Guidance on Flood risk and coastal change states that:

“It is for local planning authorities, taking advice from the Environment Agency as appropriate, to consider the extent to which Sequential Test considerations have been satisfied, taking into account the particular circumstances in any given case.”

- 5.81. In this case, the Environment Agency has confirmed that it is satisfied that the model used in the applicant’s FRA “is appropriate” and, consequently, it is not pressing us to pursue the Sequential Test. The Environment Agency appears satisfied that the site exhibits the characteristics of being within Flood Zone 1, notwithstanding the emphatic view expressed in its consultation response that “for planning purposes the Environment Agency Flood Map for Planning is valid and we therefore consider the site to be in Flood Zone 3”.

- 5.82. Paragraph 033 of the government’s Planning Practice Guidance on Flood risk and coastal change states that:

“When applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken.”

- 5.83. In other words, the Sequential Test does not have to be applied slavishly, a common sense approach is called for.

⁵ Level 2 Scoping Study Flood Risk & Drainage Impact Assessment, Flood Risk Consultancy Limited, Report No: 2019-021 Revision B, 05 December 2019

- 5.84. In this case, we could take the view that the site is within Flood Zone 3 (as the Environment Agency Flood Map for Planning continues to show) and then apply the Sequential Test to try to identify an alternative site (within Flood Zone 1) where five dwellings could be placed at lower risk. Alternatively, we could accept the conclusions of the applicant's FRA (as the Environment Agency has done) and take the view that – notwithstanding what is shown on the Environment Agency Flood Map for Planning – the applicant's FRA represents the most up-to-date evidence and demonstrates that the application site is, for practical purposes, already within Flood Zone 1 and, therefore, nothing would be gained by applying the Sequential Test.
- 5.85. There is another consideration to be weighed in making this particular judgment: the fact that the site is already occupied by six dwellings, which (if the earlier conclusions of this report are accepted) remain lawful. Therefore, this proposal is not introducing a risk where one does not already exist. Furthermore, four of the six existing six units are mobile homes which are at a greater risk than permanent dwellings would be. Table 2 in the government's Planning Practice Guidance on flood risk and coastal change categorises different types of uses and development according to their vulnerability to flood risk. "Caravans, mobile homes and park homes intended for permanent residential use" are classed as "highly vulnerable" and are, therefore, at greater risk than "Buildings used for dwelling houses ...", which are classed as "more vulnerable". Moreover, as discussed further below, redeveloping the site offers the prospect of raising finished floor levels, reducing the risk of flooding even further.
- 5.86. Taking all of the above into account, it is considered that the Sequential Test serves no beneficial purpose in this case.

Site specific responses

- 5.87. The applicant's FRA also considers the likely impact of climate change by modelling the return periods for a number potential flooding events, including the 1 in 100 year, 1 in 100 year plus 35% climate change and 1 in 100 year plus 70% climate change. The last of these is modelled to produce a water level of 78.496m AOD, which would overtop the river bank (79.281m AOD) and potentially flood the site. Given that the typical life expectancy of a house is taken to be 100 years, an event of this severity does represent a risk. Consequently, the Environment Agency has recommended that finished floor levels of all proposed buildings are set no lower than 79.1m AOD, which is 0.6m higher than the modelled 1 in 100 year flood event plus 70% climate change allowance. At this level the Environment Agency is satisfied that none of the proposed buildings would be at risk of flooding, and none would increase the risk of flooding elsewhere.

Surface water drainage

5.88. The stated purpose of DMDPD policy DM6 (Flood Risk Management and Sustainable Drainage Systems) is “[t]o ensure existing and new development is not exposed to flood risk and to prioritise the promotion of Sustainable Drainage Systems.” To that end it states that:

“Development proposals should include the use of appropriate sustainable drainage systems which are designed to control surface water run off close to where it falls and mimic natural drainage systems as closely as possible.”

5.89. Furthermore, the policy states that:

“Surface water should be managed at the source, with reduced transfer and discharge elsewhere.”

5.90. And, consistent with the Government’s Planning Practice Guidance⁶, the policy expects surface run off to be discharged as high up the following hierarchy of drainage options as reasonably practicable:

- into the ground (infiltration at source);
- to a surface water body;
- to a surface water sewer, or other suitable surface water drainage system;
- to a combined sewer.

5.91. At Holme House Farm the submitted Design and Access Statement tells us that:

“Surface water will be dealt with on site. A detailed scheme will come with the [reserved matters] application.”

5.92. The FRA submitted with this application states that “Desktop investigations suggest that infiltration methods could potentially be viable ...” However, it goes on to state that:

“If it is deemed that infiltration via soakaway is not viable then surface water should be discharged to the River Sprint which runs along the west of the development site. Surface water discharging into the River Sprint must be restricted to existing greenfield runoff rates or a minimum of 5l/s whichever is the highest; and flows in excess of this will need to be attenuated on-site.”

5.93. On the strength of this assessment that lead local flood authority has concluded that:

⁶ Paragraph: 080 Reference ID: 7-080-20150323

“Submitted details show the outline proposal of the drainage and it is acceptable in principle, however detailed plans need to be submitted for approval with the reserved matter stage of the application.”

Foul drainage

- 5.94. The application proposes a package treatment plant for the disposal of wastewater.
- 5.95. DMDPD policy DM6 (Flood Risk Management and Sustainable Drainage Systems) states that:
- “The first presumption will be for new development to drain to the public sewerage system. Non-mains drainage systems will not be acceptable in sewered areas. Where alternative on-site treatment systems are proposed, it is for the developer to demonstrate that connection to the public sewerage system is not possible in terms of cost and/or practicality and provide details of the responsibility and means of operation and management of the system for its lifetime to ensure the risk to the environment is low.”
- 5.96. This mirrors Government advice in its Planning Practice Guidance relating to “Water supply, wastewater and water quality”.
- 5.97. Holme House Farm is not in a sewered area, meaning that, in principle, a package treatment plant is the next best option. Neither Natural England nor the Environment Agency has raised an objection to this aspect of the proposals, although both have highlighted the fact that any discharge will either need a permit issued by the Environment Agency under the Environmental Permitting Regulations 2010, or will need to be registered as an exempt activity. This is in addition to the need for planning permission.

Landscape impact

- 5.98. Policy CS8.2 (Protection and enhancement of landscape and settlement character) is clear that development proposals should demonstrate that their location, scale, design and materials will protect, conserve and, where possible, enhance (amongst other things) the special qualities and local distinctiveness of the area, distinctive settlement character and the setting of, and views into and from the National Parks. The policy also expects proposals to be informed by, and be sympathetic to, the distinctive character landscape types identified in a range of resources, including the Cumbria Landscape Character Guidance and Toolkit.
- 5.99. Core Strategy policy CS8.10 (Design) expects the siting, design, scale and materials of all development to be of a character which maintains or enhances the quality of the landscape or townscape and, where appropriate, should be in keeping with local vernacular tradition.
- 5.100. Subject to other policies in the development plan, DMDPD Policy DM1 (General

Requirements for all development) states that development will be acceptable provided, amongst other things, it: (1) responds appropriately to the proposal site's locational context, local and settlement character and distinctiveness; (2) ensures the protection and enhancement of the District's natural, built and historic environment qualities and its distinctive landscapes and townscapes, including their public visual amenities through good design; and (3) ensures the protection, conservation and enhancement of the special qualities and settings of the Lake District National Park, including views into and out of this protected designated landscape, by supporting proposals only where it is demonstrated through a proportionate landscape assessment there would be no adverse effect upon their landscape character and visual amenity.

- 5.101. Policy DM2 (Achieving Sustainable High Quality Design) supports development provided certain design principles are met. These include ensuring that development: (1) responds appropriately to local and settlement character and reinforces and promotes local distinctiveness; and (2) responds appropriately to local context, landscape and built and natural environment setting. It also states that “[new] development should deliver variety, diversity and interest by [...] avoiding bland monotonous forms of development that promote little interest and variety”.
- 5.102. At close quarters the core of the application site has a rundown appearance, comprising a collection of largely redundant agricultural, industrial and residential structures in various states of dilapidation. When viewed at greater distance the site is generally very well screened. Although located within open countryside the site sits in the bottom of the valley of the River Sprint and is largely obscured in longer views by high ground to the north, west and east. The site is also very well vegetated, and the existing structures have decayed and become overgrown to a point where they have started to blend into the landscape. The boundary of the Lake District National Park lies only 1km to the north, but intervening twists in the river valley combined with some dense planting mean that, if visible at all from this direction, the site will be an insignificant visual element.
- 5.103. The aspect from the south is more open, particularly in winter when the lack of leaves on the trees exposes some of the existing structures to the view from Garth Row Lane. But the visual impact from this angle remains negligible. Public footpath 570030 passes close to the site on rising ground to the east, but views are obscured by intervening dense planting shown within the “blue land” on the submitted location plan; land not within the application site, but still owned by the applicants.
- 5.104. Given this analysis it is considered that redeveloping the site with the quantity of new floorspace discussed earlier can, with care, be accommodated in a manner that, at worst, should have no greater landscape impact than currently exists and, at best, has the potential to remove even the limited existing harm. This remains true

even given the necessity to raise finished floor levels to 79.1m AOD to reduce flood risk.

- 5.105. Although this application is submitted in outline with all matters reserved, it is nevertheless supported by a number of illustrative drawings which show a common configuration for the proposed residential plots. This configuration is rooted in a private restrictive covenant, and is most clearly illustrated on drawing (PP) 03 Revision D. Private covenants carry no weight in the planning process, but drawing (PP) 03 Revision D is useful because it foretells the layout that will likely be submitted for approval as a reserved matter should this outline planning permission be granted. And it is a layout that has considerable planning merit, clustering the proposed dwellings together in the central part of the site, which benefits most from established screening. It is therefore recommended that this drawing is used as the basis for defining broadly acceptable locations for the replacement dwellings and shared-use buildings. It is also recommended that any landscaping strategy should include the retention and reinforcement of the established planting on the eastern boundary adjoining footpath 570030.

Access and parking

- 5.106. Core Strategy policy CS10.2 (Transport impact of new development) expects “Development will be designed to reduce the need to travel and to maximise the use of sustainable forms of transport appropriate to its particular location”.
- 5.107. Policy CS10.2 establishes a number of other criteria aimed at ensuring that new development: (1) provides for safe and convenient access on foot, cycle, public and private transport; (2) is capable of being served by safe access to the highway network without detriment to the amenity or character of the locality; (3) can be accommodated by the existing road network without detriment to the amenity or character of the surrounding area; and (4) incorporates parking standards that are in accordance with any adopted local policy and guidance.
- 5.108. DMDPD policy DM9 (Parking Provision), new and loss of car parks) expects all developments to have acceptable levels of car, motorcycle and bicycle parking having regard to relevant appropriate guidance, which is currently provided in the Cumbria Development Design Guide .
- 5.109. The application site is in a remote location, with limited options to use sustainable forms of transport. Nevertheless, for the reasons discussed earlier in this report, the established lawful uses on the site offer some justification for a limited amount of replacement residential development. The local highway authority has recommended two conditions requiring: (1) hard surfacing of the first 10 metres of the access drive; and (2) protecting the existing visibility splays.
- 5.110. Hard surfacing more of the access drive than is essential would be an unfortunate move; it would be at odds with the prevailing character of the area. Furthermore, the applicants have confirmed that a significant section of the

access is already adopted highway. Given that traffic movements will be no greater than might be expected from the established mix-uses, and potentially significantly less, there would seem to be little planning justification for insisting on additional hard surfacing. The recommended condition in respect of visibility splays appears to be a standard one. But it would be ineffective in this case because the applicants do not control sufficient land either side of the junction with Garth Row Lane.

Public rights of way

- 5.111. The two public rights of way that cross the existing access to the site are not directly affected by the proposals. The local highway authority has recommended the imposition of an informative on any consent reminding developers of their obligations in this regard.

Biodiversity

- 5.112. The strategic objectives of the Core Strategy include:

“Ensuring that new development safeguards and enhances the natural and built environment, [and]

“[Increasing] the resilience of ecosystem services (the processes by which the environment produces resources utilised by humans) by protecting against harm to biodiversity and taking opportunities to enhance and create ecologically-diverse habitats in all locations.”

International designations

- 5.113. Core Strategy policy CS8.4 (Biodiversity and geodiversity) includes a statement that:

“Development proposals that would have a direct or indirect adverse effect on nationally, subregional, regional and local designated sites and non-protected sites that are considered to have geological and biodiversity value, will not be permitted unless:

- They cannot be located on alternative sites that would cause less or no harm;
- The benefits of the development clearly outweigh the impacts on the features of the site and the wider network of natural habitats; and
- Prevention, mitigation and compensation measures are provided.”

- 5.114. The River Sprint, located to the west of the proposed development, is designated as part of the River Kent and Tributaries Site of Special Scientific Interest (SSSI) and River Kent Special Area of Conservation (SAC). The SAC is defined as “European Site” for purposes of The Conservation of Habitats and Species Regulations 2017 (“the 2017 Regulations”).

- 5.115. South Lakeland District Council (SLDC) is termed a “competent authority” for the purposes of the 2017 Regulations, meaning that in situations where it intends to permit a project with potential effects on a “European Site”, either alone or in combination with other plans or projects, further consideration of those effects is necessary. This requires a Habitat Regulations Assessment (HRA).
- 5.116. In this case the applicants have commissioned ecologists to prepare a “Shadow Habitat Regulations Assessment⁷”, which they are inviting SLDC to adopt in its role as competent authority, thereby fulfilling the requirements of the 2017 Regulations. This is common practice; Members may recall that the Planning Committee has recently adopted Shadow HRAs in resolving to grant planning permission for the refurbishment of the Lido in Grange-over-Sands and, also in Grange, redevelopment of the Age Concern premises on Lindale Road.
- 5.117. The Shadow HRA is published in full online, but, in summary, it concludes that “with the appropriate mitigation in place and the production of a Construction Environmental Management Plan (CEMP), which will be agreed as part of a formal planning condition, that no significant impact on the River Kent SAC [and by extension the SSSI] is anticipated as a result of the proposed development.” Natural England concurs with this conclusion and has suggested some provisions to be included within the CEMP.
- 5.118. Subject to a planning condition requiring a CEMP it is recommended that the applicant’s Shadow HRA is adopted as meeting the local planning authority’s requirements under the 2017 Regulations in this case.

Protected species

- 5.119. Policy CS8.4 (Biodiversity and geodiversity) includes a statement that:

“All development proposals should:

- Protect, enhance and restore the biodiversity and geodiversity value of land and buildings;
- Minimise fragmentation and maximise opportunities for restoration, enhancement and connection of natural habitats (including links to habitats outside South Lakeland); and
- Incorporate beneficial biodiversity and geodiversity conservation features, including features that will help wildlife to adapt to climate change where appropriate.

⁷ Shadow Habitat Regulations Assessment, Holme House Farm, Skelsmergh, Report Ref. JN00473/D01, Environmental Solutions Ltd., June 2020

Proposals should particularly seek to contribute towards the UK priority habitats and species in South Lakeland, and any additional Cumbria Biodiversity Action Plan species.”

- 5.120. Given the potential of the buildings on the site to contain bats and owls the applicants have commissioned surveys for both species^{8,9}. The owl survey has come back negative, but the bat survey confirms that soprano pipistrelles are roosting on the site, and that these roosts will be lost through the process of demolition. It will therefore be necessary for the developer to obtain a derogation licence from Natural England before works commence, to allow bats and their roosts to be impacted by works lawfully. The bat survey also recommends installation of three suitable bat boxes in appropriate, undisturbed locations, on large trees before works commence, for bats to be relocated to should they be found during works.
- 5.121. A condition is recommended to ensure that the conclusions and recommendations of the bat survey are adhered to during the course of any demolition.

Net biodiversity gain

- 5.122. 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. The policy reflects the government’s position in paragraph 170 of the NPPF. In this case Natrual England has requested that we “also seek at least a 10% biodiversity net gain for this proposal”. Given that this application has been submitted in outline it is recommended that this issue is addressed by a condition.

6.0 Conclusion

- 6.1. Holme House Farm is an isolated collection of dwellings and former agricultural and industrial buildings situated approximately 4km north of Kendal, and 2km east of Burneside.
- 6.2. This planning application has been made in outline with all matters reserved. It proposes the demolition of all of the existing structures on the site and their replacement with five dwellings, together with one or more “shared use buildings”.
- 6.3. Holme House Farm is in the open countryside for the purposes of applying current development plan policy. It is therefore in a location where new residential development is generally regarded as unsustainable. The Council’s development

⁸ Bat Update Survey Letter Report, Holme House Farm, Skelsmergh, Kendal, Lucy Gibson Consulting, 27 May 2020

⁹ Barn Owl Survey Letter Report – Holme House Farm, Skelsmergh, Cumbria, Lucy Gibson Consulting, 01 February 2021

plan has no specific policy relating to replacement dwellings in the open countryside. Nevertheless, established residential use can be a material consideration when assessing whether or not the principle of new housing is acceptable in locations where, as at Holme House Farm, it would otherwise be in conflict with the District's development strategy. In this case the principle of five replacement dwellings is judged acceptable, subject to a restriction on the size of the replacements to ensure that the site becomes no more unsustainable than it currently is. The principle of the proposed "shared-use buildings" as replacements for the range of redundant agricultural and industrial buildings on the site is also judged acceptable. Unresolved details can be determined by consideration of reserved matters in the usual manner.

- 6.4. The Environment Agency Flood Map for Planning shows the majority of the site to be within Flood Zone 3a, fringed by areas of Flood Zone 2. This means that the majority of the site has a 1 in 100 or greater annual probability of river flooding – placing it at high risk. In different circumstances this would require the application of the Sequential Test, to establish whether the proposed dwellings could be relocated to an area at lower flood risk. But, in this case, modelling in the applicant's FRA has persuaded the Environment Agency that, for practical purposes, the site can be regarded as being within Flood Zone 1, and that with a restriction on floor levels the development is not at risk of flooding. Nor does it increase the risk of flooding elsewhere. Consequently, the Environment Agency has not objected to the proposal.
- 6.5. A number of conditions are recommended to address unresolved issues, including: (1) surface water drainage; (2) foul drainage; (3) safeguarding of protected species; and (4) achieving a net gain in biodiversity.

7.0 Recommendation

- 7.1. The application is recommended for approval subject to:
- a) adoption by the Planning Committee of the "Shadow Habitat Regulations Assessment, Holme House Farm, Skelsmergh, Report Ref. JN00473/D01, produced by Environmental Solutions Ltd. and dated June 2020" to meet the Council's responsibilities as a competent authority in accordance with The Conservation of Habitats and Species Regulations 2017 (as amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019); and
 - b) the following conditions:
 - Condition (1) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Location Plan, PP (11)

- New Build Zones, (PP) 03 Rev D;

All other submitted plans have been treated as illustrative only.

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

Condition (2) “Reserved matters” in the context of this application means: (1) access; (2) layout of the entire site (including an overall landscaping strategy); and details of the (3) appearance, (4) scale and (5) landscaping of each individual dwelling or shared-use building hereby approved. The landscaping associated with each individual dwelling or shared-use building means detailed proposals consistent with the overall landscaping strategy.

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

Condition (3) The development to which this permission relates must be begun not later than whichever is the later of the following dates:

- a) FIVE YEARS from the date of this permission; or
- b) the expiration of TWO YEARS from the final approval of: (1) the access to, and layout of, the entire site (including an overall landscaping strategy); and (2) the appearance, scale and landscaping of at least one of the five dwellings hereby approved

Application for the approval of the reserved matters referred to in b) must be made not later than THREE years from the date of this permission.

REASON: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990.

Condition (4) No development of any individual dwelling or shared-use building shall commence until the reserved matters relating to that individual dwelling or shared-use building have been submitted to, and approved in writing by, the local planning authority.

REASON: To ensure a satisfactory standard of development on site.

Condition (5) The gross internal floorspace of each of the five dwellings hereby approved, together with the cumulative footprints of any other structures erected as permitted development within the curtilage of each dwelling for purposes incidental to the enjoyment of the dwellinghouse pursuant to The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any Order revoking or re-enacting that Order, shall not exceed 140 sq. m. The curtilage of any of the five dwellings

hereby approved must lie within the “Blue Zone” or “Red Zone” on drawing (PP) 03 Rev D.

REASON: To ensure that the replacement dwellings do not exceed a size that would compromise the objectives of policy CS1.2 (The Development Strategy) of the South Lakeland Core Strategy.

Condition (6) The shared-use building(s) hereby approved must lie within the “White Zone”, “Red Zone” or “Blue Zone” on drawing (PP) 03 Rev D and shall be limited to a cumulative footprint not exceeding 480 sq. m. Use of the shared-use buildings must be restricted to: (1) shared incidental residential uses reasonably necessary to support any co-housing objectives for all five dwellings hereby approved; and/or (2) shared space for agricultural storage, production and related activities associated with the farming and general management of the land contained within the red and blue lines on drawing (PP) 11.

REASON: To ensure that: (1) any co-housing objectives are adequately supported; and (2) the space dedicated to individual dwellings does not exceed a size that would compromise the objectives of policy CS1.2 (The Development Strategy) of the South Lakeland Core Strategy.

Landscaping

Condition (7) The overall landscaping strategy required by condition 2 shall include: (1) provision for the retention and enhancement of the existing tree belt located between the eastern boundary of the application site (but still within the blue line on drawing PP (11)) and public footpath number 570030; and (2) a maintenance strategy for the landscaping of all the land within the red and blue lines on drawing (PP) 11 for the lifetime of the development. Any further details of landscaping submitted in compliance with condition 2 must accord with the overall landscaping strategy and, thereafter, must be maintained in accordance with the agreed maintenance strategy.

REASON: To safeguard and enhance the character of the area in accordance with policy DM4 (Green and Blue Infrastructure, Open Space, Trees and Landscaping) of the South Lakeland Development Management Policies Development Plan Document.

Condition (8) The development of any individual dwelling or shared-use building shall proceed in accordance with an Arboricultural Impact Assessment and an Arboricultural Method Statement that shall first have been submitted to, and approved in writing by, the local planning authority as part of the reserved matters application for

that individual dwelling or shared-use building. The Arboricultural Impact Assessment must assess the potential impact on any of the 47 individual trees and 8 groups of trees identified in the “Tree Locations & Constraints” information submitted with this application. Any trees identified for retention must be included in the details of landscaping for that individual dwelling or shared-use building required by condition 2 and must be protected during the course of development in accordance with the agreed Arboricultural Method Statement.

REASON: To protect existing trees in accordance with policy DM4 (Green and Blue Infrastructure, Open Space, Trees and Landscaping) of the South Lakeland Development Management Policies Development Plan Document.

Accessible and adaptable homes

Condition (9) The dwellings hereby approved shall be constructed to meet the Building Regulations M4(2) standards for accessible and adaptable homes.

REASON: To comply with policy DM11 (Accessible and Adaptable Homes) of the South Lakeland Development Management Policies Development Plan Document.

Broadband

Condition (10) None of the dwellings hereby approved shall be first occupied until connected to the necessary infrastructure to enable access to high speed (superfast) broadband, unless this is 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.

Sustainable construction

Condition (11) Each of the dwellings and shared-use buildings shall be constructed in accordance with a specification produced to accommodate as many of the provisions within the “List of Measures that support and enhance habitat creation, urban greening and respond to the effects of climate change” contained in Appendix 1 of the Development Management Policies Development Plan Document as is reasonably practicable in the circumstances. No development shall commence until the scheme has been

submitted to, and approved in writing by, the local planning authority. The scheme can be submitted as part of a relevant reserved matters application as required by condition 2.

REASON: To incorporate measures that support and enhance habitat creation and urban greening ensuring that provision reflects the local biodiversity evidence base and reduces the factors contributing to, and responds to the effects of climate change, in accordance with policy DM2 (Achieving Sustainable High Quality Design) of the South Lakeland Development Management Policies Development Plan Document.

Land contamination

Condition (12) No individual dwelling or shared-use building shall be first occupied until: (1) gas protection measures for that dwelling/building together with a capping system for the garden and other soft landscaping areas within the curtilage of any dwelling, have been installed in accordance with a scheme that shall first have been submitted, and approved in writing by, the local planning authority; and (2) a validation report and statement/certificate from an appropriately qualified person detailing any contamination identified during the construction of that dwelling/building and any remediation undertaken (including material removed in the clearance of the site) has also been submitted, and approved in writing by, the local planning authority. The scheme for gas protection and, where relevant, the capping system can be submitted as part of a relevant reserved matters application as required by condition 2.

REASON: To safeguard human and environmental health in accordance with policy DM7 (Addressing Pollution, Contamination Impact, and Water Quality) of the South Lakeland Development Management Policies Development Plan Document.

Flood risk

Condition (13) The finished ground floor levels of the dwellings and shared-use building(s) hereby approved shall be set no lower than 79.1m AOD.

REASON: To reduce the risk of flooding in accordance with policy CS8.8 (Development and Flood Risk) of the South Lakeland Core Strategy and policy DM6 (Flood Risk Management and Sustainable Drainage Systems) of the South Lakeland Development Management Policies Development Plan Document.

Condition (14) No development of any individual dwelling or shared-use building shall commence until a surface water drainage scheme for that individual dwelling or shared-use building has

been submitted to, and approved in writing by, the local planning authority. The scheme must accord with: (1) the principles established in the Level 2 Scoping Study Flood Risk & Drainage Impact Assessment produced by the Flood Risk Consultancy Limited (Report No: 2019-021 Revision B) dated 05 December 2019; (2) the hierarchy of drainage options in the national planning practice guidance, achieving the most sustainable option that is practicable, evidenced by reference to an assessment of site conditions; and (3) the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015), or any equivalent replacement standards. The scheme must also include provisions for long-term management. The scheme can be submitted as part of a relevant reserved matters application as required by condition 2. Thereafter, no individual dwelling or shared-use building hereby approved shall be first occupied until it has been connected to the approved surface water drainage scheme. Thereafter, the surface water drainage scheme shall be maintained for the lifetime of the development.

REASON: To promote the use of a sustainable surface water drainage scheme in accordance with policy DM6 (Flood Risk Management and Sustainable Drainage Systems) of the South Lakeland Development Management Policies Development Plan Document.

Foul drainage

Condition (15) No individual dwelling or shared-use building shall be first occupied until it has been connected to a system of foul drainage, the details of which shall first have been submitted to, and approved in writing by, the local planning authority. Foul and surface water must drain to separate systems. The required details can be submitted as part of a relevant reserved matters application as required by condition 2.

REASON: To ensure that the development is supported by the essential necessary infrastructure in accordance with policy DM1 (General Requirements for all development) of the South Lakeland Development Management Policies Development Plan Document.

Biodiversity

Condition (16) Any works of demolition must proceed in accordance with the conclusions and recommendations of the Bat Update Survey Letter Report, Holme House Farm, Skelsmergh, Kendal, produced by Lucy Gibson Consulting and dated 27 May 2020.

REASON: To mitigate the potential impacts on protected species in

accordance with policy CS8.4 (Biodiversity and geodiversity) of the South Lakeland Core Strategy.

Condition (17) No development shall commence until a scheme demonstrating that the development will achieve a minimum 10% biodiversity net gain, measured using the Defra Biodiversity Metric 2.0 (or such later version as may be promoted by Defra at the time that the required scheme is submitted), has been submitted to, and approved in writing by, the local planning authority. The required details can be submitted as part of the first reserved matters application submitted in compliance with condition 2. Thereafter, the development shall proceed in accordance with the approved scheme and the net gain shall be maintained for the lifetime of the development.

REASON: To meet the requirements of: (1) policy DM4 (Green and Blue Infrastructure, Open Space, Trees and Landscaping) of the of the South Lakeland Development Management Policies Development Plan Document; (2) paragraph 170 of the National Planning Policy Framework.; and (3) section 40 of the Natural Environment and Rural Communities Act 2006.

Condition (18) No development shall commence until a Construction Environmental Management Plan (CEMP) containing measures to mitigate the impacts of the approved development on protected species and the River Kent Special Area of Conservation (SAC) has been submitted to, and approved in writing by, the local planning authority. The CEMP must include the following:

- A biosecurity protocol, including management measures to deal with invasive species during construction, if a reassessment of the site shows that invasive species are still present.
- Details of an unfenced buffer zone for foraging otters extending back at least 10m from the eastern bank of the River Sprint.
- Identification of areas for the storage of machinery, plant and materials during construction. These areas cannot be within the 10m buffer zone referred to above.
- Details of any temporary construction routes within the 10m buffer zone referred to above. These routes must be specified with a geotextile underlay and an ecologically neutral surface material.
- Pollution prevention measures for the control of noise and dust and to ensure that no waste, including contaminated surface water runoff, generated by construction

activities (including the storage or burning of waste) or the remediation of existing pollution (including the removal of asbestos or existing fuel tanks) makes its way directly or indirectly into the River Sprint.

The required details can be submitted as part of the first reserved matters application submitted in compliance with condition 2.

All construction work must proceed in accordance with the approved CEMP. In addition:

- If it is essential for any excavations to be left open overnight then a means of escape should be provided with a plank situated at no more than forty five degrees within the excavation.
- All lighting associated with the construction phase of the project must be directed away from the River Sprint and the associated woodland.

REASON: To mitigate the potential impacts on: (1) the River Kent and Tributaries Site of Special Scientific Interest (SSSI); (2) the River Kent Special Area of Conservation (SAC); and (3) protected species, all in accordance with policy CS8.4 (Biodiversity and geodiversity) of the South Lakeland Core Strategy.

Lighting

Condition (19) No individual dwelling or shared-use building shall be first occupied until any external lighting required for that dwelling/building has been installed in accordance with a scheme that shall first have been submitted, and approved in writing by, the local planning authority. The scheme must include confirmation from a qualified ecologist that it has been designed to minimize harmful impacts on: (1) the River Kent and Tributaries Site of Special Scientific Interest (SSSI); (2) the River Kent Special Area of Conservation (SAC); and (3) protected species. The scheme can be submitted as part of a relevant reserved matters application as required by condition 2. Thereafter, any external lighting shall be maintained in accordance with the approved scheme.

REASON: To mitigate the potential impacts on: (1) the River Kent and Tributaries Site of Special Scientific Interest (SSSI); (2) the River Kent Special Area of Conservation (SAC); and (3) protected species, all in accordance with policy CS8.4 (Biodiversity and geodiversity) of the South Lakeland Core Strategy.

Construction hours

Condition (20) Construction work shall be limited to daylight hours only and never on Bank Holidays nor otherwise outside the hours of 0800 – 1800 Monday to Friday or 0900 – 1300 on Saturdays.

REASON: In the interests of safeguarding the amenity and ecological interest of the existing area in accordance with: (1) policy CS8.4 (Biodiversity and geodiversity) of the South Lakeland Core Strategy; and (2) policies DM4 (Green and Blue Infrastructure and Open Space) and DM7 (Addressing Pollution, Contamination Impact, and Water Quality) of the South Lakeland Development Management Policies Development Plan Document.